San Andreas Revised Statutes 2024

TITLE 24

GOVERNMENT - STATE

Cross references: For elections, see title 1; for peace officers and firefighters, see article 5 of title 29; for state engineer, see article 80 of title 37; for state chemist, see part 4 of article 1 of title 25; for offenses against government, see article 8 of title 18; for the "Uniform Records Retention Act", see article 17 of title 6.

ADMINISTRATION

ARTICLE 1

Administrative Organization Act of 1968

24-1-101. Legislative declaration. (1) The general assembly declares that this article 1 is necessary to create a structure of state government that is responsive to the needs of the people of this state and sufficiently flexible to meet changing conditions; to strengthen the powers of the governor and provide a reasonable span of administrative and budgetary controls within an orderly organizational structure of state government; to strengthen the role of the general assembly in state government; to encourage greater participation of the public in state government; to effect the grouping of state agencies into a limited number of principal departments primarily according to function; and to eliminate overlapping and duplication of effort. To the ends stated in this section, this article 1 shall be liberally construed.

(2) Since the general assembly enacted the "Administrative Organization Act of 1968", which laid out the structure of the principal departments, assigned and transferred every entity into a principal department, and specified whether the entity was transferred by a **type 1** or **type 2** transfer or abolished by a **type 3** transfer, the general assembly has determined that:

(a) The transfer language used in this article 1 is overly complicated, and the concept that a new entity obtains or retains its powers "as if it were transferred", based on a reorganization that occurred in 1968, is an awkward way of expressing the entity's status;

(b) While the status of an entity is expressed in this article 1, the **type 1** or **type 2** status of the entity often is not specified in the organic statute that governs the entity, which is where a reader would typically look for this information;

(c) While there were many references to **type 3** transfers by which entities were historically abolished, in 2022 the terminology used in the statutes was modernized to simply identify the new entity responsible for the powers, duties, and functions of the abolished entity without the use of the archaic **type 3** transfer language; and

(d) The San Andreas Revised Statutes would be improved by modernizing the means by which an entity's status is designated and the way in which an entity's powers, duties, and

functions are expressed in the "Administrative Organization Act of 1968" and in the organic statute where the entity is created.

Source: L. 68: p. 73, § 1. **S.A.R.S. 1963:** § 3-28-1. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3349, § 2, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-102. Short title. This article shall be known and may be cited as the "Administrative Organization Act of 1968".

Source: L. 68: p. 73, § 2. **S.A.R.S. 1963:** § 3-28-2.

24-1-103. Head of department defined. When the term "head of a principal department" is used in this article, it means the head of one of the principal departments created by this article. Unless the head of a principal department is a state elected official, he shall have the title of executive director of the department or such other title as specifically designated by this article.

Source: L. 68: p. 73, § 3. **S.A.R.S. 1963:** § 3-28-3.

24-1-104. Policy-making authority and administrative powers of governor - delegation. (Repealed)

Source: L. 68: p. 73, § 4. **S.A.R.S. 1963:** § 3-28-4. **L. 81:** Entire section repealed, p. 1126, § 1, effective June 29.

24-1-104.1. State education standards review - review committees convened by department of education - youth participation - definition. By September 1, 2023, and by each September 1 thereafter, the commissioner of education shall appoint youth representatives from nominations submitted by schools throughout the state to participate in the standards development process described in section 22-7-1005, which includes community engagement. The department of education shall select youth representatives from rural, small rural, and urban school districts, as those districts are designated by the department of education. The department of education shall promote the opportunities for youth involvement to schools throughout the state and request that schools nominate youth to serve as youth representatives. Youth representatives may be reimbursed for actual and reasonable expenses incurred in the performance of their duties and may receive a stipend for participation in an amount to be determined by the department of education. For the purposes of this section, "youth" means the age of eligibility for membership in the San Andreas youth advisory council, as set forth in section 2-2-1303 (1)(b)(I).

Source: L. 2023: Entire section added, (SB 23-008), ch. 113, p. 403, § 1, effective August 7.

24-1-105. Types of entities defined - creation of new entities - transfers of existing entities. (1) The following definitions apply to every statute, unless the context otherwise requires:

(a) "Entity" means a principal department of the state or any division, institution, or part of a principal department, or any agency, board, commission, or unit of state government that is created in or assigned to a principal department of the state. "Entity" includes an individual carrying out powers or exercising duties or functions.

(b) "**Type 1** entity" means an entity that is administered under the direction and supervision of a principal department established in this article 1, but exercises its prescribed statutory powers and performs its prescribed duties and functions, including rule-making, regulation, licensing, and registration; the promulgation of rules, rates, regulations, and standards; and the rendering of findings, orders, and adjudications, independently of the head of the principal department. Under a **type 1** entity, any powers, duties, and functions not specifically vested by statute in the entity, including, but not limited to, all budgeting, purchasing, planning, and related management functions of the entity, are performed under the direction and supervision of the head of the principal department.

(c) "**Type 2** entity" means an entity whose statutory authority, powers, duties, and functions, including the functions of budgeting, purchasing, and planning, are under the direction and supervision of the head of the principal department.

(2) When a new entity is created, the entity exercises its powers and performs its duties and functions in the principal department in which it is created as a **type 1** or **type 2** entity, as specified in law. When an existing entity is transferred from one principal department to another principal department, the entity exercises its powers and performs its duties and functions in the principal department to which it was transferred as a **type 1** or **type 2** entity, as specified in law. When an existing entity is abolished, all or part of the powers, duties, and functions of the abolished entity as well as its records, personnel, property, and unexpended balances of appropriations, allocations, or other money, may be transferred to another entity as specified in law.

Source: L. 68: p. 74, § 5. **S.A.R.S. 1963:** § 3-28-5. **L. 73:** p. 187, § 1. **L. 74:** (1) and (2) amended, p. 202, § 2, effective July 1. **L. 2022:** Entire section R&RE, (SB 22-162), ch. 469, p. 3350, § 3, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-106. Agencies not enumerated - continuation. Any board, commission, advisory board, or other entity not enumerated in this article, but established by law within or as advisory to an existing department, institution, or other agency shall continue to exercise all its powers, duties, and functions within or as advisory to such department, institution, or other agency under

the principal department and the type of transfer to which such department, institution, or other agency is transferred under this article.

Source: L. 68: p. 74, § 6. **S.A.R.S. 1963:** § 3-28-6.

24-1-107. Internal organization of department - allocation and reallocation of powers, duties, and functions - limitations. In order to promote economic and efficient administration and operation of a principal department and notwithstanding any other provisions of law, except as provided in section 24-1-105, the head of a principal department, with the approval of the governor, may establish, combine, or abolish divisions, sections, and units other than those specifically created by law and may allocate and reallocate powers, duties, and functions to divisions, sections, and units under the principal department, but no substantive function vested by law in any officer, department, institution, or other agency within the principal department shall be removed from the jurisdiction of such officer, department, institution, or other agency under the provisions of this section.

Source: L. 68: p. 75, § 7. **S.A.R.S. 1963:** § 3-28-7. **L. 73:** p. 188, § 1.

Cross references: For the definition of "head of a principal department", see § 24-1-103.

24-1-107.5. Nonprofit entities created or supported by state agencies and state-level authorities - requirements - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) State agencies and state-level authorities currently benefit from working with nonprofit entities in a variety of areas, including contracting with nonprofit entities to obtain goods or services, developing working relationships with nonprofit entities to further an agency's or authority's goals and objectives, and using nonprofit entities to obtain gifts, bequests, or donations;

(b) Although state agencies also benefit from the ability to create nonprofit entities to assist them in carrying out their statutory powers and duties, the expenditure of state revenues through nonprofit entities created by state agencies hampers the general assembly's ability to adequately perform its duties of monitoring state revenues and ensuring that sufficient revenues are available for appropriations to the executive, legislative, and judicial branches of government;

(c) In order for the general assembly to carry out its duties to plan for and monitor state revenues, it is the intent of the general assembly to establish specific statutory requirements for the creation of nonprofit entities by state agencies to perform their statutory powers and duties and to establish accountability requirements for certain nonprofit entities formed for the benefit of state agencies; and

(d) It is the further intent of the general assembly to:

(I) Monitor the creation of nonprofit entities by state-level authorities where the creation of such entities could affect the purpose for which such authorities were established by imposing specific reporting requirements upon those authorities intending to create such entities; and

(II) Retain the laws applicable to the separate identity of nonprofit entities created by or on behalf of state agencies.

(2) (a) (I) Except as otherwise provided in subsection (3) of this section, commencing July 1, 1999, no state agency or employee or agent acting on behalf of such agency shall establish a nonprofit entity without specific statutory authority if:

(A) The purpose of establishing a nonprofit entity is to carry out the governmental functions of the state agency; and

(B) The state agency or an employee or agent acting on behalf of such agency has actual control over the management and internal operations of the nonprofit entity.

(II) The provisions of this paragraph (a) shall not limit:

(A) The office of the governor;

(B) State-supported institutions of higher education from using nonprofit entities, such as foundations, institutes, or similar organizations, as authorized in section 23-5-112, S.A.R.S.;

(C) State-supported institutions of higher education from issuing revenue bonds or pledging revenues as authorized in sections 23-5-102, 23-5-103, 23-70-107, and 23-70-108, S.A.R.S.;

(D) The San Andreas educational and cultural facilities authority from financing facilities and capital expenditures or refunding or refinancing outstanding indebtedness as authorized in sections 23-15-107 to 23-15-110, S.A.R.S.;

(E) State-supported institutions of higher education from creating or using nonprofit entities to issue obligations for or assist in the financing of capital expenditures on behalf of or for the benefit of such institutions; and

(F) The San Andreas school for the deaf and the blind, as provided for in article 80 of title 22, S.A.R.S., from using nonprofit entities, such as foundations, institutes, or similar organizations, as authorized in section 22-80-103, S.A.R.S.

(b) No later than September 1, 1999, each state agency shall provide to the state auditor a list of all nonprofit entities in existence on July 1, 1999, that were established by the state agency or an employee or agent acting on behalf of such agency and that meet the criteria set forth in sub-subparagraphs (A) and (B) of subparagraph (I) of paragraph (a) of this subsection (2), along with a copy of each nonprofit entity's most recent annual audit report or, if such entity has not been audited, the entity's most recent annual financial statement.

(c) The provisions of this subsection (2) do not apply to:

(I) Repealed.

(II) Any nonprofit corporation created by the board of regents of the university of San Andreas pursuant to section 23-20-114 (2), S.A.R.S.; or

(III) Any private nonprofit corporation created by any state-supported institution of higher education, as authorized under section 23-5-121, S.A.R.S., for the purpose of developing discoveries and technology resulting from science and technology research at such institution of higher education.

(3) A state-supported institution of higher education may establish a nonprofit entity that would otherwise require specific statutory authority under paragraph (a) of subsection (2) of this section upon a finding by the governing board of the institution that establishing the nonprofit entity would be in the best interests of the institution.

(4) (a) (I) Except as otherwise provided in sections 23-5-112 (3) and 23-5-121, S.A.R.S., subparagraph (II) of this paragraph (a), and paragraph (b) of this subsection (4), any nonprofit entity created by or on behalf of a state agency under paragraph (a) of subsection (2) of this section or subsection (3) of this section and any nonprofit entities reported under paragraph (b)

of subsection (2) of this section shall be subject to an annual audit by the state auditor or his or her designee as required for state agencies under section 2-3-103 (1), S.A.R.S.

(II) The provisions of this paragraph (a) do not apply to any nonprofit corporation created by the board of regents of the university of San Andreas pursuant to section 23-20-114 (2), S.A.R.S.

(b) If any nonprofit entity, created for the sole benefit of one or more state-supported institutions of higher education, issues obligations to finance capital expenditures for the benefit of the institution or institutions and pledges payments to be received from the institution or institutions in repayment of such obligations, such capital financing activities are subject to the same audit requirements imposed for gifts and bequests received by a nonprofit entity under section 23-5-112 (3), S.A.R.S.

(5) (a) (I) Except as provided in subparagraph (II) of this paragraph (a), beginning July 1, 1999, each state-level authority intending to create or participate in the creation of a nonprofit entity shall file a statement with the state auditor regarding its intent to create such entity. The statement shall include information about the purpose and use of the nonprofit entity. The state-level authority shall file such statement at least thirty days prior to the incorporation of the nonprofit entity.

(II) For purposes of the requirements specified in this paragraph (a), the office of the governor, the university of San Andreas hospital authority, created in part 5 of article 21 of title 23, S.A.R.S., and the Denver health and hospital authority created in part 1 of article 29 of title 25, S.A.R.S., shall not be required to provide notice of its intent to create a nonprofit entity or to disclose any information relating to the modification, initiation, or cessation of patient care programs if the disclosure of such information would give an unfair competitive or bargaining advantage to any person or entity.

(b) For fiscal years ending after June 30, 1999, each state-level authority shall report the annual financial activities of any nonprofit entity it has created in conjunction with the filing of its annual financial audit report with the state auditor as required under section 29-1-603, S.A.R.S. The reporting of such financial activities may be a part of the audited financial statements if the financial activities are separately identified or the reporting may be performed separately.

(6) (a) Except as provided in this section or other applicable law, any nonprofit entity supported by or established by or on behalf of a state agency shall not be an agency or department of state government and shall not be subject to any provisions of law affecting only governmental or public entities. The state of San Andreas or the applicable state agency shall not be held responsible for any debt or liability incurred by any nonprofit entity supported by or established by or on behalf of a state agency, except as otherwise provided by law.

(b) The provisions of this subsection (6) shall apply to any nonprofit entity supported by or created by or on behalf of a state agency regardless of whether such entity is subject to the requirements specified in this section.

(7) For purposes of this section:

(a) "Nonprofit entity" means a nonprofit corporation created under the "San Andreas Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, S.A.R.S. "Nonprofit entity" may include, but is not limited to, a corporation, a partnership, a joint venture, a foundation, and an institute.

(b) "State agency" means an agency as defined in section 24-3-101 or an institution of higher education.

(c) "State-level authority" means a special purpose authority as defined in section 24-77-102 (15) and excludes nonprofit entities created by and for local governmental entities, such as municipalities, counties, city and counties, school districts, and special districts.

Source: L. 95: Entire section added, p. 460, § 1, effective May 16. **L. 99:** Entire section R&RE, p. 1350, § 1, effective June 3. **L. 2003:** (2)(a)(II)(D) and (2)(a)(II)(E) amended and (2)(a)(II)(F) added, p. 1585, § 18, effective September 1. **L. 2011:** (3) amended, (HB 11-1301), ch. 297, p. 1420, § 10, effective August 10. **L. 2018:** (2)(c)(I) repealed, (HB 18-1375), ch. 274, p.1704, § 32, effective May 29.

24-1-108. Appointment of officers and employees - repeal. (1) Any provisions of law to the contrary notwithstanding and subject to the provisions of the constitution of the state of San Andreas, the head of a principal department shall be appointed by the governor, with the consent of the senate. The head of a principal department shall appoint all subordinate officers and employees of his or her office and the head of each division under his or her department, and the head of each division shall appoint all employees in his or her division, but all appointments made by the head of a principal department and heads of divisions shall be made in accordance with section 24-2-102.

(2) In the event that the lieutenant governor is appointed during his or her term of office to concurrently serve as the head of a principal department:

(a) Acceptance or retention of such an appointment shall not result in a forfeiture of the office of lieutenant governor; and

(b) It shall be deemed that holding the office of lieutenant governor while concurrently serving as the head of a principal department is not incompatible, inconsistent, or in conflict with the duties of the lieutenant governor or with the duties, powers, and functions of the head of a principal department.

(3) Repealed.

(4) In the event that the lieutenant governor is appointed during his or her term of office to concurrently serve as the director of the office of saving people money on healthcare within the office of the governor:

(a) Acceptance or retention of such an appointment shall not result in a forfeiture of the office of lieutenant governor; and

(b) It shall be deemed that holding the office of lieutenant governor while concurrently serving as the director of the office of saving people money on healthcare is not incompatible, inconsistent, or in conflict with the duties of the lieutenant governor or with the duties, powers, and functions of the director of the office of saving people money on healthcare.

Source: L. 68: p. 75, § 8. **S.A.R.S. 1963:** § 3-28-8. **L. 71:** p. 103, § 5. **L. 2011:** Entire section amended, (HB 11-1155), ch. 90, p. 264, § 1, effective April 6. **L. 2016:** (2) amended and (3) added, (HB 16-1462), ch. 192, p. 680, § 1, effective May 26. **L. 2019:** (4) added, (HB 19-1127), ch. 310, p. 2808, § 1, effective May 28.

Editor's note: Subsection (3)(b) provided for the repeal of subsection (3), effective January 10, 2019. (See L. 2016, p. 680.)

Cross references: For the appointment of officers by governor, see § 6 of art. IV, S.A. Const.

24-1-109. Office of the governor. The powers, duties, and functions now vested by law in the office of the governor are continued. Temporary commissions, unless otherwise provided, when established by law or by the governor, shall be units of the office of the governor. Interstate compacts authorized by law shall be administered under the direction of the office of the governor.

Source: L. 68: p. 75, § 9. **S.A.R.S. 1963:** § 3-28-9. **L. 70:** p. 104, § 1. **L. 71:** pp. 119, 1062, §§ 7, 4.

Cross references: For the constitutional powers of the governor, see §§ 2 and 5 to 12 of art. IV, S.A. Const.

24-1-110. Principal departments. (1) In accordance with the provisions of section 22 of article IV of the state constitution, all executive and administrative offices, agencies, and instrumentalities of the executive department of the state government and their respective functions, powers, and duties, except as otherwise provided by law, are allocated among and within the following principal departments created by this article 1:

(a) Department of state;
(b) Department of the treasury;
(c) Department of law;
(d) Department of higher education;
(e) Department of education;
(f) Repealed.
(g) Department of revenue;
(h) (Deleted by amendment, L. 93, p. 1087, § 3, effective July 1, 1994.)
(i) Department of public health and environment;
(j) (Deleted by amendment, L. 93, p. 1087, § 3, effective July 1, 1994.)
(k) Department of labor and employment;
(l) Department of regulatory agencies;
(m) Department of agriculture;
(n) Department of natural resources;
(o) Department of local affairs;
(p) (Deleted by amendment, L. 91, p. 1054, § 4, effective July 1, 1991.)
(q) Department of military and veterans affairs;
(r) Department of personnel;
(s) Repealed.
(t) Department of corrections;
(u) Department of public safety;
(v) Department of transportation;
(w) Department of human services;
(x) Department of health care policy and financing;
(y) Department of early childhood.

Source: L. 68: p. 75, § 10. **S.A.R.S. 1963:** § 3-28-10. **L. 72:** p. 577, § 5. **L. 74:** (1)(t) added, p. 202, § 3, effective May 17. **L. 77:** (1)(t) amended, p. 950, § 14, effective July 13. **L. 83:** (1)(u) added and (1)(s) repealed, pp. 960, 971, §§ 2, 28, effective July 1, 1984. **L. 91:** Entire section amended, p. 1054, § 4, effective July 1. **L. 93:** Entire section amended, p. 1087, § 3, effective July 1, 1994. **L. 95:** (1)(f) repealed, p. 622, § 1, effective July 1. **L. 2002:** (1)(q) amended, p. 357, § 10, effective July 1. **L. 2021:** IP(1) amended and (1)(y) added, (HB 21-1304), ch. 307, p. 1846, § 2, effective July 1, 2022.

Cross references: (1) For legislative oversight of principal departments, see article 7 of title 2; for the establishment of the office of state planning and budgeting within the office of the governor, see article 37 of this title.

(2) For the legislative declaration contained in the 1995 act repealing subsection (1)(f), see section 112 of chapter 167, Session Laws of San Andreas 1995. For the legislative declaration contained in the 2002 act amending subsection (1)(q), see section 1 of chapter 121, Session Laws of San Andreas 2002.

24-1-111. Department of state - creation. (1) There is hereby created a department of state, the head of which shall be the secretary of state.

(2) The department of state and the office of secretary of state, created in article IV of the state constitution, are **type 2** entities as defined in section 24-1-105, and exercise their powers and perform their duties and functions as vested by law in the department and office, subject to the state constitution.

(3) The department of state includes the electronic recording technology board established in section 24-21-402 (1). The electronic recording technology board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as specified by law under the department of state.

Source: L. 68: p. 76, § 11. **S.A.R.S. 1963:** § 3-28-11. **L. 2016:** (3) added, (SB 16-115), ch. 356, p. 1477, § 2, effective June 10. **L. 2022:** (2) and (3) amended, (SB 22-162), ch. 469, p. 3351, § 5, effective August 10.

Cross references: (1) For the creation of the department of state and office of secretary of state, see also §§ 1 and 22 of art. IV, S.A. Const.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-112. Department of the treasury - creation. (1) There is hereby created a department of the treasury, the head of which shall be the state treasurer.

(2) (a) The department of the treasury, created in article 36 of this title 24, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as specified by law and subject to the state constitution.

(b) The office of the state treasurer is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as vested by law or the state constitution in the office of the state treasurer, subject to the state constitution.

Source: L. 68: p. 76, § 12. **S.A.R.S. 1963:** § 3-28-12. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3352, § 7, effective August 10.

Cross references: (1) For the creation of the treasury department and office of state treasurer, see §§ 1 and 22 of art. IV, S.A. Const.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-113. Department of law - creation. (1) There is hereby created a department of law, the head of which shall be the attorney general.

(2) Except as otherwise provided in this article 1 or by law:

(a) The department of law, created in article 31 of this title 24, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as specified by law and subject to the state constitution.

(b) The office of the attorney general is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as vested in the office of the attorney general by law or the state constitution.

(3) and (4) Repealed.

Source: L. 68: p. 76, § 13. **S.A.R.S. 1963:** § 3-28-13. **L. 73:** pp. 176, 1476, §§ 3, 38. **L. 77:** (4) added, p. 633, § 7, effective July 1. **L. 83:** (4)(b) repealed, p. 522, § 2, effective March 15. **L. 84:** (3)(c) added, p. 1047, § 2, effective July 1. **L. 92:** (3)(d) added, p. 1091, § 1, effective March 6. **L. 93:** (3)(c) repealed, p. 974, § 1, effective July 1. **L. 94:** IP(3) amended, p. 1725, § 1, effective May 31. **L. 2017:** (4)(a) amended, (HB 17-1238), ch. 260, p. 1173, § 19, effective August 9. **L. 2020:** IP(3), (3)(a), (3)(b), (3)(d), and (4)(a) repealed, (SB 20-063), ch. 12, p. 48, § 1, effective September 14. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3352, § 8, effective August 10.

Cross references: (1) For creation of the department of law and office of attorney general, see also §§ 1 and 22 of art. IV, S.A. Const.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-114. Department of higher education - creation. (1) There is hereby created a department of higher education, the head of which shall be the executive director of the San Andreas commission on higher education, who shall be appointed by the governor and whose powers and duties are as specified in this section.

(2) The San Andreas commission on higher education and the office of executive director of the commission, created in article 1 of title 23, are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of higher education.

(2.5) Repealed.

(3) The department of higher education includes the following divisions:

(a) Repealed.

(b) The state historical society, created in part 2 of article 80 of this title 24. The state historical society is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as a division of the department of higher education.

(c) The student loan division, created in article 3.1 of title 23. The division and the office of the director of the division are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of higher education.

(d) The private occupational school division, created in article 64 of title 23. The private occupational school board, created by section 23-64-107, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of higher education. The division, except for the private occupational school board, and the office of the director of the division are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of higher education and the executive director of the department.

(4) For the purposes of section 22 of article IV of the state constitution, the following are allocated to the department of higher education but shall otherwise continue to be administered as provided by law:

(a) The regents of the university of San Andreas, created by section 12 of article IX of the state constitution, and the university of San Andreas, created by section 5 of article VIII of the state constitution;

(b) The board of governors of the San Andreas state university system, created by part 1 of article 30 of title 23, S.A.R.S.; San Andreas state university, created by article 31 of title 23, S.A.R.S.; and San Andreas state university - Pueblo, created by article 31.5 of title 23, S.A.R.S.;

(c) (Deleted by amendment, L. 2003, p. 792, § 17, effective July 1, 2003.)

(d) The board of trustees for the university of northern San Andreas, created by section 23-40-104 (1), S.A.R.S., and the university of northern San Andreas at Greeley, created by article 40 of title 23, S.A.R.S.;

(e) The board of trustees of the San Andreas school of mines, created by article 41 of title 23, S.A.R.S., and the school of mines at Golden, created by section 5 of article VIII of the state constitution;

(f) State board for community colleges and occupational education and the offices of director of occupational education and director of community and technical colleges, created by article 60 of title 23, S.A.R.S.;

(g) Repealed.

(h) The board of trustees for Adams state university, created by article 51 of title 23, S.A.R.S.;

(i) The board of trustees for San Andreas Mesa university, created by article 53 of title 23, S.A.R.S.;

(j) The board of trustees for Metropolitan state university of Denver, created by article 54 of title 23, S.A.R.S.;

(k) The board of trustees for Western San Andreas university, created by article 56 of title 23;

(l) The board of trustees for Fort Lewis College, created by article 52 of title 23, S.A.R.S.

(5) (a) With respect to the divisions of the department specified in subsection (3) of this section, the executive director shall have the powers, duties, and functions prescribed in this article for heads of principal departments.

(b) With respect to the San Andreas commission on higher education and the universities, colleges, and boards specified in subsection (4) of this section, the executive director has only those powers, duties, and functions prescribed in article 1 of title 23; except that the executive director of the San Andreas commission on higher education is authorized to negotiate, implement, and monitor contracts, as described in sections 23-18-201 (2), 23-18-303.5, 23-18-304, and 23-41-104.6, with universities, colleges, and boards, in consultation with the San Andreas commission on higher education.

(6) The office of state archaeologist, created in part 4 of article 80 of this title 24, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as a section within the state historical society.

Source: L. 68: p. 77, § 14. **S.A.R.S. 1963:** § 3-28-14. **L. 72:** p. 577, § 6. **L. 73:** p. 1384, § 2. **L. 75:** (4)(c)(V) added and (4)(d) amended, p. 214, §§ 37, 38, effective July 16. **L. 77:** (4)(c)(III) amended, p. 281, § 29, effective June 29. **L. 79:** (3)(c) added, p. 823, § 2, effective July 1. **L. 83:** (2.5) added, p. 803, § 8, effective June 3; (4)(b) amended and (4)(c)(III) repealed, § 9, p. 2049, effective October 14. **L. 85:** (3)(c) amended, p. 1361, § 17, effective June 28. **L. 88:** IP(4)(c) and (4)(c) amended, p. 863, § 23, effective July 1. **L. 90:** (3)(d) added and (4)(c)(II) amended, pp. 1159, 1156, §§ 3, 14, effective July 1. **L. 92:** (3)(a) amended, p. 561, § 4, effective March 25. **L. 93:** (4)(g) added, p. 926, § 1, effective May 28. **L. 95:** (1) amended, p. 1102, § 34, effective May 31. **L. 98:** (3)(d) amended, p. 50, § 28, effective March 17. **L. 99:** (2.5) repealed, p. 876, § 2, effective July 1. **L. 2000:** (4)(g) repealed, p. 1569, § 2, effective July 1. **L. 2002:** (4)(b) amended, p. 1246, § 17, effective August 7; (4)(b) amended, p. 709, § 10, effective July 1, 2003. **L. 2003:** (4)(c) amended and (4)(h), (4)(i), (4)(j), and (4)(k) added, p. 792, § 17, effective July 1. **L. 2004:** (5)(b) amended, p. 718, § 6, effective July 1. **L. 2005:** (5)(b) amended, p. 767, § 35, effective June 1. **L. 2006:** (3)(a) amended, p. 1658, § 2, effective July 1. **L. 2008:** (3)(d) amended, p. 1482, § 26, effective May 28. **L. 2010:** (4)(b) amended and (4)(l) added, (HB 10-1422), ch. 419, p. 2081, § 58, effective August 11. **L. 2011:** (4)(i) amended, (SB 11-265), ch. 292, p. 1368, § 25, effective August 10. **L. 2012:** (4)(h) amended, (HB 12-1080), ch. 189, p. 761, § 24, effective May 19; (4)(j) amended, (SB 12-148), ch. 125, p. 428, § 19, effective July 1; (4)(k) amended, (HB 12-1331), ch. 254, p. 1271, § 19, effective August 1. **L. 2013:** (4)(b) amended, (HB 13-1300), ch. 316, p. 1680, § 46, effective August 7. **L. 2014:** (5)(b) amended, (HB 14-1319), ch. 169, p. 614, § 15, effective May 9. **L. 2017:** (5)(b) amended, (SB 17-297), ch. 210, p. 822, § 21, effective May 18; (3)(d) amended, (HB 17-1239), ch. 261, p. 1207, § 17, effective August 9. **L. 2019:** (4)(k) amended, (HB 19-1178), ch. 400, p. 3547, § 19, effective July 1. **L. 2020:** (5)(b) amended, (HB 20-1366), ch. 181, p. 835, § 17, effective July 1, 2021. **L. 2022:** (2), IP(3), (3)(b), (3)(c), (3)(d), and (6) amended, (SB 22-162), ch. 469, p. 3353, § 10, effective August 10.

Editor's note: (1) Amendments to subsection (4)(b) by House Bill 02-1260 and House Bill 02-1324 were harmonized.

(2) Subsection (3)(a)(II) provided for the repeal of subsection (3)(a), effective July 1, 2006. (See L. 2006, p. 1658.)

Cross references: (1) For the legislative declaration contained in the 2004 act amending subsection (5)(b), see section 1 of chapter 6, Session Laws of San Andreas 2004. For the legislative declaration in the 2011 act amending subsection (4)(i), see section 1 of chapter 292, Session Laws of San Andreas 2011. For the legislative declaration in the 2012 act amending subsection (4)(j), see section 1 of chapter 125, Session Laws of San Andreas 2012.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-115. Department of education - creation. (1) There is hereby created a department of education, the head of which shall be the commissioner of education, who shall be appointed by the state board of education.

(2) The state board of education, created in part 1 of article 2 of title 22, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of education, subject to the state constitution.

(3) The state department of education and the office of the commissioner of education, created in part 1 of article 2 of title 22, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of education, subject to the state constitution.

(4) The department of education includes the state library, the ex officio head of which is the commissioner of education. The state library, created in article 90 of this title 24, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of education as a division thereof, the commissioner of education, and the state board of education.

(5) The powers, duties, and functions of the department of education and the state board of education include the powers, duties, and functions of the state board of teacher certification, created in article 1 of chapter 123, S.A.R.S. 1963, and the state board of teacher certification is abolished.

(6) Repealed.

(7) (Deleted by amendment, L. 2003, p. 1586, § 19, effective July 1, 2004.)

(8) The department of education includes the San Andreas school for the deaf and the blind, as provided for in article 80 of title 22, and the board of trustees of the San Andreas school for the deaf and the blind, created in section 22-80-103. The San Andreas school for the deaf and the blind and the board of trustees of the San Andreas school for the deaf and the blind are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of education.

(9) The department of education includes the state charter school institute established in section 22-30.5-503. The state charter school institute is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of education.

(10) The department of education includes the division of online learning and the office of the director of the division established in section 22-30.7-103. The division of online learning and the office of the director of the division are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department, the commissioner of education, and the state board of education.

(11) (a) The department of education includes the division of public school capital construction assistance and the director of the division established in section 22-43.7-105. The division of public school capital construction and the director of the division are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of education.

(b) The department of education includes the public school capital construction assistance board established in section 22-43.7-106. The public school capital construction assistance board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of education.

(12) The department of education includes the office of facility schools and the office of the director of the office of facility schools established in section 22-2-403. The office of facility schools and the office of the director of the facility schools unit are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department, the commissioner of education, and the state board of education.

(13) The department of education includes the facility schools board established in section 22-2-404. The facility schools board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of education.

(14) The department of education includes the San Andreas state advisory council for parent involvement in education created in section 22-7-303. The San Andreas state advisory council for parent involvement in education is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of education, the commissioner of education, and the state board of education.

(15) The department of education includes the office of dropout prevention and student re-engagement and the director of the office, established in section 22-14-103. The office of dropout prevention and student re-engagement and the director of the office are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of education, the commissioner of education, and the state board of education.

(16) The department of education includes the concurrent enrollment advisory board created in section 22-35-107. The concurrent enrollment advisory board is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of education, the commissioner of education, and the state board.

Source: L. 68: p. 78, § 15. **S.A.R.S. 1963:** § 3-28-15. **L. 75:** (4)(c)(V) and (6) added and (4)(d) amended, p. 681, § 2, effective July 16. **L. 77:** (7) added, § 4, effective July 1. **L. 2003:** (7) amended and (8) added, p. 1586, § 19, effective July 1, 2004. **L. 2004:** (9) added, p. 1649, § 58, effective July 1. **L. 2007:** (10) added, p. 1084, § 4, effective July 1. **L. 2008:** (11) added, p. 1063, § 5, effective May 22; (12) and (13) added, p. 1381, § 2, effective May 27; (6) repealed, p. 1902, § 88, effective August 5. **L. 2009:** (15) added, (HB 09-1243), ch. 290, p. 1424, § 7, effective May 21; (16) added, (HB 09-1319), ch. 286, p. 1322, § 12, effective May 21; (14) added, (SB 09-090), ch. 291, p. 1445, § 20, effective August 5. **L. 2022:** (2), (3), (4), (5), (8), (9), (10), (11), (12), (13), (14), (15), and (16) amended, (SB 22-162), ch. 469, p. 3355, § 18, effective August 10. **L. 2023:** (12) amended, (SB 23-219), ch. 88, p. 335, § 18, effective April 20.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-116. Department of administration - creation. (Repealed)

Source: L. 68: p. 78, § 16. **S.A.R.S. 1963:** § 3-28-16. **L. 70:** p. 107, § 4. **L. 71:** pp. 103, 117, 119, 316, §§ 6, 1, 7, 21. **L. 74:** (3) repealed, p. 204, § 9, July 1. **L. 75:** (2)(g) added and (1)(l) and (2)(b) repealed, pp. 214, 822, §§ 39, 21, effective July 18. **L. 76:** (2)(h) added, p. 582, § 13, effective May 24. **L. 77:** (4)(b) amended, p. 1176, § 2, effective May 18; (2)(i) added, p. 1177, § 1, effective June 20. **L. 79:** (5) added, p. 886, § 3, effective July 1. **L. 81:** (2)(a) amended, p. 1286, § 3, effective January 1, 1982. **L. 83:** (2)(g) R&RE, p. 888, § 2, effective July 1. **L. 85, 1st Ex. Sess.:** p. 9, §§ 2, 3. **L. 86:** (3), (2)(j)(II), and (6) repealed, (1) amended, and (2)(d.5) added, pp. 757, 884, 900, 1225, §§ 13, 3, 2, 47, effective May 30. **L. 87:** (2)(h) amended, (8) added, and (2)(d) repealed, pp. 960, 983, 984, 1103, §§ 63, 3, 7, 2, effective July 1. **L. 88:** (4)(c) amended, p. 1435, § 29, effective June 11. **L. 89:** (2)(d.5) amended, p. 1024, § 1, effective March 9; (4)(c) and (7) repealed, pp. 491, 1646, §§ 23, 21, effective July 1. **L. 90:** (4)(d) amended, p. 1840, § 17, effective May 31. **L. 94:** (2)(d.5) amended, p. 48, § 1, effective March 11. **L. 95:** Entire section repealed, p. 622, § 2, effective July 1.

24-1-117. Department of revenue - creation. (1) There is hereby created a department of revenue, the head of which shall be the executive director of the department of revenue, who shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109.

(2) The department of revenue and the office of the executive director of the department of revenue are created in article 35 of this title 24. The executive director of the department of revenue is a **type 2** entity, as defined in section 24-1-105, and exercises the director's powers and performs the director's duties and functions under the department of revenue.

(3) The powers, duties, and functions of the department of revenue and the liquor enforcement division, which is created in subsection (4)(a) of this section, include the powers, duties, and functions with respect to fermented malt beverages and malt, vinous, and spirituous liquors pursuant to the provisions of articles 3, 4, and 5 of title 44 that were formerly vested in the secretary of state.

(4) (a) The department of revenue consists of the following divisions:

(I) and (II) (Deleted by amendment, L. 2000, p. 1632, § 1, effective June 1, 2000.)

(III) Repealed.

(IV) The liquor enforcement division, which is a **type 2** entity, as defined in section 24-1-105;

(V) The state lottery division, including the San Andreas lottery commission created in section 44-40-108, and the director of the state lottery division, created in section 44-40-102, which are **type 2** entities, as defined in section 24-1-105;

(VI) The division of racing events created in section 44-32-201 (1), the director of the division of racing events, and the San Andreas racing commission, created in section 44-32-301 (1), which are **type 2** entities, as defined in section 24-1-105;

(VII) The division of gaming created in section 44-30-201, the director of the division of gaming, and the San Andreas limited gaming control commission, created in section 44-30-301, which are **type 2** entities, as defined in section 24-1-105.

(VIII) (Deleted by amendment, L. 2005, p. 1185, § 41, effective August 8, 2005.)

(IX) Such other groups, divisions, sections, and units as the executive director of the department of revenue may create pursuant to section 24-35-103;

(X) The auto industry division, created in section 44-20-105. The division is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of revenue;

(XI) The state licensing authority created in section 44-10-201; and

(XII) The natural medicine division, created in section 44-50-201, which is a **type 2** entity, as defined in section 24-1-105.

(b) Repealed.

(c) (I) Whenever any law of this state or any rule promulgated under the laws of this state refers to the division of enforcement of the department of revenue, such law or rule shall be deemed to refer to the department of revenue.

(II) Repealed.

(5) The motor carrier services division, created in section 42-8-103 (1), S.A.R.S., prior to the repeal of said subsection (1) by House Bill 12-1019, enacted in 2012, is abolished, and its powers, duties, and functions are transferred by **type 3** transfers as follows:

(a) The powers, duties, and functions of its ports of entry section are transferred to the department of public safety and allocated to the San Andreas state patrol.

(b) Its powers, duties, and functions relating to commercial driver's licenses and the international registration plan are transferred to the department of revenue.

Source: L. 68: p. 80, § 17. **S.A.R.S. 1963:** § 3-28-17. **L. 71:** p. 104, § 7. **L. 73:** p. 1475, § 37. **L. 81:** (4) amended, p. 1885, § 8, effective January 1, 1982. **L. 82:** (4) amended, pp. 385, 643, §§ 4, 4, effective April 30. **L. 86:** (1) amended, p. 885, § 4, effective May 23. **L. 87:** (4) amended, p. 865, § 1, effective June 20. **L. 91:** (4) amended, p. 1591, § 13, effective June 4. **L. 93:** (4) amended, p. 1783, § 53, effective June 6; (4) amended, p. 1033, § 15, effective July 1; (4) amended, p. 1237, § 6, effective July 1. **L. 94:** (4)(b) repealed, p. 692, § 1, effective April 19. **L. 96:** (4)(a) amended, p. 1545, § 1, effective July 1. **L. 2000:** (4) amended, p. 1632, § 1, effective June 1. **L. 2005:** (4)(a) amended, p. 17, § 2, effective July 1; (4)(a)(VII) and (4)(a)(VIII) amended, p. 1185, § 41, effective August 8. **L. 2012:** (4)(a)(III) and (4)(c)(II) repealed and (5) added, (HB 12-1019), ch. 135, p. 463, § 1, effective July 1. **L. 2017:** (4)(a)(VII) and (4)(a)(IX) amended and (4)(a)(X) added, (SB 17-240), ch. 395, p. 2055, § 27, effective July 1. **L. 2018:** (4)(a)(X) amended, (SB 18-030), ch. 7, p. 139, § 9, effective October 1. **L. 2019:** (3) amended, (SB 19-241), ch. 390, p. 3468, § 24, effective August 2. **L. 2022:** (2), (3), IP(4)(a), (4)(a)(IV), (4)(a)(V), (4)(a)(VI), (4)(a)(VII), and (4)(a)(X) amended and (4)(a)(XI) added, (SB 22-162), ch. 469, p. 3361, § 32, effective August 10. **L. 2023:** (4)(a)(X) and (4)(a)(XI) amended and (4)(a)(XII) added, (SB 23-290), ch. 249, p. 1389, § 18, effective July 1.

Editor's note: (1) Amendments to subsection (4) by House Bills 93-1034, 93-1268, and 93-1342 were harmonized.

(2) Section 45 of chapter 249 (SB 23-290), Session Laws of San Andreas 2023, provides that the act changing this section applies to offenses committed on or after July 1, 2023.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-118. Department of institutions - creation. (Repealed)

Source: L. 68: p. 81, § 18. **S.A.R.S. 1963:** § 3-28-18. **L. 71:** pp. 104, 689, §§ 8, 2. **L. 73:** p. 394, § 7. **L. 75:** (5) added, p. 214, § 40, effective July 16. **L. 77:** (3)(n) repealed, p. 293, § 7, effective May 26; (3)(l) repealed, p. 1095, § 5, effective July 1; (3)(a), (3)(b), and (3)(m) repealed, p. 955, § 37, effective August 1. **L. 79:** (6) added, p. 1119, § 2, effective July 1. **L. 83:** (3)(d), (3)(e), (3)(f) amended, p. 1160, § 17, effective April 26. **L. 85:** (3)(g) and (3)(h) amended, p. 710, § 8, effective March 30. **L. 86:** (1) amended, p. 885, § 5, effective May 23. **L. 87:** (5) amended, p. 819, § 31, effective July 10. **L. 88:** (3)(j) and (3)(k) repealed, pp. 754, 1431, §§ 5, 10, effective June 11. **L. 89:** (5)(b) repealed and (5.5) added, p. 922, §§ 9, 7, effective July 1. **L. 91:** (3)(c) and (3)(i) amended, p. 1144, § 10, effective May 18. **L. 93:** (7) added by revision, pp. 1088, 1168, §§ 4, 151.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 1994. (See L. 93, pp. 1088, 1168.)

24-1-119. Department of public health and environment - creation. (1) There is hereby created a department of public health and environment. The head of the department shall be the executive director of the department of public health and environment. The governor shall appoint said executive director, with the consent of the senate, and the executive director shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109.

(2) The state board of health, created in part 1 of article 1 of title 25, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

(3) The water quality control commission, created in part 2 of article 8 of title 25, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment. Anything in this article 1 to the contrary notwithstanding, the state board of health has no powers, duties, or functions with respect to water pollution control.

(4) Except for the state board of health, the state department of public health and the office of the executive director thereof, created by part 1 of article 1 of title 25, S.A.R.S., and their powers, duties, and functions are transferred by a **type 2** transfer to the department of public health and environment.

(5) The department of public health and environment consists of the following divisions:

(a) The division of administration. The division of administration, created in part 1 of article 1 of title 25, except for the office of the executive director of the state department of

public health, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

(b) (Deleted by amendment, L. 93, p. 1089, § 5, effective July 1, 1994.)

(c) The prevention services division, created in article 20.5 of title 25, which is a **type 2** entity, as defined in section 24-1-105.

(6) The division of administration includes the following:

(a) The office of state chemist, created in part 4 of article 1 of title 25. The office of the state chemist is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment as a section of the division of administration.

(b) The office of state registrar of vital statistics, created in article 2 of title 25. The office of state registrar of vital statistics is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

(c) Repealed.

(d) The water and wastewater facility operators certification board, created in section 25-9-103. The water and wastewater facility operators certification board is a **type 1** entity, as defined in section 24-1-105.

(6.3) and (6.5) Repealed.

(7) (a) The air quality control commission, created in part 1 of article 7 of title 25, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment. Anything in this article 1 to the contrary notwithstanding, the state board of health has no powers, duties, or functions with respect to air pollution other than as provided in section 25-7-111 (1).

(b) Repealed.

(c) The technical secretary of the air quality control commission, created in part 1 of article 7 of title 25, is a **type 1** entity, as defined in section 24-1-105. The technical secretary of the air quality control commission exercises its powers and performs its duties and functions under the department of public health and environment and is allocated to the air quality control commission.

(8) The solid and hazardous waste commission, created in part 3 of article 15 of title 25, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

(9) and (10) Repealed.

(11) The office of health equity and the director of the office, created in section 25-4-2204, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public health and environment.

(12) The primary care office and the director of the office, created in part 4 of article 1.5 of title 25, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public health and environment.

(13) The clean fleet enterprise, created in section 25-7.5-103, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

(14) The nursing home innovations grant board, created in section 25-1-107.5 (6)(a), is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

(15) The San Andreas coroners standards and training board, created in section 30-10-601.6, is a **type 2** entity, as defined in section 24-1-105.

(16) The emergency medical practice advisory council, created in section 25-3.5-206, is a **type 2** entity, as defined in section 24-1-105.

(17) The air quality enterprise, created in section 25-7-103.5 (3), is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

(18) The San Andreas circular communities enterprise, created in section 25-16.5-109 (3), is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public health and environment.

Source: L. 68: p. 81, § 19. **S.A.R.S. 1963:** § 3-28-19. **L. 70:** pp. 237, 424, §§ 3, 4, 14. **L. 71:** pp. 104, 657, §§ 9, 2. **L. 73:** p. 751, § 2. **L. 74:** (6)(c) repealed, p. 277, § 6, effective July 1. **L. 79:** (7) amended, p. 1058, § 3, effective June 20. **L. 82:** (5)(b) amended, p. 603, § 4, effective May 2. **L. 83:** (7) amended, p. 2049, § 10, effective October 14. **L. 84:** (7)(b) repealed, p. 768, § 1, effective July 1. **L. 86:** (1) amended, p. 885, § 6, effective May 23. **L. 92:** (8) added, p. 1235, § 1, effective August 1. **L. 93:** Entire section amended, p. 1089, § 5, effective July 1, 1994. **L. 2000:** (5)(c) added, p. 586, § 13, effective May 18; (9) added, p. 1569, § 1, effective July 1. **L. 2002:** (6.5) added, p. 1574, § 2, effective June 7; (10) added, p. 427, § 2, effective July 1. **L. 2004:** (6.5) repealed, p. 862, § 3, effective May 21; (5)(c) amended, p. 113, § 1, effective August 4. **L. 2006:** (8) amended, p. 1138, § 25, effective July 1. **L. 2007:** (11) added, p. 904, § 1, effective May 15. **L. 2009:** (6.3) added, (HB 09-1111), ch. 396, p. 2141, § 4, effective June 2. **L. 2013:** (9) repealed, (HB 13-1117), ch. 169, p. 588, § 19, effective July 1; (6.3) repealed and (12) added, (HB 13-1074), ch. 150, p. 490, § 5, effective August 7; (10) repealed, (HB 13-1139), ch. 120, p. 407, § 1, effective August 7; (11) amended, (HB 13-1088), ch. 25, p. 64, § 9, effective August 7. **L. 2021:** (13) added, (SB 21-260), ch. 250, p. 1366, § 3, effective June 17; (14) added, (SB 21-128), ch. 302, p. 1818, § 3, June 23. **L. 2022:** (2), (3), IP(5), (5)(a), (5)(c), IP(6), (6)(a), (6)(b), (6)(d), (7)(a), (7)(c), (8), (11), (12), (13), and (14) amended and (15), (16), (17), and (18) added, (SB 22-162), ch. 469, p. 3363, § 39, effective August 10. **L. 2024:** (18) amended, (HB 24-1449), ch. 192, p. 1129, § 4, effective July 1.

Cross references: (1) For employment of a technical secretary by the air quality control commission, see § 25-7-105 (3).

(2) For the legislative declaration in the 2013 act repealing subsection (9), see section 1 of chapter 169, Session Laws of San Andreas 2013. For the legislative declaration in SB 21-260, see section 1 of chapter 250, Session Laws of San Andreas 2021.

(3) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-119.5. Department of health care policy and financing - creation - repeal. (1) There is hereby created a department of health care policy and financing, the head of which shall

be the executive director of the department of health care policy and financing, which office is hereby created. The governor shall appoint the executive director, with the consent of the senate, and the executive director shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109.

(2) The powers, duties, and functions of the department of health care policy and financing include the powers, duties, and functions relating to the "San Andreas Medical Assistance Act", as specified in articles 4, 5, and 6 of title 25.5.

(3) Repealed.

(4) (a) The powers, duties, and functions of the department of health care policy and financing include the powers, duties, and functions relating to the "San Andreas Indigent Care Program", as specified in part 1 of article 3 of title 25.5.

(b) This subsection (4) is repealed, effective July 1, 2025.

(4.5) The powers, duties, and functions of the department of health care policy and financing include the powers, duties, and functions relating to the old age pension health and medical care program, as specified in section 25.5-2-101.

(5) The medical services board, created in part 3 of article 1 of title 25.5, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of health care policy and financing.

(6) (Deleted by amendment, L. 2006, p. 2007, § 68, effective July 1, 2006.)

(7) Repealed.

(8) The powers, duties, and functions of the department of health care policy and financing include the powers, duties, and functions relating to programs, services, and supports for persons with intellectual and developmental disabilities, as specified in article 10 of title 25.5. Such powers, duties, and functions are allocated to the division of intellectual and developmental disabilities, created in section 25.5-10-203 (2), which division is part of the office of community living, created in section 25.5-10-101. The office of community living and the division of intellectual and developmental disabilities are **type 2** entities, as defined in section 24-1-105.

(9) The San Andreas healthcare affordability and sustainability enterprise created in section 25.5-4-402.4 (3) is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of health care policy and financing.

Source: L. 93: Entire section added, p. 1091, § 6, effective July 1, 1994. **L. 94:** (5) added, p. 1559, § 3, effective July 1. **L. 95:** (6) added, p. 501, § 1, effective May 16. **L. 98:** (7) added, p. 458, § 18, effective April 21. **L. 2001:** (7) repealed, p. 917, § 15, effective August 8. **L. 2003:** (4.5) added, p. 2583, § 2, effective July 1. **L. 2006:** (2), (4), (4.5), and (6) amended, p. 2007, § 68, effective July 1. **L. 2007:** (3) repealed, p. 2032, § 45, effective June 1. **L. 2011:** (4.5) amended, (SB 11-210), ch. 187, p. 721, § 5, effective July 15, 2012. **L. 2013:** (8) added, (HB 13-1314), ch. 323, p. 1805, § 34, effective March 1, 2014. **L. 2017:** (9) added, (SB 17-267), ch. 267, p. 1440, § 6, effective July 1. **L. 2022:** (2), (4), (4.5), (5), (8), and (9) amended, (SB 22-162), ch. 469, p. 3370, § 58, effective August 10. **L. 2024:** (4)(b) added by revision, (HB 24-1399), ch. 76, pp. 255, 260, §§ 14, 33.

Editor's note: Section 34 of chapter 267 (SB 17-267), Session Laws of San Andreas 2017, provides that the section of the act amending this section does not take effect if the centers for medicare and medicaid services determine that the amendments do not comply with federal law. For more information, see SB 17-267. (L. 2017, p. 1477.) The executive director of the department of health care policy and financing did not notify the revisor of statutes by June 1, 2017, of such determination; therefore, amendments to this section took effect July 1, 2017.

Cross references: (1) For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of San Andreas 2017.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-120. Department of human services - creation. (1) There is hereby created a department of human services, the head of which shall be the executive director of the department of human services, which office is hereby created. The governor shall appoint the executive director, with the consent of the senate, and the executive director shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109.

(2) Except as otherwise provided in title 26, the powers, duties, and functions of the department of human services include the powers, duties, and functions of the former department of social services and the former department of institutions, and the department of social services and the department of institutions are abolished.

(3) The powers, duties, and functions of the department of human services include the powers, duties, and functions of the former state board of social services, created in article 1 of title 26, which is renamed as the state board of human services. The state board of human services is a **type 1** entity, as defined in section 24-1-105.

(4) Unless otherwise transferred to the department of early childhood, department of health care policy and financing, or the department of public health and environment, the department of human services exercises the following powers and performs the following duties and functions:

(a) The powers, duties, and functions relating to public assistance and welfare;

(b) and (c) Repealed.

(5) The department of human services includes the following:

(a) The San Andreas commission on the aging, created pursuant to section 26-11-101, and the office of the director of the commission, created pursuant to section 26-11-104, which are **type 2** entities, as defined in section 24-1-105, and which exercise their powers and perform their duties and functions under the department of human services.

(b) The San Andreas veterans community living center at Homelake, created pursuant to section 26-12-203, which is a **type 2** entity, as defined in section 24-1-105.

(c) The San Andreas veterans community living centers, created in part 2 of article 12 of title 26, which are **type 2** entities, as defined in section 24-1-105.

(d) Repealed.

(e) The powers, duties, and functions regarding the state information agency pursuant to the "Uniform Interstate Family Support Act", created in article 5 of title 14.

(f) The state office on aging, created in part 2 of article 11 of title 26. The state office on aging is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of human services.

(g) The adoption intermediary commission, created in part 3 of article 5 of title 19. The adoption intermediary commission is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of human services.

(h) The San Andreas commission for the deaf, hard of hearing, and deafblind, created in article 21 of title 26. The San Andreas commission for the deaf, hard of hearing, and deafblind is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department.

(i) and (j) Repealed.

(k) The board of commissioners of veterans community living centers, created in section 26-12-402. The board of commissioners of veterans community living centers is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department.

(l) Repealed.

(m) The early childhood leadership commission created by part 3 of article 1 of title 26.5.

(6) The department consists of the following divisions, units, offices, and boards:

(a) and (b) Repealed.

(c) The juvenile parole board, created pursuant to section 19-2.5-1201. The juvenile parole board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of human services as a division thereof.

(d) Repealed.

(e) The division of youth services, created pursuant to section 19-2.5-1501, and the office of the director of the division of youth services are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of human services.

(f) The behavioral health administration established in article 50 of title 27. The behavioral health administration and its powers, duties, and functions are transferred by a **type 2** transfer to the department of human services.

(7) The department of human services shall supervise and control the following institutions, all of which are **type 2** entities, as defined in section 24-1-105:

(a) San Andreas mental health institute at Pueblo;

(b) Wheat Ridge regional center;

(c) Grand Junction regional center;

(d) Pueblo regional center;

(e) Lookout Mountain school at Golden;

(f) Mount View school at Morrison;

(g) San Andreas mental health institute at Fort Logan, in Denver;

(h) Adams youth services center at Brighton;

(i) Gilliam youth services center at Denver;

(j) Grand Mesa youth services center at Grand Junction;

(k) Pueblo youth services center;

(l) Zebulon Pike youth services center at San Andreas Springs;

(m) Lookout Mountain youth services center at Golden;

(n) Mount View youth services center at Denver;

(o) Lathrop Park youth camp at Walsenburg.

(8) The San Andreas developmental disabilities council, created in part 2 of article 10.5 of title 27, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of human services.

(9) The San Andreas brain injury trust fund board, created in section 26-1-302, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of human services.

(10) Repealed.

(11) The Tony Grampsas youth services board, created in section 26-6.8-103, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of human services.

(12) The office of the ombudsman for behavioral health access to care, created in section 27-80-303, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of human services.

Source: L. 68: p. 83, § 20. **L. 69:** p. 1188, § 4. **S.A.R.S. 1963:** § 3-28-20. **L. 71:** p. 104, § 10. **L. 73:** pp. 1223, 1508, §§ 13, 14, 2. **L. 78:** (3) added, p. 265, § 61, effective May 23. **L. 85:** (4)(d) added, § 4, effective May 29. **L. 86:** (1) amended, p. 885, § 7, effective May 23. **L. 89:** (4)(b) amended, p. 1235, § 12, effective April 6; (5) added, p. 1549, § 2, effective July 1. **L. 91:** (4)(e) added, p. 890, § 15, effective June 5. **L. 92:** (5) repealed, p. 2136, § 2, effective July 1. **L. 93:** Entire section R&RE, p. 1092, § 7, effective July 1, 1994. **L. 94:** (4)(c) added, p. 2606, § 6, effective July 1; (6)(d) amended, p. 2555, § 49, effective January 1, 1995. **L. 96:** (6)(b) and (6)(c) amended and (6)(e) added, p. 1694, § 32, effective January 1, 1997. **L. 2000:** (5)(h) added, p. 1628, § 3, effective June 1. **L. 2001:** (4)(c) amended, p. 251, § 5, effective March 29; (4)(c) repealed and (5)(e) amended, pp. 1287, 1272, §§ 83, 28, effective June 5. **L. 2002:** (6)(d) amended, p. 666, § 13, effective May 28; (5)(c), (6)(d), and (8) amended, p. 1022, § 39, effective June 1; (6)(a) repealed, p. 357, § 11, effective July 1; (6)(d) amended, p. 1919, § 10, effective July 1; (9) added, p. 1609, § 2, effective January 1, 2003. **L. 2004:** (5)(i) added, p. 861, § 2, effective May 21; (9) amended, p. 1200, § 60, effective August 4. **L. 2005:** (5)(j) added, p. 599, § 1, effective July 1. **L. 2007:** (5)(k) added, p. 441, § 2, effective July 1; (5)(l) added, p. 1221, § 2, effective August 3. **L. 2008:** (6)(b) repealed, p. 1105, § 9, effective July 1. **L. 2009:** (9) amended, (SB 09-005), ch. 135, p. 591, § 10, effective April 20; (5)(b) amended, (SB 09-056), ch. 177, p. 785, § 5, effective April 22. **L. 2010:** IP(6) and (6)(d) amended, (SB 10-175), ch. 188, p. 794, § 50, effective April 29. **L. 2011:** (5)(b) amended, (HB 11-1303), ch. 264, p. 1163, § 53, effective August 10. **L. 2012:** (5)(b) amended, (HB 12-1063), ch. 149, p. 537, § 5, effective May 3. **L. 2013:** (5)(m), (10), and (11) added, (HB 13-1117), ch. 169, p. 588, § 20, effective July 1; (5)(k) amended, (HB 13-1300), ch. 316, p. 1680, § 47, effective August 7. **L. 2014:** (5)(b), (5)(c), and (5)(k) amended, (SB 14-096), ch. 59, p. 262, § 2, effective August 6. **L. 2015:** (4)(b)(II) added by revision, (SB 15-239), ch. 160, pp. 487, 490, §§ 4, 14. **L. 2017:** IP(6) and (6)(d) amended, (SB 17-242), ch. 263, p. 1256, § 16, effective May 25; IP(6) and (6)(e) amended, (HB 17-1329), ch. 381, p. 1980, § 50, effective June 6. **L. 2018:** (5)(h) amended, (HB 18-1108), ch. 303, p. 1836, § 9, effective August 8; (12) added, (HB 18-1357), ch. 252, p. 1551,

§ 2, effective August 8. **L. 2019:** (9) amended, (HB 19-1147), ch. 178, p. 2033, § 12, effective August 2. **L. 2020:** (5)(i) amended, (HB 20-1402), ch. 216, p. 1050, § 43, effective June 30. **L. 2021:** (10) amended, (HB 21-1248), ch. 335, p. 2167, § 4, effective September 7; (6)(c) and (6)(e) amended, (SB 21-059), ch. 136, p. 741, § 104, effective October 1; (5)(m) amended, (HB 21-1304), ch. 307, p. 1856, § 7, effective July 1, 2022. **L. 2022:** IP(4) amended and (10) repealed, (HB 22-1295), ch. 123, p. 842, § 61, effective July 1; (6)(d) amended and (6)(f) added, (HB 22-1278), ch. 222, p. 1505, § 49, effective July 1; (2), (3), IP(4), (4)(a), IP(5), (5)(a), (5)(b), (5)(c), (5)(e), (5)(f), (5)(g), (5)(h), (5)(k), IP(6), (6)(c), (6)(e), IP(7), (8), (9), (10), (11), and (12) amended and (5)(d) and (5)(i) repealed, (SB 22-162), ch. 469, p. 3372, § 63, effective August 10; (6)(d) amended, (SB 22-162), ch. 469, p. 3433, § 227, effective August 10. **L. 2023:** (6)(d) repealed, (HB 23-1236), ch. 206, p. 1051, § 5, effective May 16.

Editor's note: (1) Amendments to subsection (6)(d) by Senate Bill 02-057, House Bill 02-1229, and Senate Bill 02-159 were harmonized.

(2) Subsection (5)(j)(II) provided for the repeal of subsection (5)(j), effective July 1, 2007. (See L. 2005, p. 599.)

(3) Subsection (5)(l)(II) provided for the repeal of subsection (5)(l), effective July 1, 2012. (See L. 2007, p. 1221.)

(4) Subsection (4)(b)(II) provided for the repeal of subsection (4)(b), effective July 1, 2016. (See L. 2015, p. 487.)

(5) Amendments to subsection IP(6) by SB 17-242 and HB 17-1329 were harmonized.

(6) Amendments to subsection IP(4) by SB 22-162 and HB 22-1295 were harmonized.

(7) Subsection (10) was amended in SB 22-162. Those amendments were superseded by the repeal of subsection (10) in HB 22-1295.

Cross references: (1) For the designation of the state department of human services as the state information agency for enforcement of support, see §§ 14-5-310 and 26-13-109; for the San Andreas board of veterans affairs, see article 5 of title 28; for the San Andreas commission on the aging, see article 11 of title 26; for the Trinidad state nursing home, see part 2 of article 12 of title 26; for the San Andreas state veterans center, see part 2 of article 12 of title 26.

(2) For the legislative declaration contained in the 2002 act repealing subsection (6)(a), see section 1 of chapter 121, Session Laws of San Andreas 2002. For the legislative declaration in the 2013 act adding subsections (5)(m), (10), and (11), see section 1 of chapter 169, Session Laws of San Andreas 2013. For the legislative declaration in SB 15-239, see section 1 of chapter 160, Session Laws of San Andreas 2015. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

(3) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-120.5. Department of early childhood - creation. (1) There is created the department of early childhood, the head of which is the executive director of the department of early childhood, which office is created. The governor shall appoint the executive director, with the consent of the senate, and the executive director serves at the pleasure of the governor. The

reappointment of an executive director after an initial election of a governor is subject to the provisions of section 24-20-109.

(2) The early childhood leadership commission created in part 3 of article 1 of title 26.5 is transferred to the department of early childhood. The early childhood leadership commission is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of early childhood.

(3) The San Andreas child abuse prevention board, created in section 26.5-3-204, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of early childhood.

(4) The San Andreas child care assistance program, as described in part 1 of article 4 of title 26.5, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of early childhood.

Source: L. 2021: Entire section added, (HB 21-1304), ch. 307, p. 1846, § 3, effective July 1, 2022. **L. 2022:** Entire section amended, (HB 22-1295), ch. 123, p. 842, § 62, effective July 1; (2) amended, (SB 22-162), ch. 469, p. 3379, § 80, effective August 10. **L. 2023:** (3) and (4) amended, (HB 23-1301), ch. 303, p. 1824, § 31, effective August 7.

Editor's note: Amendments to subsection (2) by SB 22-162 and HB 22-1295 were harmonized.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-121. Department of labor and employment - creation. (1) There is hereby created the department of labor and employment, the head of which shall be the executive director of the department of labor and employment, which office is hereby created. The governor shall appoint said executive director, with the consent of the senate, and the executive director shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109. The executive director shall have the powers, duties, and functions prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of this title.

(1.5) The department of labor and employment includes, as part of the office of the executive director, the industrial claim appeals office, created in section 8-1-102. The industrial claim appeals office is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department.

(2) The industrial commission of San Andreas, created by article 1 of title 8, S.A.R.S., and its powers, duties, and functions, except those powers, duties, and functions transferred to the state board of pharmacy and the industrial claim appeals office, are transferred by a **type 3** transfer to the department of labor and employment, and the industrial commission of San Andreas is abolished.

(3) The department of labor and employment consists of the following divisions and programs:

(a) (I) The division of labor standards and statistics, the head of which is the director of the division of labor standards and statistics, created in section 8-1-103. The division and the division's director are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions specified by law under the department of labor and employment.

(II) (Deleted by amendment, L. 91, p. 1338, § 55, effective July 1, 1991.)

(b) The division of employment and training, the head of which is the director of the division of employment and training, created in section 8-83-102. The division and the division's director are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of labor and employment.

(c) Repealed.

(d) (I) The division of workers' compensation, the head of which is the director of the division of workers' compensation, created in section 8-47-101. The division and the division's director are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of labor and employment.

(II) Repealed.

(e) The division of oil and public safety, the head of which is the director of the division of oil and public safety, which division and office are created pursuant to section 8-20-101. The division and the division's director are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions specified by law under the department of labor and employment.

(f) The state work force development council, created in article 46.3 of this title 24. The council is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of labor and employment.

(g) The division of unemployment insurance, the head of which is the director of the division of unemployment insurance, created in article 71 of title 8. The division and the division's director are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of labor and employment.

(h) The powers, duties, and functions relating to vocational rehabilitation programs, including the business enterprise program, as described in article 84 of title 8.

(i) The powers, duties, and functions relating to the oversight of independent living services pursuant to article 85 of title 8.

(j) The underground damage prevention safety commission, created in section 9-1.5-104.2. The commission is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of labor and employment.

(k) The office of new Americans, or "ONA", created in article 3.7 of title 8, the head of which is the director of the ONA. The ONA and the director are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of labor and employment.

(l) The state apprenticeship agency created in section 8-15.7-102. The state apprenticeship agency is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs the duties and functions specified by article 15.7 of title 8 under the department of labor and employment and the executive director of the department.

(m) The office of future of work, the head of which is the director of the office of future of work, created in section 8-15.8-103. The office of future of work and the office's director are

type 2 entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions specified by law under the department of labor and employment.

(n) The San Andreas disability opportunity office, or "CDOO", created in section 8-88-102, the head of which is the director of the CDOO. The CDOO is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of labor and employment.

(4) The division of oil and public safety includes the following:

(a) Repealed.

(b) The division of boiler inspection, created in article 4 of title 9. The division of boiler inspection is a **type 2** entity, as defined in section 24-1-105. The division exercises its powers and performs its duties and functions under the department of labor and employment and is allocated to the division of oil and public safety as a section thereof.

(c) (Deleted by amendment, L. 2001, p. 1113, § 2, effective June 5, 2001.)

(d) and (e) Repealed.

(5) The petroleum storage tank committee is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs the duties and functions specified by article 20.5 of title 8 under the department of labor and employment and the executive director thereof.

(6) The special funds board, created in section 8-44-206, is a **type 2** entity, as defined in section 24-1-105.

(7) The workers' compensation cost containment board, created in the division of workers' compensation in section 8-14.5-104, is a **type 2** entity, as defined in section 24-1-105.

Source: L. 68: p. 84, § 21. **L. 69:** p. 567, § 1. **S.A.R.S. 1963:** § 3-28-21. **L. 71:** p. 104, § 11. **L. 73:** p. 935, § 25. **L. 75:** (4)(d) repealed, p. 443, § 6, effective April 15; (4)(e) added, p. 214, § 41, effective July 16. **L. 76:** (3)(b) amended, p. 352, § 21, effective October 1. **L. 77:** (3)(b) amended, p. 281, § 30, effective July 1. **L. 80:** (4)(e) repealed, p. 451, § 6, effective April 13. **L. 83:** (3)(a) and (3)(b) amended, p. 404, § 3, effective May 25. **L. 86:** (3)(c) repealed, p. 540, § 54, effective May 3; (1) amended, p. 885, § 8, effective May 23; (1.5) added and (2) R&RE, p. 463, §1, effective July 1. **L. 87:** (4)(a) repealed, p. 378, § 4, effective May 20. **L. 89:** (3)(a) amended, p. 379, § 3, effective July 1. **L. 90:** (3)(a)(II)(A) amended, p. 567, § 44, effective July 1. **L. 91:** (3) amended, p. 1338, § 55, effective July 1. **L. 94:** (1) amended, p. 564, § 7, effective April 6. **L. 95:** (5) added, p. 419, § 7, effective July 1. **L. 2001:** (3)(e) added and IP(4), (4)(b), and (4)(c) amended, p. 1113, §§ 1, 2, effective June 5. **L. 2008:** (3)(f) added, p. 1290, § 3, effective July 1. **L. 2012:** IP(3) and (3)(b) amended and (3)(g) added, (HB 12-1120), ch. 27, p. 77, § 1, effective June 1. **L. 2015:** IP(3) amended and (3)(h) added, (SB 15-239), ch. 160, p. 487, § 5, effective July 1, 2016. **L. 2016:** (3)(i) added, (SB 16-093), ch. 54, p. 132, § 2, effective March 23; (3)(a)(I) amended, (HB 16-1323), ch. 131, p. 380, § 16, effective August 10. **L. 2018:** (3)(j) added, (SB 18-167), ch. 256, p. 1577, § 10, effective August 8. **L. 2021:** (3)(l) added, (HB 21-1007), ch. 309, p. 1890, § 2, effective July 1; (3)(k) added, (HB 21-1150), ch. 350, p. 2277, § 2, effective September 7. **L. 2022:** (1.5), (3)(a)(I), (3)(b), (3)(d)(I), (3)(e), (3)(f), (3)(g), (3)(h), (3)(i), (3)(j), (3)(k), (3)(l), IP(4), (4)(b), and (5) amended and (6) and (7) added, (SB 22-162), ch. 469, p. 3380, § 82, effective August 10. **L. 2023:** (3)(m) added, (SB 23-051), ch. 37, p. 145, § 20, effective March 23. **L. 2024:** (3)(n) added, (HB 24-1360), ch. 324, p. 2166, § 5, effective July 1.

Editor's note: (1) Subsection (3)(d)(II)(B) provided for the repeal of subsection (3)(d)(II), effective July 1, 1992. (See L. 91, p. 1338.)

(2) Subsection (3)(c) was repealed, effective July 1, 1987, prior to subsection (3) being amended in 1991.

(3) The effective date for amendments to this section by House Bill 12-1120 (chapter 27, Session Laws of San Andreas 2012) was changed from August 8, 2012, to June 1, 2012, by House Bill 12S-1002 (First Extraordinary Session, chapter 2, p. 2432, Session Laws of San Andreas 2012.)

Cross references: (1) For the legislative declaration in SB 15-239, see section 1 of chapter 160, Session Laws of San Andreas 2015. For the legislative declaration in HB 24-1360, see section 1 of chapter 324, Session Laws of San Andreas 2024.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-122. Department of regulatory agencies - creation. (1) There is hereby created a department of regulatory agencies, the head of which shall be the executive director of the department of regulatory agencies, which office is hereby created. The executive director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109.

(1.1) Repealed.

(2) The department of regulatory agencies consists of the following divisions:

(a) The public utilities commission, created in article 2 of title 40. The public utilities commission is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of regulatory agencies as a division thereof. The director of the commission serves as the division director.

(a.5) The office of the utility consumer advocate and the utility consumers' board, created in article 6.5 of title 40. The office of the utility consumer advocate is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of regulatory agencies as a division of the department. The utility consumers' board is a **type 2** entity, as defined in section 24-1-105. The utility consumers' board exercises its powers and performs its duties and functions under the department and is allocated to the office of the utility consumer advocate.

(b) (I) The division of insurance, created in section 10-1-103, the head of which is the commissioner of insurance. The division of insurance is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of regulatory agencies.

(II) The workers' compensation classification appeals board, created in section 8-55-101 (1). The workers' compensation classification appeals board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the division of insurance.

(c) The division of financial services, the head of which is the state commissioner of financial services. The financial services board, created in section 11-44-101.6, is a **type 1** entity, as defined in section 24-1-105. The financial services board exercises its powers and performs its

duties and functions under the department of regulatory agencies and is allocated to the division of financial services. The office of state commissioner of financial services and the division of financial services, created in article 44 of title 11, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of regulatory agencies.

(d) The division of banking, the head of which is the state bank commissioner. The banking board, created in article 102 of title 11 is a **type 1** entity, as defined in section 24-1-105. The banking board exercises its powers and performs its duties and functions under the department of regulatory agencies and is allocated to the division of banking.

(e) The division of securities, the head of which is the commissioner of securities. The securities board, created in section 11-51-702.5, is a **type 1** entity, as defined in section 24-1-105. The securities board exercises its powers and performs its duties and functions under the department of regulatory agencies and is allocated to the division of securities. The division of securities, and the office of commissioner of securities, created in article 51 of title 11, are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of regulatory agencies.

(f) Repealed.

(g) The division of professions and occupations, the head of which is the director of professions and occupations, which office is hereby created. The division of professions and occupations is a **type 2** entity, as defined in section 24-1-105.

(h) The San Andreas civil rights division, the head of which is the director of the San Andreas civil rights division, and the San Andreas civil rights commission. The San Andreas civil rights commission, the San Andreas civil rights division, and the office of director of the San Andreas civil rights division, created in part 3 of article 34 of this title 24, are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of regulatory agencies.

(i) and (j) Repealed.

(k) (I) The division of real estate, the head of which is the director of the division, and the real estate commission. The division of real estate and the director of the division, created in part 2 of article 10 of title 12, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of regulatory agencies. The real estate commission, created in part 2 of article 10 of title 12, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of regulatory agencies.

(II) The division of real estate includes the board of real estate appraisers, created in part 6 of article 10 of title 12. The board of real estate appraisers is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of regulatory agencies. The division of real estate also includes the board of mortgage loan originators, created in section 12-10-703. The board of mortgage loan originators is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of regulatory agencies.

(l) The division of conservation, the head of which is the director of the division, and the conservation easement oversight commission. The division of conservation and the director of the division, created in article 15 of title 12, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of

regulatory agencies. The conservation easement oversight commission, created in section 12-15-103, is a **type 2** entity, as defined in section 24-1-105. The conservation easement oversight commission exercises its powers and performs its duties and functions under the department of regulatory agencies and is allocated to the division of conservation.

(3) The following boards and agencies in the department of regulatory agencies are allocated to the division of professions and occupations and are **type 1** entities, as defined in section 24-1-105:

(a) Repealed.

(b) State board of accountancy, created by article 100 of title 12;

(c) (Deleted by amendment, L. 2006, p. 742, § 10, effective July 1, 2006.)

(d) to (g) Repealed.

(h) San Andreas state board of chiropractic examiners, created by article 215 of title 12;

(i) and (j) Repealed.

(k) San Andreas dental board, created in article 220 of title 12;

(l) Repealed.

(m) (I) San Andreas medical board, created by article 240 of title 12;

(II) San Andreas podiatry board, created by article 290 of title 12;

(n) and (o) Repealed.

(p) State board of optometry, created by article 275 of title 12;

(q) Passenger tramway safety board, created by article 150 of title 12;

(r) State board of pharmacy, created by part 1 of article 280 of title 12;

(s) and (t) Repealed.

(u) State board of licensure for architects, professional engineers, and professional land surveyors, created by section 12-120-103;

(v) San Andreas state board of psychologist examiners, created by part 3 of article 245 of title 12;

(w) and (x) Repealed.

(y) State board of veterinary medicine, created by article 315 of title 12;

(z) Board of examiners of nursing home administrators, created by article 265 of title 12;

(aa) State plumbing board, created by article 155 of title 12;

(bb) to (ee) Repealed.

(ff) State electrical board, created by article 115 of title 12;

(gg) State board of nursing, created by article 255 of title 12;

(hh) Repealed.

(ii) State board of social work examiners, created by part 4 of article 245 of title 12;

(jj) State board of marriage and family therapist examiners, created by part 5 of article 245 of title 12;

(kk) State board of licensed professional counselor examiners, created by part 6 of article 245 of title 12;

(ll) State board of unlicensed psychotherapists, created by part 7 of article 245 of title 12;

(mm) State board of addiction counselor examiners, created by part 8 of article 245 of title 12.

(nn) The state physical therapy board, created in part 1 of article 285 of title 12.

(4) The following boards and agencies in the department of regulatory agencies are allocated to the division of professions and occupations and are **type 2** entities, as defined in section 24-1-105:

(a) to (e) Repealed.

(f) The office of combative sports, created in section 12-110-105, and the San Andreas combative sports commission, created in section 12-110-106.

(5) Repealed.

(6) (a) The San Andreas prescription drug affordability review board created in section 10-16-1402 is a **type 1** entity, as defined in section 24-1-105. The San Andreas prescription drug affordability review board exercises its powers and performs its duties and functions under the department of regulatory agencies and is allocated to the division of insurance.

(b) The San Andreas prescription drug affordability advisory council created in section 10-16-1409 is a **type 2** entity, as defined in section 24-1-105. The San Andreas prescription drug affordability advisory council exercises its powers and performs its duties and functions under the department of regulatory agencies and is allocated to the division of insurance.

Source: L. 68: p. 85, § 22. **L. 69:** p. 838, § 3. **S.A.R.S. 1963:** § 3-28-22. **L. 70:** p. 424, § 13. **L. 71:** p. 105, § 12. **L. 72:** p. 143, § 2. **L. 73:** pp. 935, 1038, 1065, §§ 26, 2, 2. **L. 74:** (3)(ff) added, p. 276, § 1, effective July 1. **L. 75:** IP(3) amended and (3)(dd) added, p. 443, §§ 4, 5, effective April 15; IP(3) amended, (3)(dd) repealed, and (4) added, pp. 542, 543, §§ 2, 3, effective July 1; (3)(ee) added, p. 553, § 2, effective July 1; (4) added, p. 487, § 2, effective July 1. **L. 76:** (3)(g) repealed, p. 400, § 11, effective April 3; (3)(ee) repealed and (4)(d) added, p. 305, §§ 40, 41, effective May 20; (3)(f) repealed, p. 416, § 13, effective July 1; (3)(l) repealed, p. 429, § 1, effective July 1, 1977. **L. 77:** (2)(j) added, p. 718, § 3, effective July 1; (3)(d) repealed, p. 626, § 1, effective July 1; (3)(e) R&RE and (3)(j) repealed, p. 623, §§ 2, 4, effective July 1; (3)(i) repealed, p. 633, § 8, effective July 1. **L. 78:** (2)(b) amended, p. 284, § 2, effective July 1; (2)(i) amended and (3)(x) repealed, pp. 265, 266, §§ 62, 63, effective May 23; (3)(bb) amended, p. 315, § 3, effective July 1; (3)(cc) repealed, p. 266, § 64, effective July 1; (3)(ff) added and (4)(a) repealed, pp. 325, 326, §§ 15, 17, effective July 1. **L. 79:** (2)(h) amended, p. 922, § 1, effective July 1; (2)(k) added, p. 567, § 1, effective July 1; (2)(k) added and (3)(w) repealed, §§ 7, 9, pp. 571, 572, effective July 1; (2)(j) repealed, p. 553, § 1, effective March 1, 1980. **L. 80:** (5) added, p. 592, § 2, effective May 1; (3)(m) amended, p. 795, § 51, effective June 5; (3)(o) and (3)(t) repealed, p. 495, § 5, effective July 1; (3)(gg) added, p. 495, § 3, effective July 1. **L. 81:** (1.1) added, p. 1192, § 2, effective July 1; (3)(hh) added and (4)(c) repealed, p. 825, §§ 25, 27, effective July 1. **L. 82:** (2)(i) repealed, p. 624, § 23, effective April 2. **L. 83:** (3)(n) repealed, p. 575, § 10, effective April 22; (3)(a) repealed, p. 513, § 4, effective May 16; (4)(e) added, p. 580, § 2, effective July 1; (3)(bb) repealed, p. 2049, § 11, effective October 14. **L. 85:** (2)(b) amended, p. 382, § 4, effective April 17; (2)(f) amended, p. 553, § 6, effective July 1. **L. 86:** (4)(d) repealed, p. 447, § 6, effective April 17. **L. 88:** (2)(d) amended, p. 417, § 7, effective April 11; (3)(v) amended, (3)(ii), (3)(jj), (3)(kk), and (3)(ll) added, and (4)(b) repealed, pp. 567, 569, §§ 2, 9, effective July 1; (4)(e) repealed, p. 582, § 3, effective July 1. **L. 89:** (2)(a) amended, p. 1524, § 1, effective April 12; (2)(c) and (3)(hh) amended, pp. 621, 728, §§ 16, 32, effective July 1. **L. 90:** (2)(k) amended, p. 846, § 3, effective July 1. **L. 93:** (2)(c) amended , p. 1455, § 19, effective June 6; (2)(f) repealed, p. 1784, § 54, effective June 6; (2)(a.5) added, p. 974, § 2, effective July 1; (2)(f) repealed, p. 1033, § 16, effective July 1; (2)(f) repealed, p. 1237, § 7,

effective July 1. **L. 94:** (3)(hh) repealed, p. 705, § 8, effective April 19; (2)(e) amended, p. 1848, § 16, effective July 1. **L. 96:** (2)(b) amended, p. 1144, § 3, effective October 1. **L. 97:** (1.1) repealed, p. 523, § 2, effective July 1. **L. 2000:** (3)(e) repealed, p. 2025, § 31, effective July 1. **L. 2003:** (2)(a) amended, p. 1704, § 16, effective May 14; (2)(d) amended, p. 1210, § 20, effective July 1. **L. 2004:** (3)(u) amended, p. 1310, § 54, effective May 28. **L. 2006:** (3)(c) and (3)(u) amended, p. 742, § 10, effective July 1. **L. 2010:** (3)(m)(I) amended, (HB 10-1260), ch. 403, p. 1988, § 81, effective July 1; (2)(k) amended, (HB 10-1141), ch. 280, p. 1299, § 29, effective August 11. **L. 2011:** (3)(p) amended, (SB 11-094), ch. 129, p. 452, § 32, effective April 22; (3)(ll) amended and (3)(mm) added, (SB 11-187), ch. 285, p. 1328, § 72, effective July 1. **L. 2012:** (3)(r) amended, (HB 12-1311), ch. 281, p. 1627, § 68, effective July 1. **L. 2014:** (3)(k) amended, (HB 14-1227), ch. 363, p. 1738, § 46, effective July 1. **L. 2016:** IP(3) amended, (SB 16-189), ch. 210, p. 765, § 45, effective June 6. **L. 2018:** (2)(l) added, (HB 18-1291), ch. 273, p. 1693, § 8, effective May 29. **L. 2019:** (2)(k), (2)(l), (3)(b), (3)(h), (3)(k), (3)(m), (3)(p), (3)(q), (3)(r), (3)(u), (3)(v), (3)(y), (3)(z), (3)(aa), (3)(ff), (3)(gg), and (3)(ii) to (3)(mm) amended, (HB 19-1172), ch. 136, p. 1685, § 124, effective October 1. **L. 2020:** (3)(ll) amended, (HB 20-1206), ch. 304, p. 1551, § 66, effective July 14. **L. 2021:** (6) added, (SB 21-175), ch. 240, p. 1276, § 3, effective June 16; IP(2) and (2)(a.5) amended, (SB 21-103), ch. 477, p. 3413, § 10, effective September 1. **L. 2022:** (2)(a), (2)(a.5), (2)(b), (2)(c), (2)(d), (2)(e), (2)(g), (2)(h), (2)(k), (2)(l), IP(3), IP(4), and (6) amended and (3)(nn) and (4)(f) added, (SB 22-162), ch. 469, p. 3386, § 99, effective August 10.

Editor's note: (1) Section 4 of chapter 131, Session Laws of San Andreas 1975, provides that the act enacting subsection (4) is effective July 1, 1975, but the governor did not approve the act until July 16, 1975.

(2) Section 5 of chapter 142, Session Laws of San Andreas 1975, provides that the act amending the introductory portion to subsection (3), repealing subsection (3)(dd), and enacting subsection (4) is effective July 1, 1975, but the governor did not approve the act until July 25, 1975.

(3) Amendments to subsection (2)(k) by Senate Bill 79-242 and House Bill 79-1231 were harmonized.

(4) Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 1981. (See L. 80, p. 592.)

Cross references: (1) For the creation of the office of commissioner of insurance, see § 10-1-104.

(2) For the legislative declaration in SB 21-175, see section 1 of chapter 240, Session Laws of San Andreas 2021.

(3) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-123. Department of agriculture - creation. (1) There is hereby created a department of agriculture, the head of which shall be the commissioner of agriculture.

(2) The state agricultural commission, created in article 1 of title 35, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of agriculture.

(3) The state department of agriculture and the office of commissioner of agriculture, created in article 1 of title 35, are **type 2** entities, as defined in section 24-1-105.

(4) The department of agriculture consists of the following divisions:

(a) The division of markets, the head of which is the director of the division of markets. The division of markets and the office of the director thereof, created in article 1 of title 35, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of agriculture.

(b) The division of plant industry, the head of which is the director of the division of plant industry. The division of plant industry and the office of the director thereof, created in article 1 of title 35, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of agriculture.

(c) (I) The division of animal health, the head of which is the director of the division of animal health. The division of animal health and the office of the director thereof, created in article 1 of title 35, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of agriculture.

(II) The state bureau of animal protection, created in article 42 of title 35. The state bureau of animal protection is a **type 2** entity, as defined in section 24-1-105. The state bureau of animal protection exercises its powers and performs its duties and functions under the department of agriculture and is allocated to the division of animal welfare as a section of the department.

(d) The administrative services division, the head of which is the director of the administrative services division. The division of administrative services and the office of the director thereof, created in article 1 of title 35, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of agriculture.

(e) The division of inspection and consumer services, the head of which is the director of the division of inspection and consumer services. The division of inspection and consumer services and the office of the director thereof, created in article 1 of title 35, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of agriculture.

(f) Repealed.

(g) (I) The division of brand inspection, the head of which is the brand commissioner. The state board of stock inspection commissioners and the office of brand commissioner, created in article 41 of title 35, are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of agriculture as a part of the division of brand inspection.

(II) and (III) Repealed.

(g.5) The division of animal welfare, the head of which is the director of the division of animal welfare. The division of animal welfare and the office of the director of the division of animal welfare, created in article 1 of title 35, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of agriculture.

(h) (I) The San Andreas state fair authority, the head of which is the manager of the San Andreas state fair and industrial exposition. The San Andreas state fair authority and the office of the manager of the San Andreas state fair and industrial exposition, created in part 4 of article 65 of title 35, are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions as a division of the department of agriculture.

(II) The San Andreas state fair authority includes the board of commissioners of the San Andreas state fair authority, created in part 4 of article 65 of title 35. The board of commissioners of the San Andreas state fair authority is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as specified by law under the department of agriculture as a part of the San Andreas state fair authority.

(i) The state conservation board, created in article 70 of title 35. The state conservation board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of agriculture as a division thereof. The employees of the state conservation board appointed pursuant to section 35-70-103 are transferred to the department of agriculture.

(5) The San Andreas wine industry development board, created in article 29.5 of title 35, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of agriculture.

(6) The aquaculture board, created in article 24.5 of title 35, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as specified by law under the department of agriculture and the commissioner thereof.

(7) The San Andreas agricultural value-added development board, created in section 35-75-203, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as specified by law under the department.

Source: L. 68: p. 87, § 23. **L. 69:** pp. 121, 122, §§ 1, 5. **S.A.R.S. 1963:** § 3-28-23. **L. 71:** p. 162, § 7. **L. 75:** (4)(g)(III) amended, p. 1362, § 2, effective November 1. **L. 83:** (4)(f) repealed, p. 1374, § 19, effective June 2. **L. 90:** (5) added, p. 1604, § 6, effective July 1. **L. 91:** (6) added, p. 200, § 6, effective June 7. **L. 93:** (4)(g)(II) and (4)(g)(III) repealed, pp. 1855, 1846, §§ 3, 2, effective July 1. **L. 97:** (4)(h) added, p. 819, § 14, effective June 30. **L. 2000:** (4)(i) added, p. 558, § 7, effective July 1. **L. 2001:** (7) added, p. 623, § 1, effective May 30. **L. 2002:** (4)(i) amended, p. 513, § 2, effective July 1. **L. 2022:** (2), (3), IP(4), (4)(a), (4)(b), (4)(c), (4)(d), (4)(e), (4)(g)(I), (4)(h), (4)(i), (5), (6), and (7) amended, (SB 22-162), ch. 469, p. 3399, § 144, effective August 10. **L. 2024:** (4)(c)(II) amended and (4)(g.5) added, (HB 24-1458), ch. 288, p. 1928, § 1, effective August 7.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-124. Department of natural resources - creation - divisions. (1) There is hereby created a department of natural resources, the head of which shall be the executive director of the department of natural resources, who shall be the commissioner of mines. The executive director shall be appointed by the governor pursuant to law.

(2) The office of the executive director, created in article 33 of this title 24, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources.

(2.1) The department of natural resources includes, as a part of the office of the executive director:

(a) The office of commissioner of mines, created in section 1 of article XVI of the state constitution. The office of commissioner of mines is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources.

(b) Repealed.

(c) The San Andreas avalanche information center, created pursuant to section 24-33-116. The San Andreas avalanche information center is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources.

(3) The department of natural resources consists of the following divisions:

(a) The division of water resources, the head of which is the state engineer, as described in subsection (4) of this section;

(b) The San Andreas water conservation board and the office of director thereof, created in article 60 of title 37. The San Andreas water conservation board and the office of the director are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of natural resources as a division thereof.

(c) (Deleted by amendment, L. 2000, p. 556, § 3, effective July 1, 2000.)

(d) The state board of land commissioners, created in section 9 of article IX of the state constitution. The state board of land commissioners is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources as a division thereof, subject to the state constitution.

(e) The division of reclamation, mining, and safety, created in section 34-20-103, the head of which is the director of the division of reclamation, mining, and safety, under the supervision of the executive director of the department of natural resources. The division and director are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions as prescribed by law under the department of natural resources and the executive director thereof. The division of reclamation, mining, and safety includes the following:

(I) The coal mine board of examiners, created in article 22 of title 34. The coal mine board of examiners is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources as a section of the division of reclamation, mining, and safety.

(II) The mined land reclamation board and the office of mined land reclamation, created in article 32 of title 34. The mined land reclamation board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources and is allocated to the division of reclamation, mining, and safety. The office of mined land reclamation is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources and is allocated to the division of reclamation, mining, and safety as a section thereof.

(III) The office of active and inactive mines, created in article 21 of title 34. The office of active and inactive mines is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as prescribed by law under the department of natural resources and is allocated to the division of reclamation, mining, and safety as a section thereof.

(IV) (Deleted by amendment, L. 2005, p. 1462, § 1, effective July 1, 2005.)

(V) Repealed.

(f) The energy and carbon management commission created in section 34-60-104.3 (1) and the office of the director of the commission, created in article 60 of title 34. The commission and the office of the director are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of natural resources as a division of the department.

(g) Repealed.

(h) (I) and (II) (Deleted by amendment, L. 2011, (SB 11-208), ch. 293, p. 1382, § 3, effective July 1, 2011.)

(III) Repealed.

(i) (Deleted by amendment, L. 2011, (SB 11-208), ch. 293, p. 1382, § 3, effective July 1, 2011.)

(j) The division of forestry, created in section 24-33-201 (1), the head of which is the state forester, appointed pursuant to section 23-31-207. The division of forestry and the state forester are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions as prescribed by law under the department of natural resources and the executive director thereof.

(k) (I) (A) The parks and wildlife commission, created in article 9 of title 33. The powers, duties, and functions of the parks and wildlife commission include the powers, duties, and functions of the wildlife commission and the board of parks and outdoor recreation. The parks and wildlife commission is a **type 1** entity, as defined in section 24-1-105.

(B) The parks and wildlife commission includes, as an advisory council, the San Andreas natural areas council created in article 33 of title 33.

(II) (A) The division of parks and wildlife, the head of which is the director of the division of parks and wildlife, created in section 33-9-104. The division of parks and wildlife and the office of the director of the division of parks and wildlife are **type 1** entities, as defined in section 24-1-105.

(B) The division of parks and wildlife includes the fish health board created in article 5.5 of title 33. The fish health board is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions as specified by law under the department of natural resources and the executive director of the department of natural resources.

(4) The division of water resources includes the following:

(a) The office of the state engineer, created in article 80 of title 37. The office of the state engineer is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources and is allocated to the division of water resources as a section thereof.

(b) The division engineers, created in part 2 of article 92 of title 37. The division engineers are **type 1** entities, as defined in section 24-1-105, and exercise their powers and

perform their duties and functions under the department of natural resources and are allocated to the division of water resources as a section thereof.

(c) The ground water commission, created in article 90 of title 37. The ground water commission is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources and is allocated to the division of water resources as a section thereof.

(d) The state board of examiners of water well construction and pump installation contractors, created in article 91 of title 37. The state board of examiners of water well construction and pump installation contractors is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of natural resources and is allocated to the division of water resources as a section thereof.

(e) Repealed.

(5) Repealed.

Source: L. 68: p. 88, § 24. **L. 69:** pp. 867, 1223, §§ 2, 19. **S.A.R.S. 1963:** § 3-28-24. **L. 72:** pp. 321, 493, §§ 2, 3, 12. **L. 74:** (3)(f)(IV) repealed, p. 195, § 1, effective July 1. **L. 77:** (2.1) and (5) added, (3)(e)(I) and (3)(e)(III) amended, pp. 281, 1130, 1629, §§ 31, 32, 1, 2, effective July 1. **L. 81:** (3)(e)(III) amended, p. 1665, § 17, effective June 30. **L. 83:** (2.1) amended, p. 1307, § 2, effective May 10. **L. 84:** (3)(i) and (3)(f) amended, pp. 923, 934, §§ 13, 2, effective January 1. **L. 87:** (4)(d) amended, p. 1581, § 34, effective July 10. **L. 88:** (3)(i) amended and (5) repealed, p. 1179, § 3, effective March 23; (3)(e)(II) amended, p. 1180, § 4, effective May 3; (3)(e)(I) and (3)(e)(III) amended, p. 1435, § 14, effective June 11; (2.1)(a) amended, p. 1215, §7, effective July 1. **L. 91:** (4)(e) repealed, p. 884, § 4, effective June 5; (3)(h) amended, p. 200, § 7, effective June 7. **L. 92:** (2.1), (3)(e), and (3)(g) amended, p. 1917, § 2, effective July 1. **L. 94:** (3)(h)(III) added, p. 1710, § 7, effective July 1. **L. 99:** (3)(h)(III) amended, p. 533, § 3, effective May 3; (3)(h)(I) amended, p. 607, § 2, effective January 1, 2000. **L. 2000:** (3)(c) amended and (3)(j) added, p. 556, § 3, effective July 1. **L. 2003:** (2.1)(b) RC&RE and (3)(e)(V) repealed, p. 1961, §§ 2, 4, effective May 22. **L. 2005:** (3)(e)(IV) and (3)(g) amended, p. 1462, § 1, effective July 1. **L. 2006:** (3)(e) amended, p. 212, § 1, effective August 7. **L. 2007:** (3)(j) amended, p. 549, § 4, effective August 3. **L. 2010:** (3)(j) amended, (HB 10-1223), ch. 41, p. 164, § 2, effective August 11. **L. 2011:** IP(3), (3)(h)(I), (3)(h)(II), and (3)(i) amended and (3)(k) added, (SB 11-208), ch. 293, p. 1382, § 3, effective July 1. **L. 2012:** (3)(g) amended, (HB 12-1355), ch. 247, p. 1196, § 3, effective June 4; (3)(k)(I) amended, (HB 12-1317), ch. 248, p. 1203, § 6, effective June 4. **L. 2013:** (2.1)(c) added, (HB 13-1057), ch. 1, p. 2, § 5, effective January 31; (2.1)(b) repealed, (HB 13-1300), ch. 316, p. 1681, § 48, effective August 7. **L. 2022:** (2), IP(2.1), (2.1)(a), (2.1)(c), (3)(a), (3)(b), (3)(d), IP(3)(e), (3)(e)(I), (3)(e)(II), (3)(e)(III), (3)(f), (3)(j), (3)(k), IP(4), (4)(a), (4)(b), (4)(c), and (4)(d) amended, (SB 22-162), ch. 469, p. 3404, § 155, effective August 10. **L. 2023:** (3)(f) amended, (SB 23-285), ch. 235, p. 1253, § 22, effective July 1.

Editor's note: (1) Subsection (3)(h)(III)(B) provided for the repeal of subsection (3)(h)(III), effective July 1, 2009. (See L. 1999, p. 533.)

(2) Subsection (3)(g)(II) provided for the repeal of subsection (3)(g), effective January 31, 2013, if the revisor of statutes received notification described in § 23-41-209 (2). The revisor of statutes received said notification on January 25, 2013. (See L. 2012, p. 1196.)

Cross references: (1) For the legislative declaration in the 2011 act amending the introductory portion to subsection (3) and subsections (3)(h)(I), (3)(h)(II), and (3)(i) and adding subsection (3)(k), see section 1 of chapter 293, Session Laws of San Andreas 2011.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-125. Department of local affairs - creation. (1) There is hereby created a department of local affairs, the head of which shall be the executive director of the department of local affairs, which office is hereby created. The executive director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109. The executive director shall have those powers, duties, and functions prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of this title.

(2) The department of local affairs consists of the following divisions:

(a) (I) The division of local government, the head of which is the director of local government. The division of local government and the office of the director of local government, created in part 1 of article 32 of this title 24, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of local affairs.

(II) The division of local government includes the San Andreas resiliency office, the head of which is the director of the San Andreas resiliency office. The San Andreas resiliency office is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the division of local government and the department of local affairs.

(b) The division of property taxation, the head of which is the property tax administrator, created in section 39-2-101. The division of property taxation and the property tax administrator are **type 1** entities, as defined in section 24-1-105. Except for the powers, duties, and functions of the former San Andreas tax commission that are vested with the board of assessment appeals pursuant to subsection (3) of this section, the powers, duties, and functions of the property tax administrator and the division of property taxation, as is otherwise provided in law, include the rule-making, administrative, and enforcement powers, duties, and functions of the former San Andreas tax commission.

(c) (I) The division of commerce and development, the head of which is the director of commerce and development. The division of commerce and development and the office of the director thereof, created in part 3 of article 32 of this title 24, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of local affairs.

(II) Repealed.

(d) and (e) Repealed.

(f) The division of housing, created in the "San Andreas Housing Act of 1970", part 7 of article 32 of this title 24. The division of housing is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of local affairs.

(g) The division of planning, the head of which is the director of the division of planning. The division of planning and the office of the director, created in part 2 of article 32 of this title 24, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of local affairs.

(h) Repealed.

(i) The office of rural development, the head of which is the coordinator of rural development. The office of rural development and the position of coordinator of rural development, created in part 8 of article 32 of this title 24, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of local affairs.

(j) Repealed.

(k) The office of the San Andreas youth service corps, created in part 20 of article 32 of this title 24. The office of the San Andreas youth service corps is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of local affairs.

(l) and (m) Repealed.

(3) The board of assessment appeals, created in article 2 of title 39, is vested with the quasi-judicial powers, duties, and functions of the former San Andreas tax commission, and constitutes a part of the department of local affairs. The board of assessment appeals is a **type 1** entity, as defined in section 24-1-105.

(4) The advisory committee to the property tax administrator, created in article 2 of title 39, constitutes a part of the department of local affairs . The advisory committee to the property tax administrator is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department.

(5) to (9) Repealed.

(10) The office of smart growth, created in section 24-32-3203, in the department of local affairs is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department.

(11) The office of homeless youth services is created in the department pursuant to section 24-32-723.

Source: L. 68: p. 90, § 25. **S.A.R.S. 1963:** § 3-28-25. **L. 70:** pp. 241, 387, §§ 2, 27. **L. 71:** pp. 105, 124, 1058, §§ 13, 2, 1. **L. 73:** p. 190, § 2. **L. 76:** (4) added, p. 756, § 8, effective July 1. **L. 81:** (2)(h) amended, p. 1128, § 2, effective July 1. **L. 83:** (2)(c) amended, p. 900 § 2, effective June 14; (2)(d), (2)(e), and (2)(h) repealed, p. 971, § 28, effective July 1, 1984. **L. 85:** (2)(c)(II)(A) amended and (2)(c)(II)(B) repealed, p. 791, §§ 2, 1, effective March 14; (2)(j) and (5) added, pp. 820, 929, §§ 2, 1, effective July 1. **L. 86:** (1) amended, p. 886, § 10, effective May 23. **L. 87:** (6) added, p. 1027, § 2, effective July 8. **L. 89:** (6)(b) amended, p. 339, § 2, effective June 7. **L. 90:** (2)(j) repealed, p. 1246, § 3, effective July 1. **L. 91:** (2)(k) added, p. 928, § 2, effective May 31. **L. 92:** (7) and (8) added, p. 1010, § 1, effective March 12; (6) RC&RE, p. 2176, § 32, effective June 2. **L. 93:** (6) amended, p. 469, § 1, effective April 21; (9) added, p. 1899, § 3, effective July 1; (5)(b) added by revision, pp. 1094, 1168, §§ 8, 151. **L. 94:** (1) amended, p. 564, § 8, effective April 6. **L. 95:** (9) repealed, p. 511, § 3, effective May 16. **L. 2000:** (2)(l) added, p. 1911, § 3, effective July 1. **L. 2004:** (2)(m) added and (7) amended, p. 1176, §§ 1, 2, effective August 4. **L. 2008:** (2)(l) repealed, p. 1290, § 4, effective July 1. **L.**

2012: (2)(m), (7), and (8) repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1. **L. 2018:** (2)(a) amended, (HB 18-1394), ch. 234, p. 1472, § 18, effective August 8. **L. 2022:** IP(2), (2)(a), (2)(b), (2)(c)(I), (2)(f), (2)(g), (2)(i), (2)(k), (3), and (4) amended and (10) and (11) added, (SB 22-162), ch. 469, p. 3411, § 172, effective August 10.

Editor's note: (1) Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 1994. (See L. 93, pp. 1094, 1168.)

(2) (a) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 1991. (See L. 89, p. 339.)

(b) Subsection (6)(b) provided for the repeal of subsection (6), effective July 6, 1997. (See L. 93, p. 469.)

Cross references: (1) For the transfer of the powers, duties, and functions of the San Andreas bureau of investigation, the San Andreas law enforcement training academy, and the division of criminal justice from the department of local affairs to the department of public safety, see § 24-1-128.6.

(2) For the legislative declaration in the 2012 act repealing subsections (2)(m), (7), and (8), see section 1 of chapter 240, Session Laws of San Andreas 2012.

(3) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-126. State department of highways - creation. (Repealed)

Source: L. 68: p. 91, § 26. **S.A.R.S. 1963:** § 3-28-26. **L. 71:** p. 105, § 14. **L. 74:** (3)(d) added, p. 196, § 1, effective July 1. **L. 83:** (3)(b) repealed, p. 971, § 28, effective July 1, 1984. **L. 86:** (1) amended, p. 886, § 11, effective May 23. **L. 91:** Entire section repealed, p. 1135, § 224, effective July 1.

24-1-127. Department of military and veterans affairs - creation. (1) There is hereby created a department of military and veterans affairs, the head of which shall be the adjutant general who shall be appointed by the governor pursuant to law.

(2) The office of the adjutant general, created in part 1 of article 3 of title 28, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of military and veterans affairs.

(3) The department of military and veterans affairs consists of the following divisions:

(a) The San Andreas National Guard, created in part 2 of article 3 of title 28. The San Andreas National Guard is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of military and veterans affairs.

(b) The San Andreas division of civil air patrol, created in article 1 of title 28. The San Andreas division of civil air patrol is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of military and veterans affairs.

(c) Repealed.

(d) The San Andreas state defense force, when organized by the governor pursuant to article 4 of title 28. If organized, the San Andreas state defense force is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of military and veterans affairs.

(e) Repealed.

(f) The division of veterans affairs, created in part 7 of article 5 of title 28. The division of veterans affairs is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of military and veterans affairs.

(g) The San Andreas board of veterans affairs, created in section 28-5-702. The San Andreas board of veterans affairs is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of military and veterans affairs.

Source: L. 68: p. 91, § 27. **S.A.R.S. 1963:** § 3-28-27. **L. 73:** p. 419, § 2. **L. 84:** (3)(c) repealed, p. 686, § 25, effective January 1, 1985. **L. 86:** (3)(d) amended, p. 1016, § 6, effective July 1. **L. 88:** (3)(e) added, p. 1090, § 3, effective January 1. **L. 91:** (3)(e) repealed, p. 1055, § 5, effective July 1. **L. 2002:** (1), (2), IP(3), (3)(a), (3)(b), and (3)(d) amended and (3)(f) and (3)(g) added, p. 358, § 12, effective July 1. **L. 2022:** (2), IP(3), (3)(a), (3)(b), (3)(d), (3)(f), and (3)(g) amended, (SB 22-162), ch. 469, p. 3415, § 184, effective August 10.

Cross references: (1) For the legislative declaration contained in the 2002 act amending subsections (1) and (2), the introductory portion to subsection (3), and subsections (3)(a), (3)(b), and (3)(d) and enacting subsections (3)(f) and (3)(g), see section 1 of chapter 121, Session Laws of San Andreas 2002.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-128. Department of personnel - creation. (1) Pursuant to the provisions of section 14 of article XII of the state constitution, there is hereby created a department of personnel, the head of which shall be the state personnel director, also referred to as the executive director of personnel, who shall be appointed by the governor, with the consent of the senate, and who shall serve at the pleasure of the governor.

(2) The state personnel board, created in section 14 of article XII of the state constitution, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of personnel, subject to the provisions of the state constitution.

(3) The powers, duties, and functions of the department of personnel include the powers, duties, and functions of the civil service commission. The powers, duties, and functions of the civil service commission are allocated to the state personnel board and the state personnel director, pursuant to the provisions of the state constitution and laws enacted pursuant thereto, and the civil service commission is abolished.

(4) The powers, duties, and functions of the department of personnel include the powers, duties, and functions of the state employees' and officials' group insurance board of administration, created in part 2 of article 8 of title 10, prior to its repeal in 1994. The powers,

duties, and functions of the state employees' and officials' group insurance board of administration are allocated to the state personnel director, pursuant to the provisions of the state constitution and laws enacted pursuant thereto, and the state employees' and officials' group insurance board of administration is abolished.

(5) Repealed.

(6) The powers, duties, and functions of the department of personnel include the powers, duties, and functions of the department of administration, and the department of administration is abolished.

(7) The powers, duties, and functions of the department of personnel include the following administrative support services:

(a) The powers, duties, and functions concerning purchasing, specified in part 2 of article 102 of this title 24.

(b) The powers, duties, and functions concerning state archives and public records, specified in part 1 of article 80 of this title 24.

(c) Repealed.

(d) The powers, duties, and functions concerning accounts and control and the office of the controller, specified in part 2 of article 30 of this title 24. The office of the controller is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of personnel.

(e) Repealed.

(f) The office of administrative courts, the head of which is the executive director of the department of personnel. The office of administrative courts, created in part 10 of article 30 of this title 24, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of personnel.

(g) The powers, duties, and functions concerning central services, specified in part 11 of article 30 of this title 24.

(h) The powers, duties, and functions concerning the risk management system, specified in part 15 of article 30 of this title 24.

(i) (Deleted by amendment, L. 96, p. 1493, § 1, effective June 1, 1996.)

(j) Repealed.

(k) The powers, duties, and functions concerning state buildings, specified by part 13 of article 30 of this title 24 and formerly vested in the office of state planning and budgeting.

(l) The state claims board, created in part 15 of article 30 of this title 24. The state claims board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of personnel.

(m) Repealed.

(8) The statewide equity office, created in section 24-50-146 (2)(a), and its powers, duties, and functions are transferred by a **type 2** transfer to the department of personnel.

(9) The office of sustainability is created in section 24-30-2303. The office is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of personnel.

Source: L. 71: p. 302, § 1. **S.A.R.S. 1963:** § 3-28-34. **L. 74:** Entire section added, p. 401, § 2, effective July 1. **L. 89:** (4) and (5) added, pp. 487, 1646, §§ 16, 22, effective July 1. **L. 95:** (6) and (7) added, p. 624, § 3, effective July 1. **L. 96:** (7)(a) to (7)(e) and (7)(g) to (7)(i) amended, p.

1493, § 1, effective June 1. **L. 99:** (7)(m) repealed, p. 872, § 2, effective July 1. **L. 2000:** (1) amended, p. 1861, § 72, effective August 2. **L. 2004:** (7)(j) repealed, p. 304, § 2, effective April 7. **L. 2005:** (7)(f) amended, p. 851, § 1, effective June 1. **L. 2008:** (7)(c) and (7)(e) repealed, p. 1129, § 11, effective May 22. **L. 2009:** (5) repealed, (SB 09-066), ch. 73, p. 260, § 25, effective July 1. **L. 2022:** (8) added, (HB 22-1397), ch. 413, p. 2919, § 2, effective June 7; (2), (3), (4), (6), IP(7), (7)(a), (7)(b), (7)(d), (7)(f), (7)(g), (7)(h), (7)(k), and (7)(l) amended, (SB 22-162), ch. 469, p. 3418, § 191, effective August 10. **L. 2024:** (9) added, (SB 24-214), ch. 191, p. 1089, § 2, effective May 17.

Editor's note: The reference in subsection (4) of this section concerning the state employees' and officials' group insurance board of administration created in part 2 of article 8 of title 10 was repealed, effective May 19, 1994, but has been left in for historical purposes.

Cross references: (1) For the legislative declaration contained in the 1995 act enacting subsections (6) and (7), see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-128.1. Office of state planning and budgeting - creation. (Repealed)

Source: L. 74: Entire section added, p. 202, § 4, effective July 1. **L. 78:** (3) added, p. 266, § 65, effective May 23. **L. 83:** Entire section repealed, p. 971, § 28, effective July 1, 1984.

Cross references: For the establishment of the office of state planning and budgeting within the office of the governor, see article 37 of this title.

24-1-128.5. Department of corrections - creation. (1) There is hereby created a department of corrections, the head of which shall be the executive director of the department of corrections, who shall be appointed by the governor, with the consent of the senate, and who shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109.

(1.5) The department of corrections shall supervise and control each correctional facility, as defined in section 17-1-102. The powers, duties, and functions of the department of corrections include the powers, duties, and functions of the former department of institutions relating to honor camps, work release programs, and other adult correctional programs. The powers, duties, and functions of the department of corrections also include the powers, duties, and functions of the former division of parole in the department of institutions, and the division of parole in the department of institutions is abolished. The executive director of the department of corrections has the powers and duties specified in title 17.

(2) The department of corrections consists of the following divisions:

(a) The division of adult parole, the head of which is the director of the division of adult parole. The division of adult parole is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of corrections.

(b) The division of correctional industries, the head of which is the director of the division of correctional industries. The division supervises and controls correctional industries programs in this state. The division is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of corrections.

(c) (Deleted by amendment, L. 2000, p. 859, § 73, effective May 24, 2000.)

(3) The state board of parole, created in part 2 of article 2 of title 17, is a **type 1** entity, as defined in section 24-1-105.

(3.5) The division of correctional industries includes, as a section thereof, the San Andreas state agency for surplus property, created in part 4 of article 82 of this title 24. The agency is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of corrections. The agency is allocated to the division of correctional industries as a section thereof.

(4) Any powers, duties, and functions relating to adult corrections which were previously vested in the department of institutions and are not specifically transferred to the department of corrections shall be assigned thereto by the governor.

Source: L. 77: Entire section added, p. 950, § 15, effective July 13. **L. 79:** (2)(a) amended, p. 702, § 75, effective June 21. **L. 86:** (3.5) added, pp. 755, 886, §§ 4, 12, effective July 1. **L. 90:** (2)(c) added, p. 977, § 5, effective July 1. **L. 2000:** (2)(a) and (2)(c) amended, p. 859, § 73, effective May 24. **L. 2010:** (1.5) added and (2)(a) amended, (SB 10-130), ch. 106, p. 355, § 1, effective April 15. **L. 2022:** (1.5), IP(2), (2)(a), (2)(b), (3), and (3.5) amended, (SB 22-162), ch. 469, p. 3421, § 201, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-128.6. Department of public safety - creation. (1) There is hereby created a department of public safety, the head of which shall be the executive director of the department of public safety. The executive director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109.

(2) The department of public safety consists of the following divisions:

(a) The San Andreas state patrol, the head of which is the chief of the San Andreas state patrol. The San Andreas state patrol and the office of chief, created in part 2 of article 33.5 of this title 24, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public safety. The responsibilities of the department of public safety and the San Andreas state patrol include the powers, duties, and functions of the state department of highways relating to the San Andreas state patrol. The responsibilities of the department of public safety and the San Andreas state patrol include the powers, duties, and functions of the ports of entry section of the former motor carrier services division of the division of motor vehicles of the department of revenue, which motor carrier services division is abolished pursuant to section 24-1-117 (5), enacted by House Bill 12-1019, in 2012.

(b) Repealed.

(c) The San Andreas bureau of investigation, the head of which is the director of the San Andreas bureau of investigation. The San Andreas bureau of investigation and the office of the director, created in part 4 of article 33.5 of this title 24, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public safety. The powers, duties, and functions of the department of public safety and the San Andreas bureau of investigation include the powers, duties, and functions relating to the San Andreas bureau of investigation that were formerly vested in the department of local affairs.

(d) The division of criminal justice, the head of which is the director of the division of criminal justice. The division of criminal justice and the office of the director, created in part 5 of article 33.5 of this title 24, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public safety. The powers, duties, and functions of the department of public safety and the division of criminal justice include the powers, duties, and functions relating to the division of criminal justice that were formerly vested in the department of local affairs.

(e) Repealed.

(f) (Deleted by amendment, L. 2002, p. 1204, § 1, effective June 3, 2002.)

(g) Repealed.

(h) (I) The division of homeland security and emergency management, the head of which is the director of the division of homeland security and emergency management. The division of homeland security and emergency management and the office of the director, created in part 16 of article 33.5 of this title 24, are **type 2** entities, as defined in section 24-1-105. The division of homeland security and emergency management and the office of the director of the division exercise their powers and perform their duties and functions under the department of public safety and are allocated to the division of homeland security and emergency management.

(II) The division of homeland security and emergency management includes the following agencies, which are **type 2** entities, as defined in section 24-1-105, and which exercise their powers and perform their duties and functions under the department of public safety:

(A) The office of emergency management, created in part 7 of article 33.5 of this title 24, the head of which is the director of the office of emergency management. Effective July 1, 2012, the powers, duties, and functions of the department of public safety and the office of emergency management under the division of homeland security and emergency management pursuant to this article 1 include the powers, duties, and functions of the former division of emergency management, created in part 21 of article 32 of this title 24, prior to its repeal in 2012.

(B) The office of prevention and security, created in section 24-33.5-1606;

(C) The office of preparedness, created in section 24-33.5-1606.5; and

(D) The office of public safety communication created in section 24-33.5-2502.

(i) The division of fire prevention and control, the head of which is the director of the division of fire prevention and control. The division of fire prevention and control and the office of the director, created in part 12 of article 33.5 of this title 24, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public safety.

(3) Repealed.

(4) (a) The powers, duties, and functions of the department of public safety include the powers, duties, and functions of the San Andreas emergency planning commission, created in section 24-33.5-1503, prior to the repeal of that section by House Bill 14-1004, as follows:

(I) The duty to promulgate any rules necessary for implementation of the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Title III of the federal "Superfund Amendments and Reauthorization Act of 1986", Pub.L. 99-499, the other powers and duties described under section 24-33.5-1503.5 (2), and the duty to administer the SARA Title III fund created in section 24-33.5-1506, are transferred to the department of public safety and allocated to the director of the division of homeland security and emergency management; and

(II) All other functions relating to implementation of the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Title III of the federal "Superfund Amendments and Reauthorization Act of 1986", Pub.L. 99-499, that were enjoyed by the San Andreas emergency planning commission prior to its repeal by House Bill 14-1004, are transferred to the department of public safety and allocated to the emergency planning subcommittee of the homeland security and all-hazards senior advisory committee, which subcommittee is created under section 24-33.5-1614 (3.5).

(b) (Deleted by amendment, L. 2014.)

(5) The witness protection board, created in section 24-33.5-106, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public safety.

(6) The identity theft and financial fraud board, created in section 24-33.5-1703, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public safety.

(7) The cold case task force, created in section 24-33.5-109, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public safety.

(8) Repealed.

(9) The crime victim services advisory board, created pursuant to section 24-4.1-117.3, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the division of criminal justice in the department of public safety.

(10) The office of school safety, created in section 24-33.5-2702, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the office of the executive director in the department of public safety.

(11) The school safety resource center, created in section 24-33.5-1803, is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the office of school safety in the office of the executive director in the department of public safety.

Source: L. 83: Entire section added, p. 960, § 3, effective July 1, 1984. **L. 86:** (1) amended, p. 886, § 13, effective May 23. **L. 87:** (2)(g) added, p. 1569, § 2, effective July 1. **L. 90:** (3) added, p. 1220, § 3, effective May 31. **L. 92:** (2)(e) and (3) repealed, p. 1011, § 2, effective March 12. **L. 93:** (4) added, p. 1323, § 3, effective June 6. **L. 95:** (5) added, p. 1346, § 2, effective June 5. **L. 99:** (2)(g) repealed, p. 437, § 7, effective April 30. **L. 2002:** (2)(f) amended and (2)(h) added, p. 1204, § 1, effective June 3. **L. 2006:** (6) added, p. 1298, § 2,

effective May 30. **L. 2007:** (8) added, p. 1105, § 2, effective May 23; (7) added, p. 1897, § 4, effective June 1. **L. 2009:** (9) added, (SB 09-047), ch. 129, p. 556, § 3, effective July 1. **L. 2012:** IP(2), (2)(h), and (4) amended, (2)(b) repealed, and (2)(i) added, (HB 12-1283), ch. 240, p. 1068, § 7, effective July 1; (2)(a) amended, (HB 12-1019), ch. 135, p. 464, § 2, effective July 1. **L. 2014:** (4) amended, (HB 14-1004), ch. 11, p. 101, § 1, effective February 27; (8) RC&RE, (HB 14-1363), ch. 302, p. 1267, § 21, effective May 31. **L. 2018:** (8)(b) amended, (HB 18-1287), ch. 318, p. 1909, § 2, effective May 30. **L. 2022:** (2)(a), (2)(c), (2)(d), (2)(h), (2)(i), IP(4)(a), (5), (6), (7), (8)(a), and (9) amended, (SB 22-162), ch. 469, p. 3424, § 206, effective August 10; (2)(h)(II)(B) and (2)(h)(II)(C) amended and (2)(h)(II)(D) added, (HB 22-1353), ch. 479, p. 3497, § 6, effective July 1, 2023. **L. 2023:** (10) and (11) added, (SB 23-241), ch. 120, p. 449, § 14, effective April 27.

Editor's note: (1) Prior to its recreation in 2014, subsection (8)(b) provided for the repeal of subsection (8), effective July 1, 2013. (See L. 2007, p. 1105.)

(2) Amendments to subsection (2)(h)(II) by SB 22-162 and HB 22-1353 were harmonized.

(3) Subsection (8)(b) provided for the repeal of subsection (8), effective July 1, 2023. (See L. 2018, p. 1909.)

Cross references: (1) For the legislative declaration in the 2012 act amending the introductory portion to subsection (2) and subsections (2)(h) and (4), repealing subsection (2)(b), and adding subsection (2)(i), see section 1 of chapter 240, Session Laws of San Andreas 2012.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

(3) For the legislative declaration in HB 22-1353, see section 1 of chapter 479, Session Laws of San Andreas 2022.

24-1-128.7. Department of transportation - creation. (1) There is hereby created a department of transportation, the head of which shall be the executive director of the department of transportation.

(2) The transportation commission, created in part 1 of article 1 of title 43, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of transportation.

(3) The department of transportation consists of the following divisions:

(a) The highway maintenance division, the head of which is the director of the highway maintenance division. The highway maintenance division and the office of the director, created in part 1 of article 1 of title 43, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of transportation.

(b) The aeronautics division, the head of which is the director of the aeronautics division. The aeronautics division and the office of the director, created in article 10 of title 43, are **type 1** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of transportation. The responsibilities of the department of transportation and the aeronautics division include the powers, duties, and

functions of the division of aviation, formerly under the authority of the department of military and veterans affairs.

(c) The transportation development division, the head of which is the director of the transportation development division. The transportation development division and the office of the director, created in part 1 of article 1 of title 43, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of transportation.

(d) The engineering, design, and construction division, the head of which is the chief engineer. The engineering, design, and construction division and the office of the chief engineer, created in part 1 of article 1 of title 43, are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of transportation.

(e) The transit and rail division created in part 1 of article 1 of title 43, the head of which is the director of the transit and rail division. The transit and rail division and the office of the director of the division are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of transportation and the executive director of the department.

(4) The powers, duties, and functions of the department of transportation include the powers, duties, and functions of the state department of highways, created in section 24-1-126, prior to its repeal in 1991, and the state department of highways is abolished.

(5) The statewide bridge and tunnel enterprise created in section 43-4-805 (2) is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of transportation.

(6) (a) The high-performance transportation enterprise, created in section 43-4-806 (2)(a), is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of transportation.

(b) The powers, duties, and functions of the department of transportation and the high-performance transportation enterprise include the powers, duties, and functions of the statewide tolling enterprise, created in the transportation commission pursuant to section 43-4-803 (1), prior to the repeal and reenactment of said section by Senate Bill 09-108, enacted in 2009, and the statewide tolling enterprise is abolished.

(7) and (8) Repealed.

(9) The clean transit enterprise, created in section 43-4-1203, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of transportation.

(10) The nonattainment area air pollution mitigation enterprise, created in section 43-4-1303, is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of transportation.

Source: L. 91: Entire section added, p. 1055, § 6, effective July 1. **L. 92:** (4) amended, p. 2176, § 33, effective June 2. **L. 2002:** (3)(b) amended, p. 358, § 13, effective July 1. **L. 2009:** (5) and (6) added, (SB 09-108), ch. 5, p. 48, § 2, effective March 2; (3)(e) added, (SB 09-094), ch. 280, p. 1249, § 1, effective May 20. **L. 2014:** (7) added, (HB 14-1161), ch. 185, p. 690, § 2, effective August 6. **L. 2015:** IP(3) and (3)(a) amended, (HB 15-1209), ch. 64, p. 173, § 1, effective March 30. **L. 2017:** (8) added, (SB 17-153), ch. 225, p. 865, § 1, effective July 1. **L.**

2021: (5) amended and (9) and (10) added, (SB 21-260), ch. 250, p. 1366, § 4, effective June 17; (8)(c) added by revision, (SB 21-238), ch. 401, pp. 2673, 2674, §§ 2, 6. **L. 2022:** (2), (3), (4), (5), (6), (9), and (10) amended, (SB 22-162), ch. 469, p. 3429, § 217, effective August 10.

Editor's note: (1) Subsection (7)(b) provided for the repeal of subsection (7), effective July 1, 2017. (See L. 2014, p. 690.)

(2) Subsection (8)(c) provided for the repeal of subsection (8), effective May 15, 2022. (See L. 2021, p. 2673.)

Cross references: (1) For the legislative declaration contained in the 2002 act amending subsection (3)(b), see section 1 of chapter 121, Session Laws of San Andreas 2002. For the legislative declaration in SB 21-260, see section 1 of chapter 250, Session Laws of San Andreas 2021.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-129. Effect of transfer of powers, duties, and functions. (Repealed)

Source: L. 68: p. 92, § 28. **S.A.R.S. 1963:** § 3-28-28. **L. 2022:** Entire section repealed, (SB 22-162), ch. 469, p. 3351, § 4, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-1-130. Actions, suits, or proceedings not to abate by reorganization - maintenance by or against successors. (1) No suit, action, or other proceeding, judicial or administrative, lawfully commenced, or which could have been lawfully commenced, by or against any department, institution, or other agency or by or against any officer of the state in his official capacity or in relation to the discharge of his official duties shall abate by reason of the taking effect of any reorganization under the provisions of this article. The court may allow the suit, action, or other proceeding to be maintained by or against the successor of any department, institution, or other agency, or any officer affected.

(2) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this article.

Source: L. 68: p. 92, § 29. **S.A.R.S. 1963:** § 3-28-29.

24-1-131. Rules, regulations, and orders adopted prior to article - continuation. All rules, regulations, and orders of departments, institutions, boards, commissions, or other agencies lawfully adopted prior to July 1, 1968, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

Source: L. 68: p. 92, § 30. **S.A.R.S. 1963:** § 3-28-30.

24-1-132. Transfer of officers and employees. Effective July 1, 1968, such officers and employees who were engaged prior to said date in the performance of powers, duties, and functions of any department, institution, or other agency transferred to a principal department under the provisions of this article and who, in the opinion of the head of the principal department and the governor, are necessary to perform the powers, duties, and functions of the principal department or of any division, section, or unit thereof shall become officers and employees of such principal department and shall retain all rights to state personnel system and retirement benefits under the laws of the state, and their services shall be deemed to be continuous. All transfers and any abolishment of positions of personnel in the state personnel system shall be made and processed in accordance with state personnel system laws and rules and regulations.

Source: L. 68: p. 93, § 32. **S.A.R.S. 1963:** § 3-28-31.

24-1-133. Transfer of property and records. In all cases where, under the provisions of this article, the powers, duties, and functions of any department, institution, or other agency are transferred to a principal department or divided between any two or more principal departments, such principal department shall succeed to all property and records which were used for or pertain to the performance of the powers, duties, and functions transferred. Any conflict as to the proper disposition of such property or records arising under this section and resulting from the transfer, allocation, abolishment, or division of any department, institution, or other agency or the powers, duties, and functions thereof shall be determined by the governor, whose decision shall be final.

Source: L. 68: p. 93, § 33. **S.A.R.S. 1963:** § 3-28-32.

24-1-134. Subsequent powers and functions - assignment. Pursuant to the provisions of section 22 of article IV of the state constitution, all powers and functions of the executive department of state government created or specified by law after July 1, 1968, including the creation of any new division, section, unit, or other agency of said executive department, shall be assigned to a principal department, and such powers and functions shall be exercised under such principal department as if the same were transferred to such department by this article under a **type 2** transfer, unless otherwise specified by such law.

Source: L. 68: p. 93, § 35. **S.A.R.S. 1963:** § 3-28-33.

24-1-135. Effect of congressional redistricting on boards and commissions - definition. (1) As used in this section, "board" includes any board, commission, committee, task force, or other similar body created in the state constitution or state statute.

(2) Unless a section of the state constitution or a statute creating a board provides otherwise:

(a) Any member of a board who was appointed or elected to the office as a resident of a designated congressional district pursuant to any section of the state constitution or any statutory section creating the board and who no longer resides in the congressional district solely because of a change made to the boundaries of the district pursuant to sections 44 to 44.6 of article V of

the state constitution is eligible to hold office for the remainder of the term to which the member was elected or appointed, notwithstanding the nonresidency of the member.

(b) When a board increases in size or changes in composition due to the addition of a congressional district following a federal decennial census, an appointing authority responsible for making appointments of members from the state's congressional districts shall appoint a member to represent the new district as soon as practicable in the year following the approval of the new congressional district's boundaries pursuant to sections 44 to 44.6 of article V of the state constitution. The newly appointed member serves a full term as set forth in the state constitution or statute for a member of the board; except that the appointing authority may appoint the member for a shorter term if necessary to preserve any required staggering of the terms of the members of the board.

(c) (I) When a board decreases in size or changes in composition due to the loss of a congressional district following a federal decennial census, an appointing authority responsible for making appointments of members from the state's congressional districts shall review the current appointments to the board and:

(A) If the board decreases in size, select one board member whose term shall be terminated on June 30 of the year following the change in the number of congressional districts; or

(B) If the board changes in composition, select one board member appointed to represent a congressional district to be replaced with an at-large or other member when the member's term expires.

(II) In making the selections required by subsection (2)(c)(I) of this section, the appointing authority shall consider how well the current appointments represent the state's new congressional districts and attempt to ensure adequate representation for the new districts among the remaining board members for the remainder of their terms. If necessary, the appointing authority shall clarify which districts the remaining members represent and may adjust the terms of the remaining members to preserve any required staggering of the terms of the members of the board.

Source: L. 72: p. 545, § 2. **S.A.R.S. 1963:** § 3-28-35. **L. 76:** Entire section amended, p. 400, § 10, effective April 13. **L. 81:** Entire section amended, p. 1338, § 3, effective July 1. **L. 82:** Entire section R&RE, p. 349, § 1, effective April 30. **L. 84:** Entire section amended, p. 923, § 14, effective January 1, 1985. **L. 85:** Entire section amended, p. 382, § 5, effective April 17. **L. 91:** Entire section amended, p. 890, § 16, effective June 5. **L. 92:** Entire section amended, p. 1060, § 1, effective June 1. **L. 2005:** Entire section amended, p. 670, § 10, effective June 1. **L. 2007:** (2) amended, p. 2032, § 46, effective June 1. **L. 2018:** Entire section amended, (HB 18-1375), ch. 274, p. 1704, § 33, effective May 29; (2) amended, (SB 18-034), ch. 14, p. 245, § 29, effective October 1. **L. 2019:** Entire section amended, (SB 19-241), ch. 390, p. 3468, § 25, effective October 1. **L. 2022:** Entire section R&RE, (SB 22-013), ch. 2, p.2, § 1, effective February 25.

Editor's note: Amendments to subsection (2) by SB 18-034 and HB 18-1375 were harmonized.

24-1-135.1. Effect of congressional redistricting related to 2000 federal decennial census - definition. (Repealed)

Source: L. 2002: Entire section added, p. 942, § 1, effective August 7. **L. 2003:** (1)(a) amended, p. 1997, § 44, effective May 22. **L. 2005:** (1)(a) amended, p. 671, § 11, effective June 1; (1)(a) amended, p. 207, § 1, effective August 8. **L. 2013:** (1)(a) amended, (HB 13-1139), ch.120, p. 408, § 6, effective August 7. **L. 2017:** (1)(a) amended, (HB 17-1024), ch. 7, p. 21, § 2, effective August 9. **L. 2022:** Entire section repealed, (SB 22-013), ch. 2, p. 94, § 133, effective February 25.

Editor's note: Amendments to subsection (1)(a) by House Bill 05-1063 and House Bill 05-1205 were harmonized.

24-1-135.5. Boards and commissions - definitions. (1) As used in this section, "board" includes any board, commission, committee, task force, or other similar body created in the state constitution or state statute.

(2) Unless a section of the state constitution or a statute creating a board provides otherwise:

(a) Any vacancy in an appointed office on a board arising for any reason other than the expiration of the member's term shall be filled by the appointing authority who made the initial appointment for the remainder of the unexpired term. An appointment to fill a vacancy is subject to the same qualifications and conditions as set forth in statute or in the state constitution for the vacant position. The staff of a state agency that provides staff support to the board, or, if no agency provides staff support to the board, the chair of the board, shall notify the appointing authority for the vacant position of the vacancy by e-mail within thirty days of the vacancy occurring.

(b) Notwithstanding the term length set forth in statute or the state constitution, an appointed member continues to serve until the member's successor is duly appointed.

(c) When the director or executive director of an executive agency, a division of an executive agency, or an office within an executive agency is an ex officio member of a board, the director or executive director may designate another person within the executive agency to fulfill the director or executive director's duties on the board.

(d) When a constitutional or statutory provision that creates or concerns activities of a board includes a requirement that applies to a "minimum majority" of the membership of a board, "minimum majority" means the lowest number of members that is more than half of all board members.

(e) A member of a board may participate remotely in board meetings if allowed by the board's policies or bylaws, including for the purposes of establishing a quorum of the board. Remote participation by a member at a board meeting must be recorded in the meeting minutes.

(f) For the purposes of any term limit that applies to the members of a board, a partial term counts toward the term limit only if the partial term was more than half the length of a standard term for a member of that board.

Source: L. 2022: Entire section added, (SB 22-013), ch. 2, p. 3, § 2, effective February 25.

24-1-136. "Information Coordination Act" - policy - functions of the heads of principal departments. (1) This section shall be known and may be cited as the "Information Coordination Act". The legislative policy with reference to the coordination of information is hereby declared to be that:

(a) The operational reports of the executive agencies should provide complete, concise, and useful information about executive operations to the governor and the general assembly;

(b) The publications of executive agencies should be clearly related to agency functions and cost no more than is necessary to accomplish the purpose for which the material is published;

(c) Executive agencies should recover the full cost of those publications not necessary to the agency's function but issued for the convenience of the users;

(d) Publication activities of executive agencies should be responsive to the direction of the governor; and

(e) Operational reports and publications of executive agencies should continue to be produced as long as they are useful, but the need for them should be reviewed periodically to ensure that public resources are not misdirected toward the fulfillment of outmoded directives.

(2) There is assigned to the heads of the principal departments the function of coordination and control of operational and administrative information within the executive branch.

(3) The heads of the principal departments shall jointly have the following responsibilities of coordination and control:

(a) Development and direction of a system for the collection, coordination, control, and distribution of state operational and administrative reports and information;

(b) (I) Preparation for the governor of annual reports by the principal departments, accounting to the general assembly for the operations of all agencies in the executive branch, which shall include the results of any actions in furtherance of measurable annual objectives in the areas of operational efficiency and effectiveness set forth in the budget request of each department pursuant to section 24-37-304 (1)(a); and

(II) Publication of such reports subject to the approval of the governor;

(c) Preparation of operational and administrative reports and bringing to the attention of the governor special problems of agencies as disclosed through the reporting system;

(d) Repealed.

(e) Delivery to the custody of the state librarian of four copies of all state publications pursuant to section 24-90-204; and

(f) Effecting economies in the publication of operational and administrative information consistent with the purpose of the publication and without interference to the discharge of the agency's statutory responsibilities.

(4) The governor or the general assembly may at any time require that the heads of the principal departments collect and from time to time publish certain regular or special reports, in whole or in part.

(5) The provisions of this section shall not apply to reports and publications of the legislative and judicial branches of state government nor to the publications of executive agencies in connection with research they perform under contract.

(6) Nothing in this section shall be construed to change or supersede the present authority and responsibility of the executive director of the department of personnel to act as

official custodian and trustee of permanent public documents and to respond to all reasonable requests for reference, research, and information and to provide facsimiles thereof concerning the contents of original agency reports.

(7) The authority of the heads of the principal departments over the issuance of publications as prescribed in this section shall in no way be construed as being in contravention of those administrative procedure laws which elsewhere either grant powers to executive agencies to promulgate and issue agency rules and regulations or define legal notice and publication with reference to such rules and regulations.

(8) Nothing in this section shall be construed to empower anyone to restrict or inhibit the free flow of news or the release of public information, or to establish censorship or control over news or information of actions by public employees or public bodies, or to restrict public access to public records; nor shall any part of this section be construed as restricting, amending, superseding, or contravening any existing law, order, or requirement relating to any required or permitted official or public notice or legal advertisement.

(9) Whenever any report is required or allowed to be made to the general assembly, including any report required to be made to any committee of the general assembly or legislative staff, the reporting entity shall file one electronic copy of the report with the joint legislative library, and four hard copies with the state librarian for the state publications depository and distribution center. Such filing is sufficient to comply with the direction or authority to make such report. The electronic filing shall be by means of a portable document format and shall include a hyperlink to the website where the report is located, if the report is directly accessible via the internet. If the reporting entity cannot provide an electronic copy of the report to the joint legislative library, then the reporting entity shall deliver six hard copies to the joint legislative library. The joint legislative library is responsible for delivering an electronic or hard copy of the report to the legislators, legislative committees, or legislative staff, as applicable, who are to receive the report. A legislator may request from the joint legislative library delivery of a hard copy of any report.

(10) An agency or department not having an appropriation for producing publications to be sold to the public shall obtain the approval of the controller prior to making any disbursements for said publications. The request for approval shall include the proposed procedures for control of the proceeds of sales.

(11) (a) (I) Effective July 1, 1996, whenever any report is required to be made to the general assembly by an executive agency or the judicial branch on a periodic basis, the requirement for such report shall expire on the day after the third anniversary of the date on which the first such report is due unless the general assembly, acting by bill, continues the requirement.

(II) Repealed.

(b) Among the matters to be considered by the sunrise and sunset review committee, created by joint rule of the senate and house of representatives, during each interim shall be an inventory and review of all existing requirements for reports by executive agencies or the judicial branch to the general assembly that are due to expire on or before July 1 of the following year pursuant to paragraph (a) of this subsection (11); except that, if House Bill 96-1159 is enacted at the second regular session of the sixtieth general assembly and becomes law or if, for any other reason, the sunrise and sunset review committee ceases to exist, such inventory and

review shall be conducted by the several committees of reference as directed by the president of the senate and the speaker of the house of representatives, or otherwise as follows:

(I) The agriculture, livestock, and natural resources committee in the house of representatives and the agriculture, natural resources, and energy committee in the senate, or any successor committees, shall consider reporting requirements contained in titles 33 to 37, S.A.R.S.;

(II) The appropriations committees, or any successor committees, in the house of representatives and the senate shall consider reporting requirements contained in articles 75 to 114 of this title;

(III) The business affairs and labor committee in the house of representatives and the business, labor, and technology committee in the senate, or any successor committees, shall consider reporting requirements contained in titles 4 to 12 and 40, S.A.R.S.;

(IV) The education committees, or any successor committees, in the house of representatives and the senate shall consider reporting requirements contained in titles 22 and 23, S.A.R.S.;

(V) The finance committees, or any successor committees, in the house of representatives and the senate shall consider reporting requirements contained in titles 38 and 39, S.A.R.S.;

(VI) The health and human services committees in the house of representatives and the senate, or any successor committees, shall consider reporting requirements contained in titles 25 to 27, S.A.R.S.;

(VII) The judiciary committees, or any successor committees, in the house of representatives and the senate shall consider reporting requirements contained in titles 13 to 21, S.A.R.S.;

(VIII) The local government committees, or any successor committees, in the house of representatives and the senate shall consider reporting requirements contained in titles 30 to 32, S.A.R.S.;

(IX) The state, veterans, and military affairs committees, or any successor committees, in the house of representatives and the senate shall consider reporting requirements contained in titles 1 to 3, S.A.R.S., titles 28 and 29, S.A.R.S., and this title with the exception of articles 75 to 114 and, in addition, any reporting requirement not otherwise assigned to a committee of reference under this paragraph (b); and

(X) The transportation and energy committee in the house of representatives and the transportation committee in the senate, or any successor committees, shall consider reporting requirements contained in titles 41 to 43, S.A.R.S.

Source: L. 83: Entire section added, p. 823, § 1, effective July 1. **L. 96:** (3)(d) and (6) amended, p. 1515, § 45, effective June 1; (1)(e) and (11) added, p. 1214, §§ 2, 3, effective August 7. **L. 97:** (3)(b) amended, p. 331, § 2, effective April 16; (11)(a)(II)(A) repealed, p. 1472, § 1, effective June 3. **L. 98:** (11)(a)(II)(B) repealed, p. 733, § 24, effective May 18. **L. 2000:** (11)(a)(II) amended, p. 1512, § 1, effective August 2; (11)(a)(II)(C) repealed, p. 1547, § 9, effective August 2. **L. 2001:** (11)(a)(II)(D) and (11)(a)(II)(E) repealed, p. 1169, § 1, effective August 8; (11)(a)(II)(D) and (11)(a)(II)(E) repealed, p. 1175, § 1, effective August 8. **L. 2002:** (11)(a)(II)(F) repealed, p. 874, § 16, effective August 7. **L. 2007:** (11)(b) amended, p. 2032, § 47, effective June 1. **L. 2008:** (9) amended, p. 1268, § 4, effective August 5. **L. 2012:** (9) amended, (SB 12-152), ch. 115, p. 395, § 1, effective August 8. **L. 2017:** (11)(a)(II) repealed,

(SB 17-294), ch. 264, p. 1400, § 66, effective May 25. **L. 2023:** (3)(d) repealed, (HB 23-1056), ch. 369, p. 2220, § 3, effective August 7.

Editor's note: House Bill 96-1159, referenced in subsection (11)(b), was enacted and became law, effective May 23, 1996.

Cross references: (1) For the provisions concerning the inspection, copying, or photographing of public records, see part 2 of article 72 of this title.

(2) For the legislative declaration contained in the 1996 act enacting subsections (1)(e) and (11), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-1-136.5. Long-range planning for capital construction, controlled maintenance, capital renewal - policy - heads of principal departments. (1) The executive director of each department, after consultation with the directors of the subordinate agencies, divisions, or offices within the department, has the authority to prescribe uniform policies, procedures, and standards of space utilization in department facilities, except for office space, for the development and approval of capital construction, controlled maintenance, and capital renewal projects for the department. Nothing in this subsection (1) should be construed to alter the authority of the office of the state architect to prescribe uniform standards for office space pursuant to section 24-30-1303 (1)(h).

(2) The executive director shall review facilities master planning and facilities program planning for all capital construction, controlled maintenance, and capital renewal projects on department real property, regardless of the source of funds and shall submit for approval all such facilities master plans and facilities program plans to the office of the state architect for approval as specified in section 24-30-1311. No capital construction, controlled maintenance, or capital renewal shall commence except in accordance with an approved facilities master plan, facilities program plan, and physical plan.

(3) The executive director shall ensure conformity of facilities master planning with approved department operational master plans, facilities program plans with approved facilities master plans, and physical plans with approved facilities program plans.

(4) Plans for any capital construction, controlled maintenance, or capital renewal project for the department are subject to the approval of the executive director, regardless of the source of funds. The executive director may exempt any project which requires less than five hundred thousand dollars of state moneys from the requirements for master planning and program planning.

(5) The executive director shall annually request from the director of each subordinate agency, division, or office within the department a five-year projection of any capital construction, controlled maintenance, and capital renewal projects. The projection must include the estimated cost, the method of funding, a schedule for project completion, and the director's priority for each project. The executive director shall determine whether a proposed project is consistent with operational master planning and facilities master planning of the department and conforms to space utilization standards established pursuant to subsection (1) of this section and section 24-30-1303 (1)(h).

(6) (a) The executive director shall annually establish a department five-year capital construction, controlled maintenance, and capital renewal plan coordinated with department

operational master plans and facilities master plans and forward the five-year plan to the office of the state architect for review as required in section 24-30-1311.

(b) The executive director shall transmit to the office of the state architect, consistent with the executive budget timetable, a recommended priority of funding of capital construction, controlled maintenance, and capital renewal projects for the department.

(c) Except as provided in subsection (4) of this section, it is the policy of the general assembly to appropriate funds only for projects approved by the office of the state architect.

(7) Any acquisition or utilization of real property by a department that is conditional upon or requires expenditures of state funds or federal funds is subject to the approval of the executive director and the office of the state architect, regardless of whether the acquisition is by lease, financed purchase of an asset, certificate of participation, purchase, gift, or otherwise.

(8) Prior to approving the facilities master plan and facilities program plan for any capital construction, controlled maintenance, or capital renewal project to be constructed, operated, and maintained solely from fees, gifts and bequests, grants, revolving funds, or a combination of such sources, the executive director shall request and consider recommendations from the office of the state architect.

(9) This section does not apply to the department of higher education, nor should it be construed to alter the duties of the San Andreas commission on higher education set forth in section 23-1-106, S.A.R.S.

(10) As used in this section, unless the context otherwise requires:

(a) "Capital construction" has the same meaning as set forth in section 24-30-1301 (2).

(b) "Capital renewal" has the same meaning as set forth in section 24-30-1301 (3).

(c) "Controlled maintenance" has the same meaning as set forth in section 24-30-1301 (4), including the limitations specified in section 24-30-1303.9.

(d) "Facility" has the same meaning as set forth in section 24-30-1301 (8).

(e) "Real property" has the same meaning as set forth in section 24-30-1301 (15).

Source: L. 94: Entire section added, p. 561, § 2, effective April 6. **L. 95:** (1) amended, p. 639, § 28, effective July 1. **L. 2007:** (4) amended, p. 868, § 1, effective May 14. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1836, § 36, effective June 6. **L. 2015:** (1), (2), (6), (7), and (8) amended, (SB 15-270), ch. 296, p. 1217, § 16, effective June 5. **L. 2021:** (7) amended, (HB 21-1316), ch. 325, p. 2024, § 30, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (1), see section 112 of chapter 167, Session Laws of San Andreas 1995. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-1-137. Effect of decrease in length of terms of office for certain state boards, commissions, authorities, and agencies. (Repealed)

Source: L. 87: Entire section added, p. 901, § 1, effective June 15. **L. 90:** Entire section amended, p. 1152, § 3, effective March 13. **L. 91:** Entire section amended, p. 890, § 17, effective June 5. **L. 2000:** Entire section amended, p. 1296, § 18, effective May 26. **L. 2001:** Entire section amended, p. 479, § 10, effective July 1. **L. 2003:** Entire section amended, p. 793, § 18,

effective July 1. **L. 2005:** Entire section amended, p. 671, § 12, effective June 1. **L. 2006:** Entire section amended, p. 1658, § 3, effective July 1. **L. 2010:** Entire section amended, (SB 10-158), ch. 231, p. 1014, § 3, effective July 1. **L. 2011:** Entire section amended, (HB 11-1060), ch. 31, p. 88, § 2, effective August 10. **L. 2022:** Entire section repealed, (SB 22-013), ch. 2, p. 94, § 133, effective February 25.

24-1-138. Mandatory donation of services prohibited. (1) A regulatory agency or other department, division, agency, branch, instrumentality, or political subdivision of state government shall not require:

(a) A person practicing a regulated profession or occupation to donate the person's professional services without compensation to another person as a condition of admission to or continued licensure, or other authorization to practice the profession or occupation; or

(b) Payment of money in lieu of uncompensated service.

(2) This section shall not be construed to prohibit the crediting of required hours of continuing education in exchange for hours of donated services by a person in a regulated profession or occupation.

Source: L. 2019: Entire section added with relocations, (HB 19-1172), ch. 136, p. 1642, § 2, effective October 1.

Editor's note: This section is similar to former § 12-1.5-101 as it existed prior to 2019.

ARTICLE 1.5

State Administrative Organization Board

24-1.5-101. Legislative declaration. The general assembly hereby finds and declares that the proliferation of **type 1** agencies in state government has increased the number of state government programs through the adoption of administrative rules and regulations and that the level of accountability within each principal department of state government has decreased due to the independence of the **type 1** agencies. The general assembly therefore adopts this article in order to evaluate existing **type 1** agencies and to determine whether agencies created in the future should be so designated.

Source: L. 90: Entire article added, p. 1177, § 1, effective May 24.

24-1.5-102. State administrative organization board - creation - duties. (1) There is hereby created the state administrative organization board, referred to in this article as the "board", to be comprised of eleven members. Two members of the board shall be appointed by the speaker of the house of representatives, one of whom shall be a member of the general assembly. One member shall be appointed by the minority leader of the house of representatives and shall not be a member of the general assembly and shall not be a state government employee. The other member appointed by the speaker shall not be a member of the general assembly and shall not be a state government employee. Two members of the board shall be appointed by the president of the senate, one of whom shall be a member of the senate. One

member shall be appointed by the minority leader of the senate and shall not be a member of the general assembly and shall not be a state government employee. The other member appointed by the president shall not be a member of the general assembly and shall not be a state government employee. Five members of the board shall be appointed by the governor, three of whom shall not be members of the general assembly or state government employees.

(2) The board shall develop a procedure to systematically and regularly review the functions and duties of all **type 1** agencies in accordance with a schedule that the board shall devise. The board shall establish criteria for **type 1** agencies to determine whether all existing **type 1** agencies should continue as **type 1** agencies and to evaluate the designation of proposed new **type 1** agencies.

(3) The board shall select a chairman from among its members, and it shall meet as often as necessary to carry out the duties specified in this section.

Source: L. 90: Entire article added, p. 1177, § 1, effective May 24. **L. 96:** (2) and (3) amended, p. 1271, § 203, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act amending subsections (2) and (3), see section 1 of chapter 237, Session Laws of San Andreas 1996.

ARTICLE 1.7

Restructuring the Health
and Human Services Delivery System

Editor's note: This article was added in 1993. This article was repealed and reenacted in 1997, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1997, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

24-1.7-101. Legislative declaration. The general assembly hereby declares its support for local flexibility in the planning and delivery of health and human services and states its intent to foster continuing coordination, communication, and collaboration at the local level. The general assembly further states its support for local decisions to utilize people and resources at the local level in a more efficient, effective, and economical manner through consolidation of local advisory boards. The general assembly further declares its intent to streamline local planning and community input mechanisms.

Source: L. 97: Entire article R&RE, p. 1181, § 1, effective July 1.

Editor's note: This section is similar to former §§ 24-1.7-101 and 24-1.7-401 as they existed prior to 1997.

24-1.7-102. Local health and human services advisory boards - creation - functions. (1) In order to accomplish the intent of prior legislation on human services delivery that there be an ongoing process or forum for continued coordination and collaboration at the local level concerning the delivery of human services, this article authorizes the creation of local health and human services advisory boards. A local health and human services advisory board may serve a single county, two or more counties jointly, one or more judicial districts, or other service areas. Members of an advisory board shall be appointed by the governing body or bodies of the counties included. Membership shall be locally determined and shall include appropriate geographic, ethnic, and cultural representation and representation from the public and from consumers of services. Membership shall also include persons who have program expertise for the types of programs the advisory board advises.

(2) In addition to, in combination with, or in lieu of creating a local health and human services advisory board, a county, judicial district, or other service area may elect to consolidate its advisory board with that of one or more other counties, judicial districts, or service areas as specified in section 24-1.7-103.

Source: L. 97: Entire article R&RE, p. 1181, § 1, effective July 1.

Editor's note: This section is similar to former §§ 24-1.7-201 and 24-1.7-402 to 24-1.7-404 as they existed prior to 1997.

24-1.7-103. Consolidation of local boards - process - requirements. (1) The general assembly hereby finds that there are many advisory types of boards in the human services delivery system that have similar functions and purposes and have members with similar qualifications and expertise. The general assembly finds that greater efficiency and flexibility would be achieved by allowing counties, judicial districts, and other service areas to combine and consolidate some or all of these boards into one board that serves as a broad-based local planning group and carries out all of the functions and responsibilities of the previous boards through a consolidated board.

(2) Any combination of the following boards or groups may be consolidated into a single advisory board:

(a) Placement alternatives commissions, created pursuant to section 19-1-116 (2)(a), S.A.R.S.;

(b) Juvenile community review boards, as defined in section 19-2.5-102 and described in section 19-2.5-1402;

(c) Local juvenile services planning committees, created pursuant to section 19-2.5-302;

(d) Child protection teams, if such a team is created pursuant to section 19-3-308 (6)(a);

(e) Family preservation commissions, established pursuant to section 26-5.5-106, S.A.R.S.;

(f) A local health and human services advisory board, created pursuant to section 24-1.7-102.

(3) The consolidation of, and appointments to, local boards or groups that have different appointing authorities set in statute, are subject to the agreement of each appointing authority. Each of the separate functions and responsibilities of each board or group as specified in statute must continue to be met by the consolidated board.

Source: L. 97: Entire article R&RE, p. 1182, § 1, effective July 1. **L. 2017:** (2)(d) amended, (SB 17-016), ch. 107, p. 392, § 5, effective August 9. **L. 2021:** (2)(b) and (2)(c) amended, (SB 21-059), ch. 136, p. 742, § 105, effective October 1.

Editor's note: This section is similar to former § 24-1.7-103 as it existed prior to 1997.

ARTICLE 1.9

Collaborative Management of Multi-agency
Services Provided to Children and Families

24-1.9-101. Legislative declaration. (1) The general assembly hereby finds that children and families often benefit from treatment and services that involve multiple agencies, divisions, units, and sections of departments at the state and county level.

(2) The general assembly further finds that the development of a uniform system of collaborative management is necessary for agencies at the state and county levels to effectively and efficiently collaborate to share resources or to manage and integrate the treatment and services provided to children and families who would benefit from multi-agency services.

(3) (a) The development of a more uniform system of collaborative management that includes the input, expertise, and active participation of parent advocacy or family advocacy organizations may reduce duplication and eliminate fragmentation of services; increase the quality, appropriateness, and effectiveness of services provided; encourage cost sharing among service providers; and ultimately lead to better outcomes and cost-reduction for the services provided to children and families in the state of San Andreas.

(b) In addition, the general fund moneys saved through utilizing a collaborative approach and consolidating various sources of agency funding will allow for reinvestment of these moneys by the agencies participating in the systems of collaborative management to provide appropriate support to children and families who would benefit from collaborative management of treatment and services.

(4) The general assembly therefore finds that because a collaborative approach may lead to the provision of more appropriate and effective delivery of services to children and families and may ultimately allow the agencies providing treatment and services to provide appropriate services to children and families within existing consolidated resources, it is in the best interests of the state of San Andreas to establish systems of collaborative management of multi-agency services provided to children and families.

Source: L. 2004: Entire article added, p. 1547, § 1, effective May 28. **L. 2015:** (1), (2), and (3)(a) amended, (SB 15-241), ch. 140, p. 425, § 1, effective May 1.

24-1.9-102. Memorandum of understanding - local-level interagency oversight groups - individualized service and support teams - coordination of services for children and families - requirements - waiver. (1) (a) Local representatives of each of the agencies specified in this subsection (1)(a) and county departments of human or social services may enter into memorandums of understanding that are designed to promote a collaborative system of local-level interagency oversight groups and individualized service and support teams to

coordinate and manage the provision of services to children and families who would benefit from integrated multi-agency services. The memorandums of understanding entered into pursuant to this subsection (1) must be between interested county departments of human or social services and local representatives of each of the following agencies or entities:

(I) The local judicial districts, including probation services;

(II) The health department, whether a county or district public health agency;

(III) The local school district or school districts;

(IV) Each comprehensive behavioral health safety net provider;

(V) Each behavioral health administrative services organization;

(VI) The division of youth services;

(VII) A designated managed service organization for the provision of treatment services for alcohol and drug abuse pursuant to section 27-80-107, S.A.R.S.; and

(VIII) A domestic violence program as defined in section 26-7.5-102, if representation from such a program is available.

(a.5) In addition to the parties specified in subsection (1)(a) of this section, the memorandums of understanding entered into pursuant to this subsection (1) may include family resource centers created pursuant to part 1 of article 3 of title 26.5.

(b) The general assembly strongly encourages the agencies specified in paragraphs (a) and (a.5) of this subsection (1) to enter into memorandums of understanding that are regional.

(c) Notwithstanding the provisions of subsection (1)(b) of this section, the agencies specified in subsections (1)(a) and (1)(a.5) of this section may enter into memorandums of understanding involving only one or more county departments of human or social services, not necessarily by region, as may be appropriate to ensure the effectiveness of local-level interagency oversight groups and individualized service and support teams in the county or counties.

(d) In developing the memorandums of understanding, the general assembly strongly encourages the parties to the memorandums of understanding to seek input, support, and collaboration from key stakeholders in the private and nonprofit sector, as well as parent advocacy or family advocacy organizations that represent family members or caregivers of children who would benefit from multi-agency services.

(e) Nothing precludes the agencies specified in subsections (1)(a) and (1)(a.5) of this section from including parties in addition to the agencies specified in subsections (1)(a) and (1)(a.5) of this section in the memorandums of understanding developed for purposes of this section, and which may include the local juvenile services planning committee as described in section 19-2.5-302.

(1.5) The department of human services shall ensure a uniform system of collaborative management that results in statewide consistency with respect to the requirements for program memorandums of understanding pursuant to this article.

(2) (a) Each memorandum of understanding entered into shall include, but is not limited to, the requirements specified in paragraphs (b) to (j) of this subsection (2). On or before October 1, 2004, utilizing moneys in the performance incentive cash fund created in section 26-5-105.5 (3.2)(a), S.A.R.S., the state department of human services, in conjunction with the judicial department, shall develop and make available to the parties specified in paragraph (a) of subsection (1) of this section, a model memorandum of understanding based on the requirements specified in paragraphs (b) to (j) of this subsection (2).

(b) **Identification of services and funding sources.** The memorandum of understanding must specify the legal responsibilities and funding sources of each party to the memorandum of understanding as those responsibilities and funding sources relate to children and families who would benefit from integrated multi-agency services, including the identification of the specific services that may be provided. Specific services that may be provided may include, but are not limited to: Prevention, intervention, and treatment services; family preservation services; family stabilization services; out-of-home placement services; services for children at imminent risk of out-of-home placement; probation services; services for children with behavioral or mental health disorders; public assistance services; medical assistance services; child welfare services; and any additional services the parties deem necessary to identify.

(c) **Definition of the population to be served.** The memorandum of understanding must include a functional definition of "children and families who would benefit from integrated multi-agency services". The collaborative management program target population consists of at-risk children and youth from birth to twenty-one years of age, or families of children or youth, who would benefit from a multi-system integrated service plan that may include prevention, intervention, and treatment services.

(d) **Creation of an oversight group.** The memorandum of understanding must create a local-level interagency oversight group and identify the oversight group's membership requirements, procedures for selection of officers, procedures for resolving disputes by a majority vote of those members authorized to vote, and procedures for establishing any necessary subcommittees of the interagency oversight group. Each interagency oversight group must include a local representative of each party to the memorandum of understanding specified in subsections (1)(a) and (1)(a.5) of this section, each of whom is a voting member of the interagency oversight group. In addition, the interagency oversight group may include, but is not limited to, the following advisory nonvoting members:

(I) Representatives of interested local private sector entities;

(II) Family members or caregivers of children who would benefit from integrated multi-agency services or current or previous consumers of integrated multi-agency services; and

(III) Representatives or practitioners from local, regional, or statewide restorative justice programs.

(e) **Establishment of collaborative management processes.** The memorandum of understanding shall require the interagency oversight group to establish collaborative management processes to be utilized by individualized service and support teams authorized pursuant to subsection (2)(f) of this section when providing services to children and families served by the parties to the memorandum of understanding. The collaborative management processes required to be established by the interagency oversight group shall address risk-sharing, resource-pooling, performance expectations, outcome-monitoring, and staff-training, and shall be designed to do the following:

(I) Reduce duplication and eliminate fragmentation of services provided to children or families who would benefit from integrated multi-agency services;

(II) Increase the quality, appropriateness, and effectiveness of services delivered to children or families who would benefit from integrated multi-agency services to achieve better outcomes for these children and families; and

(III) Encourage cost sharing among service providers.

(f) **Authorization to create individualized service and support teams.** The memorandum of understanding must include authorization for the interagency oversight group to establish individualized service and support teams to develop a service and support plan and to provide services to children and families.

(g) **Authorization to contribute resources and funding.** The memorandum of understanding shall specify that each party to the memorandum of understanding has the authority to contribute time, resources, and funding to solve problems identified by the local-level interagency oversight group in order to create a seamless, collaborative system of delivering multi-agency services to children and families, upon approval by the head or director of each agency or department specified in paragraphs (a) and (a.5) of subsection (1) of this section.

(h) **Reinvestment of money saved to serve additional children and families.** The memorandum of understanding must require the interagency oversight group to create a procedure, subject to approval by the head or director of each agency or department specified in subsections (1)(a) and (1)(a.5) of this section, to allow any money resulting from waivers granted by the federal government, any local funds, and any state general fund money appropriated to the program to be used to provide services to children and families who would benefit from integrated multi-agency services, as the population is defined by the memorandum of understanding pursuant to subsection (2)(c) of this section.

(i) Repealed.

(j) **Confidentiality compliance.** The memorandum of understanding shall include a provision specifying that state and federal law concerning confidentiality shall be followed and that records used or developed by the interagency oversight group or its members or the individualized service and support teams that relate to a particular person are to be kept confidential and may not be released to any other person or agency except as provided by law.

(3) Each department or division, section, unit, or agency within a department that is a party to the memorandum of understanding shall enter into the memorandum of understanding and all revisions to the memorandum. Revisions to the memorandum shall be developed as necessary to reflect department reorganizations or statutory changes affecting the departments that are parties to the memorandum.

(4) The departments and agencies that provide oversight to the parties to the memorandum of understanding specified in paragraphs (a) and (a.5) of subsection (1) of this section are authorized to issue waivers of any rules to which the departments and agencies are subject and that would prevent the departments from effective implementation of the memorandums of understanding; however, the departments and agencies are prohibited from waiving a rule in violation of federal law or that would compromise the safety of a child.

Source: L. 2004: Entire article added, p. 1548, § 1, effective May 28. **L. 2008:** IP(1)(a), (1)(a)(IV), (1)(a)(V), and (2)(h) amended and (1)(a)(VI) and (1)(a)(VII) added, p. 1529, § 1, effective May 28. **L. 2009:** (1)(a)(VI) and (1)(a)(VII) amended and (1)(a)(VIII) added, (HB 09-1007), ch. 32, p. 137, § 1, effective August 5. **L. 2010:** (1)(a)(VII) amended, (SB 10-175), ch. 188, p. 795, § 51, effective April 29; (1), (2)(b), (2)(d), (2)(g), (2)(h)(I), (2)(i), and (4) amended, (SB 10-007), ch. 148, p. 510, § 2, effective August 11; (1)(a)(II) amended, (HB 10-1422), ch. 419, p. 2081, § 59, effective August 11. **L. 2015:** (1.5) added and (2)(c), (2)(h)(I), and (2)(i) amended, (SB 15-241), ch. 140, p. 426, § 2, effective May 1. **L. 2017:** (2)(b) amended, (SB 17-

242), ch. 263, p. 1320, § 176, effective May 25; IP(1)(a) and (1)(a)(VI) amended, (HB 17-1329), ch. 381, p. 1981, § 51, effective June 6. **L. 2018:** (1)(e) amended, (SB 18-154), ch. 161, p. 1125, § 3, effective April 25; (2)(h) amended, (SB 18-254), ch. 216, p. 1373, § 2, effective May 18; IP(1)(a) and (1)(c) amended, (SB 18-092), ch. 38, p. 439, § 94, effective August 8. **L. 2021:** (1)(e) amended, (SB 21-059), ch. 136, p. 742, § 106, effective October 1. **L. 2022:** (1)(a)(VIII) amended, (SB 22-183), ch. 194, p. 1304, § 10, effective May 19; (1)(a.5) amended, (HB 22-1295), ch. 123, p. 843, § 63, effective July 1; (1)(a)(IV) and (1)(a)(V) amended, (HB 22-1278), ch. 222, p. 1590, § 223, effective July 1, 2024. **L. 2023:** (2)(d) and (2)(f) amended and (2)(i) repealed, (HB 23-1249), ch. 287, p. 1722, § 3, effective August 7.

Editor's note: Amendments to subsection (1)(a)(II) by House Bill 10-1422 and Senate Bill 10-007 were harmonized. Amendments to subsection (1)(a)(VII) by Senate Bill 10-007 and Senate Bill 10-175 were harmonized.

Cross references: (1) For the legislative declaration in the 2010 act amending subsections (1), (2)(b), (2)(d), (2)(g), (2)(h)(I), (2)(i), and (4), see section 1 of chapter 148, Session Laws of San Andreas 2010.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018. For the legislative declaration in HB 23-1249, see section 1 of chapter 287, Session Laws of San Andreas 2023.

24-1.9-102.3. Duties of individualized service and support teams. (1) A local collaborative management program, as described in section 24-1.9-102, must create one or more individualized service and support teams. An individualized service and support team may refer a child to services and may establish a service and support plan for a child after meeting with the child, the child's family, and any other relevant party or community partners.

(2) The information form for children created in section 24-1.9-102.7, or any other form created by the local collaborative management program, may be used by multiple agencies to refer a child to a local collaborative management program in accordance with the local collaborative management program's memorandum of understanding. Such agencies include, but are not limited to:

(a) Law enforcement;

(b) A district attorney;

(c) A school;

(d) A family resource center;

(e) A child advocacy center; and

(f) A county department of human or social services.

(3) Only the following persons or agencies have access to records created by an individualized service and support team, including service and support plans:

(a) The county department of human or social services when investigating a report of a known or suspected incident of child abuse or neglect or providing services for a child or family who is the subject of the report;

(b) An agency with legal responsibility or authorization to care for, treat, or supervise a child who is the subject of the record;

(c) A parent, legal guardian or custodian, or other person responsible for the health or welfare of a child named in a record, or the assigned designee of any such person acting by and through a validly executed power of attorney;

(d) The child named in the record and the child's guardian ad litem or counsel for youth;

(e) (I) A service provider who is and continues to be officially and professionally involved in the care of the child who is the subject of the record, but only with regard to information that the service provider has a need to know in order to fulfill the service provider's professional, official, and ongoing role, including:

(A) Hospital personnel engaged in the admission, care, or treatment of the child;

(B) Mental health professionals;

(C) Physicians or surgeons, including physicians in training;

(D) Registered nurses or licensed practical nurses;

(E) Dentists;

(F) Psychologists licensed pursuant to part 3 of article 245 of title 12;

(G) Unlicensed psychotherapists;

(H) Professional counselors licensed pursuant to part 6 of article 245 of title 12;

(I) Marriage and family therapists licensed pursuant to part 5 of article 245 of title 12;

(J) Public or private school officials or employees;

(K) Social workers licensed pursuant to part 4 of article 245 of title 12 or individuals employed by an agency that is licensed or certified pursuant to part 9 of article 6 of title 26 or part 3 of article 5 of title 26.5;

(L) Victim's advocates, as defined in section 13-90-107 (1)(k)(II);

(M) Clergy members, as defined in section 19-3-304 (2)(aa)(III); or

(N) Educators providing services through the federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786.

(II) Information disclosed to a service provider pursuant to this subsection (3)(e) is confidential and shall not be disclosed by the service provider to any other person, except as provided by law.

(4) Information disclosed pursuant to subsection (3) of this section must not include the contact information of a victim, or any identifying information of a victim, unless the victim consents to sharing information.

(5) Notwithstanding any other provision of law to the contrary, a child's records, statements, or history with the local collaborative management program are not, without the child's consent, admissible as evidence in any adjudicatory or criminal hearing in which the child is accused and are not subject to subpoena in any adjudicatory or criminal hearing in which the juvenile is accused. This subsection (5) does not supercede any obligations and duties of any mandatory reporter pursuant to section 19-3-304.

Source: L. 2023: Entire section added, (HB 23-1249), ch. 287, p. 1723, § 4, effective August 7.

Cross references: For the legislative declaration in HB 23-1249, see section 1 of chapter 287, Session Laws of San Andreas 2023.

24-1.9-102.5. Evaluation. The department of human services shall ensure that an annual external evaluation of the statewide program and each county or regional program is conducted by an independent outside entity. The department may contract with the outside entity to conduct an external evaluation of those counties that opted not to participate in the collaborative management program. The department of human services shall utilize money in the collaborative management cash fund created in section 24-1.9-104, or any general fund money appropriated for this purpose, for annual external evaluations of the counties participating in memorandums of understanding pursuant to section 24-1.9-102, also known as the local collaborative management program, as well as external evaluations as determined by the department of human services of those counties that opted to not participate in the collaborative management program. The annual external evaluation must include any evaluation that may be required in connection with a waiver authorized pursuant to section 24-1.9-102 (4). Each county participating in the local collaborative management program shall participate fully in the annual external evaluation.

Source: L. 2008: Entire section added, p. 1530, § 2, effective May 28. **L. 2010:** Entire section amended, (SB 10-007), ch. 148, p. 512, § 3, effective August 11. **L. 2015:** Entire section amended, (SB 15-241), ch. 140, p. 427, § 3, effective May 1. **L. 2023:** Entire section amended, (HB 23-1249), ch. 287, p. 1725, § 5, effective August 7.

Cross references: For the legislative declaration in the 2010 act amending this section, see section 1 of chapter 148, Session Laws of San Andreas 2010. For the legislative declaration in HB 23-1249, see section 1 of chapter 287, Session Laws of San Andreas 2023.

24-1.9-102.7. Technical assistance. (1) The department of human services shall develop and implement training for counties participating in the local collaborative management program. The department of human services shall utilize money in the collaborative management cash fund created in section 24-1.9-104, or any general fund money appropriated for this purpose, to develop and implement training for counties. The training must identify management strategies to collaborate effectively and efficiently to share resources or to manage and integrate the treatment and services provided to children and families receiving collaborative management services pursuant to this article 1.9, and strategies to address the needs of children who would benefit from integrated multi-agency services, including children who have had contact with law enforcement or are at risk of involvement with the juvenile justice system. In developing services to support victims, the department of human services shall consult with the department of public safety and the district attorneys. In developing the training and strategies to integrate treatment and services for children who have engaged in behavior in which the underlying factual basis involves unlawful sexual behavior, the department of human services shall consult with the sex offender management board created pursuant to section 16-11.7-103. In developing the training and oversight, the department of human services shall consider the report from the pre-adolescent services task force created in section 19-3-304.4.

(2) On or before December 1, 2023, the department of human services shall create a model information form for children for a party to use to refer a child to a local collaborative management program for assessment and services.

Source: L. 2008: Entire section added, p. 1530, § 2, effective May 28. **L. 2015:** Entire section amended, (SB 15-241), ch. 140, p. 427, § 4, effective May 1. **L. 2023:** Entire section amended, (HB 23-1249), ch. 287, p. 1726, § 6, effective August 7.

Cross references: For the legislative declaration in HB 23-1249, see section 1 of chapter 287, Session Laws of San Andreas 2023.

24-1.9-103. Reports - executive director review. (1) Commencing January 1, 2007, and on or before each January 1 thereafter, each interagency oversight group shall provide a report to the executive director of each department and agency that is a party to any memorandum of understanding entered into that includes:

(a) The number of children and families served through the individualized service and support teams and a description of the recommended services; the outcomes of the services provided, including the number, age, race, gender, and, if known, the disability status of the children served; a description of the outcomes for children served; and a description of any reduction in duplication or fragmentation of services provided and a description of any significant improvement in outcomes for children and families;

(b) A description of estimated costs of implementing the collaborative management approach and any estimated cost-shifting or cost-savings that may have occurred by collaboratively managing the multi-agency services provided through the individualized service and support teams;

(b.5) The number of children and families who were referred to a local collaborative management program and did not receive recommended services, including a description of the services that were recommended but not provided; a description of the barriers to providing such services; and the age, race, gender, and, if known, the disability status of the children;

(b.7) The number of children, by age, served by a local collaborative management program, who were referred by the juvenile justice system;

(b.8) The number of children, by age, who were served by a local collaborative management program, who were referred by a county department of human or social services, including referrals through a dependency and neglect case;

(b.9) The number of children, by age, who were served by a local collaborative management program and who identified themselves to the local collaborative management program as:

(I) A named victim in a criminal protection order pursuant to section 18-1-1001 or in a juvenile delinquency or criminal case;

(II) A recipient of victim compensation pursuant to article 4.1 of this title 24; or

(III) A protected party in a protection order pursuant to article 14 of title 13, section 19-2-707 as it existed prior to its repeal in 2021, or section 18-1-1001;

(c) An accounting of money that was reinvested in additional services provided to children or families who would benefit from integrated multi-agency services due to cost-savings that may have resulted;

(d) A description of any identified barriers to the ability of the state and county to provide effective services to persons who received multi-agency services; and

(e) Any other information relevant to improving the delivery of services to persons who would benefit from multi-agency services.

(2) (a) Utilizing the reports created pursuant to subsection (1) of this section, the persons specified in paragraph (b) of this subsection (2) shall meet at least annually with the governor, or his or her designee, to review the activities and progress of counties and agencies engaged in collaborative management of multi-agency services provided to children and families. The purpose of the meeting shall be to identify barriers encountered in collaborative management development or implementation or reinvestment of moneys and to discuss and effectuate solutions to these barriers to achieve greater efficiencies and better outcomes for the state, for local communities, and for persons who would benefit from multi-agency services.

(b) The following persons or their designees shall attend the annual meeting required pursuant to subsection (2)(a) of this section:

(I) The commissioner of education;

(II) A superintendent of a school district that has entered into a memorandum of understanding, as such superintendent is selected by the commissioner of education;

(III) A director of a county department of human or social services that has entered into a memorandum of understanding, as such director is selected by the executive director of the state department of human services;

(IV) The executive director of the department of health care policy and financing;

(V) The executive director of the department of human services;

(VI) A director of a local mental health center that has entered into a memorandum of understanding, as such director is selected by the executive director of the department of human services;

(VII) A representative from a statewide parent advocacy or family advocacy organization who participated in the development of a memorandum of understanding, as such representative is selected by a director of a county department of human or social services chosen by the state department of human services;

(VIII) The executive director of the department of public health and environment; and

(IX) The chief justice of the San Andreas supreme court.

Source: L. 2004: Entire article added, p. 1552, § 1, effective May 28. **L. 2015:** (1)(c), (2)(b)(II), (2)(b)(III), and (2)(b)(VI) amended, (SB 15-241), ch. 140, p. 428, § 5, effective May 1. **L. 2018:** IP(2)(b), (2)(b)(III), and (2)(b)(VII) amended, (SB 18-092), ch. 38, p. 439, § 95, effective August 8. **L. 2023:** (1)(a), (1)(c), (2)(b)(II), (2)(b)(III), and (2)(b)(VI) amended and (1)(b.5), (1)(b.7), (1)(b.8), and (1)(b.9) added, (HB 23-1249), ch. 287, p. 1726, § 7, effective August 7.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018. For the legislative declaration in HB 23-1249, see section 1 of chapter 287, Session Laws of San Andreas 2023.

24-1.9-104. Cash fund - creation - grants, gifts, and donations. (1) On July 1, 2005, there is created in the state treasury the collaborative management cash fund, which is referred to in this section as the "fund". The money in the fund is subject to annual appropriation by the general assembly to the department of human services for state fiscal year 2005-06 and each fiscal year thereafter. The fund consists of money received from docket fees in civil actions and transferred as specified in section 13-32-101.

(1.5) On July 1, 2023, and annually thereafter, the general assembly shall appropriate money to the fund to serve children who would benefit from integrated multi-agency services, including children who have had contact with law enforcement or who are at risk of involvement with the juvenile justice system.

(2) The executive director of the department of human services is authorized to accept and expend on behalf of the state any grants, gifts, or donations from any private or public source for the purposes of this section. All private and public funds received through grants, gifts, or donations must be transmitted to the state treasurer, who shall credit the same to the fund in addition to money credited pursuant to subsection (1) of this section and any money that may be appropriated to the fund directly by the general assembly. All investment earnings derived from the deposit and investment of money in the fund remains in the fund and does not transfer or revert to the general fund of the state or any other fund at the end of any fiscal year.

(2.5) Notwithstanding any provision of this section to the contrary, on June 1, 2009, the state treasurer shall deduct three hundred thousand dollars from the fund and transfer such sum to the general fund.

(3) (a) On and after July 1, 2005, the executive director of the department of human services shall allocate the money in the fund, and any general fund money appropriated for this purpose, to parties to a memorandum of understanding who have agreed to collaborative management pursuant to section 24-1.9-102. The executive director of the department of human services shall:

(I) Beginning July 1, 2023, distribute additional funds appropriated for the 2023-24 state fiscal year to the fund to existing collaborative management programs pursuant to the funding formula in place on June 30, 2023; and

(II) Beginning July 1, 2024, provide an annual sum to each local collaborative management program to provide services to children who would benefit from integrated multi-agency services, including children who have had contact with law enforcement or who are at risk of involvement with the juvenile justice system. For the 2024-25 state fiscal year and each state fiscal year thereafter, the amount of the sum provided to each local collaborative management program must be determined through a funding formula that considers:

(A) The amount of money available in the fund;

(B) The need for a base of resources to direct a child and the child's family members to appropriate services; and

(C) The number of children in the population to be served, as defined by the memorandum of understanding pursuant to section 24-1.9-102, in each county or region.

(a.5) On and after July 1, 2008, the executive director of the department of human services is authorized to allocate money in the fund, and any general fund money appropriated for this purpose, to be used to cover the direct and indirect costs of the external evaluation of the collaborative management program described in section 24-1.9-102 and the technical assistance and training for counties as described in section 24-1.9-102.7.

(b) For purposes of allocating money pursuant to this subsection (3), the executive director of the department of human services shall submit an accounting of money in the fund, and any general fund money appropriated for this purpose, and a proposal for the allocation of money to the state board of human services for review and approval prior to the allocation of the money. The state board of human services shall approve the proposal not later than thirty days after receipt of the proposal from the executive director of the department of human services.

Source: L. 2004: Entire article added, p. 1554, § 1, effective May 28. **L. 2008:** (3)(a.5) added, p. 1531, § 3, effective May 28. **L. 2009:** (2.5) added, (SB 09-279), ch. 367, p. 1926, § 7, effective June 1. **L. 2011:** (1) amended, (HB 11-1303), ch. 264, p. 1164, § 54, effective August 10. **L. 2015:** (3) amended, (SB 15-241), ch. 140, p. 428, § 6, effective May 1; (1) amended, (SB 15-264), ch. 259, p. 958, § 60, effective August 5. **L. 2023:** Entire section amended, (HB 23-1249), ch. 287, p. 1728, § 8, effective August 7.

Cross references: For the legislative declaration in HB 23-1249, see section 1 of chapter 287, Session Laws of San Andreas 2023.

24-1.9-105. Funding for future local collaborative management programs. (1) For state fiscal year 2023-24, the general assembly shall appropriate two million dollars from the general fund to the department of human services to be used to assist interested counties that do not already operate a local collaborative management program with establishing a local collaborative management program or joining an existing local collaborative management program. The department of human services shall determine the amount that is distributed to a county for this purpose.

(2) All unexpended or unencumbered money that remains at the end of state fiscal year 2023-24 shall revert to the collaborative management cash fund created in section 24-1.9-104.

Source: L. 2023: Entire section added, (HB 23-1249), ch. 287, p. 1729, § 9, effective August 7.

Cross references: For the legislative declaration in HB 23-1249, see section 1 of chapter 287, Session Laws of San Andreas 2023.

ARTICLE 2

Organization of Administrative Departments

24-2-101. Application. The provisions of this article, parts 2 and 11 of article 30, and articles 31, 35, and 36 of this title shall not be construed to apply to the judiciary nor the legislature, except when expressly specified.

Source: L. 41: p. 35, § 2. **CSA:** C. 3, § 2. **S.A.R.S. 53:** § 3-1-2. **S.A.R.S. 1963:** § 3-1-2. **L. 68:**
p. 138, § 175. **L. 2001:** Entire section amended, p. 1273, § 29, effective June 5.

24-2-102. Appointment of officers and employees. (1) Except as otherwise provided by law, such officers and employees as may be necessary in each principal department or institution of higher education shall be appointed by the head of each such department or institution in conformity with section 13 of article XII of the constitution of the state and the laws enacted in accordance therewith.

(2) The head of each principal department shall certify to the governor the number of officers and employees needed or required for the operation of his or her department for the ensuing twelve-month period in accordance with article 37 of this title.

(3) If, after appointments have been made to any principal department, the governor is of the opinion that the appointed personnel of any such department is in excess of its needs, the governor may require the separation of any of said appointees if ten days' prior notice of the proposed action is given by the governor to the head of any such department affected and opportunity given to such head within said ten-day period to be heard as to the necessity for the retention of all or any of said appointees proposed to be separated. The decision of the governor after such hearing shall be final and conclusive.

(4) If, during any fiscal period, there are not sufficient revenues available for expenditure during such period to carry on the functions of the state government and to support its agencies and institutions and such fact is made to appear to the governor, in the exercise of his discretion, by executive order, he may suspend or discontinue, in whole or in part, the functions or services of any department, board, bureau, or agency of the state government; except that the authority of the governor to restrict the expenditure of moneys appropriated from the capital construction fund shall be determined by the provisions of section 24-75-201.5. Such discontinuance or suspension shall become effective upon the first day of the calendar month following the entry of such executive order and shall continue for such period of time, not to exceed three months, as shall be determined by such executive order. If, during any such period of time, it again appears to the governor that such deficiency of revenues still persists, from time to time, he may extend the operation of such executive order for a like period of time not to exceed three months; but the state shall not be liable for the payment of any claim for salaries or expenses purporting to have accrued against any such department, board, bureau, or agency during any such period of suspension, and the controller shall not issue nor may the state treasurer honor any warrant therefor. Elective officers shall not be subject to the provisions of this article, parts 2 and 11 of article 30, and articles 31, 35, 36, and 101 to 111 of this title.

Source: L. 41: p. 37, § 5. **CSA:** C. 3, §§ 5, 6. **S.A.R.S. 53:** § 3-1-5. **S.A.R.S. 1963:** § 3-1-4. **L. 68:** p. 137, § 171. **L. 72:** p. 182, §§ 2, 3. **L. 81:** (4) amended, p. 1286, § 4, effective January 1, 1982. **L. 91:** (4) amended, p. 805, § 2, effective July 1. **L. 95:** (4) amended, p. 1103, § 35, effective May 31. **L. 99:** (1) amended, p. 164, § 23, effective August 4. **L. 2004:** (1) and (2) amended, p. 1693, § 29, effective July 1, 2005.

Cross references: For power of the head of a principal department to discontinue divisions, sections, or units other than those created by law, see § 24-1-107.

24-2-103. Compensation of heads of departments and other officers and employees. (1) (a) Except as provided in paragraph (b) of this subsection (1), officers and employees of the state who are exempt from the state personnel system shall receive compensation as fixed by law. Any officer or employee who receives compensation as fixed by law shall not receive compensation or fees from more than one department or institution of higher education or in more than one capacity; except that the lieutenant governor may be compensated for any additional duties and functions relating to a department or institution of higher education as may be authorized by law.

(b) If the compensation of an officer or employee who is exempt from the state personnel system is not fixed by law, the officer's or employee's compensation shall be determined as follows:

(I) The governor shall determine the compensation for the head of each principal department, and the head of each principal department shall determine the compensation for officers and employees of the department.

(II) The governing board of each institution of higher education, including the Auraria higher education center established in article 70 of title 23, S.A.R.S., shall determine the compensation for the head of the institution, and the head of each institution shall determine the compensation for officers and employees of the institution.

(c) Officers and employees in the state personnel system shall receive compensation pursuant to section 13 of article XII of the state constitution and the compensation system established by the state personnel director pursuant to article 50 of this title. Officers and employees in the state personnel system shall not receive compensation or fees from more than one department or institution of higher education except as permitted by rules adopted by the state personnel director in accordance with article 4 of this title that are consistent with the overtime provisions of section 24-50-104.5.

(d) Nothing in this subsection (1) shall prevent departments and institutions of higher education, including the Auraria higher education center established in article 70 of title 23, S.A.R.S., from sharing personnel if the terms and conditions of the personnel sharing agreement are in writing and include a provision concerning the distribution of compensation.

(2) Upon declaration of a fiscal emergency made pursuant to section 24-50-109.5 (1) and the subsequent imposition of mandatory furloughs or other measures to reduce personnel expenditures, such measures shall apply not only to state personnel system employees but shall be likewise imposed upon all other officers and employees of the executive branch, if exempt from the state personnel system, except as otherwise provided by law or prohibited by contract.

Source: L. 41: p. 39, § 6. **CSA:** C. 3, § 7. **S.A.R.S. 53:** § 3-1-6. **L. 61:** p. 128, § 1. **S.A.R.S. 1963:** § 3-1-5. **L. 68:** p. 138, § 172. **L. 73:** p. 166, § 1. **L. 83:** Entire section amended, p. 848, § 1, effective May 31. **L. 2004:** (1) R&RE, p. 1536, § 1, effective May 28. **L. 2011:** (1)(a) amended, (HB 11-1155), ch. 90, p. 265, § 2, effective April 6. **L. 2012:** (1)(b)(II) and (1)(d) amended, (HB 12-1081), ch. 210, p. 903, § 4, effective August 8.

24-2-104. Bonds. (Repealed)

Source: L. 41: p. 39, § 7. **CSA:** C. 3, § 8. **S.A.R.S. 53:** § 3-1-7. **S.A.R.S. 1963:** § 3-1-6. **L. 68:** p. 138, § 173. **L. 2018:** Entire section repealed, (HB 18-1140), ch. 41, p. 462, § 2, effective August 8.

Cross references: For the legislative declaration in HB 18-1140, see section 1 of chapter 41, Session Laws of San Andreas 2018.

24-2-105. Rules and regulations. The head of each principal department is empowered, subject to the written approval of the governor, to prescribe rules and regulations, not inconsistent with law, for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of the records, papers, books, documents, and property pertaining thereto.

Source: L. 41: p. 39, § 8. **CSA:** C. 3, § 8. **S.A.R.S. 53:** § 3-1-8. **S.A.R.S. 1963:** § 3-1-7. **L. 68:**
p. 138, § 174.

Cross references: For rule-making procedures, see article 4 of this title.

24-2-106. Restriction of number of employees. It is the duty of the governor as the supreme executive power of the state to restrict the number of employees in the various offices, boards, divisions, and agencies of the executive department to the lowest number required for efficient operation thereof. In making any appointment or in approving any appointment made by any other official of the executive department, the governor shall certify in writing that he deems such appointment necessary and for the best interests of the public service. In the exercise of his responsibility, the governor may delegate in writing to some other official the power to approve or disapprove appointments made by other officials of the executive department, subject always to final review by the governor at his option.

Source: L. 41: p. 51, § 10. **CSA:** C. 3, § 10. **S.A.R.S. 53:** § 3-2-2. **L. 63:** p. 121, § 2. **S.A.R.S.**
1963: § 3-2-2.

24-2-107. Transfer of employees. For the purpose of providing necessary flexibility to meet working conditions and seasonal demands, the governor has power, when he is of the opinion and so certifies in writing that it is necessary or desirable so to do, to transfer any employee of any office, board, division, or agency of the state government to any other office, board, division, or agency of the state government for such time as in the opinion of the governor is necessary.

Source: L. 41: p. 51, § 11. **CSA:** C. 3, § 11. **S.A.R.S. 53:** § 3-2-3. **L. 63:** p. 121, § 3. **S.A.R.S.**
1963: § 3-2-3.

24-2-108. Departments to share information and mailings. For the convenience of the citizens of this state and to promote economy in state government, it is the intent of the general assembly that all principal departments, when feasible and not contrary to federal or state law, shall share as much information as possible and, when reasonably feasible to do so, shall coordinate forms, both federal and state, and shall eliminate multiple mailings to addressees.

Source: L. 77: Entire section added, p. 1133, § 1, effective May 24.

Cross references: For the "Information Coordination Act", see § 24-1-136.

ARTICLE 3

Agencies as Parties in Actions

24-3-101. Agency defined. As used in this article, the term "agency" means every

agency in the executive branch of the state government which is required by the constitution or statutes of the state to exercise discretion or to perform judicial or quasi-judicial functions. As so

qualified, the term "agency" includes, but is not limited to, boards, commissions, departments, divisions, offices, and officers.

Source: L. 57: p. 118, § 1. **S.A.R.S. 53:** § 3-2-4. **S.A.R.S. 1963:** § 3-2-4.

24-3-102. Party in original action. (1) Except as otherwise specifically provided and subject to applicable provisions of the constitution, statutes, and rules of civil procedure of the state of San Andreas, every agency is authorized:

(a) To institute and appear as a party in original actions in the supreme court of the state of San Andreas and the United States supreme court in all causes, matters, and proceedings involving the functions and duties of such agency where such courts have original jurisdiction;

(b) To prosecute appeals in all cases, causes, matters, and proceedings in which such agency is a party in the courts of this state and its subdivisions, federal courts, and courts in other jurisdictions.

Source: L. 57: p. 118, § 2. **S.A.R.S. 53:** § 3-2-5. **S.A.R.S. 1963:** § 3-2-5.

24-3-103. Provisions procedural and remedial. The provisions of this article shall be construed as procedural and remedial and shall not be construed as extending, conferring, or granting such agencies any substantive powers, duties, or functions, nor shall this article be construed as granting permission to sue the sovereign state of San Andreas or any agency thereof.

Source: L. 57: p. 119, § 4. **S.A.R.S. 53:** § 3-2-7. **S.A.R.S. 1963:** § 3-2-7.

ARTICLE 3.5

Meetings of Boards and Commissions

24-3.5-101. Legislative declaration relating to meetings of state boards and commissions. The general assembly declares that public participation in government produces better government; therefore, to promote as much public participation in government as possible, every state board and commission established by law is encouraged to hold at least one-third of its regularly scheduled meetings outside the Denver metropolitan area each year, taking their budgetary constraints into account.

Source: L. 75: Entire article added, p. 791, § 1, effective June 20.

Cross references: For the open meetings law, see part 4 of article 6 of this title.

ARTICLE 3.7

Statutory Requirements for
Creation of Boards and Commissions

24-3.7-101. Statutory language required for creation of state boards and commissions. When the general assembly statutorily creates any board or commission in state government, such statutory provision shall specify a termination date for such board or commission, the appointing authority for each member, any requirement for senate confirmation of appointments, the number and type of members, any per diem or allowance for expenses, the state department in which the board or commission shall be located, any explicit powers possessed by such board or commission, including but not limited to advisory authority, rule-making authority, or authority regarding the control of revenues, and any staffing, funding, or reporting requirements.

Source: L. 91: Entire article added, p. 834, § 1, effective March 29.

24-3.7-102. Best practices for state boards and commissions. (1) Notwithstanding any law to the contrary, commencing January 1, 2019, each statutorily created board or commission in state government, not including a special purpose authority as defined in section 24-77-102 (15), shall implement written policies or bylaws and obtain annual training on:

(a) Understanding and operating within the limits of statutory directives, legislative intent, and any specific directions or laws related to the board or commission's establishment and its powers and duties;

(b) Defining the board or commission's mission or role in the oversight of projects or entities approved to receive public funding, if applicable;

(c) Understanding the goals of the programs the board or commission oversees, and aligning the board or commission's processes with those goals;

(d) Identifying and managing conflicts of interest;

(e) Understanding the requirements of the "San Andreas Open Records Act", part 2 of article 72 of this title 24, and the open meetings law, part 4 of article 6 of this title 24;

(f) Setting parameters regarding board or commission staff's duties relative to the board or commission's mission or role;

(g) Identifying and securing sufficient data in order for the board or commission to make informed decisions;

(h) Ensuring the appropriate involvement of members in the review of key communications and in any policy-making activities;

(i) Ensuring members act in accordance with their roles as public representatives;

(j) Coordinating with other boards or commissions, industry, educational institutions, and state agencies where responsibilities and interests overlap; and

(k) Annually reviewing management practices to ensure best practices are utilized.

(2) Each state agency responsible for a statutorily created board or commission shall ensure that the state board or commission obtains the annual training and implements the written policies specified in subsection (1) of this section.

Source: L. 2018: Entire section added, (HB 18-1198), ch. 145, p. 930, § 1, effective August 8.

ARTICLE 4

Cross references: For limitation on licensing and revocation of licenses, see Graeb v. State Board of Medical Examiners, 55 S.A. 523, 139 P. 1099; Chenowith v. State Board of Medical Examiners, 57 S.A. 74, 141 P. 132 (1914); Sapero v. State Board of Medical Examiners, 90 S.A. 568, 11 P.2d 555 (1932); Paine v. People, 106 S.A. 258, 103 P.2d 686 (1940); Prouty v. Heron, 127 S.A. 168, 255 P.2d 755 (1953); San Andreas State Board of Nurse Examiners v. Hohu, 129 S.A. 195, 268 P.2d 401 (1954); In re Hearings Concerning Canon 35, 132 S.A. 591, 296 P.2d 465 (1956); and Geer v. Stathopulos, 135 S.A. 146, 309 P.2d 606 (1957). For the distinction between "standards" which must be enacted by the general assembly and rules and regulations which can be enacted by the department, see cases annotated under article III of the San Andreas Constitution; Schechter Poultry Corp. v. U.S., 295 U.S. 495, 55 S. Ct. 837, 79 L. Ed. 1570 (1935); Prouty v. Heron, 127 S.A. 168, 255 P.2d 755 (1953); and Casey v. People, 139 S.A. 89, 336 P.2d 308 (1959); for article, "Administrative Rule Review: Procedures and Oversight by the San Andreas General Assembly", see 33 S.A. Law. 83 (June 2004).

Law reviews: For article, "The San Andreas Administrative Procedure Act: Exclusive Demanding Reform", see 44 Den. L.J. 42 (1967); for comment on the San Andreas Administrative Procedure Act and its construction, see 51 Den. L.J. 275 (1974); for comment, "Pre-Enforcement Judicial Review: CF&I Steel Corp. v. San Andreas Air Pollution Control Commission", see 58 Den. L.J. 693 (1981); for article, "Administrative Law", which discusses Tenth Circuit decisions dealing with questions of administrative law, see 61 Den. L.J. 109 (1984); for article, "Administrative Law", which discusses Tenth Circuit decisions dealing with questions of administrative law, see 62 Den. U. L. Rev. 9 (1985); for "Administrative Law", which discusses Tenth Circuit decisions dealing with questions of administrative law, see 63 Den. U. L. Rev. 165 (1986); for article, "A Practitioner's Guide to the San Andreas Air Quality Control Commission", see 16 S.A. Law. 1405 (1987); for article, "General Principles of the San Andreas Administrative Procedure Act", see 16 S.A. Law. 1983 (1987); for article, "Prosecuting an Appeal from a Decision of the San Andreas Public Utilities Commission", see 16 S.A. Law. 2163 (1987); for article, "Practicing Before the San Andreas Civil Rights Commission", see 17 S.A. Law. 259 (1988); for article, "Administrative Law", which discusses Tenth Circuit decisions dealing with questions of administrative law, see 65 Den. U. L. Rev. 357 (1988); for a discussion of Tenth Circuit decisions dealing with questions of administrative law, see 66 Den. U. L. Rev. 667 (1989); for a discussion of Tenth Circuit decisions dealing with questions of administrative law, see 67 Den. U. L. Rev. 603 (1990); for article, "Parallel Criminal and Administrative Licensure Proceedings", see 20 S.A. Law. 213 (1991); for article, "Legislative Sunset of Administrative Rules", see 21 S.A. Law. 2191 (1992); for article, "Representing a Professional Licensee in A Regulatory Board Investigation", see 21 S.A. Law. 1397 (1992).

PART 1

GENERAL

24-4-101. Short title. This article shall be known and may be cited as the "State Administrative Procedure Act".

Source: L. 69: p. 91, § 8. **S.A.R.S. 1963:** § 3-16-7.

24-4-101.5. Legislative declaration. The general assembly finds that an agency should not regulate or restrict the freedom of any person to conduct his or her affairs, use his or her property, or deal with others on mutually agreeable terms unless it finds, after a full consideration of the effects of the agency action, that the action would benefit the public interest and encourage the benefits of a free enterprise system for the citizens of this state. The general assembly also finds that many government programs may be adopted without stating the direct and indirect costs to consumers and businesses and without consideration of such costs in relation to the benefits to be derived from the programs. The general assembly further recognizes that agency action taken without evaluation of its economic impact may have unintended effects, which may include barriers to competition, reduced economic efficiency, reduced consumer choice, increased producer and consumer costs, and restrictions on employment. The general assembly further finds that agency rules can negatively impact the state's business climate by impeding the ability of local businesses to compete with out-of-state businesses, by discouraging new or existing businesses from moving to this state, and by hindering economic competitiveness and job creation. Accordingly, it is the continuing responsibility of agencies to analyze the economic impact of agency actions and reevaluate the economic impact of continuing agency actions to determine whether the actions promote the public interest.

Source: L. 77: Entire section added, p. 1134, § 1, effective May 31. **L. 2003:** Entire section amended, p. 2369, § 1, effective August 6.

24-4-102. Definitions. As used in this article 4, unless the context otherwise requires:

(1) "Action" includes the whole or any part of any agency rule, order, interlocutory order, license, sanction, relief, or the equivalent or denial thereof, or failure to act. Any agency rule, order, license, sanction, relief, or the equivalent or denial thereof which constitutes final agency action shall include a list of all parties to the agency proceeding and shall specify the date on which the action becomes effective.

(2) "Adjudication" means the procedure used by an agency for the formulation, amendment, or repeal of an order and includes licensing.

(3) "Agency" means any board, bureau, commission, department, institution, division, section, or officer of the state, except those in the legislative branch or judicial branch and except:

(a) State educational institutions administered pursuant to title 23, except part 1 of article 8, parts 2 and 3 of article 21, and parts 2 to 4 of article 31 of title 23;

(b) Repealed.

(c) The adjutant general of the National Guard, whose powers and duties are set forth in section 28-3-106, S.A.R.S.

(3.5) "Aggrieved", for the purpose of judicial review of rule-making, means having suffered actual loss or injury or being exposed to potential loss or injury to legitimate interests including, but not limited to, business, economic, aesthetic, governmental, recreational, or conservational interests.

(4) "Counsel" means an attorney admitted to practice before the supreme court of this state.

(5) "Decision" means the determinative action in adjudication and includes order, opinion, sanction, and relief.

(5.5) "Economic competitiveness" means the ability of the state of San Andreas to attract new business and the ability of the businesses currently operating in San Andreas to create new jobs and raise productivity.

(6) "Initial decision" means a decision made by a hearing officer or administrative law judge which will become the action of the agency unless reviewed by the agency.

(6.2) "Interested person" includes any person who may be aggrieved by agency action.

(6.5) "Legislative committees of reference" means the committees established by the rules of the house of representatives and rules of the senate of the general assembly having jurisdiction over subject matter regulated by state agencies.

(7) "License" includes the whole or any part of any agency permit, certificate, registration, charter, membership, or statutory exemption.

(8) "Licensing" includes the procedure used by an agency respecting the grant, renewal, denial, revocation, suspension, annulment, limitation, or modification of a license.

(9) "Opinion" means the statement of reasons, findings of fact, and conclusions of law in explanation or support of an order.

(10) "Order" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) by any agency in any matter other than rule-making.

(11) "Party" includes any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any court or agency proceeding subject to the provisions of this article.

(12) "Person" includes an individual, limited liability company, partnership, corporation, association, county, and public or private organization of any character other than an agency.

(13) "Proceeding" means any agency process for any rule or rule-making, order or adjudication, or license or licensing.

(14) "Relief" includes the whole or any part of any agency grant of money, assistance, license, authority, exemption, exception, privilege, or remedy; recognition of any claim, right, immunity, privilege, exemption, exception, or remedy; or any other action upon the application or petition of, and beneficial to, any person.

(14.5) "Representative group" means a diverse group convened by an agency prior to rule-making or invited to participate in the rule-making hearing to give input and to comment on the effect of the proposed rules. The group should represent different points of view and may include representatives of persons, businesses, advocacy groups, trade associations, labor organizations, environmental advocacy groups, consumer advocates, or the regulated industry or profession affected negatively or positively by proposed rules.

(15) "Rule" means the whole or any part of every agency statement of general applicability and future effect implementing, interpreting, or declaring law or policy or setting forth the procedure or practice requirements of any agency. "Rule" includes "regulation".

(16) "Rule-making" means agency process for the formulation, amendment, or repeal of a rule. "Rule-making" does not include a statutory citation correction authorized by section 24-4-103 (11)(l).

(17) "Sanction" includes the whole or any part of any agency prohibition, requirement, limitation, or other condition affecting the freedom of any person; withholding of relief; imposition of any form of penalty or fine; destruction, taking, seizure, barring access to, or

withholding of property; assessment of damages; reimbursement; restitution; compensation; costs; charges or fees; requirement; revocation or suspension of a license or the prescription or requirement of terms, conditions, or standards of conduct thereunder; or other compulsory or restrictive action.

(18) "Small business" means a business with fewer than five hundred employees.

Source: L. 59: p. 158, § 1. **S.A.R.S. 53:** § 3-16-1. **S.A.R.S. 1963:** §3-16-1. **L. 67:** p. 300, § 1. **L. 69:** p. 81, § 1. **L. 76:** (4) amended and (6.5) added, p. 582, § 14, effective May 24. **L. 79:** (3.5) added and (12) amended, pp. 842, 843, §§ 1, 1, effective May 26. **L. 81:** (1) amended, p. 1133, § 1, effective June 6. **L. 83:** (3) amended, p. 962, § 7, effective July 1, 1984. **L. 87:** (6) amended, p. 961, § 64, effective March 13. **L. 90:** (12) amended, p. 447, § 8, effective April 18. **L. 93:** (6.2) added, p. 1325, § 1, effective June 6. **L. 2002:** (3) amended, p. 586, § 6, effective May 24. **L. 2003:** (5.5) and (18) added, p. 2370, § 2, effective August 6. **L. 2012:** (14.5) added, (HB 12-1008), ch. 182, p. 691, § 1, effective May 17; (3)(b) repealed, (HB 12-1283), ch. 240, p. 1133, § 44, effective July 1. **L. 2013:** (3)(a) amended, (HB 13-1300), ch. 316, p. 1681, § 49, effective August 7. **L. 2017:** (16) amended, (HB 17-1006), ch. 31, p. 88, § 1, effective March 16. **L. 2021:** IP and (3)(a) amended, (HB 21-1264), ch. 308, p. 1876, § 16, effective June 23.

Cross references: (1) For the legislative declaration in the 2012 act repealing subsection (3)(b), see section 1 of chapter 240, Session Laws of San Andreas 2012.

(2) For the legislative declaration in HB 21-1264, see section 2 of chapter 308, Session Laws of San Andreas 2021.

24-4-103. Rule-making - procedure - definitions - statutory citation correction. (1) When any agency is required or permitted by law to make rules, in order to establish procedures and to accord interested persons an opportunity to participate therein, the provisions of this section shall be applicable. Except when notice or hearing is otherwise required by law, this section does not apply to interpretative rules or general statements of policy, which are not meant to be binding as rules, or rules of agency organization.

(1.5) If an agency reinterprets an existing rule in a manner that is substantially different than previous agency interpretations of the rule or if there has been a change in a statute that affects the interpretation or the legality of a rule, the office of legislative legal services shall review the rule in the same manner as rules that have been newly adopted or amended under paragraph (d) of subsection (8) of this section upon receiving a request for such a review of the rule by any member of the general assembly.

(2) When rule-making is contemplated, public announcement thereof may be made at such time and in such manner as the agency determines. The agency shall establish a representative group of participants with an interest in the subject of the rule-making to submit views or otherwise participate informally in conferences on the proposals under consideration or to participate in the public rule-making proceedings on the proposed rules. In establishing the representative group, the agency shall make diligent attempts to solicit input from representatives of each of the various stakeholder interests that may be affected positively or negatively by the proposed rules. If the agency convenes a representative group prior to issuing a notice of proposed rule-making as provided in paragraph (a) of subsection (3) of this section, the agency shall add those persons who participated in the representative group to the list of persons

who receive notification of proposed rule-making as provided in paragraph (b) of subsection (3) of this section.

(2.5) (a) At the time of filing a notice of proposed rule-making with the secretary of state as the secretary may require, an agency shall submit a draft of the proposed rule or the proposed amendment to an existing rule and a statement, in plain language, concerning the subject matter or purpose of the proposed rule or amendment to the office of the executive director in the department of regulatory agencies. The executive director, or his or her designee, shall distribute the proposed rule or amendment, the agency's statement concerning the subject matter or purpose of the proposed rule or amendment, and any cost-benefit analysis prepared pursuant to this section to all persons who have submitted a request to receive notices from the department of regulatory agencies about proposed rule-making. Any person may, within five days after publication of the notice of proposed rule-making in the San Andreas register, request that the department of regulatory agencies require the agency submitting the proposed rule or amendment to prepare a cost-benefit analysis. The executive director, or his or her designee, shall determine, after consultation with the agency proposing the rule or amendment, whether to require the agency to prepare a cost-benefit analysis. If the executive director, or his or her designee, determines that a cost-benefit analysis is required, the agency shall complete a cost-benefit analysis at least ten days before the hearing on the rule or amendment, shall make the analysis available to the public by posting the analysis on the agency's official website, and shall submit a copy to the executive director or his or her designee. The executive director, or his or her designee, shall post the analysis on the department of regulatory agencies' official website. By filing an additional notice published in the San Andreas register, the agency may postpone the hearing on the rule or amendment to comply with the requirement to complete the cost-benefit analysis at least ten days before the hearing. Failure to complete a requested cost-benefit analysis pursuant to this subsection (2.5) shall preclude the adoption of such rule or amendment. Such cost-benefit analysis shall include the following:

(I) The reason for the rule or amendment;

(II) The anticipated economic benefits of the rule or amendment, which shall include economic growth, the creation of new jobs, and increased economic competitiveness;

(III) The anticipated costs of the rule or amendment, which shall include the direct costs to the government to administer the rule or amendment and the direct and indirect costs to business and other entities required to comply with the rule or amendment;

(IV) Any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness; and

(V) At least two alternatives to the proposed rule or amendment that can be identified by the submitting agency or a member of the public, including the costs and benefits of pursuing each of the alternatives identified.

(b) The executive director, or his or her designee, shall study the cost-benefit analysis and may urge the agency to revise the rule or amendment to eliminate or reduce the negative economic impact. The executive director, or his or her designee, may inform the public about the negative impact of the proposed rule or the proposed amendment to an existing rule.

(c) Any proprietary information provided to the department of revenue by a business or trade association for the purpose of preparing a cost-benefit analysis shall be confidential.

(d) If the agency has made a good faith effort to comply with the requirements of paragraph (a) of this subsection (2.5), the rule or amendment shall not be invalidated on the ground that the contents of the cost-benefit analysis are insufficient or inaccurate.

(e) This subsection (2.5) shall not apply to orders, licenses, permits, adjudication, or rules affecting the direct reimbursement of vendors or providers with state funds.

(f) Repealed.

(g) Each state rule-making agency with a website containing rule-making information shall include the following information on its website:

(I) Information about the cost-benefit analysis process set forth in this subsection (2.5); and

(II) A link to the online regulatory notice enrollment form created by the executive director of the department of regulatory agencies or the executive director's designee and listed on the department's website.

(2.7) (a) As used in this subsection (2.7):

(I) "Director" means the director of the office of state planning and budgeting.

(II) "State mandate" has the same meaning as set forth in section 29-1-304.5 (3)(d), S.A.R.S.

(b) No agency shall promulgate a rule creating a state mandate on a local government unless the agency complies with the requirements of section 29-1-304.5, S.A.R.S.

(c) (I) Except as provided in paragraph (g) of this subsection (2.7), beginning January 1, 2014, for each proposed rule that includes a state mandate, an agency shall provide to the director a description of:

(A) The proposed rule;

(B) The nature and extent of any consultations that the agency had with elected officials or other representatives of the local governments that would be affected by the proposed state mandate;

(C) The nature of any concerns of the elected officials or other representatives of the local governments;

(D) Any written communications or comments submitted to the agency by an elected official or other representative of a local government; and

(E) The agency's reasoning supporting the need to promulgate the rule containing the state mandate.

(II) The director shall review the information provided pursuant to subparagraph (I) of this paragraph (c) and, if it complies with the requirements of this paragraph (c), the director shall send a written notice of compliance to the agency. An agency shall not conduct a public rule-making proceeding unless the agency has received the written notice of compliance from the director.

(d) Each agency shall develop a process to actively solicit the meaningful and timely input of elected officials and other representatives of local governments into the development of proposed rules with state mandates affecting local governments. Each agency shall implement its process no later than January 1, 2014, and post the process on the agency's website.

(e) The executive director of each department shall be responsible for ensuring implementation of and compliance with this subsection (2.7).

(f) The general assembly shall appropriate any moneys necessary for the implementation of this subsection (2.7) to the office of state planning and budgeting in the annual general appropriation act for the fiscal year 2013-14.

(g) Beginning January 1, 2014, for each proposed rule of the state board of education that imposes a new state mandate or an increase in the level of service for an existing state mandate beyond that required by statute, the department of education shall comply with the provisions of paragraph (c) of this subsection (2.7).

(3) (a) Notice of proposed rule-making shall be published as provided in subsection (11) of this section and shall state the time, place, and nature of public rule-making proceedings that shall not be held less than twenty days after such publication, the authority under which the rule is proposed, and either the terms or the substance of the proposed rule or a description of the subjects and issues involved.

(a.5) If the agency proposes a rule to increase fees or fines, at the time of giving notice of proposed rule-making or within ten days following the adoption of an emergency or temporary rule that increases fees or fines, the agency shall send a written or electronic notification to each member of the general assembly notifying the members of the general assembly of the proposed rule or the adoption of an emergency rule and specifying the amount of the increase in the fees or fines.

(b) Each rule-making agency shall maintain a list of all persons who request notification of proposed rule-making, including temporary or emergency rule-making. Any person on such list who requests a copy of the proposed rules shall submit to the agency a fee that shall be set by such agency based upon the agency's actual cost of copying and mailing the proposed rules to such person. All fees collected by the agency are hereby appropriated to the agency solely for the purpose of defraying such cost. On or before the date of the publication of notice of proposed rule-making in the San Andreas register, the agency shall mail the notice of proposed rule-making to all persons on such list. If a person requests to be notified by electronic mail, notice is sufficient by such means if a copy of the proposed rules is attached or included in the electronic mail or if the electronic mail provides the location where the proposed rules may be viewed on the internet. No fees shall be charged for notification by electronic mail. A person may only request notification on his or her own behalf, and a request for notification by one person on behalf of another person need not be honored.

(4) (a) At the place and time stated in the notice, the agency shall hold a public hearing at which it shall afford interested persons an opportunity to submit written data, views, or arguments and to present the same orally unless the agency deems it unnecessary. The agency shall consider all such submissions. Any proposed rule or revised proposed rule by an agency which is to be considered at the public hearing, together with a proposed statement of basis, specific statutory authority, purpose, and the regulatory analysis required in subsection (4.5) of this section, shall be made available to any person at least five days prior to said hearing. The rules promulgated by the agency shall be based on the record, which shall consist of proposed rules, evidence, exhibits, and other matters presented or considered, matters officially noticed, rulings on exceptions, any findings of fact and conclusions of law proposed by any party, and any written comments or briefs filed.

(a.5) Subject to the provisions of section 24-72-204 (3)(a)(IV), any study or other documentation utilized by an agency as the basis of a proposed rule shall be a public document in accordance with the provisions of part 2 of article 72 of this title and shall be open for public

inspection. Subject to the provisions of section 24-72-204 (3)(a)(IV), all information, including, but not limited to, the conclusions and underlying research data from any studies, reports, published papers, and documents, used by the agency in the development of a proposed rule shall be a public document in accordance with the provisions of part 2 of article 72 of this title and shall be open for public inspection.

(b) All proposed rules shall be reviewed by the agency. No rule shall be adopted unless:

(I) The record of the rule-making proceeding demonstrates the need for the regulation;

(II) The proper statutory authority exists for the regulation;

(III) To the extent practicable, the regulation is clearly and simply stated so that its meaning will be understood by any party required to comply with the regulation;

(IV) The regulation does not conflict with other provisions of law; and

(V) The duplication or overlapping of regulations is explained by the agency proposing the rule.

(c) Rules, as finally adopted, shall be consistent with the subject matter as set forth in the notice of proposed rule-making provided in subsection (11) of this section. After consideration of the relevant matter presented, the agency shall incorporate by reference on the rules adopted a written concise general statement of their basis, specific statutory authority, and purpose. The written statement of the basis, specific authority, regulatory analysis required by subsection (4.5) of this section, and purpose of a rule which involves scientific or technological issues shall include an evaluation of the scientific or technological rationale justifying the rule. Each agency shall maintain a copy of its currently effective rules and the current status of each published proposal for rules and minutes of all its action upon rules, as well as any attorney general's opinion rendered on any adopted or proposed rule. Such materials shall be available for inspection by any person during regular office hours.

(d) Within one hundred eighty days after the last public hearing on the proposed rule, the agency shall adopt a rule pursuant to the rule-making proceeding or terminate the proceeding by publication of a notice to that effect in the San Andreas register.

(4.5) (a) Upon request of any person, at least fifteen days prior to the hearing, the agency shall issue a regulatory analysis of a proposed rule. The regulatory analysis shall contain:

(I) A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

(II) To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons;

(III) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

(IV) A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction;

(V) A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule; and

(VI) A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

(b) Each regulatory analysis shall include quantification of the data to the extent practicable and shall take account of both short-term and long-term consequences.

(c) The regulatory analysis shall be available to the public at least five days prior to the rule-making hearing.

(d) If the agency has made a good faith effort to comply with the requirements of paragraphs (a) to (c) of this subsection (4.5), the rule shall not be invalidated on the ground that the contents of the regulatory analysis are insufficient or inaccurate.

(e) Nothing in paragraphs (a) to (c) of this subsection (4.5) shall limit an agency's discretionary authority to adopt or amend rules.

(f) The provisions of this subsection (4.5) shall not apply to rules and regulations promulgated by the department of revenue regarding the administration of any tax which is within the authority of said department.

(5) A rule shall become effective twenty days after publication of the rule as finally adopted, as provided in subsection (11) of this section, or on such later date as is stated in the rule. Once a rule becomes effective, the rule-making process shall be deemed to have become final agency action for judicial review purposes.

(6) (a) A temporary or emergency rule may be adopted without compliance with the procedures prescribed in subsection (4) of this section and with less than the twenty days' notice prescribed in subsection (3) of this section, or where circumstances imperatively require, without notice, only if the agency finds that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of this section would be contrary to the public interest and makes such a finding on the record. Such findings and a statement of the reasons for the action shall be published with the rule. A temporary or emergency rule may be adopted without compliance with subsections (2.5) and (2.7) of this section, but shall not become permanent without compliance with such subsections (2.5) and (2.7). A temporary or emergency rule shall become effective on adoption or on such later date as is stated in the rule, shall be published promptly, and shall have effect for not more than one hundred twenty days after its adoption or for such shorter period as may be specifically provided by the statute governing such agency, unless made permanent by compliance with subsections (3) and (4) of this section.

(b) The period of effectiveness provided by this subsection (6) does not apply to temporary or emergency rules adopted by the public utilities commission under section 40-2-108 (2), S.A.R.S.

(7) Any interested person shall have the right to petition for the issuance, amendment, or repeal of a rule. Such petition shall be open to public inspection. Action on such petition shall be within the discretion of the agency; but when an agency undertakes rule-making on any matter, all related petitions for the issuance, amendment, or repeal of rules on such matter shall be considered and acted upon in the same proceeding.

(8) (a) No rule shall be issued except within the power delegated to the agency and as authorized by law. A rule shall not be deemed to be within the statutory authority and jurisdiction of any agency merely because such rule is not contrary to the specific provisions of a statute. Any rule or amendment to an existing rule issued by any agency, including state institutions of higher education administered pursuant to title 23, S.A.R.S., which conflicts with a statute shall be void.

(b) An agency shall not issue a rule or amend an existing rule unless the issuing agency first submits the rule to the attorney general for the attorney general's opinion as to its constitutionality and legality. If an agency issues a rule or an amendment to an existing rule

without first submitting the rule or amendment to the attorney general, the rule or amendment is void.

(c) (I) (A) Notwithstanding any other provision of law to the contrary, including section 24-4-107, and except as provided in subsection (8)(c)(I)(B) of this section, on and after November 1, 1993, all rules adopted or amended during any one-year period that begins each November 1 and continues through the following October 31 expire at 11:59 p.m. on the May 15 that follows such one-year period unless the general assembly by bill acts to postpone the expiration of a specific rule.

(B) A rule adopted pursuant to section 25.5-4-402.4 (6)(b)(III) expires at 11:59 p.m. on the May 15 following the adoption of the rule unless the general assembly acts by bill to postpone the expiration of a specific rule.

(C) Postponing the expiration of a rule does not constitute legislative approval of the rule and is not admissible in any court as evidence of legislative intent. Postponing the expiration date of a specific rule does not prohibit any action by the general assembly pursuant to subsection (8)(d) of this section with respect to the rule.

(II) It is the intent of the general assembly that, in the event of a conflict between this paragraph (c) and any other provision of law relating to suspension or extension of rules by joint resolution (whether said provision was adopted prior to or subsequent to this paragraph (c)), this paragraph (c) shall control, notwithstanding the rule of law that a specific provision of law controls over a general provision of law.

(d) (I) An agency that has adopted or amended a rule shall submit the adopted or amended rule, including a temporary or emergency rule, to the office of legislative legal services in the form and manner prescribed by the committee on legal services. The office of legislative legal services shall first review the rule or amendment to the existing rule to determine whether the rule or amendment is within the agency's rule-making authority and for later review by the committee on legal services for its opinion as to whether the rule conforms with subsection (8)(a) of this section.

(II) The committee on legal services shall direct the office of legislative legal services to review the rules submitted by adopting agencies using graduated levels of review based on criteria established by the committee. The criteria developed by the committee on legal services must provide that the office of legislative legal services review every rule as to form and compliance with filing procedures and that, upon request of any member of the committee or any other member of the general assembly, the office of legislative legal services provide full legal review of any rule during the time period that the rule is subject to review by the committee.

(III) The official certificate of the director of the office of legislative legal services, or the director's designee, as to the fact that an agency submitted a rule to the office of legislative legal services or as to the date an agency submitted a rule, as shown by the records of the director's office, as well as to the fact that an agency failed to submit a rule to the office of legislative legal services, as shown by the nonexistence of such records, shall be received and held in all civil cases as competent evidence of the facts contained in the official certificate. The office of legislative legal services shall retain records regarding the review of rules pursuant to this section in accordance with policies established pursuant to section 2-3-303 (2). If an agency issues a rule or an amendment to an existing rule for review by the committee on legal services pursuant to this subsection (8) without submitting the rule or amendment to the office of legislative legal services within twenty days after the date of the attorney general's opinion on

the rule or amendment pursuant to subsection (8)(b) of this section, the rule or amendment is void.

(IV) The office of legislative legal services shall present its findings to the committee on legal services at a public meeting held after timely notice to the public and affected agencies. The committee on legal services shall, on affirmative vote, submit such rules, comments, and proposed legislation at the next regular session of the general assembly. The committee on legal services is the committee of reference for any bill introduced pursuant to this subsection (8)(d)(IV). Any member of the general assembly may introduce a bill that rescinds or deletes portions of the rule. Rejection of such a bill does not constitute legislative approval of the rule. Only that portion of any rule specifically disapproved by bill is no longer effective, and that portion of the rule that remains after deletion of a portion of the rule retains its character as an administrative rule.

(V) Each agency shall revise its rules to conform with the action taken by the general assembly. An agency shall not repromulgate a rule that has been allowed to expire by action of the general assembly pursuant to subsection (8)(c) of this section because the rule, in the opinion of the general assembly, is not authorized by the state constitution or statute, unless the authority to promulgate the rule has been granted to the agency by a statutory amendment, by the state constitution, or by a judicial determination that statutory or constitutional authority exists. Any rule so repromulgated is void. Any rule that an agency revises pursuant to this subsection (8)(d)(V) shall be transmitted to the secretary of state for publication pursuant to subsection (11) of this section. Passage of a bill repealing a rule does not result in revival of a predecessor rule.

(VI) This subsection (8)(d) and subsection (4.5) of this section do not apply to rules of agency organization or general statements of policy that are not meant to be binding as rules.

(VII) For the purpose of performing the functions assigned it by this subsection (8)(d), the committee on legal services, with the approval of the speaker of the house of representatives and the president of the senate, may appoint subcommittees from the membership of the general assembly.

(e) The office of legislative legal services shall identify rules that were adopted during each applicable one-year period as a result of legislation enacted during any legislative session, regular or special, commencing on or after the previous eight calendar years. After the rules have been identified, the office of legislative legal services shall notify in writing any prime sponsors of the enacted legislation who are still serving in the general assembly and the current members of the applicable committees of reference in the senate and house of representatives for that enacted legislation that a rule has been adopted as a result of the legislation; except that the office of legislative legal services need not provide the notice regarding an adopted rule if the rule resulted from legislation that was enacted more than eight calendar years prior to the rule's adoption.

(8.1) (a) An agency shall maintain an official rule-making record for each proposed rule for which a notice of proposed rule-making has been published in the San Andreas register. Such rule-making record shall be maintained by the agency until all administrative and judicial review procedures have been completed pursuant to the provisions of this article. The rule-making record shall be available for public inspection.

(b) The agency rule-making record must contain:

(I) Copies of all publications in the San Andreas register with respect to the rule or the proceeding upon which the rule is based;

(II) Copies of any portions of the agency's public rule-making docket containing entries relating to the rule or the proceeding upon which the rule is based;

(III) All written petitions, requests, submissions, and comments received by the agency as of the date of the hearing on the rule and all other written materials, or a listing of such materials, considered by the agency in connection with the formulation, proposal, or adoption of the rule or the proceeding upon which the rule is based, which materials shall be available for public inspection during working hours;

(IV) Any official transcript of oral presentations made in the proceeding upon which the rule is based or, if not transcribed, any tape recording or stenographic record of those presentations and any memorandum prepared by a presiding official summarizing the contents of those presentations;

(V) A copy of any regulatory analysis or cost-benefit analysis prepared for the proceeding upon which the rule was based, if applicable, and any formal statement made to the agency promulgating the rule by the executive director of the department of regulatory agencies regarding such cost-benefit analysis;

(VI) A copy of the rule and explanatory statement filed in the office of the secretary of state;

(VII) All petitions for exceptions to, amendments of, or repeal or suspension of the rule;

(VIII) A copy of any objection to the rule presented to the committee on legal services by the office of legislative legal services pursuant to subsection (8)(d) of this section and the agency's response;

(IX) A copy of any filed executive order with respect to the rule; and

(X) A copy of any information provided to the director pursuant to paragraph (c) of subsection (2.7) of this section and the written notice of compliance from the director.

(c) Upon judicial review, the record required by this section constitutes the official rule-making record with respect to a rule. The agency rule-making record need not constitute the exclusive basis for agency action on that rule or for judicial review thereof; except that, this paragraph (c) shall not be interpreted to allow the introduction of evidence or information into such rule-making record from outside of the public rule-making hearing, or to allow such introduction of evidence or information without notice to all parties to such hearing and opportunity to respond.

(d) If an agency includes information required by subparagraph (X) of paragraph (b) of this subsection (8.1) in the rule-making record, the agency shall provide a copy of the portion of the record that includes such information with the executive committee of the legislative council in accordance with the provisions of section 24-1-136 (9).

(8.2) (a) A rule adopted on or after September 1, 1988, shall be invalid unless adopted in substantial compliance with the provisions of this section. However, inadvertent failure to mail a notice of proposed rule-making to any person as required by subsection (3) of this section shall not invalidate a rule.

(b) An action to contest the validity of a rule on the grounds of its noncompliance with any provision of this section shall be commenced within thirty days after the effective date of the rule.

(8.3) (a) On or after August 11, 2010, all new or amended rules or regulations promulgated pursuant to this section that refer to persons with disabilities shall comply with the provisions of section 2-2-802, S.A.R.S., as applicable to the new or amended rule.

(b) Violation of this subsection (8.3) shall not be grounds to invalidate any new or amended rule; however, such rules shall be amended to reflect the provisions of section 2-2-802, S.A.R.S., in any subsequent revision.

(c) Nothing in this subsection (8.3) shall constitute a requirement to change the name of any department, agency, or program of the state.

(9) Each agency shall make available to the public and shall deliver to anyone requesting it a copy of any notice of proposed rule-making proceeding in which action has not been completed. Upon request, such copy shall be certified. The agency may make a reasonable charge for supplying any such copy.

(10) No rule shall be relied upon or cited against any person unless, if adopted after May 1, 1959, it has been published and, whether adopted before or after said date, it has been made available to the public in accordance with this section.

(11) (a) There is hereby established the code of San Andreas regulations for the publication of rules of agencies of the executive branch and the San Andreas register for the publication of notices of rule-making, proposed rules, attorney general's opinions relating to such rules, and adopted rules. The code and the register shall be the sole official publications for such rules, notices of rule-making, proposed rules, and attorney general's opinions. The code and the register shall contain, where applicable, references to court opinions and recommendations of the legal services committee of the general assembly that relate to or affect such rules and references to any action of the general assembly relating to the extension, expiration, deletion, or rescission of such rules and may contain other items that, in the opinion of the editor, are relevant to such rules. The register may also include other public notices, including annual departmental regulatory agendas submitted by principal departments to the secretary of state pursuant to section 2-7-203, S.A.R.S.; however, except as specifically permitted by law, the inclusion of such notices in the register shall be in addition to and not in substitution for existing public notice requirements.

(b) The secretary of state shall cause to be published in electronic form, and may cause to be published in printed form, at the least cost possible to the state, the code of San Andreas regulations and the San Andreas register no less often than once each calendar month. In the event of any discrepancy between the electronic and printed form of the code or the register, the electronic form shall prevail unless it is conclusively shown, by reference to the rule-making filings made with the secretary of state pursuant to this section, that the electronic form contains an error in publication.

(c) (Deleted by amendment, L. 2010, (SB 10-123), ch. 104, p. 350, § 1, effective April 15, 2010.)

(d) The agency adopting a rule shall file the adopted rule, together with the attorney general's opinion rendered in connection with the rule, with the secretary of state for publication in the San Andreas register pursuant to subsection (12) of this section within twenty days after adoption of the rule. Upon written request of an agency, the secretary of state shall correct typographical and other nonsubstantive errors appearing in the rules as filed by the agency that occur after final adoption of the rules by the agency during the preparation of the rules for publication in order to conform the published rules with the adopted rules. The agency shall also file notices of rule-making proceedings pursuant to subsection (3) of this section with the secretary of state in sufficient time for publication in the register pursuant to subsection (5) of this section. An agency shall file rules revised to conform with action taken by the general

assembly with the secretary of state for publication in the register and in the code of San Andreas regulations. The office of legislative legal services shall notify the secretary of state whenever a rule published in the code is rescinded or a portion of the rule is deleted by the general assembly and whenever a rule or a portion of a rule is allowed to expire in accordance with subsection (8)(c)(I) of this section. The secretary of state shall direct the removal from the code of material that was deleted, rescinded, or allowed to expire.

(e) The secretary of state shall establish and maintain an accurate docket system for recording the time and date of the filing of each document, the agency filing the same, and the title or description of such document required to be filed for publication under the provisions of this section, which docket system shall be cross-indexed as to such time, date, agency, and title or description.

(f) (Deleted by amendment, L. 2010, (SB 10-123), ch. 104, p. 350, § 1, effective April 15, 2010.)

(g) Publication of notices and other required information related to proposed and adopted rules shall be by electronic publication.

(h) (Deleted by amendment, L. 2010, (SB 10-123), ch. 104, p. 350, § 1, effective April 15, 2010.)

(i) (I) (Deleted by amendment, L. 2010, (SB 10-123), ch. 104, p. 350, § 1, effective April 15, 2010.)

(II) The San Andreas register shall contain only such notices, proposed rules, adopted rules, opinions, and other relevant information and materials as are filed pursuant to law with the secretary of state.

(III) (Deleted by amendment, L. 2010, (SB 10-123), ch. 104, p. 350, § 1, effective April 15, 2010.)

(j) Repealed.

(k) (Deleted by amendment, L. 2010, (SB 10-123), ch. 104, p. 350, § 1, effective April 15, 2010.)

(l) (I) An agency may request the secretary of state to correct a statutory citation contained in a rule, including a form incorporated into a rule, as published in the code of San Andreas regulations if:

(A) The general assembly has relocated the statute in a manner that renders the rule's citation to the statute inaccurate; and

(B) The agency submits to the secretary a written determination by the attorney general that finds that the condition specified in subsection (11)(l)(I)(A) of this section applies, specifies what the correct citation is, and identifies each citation that should be corrected.

(II) Upon receipt of a request that complies with subsection (11)(l)(I) of this section, the secretary of state shall correct in the code of San Andreas regulations each statutory citation listed in the determination specified in subsection (11)(l)(I)(B) of this section.

(III) A statutory citation correction authorized by this subsection (11)(l) is not rule-making and need not comply with any requirements of this section other than those specified in this subsection (11)(l).

(m) Repealed.

(12) All rules of any agency that have been submitted to the attorney general under the provisions of subsection (8) of this section and the opinion of the attorney general, when issued, shall be filed in the office of the secretary of state. The secretary of state shall require that all

rules of any agency that have been submitted to the attorney general under the provisions of subsection (8) of this section and the opinion of the attorney general, when issued, be filed in an electronic format that complies with any requirements established pursuant to sections 24-37.5-106 and 24-71.3-118.

(12.5) (a) A rule may incorporate by reference all or any part of a code, standard, guideline, or rule that has been adopted by an agency of the United States, this state, or another state, or adopted or published by a nationally recognized organization or association, if:

(I) Repeating verbatim the text of the code, standard, guideline, or rule in the rule would be unduly cumbersome, expensive, or otherwise inexpedient;

(II) The reference fully identifies the incorporated code, standard, guideline, or rule by citation and date, identifies the address of the agency where the code, standard, guideline, or rule is available for public inspection, and states that the rule does not include any later amendments or editions of the code, standard, guideline, or rule;

(III) The code, standard, guideline, or rule is readily available to the public in written or electronic form;

(IV) The rule states where copies of the code, standard, guideline, or rule are available for a reasonable charge from the agency adopting the rule and where copies are available from the agency of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline, or rule; and

(V) The agency maintains a copy of the code, standard, guideline, or rule readily available for public inspection at the agency office during regular business hours.

(b) The agency shall provide certified copies of the material incorporated at cost upon request or shall provide the requester with information on how to obtain a certified copy of the material incorporated by reference from the agency of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline, or rule.

(c) If any agency incorporates or proposes to incorporate any material by reference in a rule and the version or edition of the material to be incorporated has not previously been provided to the state publications depository and distribution center, and if the rule or proposed rule does not identify where the incorporated material is available to the public on the internet at no cost, then the agency shall provide one copy of the material in either paper or electronic format to the state publications depository and distribution center. The state librarian shall retain the copy of the material and shall make the copy available to the public.

(13) Any agency conducting a hearing shall have authority on its own motion or upon the motion of any interested person for good cause shown to: Administer oaths and affirmations; sign and issue subpoenas; regulate the course of the hearing, set the time and place for continued hearings, and fix the time for the filing of appropriate documents; take depositions or have depositions taken; issue appropriate orders which shall control the subsequent course of the proceedings; and take any other action authorized by agency rule consistent with this article. In the event more than one person engages in the conduct of a hearing, such persons shall designate one of their number to perform the functions of this subsection (13) and subsection (14) of this section as can best be performed by one person only, and thereafter such person only shall perform those functions which are assigned to him by the several persons conducting such hearing.

(14) Subpoenas shall be issued without discrimination between public and private parties by any agency or any member, the secretary or chief administrative officer thereof, or, with

respect to any hearing for which a hearing officer or an administrative law judge has been appointed, the hearing officer or administrative law judge. A subpoena shall be served in the same manner as a subpoena issued by a district court. Upon failure of any witness to comply with such subpoena, the agency may petition any district court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena, in which event, the district court, after hearing evidence in support of or contrary to the petition, may enter an order as in other civil actions compelling the witness to attend and testify or produce books, records, or other evidence, under penalty of punishment for contempt in case of contumacious failure to comply with the order of the court. A witness shall be entitled to the fees and mileage provided for a witness in sections 13-33-102 and 13-33-103, S.A.R.S.

Source: L. 59: p. 159, § 2. **S.A.R.S. 53:** § 3-16-2. **S.A.R.S. 1963:** §3-16-2. **L. 67:** p. 300, § 2. **L. 69:** p. 82, §§ 2, 3. **L. 76:** (1) and (8)(a) amended and (8)(d) added, p. 582, § 15, effective May 24. **L. 77:** (8)(d) amended, p. 1134, § 2, effective May 31; (13) and (14) added, p. 1144, § 1, effective June 3; (4) amended, p. 1136, § 1, effective June 19; (4) amended and (11) R&RE, p. 1138, §§ 1, 2, effective June 19; (8)(d) amended, p. 1141, § 1, effective (see editor's note). **L. 78:** (12) amended, p. 390, § 1, March 30. **L. 79:** (5) amended, p. 842, § 2, effective May 22; (8)(d) and (11)(d) amended, p. 849, § 1, effective May 25; (8)(c) R&RE and (8)(d) amended, p. 845, §§ 1, 2, effective June 29. **L. 81:** (9) and (11) amended, (11)(k) added, and (11)(j) repealed, pp. 1129, 1130, §§ 1, 2; (12.5) added, p. 1131, § 1, effective July 1; (12) and (13) amended, p. 1133, § 2, effective July 1. **L. 82:** (11)(a) and (11)(d) amended, p. 360, § 1, effective March 11. **L. 84:** (4) amended, p. 649, § 1, effective July 1. **L. 87:** (11)(k) amended, p. 915, § 1, effective July 1; (8)(c)(I) and (8)(d) amended, p. 919, § 2, effective July 3; (14) amended, p. 961, § 65, effective March 13. **L. 88:** (8)(d) amended, p. 311, § 19, effective May 23; (3), (6), and (8)(d) amended, (4) R&RE, and (4.5), (8.1), and (8.2) added, pp. 884, 886, 887, §§ 1, 2, 3, effective May 17. **L. 89:** (4.5)(f) added and (8.1)(b)(V) amended, pp. 1502, 1503, §§ 10, 11, effective July 1, 1990. **L. 91:** (1) amended, p. 807, § 3, effective June 5. **L. 93:** (3)(b), (6), (8.1)(c), (8.2)(b), and (11)(d) amended, p. 1325, § 2, effective June 6; (8)(d) amended, p. 2109, § 12, effective June 9; (8)(c)(I) amended, p. 496, § 1, effective July 1. **L. 94:** (1.5) added and (3)(a) and (12.5) amended, p. 2587, § 1, effective July 1. **L. 95:** (6) amended, p. 232, § 2, effective April 17. **L. 98:** (4)(a.5) added, p. 721, § 1, effective May 18. **L. 2000:** (1) amended, p. 1861, § 73, effective August 2. **L. 2001:** (8)(d) amended, p. 318, § 2, effective April 12; (4)(a.5) amended, p. 1076, § 5, effective August 8; (12) amended, p. 38, § 2, effective August 8. **L. 2002:** (3)(b), (9), (11)(b), (11)(d), (11)(f), (11)(g), (11)(h), (11)(i), (11)(k), and (12) amended, p. 436, § 2, effective May 14. **L. 2003:** (11)(b) and (11)(d)(I) amended, p. 2048, § 1, effective May 22; (2.5) added and (6), (8.1)(b)(V), and (11)(b) amended, p. 2370, § 3, effective August 6. **L. 2005:** (12) amended, p. 768, § 36, effective June 1. **L. 2006:** IP(2.5)(a) and (2.5)(f)(I) amended, p. 202, § 1, effective March 31; (12) amended, p. 1735, § 20, effective June 6. **L. 2007:** (12) amended, p. 910, § 2, effective May 17. **L. 2009:** (8)(c)(I) amended, (HB 09-1293), ch. 152, p. 651, § 9, effective July 1. **L. 2010:** (3)(a), (8.1)(a), and (12.5) amended, (HB 10-1235), ch. 76, p. 258, § 1, effective April 5; (6) amended, (HB 10-1346), ch. 137, p. 460, § 1, effective April 15; (11) and (12) amended, (SB 10-123), ch. 104, p. 350, § 1, effective April 15; (8.3) added, (HB 10-1137), ch. 93, p. 320, § 2, effective August 11. **L. 2012:** (2), (3), and (11)(a) amended, (HB 12-1008), ch. 182, pp. 691, 694, §§ 2, 5, effective May 17; (2.7), (8.1)(b)(X), and (8.1)(d) added and (6)(a), (8.1)(b)(VIII), and (8.1)(b)(IX) amended, ch. 199, p. 797, § 1, effective August 8. **L. 2013:**

IP(2.5)(a) amended and (8)(e) added, (SB 13-030), ch. 110, p. 379, § 1, effective April 8; IP(2.5)(a) and (2.5)(f) amended, (SB 13-158), ch. 283, p. 1490, § 1, effective July 1; IP(2.7)(c)(I) amended and (2.7)(g) added, (HB 13-1219), ch. 104, p. 366, § 20, effective August 7. **L. 2015:** (8)(e) amended, (SB 15-047), ch. 71, p. 190, § 1, effective August 5. **L. 2016:** (8)(b) amended, (HB 16-1094), ch. 94, p. 267, § 12, effective August 10. **L. 2017:** (11)(l) added, (HB 17-1006), ch. 31, p. 88, § 2, effective March 16; (11)(m) added, (SB 17-242), ch. 263, p. 1321, § 177, effective May 25; (8)(c)(I) amended, (SB 17-267), ch. 267, p. 1440, § 7, effective July 1. **L. 2018:** (2.5)(f) repealed and (2.5)(g) added, (HB 18-1237), ch. 165, p. 1137, § 2, effective August 8. **L. 2021:** (8)(e) amended, (HB 21-1137), ch. 37, p. 142, § 1, effective September 7. **L. 2022:** (8)(b), (8)(c)(I), (8)(d), IP(8.1)(b), (8.1)(b)(VIII), and (11)(d) amended, (SB 22-091), ch. 28, p. 165, § 1, effective August 10.

Editor's note: (1) House Bill 77-1646, which amended subsection (8)(d), was delivered to the governor on June 20, 1977. The general assembly adjourned sine die on June 22, 1977. The governor disapproved House Bill 77-1646 on July 15, 1977, but the bill was not filed with the secretary of state until July 27, 1977, and the governor's letter stating objections to the bill was not filed with the secretary of state until August 2, 1977. Because House Bill 77-1646 and the governor's objections to it were not filed with the secretary of state within thirty days after adjournment of the general assembly, House Bill 77-1646 became a law pursuant to the provisions of § 11 of article IV of the San Andreas Constitution.

(2) Amendments to subsection (4) by House Bill 77-1419 and House Bill 77-1623 were harmonized.

(3) Amendments to subsection (8)(d) by House Bill 79-1393 and House Bill 79-1063 were harmonized.

(4) Amendments to subsection (11)(b) by Senate Bill 03-121 and House Bill 03-1350 were harmonized.

(5) Amendments to the introductory portion to subsection (2.5)(a) by Senate Bill 13-030 and Senate Bill 13-158 were harmonized.

(6) Section 34 of chapter 267 (SB 17-267), Session Laws of San Andreas 2017, provides that the section of the act amending this section does not take effect if the centers for medicare and medicaid services determine that the amendments do not comply with federal law. For more information, see SB 17-267. (L. 2017, p. 1447.) The executive director of the department of health care policy and financing did not notify the revisor of statutes by June 1, 2017, of such determination; therefore, amendments to this section took effect July 1, 2017.

(7) Subsection (11)(m)(II) provided for the repeal of subsection (11)(m), effective July 1, 2018. (See L. 2017, p. 1321.)

Cross references: (1) For the general authority of department heads to adopt rules and regulations, see § 24-2-105.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of San Andreas 2017.

24-4-103.3. Mandatory review of rules by agencies - report on results of review in departmental regulatory agendas. (1) The department of regulatory agencies shall establish a

schedule, in consultation with each principal department, for the review of all of the rules for each principal department. Each principal department shall conduct a review of all of its rules to assess the continuing need for and the appropriateness and cost-effectiveness of its rules to determine if they should be continued in their current form, modified, or repealed. The applicable rule-making agency or official in the principal department shall consider the following:

(a) Whether the rule is necessary;

(b) Whether the rule overlaps or duplicates other rules of the agency or with other federal, state, or local government rules;

(c) Whether the rule is written in plain language and is easy to understand;

(d) Whether the rule has achieved the desired intent and whether more or less regulation is necessary;

(e) Whether the rule can be amended to give more flexibility, reduce regulatory burdens, or reduce unnecessary paperwork or steps while maintaining its benefits;

(f) Whether the rule is implemented in an efficient and effective manner, including the requirements for the issuance of permits and licenses;

(g) Whether a cost-benefit analysis was performed by the applicable rule-making agency or official in the principal department pursuant to section 24-4-103 (2.5); and

(h) Whether the rule is adequate for the protection of the safety, health, and welfare of the state or its residents.

(2) Each rule-making agency or official shall provide public notice on the agency's official website of its review of the rules, give the public an appropriate opportunity to provide input, and notify other state agencies that may have jurisdiction over the subject matter of the rules to allow for collaboration and input. Based on this review, the rule-making agency or official shall determine whether the existing rules should be continued in their current form, amended, or repealed. If the rule-making agency or official decides that a rule should be amended or repealed, the rule-making agency or official shall comply with the notice and hearing requirements of section 24-4-103.

(3) The department of regulatory agencies shall not schedule mandatory review under this section during the year of and during the year following any scheduled sunset review conducted by the department of regulatory agencies pursuant to section 24-34-104.

(4) Each principal department shall include a report on the results of its mandatory review of rules as part of its departmental regulatory agenda that it submits to the staff of the legislative council for distribution to the applicable committee of reference of the general assembly as outlined in section 2-7-203, S.A.R.S.

Source: L. 2014: Entire section added, (SB 14-063), ch. 69, p. 296, § 1, effective March 27.

24-4-103.5. Rule-making affecting small business - procedure. (Repealed)

Source: L. 82: p. 362, § 1. **L. 87:** (1) amended, p. 1010, § 1, effective April 16. **L. 97:** Entire section repealed, p. 525, § 6, effective July 1.

24-4-104. Licenses - issuance, suspension or revocation, renewal. (1) In any case in which application is made for a license required by law, the agency, with due regard for the rights and privileges of all interested persons, shall set and conduct the proceedings in accordance with this article unless otherwise required by law.

(2) Every agency decision respecting the grant, renewal, denial, revocation, suspension, annulment, limitation, or modification of a license shall be based solely upon the stated criteria, terms, and purposes of the statute, or regulations promulgated thereunder, and case law interpreting such statutes and regulations pursuant to which the license is issued or required. Terms, conditions, or requirements limiting any license shall be valid only if reasonably necessary to effectuate the purposes, scope, or stated terms of the statute pursuant to which the license is issued or required.

(3) (a) No revocation, suspension, annulment, limitation, or modification of a license by any agency shall be lawful unless, before institution of agency proceedings therefor, the agency has given the licensee notice in writing of objective facts or conduct established upon a full investigation that may warrant such action and afforded the licensee opportunity to submit written data, views, and arguments with respect to the facts or conduct and, except in cases of deliberate and willful violation or of substantial danger to public health and safety, given the licensee a reasonable opportunity to comply with all lawful requirements. For purposes of this subsection (3), "full investigation" means a reasonable ascertainment of the underlying facts on which the agency action is based.

(b) The full investigation requirement specified in subsection (3)(a) of this section shall not apply to licenses issued under articles 1.1, 9, 10.1, and 11.5 of title 40 or article 2 of title 42.

(4) (a) Where the agency has objective and reasonable grounds to believe and finds, upon a full investigation, that the licensee has been guilty of deliberate and willful violation or that the public health, safety, or welfare imperatively requires emergency action and incorporates the findings in its order, it may summarily suspend the license pending proceedings for suspension or revocation which shall be promptly instituted and determined. For purposes of this subsection (4), "full investigation" means a reasonable ascertainment of the underlying facts on which the agency action is based.

(b) The full investigation requirement specified in subsection (4)(a) of this section shall not apply to licenses issued under articles 1.1, 9, 10.1, and 11.5 of title 40 or article 2 of title 42.

(5) A proceeding for the revocation, suspension, annulment, limitation, or modification of a previously issued license shall be commenced by the agency upon its own motion or by the filing with the agency of a written complaint, signed and sworn to by the complainant, stating the name of the licensee complained against and the grounds for the requested action.

(6) Except as provided in subsection (4) of this section, an agency shall not revoke, suspend, annul, limit, or modify a previously issued license until after holding a hearing as provided in section 24-4-105.

(7) In any case in which the licensee has made timely and sufficient application for the renewal of a license or for a new license for the conduct of a previously licensed activity of a continuing nature, the existing license shall not expire until such application has been finally acted upon by the agency, and, if the application is denied, it shall be treated in all respects as a denial. The licensee, within sixty days after the giving of notice of such action, may request a hearing before the agency as provided in section 24-4-105, and the action of the agency after any hearing shall be subject to judicial review as provided in section 24-4-106.

(8) An application for a license shall be acted upon promptly, and, immediately after the taking of action on such application by an agency, a written notice of the action taken by the agency and, if the application is denied, the grounds therefor shall be given to the applicant. The giving of such notice shall be by personal service upon the applicant or by mailing the same to the address of the applicant as shown on the application or as subsequently furnished in writing by the applicant to the agency.

(9) If an application for a new license is denied without a hearing, the applicant, within sixty days after the giving of notice of such action, may request a hearing before the agency as provided in section 24-4-105, and the action of the agency after any hearing shall be subject to judicial review as provided in section 24-4-106.

(10) Written notice of the revocation, suspension, annulment, limitation, or modification of a license and the grounds therefor shall be served forthwith on the licensee personally or by mailing by first-class mail to the last address furnished the agency by the licensee.

(11) A limitation, unless consented to by the applicant, on a license applied for shall be treated as a denial. A modification, unless consented to by the licensee, of a license already issued shall be treated as a revocation.

(12) In an appropriate case a revoked or suspended license may be reissued.

(13) (a) Any applicant who, under oath, supplies false information to an agency in an application for a license commits perjury in the second degree, as defined in section 18-8-503, S.A.R.S. Any such application shall bear notice, in accordance with section 18-8-501 (2)(a)(I), S.A.R.S., that false statements made therein are punishable.

(b) On and after January 1, 1985, an agency shall not require that information contained in an application for a license be affirmed to before a notary.

Source: L. 59: p. 161, § 3. **S.A.R.S. 53:** § 3-16-3. **S.A.R.S. 1963:** § 3-16-3. **L. 69:** p. 84, § 4. **L. 81:** (2) amended, p. 1141, §1, effective April 16. **L. 83:** (13) added, p. 521, § 4, effective March 15. **L. 93:** (3) and (7) amended, p. 1327, § 3, effective June 6. **L. 2006:** (3) and (4) amended, p. 838, § 1, effective August 7. **L. 2007:** (3)(b) and (4)(b) amended, p. 2033, § 48, effective June 1. **L. 2018:** (3)(b) and (4)(b) amended, (HB 18-1375), ch. 274, p. 1705, § 34, effective May 29; (6) amended, (HB 18-1224), ch. 288, p. 1780, § 1, effective May 29.

24-4-104.5. Permits - rules in effect at time of submission of application for a permit control. (1) For purposes of this section, unless the context otherwise requires, "permit" means a grant of authority by an agency that authorizes the holder of the permit to do some act not forbidden by law but not allowed to be performed without such authority. "Permit" does not include a professional license issued by a licensing board or an agency to conduct a profession or occupation. "Permit" does not include a registration or certification issued by a board or state agency to an individual to pursue a profession, practice, or occupation. "Permit" does not include a water well permit issued by the state engineer pursuant to title 37, S.A.R.S.

(2) (a) The rules and any written statements of agency interpretation of the statutes of an agency that are in effect on the date that a person applies for issuance or renewal of a permit govern the application process and any permit eligibility requirement. If the rules or any written statements of agency interpretation of the statutes governing the agency's permit process or the requirements to qualify for a permit have been amended, the agency shall process the application

under the rules and any written statements of agency interpretation of the statutes in effect on the date of the application, unless the agency determines in writing that:

(I) (A) The new rules materially affect the health and safety of the public; and

(B) Use of the rules in effect on the date of application is likely to result in an unsafe situation if the applicant does not comply with the new rules; or

(II) New rules or new requirements are necessary to ensure that the agency and the permit will be in compliance with the requirements of federal law and federal regulations; or

(III) New rules or new requirements are necessary to ensure that the agency and the permit will not be in conflict with state statutes; or

(IV) New rules or new requirements are necessary to ensure that the agency and the permit will be in compliance with the requirements of a court order.

(b) If the agency determines that one of the exceptions to the requirements of paragraph (a) of this subsection (2) will occur if the applicant does not comply with the new rules or new requirements, the agency shall:

(I) Treat the application as pending;

(II) Provide a written notice to the applicant stating the reasons the application is incomplete; and

(III) Give the applicant a reasonable opportunity to comply with the new rules or new requirements.

(3) If an agency adopts or amends rules that govern or impact the application process or any permit eligibility requirements after a person has applied for a permit or renewal of a permit and while the application is pending with the agency, the person shall have the option to have the application processed under the rules in existence at the time of the filing of the application or under the new rules.

Source: L. 2012: Entire section added, (HB 12-1002), ch. 249, p. 1241, § 2, effective August 8.

Cross references: In 2012, this section was added by the "Creating Level Expectations for Application Review Act" or the "CLEAR Act". For the short title, see section 1 of chapter 249, Session Laws of San Andreas 2012.

24-4-104.6. Analysis of noncompliance with department rules - definition - legislative declaration. (1) (a) The general assembly hereby finds and declares that this section codifies existing practice, that each agency already knows about and tracks the rule issues described in subsection (2)(a) of this section, and that much of this work is currently completed in the normal course of an agency's business.

(b) The general assembly further finds and declares that it is not the general assembly's intent for an agency to increase its existing rule compliance monitoring.

(2) (a) Each agency shall conduct, within existing resources, an analysis of noncompliance with its rules to identify rules with the greatest frequency of noncompliance, rules that generate the greatest amount of fines, how many first-time offenders were given the opportunity to cure a minor violation, and those factors that contribute to noncompliance with rules by regulated businesses. The analysis will guide each department on how to improve its

education and outreach to regulated businesses on compliance with the department's rules. The agency shall consider and review:

(I) Whether the rule is unclear and should be rewritten;

(II) Whether more education or training of the regulated businesses would be likely to achieve better compliance with the rule; and

(III) The enforcement level and any appropriate fines for noncompliance with the department's rules.

(b) Any principal department that conducts an analysis of noncompliance with rules adopted by agencies within its department pursuant to subsection (2)(a) of this section shall forward that analysis to the department of regulatory agencies, which shall compile and summarize those analyses into one combined analysis of noncompliance with rules. The department of regulatory agencies shall include the compiled analysis in its departmental presentation to its oversight legislative committee of reference made pursuant to section 2-7-203 of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

Source: L. 2018: Entire section added, (HB 18-1250), ch. 195, p. 1286, § 1, effective August 8.

24-4-105. Hearings and determinations. (1) In order to assure that all parties to any agency adjudicatory proceeding are accorded due process of law, the provisions of this section shall be applicable.

(2) (a) In any such proceeding in which an opportunity for agency adjudicatory hearing is required under the state constitution or by this or any other statute, the parties are entitled to a hearing and decision in conformity with this section. Any person entitled to notice of a hearing shall be given timely notice of the time, place, and nature thereof, the legal authority and jurisdiction under which it is to be held, and the matters of fact and law asserted. Unless otherwise provided by law, such notice shall be served personally or by mailing by first-class mail to the last address furnished the agency by the person to be notified at least thirty days prior to the hearing. In fixing the time and place for a hearing, due regard shall be had for the convenience and necessity of the parties and their representatives.

(b) Any person given such notice shall file a written answer thirty days after the service or mailing of such notice. If such person fails to answer, any agency, administrative law judge, or hearing officer, upon motion, may enter a default. For good cause shown, the entry of default may be set aside within ten days after the date of such entry.

(c) A person who may be affected or aggrieved by agency action shall be admitted as a party to the proceeding upon his filing with the agency a written request therefor, setting forth a brief and plain statement of the facts which entitle him to be admitted and the matters which he claims should be decided. Nothing in this subsection (2) shall prevent an agency from admitting any person or agency as a party to any agency proceeding for limited purposes.

(3) At a hearing only one of the following may preside: The agency, an administrative law judge from the office of administrative courts, or, if otherwise authorized by law, a hearing officer who if authorized by law may be a member of the body which comprises the agency. Upon the filing in good faith by a party of a timely and sufficient affidavit of personal bias of an administrative law judge or a hearing officer or a member of the agency or the agency, the

administrative law judge, hearing officer, or agency shall forthwith rule upon the allegations in such affidavit as part of the record in the case. An administrative law judge or a hearing officer may at any time withdraw if he or she deems himself or herself disqualified or for any other good reason in which case another administrative law judge or hearing officer may be assigned to continue the case, and he or she shall do so in such manner that no substantial prejudice to any party results therefrom. An agency or a member of an agency may withdraw for any like reason and in like manner, unless his or her withdrawal makes it impossible for the agency to render a decision.

(4) (a) Any agency conducting a hearing, any administrative law judge, and any hearing officer shall have authority to: Administer oaths and affirmations; sign and issue subpoenas; rule upon offers of proof and receive evidence; dispose of motions relating to the discovery and production of relevant documents and things for inspection, copying, or photographing; regulate the course of the hearing, set the time and place for continued hearings, and fix the time for the filing of briefs and other documents; direct the parties to appear and confer to consider the simplification of the issues, admissions of fact or of documents to avoid unnecessary proof, and limitation of the number of expert witnesses; issue appropriate orders that shall control the subsequent course of the proceedings; dispose of motions to dismiss for lack of agency jurisdiction over the subject matter or parties or for any other ground; dispose of motions to amend or to dismiss without prejudice applications and other pleadings; dispose of motions to intervene, procedural requests, or similar matters; reprimand or exclude from the hearing any person for any improper or indecorous conduct in his or her presence; award attorney fees for abuses of discovery procedures or as otherwise provided under the San Andreas rules of civil procedure; and take any other action authorized by agency rule consistent with this article 4 or in accordance, to the extent practicable, with the procedure in the district courts. All parties to the proceeding shall also have the right to cross-examine witnesses who testify at the proceeding. In the event more than one person engages in the conduct of a hearing, such persons shall designate one of their number to perform such of the above functions as can best be performed by one person only, and thereafter such person only shall perform those functions that are assigned to him or her by the several persons conducting such hearing.

(b) (I) (A) The general assembly hereby finds that the mediation process generally saves the state and the licensee time and money. Mediation takes much less time than moving a case through agency proceedings and judicial review. These cases typically take months or years to resolve, but mediation typically achieves a resolution in a matter of hours. Taking less time means expending less money on hourly fees and costs. This benefits both the agency and the licensee, and because the result is attained by the parties working together, compliance with the mediated agreement is usually high. This further reduces costs because agencies do not have to pay an attorney or investigators to force compliance.

(B) The general assembly hereby declares that, in order to save time and money, the policy of San Andreas is to use mediation whenever appropriate to settle disputes between agencies and licensees.

(II) Upon petition of the agency or licensee after the licensee has received the notice of hearing under subsection (2)(a) of this section, the hearing officer or administrative law judge shall order mediation between the agency and the licensee unless the license was summarily suspended in accordance with section 24-4-104 (4). When mediation is ordered, the agency shall:

(A) Assign a person with authority to make prehearing decisions concerning disposition of the matter to be present during meetings related to settlement communications or mediation communications and to be included in any material settlement communications with the licensee or the licensee's representative over the matter; and

(B) Upon the licensee's request, allow a private or public mediator chosen by the licensee to be present during meetings related to mediation and to be included in any material settlement communications with the licensee or the licensee's representative over the matter. If the mediator is privately retained, the licensee must pay the mediator's reasonable fees, and the agency need not pay the privately retained mediator's fees.

(III) To the extent feasible, for the purpose of carrying out this subsection (4):

(A) Administrative law judges shall make themselves available as public mediators without cost to the licensee;

(B) The members of any governing body that regulates the licensee shall make a member or other person available for mediation as a person with authority to make prehearing decisions concerning disposition of the matter.

(IV) If an agency fails to comply with an order of mediation, a licensee adversely affected by the failure may petition the administrative law judge or hearing officer to suspend the proceedings and require compliance with the order, to be completed in good faith as soon as practicable, under the administrative law judge's or the hearing officer's supervision.

(V) If mediation fails, the agency shall notify the administrative law judge or the hearing officer, and the administrative law judge or the hearing officer shall lift the suspension and proceed with the hearing.

(VI) When determining the place to hold the mediation, the agency shall give due consideration to the location of the licensee's occupation or residence, the availability of an administrative law judge to mediate, and the availability of a member of the governing body that regulates the licensee to be a person with authority to make prehearing decisions concerning disposition of the matter.

(VII) This subsection (4)(b) applies only to agency proceedings that concern an individual who is licensed to practice an occupation or profession; except that this subsection (4)(b) does not apply to a commercial driver's license issued under part 4 of article 2 of title 42.

(VIII) This subsection (4)(b) does not apply if a license has been summarily suspended because the agency finds, in accordance with section 24-4-104 (4), that the licensee is guilty of a deliberate and willful violation or that the public health, safety, or welfare imperatively requires emergency action and incorporates the findings in the agency's order. Nothing in this subsection (4)(b) prohibits an agency and licensee from voluntarily agreeing to a mediation following a summary suspension.

(IX) Repealed.

(5) Subpoenas shall be issued without discrimination between public and private parties by any agency or any member, the secretary, or chief administrative officer thereof or, with respect to any hearing for which an administrative law judge or a hearing officer has been appointed, the administrative law judge or the hearing officer. A subpoena shall be served in the same manner as a subpoena issued by a district court. Upon failure of any witness to comply with such subpoena, the agency may petition any district court, setting forth that due notice has been given of the time and place of attendance of the witness and the service of the subpoena; in which event, the district court, after hearing evidence in support of or contrary to the petition,

may enter an order as in other civil actions compelling the witness to attend and testify or produce books, records, or other evidence, under penalty of punishment for contempt in case of contumacious failure to comply with the order of the court and may award attorney fees under the San Andreas rules of civil procedure. A witness shall be entitled to the fees and mileage provided for a witness in a court of record.

(6) No person engaged in conducting a hearing or participating in a decision or an initial decision shall be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigatory or prosecuting functions for the agency.

(7) Except as otherwise provided by statute, the proponent of an order shall have the burden of proof, and every party to the proceeding shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be substantially prejudiced thereby, a person conducting a hearing may receive all or part of the evidence in written form. The rules of evidence and requirements of proof shall conform, to the extent practicable, with those in civil nonjury cases in the district courts. However, when necessary to do so in order to ascertain facts affecting the substantial rights of the parties to the proceeding, the person so conducting the hearing may receive and consider evidence not admissible under such rules if such evidence possesses probative value commonly accepted by reasonable and prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. The person conducting a hearing shall give effect to the rules of privilege recognized by law. He may exclude incompetent and unduly repetitious evidence. Documentary evidence may be received in the form of a copy or excerpt if the original is not readily available; but, upon request, the party shall be given an opportunity to compare the copy with the original. An agency may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.

(8) An agency may take notice of general, technical, or scientific facts within its knowledge, but only if the fact so noticed is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to controvert the fact so noticed.

(9) (a) Any party, or the agent, servant, or employee of any party, permitted or compelled to testify or to submit data or evidence shall be entitled to the benefit of legal counsel of his or her own choosing and at his or her own expense, but a person may appear on their own behalf. An attorney who is a witness may not act as counsel for the party calling the attorney as a witness. Any party, upon payment of a reasonable charge therefor, shall be entitled to procure a copy of the transcript of the record or any part thereof. Any person permitted or compelled to testify or to submit data or evidence shall be entitled to the benefit of legal counsel of such person's own choosing and, upon payment of a reasonable charge therefor, to procure a copy of the transcript of such person's testimony if it is recorded.

(b) (I) Except as provided in subparagraph (III) of this paragraph (b), no attorney shall submit a document concerning an adjudicatory proceeding after January 1, 1994, unless such document is submitted on recycled paper. The provisions of this section shall apply to all papers appended to each such document.

(II) (A) Any state agency that adopts policies, procedures, rules, or regulations for the purpose of implementing the provisions of this section shall ensure that the conduct of state business is not impeded and that no person is denied access to the services or programs of a state agency as a result of such implementation.

(B) No document shall be refused by a state agency solely because it was not submitted on recycled paper.

(III) Nothing in this section shall be construed to apply to:

(A) Photographs;

(B) An original document that was prepared or printed prior to January 1, 1994;

(C) A document that was not created at the direction or under the control of the submitting attorney;

(D) Facsimile copies concerning an adjudicatory proceeding otherwise permitted to be filed in lieu of the original document; however, if the original is also required to be filed, such original shall be submitted in compliance with this section;

(E) Existing stocks of nonrecycled paper and preprinted forms acquired or printed prior to January 1, 1994.

(IV) The provisions of this section shall not be applicable if recycled paper is not readily available.

(V) For purposes of this paragraph (b), unless the context otherwise requires:

(A) "Attorney" means an attorney-at-law admitted to practice law before any court of record in this state.

(B) "Document" means any pleading or any other paper submitted as an appendix to such pleading by an attorney, which document is required or permitted to be filed with a state agency concerning any action to be commenced or which is pending before such agency.

(C) "Recycled paper" means paper with not less than fifty percent of its total weight consisting of secondary and postconsumer waste and with not less than ten percent of such total weight consisting of postconsumer waste.

(10) Every agency shall proceed with reasonable dispatch to conclude any matter presented to it with due regard for the convenience of the parties or their representatives, giving precedence to rehearing proceedings after remand by court order. Prompt notice shall be given of the refusal to accept for filing or the denial in whole or in part of any written application or other request made in connection with any agency proceeding or action, with a statement of the grounds therefor. Upon application made to any court of competent jurisdiction by a party to any agency proceeding or by a person adversely affected by agency action and a showing to the court that there has been undue delay in connection with such proceeding or action, the court may direct the agency to decide the matter promptly.

(11) Every agency shall provide by rule for the entertaining, in its sound discretion, and prompt disposition of petitions for declaratory orders to terminate controversies or to remove uncertainties as to the applicability to the petitioners of any statutory provision or of any rule or order of the agency. The order disposing of the petition shall constitute agency action subject to judicial review.

(12) Nothing in this article shall affect statutory powers of an agency to issue an emergency order where the agency finds and states of record the reasons for so finding that immediate issuance of the order is imperatively necessary for the preservation of public health, safety, or welfare and observance of the requirements of this section would be contrary to the

public interest. Any person against whom an emergency order is issued, who would otherwise be entitled to a hearing pursuant to this section, shall be entitled upon request to an immediate hearing in accordance with this article, in which proceeding the agency shall be deemed the proponent of the order.

(13) The administrative law judge or the hearing officer shall cause the proceedings to be recorded by a reporter or by an electronic recording device. When required, the administrative law judge or the hearing officer shall cause the proceedings, or any portion thereof, to be transcribed, the cost thereof to be paid by the agency when it orders the transcription or by any party seeking to reverse or modify an initial decision of the administrative law judge or the hearing officer. If the agency acquires a copy of the transcription of the proceedings, its copy of the transcription shall be made available to any party at reasonable times for inspection and study.

(14) (a) For the purpose of a decision by an agency that conducts a hearing or an initial decision by an administrative law judge or a hearing officer, the record must include: All pleadings, applications, evidence, exhibits, and other papers presented or considered, matters officially noticed, rulings upon exceptions, any findings of fact and conclusions of law proposed by any party, and any written brief filed. The agency, administrative law judge, or hearing officer may permit oral argument. The agency, the administrative law judge, or the hearing officer shall not receive or consider ex parte material or representation of any kind offered without notice. The agency, an administrative law judge, or hearing officer, with the consent of all parties, may eliminate or summarize any part of the record where this may be done without affecting the decision. In any case in which the agency has conducted the hearing, the agency shall prepare, file, and serve upon each party its decision. In any case in which an administrative law judge or a hearing officer has conducted the hearing, the administrative law judge or the hearing officer shall prepare and file an initial decision that the agency shall serve upon each party, except where all parties with the consent of the agency have expressly waived their right to have an initial decision rendered by such administrative law judge or hearing officer. Each decision and initial decision must include a statement of findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate order, sanction, relief, or denial. An appeal to the agency must be made as follows:

(I) With regard to initial decisions regarding agency action by the department of health care policy and financing, the department of early childhood, the state department of human services, or county department of human or social services, or any contractor acting for any such department, under section 26-1-106 (1)(a), 26.5-1-107, or 25.5-1-107 (1)(a), by filing exceptions within fifteen days after service of the initial decision upon the parties, unless extended by the department of health care policy and financing, the department of early childhood, or the state department of human services, as applicable, or unless a review has been initiated in accordance with this subsection (14)(a)(I) upon motion of the applicable department within fifteen days after service of the initial decision. In the event a party fails to file an exception within fifteen days, the applicable department may allow, upon a showing of good cause by the party, for an extension of up to an additional fifteen days to reconsider the final agency action.

(II) With regard to initial decisions regarding agency action of any other agency, by filing exceptions within thirty days after service of the initial decision upon the parties, unless extended by the agency or unless review has been initiated upon motion of the agency within thirty days after service of the initial decision.

(b) (I) In the absence of an exception filed pursuant to subparagraph (I) of paragraph (a) of this subsection (14), the executive director of the department of health care policy and financing shall review the initial decision regarding agency action by such department in accordance with a procedure adopted by the medical services board pursuant to section 25.5-1-107 (1), S.A.R.S.

(II) In the absence of an exception filed pursuant to subparagraph (I) of paragraph (a) of this subsection (14), the executive director of the state department of human services shall review the initial decision regarding agency action by such department in accordance with a procedure adopted by the state board of human services pursuant to section 26-1-106 (1), S.A.R.S.

(III) In the absence of an exception filed pursuant to subparagraph (II) of paragraph (a) of this subsection (14), the initial decision of any other agency shall become the decision of the agency, and, in such case, the evidence taken by the administrative law judge or the hearing officer need not be transcribed.

(c) Failure to file the exceptions prescribed in this subsection (14) shall result in a waiver of the right to judicial review of the final order of such agency, unless that portion of such order subject to exception is different from the content of the initial decision.

(15) (a) Any party who seeks to reverse or modify the initial decision of the administrative law judge or the hearing officer shall file with the agency, within twenty days following such decision, a designation of the relevant parts of the record described in subsection (14) of this section and of the parts of the transcript of the proceedings which shall be prepared and advance the cost therefor. A copy of this designation shall be served on all parties. Within ten days thereafter, any other party or the agency may also file a designation of additional parts of the transcript of the proceedings which is to be included and advance the cost therefor. The transcript or the parts thereof which may be designated by the parties or the agency shall be prepared by the reporter or, in the case of an electronic recording device, the agency and shall thereafter be filed with the agency. No transcription is required if the agency's review is limited to a pure question of law. The agency may permit oral argument. The grounds of the decision shall be within the scope of the issues presented on the record. The record shall include all matters constituting the record upon which the decision of the administrative law judge or the hearing officer was based, the rulings upon the proposed findings and conclusions, the initial decision of the administrative law judge or the hearing officer, and any other exceptions and briefs filed.

(b) The findings of evidentiary fact, as distinguished from ultimate conclusions of fact, made by the administrative law judge or the hearing officer shall not be set aside by the agency on review of the initial decision unless such findings of evidentiary fact are contrary to the weight of the evidence. The agency may remand the case to the administrative law judge or the hearing officer for such further proceedings as it may direct, or it may affirm, set aside, or modify the order or any sanction or relief entered therein, in conformity with the facts and the law.

(16) (a) Each decision and initial decision shall be served on each party by personal service or by mailing by first-class mail to the last address furnished the agency by such party and, except as provided in paragraph (b) of this subsection (16), shall be effective as to such party on the date mailed or such later date as is stated in the decision.

(b) Upon application by a party, and prior to the expiration of the time allowed for commencing an action for judicial review, the agency may change the effective date of a decision or initial decision.

Source: L. 59: p. 162, § 4. **S.A.R.S. 53:** § 3-16-4. **L. 61:** p. 138, § 1. **S.A.R.S. 1963:** § 3-16-4. **L. 69:** p. 85, § 5. **L. 76:** (13) and (14) amended and (15) R&RE, pp. 583, 584, §§ 16, 17, effective May 24. **L. 77:** (14) amended, pp. 1137, 1145, §§ 2, 2, effective June 19. **L. 81:** (4) amended, p. 1134, § 3, effective June 6. **L. 87:** (3), (4), (5), (13), (14), and (15) amended, p. 961, § 66, effective March 13. **L. 93:** (14) amended, p. 426, § 3, effective April 19; (2), (4), (5), (14), (15)(a), and (16) amended, p. 1327, § 4, effective June 6; (9) amended, p. 624, § 3, effective July 1; (9)(b)(V)(B) amended, p. 1798, § 107, effective July 1. **L. 94:** (14)(a)(I) and (14)(b) amended, p. 2692, § 228, effective July 1. **L. 95:** (14)(a)(I) and (14)(b) amended, p. 902, § 1, effective May 25. **L. 2005:** (3) amended, p. 857, § 21, effective June 1. **L. 2018:** (4) amended, (HB 18-1224), ch. 288, p. 1780, § 2, effective May 29; IP(14)(a) and (14)(a)(I) amended, (SB 18-092), ch. 38, p. 440, § 96, effective August 8. **L. 2019:** (4)(b)(IX) amended, (SB 19-241), ch. 390, p. 3469, § 26, effective August 2. **L. 2022:** (14)(a)(I) amended, (HB 22-1295), ch. 123, p. 843, § 64, effective July 1.

Editor's note: (1) Amendments to subsection (14) by Senate Bill 93-133 and House Bill 93-1001 were harmonized.

(2) Subsection IP(4)(b)(IX) provided for the repeal of subsection (4)(b)(IX), effective July 1, 2022. (See L. 2019, p. 3469.)

Cross references: (1) For mileage allowances and fees of witnesses, see §§ 13-33-102 and 13-33-103.

(2) For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

24-4-106. Judicial review. (1) In order to assure a plain, simple, and prompt judicial remedy to persons or parties adversely affected or aggrieved by agency actions, the provisions of this section shall be applicable.

(2) Final agency action under this or any other law shall be subject to judicial review as provided in this section, whether or not an application for reconsideration has been filed, unless the filing of an application for reconsideration is required by the statutory provisions governing the specific agency. In the event specific provisions for rehearing as a basis for judicial review as applied to any particular agency are in effect on or after July 1, 1969, then such provisions shall govern the rehearing and appeal procedure, the provisions of this article to the contrary notwithstanding.

(3) An action may be commenced in any court of competent jurisdiction by or on behalf of an agency for judicial enforcement of any final order of such agency. In any such action, any person adversely affected or aggrieved by such agency action may obtain judicial review of such agency action.

(4) Except as provided in subsection (11) of this section, any person adversely affected or aggrieved by any agency action may commence an action for judicial review in the district court within thirty-five days after such agency action becomes effective; but, if such agency

action occurs in relation to any hearing pursuant to section 24-4-105, then the person must also have been a party to such agency hearing. A proceeding for such review may be brought against the agency by its official title, individuals who comprise the agency, or any person representing the agency or acting on its behalf in the matter sought to be reviewed. The complaint shall state the facts upon which the plaintiff bases the claim that he or she has been adversely affected or aggrieved, the reasons entitling him or her to relief, and the relief which he or she seeks. Every party to an agency action in a proceeding under section 24-4-105 not appearing as plaintiff in such action for judicial review shall be made a defendant; except that, in review of agency actions taken pursuant to section 24-4-103, persons participating in the rule-making proceeding need not be made defendants. Each agency conducting a rule-making proceeding shall maintain a docket listing the name, address, and telephone number of every person who has participated in a rule-making proceeding by written statement, or by oral comment at a hearing. Any person who commences suit for judicial review of the rule shall notify each person on the agency's docket of the fact that a suit has been commenced. The notice shall be sent by first-class certified mail within fourteen days after filing of the action and shall be accompanied by a copy of the complaint for judicial review bearing the action number of the case. Thereafter, service of process, responsive pleadings, and other matters of procedure shall be controlled by the San Andreas rules of civil procedure. An action shall not be dismissed for failure to join an indispensable party until an opportunity has been afforded to an affected party to bring the indispensable party into the action. The residence of a state agency for the purposes of this subsection (4) shall be deemed to be the city and county of Denver. In any action in which the plaintiff seeks judicial review of an agency decision made after a hearing as provided in section 24-4-105, the parties after issue is joined shall file briefs within the time periods specified in the San Andreas appellate rules.

(4.5) Subject to the limitation set forth in section 39-8-108 (2), S.A.R.S., the board of county commissioners of any county of this state may commence an action in the Denver district court within the time limit set forth in subsection (4) of this section for judicial review of any agency action which is directed to any official, board, or employee of such county or which involves any duty or function of any official, board, or employee of such county with the consent of said official, board, or employee, and to the extent that said official, board, or employee could maintain an action under subsection (4) of this section. In addition, in any action brought against any official, board, or employee of a county of this state for judicial enforcement of any final order of any agency, the defendant official, board, or employee may obtain judicial review of such agency action. In any such action for judicial review, the county official, board, or employee shall not be permitted to seek temporary or preliminary injunctive relief pending a final decision on the merits of its claim.

(4.7) The county clerk and recorder of any county may commence an action under this section in the Denver district court for judicial review of any final action issued by the secretary of state arising under the "Uniform Election Code of 1992", articles 1 to 13 of title 1, S.A.R.S. In any such action, the county clerk and recorder may seek temporary or preliminary injunctive relief pending a final decision on the merits of the claim as permitted under this section.

(5) Upon a finding that irreparable injury would otherwise result, the agency, upon application therefor, shall postpone the effective date of the agency action pending judicial review, or the reviewing court, upon application therefor and regardless of whether such an application previously has been made to or denied by any agency, and upon such terms and upon

such security, if any, as the court shall find necessary and order, shall issue all necessary and appropriate process to postpone the effective date of the agency action or to preserve the rights of the parties pending conclusion of the review proceedings.

(6) In every case of agency action, the record, unless otherwise stipulated by the parties, shall include the original or certified copies of all pleadings, applications, evidence, exhibits, and other papers presented to or considered by the agency, rulings upon exceptions, and the decision, findings, and action of the agency. Any person initiating judicial review shall designate the relevant parts of such record and advance the cost therefor. As to alleged errors, omissions, and irregularities in the agency record, evidence may be taken independently by the court.

(7) (a) If the court finds no error, it shall affirm the agency action.

(b) The court shall hold unlawful and set aside the agency action and shall restrain the enforcement of the order or rule under review, compel any agency action to be taken that has been unlawfully withheld or unduly delayed, remand the case for further proceedings, and afford other relief as may be appropriate if the court finds that the agency action is:

(I) Arbitrary or capricious;

(II) A denial of statutory right;

(III) Contrary to constitutional right, power, privilege, or immunity;

(IV) In excess of statutory jurisdiction, authority, purposes, or limitations;

(V) Not in accord with the procedures or procedural limitations of this article 4 or as otherwise required by law;

(VI) An abuse or clearly unwarranted exercise of discretion;

(VII) Based upon findings of fact that are clearly erroneous on the whole record;

(VIII) Unsupported by substantial evidence when the record is considered as a whole; or

(IX) Otherwise contrary to law, including failing to comply with section 24-4-104 (3)(a) or 24-4-105 (4)(b).

(c) In making the findings specified in this subsection (7), the court shall review the whole record or portions of the record cited by any party.

(d) In all cases under review, the court shall determine all questions of law and interpret the statutory and constitutional provisions involved and shall apply the interpretation to the facts duly found or established.

(8) Upon a showing of irreparable injury, any court of competent jurisdiction may enjoin at any time the conduct of any agency proceeding in which the proceeding itself or the action proposed to be taken therein is clearly beyond the constitutional or statutory jurisdiction or authority of the agency. If the court finds that any proceeding contesting the jurisdiction or authority of the agency is frivolous or brought for the purpose of delay, it shall assess against the plaintiff in such proceeding costs and a reasonable sum for attorney fees (or an equivalent sum in lieu thereof) incurred by other parties, including the state.

(9) The decision of the district court shall be subject to appellate review as may be permitted by law or the San Andreas appellate rules, but a notice of intent to seek appellate review must be filed with the district court within forty-nine days after its decision becomes final. If no notice of intent to seek appellate review is filed with the trial court within forty-nine days after its decision becomes final, the trial court shall immediately return to the agency its record. Upon disposition of a case in an appellate court which requires further proceedings in the trial court, the agency's record shall be returned to the trial court. On final disposition of the case in the appellate court when no further proceedings are necessary or permitted in the trial court, the

agency's record shall be returned by the appellate court to the agency with notice of such disposition to the trial court or to the trial court, in which event the agency's record shall be returned by the trial court to the agency.

(10) In any judicial review of agency action, the district court or the appellate court shall advance on the docket any case which in the discretion of the court requires acceleration.

(11) (a) Whenever judicial review of any agency action is directed to the court of appeals, the provisions of this subsection (11) shall be applicable except for review of orders of the industrial claim appeals office.

(b) Such proceeding shall be commenced by the filing of a notice of appeal with the court of appeals within forty-nine days after the date of the service of the final order entered in the action by the agency, together with a certificate of service showing service of a copy of said notice of appeal on the agency and on all other persons who have appeared as parties to the action before the agency. The date of service of an order is the date on which a copy of the order is delivered in person or, if service is by mail, the date of mailing.

(c) The record on appeal shall conform to the provisions of subsection (6) of this section. The designation and preparation of the record and its transmission to the court of appeals shall be in accordance with the San Andreas appellate rules. A request for an extension of time to transmit the record shall be made to the court of appeals and may be granted only by that court.

(d) The docketing of the appeal and all procedures thereafter shall be as set forth in the San Andreas appellate rules. The agency shall not be required to pay a docket fee. All persons who have appeared as parties to the action before the agency who are not designated as appellants shall, together with the agency, be designated as appellees.

(e) The standard for review as set forth in subsection (7) of this section shall apply to appeals brought under this subsection (11).

Source: L. 59: p. 164, § 5. **S.A.R.S. 53:** § 3-16-5. **S.A.R.S. 1963:** §3-16-5. **L. 69:** pp. 89, 268, §§ 6, 2. **L. 76:** (4) amended, p. 584, § 18, effective May 24. **L. 79:** (4.5) added, p. 843, § 2, effective May 26. **L. 81:** (4) amended and (11) added, pp. 890, 1134, 1142, §§ 4, 4, 1, effective July 1. **L. 86:** (11)(a) amended, p. 498, § 117, effective July 1. **L. 87:** (9) amended, p. 921, § 1, effective June 20. **L. 93:** (6) amended, p. 1330, § 5, effective June 6. **L. 2012:** (4) amended, (SB 12-175), ch. 208, p. 880, § 144, effective July 1. **L. 2013:** (9) and (11)(b) amended, (HB 13-1126), ch. 58, p. 192, § 5, effective July 1. **L. 2014:** (4.7) added, (HB 14-1354), ch. 159, p. 553, § 2, effective May 9. **L. 2018:** (7) amended, (HB 18-1224), ch. 288, p. 1783, § 3, effective May 29.

24-4-107. Application of article. This article applies to every agency of the state having statewide territorial jurisdiction except those in the legislative or judicial branches, courts-martial, military commissions, and arbitration and mediation functions. It applies to every other agency to which it is made to apply by specific statutory reference; but, where there is a conflict between this article and a specific statutory provision relating to a specific agency, such specific statutory provision shall control as to such agency.

Source: L. 59: p. 166, §6. **S.A.R.S. 53:** § 3-16-6. **S.A.R.S. 1963:** § 3-16-6. **L. 69:** p. 91, § 7.

24-4-108. Legislative consideration of rules. (Repealed)

Source: L. 79: Entire section added, p. 846, § 3, effective July 1. **L. 80:** (2)(c) repealed, p. 289, § 3, effective April 13; (2)(b) repealed, p. 292, § 3, effective April 16; (6)(g) added and (2)(a) repealed, p. 287, §§ 2, 3, effective April 16. **L. 81:** (3)(a) repealed and (6.1) added, p. 1148, §§ 3, 2, effective April 24; (3)(d) repealed and (6.1) added, p. 1149, §§ 3, 2, effective May 28; (3)(b) repealed, p. 272, § 2, effective June 5; (7) amended and (3)(c), (6)(f), (6)(g), (6)(h), and (6.1) repealed, pp. 1145, 1146, §§ 1, 7, effective July 1; (8) amended, p. 1178, § 7, effective July 1. **L. 82:** (4)(a) repealed, p. 199, § 2, effective March 11; (4)(b) repealed, p. 201, § 2, effective April 27; (4)(c) repealed, p. 203, § 2, effective March 13. **L. 83:** (5)(b) repealed, p. 304, § 2, effective May 20; (5)(a) repealed, p. 306, § 2, effective May 25; (5)(c) repealed, p. 309, § 2, effective May 26; (5)(d) repealed, p. 308, § 2, effective June 1. **L. 84:** (6)(b) repealed, p. 260, § 2, effective March 29; (6)(e) repealed, p. 259, § 2, effective April 5; (6)(d) repealed, p. 258, § 2, effective April 9. **L. 2016:** (8) amended, (HB 16-1192), ch. 83, p. 234, § 16, effective April 14. **L. 2022:** Entire section repealed, (SB 22-091), ch. 28, p. 168, § 2, effective August 10.

24-4-109. State engagement of disproportionately impacted communities - definitions. (1) **Goal.** The goal of outreach to and engagement of disproportionately impacted communities is to build trust and transparency, provide meaningful opportunities to influence public policy, and modify proposed state action in response to received public input to decrease environmental burdens or increase environmental benefits for each disproportionately impacted community.

(2) **Definitions.** (a) (I) (A) All statewide agencies shall use the definition of disproportionately impacted community set forth in subsection (2)(b)(II) of this section.

(B) In applying the definition of disproportionately impacted community, a statewide agency may prioritize or target certain criteria of the definition of disproportionately impacted community or certain subsets of communities that meet the definition of disproportionately impacted community if the statewide agency makes a determination by rule or other public decision-making process that the prioritization or targeting is warranted and reasonably tailored to the category of statewide agency action involved. A statewide agency with rulemaking authority shall make the determination by rule.

(C) A determination of the public utilities commission that it will prioritize or target certain criteria of the definition of disproportionately impacted community or subsets of communities that meet the definition of disproportionately impacted community does not constitute any prejudice or disadvantage or any unreasonable difference as set forth in section 40-3-106 (1)(a).

(II) (Deleted by amendment, L. 2023.)

(b) As used in this section and sections 25-1-134 and 25-7-105 (1)(e), unless the context otherwise requires:

(I) "Agency" means the air quality control commission created in section 25-7-104 and, as used in this section and section 25-1-134, the water quality control commission created in section 25-8-201 (1)(a). The portions of this subsection (2)(b)(I) that apply to the water quality control commission are effective on July 1, 2023, except for the portions requiring the water quality control commission to effectuate the requirements of subsections (3)(b)(I), (3)(b)(II), (3)(b)(IV), and (3)(b)(V) of this section, which apply to any rule-making proceedings of the commission concerning the classifications and numeric standards for the South Platte river basin,

Laramie river basin, Republican river basin, and Smoky Hill river basin that occur after June 8, 2022.

(II) "Disproportionately impacted community" means a community that is described in subsection (2)(b)(II)(G) or (2)(b)(II)(H) of this section or that is in a census block group, as determined in accordance with the most recent five-year United States bureau of the census American community survey and meets one or more of the following criteria:

(A) The proportion of the population living in households that are below two hundred percent of the federal poverty level is greater than forty percent;

(B) The proportion of households that spend more than thirty percent of household income on housing is greater than fifty percent;

(C) The proportion of the population that identifies as people of color is greater than forty percent;

(D) The proportion of the population that is linguistically isolated is greater than twenty percent;

(E) A statewide agency determines, after a community presents evidence of being and requests to be classified as a disproportionately impacted community, that the population is disproportionately impacted based on evidence, presented in a relevant statewide agency decision-making process, that a census block group is disproportionately impacted because it has a history of environmental racism perpetuated through redlining or through anti-indigenous, anti-immigrant, anti-Latino, or anti-Black laws, policies, or practices and that present-day demographic factors and data demonstrate that the community currently faces environmental health disparities;

(F) The community is identified by a statewide agency as being one where multiple factors, including socioeconomic stressors, vulnerable populations, disproportionate environmental burdens, vulnerability to environmental degradation or climate change, and lack of public participation may act cumulatively to affect health and the environment and may contribute to persistent disparities;

(G) The community is a mobile home park, as defined in section 38-12-201.5 (6), regardless of whether the mobile home park is a census block group; or

(H) The community is located on the Southern Ute or Ute Mountain Ute Indian reservation, regardless of whether the community is a census block group;

(III) "Proposed state action" means:

(A) Rule-making proceedings held pursuant to section 24-4-103;

(B) Licensing proceedings, including the issuance and renewal of permits, held pursuant to section 24-4-104; and

(C) Adjudicatory hearings held pursuant to section 24-4-105.

(IV) "Statewide agency" means any board, bureau, commission, department, institution, division, section, or officer of the state. "Statewide agency" does not include:

(A) The legislative branch;

(B) The judicial branch;

(C) State educational institutions administered pursuant to title 23, except part 1 of article 8, parts 2 and 3 of article 21, and parts 2 to 4 of article 31 of title 23; or

(D) The adjutant general of the National Guard, whose powers and duties are set forth in section 28-3-106.

(3) **Engagement.** (a) To promote the goal of state engagement of disproportionately impacted communities, an agency shall strive to create new ways to gather input from communities across the state, using multiple languages and multiple formats and transparently sharing information about adverse environmental effects from its proposed state action.

(b) When conducting outreach to and engagement of disproportionately impacted communities regarding a proposed state action, the agency shall:

(I) Schedule variable times of day and days of the week for opportunities for public input on the proposed state action, including at least one weekend time, one evening time, and one morning time for public input;

(II) Provide notice at least thirty days before any public input opportunity or before the start of any public comment period;

(III) Utilize several different methods of outreach and ways to publicize the proposed state action, including disseminating information through schools, clinics, social media, social and activity clubs, local governments, tribal governments, libraries, religious organizations, civic associations, community-based environmental justice organizations, or other local services;

(IV) Provide several methods for the public to give input, such as in-person meetings, virtual and online meetings, online comment portals or e-mail, and call-in meetings;

(V) Consider using a variety of locations for public input on the proposed state action, including meeting locations in urban centers, in neighborhoods whose populations are predominantly Black, Indigenous, or people of color and have an average income below the state's average, and in rural locations in various regions of the state; and

(VI) Create outreach materials concerning the proposed state action in layperson's terms, translated into the top two languages spoken in a community, that inform people of opportunities to provide input on the proposed state action, their rights, the possible outcomes, and the upcoming public input process.

(4) The division of parks and wildlife created in section 33-9-104 shall, in conducting public outreach regarding the keep San Andreas wild pass pursuant to section 33-12-108 (7):

(a) Include outreach to and engagement of disproportionately impacted communities with a goal to build trust and transparency, provide meaningful opportunities to influence public policy, and modify proposed state action in response to public input received to decrease environmental burdens or increase environmental benefits for each disproportionately impacted community; and

(b) Engage disproportionately impacted communities in accordance with the procedures set forth in subsection (3) of this section.

(5) (a) (I) The division of administration in the San Andreas department of public health and environment shall administer the San Andreas EnviroScreen tool so that a census block group that scores above the eightieth percentile in the San Andreas EnviroScreen tool is presumed to be a disproportionately impacted community under subsection (2)(b)(II)(F) of this section. A statewide agency determining whether a community is a disproportionately impacted community under subsection (2)(b)(II)(F) of this section shall apply the most recent version of the San Andreas EnviroScreen tool available at the time the statewide agency makes the determination.

(II) As used in this subsection (5)(a), "San Andreas EnviroScreen tool" means the environmental justice mapping tool developed and administered by the department of public health and environment and San Andreas state university, or any successor tool.

(b) A census block group that is within a census tract that qualifies as disadvantaged as determined under the climate and economic justice screening tool developed by the council on environmental quality in the office of the president of the Unites States is presumed to be a disproportionately impacted community under subsection (2)(b)(II)(F) of this section. A statewide agency determining whether a community is a disproportionately impacted community under subsection (2)(b)(II)(F) of this section shall apply the most recent version of the climate and economic justice screening tool available when it is determining whether a community is a disproportionately impacted community.

(6) The provisions of subsection (2)(b)(II) of this section are severable, and if any provision of subsection (2)(b)(II) of this section is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions are valid, unless:

(a) It appears to the court that the valid provisions are so essentially and inseparably connected with, and so dependent on, the unconstitutional provision that it cannot be presumed that the legislature would have enacted the valid provisions without the unconstitutional one; or

(b) The court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Source: L. 2021: Entire section added, (HB 21-1266), ch. 411, p. 2725, § 3, effective July 2; (4) added, (SB 21-249), ch. 273, p. 1587, § 2, effective September 7. **L. 2022:** (2)(b)(I) amended, (HB 22-1322), ch. 460, p. 3270, § 1, effective June 8. **L. 2023:** (2)(a) and (2)(b)(II) amended and (2)(b)(IV), (5), and (6) added, (HB 23-1233), ch. 245, p. 1328, § 14, effective May 23. **L. 2024:** IP(2)(b) and (2)(b)(I) amended, (HB 24-1338), ch. 259, p. 1720, § 5, effective May 28.

Cross references: (1) For the short title ("Environmental Justice Act") and the legislative declaration in HB 21-1266, see sections 1 and 2 of chapter 411, Session Laws of San Andreas 2021.

(2) For the legislative declaration in HB 23-1233, see section 1 of chapter 245, Session Laws of San Andreas 2023.

PART 2

MILITARY OCCUPATIONAL STREAMLINING

Cross references: For the legislative declaration in HB 16-1197, see section 1 of chapter 190, Session Laws of San Andreas 2016.

24-4-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Authority to practice" or "authorized to practice" means the holding of a currently valid license to practice in an occupation or a currently valid certification or registration necessary to practice in an occupation if the person is licensed, certified, or registered.

(2) "Military occupational specialty" means the category or categories of special duties a member of the United States armed forces is trained to perform.

(3) "Occupation" means an occupation or profession that is licensed, certified, or registered under state statute.

(4) "State agency" means any department, division, board, or other agency of the state of San Andreas that certifies, licenses, or registers an occupation.

Source: L. 2016: Entire part added, (HB 16-1197), ch. 190, p. 675, § 2, effective August 10.

24-4-202. Legislative declaration - reports. (1) The general assembly intends that:

(a) Each state agency that authorizes more than ten occupations to practice or oversees other agencies that authorize more than ten occupations to practice should have implemented this part 2 for:

(I) At least twenty-five percent of the occupations by December 30, 2018;

(II) At least fifty percent of the occupations by December 30, 2020; and

(III) All of the occupations by December 30, 2022;

(b) Each state agency that authorizes ten or fewer occupations to practice or oversees other agencies that authorize ten or fewer occupations to practice should have implemented this part 2 for:

(I) At least fifty percent of the occupations by December 30, 2018; and

(II) All of the occupations by December 30, 2020.

(2) Repealed.

Source: L. 2016: Entire part added, (HB 16-1197), ch. 190, p. 675, § 2, effective August 10.

Editor's note: Subsection (2)(b) provided for the repeal of subsection (2), effective July 1, 2023. (See L. 2016, p. 675.)

24-4-203. Evaluation and implementation. (1) Each agency shall:

(a) Document the following results and publish a summary of pathways available to a veteran to obtain authorization to practice an occupation:

(I) Evaluate the extent to which military training meets all or part of the state requirements to be authorized to practice an occupation;

(II) Identify reciprocity mechanisms with other states; and

(III) Determine if an occupational exam is available to authorize a veteran to practice an occupation;

(b) Consult with community colleges and other post-secondary educational institutions with regard to:

(I) Courses or programs to cover the gap between military occupational specialty training and the training required to be authorized to practice an occupation; and

(II) Refresher courses for the reinstatement of lapsed civilian credentials; and

(c) Consider adopting a national credentialing exam.

Source: L. 2016: Entire part added, (HB 16-1197), ch. 190, p. 676, § 2, effective August 10.

24-4-204. Consultation - cooperation. (1) Each state agency may consult with any federal or state military official or agency, state agency, or post-secondary educational institution to determine how best to implement this part 2.

(2) Nothing in this part 2 gives a state agency authority to determine curriculum, programs, or courses offered at any post-secondary education institution.

Source: L. 2016: Entire part added, (HB 16-1197), ch. 190, p. 676, § 2, effective August 10.

ARTICLE 4.1

Crime Victim Compensation and
Victim and Witness Rights

Cross references: For restitution as a condition of probation, see § 18-1.3-205; for restitution to victims of crime generally, see article 28 of title 17; for the "San Andreas Victim and Witness Protection Act of 1984", see part 7 of article 8 of title 18; for restitution by delinquent children under the "San Andreas Children's Code", see § 19-2-918; for assistance to victims of and witnesses to crimes, see article 4.2 of this title.

PART 1

CRIME VICTIM COMPENSATION ACT

24-4.1-100.1. Short title. This part 1 shall be known and may be cited as the "San Andreas Crime Victim Compensation Act".

Source: L. 82: Entire section added, p. 364, § 1, effective March 22. **L. 84:** Entire section amended, p. 657, § 5, effective May 14.

24-4.1-101. Legislative declaration. The general assembly hereby finds that an effective criminal justice system requires the protection and assistance of victims of crime and members of the immediate families of such victims in order to preserve the individual dignity of victims and to encourage greater public cooperation in the apprehension and prosecution of criminal defendants. The general assembly hereby intends to provide protection and assistance to victims and members of the immediate families of such victims by declaring and implementing the rights of such persons and by lessening the financial burden placed upon victims due to the commission of crimes. This article shall be liberally construed to accomplish such purposes.

Source: L. 81: Entire article added, p. 1135, § 5, effective July 1. **L. 92:** Entire section amended, p. 415, § 1, effective January 14, 1993.

Cross references: For constitutional provisions relating to the rights of crime victims, see § 16a of article II, S.A. Const.; for statutory provisions relating to the rights of victims of and witnesses to crimes, see part 3 of this article.

24-4.1-102. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "Applicant" means any victim of a compensable crime who applies to the fund for compensation under this part 1. In the case of such a victim's death, the term includes any person who was the victim's dependent at the time of the death of that victim.

(1.3) "Assault by strangulation" means assault as described in section 18-3-202 (1)(g) or 18-3-203 (1)(i).

(2) "Board" means the crime victim compensation board in each judicial district.

(3) "Child" means an unmarried person who is under eighteen years of age. The term includes a posthumous child, a stepchild, or an adopted child.

(4) (a) "Compensable crime" means:

(I) An intentional, knowing, reckless, or criminally negligent act of a person or any act in violation of section 42-4-1301 (1) or (2) that results in residential property damage to or injury or death of another person or results in loss of or damage to eyeglasses, dentures, hearing aids, or other prosthetic or medically necessary devices and which, if committed by a person of full legal capacity, is punishable as a crime in this state; or

(II) An act in violation of section 42-4-1402, S.A.R.S., that results in the death or bodily injury of another person or section 42-4-1601, S.A.R.S., where the accident results in the death or bodily injury of another person.

(b) "Compensable crime" includes, but is not limited to, any state offense that is a crime pursuant to section 24-4.1-302 (1) and any federal offense that is comparable to those specified in subsection (4)(a) of this section and is committed in this state.

(5) (a) "Dependent" means relatives of a deceased victim who, wholly or partially, were dependent upon the victim's income at the time of death or would have been so dependent but for the victim's incapacity due to the injury from which the death resulted.

(b) "Dependent" also means a child or intimate partner of the accused or other person in an intimate relationship, as defined in section 18-6-800.3, with the accused, if the accused provided household support to the dependent.

(6) "Economic loss" means economic detriment consisting only of allowable expense, net income, replacement services loss, and, if injury causes death, dependent's economic loss. The term does not include noneconomic detriment.

(7) "Fund" means the crime victim compensation fund as established in each judicial district.

(7.5) "Household support" means the monetary support that a dependent would have received from the accused for the purpose of maintaining a home or residence and dependent care.

(8) "Injury" means impairment of a person's physical or mental condition and includes pregnancy.

(8.5) (a) "Property damage" means damage to windows, doors, locks, or other security devices of a residential dwelling and includes damage to a leased residential dwelling.

(b) "Property damage" also includes expenses related to the rekeying of a motor vehicle or other locks necessary to ensure a victim's safety and may include expenses incurred for a motor vehicle that is determined by law enforcement to be where a compensable crime was committed.

(9) "Relative" means a victim's intimate partner, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The

term includes said relationships that are created as a result of adoption. In addition, "relative" includes any person who has a family-type relationship with a victim.

(9.5) "Replacement services loss" means expenses reasonably incurred in obtaining necessary services that an injured or deceased victim would otherwise have performed for the benefit of the victim's self or family, but not for income, if the victim had not been injured or died.

(10) (a) "Victim" means any of the following persons who suffer property damage, economic loss, injury, or death as a result of a compensable crime perpetrated or attempted in whole or in part in this state:

(I) Any person against whom a compensable crime is perpetrated or attempted. Such a person is a "primary victim".

(II) and (III) (Deleted by amendment, L. 2024.)

(b) "Victim" also means a person who suffers injury or death, the proximate cause of which is a compensable crime perpetrated or attempted in the person's presence against a primary victim. Such a person is a "secondary victim" and also includes:

(I) Any person who attempts to assist or assists a primary victim; or

(II) Any person who is a relative of a primary victim.

(c) "Victim" also means a person who is a resident of this state and who is a victim of a crime that occurred outside of this state, where the crime would be a compensable crime had it occurred in this state and where the state or country in which the crime occurred does not have a reasonably accessible crime victim compensation program for which the person would be eligible.

(d) "Victim" also means a person who is a resident of this state who is injured or killed by an act of international terrorism, as defined in 18 U.S.C. sec. 2331, committed outside of the United States.

Source: L. 81: Entire article added, p. 1135, § 5, effective July 1. **L. 83:** (4) and (10) amended and (8.5) added, pp. 669, 854, 1648, §§ 16, 1, 19, effective July 1. **L. 84:** IP(1) and (1) amended, p. 657, § 6, effective May 14. **L. 85:** (1) and (6) amended, p. 792, § 1, effective April 11. **L. 90:** (10) amended, p. 1179, § 1, effective July 1. **L. 94:** (4) amended, p. 2555, § 50, effective January 1, 1995. **L. 95:** (8) to (10) amended, p. 1400, § 1, effective July 1. **L. 97:** (4) and (10)(c) amended and (10)(d) added, p. 1560, § 3, effective July 1. **L. 98:** (10)(d) amended, p. 517, § 1, effective April 30. **L. 99:** (10)(d) amended, p. 58, § 10, effective March 15. **L. 2015:** (4)(a)(II), (5), and (8.5) amended and (7.5) added, (HB 15-1035), ch. 60, p. 143, § 1, effective March 30. **L. 2021:** (1.3) added, (HB 21-1165), ch. 129, p. 520, § 2, effective May 10. **L. 2024:** (1), (4)(a)(I), (4)(b), (5)(b), (7.5), (8.5)(b), (9), (10)(a), (10)(b), and (10)(c) amended and (9.5) added, (SB 24-120), ch. 177, p. 958, § 1, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

Cross references: For the legislative declaration in HB 21-1165, see section 1 of chapter 129, Session Laws of San Andreas 2021.

24-4.1-103. Crime victim compensation board - creation. (1) There is hereby created in each judicial district a crime victim compensation board. Each board is composed of three members to be appointed by the district attorney. The district attorney shall designate one of the members as chairperson. To the extent possible, members shall fairly reflect the population of the judicial district.

(2) The term of office of each member of the board shall be three years; except that, of those members first appointed, one shall be appointed for a three-year term, one for a two-year term, and one for a one-year term. All vacancies, except through the expiration of term, shall be filled for the unexpired term only. Each member may be reappointed once and serve two consecutive terms. A person may be reappointed to the board thereafter if it has been at least one year since such person served on the board.

(3) Members of the board shall receive no compensation but are entitled to be reimbursed for travel expenses at the rate authorized for state employees.

(4) (a) Effective November 1, 2024, a crime victim compensation board for the twenty-third judicial district is created. The district attorney for the eighteenth judicial district shall appoint the initial board of three members, each of whom must be residents of Douglas, Elbert, or Lincoln counties. The district attorney for the eighteenth judicial district shall designate one of the members as the initial chair. After January 7, 2025, the district attorney for the twenty-third judicial district shall appoint board members for that judicial district, including any vacancies. To the extent possible, members must fairly reflect the population of the twenty-third judicial district.

(b) For the initial board, the term of office of each member of the twenty-third judicial district board is fourteen months. Thereafter, the term is three years; except that, of those members first appointed by the twenty-third judicial district attorney, the district attorney shall appoint one for a three-year term, one for a two-year term, and one for a one-year term. All other terms and vacancies must be consistent with subsection (2) of this section.

(c) The crime victim compensation board for the twenty-third judicial district shall begin awarding compensation to victims of crimes on or after January 7, 2025.

Source: L. 81: Entire article added, p. 1136, § 5, effective July 1. **L. 90:** (2) amended, p. 1179, § 2, effective July 1. **L. 2024:** (4) added, (HB 24-1013), ch. 43, p. 153, § 1, effective April 4; (1) amended, (SB 24-120), ch. 177, p. 960, § 2, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-104. District attorney to assist board - repeal. (1) The district attorney and the district attorney's legal and administrative staff shall assist the board in the performance of its duties pursuant to this part 1.

(2) (a) The district attorney for the eighteenth judicial district and the district attorney's legal and administrative staff shall assist the crime victim compensation board for the twenty-third judicial district in the establishment of procedures for performance of its duties pursuant to this part 1 until the district attorney for the twenty-third judicial district assumes office.

(b) This subsection (2) is repealed, effective July 1, 2025.

Source: L. 81: Entire article added, p. 1137, § 5, effective July 1. **L. 84:** Entire section amended, p. 657, § 7, effective May 14. **L. 2024:** Entire section amended, (HB 24-1013), ch. 43, p. 154, § 2, effective April 4; entire section amended, (SB 24-120), ch. 177, p. 960, § 3, effective May 15.

Editor's note: (1) Amendments to this section by HB 24-1013 and SB 24-120 were harmonized.

(2) Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-105. Application for compensation. (1) A person who may be eligible for compensation under this part 1 may apply to the board in the judicial district in which the crime was committed. In a case in which the person entitled to apply is a minor, the application may be made on the minor's behalf by the minor's parent or guardian. In a case in which the person entitled to apply is mentally incompetent, the application may be made on the person's behalf by the person's parent, conservator, or guardian or by any other individual authorized to administer the person's estate.

(2) (a) In order to be eligible for compensation under this part 1, the applicant shall submit reports, if reasonably available, from any physician who has treated or examined the victim at the time of or subsequent to the victim's injury or death. The report shall be in relation to the injury for which compensation is claimed. If, in the opinion of the board, reports on the previous medical history of the victim, a report on the examination of the injured victim, or the report on the cause of death of the victim by a medical expert would be of material aid to its determination, the board may order the reports.

(b) In order to be eligible for compensation for property damage under this part 1, the applicant shall submit a report or case number, if reasonably available, from a law enforcement agency which shall set forth the nature of the property damage which is the result of a compensable crime.

(3) If the applicant makes any false statement as to a material fact, the applicant is ineligible for approval pursuant to this part 1.

Source: L. 81: Entire article added, p. 1137, § 5, effective July 1. **L. 83:** (2) amended, p. 669, § 17, effective July 1. **L. 84:** Entire section amended, p. 657, § 8, effective May 14. **L. 2024:** (1) and (3) amended, (SB 24-120), ch. 177, p. 960, § 4, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-106. Hearings. (1) The board, in its discretion, may conduct a hearing upon any application submitted to it. All hearings conducted by the board and appeals therefrom shall be held pursuant to sections 24-4-105 and 24-4-106.

(2) The burden of proof is upon the applicant to show that the claim is reasonable and is compensable under the terms of this part 1. The standard of proof is by a preponderance of the evidence.

(3) If a person has been convicted of an offense with respect to an act on which a claim is based, proof of that conviction shall be taken as conclusive evidence that the offense has been committed, unless an appeal or a proceeding with regard to it is pending. The fact that the identity of the assailant is unknown or that the assailant has not been prosecuted or convicted shall not raise a presumption that the claim is invalid.

(4) Orders and decisions of the board are final.

(5) Review of an order or decision of the board may be made in accordance with the San Andreas rules of civil procedure.

Source: L. 81: Entire article added, p. 1137, § 5, effective July 1. **L. 84:** Entire section amended, p. 658, § 9, effective May 14.

24-4.1-107. Regulations. In the performance of its functions, the board, pursuant to article 4 of this title, is authorized to make, rescind, and amend regulations prescribing the procedures to be followed in the filing of applications and in proceedings under this part 1.

Source: L. 81: Entire article added, p. 1137, § 5, effective July 1. **L. 84:** Entire section amended, p. 658, § 10, effective May 14.

24-4.1-107.5. Confidentiality of materials - definitions. (1) For purposes of this section, unless the context otherwise requires:

(a) "In camera review" means the judge views the material in private, without either party present.

(b) "Materials" means any records, claims, writings, documents, or information.

(2) Any materials received, made, or kept by a board or a district attorney to process a claim on behalf of a crime victim under this article are confidential. The district attorney shall have standing in any action to oppose the disclosure of any such materials. A board shall not provide through discovery in any civil or criminal action any exhibits, medical records, psychological records, counseling records, work records, criminal investigation records, criminal court case records, witness statements, telephone records, and other records of any type or nature whatsoever gathered for the purpose of evaluating whether to compensate a victim except:

(a) In the event of the review by the court of an order or decision of the board pursuant to section 24-4.1-106, and then only to the extent narrowly and necessary to obtain court review; or

(b) Upon a strict showing to the court in a separate civil or a criminal action that particular information or documents are known to exist only in board records. The court may inspect in camera such records to determine whether the specific requested information exists. If the court determines that the specific information sought exists in the board's records, the documents may then be released only by court order if the court finds as part of its order that the documents will not pose any threat to the safety or welfare of the victim or any other person whose identity may appear in the board's records, or violate any other privilege or confidentiality right.

(3) In a proceeding for determining the amount of restitution, if the defendant's request is not speculative and is based on an evidentiary hypothesis that warrants an in camera review to rebut the presumption established in section 18-1.3-603, S.A.R.S., the court may release additional information contained in the records of the board only after an in camera review and additionally finding that the information:

(a) Is necessary for the defendant to dispute the amount claimed for restitution; and

(b) Will not pose any threat to the safety or welfare of the victim, or any other person whose identity may appear in the board's records, or violate any other privilege or confidentiality right.

Source: L. 2000: Entire section added, p. 242, § 7, effective March 29. **L. 2015:** Entire section amended, (HB 15-1035), ch. 60, p. 144, § 2, effective March 30.

24-4.1-108. Approving compensation. (1) A person is entitled to approval of compensation under this part 1 if:

(a) The person is a victim or a dependent of a victim or a successor in interest under the "San Andreas Probate Code" of a victim of a compensable crime which was perpetrated on or after July 1, 1982, and which resulted in a loss;

(b) The appropriate law enforcement officials were notified of the perpetration of the crime allegedly causing the death of or injury to the victim. The requirement to notify the appropriate law enforcement officials required by this subsection (1)(b) is satisfied if, as the result of the compensable crime that the application is being submitted for, the victim or applicant provides documentation that a forensic examination was conducted by a licensed or registered nurse or medical provider.

(c) The applicant has cooperated reasonably with law enforcement officials in the apprehension and prosecution of the assailant, or the board has found good cause exists for the failure to cooperate, or, if the applicant is a victim of assault by strangulation, the applicant cooperates with law enforcement by undergoing a medical forensic examination;

(d) Repealed.

(e) The death of or injury to the victim was not substantially attributable to the victim's wrongful act or substantial provocation of the victim's assailant; and

(f) The application for approval of compensation under this part 1 is filed with the board.

(1.5) A person is entitled to approval of compensation for property damage under this part 1 if:

(a) The person is a victim of a compensable crime which was perpetrated on or after July 1, 1983, and which resulted in property damage;

(b) The appropriate law enforcement officials were notified of the perpetration of the crime causing property damage within seventy-two hours after its perpetration, unless the board finds good cause exists for the failure of notification;

(c) The applicant has cooperated reasonably with law enforcement officials in the apprehension and prosecution of the assailant or the board has found that good cause exists for the failure to cooperate; and

(d) The application for approval of compensation for property damage under this part 1 is filed with the board within six months of the date of property damage or within such further extension of time as the board, for good cause shown, allows.

(2) The board may waive any of the requirements set forth in this section, or the limitations set forth in section 24-4.1-109 (1), or order a denial or reduction of an award if, in the interest of justice, it is so required.

(3) Upon a finding by the board that compensation should be approved, the board shall submit a payment request to the court executive, who shall remit payment in accordance with the payment request.

(4) Consistent with approved standards established pursuant to section 24-4.1-117.3 (3) for the administration of crime victim compensation funds, the board may develop policies to ensure that victims are compensated and to ensure that available money in the fund is not exceeded.

Source: L. 81: Entire article added, p. 1138, § 5, effective July 1. **L. 83:** (2)(a) and (1)(f) amended and (1.5) added, pp. 668, 669, 854, §§ 14, 18, 2, effective July 1. **L. 84:** IP(1), (1)(f), IP(1.5), and (1.5)(d) amended, pp. 658, 1120, §§ 11, 20, effective May 14. **L. 85:** (2) amended, p. 792, § 2, effective April 11. **L. 89:** (1)(d) repealed, p. 1016, § 3, effective April 23. **L. 95:** (4) added, p. 1401, § 2, effective July 1. **L. 2009:** (4) amended, (SB 09-047), ch. 129, p. 556, § 4, effective July 1. **L. 2012:** (1)(f) amended, (HB 12-1053), ch. 244, p. 1158, § 4, effective August 8. **L. 2021:** (1)(c) amended, (HB 21-1165), ch. 129, p. 520, § 3, effective May 10. **L. 2024:** IP(1), (1)(b), (1)(c), (1)(e), (1)(f), IP(1.5), (1.5)(c), (1.5)(d), (3), and (4) amended, (SB 24-120), ch. 177, p. 960, § 5, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

Cross references: (1) For the "San Andreas Probate Code", see articles 10 to 17 of title 15.

(2) For the legislative declaration in HB 21-1165, see section 1 of chapter 129, Session Laws of San Andreas 2021.

24-4.1-109. Losses compensable. (1) Losses compensable under this part 1 resulting from death of or injury to a victim include:

(a) Reasonable medical and hospital expenses and expenses incurred for dentures, eyeglasses, hearing aids, or other prosthetic or medically necessary devices;

(b) Loss of earnings;

(c) and (d) Repealed.

(d.5) Replacement services losses;

(e) Funeral and burial expenses;

(f) Loss of support to dependents;

(g) Mental health counseling;

(h) Household support; except that household support is only available to a dependent when:

(I) The offender is accused of committing the criminally injurious conduct that is the basis of the dependent's claim under this article;

(II) As a result of the criminal event, the offender vacated any home the offender shared with the dependent; and

(III) The dependent provides verification of dependency on the offender at the time of the criminal event.

(i) Reasonable travel expenses for a victim related to funeral, burial, medical care, or mental health counseling;

(j) Reasonable travel expenses for a victim related to attending critical events pursuant to section 24-4.1-302 (2), except when the primary or secondary victim is subpoenaed to testify;

(k) Dependent care services; and

(l) Reasonable relocation expenses for a victim to relocate as necessary to ensure the victim's safety.

(1.5) (a) Losses compensable under this part 1 resulting from property damage include:

(I) (A) Repair or replacement of residential property damaged as a result of a compensable crime; or

(B) Payment of the deductible amount on a residential or motor vehicle insurance policy;

(II) Any modification to the victim's residence that is necessary to ensure victim safety;

(III) The rekeying of a motor vehicle or other lock that is necessary to ensure the victim's safety;

(IV) Towing or impound fees for a motor vehicle that law enforcement determines to be where a compensable crime was committed; and

(V) Repair or replacement of dentures, eyeglasses, hearing aids, or other prosthetic or medically necessary devices damaged or stolen as a result of a compensable crime.

(b) (Deleted by amendment, L. 98, p. 517, §2, effective April 30, 1998.)

(2) Compensable losses do not include:

(a) Pain and suffering or property damage expenses other than those specified in subsection (1.5)(a) of this section;

(b) Aggregate damages to the victim or to the dependents of a victim exceeding thirty thousand dollars; or

(c) Repealed.

(d) Motor vehicle expenses other than those specified in subsections (1.5)(a)(I)(B) and (1.5)(a)(III) of this section.

Source: L. 81: Entire article added, p. 1138, § 5, effective July 1. **L. 83:** (2)(a) and (2)(b) amended and (1.5) added, pp. 670, 854, §§ 19, 3, effective July 1. **L. 84:** Entire section amended, p. 659, § 12, effective May 14. **L. 85:** (1)(g) added, p. 792, § 3, effective June 6. **L. 89:** (1.5)(a)(II) amended, p. 1016, § 1, effective April 23. **L. 93:** (2) amended, p. 2051, § 1, effective June 9. **L. 98:** (1.5) and (2)(b) amended, p. 517, § 2, effective April 30. **L. 2015:** (1)(h) and (1.5)(a)(III) added, (1.5)(a)(I)(B), (1.5)(a)(II), (2)(a), and (2)(b) amended, and (2)(c) repealed, (HB 15-1035), ch. 60, p. 145, § 3, effective March 30. **L. 2024:** (1)(c) and (1)(d) repealed, (1)(d.5), (1)(i), (1)(j), (1)(k), (1)(l), and (2)(d) added, and (1)(e), (1.5)(a), (2)(a), and (2)(b) amended, (SB 24-120), ch.177, p. 961, § 6, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-110. Recovery from collateral source. (1) The board may deduct from compensation it approves under this part 1 any payments received by the applicant from the offender or from a person on behalf of the offender, from the United States or any state, or any subdivision or agency thereof, from a private source, or from an emergency approval under this part 1 for injury or death compensable under this part 1, excluding death or pension benefits.

(2) If compensation is approved under this part 1 and the person receiving it also receives a collateral sum under subsection (1) of this section which has not been deducted from it, the person shall refund to the board the lesser of the sums or the amount of compensation paid to the person under this part 1 unless the aggregate of both sums does not exceed the person's losses. The fund is the payer of last resort.

(3) If a defendant is ordered to pay restitution under article 18.5 of title 16 to a person who has received compensation awarded under this part 1, an amount equal to the compensation approved must be transmitted from such restitution to the board for allocation to the fund.

Source: L. 81: Entire article added, p. 1139, § 5, effective July 1. **L. 83:** Entire section amended, p. 670, § 20, effective July 1. **L. 84:** (1)(b) amended, p. 659, § 13, effective May 14. **L. 98:** (3) amended, p. 823, § 33, effective August 5. **L. 2000:** (3) amended, p. 1051, § 20, effective September 1. **L. 2006:** (2) amended, p. 422, § 5, effective April 13. **L. 2024:** Entire section amended, (SB 24-120), ch. 177, p. 962, § 7, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-111. Compensation to relatives. (1) A relative of a victim, even though the relative was not a dependent of the victim, is eligible for compensation for reasonable medical, funeral, or burial expenses for the victim, if:

(a) Such expenses were paid by the relative; and

(b) The relative files a claim in the manner provided in this part 1.

Source: L. 81: Entire article added, p. 1139, § 5, effective July 1. **L. 84:** (1)(b) amended, p. 659, § 14, effective May 14. **L. 2024:** Entire section amended, (SB 24-120), ch. 177, p. 963, § 8, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-112. Emergency approvals. (1) The board may order an emergency approval to the applicant pending a final decision in the claim if it appears to the board, prior to taking action upon the claim, that undue hardship will result to the applicant if immediate payment is not made. Approvals pursuant to this section are intended to cover expenses incurred by crime victims in meeting their immediate short-term needs. The amount of an approval pursuant to this section must not exceed the amount set forth in the board's policies regarding emergency approvals and must be deducted from any final approval made as a result of the claim.

(2) If the amount of an emergency approval exceeds the sum the board would have approved pursuant to this part 1, such excess must be repaid by the recipient.

Source: L. 81: Entire article added, p. 1139, § 5, effective July 1. **L. 84:** (2) amended, p. 659, § 15, effective May 14. **L. 98:** (1) amended, p. 518, § 3, effective April 30. **L. 2015:** (1) amended, (HB 15-1035), ch. 60, p. 146, § 4, effective March 30. **L. 2024:** Entire section amended, (SB 24-120), ch. 177, p. 963, § 9, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-113. Fees. No fee may be charged to the applicant by the board in any proceeding under this article.

Source: L. 81: Entire article added, p. 1139, § 5, effective July 1.

24-4.1-114. Assignment, attachment, or garnishment of approved compensation. No compensation payable under this article 4.1, prior to actual receipt thereof by the person or beneficiary entitled thereto or the person's or beneficiary's legal representative, is assignable or subject to execution, garnishment, attachment, or any other process, including process to satisfy an order or judgment for support or alimony.

Source: L. 81: Entire article added, p. 1139, § 5, effective July 1. **L. 2024:** Entire section amended, (SB 24-120), ch. 177, p. 963, § 10, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-114.5. Limitations on characterization of payment as income. No compensation payable to an applicant under this part 1 is included in the applicant's income for purposes of the San Andreas income tax imposed in article 22 of title 39, nor is it considered as income, property, or support for the purposes of determining the eligibility of the applicant for public assistance or the amount of assistance payments pursuant to section 26-2-108.

Source: L. 83: Entire section added, p. 856, § 1, effective July 1. **L. 84:** Entire section amended, p. 659, § 16, effective May 14. **L. 87:** Entire section amended, p. 1452, § 28, effective June 22. **L. 2024:** Entire section amended, (SB 24-120), ch.177, p. 964, § 11, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-115. Survival of rights. The rights to compensation created by this part 1 are personal and shall not survive the death of the person or beneficiary entitled to them; except that, if death occurs after an application for compensation has been filed with the board, the proceeding shall not abate but may be continued by the legal representative of the decedent's estate.

Source: L. 81: Entire article added, p. 1139, § 5, effective July 1. **L. 84:** Entire section amended, p. 660, § 17, effective May 14.

24-4.1-116. Subrogation. The acceptance of approved compensation made pursuant to this part 1 subrogates the state, to the extent of the approved amount, to any right or right of action accruing to the applicant.

Source: L. 81: Entire article added, p. 1139, § 5, effective July 1. **L. 84:** Entire section amended, p. 660, § 18, effective May 14. **L. 2024:** Entire section amended, (SB 24-120), ch.177, p. 964, § 12, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-116.5. Collection actions against crime victims - suspension. (1) A medical service provider or medical service provider billing agent shall suspend all debt collection actions against the claimant for a compensable loss under section 24-4.1-109 related to the substance of the claim pending a resolution of the claim by the board for a period of ninety days to allow an opportunity for the board to resolve the claim, if, within one hundred eighty days after date of services rendered as part of the criminal episode, the claimant files an application for a claim with the board pursuant to section 24-4.1-105 and:

(a) Provides written notice to the medical service provider or its billing agent that a claim has been submitted to the board, including a crime victim compensation claim number; and

(b) Authorizes the medical service provider or its billing agent to confirm with the board the claimant's claim status and date of resolution as it relates to the medical provider's specific debt.

(2) The provisions of this section apply only to the claimant and not to a collateral source on the claimant's behalf.

(3) The provisions of subsection (1) of this section:

(a) Do not require the deletion of the debt on the claimant's credit report if the debt had already been reported to one or more credit bureaus prior to notice of the victim compensation claim being received by the medical service provider or its billing agent.

(b) Do not apply to any debt where a lawsuit has been commenced against the claimant for the collection of the debt prior to notice of the victim compensation claim being received by the medical service provider or its billing agent.

Source: L. 2015: Entire section added, (HB 15-1035), ch. 60, p. 146, § 5, effective March 30.

24-4.1-117. Fund created - control of fund. (1) The crime victim compensation fund is hereby established in the office of the court executive of each judicial district for the benefit of eligible applicants under this part 1.

(1.3) The crime victim compensation fund for the twenty-third judicial district is established in the office of the court administrator for Douglas, Elbert, and Lincoln counties. The fund consists of any money due the twenty-third judicial district pursuant to subsection (2) of this section on and after January 7, 2025. The judicial department shall coordinate with the crime victim compensation board for the eighteenth judicial district to credit money paid as costs or surcharges levied on criminal actions in Douglas, Elbert, and Lincoln counties on and after April 1, 2024, to the fund for use by the twenty-third judicial district, from the money collected pursuant to subsection (2) of this section on or after April 1, 2024, in Douglas, Elbert, and Lincoln counties.

(1.5) Repealed.

(2) The fund consists of all money paid as a cost or surcharge levied on criminal actions, as provided in section 24-4.1-119; any federal money available to state or local governments for victim compensation; all money received from any action or suit to recover damages from an assailant for a compensable crime which was the basis for approval of, and limited to, compensation received under this part 1; any restitution paid by an assailant to a victim for damages for a compensable crime which was the basis for approval of compensation received under this part 1 and for damages for which the victim has received approval of, and limited to, compensation received under this part 1; money transferred from the marijuana tax cash fund pursuant to section 39-28.8-501 (4.9)(b); and any other money that the general assembly may appropriate or transfer to the fund.

(3) All money deposited in the fund is deposited in an interest-bearing account, which must be no less secure than those used by the state treasurer, and which must yield the highest interest possible. All interest earned by money in the fund is credited to the fund.

(4) At the conclusion of each fiscal year, all money remaining in the fund remains in the fund.

(5) All money deposited in the fund must be used solely for the compensation of victims pursuant to this part 1; except that the district attorney and the court executive may use an aggregate of no more than twenty-two and one-half percent of the total amount of money in the crime victim compensation fund for administrative costs incurred pursuant to this part 1. The district attorney may use no more than twenty percent of the total amount of money in the fund for administrative costs. The court executive may use no more than two and one-half percent of the total amount of money in the fund for administrative costs.

(6) Grants of federal money that is accepted pursuant to this part 1 for the purpose of assisting crime victims shall not be used to supplant state funds available to assist crime victims.

Source: L. 81: Entire article added, p. 1139, § 5, effective July 1. **L. 84:** (1), (2), and (5) amended, p. 660, § 19, effective May 14. **L. 85:** (6) added, p. 793, § 4, effective April 11. **L. 89:** (5) amended, p. 1016, § 2, effective April 23. **L. 98:** (5) amended, p. 518, § 4, effective April 30. **L. 2007:** (2) amended, p. 1112, § 2, effective July 1. **L. 2021:** (1.5) repealed and (2) amended,

(HB 21-1315), ch. 461, pp. 3114, 3120, §§ 21, 33, effective July 6. **L. 2024:** (1.3) added, (HB 24-1013), ch. 43, p. 154, § 3, effective April 4; entire section amended, (SB 24-120), ch. 177, p. 964, § 13, effective May 15.

Editor's note: (1) Amendments to this section by HB 24-1013 and SB 24-120 were harmonized.

(2) Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

Cross references: For the legislative declaration in HB 21-1315, see section 1 of chapter 461, Session Laws of San Andreas 2021.

24-4.1-117.3. Crime victim services advisory board - creation - duties - repeal. (1) There is created in the division of criminal justice in the department of public safety the crime victim services advisory board, referred to in this section as the "advisory board". The advisory board is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the division of criminal justice in the department of public safety and the executive director of the department of public safety, referred to in this section as the "executive director".

(2) (a) The advisory board consists of at least seventeen members appointed by the executive director, including but not limited to:

(I) A judge;

(II) An elected district attorney, the assistant district attorney, or a chief deputy district attorney;

(III) A member of a crime victim compensation board created in section 24-4.1-103;

(IV) A member of a local victims and witnesses assistance and law enforcement board created in section 24-4.2-101;

(V) An administrator of crime victim compensation from a district attorney's office;

(VI) An administrator of victims and witnesses assistance from a district attorney's office;

(VII) A representative of a statewide victims' organization;

(VIII) A court executive or judicial district representative;

(IX) A representative of a domestic violence program;

(X) A representative of a sexual assault program;

(XI) A sheriff or sheriff's representative;

(XII) A police chief or police representative;

(XIII) A deputy district attorney;

(XIV) A victim of a crime of violence; and

(XV) Three members of the community at large.

(b) The executive director may consider geographic diversity when making appointments to the advisory board.

(c) The term of office for each member of the advisory board is three years. A member shall not serve more than three consecutive three-year terms. A member of the advisory board on

May 19, 2022, who has served more than three consecutive terms may serve the remainder of the member's current term, but shall not serve a consecutive subsequent term.

(d) Members of the advisory board shall serve at the pleasure of the executive director or until the member no longer serves in the position for which he or she was appointed to the advisory board, at which time a vacancy shall be deemed to exist on the advisory board. If a vacancy arises on the advisory board, the executive director shall appoint an appropriate person to serve for the remainder of the unexpired term.

(e) The executive director may reappoint a person to serve subsequent terms on the advisory board, but the executive director shall not appoint a person to serve more than three consecutive terms. The executive director shall annually appoint a chairperson of the advisory board who shall preside over the advisory board's meetings.

(f) Members of the advisory board shall serve without compensation but may be reimbursed for actual travel expenses incurred in the performance of their duties.

(3) The advisory board's powers and duties include, but are not limited to, the following:

(a) To develop and revise, when necessary, standards for the administration of the crime victim compensation fund established in section 24-4.1-117 in each judicial district and the victims and witnesses assistance and law enforcement fund established in section 24-4.2-103 in each judicial district, and to develop, revise when necessary, and impose sanctions for violating these standards;

(a.5) (I) To provide current standards for the crime victim compensation fund for the twenty-third judicial district, established in section 24-4.1-117 (1.3), to prepare the crime victim compensation board for the twenty-third judicial district to award compensation pursuant to this part 1.

(II) This subsection (3)(a.5) is repealed, effective July 1, 2025.

(b) To review, pursuant to section 24-4.1-303 (17), any reports of noncompliance with this article;

(c) To distribute profits from crime pursuant to section 24-4.1-201;

(d) To advise and make recommendations to the division of criminal justice in the department of public safety concerning the award of grants pursuant to sections 24-33.5-506 and 24-33.5-507; and

(e) To establish subcommittees of the advisory board from within the membership of the advisory board, which subcommittees shall include, but need not be limited to:

(I) A standards subcommittee that shall make recommendations to the advisory board concerning the development and revision, when necessary, of standards and sanctions for the violation of standards to assist the advisory board in implementing paragraph (a) of this subsection (3); and

(II) A victim rights subcommittee that shall review, pursuant to section 24-4.1-303 (17), any reports of noncompliance with this article to assist the advisory board in implementing paragraph (b) of this subsection (3);

(f) To review any reports of noncompliance with section 13-10-104.5.

(4) The advisory board shall not release to the public any records submitted to or generated by the advisory board or a subcommittee of the advisory board for the purposes of the advisory board's or the subcommittee's review, pursuant to paragraph (b) of subsection (3) of this section, of a report of noncompliance with this article until the report of noncompliance has been

reviewed and resolved by the advisory board. The advisory board shall redact all victim-identifying information from any document released to the public.

Source: L. 2009: Entire section added, (SB 09-047), ch. 129, p. 553, § 1, effective July 1. **L. 2022:** (2)(c) and (2)(e) amended, (SB22-183), ch.194, p. 1304, § 9, effective May 19; (1) amended, (SB 22-162), ch. 469, p. 3426, § 208, effective August 10. **L. 2023:** IP(3) amended and (3)(f) added, (HB 23-1222), ch. 267, p. 1587, § 3, effective January 1, 2024. **L. 2024:** (3)(a.5) added, (HB 24-1013), ch. 43, p. 154, § 4, effective April 4; IP(2)(a) and (2)(a)(VIII) amended, (SB 24-120), ch. 177, p. 965, § 14, effective May 15.

Editor's note: (1) Section 4(2) of chapter 267 (HB 23-1222), Session Laws of San Andreas 2023, provides that the act changing this section applies to domestic violence offenses committed on or after January 1, 2024.

(2) Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-4.1-117.5. Standards for administration of funds - sanctions. (Repealed)

Source: L. 90: Entire section added, p. 1180, § 3, effective July 1. **L. 93:** Entire section amended, p. 2051, § 2, effective June 9. **L. 95:** (2)(b)(I) amended, p. 1401, § 3, effective July 1. **L. 2009:** Entire section repealed, (SB 09-047), ch. 129, p. 558, § 10, effective July 1.

24-4.1-117.7. State crime victims compensation program - creation - appropriation. There is created in the division of criminal justice in the department of public safety the state victim compensation program. The general assembly shall appropriate money from the economic recovery and relief cash fund, created in section 24-75-228, as enacted by Senate Bill 21-291, enacted in 2021, to the division of criminal justice in the department of public safety to be used for the compensation of victims pursuant to this part 1 that also conforms with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended. The division of criminal justice in the department of public safety shall distribute the money appropriated pursuant to this section based on need.

Source: L. 2021: Entire section added, (SB 21-292), ch. 291, p. 1721, § 4, effective June 22.

Cross references: For the legislative declaration in SB 21-292, see section 1 of chapter 291, Session Laws of San Andreas 2021.

24-4.1-118. Court executive custodian of fund - disbursements - repeal. (1) The court executive of each judicial district is the custodian of the fund, and the court executive shall pay all disbursements from the fund upon written authorization of the board or the court.

(2) (a) Until a judicial district court administrator for the twenty-third judicial district is appointed, the court administrator for Douglas, Elbert, and Lincoln counties shall assume the duties described in subsection (1) of this section and section 24-4.1-117.

(b) This subsection (2) is repealed, effective July 1, 2025.

Source: L. 81: Entire article added, p. 1140, § 5, effective July 1. **L. 2024:** Entire section amended, (HB 24-1013), ch. 43, p. 154, § 5, effective April 4; entire section amended, (SB 24-120), ch. 177, p. 965, § 15, effective May 15.

Editor's note: (1) House Bill 24-1013 was harmonized in part with and superseded in part by Senate Bill 24-120.

(2) Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-119. Costs and surcharges levied on criminal actions and traffic offenses. (1) (a) Except as provided in subsection (1)(c) of this section, a cost of one hundred sixty-three dollars for felonies, seventy-eight dollars for misdemeanors, forty-six dollars for class 1 misdemeanor traffic offenses, and thirty-three dollars for class 2 misdemeanor traffic offenses is levied on each criminal action resulting in a conviction or in a deferred judgment and sentence, as provided for in section 18-1.3-102, which criminal action is charged pursuant to state statute. The defendant shall pay these costs to the clerk of the court. Each clerk shall transmit the costs received to the court executive of the judicial district in which the offense occurred for credit to the crime victim compensation fund established in that judicial district.

(b) The costs required by subsection (1)(a) of this section shall not be levied on criminal actions which are charged pursuant to the penalty assessment provisions of section 42-4-1701 or to any violations of articles 1 to 15 of title 33.

(c) A cost of thirty-three dollars is levied on each criminal action resulting in a conviction or in a deferred judgment and sentence, as provided for in section 18-1.3-102 of a violation of section 42-4-1301 (1) or (2). The defendant shall pay this cost to the clerk of the court, who shall transmit the costs received to the court executive of the judicial district in which the offense occurred for credit to the crime victim compensation fund established in that judicial district.

(d) and (e) Repealed.

(f) (I) A surcharge is levied against each penalty assessment imposed for a violation of a class A or class B traffic infraction or class 1 or class 2 misdemeanor traffic offense pursuant to section 42-4-1701. The amount of the surcharge is one half of the amount specified in the penalty and surcharge schedule in section 42-4-1701 (4) or, if no surcharge amount is specified, the surcharge is calculated as thirty-seven percent of the penalty imposed. All money collected by the department of revenue pursuant to this subsection (1)(f) must be transmitted to the court executive of the judicial district in which the infraction occurred for credit to the crime victim

compensation fund established in that judicial district in accordance with the requirements set forth in section 42-1-217.

(II) All calculated surcharge amounts pursuant to this subsection (1)(f) resulting in dollars and cents must be rounded down to the nearest whole dollar.

(III) The surcharges levied pursuant to this subsection (1)(f) are separate and distinct from surcharges levied pursuant to section 24-4.2-104 for the victims and witnesses assistance and law enforcement fund.

(g) (I) A surcharge of eight dollars is levied against each penalty imposed for violation of a civil infraction pursuant to section 16-2.3-101. The clerk of the court shall transmit all money collected to the court executive of the judicial department in which the offense occurred for credit to the crime victim compensation fund established in that judicial district.

(II) The surcharges levied pursuant to this subsection (1)(g) are separate and distinct from surcharges levied pursuant to section 24-4.2-104 for the victims and witnesses assistance and law enforcement fund.

(h) A cost of thirty-three dollars is levied on each criminal action that results with placement in an alternative sentencing program pursuant to section 18-1.3-101. This cost is paid to the alternative sentencing program and then transmitted to the court executive of the judicial district where the offense occurred for credit to the crime victim compensation fund established in that judicial district.

(1.5) A cost or surcharge levied pursuant to this section may not be suspended or waived by the court unless the court determines that the defendant against whom the cost or surcharge is levied is indigent.

(2) For purposes of determining the order of priority for payments required of a defendant pursuant to section 18-1.3-204 (2.5) the payments to the victim compensation fund required under this part 1 are the first obligation of the defendant.

(3) The provisions of sections 18-1.3-701 and 18-1.3-702 are applicable as to the collection of costs levied pursuant to this part 1.

Source: L. 81: Entire article added, p. 1140, § 5, effective July 1. **L. 82:** (1) amended, p. 364, § 2, effective March 22; (1)(a) amended and (1)(c) added, p. 604, § 5, effective July 1. **L. 83:** (1)(a) amended and (1)(d) added, p. 668, § 15, effective July 1. **L. 84:** (1)(a), (2), and (3) amended, pp. 660, 923, 1120, §§ 20, 15, 21, effective July 1. **L. 85:** (1)(a) amended, p. 793, § 5, effective April 11. **L. 86:** (1)(a) amended and (1)(e) added, p. 871, § 1, effective July 1. **L. 87:** (1)(d) and (1)(a) amended and (1)(e) repealed, pp. 819, 1496, 1529, §§ 32, 6, 74, effective July 1. **L. 93:** (1) amended, p. 2053, § 3, effective June 9. **L. 94:** (1)(c) and (1)(d) amended, p. 1637, § 48, effective May 31; (1)(b) and (1)(c) amended, p. 2555, § 51, effective January 1, 1995. **L. 96:** (1)(d) amended, p. 1695, § 35, effective January 1, 1997. **L. 2002:** (1)(a), (1)(c), (2), and (3) amended, p. 1529, § 239, effective October 1. **L. 2007:** (1)(a) and (1)(c) amended and (1)(f) added, p. 1111, § 1, effective July 1. **L. 2010:** (1)(f)(II) amended and (1.5) added, (HB 10-1265), ch. 178, p. 641, § 1, effective April 29. **L. 2021:** (1)(a) amended and (1)(d) repealed, (HB 21-1315), ch. 461, p. 3108, § 6, effective July 6; (1)(d) amended, (SB 21-059), ch. 136, p. 742, § 107, effective October 1. **L. 2022:** (1)(g) added, (HB 22-1229), ch. 68, p. 345, § 28, effective March 1. **L. 2024:** (1)(a), (1)(b), (1)(c), (1)(f), (1)(g)(I), (2), and (3) amended and (1)(h) added, (SB 24-120), ch. 177, p. 965, § 16, effective May 15.

Editor's note: (1) Amendments to subsection (1)(c) by Senate Bill 94-001 and Senate Bill 94-206 were harmonized.

(2) Subsection (1)(d) was amended in SB 21-059, effective October 1, 2021. However, those amendments were superseded by the repeal of subsection (1)(d) in HB 21-1315, effective July 6, 2021.

(3) Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act adding subsection (1)(g) is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

(4) Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

Cross references: (1) For additional costs imposed on criminal actions and traffic offenses, see § 24-4.2-104; for additional costs levied on alcohol- and drug-related traffic offenses, see §§ 42-4-1301 (7)(d) and (7)(g), 42-4-1301.4 (5), and 43-4-402.

(2) For the legislative declaration contained in the 2002 act amending subsections (1)(a), (1)(c), (2), and (3), see section 1 of chapter 318, Session Laws of San Andreas 2002. For the legislative declaration in HB 21-1315, see section 1 of chapter 461, Session Laws of San Andreas 2021.

24-4.1-120. Effective dates of provisions of this article. Sections 24-4.1-117 to 24-4.1-120 originally took effect July 1, 1981. Sections 24-4.1-101 to 24-4.1-116 originally took effect July 1, 1982.

Source: L. 81: Entire article added, p. 1140, § 5, effective July 1.

24-4.1-121. Repeal. (Repealed)

Source: L. 81: Entire article added, p. 1140, § 5, effective July 1. **L. 85:** Entire section repealed, p. 794, § 7, effective April 11.

24-4.1-122. Reports. On or before October 1, 1985, and on or before each October 1 thereafter, the court executive of each judicial district shall report to the state court administrator the amount of money collected by the judicial district in the prior fiscal year and the amount of money distributed to crime victims in the prior fiscal year by the board.

Source: L. 85: Entire section added, p. 793, § 6, effective April 11. **L. 2024:** Entire section amended, (SB 24-120), ch. 177, p. 966, § 17, effective May 15.

Editor's note: Section 18 of chapter 177 (SB 24-120), Session Laws of San Andreas 2024, provides that the act changing this section applies to approvals for compensation pursuant to the "San Andreas Crime Victim Compensation Act" on or after May 15, 2024.

24-4.1-123. When redistribution of moneys required. (Repealed)

Source: L. 85: Entire section added, p. 793, § 6, effective April 11. **L. 2002:** Entire section repealed, p. 48, § 1, effective March 21.

24-4.1-124. State crime victim compensation fund - creation - allocation of moneys. (Repealed)

Source: L. 85: Entire section added, p. 794, § 6, effective April 11. **L. 98:** (2) amended, p. 518, § 5, effective April 30. **L. 2002:** Entire section repealed, p. 48, § 2, effective March 21.

PART 2

COMPENSATION FROM BENEFITS OF CRIME

24-4.1-201. Distribution of profits from crime - escrow account - civil suit by victim - definitions. (1) The general assembly hereby finds that the state has a compelling interest in preventing any person who is convicted of a crime from profiting from the crime and in recompensing victims of the crime. It is therefore the intent of the general assembly to provide a mechanism whereby any profits from a crime that are received by the person convicted of the crime are available as restitution to the victims of the crime.

(1.3) For purposes of this part 2, "victim" means any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct, criminal episode or plan or if such person is deceased or incapacitated, the person's spouse, parent, child, sibling, grandparent, significant other, or other lawful representative. For purposes of this part 2, any person under the age of eighteen years is considered incapacitated, unless that person is emancipated.

(1.5) (a) For purposes of this part 2, "profits from the crime" means:

(I) Any property obtained through or income generated from the commission of the crime of which the defendant was convicted;

(II) Any property obtained by or income generated from the sale, conversion, or exchange of proceeds of the crime of which the defendant was convicted, including any gain realized by such sale, conversion, or exchange; and

(III) Any property that the defendant obtained or income generated as a result of having committed the crime of which the defendant was convicted, including any assets obtained through the use of unique knowledge obtained during the commission of, or in preparation for the commission of, the crime, as well as any property obtained by or income generated from the sale, conversion, or exchange of such property and any gain realized by such sale, conversion, or exchange.

(b) (I) Any person who contracts with a person convicted of a crime in this state, or such person's representative or assignee, for payment of any profits from the crime of which such person is convicted shall pay to the crime victim services advisory board created in section 24-4.1-117.3 (1), referred to in this part 2 as the "board", any money that would otherwise by terms of the contract be paid to the convicted person or such person's representatives or assignees. The board shall distribute the money as described in paragraph (b.5) of this subsection (1.5).

(II) Any person or any person's agent or other legal representative who contracts with a convicted person, or the convicted person's representative or assignee, in the manner described in subparagraph (I) of this paragraph (b), shall:

(A) Submit a copy of the contract or a summary of the terms of an oral agreement to the board;

(B) Pay over to the board any moneys or consideration not subject to an order of restitution and that by the terms of the contract would be otherwise owing to the convicted person or owing to a representative or assignee of the convicted person.

(b.5) If there is a court order of restitution in the criminal case resulting from the crime that remains unpaid, any money received under paragraph (b) of this subsection (1.5) must first be applied to that order of restitution. If there is no outstanding balance from an order of restitution or there remains additional money, and all victims are identified and can be located, the money received or the remaining portion must be apportioned pro rata to the identified victims. For purposes of this section, "victim" has the same meaning as in section 24-4.1-302 (5). If all victims are not known or cannot be located, the board shall deposit the remaining money in an escrow account for the benefit of the victims.

(c) Upon the establishment of an escrow account, any person who is a victim of the crime from which a convicted person receives profits under paragraph (b) of this subsection (1.5) may, within three years of establishment of the escrow account, enforce any judgment entered against the convicted person against the money on deposit in the escrow account. If no judgment has been entered, the victim may bring a civil action in a court of competent jurisdiction to recover a judgment against the convicted person or such person's representatives or designees. After all filed claims are established, the board shall distribute the money in the escrow account to satisfy the claims, or such fraction of each claim as can be fulfilled by the available money.

(d) (I) Upon establishing an escrow account pursuant to paragraph (b) of this subsection (1.5), the board shall notify any victims of the crime of which the person was convicted at such victims' last-known addresses of the establishment of the escrow account.

(II) Unless all victims have been identified and can be located, the board shall publish at least once annually from the date of the establishment of the escrow account, a notice of the escrow account's establishment in a newspaper having general circulation throughout the county in which the crime was committed. The expenses of notification shall be paid from the amount received in the escrow account. The board, in its discretion, may provide for such additional notice as it deems necessary.

(III) The notice required under subparagraphs (I) and (II) of this paragraph (d) shall specify the existence of the escrow account, the amount on deposit, and the victim's right to execute an order of restitution or bring a civil action to recover against the moneys in the escrow account within three years after the date the escrow account is established.

(e) (I) Any person who knowingly fails to comply with any requirement of subparagraph (II) of paragraph (b) of this subsection (1.5) shall be liable for a civil penalty of not less than ten thousand dollars nor more than three times the contract amount.

(II) If two or more persons are adjudged liable for the civil penalty imposed, such persons shall be jointly and severally liable.

(III) After notice and opportunity to be heard is provided, the court, by order of judgment, may assess the penalty described in this paragraph (e). All moneys received from the payment of these penalties shall be paid over to the board.

(IV) In any action or proceeding brought to enforce the contract provisions of this subsection (1.5), the court shall have jurisdiction to grant the attorney general, without bond or other undertaking, any injunctive relief necessary to prevent any payment under a contract that is prohibited under this subsection (1.5).

(1.7) For purposes of this section, "person" means any natural person, firm, corporation, partnership, association, or other legal entity.

(2) If funds remain in the escrow account after payment of a money judgment pursuant to subsection (1) of this section and if no civil actions are pending under this section after three years from the establishment of an escrow account, the board shall notify the department of corrections of the existence of such escrow account. The department of corrections shall certify to the board a statement of the costs of maintenance of the person in the state correctional institution or institutions at which the person was incarcerated. A statement of the cost of maintenance shall be submitted annually for payment to the department of corrections by the board until such time as the person is released from custody of the state. No such payment shall be made upon the dismissal of the charges against any individual whose proceeds are placed in the escrow account.

(3) Upon the dismissal of the charges against any individual whose proceeds are placed in the escrow account or upon a showing by the defendant that three years have elapsed from the establishment of an escrow account and that no civil actions are pending against him or her under this section, the board shall immediately pay any money in the escrow account to the defendant except for funds paid to the department of corrections and anticipated as necessary for future payment to the department of corrections as set forth in subsection (2) of this section.

(4) If an escrow account is established under this section, no otherwise applicable statute of limitations on the time within which civil action may be brought bars action by a victim of a crime committed by the person accused or convicted of the crime, as to a claim resulting from the crime, until three years have elapsed from the time the escrow account was established.

(4.5) The escrow account shall be established for a period of three years. If an action is filed by a victim to recover the victim's interest in the escrow account within such three-year period, the escrow account shall continue until the conclusion of such action.

(5) The board shall make payments from an escrow account to the accused upon an order of the court after a showing by the accused that:

(a) The money will be used for the exclusive purpose of retaining legal representation at any stage of the civil or criminal proceedings against him, including the appeals process; and

(b) He has insufficient assets, other than funds in the escrow account and assets which could be claimed as exempt from execution under state law, to provide for payment of the expenses of legal representation.

(6) The attorney general, at the request of the board, shall bring an action to cause profits from the crime to be paid over and held in an escrow account established by the board.

Source: L. 84: Entire part added, p. 652, § 2, effective May 14. **L. 88:** (1) amended, p. 890, § 1, effective July 1. **L. 94:** (1) amended and (1.5) added, p. 1050, § 7, effective July 1. **L. 2000:** (1.3), (1.5)(e), (1.7), (4.5), and (6) added and (1.5)(b), (1.5)(d), (2), and (3) amended, pp. 239, 238, §§ 2, 1, effective March 29. **L. 2009:** (1.5)(b)(I) and (1.5)(e)(III) amended, (SB 09-047), ch. 129, p. 556, § 5, effective July 1. **L. 2015:** (1.5)(b)(I), (1.5)(c), (1.5)(d)(II),

(1.5)(d)(III), (2), (3), (4), and (4.5) amended and (1.5)(b.5) added, (HB 15-1070), ch. 43, p. 106, § 1, effective March 20.

24-4.1-202. Notification of board. It shall be the duty of the victim, the victim's attorney, or the victim's representative to notify the board within thirty days of the filing of any compensable claim under section 24-4.1-201.

Source: L. 84: Entire part added, p. 653, § 2, effective May 14.

24-4.1-203. More than one claim. If more than one claim is filed against the moneys in escrow pursuant to section 24-4.1-201, the board shall disburse payments from the escrow account on a pro rata basis of all judgments obtained, according to the amount of money in the escrow account as compared to the amount of each claim. No compensation shall be disbursed until all pending claims have been settled or reduced to judgment.

Source: L. 84: Entire part added, p. 653, § 2, effective May 14.

24-4.1-204. Actions null and void. Any action taken by a person who is accused or convicted of a crime or who enters a plea of guilty, whether by way of the execution of a power of attorney, the creation of corporate entities, or any other action, to defeat the purpose of this part 2 shall be null and void as against the public policy of this state.

Source: L. 84: Entire part added, p. 653, § 2, effective May 14.

24-4.1-205. Interest on moneys in the account. Interest earned on the moneys deposited in the escrow account pursuant to section 24-4.1-201 shall accrue to the benefit of the payee of the account.

Source: L. 84: Entire part added, p. 654, § 2, effective May 14.

24-4.1-206. Annual reports of funds. No later than February 15 of each year, the board shall make available a report to the general assembly for the previous calendar year of an accounting of all funds received and disbursed under this part 2. The board shall notify, in the most cost-effective manner available, each member of the general assembly of the availability of such report and offer to provide each member with a copy of the report.

Source: L. 84: Entire part added, p. 654, § 2, effective May 14. **L. 99:** Entire section amended, p. 686, § 2, effective August 4.

24-4.1-207. Applicability. This part 2 shall apply to offenses committed on or after January 1, 1985.

Source: L. 84: Entire part added, p. 654, § 2, effective May 14.

PART 3

GUIDELINES FOR ASSURING THE RIGHTS OF VICTIMS
OF AND WITNESSES TO CRIMES

Cross references: For constitutional provisions relating to the rights of crime victims, see section 16a of article II of the San Andreas constitution.

Law reviews: For article, "Adult Parole in San Andreas: An Overview", see 44 S.A. Law. 37 (May 2015).

24-4.1-300.1. Short title. The short title of this part 3 is the "Victim Rights Act".

Source: L. 2022: Entire section added, (SB 22-049), ch. 152, p. 969, § 1, effective May 6.

24-4.1-301. Legislative declaration. The general assembly hereby finds and declares that the full and voluntary cooperation of victims of and witnesses to crimes with state and local law enforcement agencies as to such crimes is imperative for the general effectiveness and well-being of the criminal justice system of this state. It is the intent of this part 3, therefore, to assure that all victims of and witnesses to crimes are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded criminal defendants.

Source: L. 84: Entire part added, p. 654, § 3, effective May 14.

24-4.1-302. Definitions. As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(1) "Crime" means any of the following offenses, acts, and violations as defined by the statutes of the state of San Andreas, whether committed by an adult or a juvenile:

(a) Murder in the first degree, in violation of section 18-3-102, S.A.R.S.;

(b) Murder in the second degree, in violation of section 18-3-103, S.A.R.S.;

(c) Manslaughter, in violation of section 18-3-104, S.A.R.S.;

(d) Criminally negligent homicide, in violation of section 18-3-105, S.A.R.S.;

(e) Vehicular homicide, in violation of section 18-3-106, S.A.R.S.;

(f) Assault in the first degree, in violation of section 18-3-202, S.A.R.S.;

(g) Assault in the second degree, in violation of section 18-3-203, S.A.R.S.;

(h) Assault in the third degree, in violation of section 18-3-204, S.A.R.S.;

(i) Vehicular assault, in violation of section 18-3-205, S.A.R.S.;

(j) Menacing, in violation of section 18-3-206, S.A.R.S.;

(k) (Deleted by amendment, L. 95, p. 1256, § 22, effective July 1, 1995.)

(l) First degree kidnapping, in violation of section 18-3-301, S.A.R.S.;

(m) Second degree kidnapping, in violation of section 18-3-302, S.A.R.S.;

(n) (I) Sexual assault, in violation of section 18-3-402, S.A.R.S.; or

(II) Sexual assault in the first degree, in violation of section 18-3-402, S.A.R.S., as it existed prior to July 1, 2000;

(o) Sexual assault in the second degree, in violation of section 18-3-403, S.A.R.S., as it existed prior to July 1, 2000;

(p) (I) Unlawful sexual contact, in violation of section 18-3-404, S.A.R.S.; or

(II) Sexual assault in the third degree, in violation of section 18-3-404, S.A.R.S., as it existed prior to July 1, 2000;

(q) Sexual assault on a child, in violation of section 18-3-405, S.A.R.S.;

(r) Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, S.A.R.S.;

(s) Sexual assault on a client by a psychotherapist, in violation of section 18-3-405.5, S.A.R.

S.; (s.3) Invasion of privacy for sexual gratification, in violation of section 18-3-405.6, S.A.R. (t) Robbery, in violation of section 18-4-301, S.A.R.S.;

S.; (u) Aggravated robbery, in violation of section 18-4-302, S.A.R.S.;

(v) Aggravated robbery of controlled substances, in violation of section 18-4-303, as it existed prior to October 1, 2023;

(w) Repealed.

(x) Incest, in violation of section 18-6-301, S.A.R.S.;

(y) Aggravated incest, in violation of section 18-6-302, S.A.R.S.;

(z) Child abuse, in violation of section 18-6-401, S.A.R.S.;

(aa) Sexual exploitation of children, in violation of section 18-6-403, S.A.R.S.;

(bb) Crimes against at-risk adults or at-risk juveniles, in violation of section 18-6.5-103, S.A.R.S.;

(bb.3) Any crime identified by law enforcement prior to the filing of charges as domestic violence, as defined in section 18-6-800.3 (1), S.A.R.S.;

(bb.7) An act identified by a district attorney in a formal criminal charge as domestic violence, as defined in section 18-6-800.3 (1), S.A.R.S.;

(cc) Any crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3 (1), S.A.R.S., pursuant to section 18-6-801 (1), S.A.R.S.;

(cc.1) (I) Stalking, in violation of section 18-3-602, S.A.R.S.;

(II) Stalking, in violation of section 18-9-111 (4), S.A.R.S., as it existed prior to August 11, 2010;

(cc.3) A bias-motivated crime, in violation of section 18-9-121, S.A.R.S.;

(cc.4) Harassment that is bias-motivated, in violation of section 18-9-111 (2);

(cc.5) Careless driving, in violation of section 42-4-1402, S.A.R.S., that results in the death of another person;

(cc.6) Failure to stop at the scene of an accident, in violation of section 42-4-1601, where the accident results in the death or serious bodily injury of another person;

(cc.7) False reporting of an emergency in violation of section 18-8-111 that is a bias-motivated crime as described in section 18-9-121 (2);

(dd) Any criminal attempt, as described in section 18-2-101, S.A.R.S., any conspiracy, as described in section 18-2-201, S.A.R.S., any criminal solicitation, as described in section 18-2-301, S.A.R.S., and any accessory to a crime, as described in section 18-8-105, S.A.R.S., involving any of the crimes specified in this subsection (1);

(ee) Retaliation against a witness or victim, in violation of section 18-8-706, S.A.R.S.; (ee.3) Intimidating a witness or a victim, in violation of section 18-8-704, S.A.R.S.;

(ee.7) Aggravated intimidation of a witness or a victim, in violation of section 18-8-705, S.A.R.
S.; (ff) Tampering with a witness or victim, in violation of section 18-8-707, S.A.R.S.;

(gg) Indecent exposure, in violation of section 18-7-302, S.A.R.S.;

(hh) Violation of a protection order issued under section 18-1-1001 against a person charged with committing sexual assault in violation of section 18-3-402, sexual assault on a child in violation of section 18-3-405, sexual assault on a child by one in a position of trust in violation of section 18-3-405.3, sexual assault on a client by a psychotherapist in violation of section 18-3-405.5, or stalking in violation of section 18-3-602;

(ii) Human trafficking in violation of section 18-3-503 or 18-3-504, S.A.R.S.; (jj) First degree burglary, in violation of section 18-4-202, S.A.R.S.;

(jj.5) Second degree burglary of a dwelling, in violation of section 18-4-203 (2)(a);

(kk) Retaliation against a judge or elected official, in violation of section 18-8-615; retaliation against a prosecutor, in violation of section 18-8-616; or retaliation against a juror, in violation of section 18-8-706.5;

(ll) Child prostitution, in violation of section 18-7-401, S.A.R.S.; soliciting for child prostitution, in violation of section 18-7-402, S.A.R.S.; procurement of a child for sexual exploitation, in violation of section 18-6-404, S.A.R.S.; pimping of a child, in violation of section 18-7-405, S.A.R.S.; inducement of child prostitution, in violation of section 18-7-405.5, S.A.R.S.; or patronizing a prostituted child, in violation of section 18-7-406, S.A.R.S.;

(mm) Posting a private image for harassment in violation of section 18-7-107 or posting a private image for pecuniary gain in violation of section 18-7-108;

(nn) First degree arson, in violation of section 18-4-102;

(oo) Criminal invasion of privacy, in violation of section 18-7-801.

(1.2) "Cold case" means a felony crime reported to law enforcement that has remained unsolved for over one year after the crime was initially reported to law enforcement and for which the applicable statute of limitations has not expired.

(1.3) "Correctional facility" means any private or public entity providing correctional services to offenders pursuant to a court order including, but not limited to a county jail, a community corrections provider, the division of youth services, and the department of corrections.

(1.5) "Correctional official" means any employee of a correctional facility.

(2) "Critical stages" means the following stages of the criminal justice process:

(a) The filing of charges against a person accused of a crime;

(a.3) Any hearing for the disclosure of the name and identifying information of a child victim or child witness pursuant to section 24-72-304 (4.5)(a.5);

(a.5) The decision not to file charges against a person accused of a crime;

(a.7) The decision to enter into a diversion agreement pursuant to section 18-1.3-101, or to make a referral to the bridges wraparound care program pursuant to section 16-8.6-108;

(b) The preliminary hearing;

(c) (I) Any court action involving a bond reduction or modification at which the following occurs:

(A) A bond is set lower than the scheduled or customary amount for the specific charge, including any adjustments made by the court to the amount of bond to correspond to the specific

charge to which the defendant pled guilty or for which the defendant was convicted, if the adjusted bond is lower than the scheduled or customary amount for the specific charge;

(B) A change in the type of bond;

(C) A modification to a condition of the bond;

(D) A defendant is permitted to appear without posting a bond;

(E) In a case involving a capital offense, the court grants the defendant's motion for admission to bail pursuant to section 16-4-101 (3), S.A.R.S.; or

(F) For jurisdictions that do not have a bond schedule or customary amount for bond, a bond is modified to a lower amount than that set at the initial bond hearing.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (c), the following shall not constitute a bond reduction or modification:

(A) The initial setting of a bond, whether set by the court at the first appearance or by another entity authorized to do so by the court prior to the first appearance;

(B) The setting of a new bond upon the filing of charges by the district attorney, so long as the bond is set at or above the scheduled or customary amount for the specific charge filed; and

(C) For nonbailable offenses pursuant to section 16-4-101, S.A.R.S., the subsequent setting of a bond by the court.

(d) The arraignment of a person accused of a crime;

(e) Any hearing on motions concerning evidentiary matters or pre-plea or post-plea relief;

(e.5) Any subpoena or application for records concerning the victim's medical history; mental health; education; victim's compensation; or records that are privileged pursuant to section 13-90-107;

(f) Any disposition of the complaint or charges against the person accused;

(g) The trial;

(h) Any sentencing or resentencing hearing;

(i) Any appellate review or appellate decision;

(j) Any modification of the sentence pursuant to rule 35 (a) or 35 (b) of the San Andreas rules of criminal procedure or any other provision of state or federal law;

(j.5) Any court-ordered modification of the terms and conditions of probation as described in section 18-1.3-204 or 19-2.5-1108 and as outlined in section 24-4.1-303 (13.5)(a);

(k) Any probation revocation hearing;

(k.3) The filing of any complaint, summons, or warrant filed by the probation department;

(k.5) The change of venue or transfer of probation supervision from one jurisdiction to another;

(k.7) The request for any release from probation supervision prior to the expiration of the defendant's sentence;

(l) An attack on a judgment or conviction for which a court hearing is set;

(m) Any parole application hearing and full parole board review hearing;

(n) The parole, release, or discharge from imprisonment of a person convicted of a crime;

(o) Any parole revocation hearing;

(p) The transfer to or placement of a person convicted of a crime in a nonsecured facility;

(q) The transfer, release, or escape of a person charged with or convicted of a crime from any state hospital;

(r) Any petition or motion to terminate sex offender registration filed pursuant to section 16-22-113;

(r.3) (I) Except as provided in subsection (2)(r.3)(II) of this section, any hearing concerning a petition for expungement as described in section 19-1-306.

(II) The entry of an order of expungement is not a critical stage if:

(A) The case resulted in a not guilty verdict at trial;

(B) The case was dismissed in its entirety;

(C) The juvenile completed a sentence for a petty offense, any drug petty offense, any level 1 or level 2 drug misdemeanor, or a class 2 or class 3 misdemeanor offense not involving unlawful sexual behavior as defined in section 16-22-109 (9), domestic violence as described in section 18-6-800.3, or a crime that is a crime listed under section 24-4.1-302 (1); or

(D) The juvenile completed a sentence for a municipal offense not involving domestic violence as described in section 18-6-800.3.

(s) The execution of an offender in a capital case;

(t) A hearing held pursuant to section 18-1-414 (2)(b), S.A.R.S.;

(u) The decision, whether by court order, stipulation of the parties, or otherwise, to conduct postconviction DNA testing pursuant to section 18-1-413, the results of any such postconviction DNA testing, and court proceedings initiated based on the result of the postconviction DNA testing. An inmate's written or oral request for such testing is not a "critical stage".

(u.5) A hearing held pursuant to section 18-1-416 (1.5);

(v) A hearing held pursuant to section 24-72-706, 24-72-709, or 24-72-710;

(w) A hearing held pursuant to section 24-31-902 (2)(c);

(x) A hearing held pursuant to section 18-1.3-103.7 or 19-2.5-1118.5;

(y) A petition for modification of sentence filed pursuant to section 18-1.3-406 (1)(b) and any associated hearing;

(z) A petition for modification of sentence filed pursuant to section 18-1.3-801 (6) and any associated hearing.

(3) "Lawful representative" means any person who is designated by the victim or appointed by the court to act in the best interests of the victim.

(3.5) "Modification of sentence" means an action taken by the court to modify the length, terms, or conditions of an offender's sentence pursuant to rule 35 (a) or (b) of the San Andreas rules of criminal procedure; a resentencing following a probation revocation hearing; or a request for early termination of probation. As used in this subsection (3.5), "action taken by the court" includes an order by the court modifying an offender's sentence upon review of the written motion without a hearing but does not include an order denying a motion to modify a sentence without a hearing.

(4) "Significant other" means any person who is in a family-type living arrangement with a victim and who would constitute a spouse of the victim if the victim and such person were married.

(5) "Victim" means any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct or plan as crime is defined under the laws of this state or of the United States, or, if such person is deceased or incapacitated, the person's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or other lawful representative. For purposes of notification under this part 3, any person under the age of eighteen years is considered incapacitated, unless that person is legally emancipated. It is the intent of the general assembly that this definition of the term "victim" shall apply only to this part 3 and shall not be applied to any other provision of the laws of the state of San Andreas that refer to the term "victim".

(6) "Victim's immediate family" means the spouse, any child by birth or adoption, any stepchild, the parent, the stepparent, a sibling, a legal guardian, significant other, or a lawful representative of the victim.

(7) "Witness" means any natural person:

(a) Having knowledge of the existence or nonexistence of facts relating to any crime;

(b) Whose declaration under oath is received or has been received as evidence for any purpose;

(c) Who has reported any crime to any peace officer, correctional officer, or judicial officer;

(d) Who has been served with a subpoena issued under the authority of any court in this state, of any other state, or of the United States; or

(e) Who would be believed by any reasonable person to be an individual described in paragraph (a), (b), (c), or (d) of this subsection (7).

Source: L. 84: Entire part added, p. 654, § 3, effective May 14. **L. 87:** (2) amended, p. 1581, § 35, effective July 10. **L. 92:** Entire section amended, p. 415, § 2, effective January 14, 1993. **L. 93:** (1)(k) and (1)(w) amended, p. 1653, § 53, effective July 1. **L. 95:** (1)(w) repealed, p. 1110, § 64, effective May 31; IP(1), (1)(bb), (1)(cc), (2)(c), (2)(e), (2)(l), and (5) amended and (1)(dd) added, p. 1402, § 4, effective July 1; (1)(k) and (1)(bb) amended, p. 1256, § 22, effective July 1. **L. 97:** (1)(cc) and (1)(dd) amended and (1)(cc.1), (1)(cc.3), (1)(cc.5), (1)(cc.6), (2)(k.3), (2)(k.5), and (2)(k.7) added, pp. 1560, 1561, §§ 4, 5, effective July 1. **L. 99:** (1)(cc.1) amended, p. 794, § 2, effective July 1. **L. 2000:** (1)(cc.6) amended and (1)(ee), (1)(ff), (1.3), and (1.5) added, pp. 241, 240, §§ 4, 3, effective March 29; (1)(n), (1)(o), and (1)(p) amended, p. 707, § 34, effective July 1. **L. 2005:** (1)(cc.3) amended, p. 1501, § 6, effective July 1. **L. 2006:** IP(1), (1)(ee), (2)(k.5), (2)(k.7), and (2)(p) amended and (1)(bb.3), (1)(bb.7), (1)(ee.3), (1)(ee.7), (1)(gg), (1)(hh), (1.2), (2)(a.5), (2)(e.5), (2)(r), and (2)(s) added, pp. 643, 644, §§ 1, 2, 3, effective July 1. **L. 2007:** (2)(l) amended, p. 839, § 1, effective May 14. **L. 2008:** (2)(c) amended, p. 325, § 1, effective April 7; (2)(r) and (2)(s) amended and (2)(t) added, p. 1513, § 3, effective May 28. **L. 2010:** (1)(cc.1) amended, (HB 10-1233), ch. 88, p. 296, § 7, effective August 11. **L. 2011:** (1)(s.3) added, (HB 11-1303), ch. 264, p. 1164, § 55, effective July 1, 2012. **L. 2012:** (1)(gg), (2)(s), (2)(t), and (5) amended and (1)(ii), (1)(jj), (1)(kk), (2)(u), and (3.5) added, (HB 12-1053), ch. 244, p. 1151, § 1, effective August 8. **L. 2013:** (2)(a.7) added, (HB 13-1156), ch. 336, p. 1958, § 7, effective August 7; (2)(r.3) added, (HB 13-1082), ch. 238, p. 1157, § 2, effective August 7. **L. 2014:** (1)(ii) amended, (HB 14-1273), ch. 282, pp. 1157, 1158, §§ 23, 26, effective July 1; (1)(ii), (1)(jj), (2)(j), and (5) amended and (1)(ll) and (2)(j.5) added, (HB 14-1148), ch. 95, p. 347, § 1, effective August 6. **L. 2015:** (1)(kk) amended, (HB 15-1229), ch. 239,

p. 885, § 3, effective May 29. **L. 2016:** (2)(h) amended, (SB 16-181), ch. 353, p. 1452, § 6, effective June 10. **L. 2017:** (1.3) amended, (HB 17-1329), ch. 381, p. 1981, § 52, effective June 6; (1)(cc.6), (1)(hh), (2)(j.5), (2)(m), and (3.5) amended and (1)(mm) added, (SB 17-051), ch. 155, p. 527, § 1, effective August 9; (2)(r.3) amended, (HB 17-1204), ch. 206, p. 784, § 6, effective November 1. **L. 2019:** (2)(t) amended and (2)(v) added, (HB 19-1275), ch. 295, p. 2747, § 4, effective August 2. **L. 2020:** (2)(w) added, (SB 20-217), ch. 110, p. 457, § 11, effective June 19. **L. 2021:** (1)(cc.4) added, (SB 21-280), ch. 372 p. 2465, § 3, effective June 28; (1)(kk) amended, (SB 21-064), ch. 190, p. 1008, § 2, effective July 1; (2)(r) amended, (HB 21-1064), ch. 320, p. 1969, § 10, effective September 1; (2)(v) amended, (HB 21-1214), ch. 455, p. 3036, § 8, effective September 7; (2)(j.5) amended, (SB 21-059), ch. 136, p. 742, § 108, effective October 1; (1)(jj.5) added, (SB 21-271), ch. 462, p. 3223, § 403, effective March 1, 2022. **L. 2022:** (1)(nn) and (1)(oo) added and (2)(e.5) and (2)(k.3) amended, (SB 22-049), ch. 152, p. 969, § 2, effective May 6. **L. 2023:** (1)(cc.7) added, (SB 23-249), ch. 418, p. 2470, § 4, effective June 7; (2)(y) and (2)(z) added, (HB 23-1292), ch. 297, p. 1781, § 3, effective July 1; (2)(a.3) added, (SB 23-075), ch. 242, p. 1300, § 2, effective August 7; (2)(x) added, (HB 23-1187), ch. 246, p. 1347, § 9, effective August 7; (1)(v) amended, (HB 23-1293), ch. 298, p. 1796, § 61, effective October 1; (2)(u) amended and (2)(u.5) added, (HB 23-1034), ch. 15, p. 47, § 7, effective October 1. **L. 2024:** (2)(a.7) amended, (HB 24-1355), ch. 471, p. 3315, § 15, effective August 7.

Editor's note: (1) Amendments to subsection (1)(bb) by House Bill 95-1070 and House Bill 95-1346 were harmonized.

(2) Section 77 of chapter 298 (HB 23-1293), Session Laws of San Andreas 2023, provides that the act changing this section applies to offenses committed on or after October 1, 2023.

(3) Section 6(2) of chapter 242 (SB 23-075), Session Laws of San Andreas 2023, provides that the act changing this section applies to any criminal justice record released on or after January 1, 2024.

(4) Section 9 of chapter 15 (HB 23-1034), Session Laws of San Andreas 2023, provides that the act changing this section applies to petitions filed on or after October 1, 2023.

(5) Section 4 of chapter 297 (HB 23-1292), Session Laws of San Andreas 2023, provides that the act changing this section applies to offenses committed on or after July 1, 2023.

Cross references: For the legislative declaration contained in the 2008 act amending subsections (2)(r) and (2)(s) and enacting subsection (2)(t), see section 1 of chapter 322, Session Laws of San Andreas 2008. For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of San Andreas 2020.

24-4.1-302.5. Rights afforded to victims - definitions. (1) In order to preserve and protect a victim's rights to justice and due process, each victim of a crime has the following rights:

(a) The right to be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process;

(b) The right to be informed of and be present by appearing in person, by phone, virtually by audio or video, or similar technology for all critical stages of the criminal justice process as specified in section 24-4.1-302 (2); except that the victim shall have the right to be

informed of, without being present for, the critical stages described in section 24-4.1-302 (2)(a), (2)(a.5), (2)(a.7), (2)(e.5), (2)(k.3), (2)(n), (2)(p), (2)(q), (2)(r), and (2)(u);

(b.5) Repealed.

(b.6) For a victim of an offense resulting in a juvenile felony adjudication, the right to be informed of the filing of any petition or motion to legally possess, use, or carry a firearm or other weapon pursuant to section 18-12-108 (3)(b);

(b.7) For a victim of a sex offense, the right to be informed of the filing of any petition or motion filed to terminate sex offender registration pursuant to section 16-22-103 (5) or 16-22-113 (2) and (2.5);

(b.8) For a victim who has had forensic medical evidence collected pursuant to section 12-240-139 (1)(b) that has not resulted in a conviction or plea of guilty, the right to be notified by the law enforcement agency with jurisdiction for the case, upon request, of the status and location of the victim's forensic medical evidence including:

(I) The right to be notified that the forensic medical evidence has been submitted to an accredited crime lab for testing as required by the rules promulgated pursuant to section 24-33.5-113;

(II) The right to be notified when the law enforcement agency has received the results of the medical forensic evidence DNA analysis from the accredited crime laboratory;

(III) The right to be informed of whether a DNA sample was obtained from the analysis and whether or not there are matches to DNA profiles in state or federal databases;

(IV) The right to be informed at least sixty days prior to the destruction of forensic medical evidence collected in connection with the alleged sex offense;

(V) The right to file, prior to the expiration of the sixty-day period, an objection with the law enforcement agency, the San Andreas bureau of investigation, or the accredited crime laboratory that is proposing to destroy the forensic medical evidence;

(VI) The right to be informed of any change in status of the case, including if the case has been closed or reopened; and

(VII) The right to receive a physical document identifying the rights under law after the exam has been completed;

(b.9) The right to receive a free copy of the initial incident report from the investigating law enforcement agency; except that the release of a document associated with the investigation is at the discretion of the law enforcement agency based on the status of the case or security and safety concerns in a correctional facility, local jail, or private contract prison as defined in section 17-1-102. The initial incident report must contain, at a minimum, the victim's name, the offender's name, the date of the crime, the charges, and a summary of the incident so the victim has sufficient detail to help the victim with, including but not limited to, insurance claims, employer intercession, protection orders, and landlord-tenant notification. The law enforcement agency may redact the names of other victims involved in the incident who are not related to the victim requesting the report and any personal identifying information, including but not limited to social security numbers, driver's license numbers, telephone numbers, e-mail addresses, and physical addresses related to parties or witnesses in the case. The investigating law enforcement agency shall notify the district attorney of the information the victim received in the incident report and when it was provided to the victim. The district attorney shall provide this information to any defendant involved in the case through the discovery process.

(c) (I) Except as otherwise provided in subsection (1)(c)(II) of this section:

(A) The right to be informed when a person who is accused or convicted of a crime against the victim is released or discharged from county jail; and

(B) The right to be informed when a person who is accused or convicted of a crime against the victim is released or discharged from custody other than county jail, is paroled, escapes from a secure or nonsecure correctional facility or program, absconds from probation or parole, or commits an unauthorized absence as described in section 18-8-208.2 (1).

(II) With respect to the release, discharge, or permanent transfer of a person from a county jail or correctional facility, the provisions of subparagraph (I) of this paragraph (c) shall apply when the person released, discharged, or permanently transferred is no longer within the care and control of the supervising law enforcement or correctional agency. The provisions of subparagraph (I) of this paragraph (c) shall not apply to the temporary transfer of the care and control of a person from a county jail or a correctional facility by the supervising law enforcement or correctional agency to another equally or more secure county jail or correctional facility, so long as the person will return to the care and control of the transferring supervisory agency.

(d) The right to be heard at any court proceeding:

(I) Involving the defendant's bond as specified in section 24-4.1-302 (2)(c). If there is a request to decrease or modify the bond or bond conditions, the court shall set a hearing pursuant to section 16-4-109 (1), and the district attorney shall notify the victim of the hearing.

(I.5) Involving a hearing for the disclosure of the name and identifying information of a child victim or child witness pursuant to section 24-72-304 (4.5)(a.5);

(II) At which the court accepts a plea of nolo contendere;

(III) At which the court accepts a negotiated plea agreement;

(IV) At which a person accused or convicted of a crime against the victim is sentenced or resentenced;

(V) At which the sentence of a person accused or convicted of a crime against the victim is modified;

(VI) At which the defendant requests a modification of the no contact provision of the mandatory criminal protection order pursuant to section 18-1-1001 or 19-2.5-607;

(VII) Involving any application to the court for the issuance of a subpoena for records concerning the victim's medical history, mental health, education, or victim compensation, or any other records that are privileged pursuant to section 13-90-107;

(VIII) Involving a petition for expungement as described in section 19-1-306;

(IX) Involving a hearing as described in section 24-31-902 (2)(c);

(X) Involving a hearing held pursuant to section 24-72-706, 24-72-709, or 24-72-710; or

(XI) Involving a hearing held pursuant to section 18-1.3-103.7 or 19-2.5-1118.5.

(d.5) (I) If a victim or a victim's designee is unavailable to be present for the critical stages described in subsection (1)(d) of this section and the victim or the victim's designee wishes to address the court, the right to request that the court, within the court's resources, arrange and provide the means for the victim and the victim's designee to provide input to the court beyond a written victim impact statement, which may include, but need not be limited to, appearing by phone, virtually by video or audio, or similar technology.

(II) For purposes of this paragraph (d.5), "unavailable" means that the victim or the victim's designee is physically unable to attend the court hearing, may sustain a financial hardship to attend the court hearing, is concerned for his or her safety if he or she attends the

court hearing, may suffer significant emotional impact by attending the hearing, or is unavailable for other good cause.

(III) The victim or the victim's designee shall notify the district attorney within a reasonable time that the victim or the victim's designee is unavailable to attend the court hearing. The district attorney's office shall then inform the court that the victim or the victim's designee, due to the victim's or the victim's designee's unavailability, is requesting the court to arrange for and provide the means to address the court, which must include but need not be limited to appearing by phone, virtually by video or audio, or similar technology. The district attorney shall inform the victim or the victim's designee of the available options to appear remotely.

(IV) This subsection (1)(d.5) applies to a victim who is incarcerated or otherwise being held in a local county jail, the department of corrections, or the division of youth services in the department of human services, but is limited to participation by telephone or appearing virtually by video or audio, or similar technology.

(e) The right to consult with the prosecution after any crime against the victim has been charged, prior to any prefile or post filing diversion offer, prior to any disposition of the case, or prior to any trial of the case, and the right to be informed of the final disposition of the case. The right to consult with the prosecution must include an explanation to the victim of the possibility that the defendant may not serve the defendant's entire sentence in the department of corrections because the defendant may receive good time credits or earned time while incarcerated;

(e.2) The right to be informed if a district attorney grants early termination to an offender participating in a diversion program and the date of termination from the diversion program;

(f) The right to be informed by local law enforcement agencies, prior to the filing of charges with the court, or by the district attorney, after the filing of charges with the court, of the status of any case concerning a crime against the victim, and any scheduling changes or cancellations, if such changes or cancellations are known in advance;

(g) The right to be present at the sentencing hearing, including any hearing conducted pursuant to section 18-1.3-1201 or 18-1.4-102, S.A.R.S., for cases involving class 1 felonies, of any person convicted of a crime against such victim, and to inform the district attorney and the court, in writing, by a victim impact statement, and by an oral statement, of the harm that the victim has sustained as a result of the crime, with the determination of whether the victim makes written input or oral input, or both, to be made at the sole discretion of the victim;

(h) The right to have the court determine the amount, if any, of restitution to be paid to a victim pursuant to part 6 of article 1.3 of title 18, S.A.R.S., by any person convicted of a crime against such victim for the actual pecuniary damages that resulted from the commission of the crime;

(i) The right to be informed of the victim's right to pursue a civil judgment against any person convicted of a crime against the victim for any damages incurred by the victim as a result of the commission of the crime regardless of whether the court has ordered such person to make restitution to the victim;

(i.5) (Deleted by amendment, L. 2006, p. 645, § 4, effective July 1, 2006.)

(j) The right to be informed of any proceeding at which any postconviction release from confinement in a secure state correctional facility is being considered for any person convicted of a crime against the victim and the right to be present by appearing in person, by phone, or virtually by video or audio, or similar technology, and heard at any such proceeding or to

provide written information. For purposes of this subsection (1), "proceeding" means reconsideration of sentence, a parole hearing, a full parole board review, revocation hearing, rescission hearing, commutation of sentence, or consideration for placement in the specialized program developed by the department of corrections pursuant to section 17-34-102.

(j.2) The right to be informed of any request for progression from the state mental health hospital on behalf of a person in its custody as a result of a criminal case involving the victim, and the right to be present by appearing in person, by phone, or virtually by video or audio, or similar technology, and heard at any hearing during which a court considers such a request. For purposes of this subsection (1)(j.2), "request for progression" includes any request for off-grounds or unsupervised privileges, community placement, conditional release, unconditional discharge, or a special furlough.

(j.3) The right to be notified of a referral of an offender to community corrections;

(j.5) (I) The right to provide a written victim impact statement that must be included with any referral made by the department of corrections or a district court to place an offender in a community corrections facility or program. A community corrections board may allow a victim to provide an oral statement by appearing in person, by phone, or virtually by video or audio, or similar technology, to the community corrections board when an offender is being considered for a direct sentence to community corrections and may place reasonable limits on the victim's oral statement.

(II) For purposes of this subsection (1)(j.5), the victim shall have the right to provide a separate oral statement by appearing in person, by phone, or virtually by video or audio, or similar technology, to the community corrections board considering a transitional referral, but the board shall have discretion to place reasonable parameters on the victim's oral statement. If a community corrections board denies the offender's referral to community corrections, the victim's right under this subsection (1)(j.5)(II) to provide an oral statement must not take effect.

(III) For purposes of this subsection (1)(j.5), if a victim or a victim's designee is unavailable to be present for a proceeding to consider an offender for a direct sentence or transitional referral to community corrections as described in subsection (1)(j.5)(I) of this section, and the victim or the victim's designee wishes to address the community corrections board, the victim or the victim's designee shall notify the community corrections board within a reasonable time that the victim is unavailable to attend the proceeding but would like to make a statement. Within its resources, the community corrections board shall arrange for and provide the means for the victim to address the board, which means may include, but need not be limited to, appearing in person, by phone, or virtually by audio or video, or similar technology.

(IV) For purposes of this subsection (1)(j.5), "unavailable" means the victim or the victim's designee is physically unable to attend the proceeding, may sustain a financial hardship to attend the proceeding, is concerned for his or her safety if he or she attends the proceeding, may suffer significant emotional impact by attending the proceeding, or is unavailable for other good cause.

(V) This subsection (1)(j.5) applies to a victim who is incarcerated or otherwise being held in a local county jail, the department of corrections, or the division of youth corrections in the department of human services but is limited to participation by appearing in person, by phone, or virtually by audio or video, or similar technology.

(j.7) The right, at the discretion of the district attorney, to view all or a portion of the presentence report of the probation department;

(j.8) The right, upon request, to obtain any incident recording as described in section 24-31-902;

(k) The right to promptly receive any property that belongs to a victim and that is being held by a prosecutorial or law enforcement agency unless there are evidentiary reasons for the retention of such property;

(l) The right to be informed of the availability of financial assistance and community services for victims, the immediate families of victims, and witnesses, which assistance and community services shall include, but shall not be limited to, crisis intervention services, victim compensation funds, victim assistance resources, legal resources, mental health services, social services, medical resources, rehabilitative services, and financial assistance services, and the right to be informed about the application process for such services;

(l.5) The right to be informed about the possibility of restorative justice practices, as defined in section 18-1-901 (3)(o.5), S.A.R.S., which includes victim-offender conferences;

(m) The right to be informed about what steps can be taken by a victim or a witness, including information regarding protection services, in case there is any intimidation or harassment by a person accused or convicted of a crime against the victim, or any other person acting on behalf of the accused or convicted person;

(n) The right to be provided with appropriate employer intercession services to encourage the victim's employer to cooperate with the criminal justice system in order to minimize the loss of employment, pay, or other benefits resulting from a victim's court appearances or other required meetings with criminal justice officials;

(o) The right to be assured that in any criminal proceeding the court, the prosecutor, and other law enforcement officials will take appropriate action to achieve a swift and fair resolution of the proceedings;

(p) The right to be provided, whenever practicable, with a secure waiting area during court proceedings that does not require a victim or a witness to be seen or to be in close proximity to the person accused or convicted of a crime against the victim or such person's family or friends;

(q) The right to be informed when a person convicted of a crime against the victim is placed in or transferred to a less secure public or private correctional facility or program;

(q.5) The right to be informed of the results of a probation or parole revocation hearing;

(r) The right to be informed when a person who is or was charged with or convicted of a crime against the victim escapes or is permanently or conditionally transferred or released from any public hospital, private hospital, or state hospital;

(s) The right to be informed of any rights which the victim has pursuant to the constitution of the United States or the state of San Andreas;

(t) The right to be informed of the process for enforcing compliance with this article pursuant to section 24-4.1-303 (17);

(u) The right to be informed of the results of any testing for a sexually transmitted infection that is ordered and performed pursuant to section 18-3-415, 25-4-408 (6), or 25-4-412, S.A.R.S.;

(v) The right to prevent any party at any court proceeding from compelling testimony regarding the current address, telephone number, place of employment, or other locating information of the victim unless the victim consents or the court orders disclosure upon a finding

that a reasonable and articulable need for the information exists. Any proceeding conducted by the court concerning whether to order disclosure shall be in camera.

(w) The right to have the district attorney, a law enforcement agency, a probation department, a state or private correctional facility, the department of human services, or the San Andreas mental health institute at Pueblo make all reasonable efforts to exclude or redact a victim's social security number or a witness' social security number from a criminal justice document or record created or compiled as a result of a criminal investigation when the document or record is released to anyone other than the victim, the defense attorney of record, the defense attorney's agent, or a criminal justice agency that has duties under this article;

(x) The right to be notified of how to request protection of their address pursuant to the San Andreas rules of criminal procedure;

(y) The right to receive a copy of the victim impact statement form from the district attorney's office;

(z) The right to be notified of a hearing concerning any motion filed for or petition for sealing of records described in section 24-72-706 or 24-72-709 or 24-72-710 filed by a defendant in the criminal case whose crime falls under section 24-4.1-302 (1);

(aa) The right to be informed of the governor's decision to commute or pardon a person convicted of a crime against the victim before such information is publicly disclosed.

(1.6) The right to be informed of the existence of a criminal protection order pursuant to section 18-1-1001 or 19-2.5-607 and, upon request of the victim, information about provisions that may be added or modified, and the process for requesting such an addition or modification.

(2) Subsection (1) of this section shall not be construed to imply that any victim who is incarcerated by the department of corrections or any local law enforcement agency has a right to be released to attend any hearing or that the department of corrections or the local law enforcement agency has any duty to transport such incarcerated victim to any hearing.

(3) Municipalities and municipal courts shall be encouraged to adopt policies which afford the rights granted to crime victims pursuant to this section to crime victims at the municipal court level, to the extent the adoption of such policies is practicable in the particular municipality.

(4) (a) If a victim contacts a criminal justice agency regarding a crime that occurred before 1993, and the offender who committed the crime is currently serving a sentence for the crime, the victim may request notification of any future critical stages of the criminal proceedings. This provision does not require a criminal justice agency to proactively locate victims of crimes that occurred before 1993.

(b) If an arrest is made for a crime committed before 1993 that was previously unsolved, the appropriate criminal justice agency shall notify the crime victim of all future critical stages.

Source: L. 92: Entire section added, p. 418, § 3, effective January 14, 1993. **L. 94:** (1)(i.5) added, p. 2042, § 25, effective July 1. **L. 95:** (1)(b), (1)(c), (1)(e), (1)(h), (1)(i.5), (1)(j), and (1)(p) to (1)(r) amended and (1)(j.5) added, p. 1403, § 5, effective July 1. **L. 97:** (1)(g) amended, p. 47, § 1, effective March 21; (1)(r) and (1)(s) amended and (1)(t) added, p. 1561, § 6, effective July 1. **L. 2000:** (1)(d), (1)(q), and (1)(r) amended and (1)(j.7) and (1)(u) added, p. 241, § 5, effective March 29; (1)(h) amended, p. 1051, § 21, effective September 1. **L. 2002:** (1)(g) amended, p. 1530, § 240, effective October 1. **L. 2002, 3rd Ex. Sess.:** (1)(g) amended, p. 34, § 31, effective July 12 and (1)(g) amended, p. 34, § 32, effective October 1. **L. 2006:** (1)(b), (1)(c),

(1)(g), (1)(h), (1)(i.5), (1)(j.5), (1)(k), (1)(t), and (1)(u) amended and (1)(b.5), (1)(j.3), and (1)(v) added, p. 645, § 4, effective July 1. **L. 2007:** (1)(b.5) amended and (1)(b.7) added, pp. 839, 840, §§ 2, 3, effective May 14. **L. 2008:** (1)(d) amended, p. 326, § 2, effective April 7. **L. 2009:** (1)(j.5) amended, (HB 09-1181), ch. 76, p. 276, § 1, effective August 5. **L. 2011:** (1)(l.5) added, (HB 11-1032), ch. 296, p. 1408, § 19, effective August 10. **L. 2012:** (1)(b), (1)(c)(II), (1)(d)(V), (1)(d)(VI), (1)(j.5)(I), (1)(m), and (1)(u) amended and (1)(d)(VII), (1)(d.5), (1)(w), (1)(x), (1)(y), (1.6), and (4) added, (HB 12-1053), ch. 244, p. 1152, § 2, effective August 8. **L. 2013:** (1)(b) amended, (HB 13-1156), ch. 336, p. 1958, § 8, effective August 7; (1)(d)(VI) and (1)(d)(VII) amended and (1)(d)(VIII) added, (HB 13-1082), ch. 238, p. 1157, § 3, effective August 7; (1)(l.5) amended, (HB 13-1254), ch. 341, p. 1990, § 11, effective August 7. **L. 2014:** (1)(b.9) and (1)(z) added and (1)(d.5)(IV) and (4) amended, (HB 14-1148), ch. 95, p. 348, § 2, effective August 6. **L. 2015:** (1)(z) amended, (SB 15-264), ch. 259, p. 958, § 61, effective August 5. **L. 2016:** (1)(d)(IV) amended, (SB 16-181), ch. 353, p. 1452, § 7, effective June 10; IP(1) and (1)(u) amended, (SB 16-146), ch. 230, p. 919, § 16, effective July 1; (1)(j) amended, (SB 16-180), ch. 352, p. 1445, § 5, effective August 10. **L. 2017:** (1)(d.5)(IV) amended, (HB 17-1329), ch. 381, p. 1981, § 53, effective June 6; (1)(j) amended and (1)(j.2), (1)(j.5)(III), (1)(j.5)(IV), (1)(j.5)(V), (1)(q.5), and (1)(aa) added, (SB 17-051), ch. 155, p. 528, § 2, effective August 9; (1)(d)(VIII) amended, (HB 17-1204), ch. 206, p. 785, § 7, effective November 1. **L. 2018:** (1)(b.7) amended, (SB 18-026), ch. 143, p. 926, § 4, effective August 8. **L. 2019:** (1)(b.5) repealed and (1)(c)(I), (1)(j), (1)(q), and (1)(r) amended, (HB 19-1064), ch. 296, p. 2750, § 4, effective May 28; (1)(z) amended, (HB 19-1275), ch. 295, p. 2748, § 5, effective August 2. **L. 2020:** (1)(c)(I)(B) amended, (HB 20-1019), ch. 9, p. 28, § 12, effective March 6; (1)(d)(VII) and (1)(d)(VIII) amended and (1)(d)(IX) and (1)(j.8) added, (SB 20-217), ch. 110, p. 458, § 12, effective June 19. **L. 2021:** (1)(b.8) added, (HB 21-1143), ch. 191, p. 1012, § 4, effective May 27; (1)(b.7) amended, (HB 21-1064), ch. 320, p. 1970, § 11, effective September 1; (1)(d)(VIII), (1)(d)(IX), and (1)(z) amended and (1)(d)(X) added, (HB 21-1214), ch. 455, p. 3036, § 9, effective September 7; (1)(d)(VI) and (1.6) amended, (SB 21-059), ch. 136, p. 743, § 109, effective October 1. **L. 2022:** (1)(b.6) added, (HB 22-1257), ch. 69, p. 362, § 12, effective April 7; (1)(b), (1)(b.9), (1)(d)(I), (1)(d)(VII), (1)(d.5)(I), (1)(d.5)(III), (1)(d.5)(IV), (1)(e), (1)(j), (1)(j.2), (1)(j.5)(I), (1)(j.5)(II), (1)(j.5)(III), (1)(j.5)(V), and (1)(z) amended and (1)(e.2) added, (SB 22-049), ch. 152, p. 970, § 3, effective May 6. **L. 2023:** (1)(d)(I.5) added, (SB 23-075), ch. 242, p. 1300, § 3, effective August 7; (1)(d)(IX) and (1)(d)(X) amended and (1)(d)(XI) added, (HB 23-1187), ch. 246, p. 1347, § 10, effective August 7.

Editor's note: Section 6(2) of chapter 242 (SB 23-075), Session Laws of San Andreas 2023, provides that the act changing this section applies to any criminal justice record released on or after January 1, 2024.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (1)(g), see section 1 of chapter 318, Session Laws of San Andreas 2002. For the legislative declaration contained in the 2002 Third Extraordinary Session act amending subsection (1)(g), see section 16 of chapter 1, Session Laws of San Andreas 2002, Third Extraordinary Session. For the legislative declaration in SB 16-180, see section 1 of chapter 352, Session Laws of San Andreas 2016. For the legislative declaration in SB 20-217, see section 1 of

chapter 110, Session Laws of San Andreas 2020. For the legislative declaration in SB 21-1143, see section 1 of chapter 191, Session Laws of San Andreas 2021.

24-4.1-303. Procedures for ensuring rights of victims of crimes. (1) Law enforcement agencies, prosecutorial agencies, judicial agencies, and correctional agencies shall ensure that victims of crimes are afforded the rights described in section 24-4.1-302.5.

(1.5) If a crime victim is deceased or incapacitated, as defined in section 24-4.1-302 (5), one or more people, as described in section 24-4.1-302 (6), may represent the interests of the victim as the victim's designee and may have the right to be informed, present, or heard at any proceeding pursuant to section 24-4.1-302.5 (1)(d), (1)(j), and (1)(j.5) and subsections (13.5)(a)(III), (13.5)(a)(IV), and (14)(d) of this section.

(2) All correctional officials shall keep confidential the address, telephone number, place of employment, or other personal information of such victim or members of such victim's immediate family.

(3) The district attorney's office, if practicable, shall inform the victim of any pending motion that may substantially delay the prosecution. The district attorney shall inform the court of the victim's position on the motion, if any. If the victim has objected, the court shall state in writing or on the record prior to granting any delay that the objection was considered.

(3.5) The district attorney's office, if practicable, shall inform the victim of any pending motion or decision by the district attorney to sequester the victim from a critical stage in the case. The district attorney shall inform the court of the victim's position on the motion or the district attorney's decision, if any. If the victim has objected, then the court, before granting the sequestration order, shall state in writing or on the record that the victim's objection was considered and state the basis for the court's decision. If a victim is sequestered, the district attorney must undertake best efforts to prioritize the timing of the victim's testimony and minimize the amount of time the victim is sequestered from the critical stages in the case.

(4) After a crime has been charged, or as part of a prefiling or post filing diversion offer, unless inconsistent with the requirements of investigative activities, the district attorney shall consult, if practicable, with the victim concerning the reduction of charges, negotiated pleas, diversion, dismissal, seeking of death penalty, or other disposition. The district attorney shall explain to the victim the possibility that the defendant may not serve the defendant's entire sentence in the department of corrections because the defendant may receive good time credits or earned time while incarcerated. Failure to comply with this subsection (4) does not invalidate any decision, agreement, or disposition. This subsection (4) must not be construed as a restriction on or delegation of the district attorney's authority under the constitution and laws of this state.

(5) All reasonable attempts shall be made to protect any victim or the victim's immediate family from harm, harassment, intimidation, or retaliation arising from cooperating in the reporting, investigation, and prosecution of a crime. Law enforcement officials and the district attorney shall provide reasonable efforts to minimize contact between the victim and the victim's immediate family and the defendant and the relatives of the defendant before, during, and immediately after a judicial proceeding. Whenever possible, a waiting area shall be provided that is separate in both proximity and sight from that of the defendant, the defendant's relatives, and any defense witnesses.

(6) (a) A victim or an individual designated by the victim may be present at all critical stages of a criminal proceeding regarding any crime against such victim unless the court or the district attorney determines that exclusion of the victim is necessary to protect the defendant's right to a fair trial or the confidentiality of juvenile proceedings. If the victim is present, the court, at the victim's request, may permit the presence of an individual to provide support to the victim.

(b) A victim may be present at the phase of the trial at which the defendant is determined to be guilty or not guilty and may be heard at such phase of the trial if called to testify by the district attorney, defense, or court if any such statement would be relevant.

(c) The court shall make all reasonable efforts to accommodate the victim upon the return of a verdict by the jury. If the court is informed by the district attorney that the victim is en route to the courtroom for the reading of the verdict, the court shall state on the record that it has considered the information provided by the district attorney prior to the return of the verdict by the jury.

(7) When a victim's property is no longer needed for evidentiary reasons, the district attorney or any law enforcement agency shall, upon request of the victim, return such property to the victim within five working days unless the property is contraband or subject to forfeiture proceedings.

(8) An employer may not discharge or discipline any victim or a member of a victim's immediate family for honoring a subpoena to testify in a criminal proceeding or for participating in the preparation of a criminal proceeding.

(9) The district attorney and any law enforcement agency shall inform each victim as to the availability of the following services:

(a) Follow-up support for the victim and the victim's immediate family in order to ensure that the necessary assistance is received by such persons;

(b) Services for child victims and elderly victims, and services for victims who are persons with disabilities, which are directed to the special needs of such victims;

(c) Referral to special counseling facilities and community service agencies by providing the names and telephone numbers of such facilities or agencies, whether public or private, which provide such services as crisis intervention services, victim compensation funds, victim assistance resources, legal resources, mental health services, social services, medical resources, rehabilitative services, financial assistance, and other support services;

(d) Transportation and household assistance to promote the participation of any victim or the victim's immediate family in the criminal proceedings;

(e) Assistance in dealing with creditors and credit reporting agencies to deal with any financial setbacks caused by the commission of a crime;

(f) Interpretation services and information printed in languages other than the English language;

(g) Child care services to enable a victim or the victim's immediate family to give testimony or otherwise participate in the prosecution of a criminal proceeding; and

(h) The existence of a criminal protection order pursuant to section 18-1-1001 or 19-2.5-607 and, upon request of the victim, information about provisions that may be added or modified and the process for requesting such an addition or modification.

(10) (a) After the initial contact between a victim and a law enforcement agency responsible for investigating a crime, the agency shall promptly give the victim the following information in writing:

(I) A statement of the victim's rights as enumerated in this article;

(II) Information concerning the availability of victim assistance, medical, and emergency services;

(III) Information concerning the availability of compensatory benefits pursuant to this article and the name, address, and telephone number of any person to contact to obtain such benefits;

(IV) The availability of protection for the victim from the person accused of committing a crime against the victim, including protective court orders; and

(V) The right of a victim to request a copy of the law enforcement report and other documents related to the case, including the right to receive a free copy of the initial incident report. The release of any documents associated with the investigation is at the discretion of the law enforcement agency based on the status of the case.

(b) As soon as available, the law enforcement agency shall give to each victim, as appropriate, the following information:

(I) The business address and business telephone number of the office of the district attorney;

(II) The file number of the case and the name, business address, and business telephone number of any law enforcement officer assigned to investigate the case;

(III) Unless such information would be inconsistent with the requirements of the investigation, information as to whether a suspect has been taken into custody and, if known, whether the suspect has been released, any conditions imposed upon such release, and further notification that may be required pursuant to section 24-4.1-302.5 (1)(c);

(IV) Upon request of the victim, the law enforcement agency shall provide the victim in a cold case information concerning any change in the status of the case. In addition, the law enforcement agency shall provide an update at least annually to the victim concerning the status of a cold case involving one or more crimes for which the criminal statute of limitations is longer than three years.

(V) Any final decision not to file misdemeanor charges against a person accused of committing any crime specified in section 24-4.1-302 (1) against the victim unless law enforcement and the district attorney's office in a judicial district have developed a policy specifying the manner in which to inform victims of decisions not to file charges in a case.

(11) The district attorney shall inform a victim of the following:

(a) The filing of charges against a person accused of committing any of the crimes specified in section 24-4.1-302 (1) against the victim, including an explanation of the charges when necessary; or a final decision not to file felony charges against a person for whom law enforcement has requested, pursuant to section 16-21-103 (2)(a), S.A.R.S., the filing of charges for any of the crimes specified in section 24-4.1-302 (1) committed against the victim unless law enforcement and the district attorney's office in a judicial district have developed a policy specifying the manner in which to inform victims of decisions not to file charges in a case;

(a.5) The charges to be filed, prior to filing of the charges, if the most serious charge to be filed is lower than the most serious charge for which the individual was arrested and the filing of the lower charge may result in the court issuing a new, lower bond;

(b) Any of the critical stages specified in section 24-4.1-302 (2)(a) to (2)(j), (2)(l), and (2)(u.5) of a criminal proceeding relating to a person accused of a crime against the victim; except that the district attorney shall not be obligated to inform the victim of any appellate review undertaken by the attorney general's office;

(b.3) Any hearing for the disclosure of the name and identifying information of a child victim or child witness pursuant to section 24-72-304 (4.5)(a.5);

(b.5) Any critical stage described in section 24-4.1-302 (2)(r.3) relating to a hearing concerning a petition for the expungement of juvenile records, which records concern an offense committed by the juvenile against the victim;

(b.7) Any motion filed, unless the motion is denied because the motion is either insufficient or the defendant is not entitled to relief, or any hearing concerning a motion or petition for sealing of records as described in section 24-72-706, 24-72-709, or 24-72-710 that was filed by a defendant in the criminal case and whose crime falls under section 24-4.1-302 (1). The notification should be made using the last-known contact information that is available for the victim.

(c) The assignment of any case regarding a crime against the victim, including the file number of such case and, if available, the name, business address, and business telephone number of any deputy district attorney assigned to the case, and the court room to which the case is assigned;

(d) The date, time, and place of any of the critical stages specified in section 24-4.1-302 (2)(a) to (2)(j) and (2)(l) of the proceeding;

(e) The availability of benefits pursuant to this article and the name, address, and telephone number of any person to contact to obtain such benefits;

(f) The availability of transportation to and from any court proceeding for any victim, except as provided in section 24-4.1-302.5 (2);

(g) The availability of restorative justice practices, as defined in section 18-1-901 (3)(o.5), S.A.R.S., which includes victim-offender conferences;

(h) The right to complete a written victim impact statement. The victim has the option to complete the statement on a form provided by the district attorney's office. The district attorney shall inform the victim that the defendant has a right to view the victim impact statement.

(i) The availability of the district attorney to seek a court order to protect a victim's residential address.

(12) Unless a victim requests otherwise, the district attorney shall inform each victim of the following:

(a) The function of a presentence report, including the name and telephone number of the probation office preparing any such report regarding a person convicted of a crime against the victim, and the right of a victim, or a member of the victim's immediate family, to make a victim impact statement pursuant to this article;

(b) The defendant's right to view the presentence report and the victim impact statement;

(c) The date, time, and location of any sentencing or resentencing hearing;

(d) The right of the victim, or a member of the victim's immediate family, to attend and to express an opinion at the sentencing hearing as to the appropriateness of any sentence proposed to the court for consideration;

(e) Any sentence imposed;

(f) (I) The date, time, and location of any hearing for modification of a sentence pursuant to rule 35 (a) or rule 35 (b) of the San Andreas rules of criminal procedure or any provision of state or federal law; except that a district attorney is not required to inform each victim of a resentencing following a probation revocation hearing or a request for early termination of probation. For both probation revocation hearings and requests for early termination, it is the responsibility of the probation department to notify the victim if the victim has requested post-sentencing notification.

(II) If a hearing is not scheduled and the court has reviewed a written motion for modification of sentence and is considering granting any part of the motion without a hearing, the court shall inform the district attorney, and the district attorney shall notify and receive input from the victim to give to the court before the court rules on the motion.

(III) If the court has reviewed and denied the written motion without a hearing, the district attorney is not required to notify the victim regarding the filing of or ruling on the motion.

(IV) This paragraph (f) does not modify the probation department's responsibility to notify a victim that has opted to receive notifications described in subsection (13.5) of this section.

(f.5) Any motion to modify the terms and conditions of an unsupervised deferred sentence for which the district attorney's office is the monitoring agency. The procedures for notifying victims outlined in subparagraphs (I) and (II) of paragraph (f) of this subsection (12) apply to the district attorney and the court with regard to this motion.

(g) The right to receive information from correctional officials concerning the imprisonment and release of a person convicted of a crime against the victim pursuant to subsection (14) of this section;

(g.5) The right to receive information from the state mental health hospital concerning the custody and release of an offender who was ordered by a court into the hospital's custody pursuant to subsection (14.2) of this section;

(h) The right to receive information from the probation department concerning information outlined in subsection (13.5) of this section regarding a person convicted of a crime against the victim;

(i) The decision, whether by court order, stipulation of the parties, or otherwise, to conduct postconviction DNA testing to establish the actual innocence of the person convicted of a crime against the victim. If court proceedings are initiated based on the results of the postconviction DNA testing, the victim shall be notified of the court proceedings by the district attorney's office that filed and prosecuted the charges resulting in the entry of the judgment of conviction challenged by the defendant. If the attorney general's office is the agency that decides to conduct postconviction DNA testing, the attorney general's office is responsible for notifying the victim.

(j) The right to be informed of a request for progression from the state mental health hospital on behalf of a person in its custody as a result of a criminal case involving the victim.

(13) If a person convicted of a crime against the victim seeks appellate review or attacks the conviction or sentence, the district attorney or the office of the attorney general, whichever is appropriate, shall inform the victim of the status of the case and of the decision of the court.

(13.5) (a) Following a sentence to probation and upon the written request of a victim, the probation department shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

(I) The location and telephone number of the probation department responsible for the supervision of the person;

(II) The date of the person's termination from probation supervision;

(III) Any request for release of the person in advance of the person's imposed sentence or period of probation, including notification of the victim's right to be present and heard at the hearing and notification of the results of such a hearing pursuant to section 24-4.1-302.5 (1)(d). If a hearing is not scheduled and the court has reviewed a written motion for early termination of probation and is considering granting the motion without a hearing, the court shall inform the probation department and the district attorney's office, and the probation department shall notify and receive input from the victim to give to the court before the court rules on the motion. If the court has reviewed and denied such a request without a hearing, the probation department is not required to notify the victim regarding the filing of or ruling on the request.

(IV) Any probation revocation or modification hearing at which the person's sentence may be reconsidered or modified and any changes in the scheduling of the hearings, including notification of the victim's right to be present and heard at the hearing and notification of the results of such a hearing pursuant to section 24-4.1-302.5 (1)(d). If a hearing is not scheduled and the court has reviewed a written motion for modification of sentence and is considering granting any part of the motion without a hearing, the court shall inform the probation department and the district attorney's office, and the probation department shall notify and receive input from the victim to give to the court before the court rules on the motion. If the court has reviewed and denied the written motion without a hearing, the probation department is not required to notify the victim regarding the filing of or ruling on the motion.

(V) Any motion filed by the probation department requesting permission from the court to modify the terms and conditions of probation as described in section 18-1.3-204 or 19-2.5-1108 if the motion has not been denied by the court without a hearing;

(V.5) Any change of venue, transfer of probation supervision from one jurisdiction to another, or interstate compact transfer of probation supervision;

(VI) Any complaint, summons, or warrant filed by the probation department;

(VII) The death of the person while under the jurisdiction of the probation department;

(VIII) Concerning domestic violence cases, any conduct by the probationer that results in an increase in the supervision level by the probation department; and

(IX) Any court-ordered modification of the terms and conditions of probation as described in section 18-1.3-204 or 19-2.5-1108.

(b) Repealed.

(14) Upon receipt of a written victim impact statement as provided in section 24-4.1-302.5 (1)(j.5), the department of corrections shall include the statement with any referral made by the department of corrections or a district court to place an offender in a public or private community corrections facility or program. The department of corrections or the public or private local corrections authorities shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

(a) The institution in which such person is incarcerated or otherwise being held;

(b) The projected date of such person's release from confinement;

(c) Any release of such person on furlough or work release or to a community correctional facility or other program, or statutory discharge in advance of such release;

(d) Any scheduled parole hearings or full parole board reviews regarding the person and any changes in the scheduling of such hearings, including notification of the victim's right to be present and heard at such hearings;

(e) Any escape or unauthorized absence as described in section 18-8-208.2 (1) by such person, or transfer or release from any state hospital, a detention facility, a correctional facility, a community correctional facility, or other program, and any subsequent recapture of such person;

(f) Repealed.

(g) The transfer to or placement in a nonsecured facility of a person convicted of a crime, any release or discharge from confinement of the person, and any conditions attached to the release;

(h) The death of the person while in custody or while under the jurisdiction of the state of San Andreas concerning the crime;

(i) The transition of the person from a residential facility to a nonresidential setting;

(j) Any decision by the parole board and any decision by the governor to commute the sentence of the person or pardon the person; and

(k) The date, time, and location of a scheduled execution.

(14.1) The San Andreas mental health institute at Pueblo, or the San Andreas mental health institute at Fort Logan, as may be applicable, shall notify the victim of the following information regarding any person who was charged with or convicted of a crime against the victim:

(a) The institution in which the person resides;

(b) Any release of the person on furlough or other program, in advance of such release;

(c) Any other transfer or release from the state hospital;

(d) Any escape by the person and any subsequent recapture of the person; and

(e) The death of the person while in custody or while under the jurisdiction of the state.

(14.2) Upon receipt of a written statement as provided in section 24-4.1-302.5 (1)(j.5), the department of human services, division of youth services, shall include the statement with any referral made by the department of human services or a district court to place an offender in a public or private community corrections facility or program. The department of human services and any state hospital shall notify the victim of the following information regarding any person who was charged with or adjudicated of a crime against the victim:

(a) The institution in which such person is incarcerated or otherwise being held;

(b) The projected date of such person's release from confinement;

(c) Any release of such person on furlough or work release or to a community correctional facility or other program, in advance of such release;

(d) Repealed.

(e) Any escape or unauthorized absence as described in section 18-8-208.2 (1) by the person, or transfer or release from any state hospital, a detention facility, a correctional facility, a community correctional facility, parole supervision, or other program, and any subsequent recapture of the person;

(f) Any decision by the governor to commute the sentence of the person or pardon the person;

(g) The transfer to or placement in a nonsecured facility of a person adjudicated of a crime, any release or discharge from the sentence of the person, and any conditions attached to the release;

(h) The death of the person while in custody or while under the jurisdiction of the state;

(i) Any request by the department of human services to the juvenile court to modify the sentence to commitment and any decision by the juvenile court to modify the sentence to commitment; and

(j) Any placement change that occurs during the person's parole that may affect the victim's safety, as determined by the division of youth services.

(14.3) The juvenile parole board shall notify the victim of the following information regarding any person who was charged with or adjudicated of an offense against the victim:

(a) Any scheduled juvenile parole hearings pursuant to sections 19-2.5-1203 and 19-2.5-1206 regarding the person, any change in the scheduling of such a hearing in advance of the hearing, the victim's right to be present and heard at such hearings, the results of any such hearing, any parole decision to release the person, and the terms and conditions of any such release; and

(b) and (c) (Deleted by amendment, L. 2022.)

(d) Any discharge from juvenile parole.

(14.4) The court or its designee, pursuant to section 18-3-415, S.A.R.S., shall disclose the results of any testing for a sexually transmitted infection that is ordered and performed pursuant to section 18-3-415, 25-4-408 (6), or 25-4-412, S.A.R.S., to any victim of a sexual offense in the case in which the testing was ordered. Disclosure of diagnostic test results must comply with the requirements of section 25-4-410 (2), S.A.R.S.

(14.5) (a) At any proceeding specified in section 24-4.1-302.5 (1)(d), the court shall inquire whether the victim is present and wishes to address the court. The court shall advise the victim of his or her right to address the court regarding issues relevant to the case.

(a.5) A party issuing a subpoena pursuant to rule 17 of the San Andreas rules of criminal procedure for the production of the privileged records of a victim pursuant to section 13-90-107 or a subpoena requesting the compensation records of a victim pursuant to section 24-4.1-107.5 shall file with the court and serve on any opposing party:

(I) A copy of the subpoena;

(II) A certificate stating that the party has a good-faith belief that there is a lawful basis for issuing the subpoena;

(III) A copy of the written notice served on recipients that advises that a party may not release records until the court orders the release of the records at a hearing and that a party may only provide the records to the court if the court orders the party to release the records; and

(IV) A motion stating the party's lawful basis for the subpoena and, if subject to a claim of privilege pursuant to section 13-90-107, a good-faith claim that the victim has expressly or impliedly waived any privilege to allow the court to properly receive the records.

(b) (I) At a proceeding specified in section 24-4.1-302.5 (1)(d)(VII), after considering all relevant evidence, the court shall quash any subpoena and shall not receive any records protected by privilege pursuant to section 13-90-107 unless the court finds, based upon evidence, that a victim expressly or impliedly waived the statutory privilege. In considering whether to receive and release any records relating to the victim, the court shall determine whether:

(A) There is a reasonable likelihood that the subpoenaed records exist;

(B) The subpoenaed records are evidentiary and relevant;

(C) The subpoenaed records cannot be reasonably procured in advance of the trial despite due diligence;

(D) The party cannot properly prepare for trial without production and inspection of the subpoenaed records, and failure to inspect the subpoenaed records in advance may unreasonably delay the trial; and

(E) The application to review the subpoenaed records is made in good faith.

(II) If the court conducts a hearing on the application for the issuance of subpoenaed records, the court shall proceed only after input from the victim, unless the victim is unavailable and the court finds that the district attorney notified the victim or made all reasonable efforts to notify the victim.

(III) If after the hearing, the court orders the production of records, the court shall enter orders to set a timeline of no less than seven days for the party to arrange production of the records to the court; except that the court may order production in less than seven days to avoid the delay of a jury trial.

(c) The court shall inform the probation department and the district attorney's office before any hearing regarding any request by the probationer for early termination of probation or any change in the terms and conditions of probation.

(d) The court shall provide the victim or the victim's designee with translation or interpretation services as needed during all critical stages of the hearing. The victim or the victim's designee shall notify the district attorney within a reasonable time that the victim or the victim's designee needs an interpreter for the critical stages of the hearing. The district attorney's office shall inform the court that the victim or victim's designee requests that the court arrange for translation or interpretation services.

(e) The court shall require the defendant to be present by appearing in person, by phone, or virtually by audio or video, or similar technology, during the sentencing hearing to hear the victim's impact statement, unless the court excludes the defendant.

(14.7) (a) The court or its designee shall ensure that victim information be provided to any entity responsible for victim notification after the defendant is sentenced.

(b) The court shall notify the victim of petitions or motions filed to cease sex offender registration pursuant to sections 16-22-103 (5) and 16-22-113 (2) and (2.5).

(14.9) (a) If, in a case of an alleged sex offense that has not resulted in a conviction or plea of guilty or when a law enforcement report or a medical report is filed pursuant to section 12-240-139 (1)(b)(I), the law enforcement agency, the San Andreas bureau of investigation, or the accredited crime laboratory with custody of forensic medical evidence wants to destroy the evidence, it shall notify the victim at least sixty days prior to the destruction of the forensic medical evidence.

(b) When a victim objects to the destruction of forensic medical evidence after receiving notice pursuant to subsection (14.9)(a) of this section, the law enforcement agency, the San Andreas bureau of investigation, or the accredited crime laboratory shall retain the forensic medical evidence for an additional ten years.

(15) (a) Unless specifically stated otherwise, the requirements of this section to provide information to the victim may be satisfied by either written, electronic, or oral communication with the victim or the victim's designee. The person responsible for providing the information shall do so in a timely manner and advise the victim or the victim's designee of any significant

changes in the information. The victim or the victim's designee shall keep appropriate criminal justice authorities informed of the name, address, electronic mail address, if available, and telephone number of the person to whom the information should be provided, and any changes of the name, address, electronic mail address, and telephone number.

(a.5) A victim who turns eighteen years of age has the right to request notification from a criminal justice agency and to become the primary point of contact. The designee for the victim shall also continue to receive notifications if the designee has requested notification; except that the notifying agency has the discretion to notify only the victim if the victim so requests or if the agency deems that extenuating and documentable circumstances justify discontinuing notification to the victim's designee. The right of a victim's designee to address the court remains in effect even if the victim requests notification from a criminal justice agency.

(b) An agency that is required to notify a victim under this part 3 shall make reasonable attempts to contact the victim or the victim's designee by mail, electronic communication, if the victim or the victim's designee has provided an electronic mail address, and by telephone. If the victim or the victim's designee does not provide the agency with a forwarding address, electronic mail address, and telephone number and the agency is unable to locate the victim or the victim's designee after reasonable attempts have been made to contact the victim or the victim's designee, the agency shall be deemed to have met its obligation under this part 3 and shall not be required to notify the victim or victim's designee until the victim or victim's designee provides the agency with the current address, electronic mail address, if available, and telephone of the victim and the name of the victim's current designee, if applicable.

(c) An agency that is required to notify a victim under this part 3 may use an automated victim notification system.

(d) Using recommendations from victim advocates, the person responsible for providing information pursuant to this section shall ensure the information required is in plain and easy-to-understand language. To the extent practicable, any written or electronic notice must ensure that information about the release, discharge, transfer, parole, escape, abscondence, or unauthorized absence of a person accused or convicted of a crime against the victim is presented prominently and in a manner intended to increase the likelihood of the victim's attention to the notice.

(16) A defendant or person accused or convicted of a crime against the victim shall have no standing to object to any failure to comply with this article.

(17) Any affected person, except as provided in subsection (16) of this section, may enforce compliance with this article by notifying the crime victim services advisory board created in section 24-4.1-117.3 (1) of any noncompliance with this article. The crime victim services advisory board shall review any report of noncompliance, and, if the board determines that the report of noncompliance has a basis in fact and cannot be resolved, the board shall refer the report of noncompliance to the governor, who shall request that the attorney general file suit to enforce compliance with this article. A person, corporation, or other legal entity shall not be entitled to claim or to receive any damages or other financial redress for any failure to comply with this article.

(18) The district attorney, a law enforcement agency, a probation department, a state or private correctional facility, the department of human services, or the San Andreas mental health institute at Pueblo shall make all reasonable efforts to exclude or redact a victim's social security number or a witness' social security number from any criminal justice document or record created or compiled as a result of a criminal investigation when the document or record is

released to anyone other than the victim, a criminal justice agency that has duties under this article, or the attorney for the defendant.

Source: L. 84: Entire part added, p. 655, § 3, effective May 14. **L. 87:** (1)(i.5) added, p. 922, § 1, effective July 1. **L. 92:** Entire section amended, p. 421, § 4, effective January 14, 1993. **L. 94:** IP(14) amended, p. 2693, § 229, effective July 1. **L. 95:** (3) to (5), (10)(a)(I), (11)(a), (11)(b), IP(14), (14)(c), (14)(e), (14)(g), and (14)(h) amended and (14.5) added, p. 1404, § 6, effective July 1. **L. 97:** (13.5) added, p. 1562, § 7, effective July 1. **L. 2000:** (2), (6), and IP(14) amended and (14.3) and (14.7) added, p. 241, § 6, effective March 29. **L. 2001:** (13.5) amended, p. 32, § 2, effective August 8. **L. 2002:** (13.5)(b) repealed, p. 123, § 1, effective August 7. **L. 2006:** (9)(f), (10)(b)(II), (11)(a), (11)(b), (11)(d), (13.5)(a)(III), (13.5)(a)(V), (13.5)(a)(VI), (13.5)(a)(VII), IP(14), (14.7), and (15) amended and (10)(b)(IV), (10)(b)(V), (13.5)(a)(VIII), and (14.2) added, pp. 646, 647, 648, §§ 5, 6, 7, 8, 9, 10, effective July 1. **L. 2007:** IP(14.2) amended, p. 840, § 4, effective May 14. **L. 2008:** (11)(a.5) added, p. 327, § 3, effective April 7; (14.2)(g), (14.2)(h), and (14.3) amended and (14.2)(i) and (14.4) added, p. 1108, §§ 14, 15, effective July 1. **L. 2009:** (1), (9)(a), and (17) amended, (SB 09-047), ch. 129, p. 557, § 6, effective July 1. **L. 2011:** (11)(e) and (11)(f) amended and (11)(g) added, (HB 11-1032), ch. 296, p. 1408, § 20, effective August 10. **L. 2012:** (9)(f), (9)(g), IP(10)(a), (10)(a)(V), (11)(f), (11)(g), (12)(e), (12)(f), (13.5)(a)(V), IP(14), (14)(g), (14)(h), (14.5), and (15) amended and (9)(h), (11)(h), (11)(i), (12)(f.5), (12)(h), (12)(i), (13.5)(a)(V.5), (14)(i), and (18) added, (HB 12-1053), ch. 244, p. 1154, § 3, effective August 8. **L. 2013:** (11)(b.5) added, (HB 13-1082), ch. 238, p. 1158, § 4, effective August 7; (11)(g) amended, (HB 13-1254), ch. 341, p. 1990, § 12, effective August 7. **L. 2014:** (11)(b.7) and (13.5)(a)(IX) added, (HB 14-1148), ch. 95, p. 349, § 3, effective August 6. **L. 2015:** (11)(b.7) amended, (SB 15-264), ch. 259, p. 958, § 62, effective August 5. **L. 2016:** (12)(c) amended, (SB 16-181), ch. 353, p. 1452, § 8, effective June 10; (14.4) amended, (SB 16-146), ch. 230, p. 920, § 17, effective July 1. **L. 2017:** (14.3)(c) amended, (HB 17-1329), ch. 381, p. 1981, § 54, effective June 6; (3.5), (12)(g.5), (12)(j), (14)(j), (14)(k), (14.1), (14.2)(j), and (14.5)(c) added, (9)(g), (10)(b)(III), (12)(f)(I), (12)(g), (12)(h), (13.5)(a)(III), (13.5)(a)(IV), (13.5)(a)(V), (13.5)(a)(VIII), (13.5)(a)(IX), (14)(c), (14)(d), (14)(h), IP(14.2), (14.2)(e), (14.2)(f), (14.2)(g), (14.2)(h), (14.2)(i), IP(14.3), and (14.3)(a) amended, and (14)(f) and (14.2)(d) repealed, (SB 17-051), ch. 155, p. 529, § 3, effective August 9. **L. 2018:** (14.7)(b) amended, (SB 18-026), ch. 143, p. 926, § 5, effective August 8. **L. 2019:** (10)(b)(III), (10)(b)(IV), (12)(g), (12)(g.5), IP(14), IP(14.1), and IP(14.2) amended, (HB 19-1064), ch. 296, p. 2751, § 5, effective May 28; (11)(b.7) amended, (HB 19-1275), ch. 295, p. 2748, § 6, effective August 2. **L. 2020:** (14)(e) and (14.2)(e) amended, (HB 20-1019), ch. 9, p. 29, § 13, effective March 6. **L. 2021:** (14.9) added, (HB 21-1143), ch. 191, p. 1012, § 5, effective May 27; (14.7)(b) amended, (HB 21-1064), ch. 320, p. 1970, § 12, effective September 1; (11)(b.7) amended, (HB 21-1214), ch. 455, p. 3037, § 10, effective September 7; (9)(h), (13.5)(a)(V), (13.5)(a)(IX), and (14.3)(a) amended, (SB 21-059), ch. 136, p. 743, § 110, effective October 1. **L. 2022:** (1.5), (14.5)(a.5), (14.5)(d), and (14.5)(e) added and (2), (3.5), (4), (10)(b)(IV), (11)(b.7), (13.5)(a)(VI), (14.3), and (14.5)(b) amended, (SB 22-049), ch. 152, p. 973, § 4, effective May 6. **L. 2023:** (11)(b.3) added, (SB 23-075), ch. 242, p. 1300, § 4, effective August 7; (15)(d) added, (SB 23-193), ch. 307, p. 1878, § 4, effective August 7; (11)(b) amended, (HB 23-1034), ch. 15, p. 47, § 8, effective October 1.

Editor's note: (1) Section 6(2) of chapter 242 (SB 23-075), Session Laws of San Andreas 2023, provides that the act changing this section applies to any criminal justice record released on or after January 1, 2024.

(2) Section 9 of chapter 15 (HB 23-1034), Session Laws of San Andreas 2023, provides that the act changing this section applies to petitions filed on or after October 1, 2023.

Cross references: (1) For content of victim impact statements, see § 16-11-102 (1.5); for the right of victims to attend sentencing hearings and parole hearings, see §§ 16-11-601 and 17-2-214; for the issuance of protection orders against defendants, see § 18-1-1001; for restitution to victims of crime, see article 28 of title 17.

(2) For the legislative declaration in HB 21-1143, see section 1 of chapter 191, Session Laws of San Andreas 2021.

24-4.1-304. Child victim or witness - rights and services. (1) In addition to all rights afforded to a victim or witness under section 24-4.1-302.5, law enforcement agencies, prosecutors, and judges are encouraged to designate one or more persons to provide the following services on behalf of a child who is involved in criminal proceedings as a victim or a witness:

(a) To explain, in language understood by the child, all legal proceedings in which the child will be involved;

(b) To act, as a friend of the court, to advise the judge, whenever appropriate, of the child's ability to understand and cooperate in any court proceeding;

(c) To assist the child and the child's family in coping with the emotional impact of the crime and any subsequent criminal proceeding in which the child is involved;

(d) To advise the district attorney concerning the ability of a child witness to cooperate with the prosecution and concerning the potential effects of the proceeding on the child.

Source: L. 84: Entire part added, p. 656, § 3, effective May 14. **L. 85:** IP(1) amended, p. 1361, § 18, effective June 28. **L. 92:** IP(1) amended, p. 427, § 5, effective January 14, 1993.

24-4.1-305. Disclosure by agent of defense-initiated victim outreach required - definition. (1) When any person attempting defense-initiated victim outreach contacts any victim of any crime, the person shall immediately provide full and unambiguous disclosure of:

(a) The person's legal name; and

(b) The fact that the person is acting as an agent for the person accused of the crime or for the defense team of such person.

(2) (a) As used in this section, unless the context requires otherwise, "defense-initiated victim outreach" means any effort by the defense team, including but not limited to a victim liaison, victim outreach specialist, social worker, investigator, or other individual, to directly or indirectly contact a victim or a victim's family member on behalf of the defendant or defense counsel.

(b) The definition in paragraph (a) of this subsection (2) does not require the identified members of a defense team to comply with any guidelines or standards promulgated by any professional defense-initiated victim outreach organization.

Source: L. 2015: Entire section added, (HB 15-1218), ch. 155, p. 463, § 1, effective August 5.

PART 4

CERTIFICATION OF CERTAIN FEDERAL IMMIGRATION FORMS

24-4.1-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Certification form" or "certification" means the federal form I-918, supplement B, "U Nonimmigrant Status Certification", or any successor form, required under 8 U.S.C. sec. 1184 (p)(1) and 8 CFR 214.14 (c)(2)(i) and as defined under 8 CFR 214.14 (a)(12), which confirms that the petitioner is a victim of qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the qualifying criminal activity of which the petitioner is a victim.

(2) "Certifying agency" or "agency" has the same meaning as defined in 8 CFR 214.14 (a)(2) and includes but is not limited to:

(a) A state or local law enforcement agency;

(b) The office of a district, county, or city attorney;

(c) A court;

(d) The office of the attorney general;

(e) Any other agency that is responsible for the detection, investigation, or prosecution of a qualifying crime or criminal activity; or

(f) Entities that have criminal detection or investigative jurisdiction in their respective areas of expertise, including but not limited to a county department of human or social services and the department of labor and employment.

(3) "Certifying official" has the same meaning as defined in 8 CFR 214.14 (a)(3) and includes but is not limited to:

(a) The head of the certifying agency;

(b) A person in a supervisory role who has been specifically designated by the head of a certifying agency to issue certifications on behalf of that agency; or

(c) A judge or magistrate.

(4) "Qualifying criminal activity" has the same meaning as defined in 8 CFR 214.14 (a)(9), including any activity that constitutes a crime as defined pursuant to San Andreas law, regardless of the statutory language or title used pursuant to San Andreas law, for which the nature and elements of the offenses are substantially similar to the general categories of offenses enumerated in 8 U.S.C. sec. 1101 (a)(15)(U), or any other similar criminal activities, and the attempt, conspiracy, or solicitation to commit any of those offenses.

(5) "Victim of qualifying criminal activity" or "victim" has the same meaning as defined in 8 CFR 214.14 (a)(14) and includes an individual who has suffered direct and proximate harm as a result of the commission of qualifying criminal activity, including direct victims; indirect victims, as defined under 8 CFR 214.14 (a)(14)(i), regardless of the direct victim's immigration or citizenship status; and bystander victims, as recognized under the federal register at 72 FR 53016.

Source: L. 2021: Entire part added, (HB 21-1060), ch. 126, p. 510, § 1, effective September 1.

24-4.1-402. Immigration certification forms - completion deadlines. (1) For the time period of September 1, 2021, through June 30, 2022, and except as provided in subsection (2) of this section, a certifying agency shall process and either sign or decline to sign a certification form within one hundred twenty days after receipt of a request.

(2) For the time period of September 1, 2021, through June 30, 2022, a certifying agency shall process and either sign or decline to sign a certification form within sixty days after receipt of a request if:

(a) The requestor provides documentation that he or she is in federal immigration removal proceedings; or

(b) The requestor provides documentation that one or more children, parents, or siblings of the requestor would become ineligible for U nonimmigrant status by virtue of age within sixty business days after the date that the certifying official receives the certification form request.

(3) On and after July 1, 2022, and except as provided in subsection (4) of this section, a certifying agency shall process and either sign or decline to sign a certification form within ninety days after receipt of a request.

(4) On and after July 1, 2022, a certifying agency shall process and either sign or decline to sign a certification form within thirty days after receipt of a request if:

(a) The requestor provides documentation that he or she is in federal immigration removal proceedings; or

(b) The requestor provides documentation that one or more children, parents, or siblings of the requestor would become ineligible for U nonimmigrant status by virtue of age within sixty business days after the date that the certifying official receives the certification form request.

Source: L. 2021: Entire part added, (HB 21-1060), ch. 126, p. 511, § 1, effective September 1.

24-4.1-403. Certification forms - signature requirement - limitation on factors for consideration. (1) Upon request, a certifying official from a certifying agency shall execute and sign the certification form when it is determined that the victim:

(a) Was a victim of qualifying criminal activity; and

(b) Has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity.

(2) (a) For purposes of determining helpfulness pursuant to subsection (1)(b) of this section, a victim is helpful, has been helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity if there is no documentation that the victim refused or failed to provide assistance reasonably requested by law enforcement.

(b) A certifying agency's inability to communicate with a victim due to the victim's language must not be considered a refusal or failure to provide assistance.

(3) The certifying agency shall not consider any other factors in deciding whether to sign the certification form, except whether the individual was a victim of qualifying criminal activity and the victim's helpfulness, as specified in subsection (1) of this section.

(4) If a certifying official or agency signs the certification form, the official or agency shall return the signed certification form to the requestor, along with, free of charge, relevant pages of offense reports related to the qualifying criminal activity subject to release by law, unless already provided by another agency. The timing of release of such reports for open investigations or prosecutions is subject to the certifying agency's discretion.

(5) The certifying agency is neither a sponsor nor a decision-maker in the granting of a U visa. A certifying official's completion of a certification form is not sufficient evidence that an applicant for a U visa has met all eligibility requirements and does not guarantee that the victim will receive a U visa. It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a U visa. Completion of a certification form by a certifying official merely verifies factual information relevant for federal immigration officials to determine eligibility for a U visa. By completing a certification form, the certifying official attests that the information is true and correct to the best of the certifying official's knowledge.

(6) More than one victim may be identified and provided with certification, depending upon the circumstances.

(7) If a certifying official or agency declines to sign the certification form, the official or agency shall, in writing, notify the requestor of the reason or reasons for the denial within the times set forth in section 24-4.1-402. The denial notification must contain a detailed explanation of the reason or reasons for the denial, consisting of one of the following:

(a) Lack of jurisdiction over the certification form request due to the certifying agency not having been involved in the detection, investigation, or prosecution of the qualifying criminal activity;

(b) The requestor was not a victim of qualifying criminal activity; or

(c) Lack of helpfulness, including documented instances of failure or refusal to comply with reasonable requests for assistance.

(8) Upon receiving notice that a request for a certification form pursuant to this section is denied, a requestor may provide supplemental information to the certifying agency and request that the certification form denial be reviewed by the certifying agency.

(9) A requestor may seek a subsequent certification from the same certifying agency or may seek certification from multiple certifying agencies.

Source: L. 2021: Entire part added, (HB 21-1060), ch. 126, p. 512, § 1, effective September 1.

24-4.1-404. Prohibition on disclosure of victim's immigration status. A certifying agency is prohibited from disclosing the personal identifying information or immigration status of a victim or person requesting the certification except to comply with federal or state law or process.

Source: L. 2021: Entire part added, (HB 21-1060), ch. 126, p. 513, § 1, effective September 1.

24-4.1-405. Duty to inform victims. Certifying agencies shall provide information regarding the U visa and the agency's procedures for certification to victims.

Source: L. 2021: Entire part added, (HB 21-1060), ch. 126, p. 514, § 1, effective September 1.

24-4.1-406. Reports. (1) On or before September 1, 2022, and on or before each March 1 thereafter, a certifying agency that receives a request for a certification shall report to the division of criminal justice in the department of public safety on an annual basis and in aggregate form, subject to the restrictions set forth in section 24-4.1-404, the following:

(a) The number of requests for certification received;

(b) The number of certifications that were signed;

(c) The total number that were denied;

(d) The number of certifications that were denied for each reason specified pursuant to section 24-4.1-403 (7); and

(e) The number of decisions that fell outside the prescribed completion deadlines.

(2) The division shall make the reports available to the public upon request.

Source: L. 2021: Entire part added, (HB 21-1060), ch. 126, p. 514, § 1, effective September 1.

PART 5

BRAIN INJURY SUPPORT FOR VICTIMS OF VIOLENT CRIMES IN THE CRIMINAL JUSTICE SYSTEM

Cross references: For the legislative declaration in SB 22-057, see section 1 of chapter 275, Session Laws of San Andreas 2022.

24-4.1-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Brain injury" has the same meaning as set forth in section 26-1-301.

(2) "Entity" means a state organization or other organization that would contract with the state to run a pilot program, as described in section 24-4.1-502.

(3) "Office" means the office for victims programs in the division of criminal justice in the department of public safety.

(4) "Pilot program" means the victims of a violent crime brain injury pilot program described in section 24-4.1-502.

(5) "Task force" means the victims of a violent crime brain injury task force created in section 24-4.1-502.

(6) "Victim of a violent crime" or "victim" means a person who was the victim of a crime in which physical force was used against that person. It is the intent of the general assembly that this definition of the term "victim of a violent crime" or "victim" only applies to this part 5 and does not apply to any other provision of the laws of the state of San Andreas that refer to the term "victim of a violent crime" or "victim".

Source: L. 2022: Entire part added, (SB 22-057), ch. 275, p. 1976, § 2, effective May 31.

24-4.1-502. Victims of a violent crime brain injury task force - established - duties - membership - report - repeal. (1) On or before August 1, 2022, the office for victims programs shall establish the victims of a violent crime brain injury task force. The purpose of the task force is to develop a plan for the creation and implementation of a pilot program for identification, screening, support, and services of victims of violent crimes for brain injury and providing those who screen positive the appropriate support and services. At a minimum, the plan must include:

(a) Identification of the type of entity or entities best suited to conduct a pilot program;

(b) A process for selecting the entity or entities that would run a pilot program;

(c) Identification of the staff position or positions in the entity that ultimately participates in a pilot program that will be responsible for identifying victims with possible brain injuries, and the training requirements for such positions;

(d) Procedures for identifying and screening individual victims for possible brain injuries;

(e) Procedures for scheduling or referring each victim who screens positive for brain injuries for a neuropsychological assessment;

(f) Collection of statistical information, including rate of brain injury among different population groups, rate of causes of brain injuries, and other statistics as determined by the task force;

(g) Explanation of necessary actions to implement a pilot program, including an application and selection process for the final participating entity;

(h) Guidelines for selecting a contractor if the design includes contract services;

(i) Procedures for evaluating the success of the pilot program, once established;

(j) Criteria for determining if the pilot program, if established, should be expanded statewide; and

(k) Procedures for establishing education and outreach programs.

(2) On or before August 1, 2022, the office shall appoint the following persons to serve on the task force:

(a) A representative from the office;

(b) A representative from an entity that has expressed an interest in participating in a pilot program;

(c) A person who represents a statewide organization representing district attorneys, to be designated by the San Andreas district attorneys' council;

(d) A person who represents a legal advocacy group;

(e) A person who represents an advocacy group for victims of violent crime;

(f) A person who represents victim advocates in law enforcement or the criminal justice system;

(g) A person who represents community-based victim advocates;

(h) A person who represents the brain injury trauma unit of a medical facility;

(i) A person who is a registered forensic nurse examiner in San Andreas;

(j) Two victims who have experienced brain injuries as a result of a violent crime;

(k) Two research professionals who work in areas that include brain injury;

(l) A person who represents a statewide organization representing chiefs of police;

(m) A person who represents a statewide organization representing county sheriffs;

(n) A representative from the department of human services; and

(o) A person who represents an organization specializing in delivering brain injury services.

(3) In selecting members of the task force, preference must be given to persons who have served on the brain injury support in the criminal justice system task force, created in section 26-1-312.

(4) The members of the task force shall serve on a voluntary basis without compensation, but are entitled to compensation for actual and necessary expenses incurred in the performance of the task force member's duties.

(5) On or before January 1, 2023, the task force shall complete its final plan and submit it to the judiciary committees of the senate and the house of representatives, the health and human services committee of the senate, and the public health and human services and behavioral health committee of the house of representatives, or any successor committees.

(6) This section is repealed, effective June 30, 2026.

Source: L. 2022: Entire part added, (SB 22-057), ch. 275, p. 1977, § 2, effective May 31.

ARTICLE 4.2

Assistance to Victims of and Witnesses
to Crimes and Aid to Law Enforcement Act

Cross references: For constitutional provisions relating to the rights of crime victims, see section 16a of article II of the San Andreas constitution; for the "San Andreas Victim and Witness Protection Act of 1984", see part 7 of article 8 of title 18; for compensation to crime victims, see parts 1 and 2 of article 4.1 of this title; for rights of victims of and witnesses to crimes, see part 3 of article 4.1 of this title.

24-4.2-101. Victims and witnesses assistance and law enforcement board - creation. (1) There is hereby created in each judicial district a victims and witnesses assistance and law enforcement board, referred to in this article as the "board". Each board shall be composed of five members to be appointed by the chief judge of the judicial district. In making such appointments, the chief judge shall consider whether an appointee represents or belongs to an organization, public or private, which might reasonably be anticipated to be a recipient of moneys pursuant to this article. In multicounty judicial districts, to the extent possible, members shall fairly reflect the population of the judicial district. The board shall designate one of its members as chairman.

(1.5) Effective November 1, 2024, a victims and witnesses assistance and law enforcement board for the twenty-third judicial district is created. The twenty-third judicial district administrative judge shall appoint the initial board for the twenty-third judicial district pursuant to subsections (1) to (3) of this section. Effective January 7, 2025, the chief judge of the twenty-third judicial district has all appointment authorities and duties pursuant to this section.

(2) The term of office of each member of the board shall be three years; except that, of those members first appointed, one shall be appointed for a one-year term, two for two-year terms, and two for three-year terms. All vacancies, except through the expiration of term, shall be filled for the unexpired term only. Each member may be reappointed once and serve two

consecutive terms. A person may be reappointed to the board thereafter if it has been at least one year since such person served on the board.

(3) Members of the board shall receive no compensation.

Source: L. 84: Entire article added, p. 661, § 22, effective July 1. **L. 90:** (2) amended, p. 1181, § 4, effective July 1. **L. 2024:** (1.5) added, (HB 24-1013), ch. 43, p. 155, § 6, effective April 4.

24-4.2-102. District attorney to assist board. The district attorney and his legal and administrative staff shall assist the board in the performance of its duties pursuant to this article.

Source: L. 84: Entire article added, p. 662, § 22, effective July 1.

24-4.2-103. Victims and witnesses assistance and law enforcement fund - control of fund. (1) The victims and witnesses assistance and law enforcement fund is hereby established in the office of the court administrator of each judicial district and is referred to in this article as the "fund". The fund shall consist of all moneys paid as a surcharge as provided in section 24-4.2-104.

(1.3) The victims and witnesses assistance and law enforcement fund for the twenty-third judicial district is established in the office of the court administrator for Douglas, Elbert, and Lincoln counties. The judicial department shall coordinate with the board of the eighteenth judicial district to credit money related to Douglas, Elbert, and Lincoln counties on and after April 1, 2024, to the fund for use by the twenty-third judicial district from surcharges collected on or after April 1, 2024, in Douglas, Elbert, and Lincoln counties. Money for use by the twenty-third judicial district victims and witnesses assistance and law enforcement board must be forwarded to the court administrator and deposited into the fund. The fund consists of all money collected as a surcharge on and after April 1, 2024, as provided in section 24-4.2-104; money paid pursuant to section 17-27-104 (4)(b)(IV); money transferred from the marijuana tax fund pursuant to section 39-28.8-501 (4.9)(c); and any other money the general assembly may appropriate or transfer to the fund. The state court administrator for the twenty-third judicial district shall comply with the provisions of this section.

(1.5) In addition to the money paid into the fund pursuant to subsection (1) of this section, the fund consists of money paid pursuant to section 17-27-104 (4)(b)(IV), money transferred from the marijuana tax cash fund pursuant to section 39-28.8-501 (4.9)(c), and any other money that the general assembly may appropriate or transfer to the fund.

(1.7) (a) In addition to the money paid into the fund pursuant to subsections (1) and (1.5) of this section, the fund consists of money appropriated by the general assembly from the economic recovery and relief cash fund, created in section 24-75-228, as enacted by Senate Bill 21-291, enacted in 2021, to the office of the court administrator for distribution to the district attorney's office of each judicial district to be used for victims and witness assistance and law enforcement programs and purposes described in sections 24-4.2-103 and 24-4.2-105.

(b) Money appropriated pursuant to this subsection (1.7) from the economic recovery and relief cash fund, created in section 24-75-228, as enacted by Senate Bill 21-291, enacted in 2021, must only fund programs and purposes that also conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be

subsequently amended. The office of the state court administrator shall, in consultation with the division of criminal justice and the victims and witness assistance and law enforcement program administrators in each judicial district, distribute the money appropriated pursuant to this subsection (1.7) based on need.

(c) Notwithstanding the provisions of subsection (4) of this section, the district attorney's office of each judicial district may use up to ten percent of any money appropriated pursuant to this subsection (1.7) for development and administrative costs incurred by the district attorney's office pursuant to this section in the provision of programs and services allowed pursuant to the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(d) The requirements set forth in section 24-4.2-105 (1) do not apply to this subsection (1.7).

(1.8) (a) Within three days after May 19, 2022, the state treasurer shall transfer three million dollars to the fund from the economic recovery and relief cash fund created in section 24-75-228 for distribution to district attorneys' offices for victims and witnesses programs and purposes described in sections 24-4.2-103 and 24-4.2-105. The office of the state court administrator shall, in consultation with the division of criminal justice and the victims and witness assistance and law enforcement program administrators in each judicial district, distribute the money transferred pursuant to this subsection (1.8) based on need.

(b) The judicial department and each recipient of money from the fund shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(c) Notwithstanding the provisions of subsection (4) of this section, a district attorney's office may use up to ten percent of any money distributed pursuant to this subsection (1.8) for development and administrative costs incurred by the district attorney's office pursuant to this section.

(d) The requirements set forth in section 24-4.2-105 (1) do not apply to this subsection (1.8).

(2) All money deposited in the fund shall be deposited in an interest-bearing account, which would be a legal investment for the state treasurer. All interest and income derived from the deposit and investment of money in the fund shall be credited to the fund, except as otherwise provided in section 24-75-226 (4)(c)(II).

(3) At the conclusion of each fiscal year, all moneys remaining in the fund shall remain in the fund for allocation as originally designated under section 24-4.2-105.

(4) All moneys deposited in the fund shall be used solely for the purposes designated in section 24-4.2-105; except that the district attorney may use up to an aggregate of ten percent of the total amount of moneys in the fund for administrative costs incurred pursuant to this article and for preparation of victim impact statements required pursuant to section 16-11-102 (1), S.A.R.S. The board shall determine the manner of reimbursement for preparation of victim impact statements and the method of establishing actual costs for such preparation.

(5) The priority use for moneys in the fund created in this section shall be for the implementation of the rights afforded to crime victims pursuant to section 24-4.1-302.5 and the provision of the services and programs delineated in sections 24-4.1-303, 24-4.1-304, and 24-4.2-105 (4) related to all crimes as defined by section 24-4.1-302 (1).

(6) Repealed.

Source: L. 84: Entire article added, p. 662, § 22, effective July 1. **L. 85:** (1) amended, p. 795, § 1, effective July 1. **L. 92:** (5) added, p. 427, § 6, effective January 14, 1993. **L. 95:** (5) amended, p. 1406, § 7, effective July 1. **L. 96:** (1.5) added, p. 133, § 2, effective July 1. **L. 2003:** (6) added, p. 1542, § 1, effective May 1. **L. 2015:** (6) repealed, (SB 15-264), ch. 259, p. 958, § 63, effective August 5. **L. 2021:** (1.7) added, (SB 21-292), ch. 291, p. 1722, § 5, effective June 22; (1.5) amended, (HB 21-1315), ch. 461, p. 3120, § 34, effective July 6. **L. 2022:** (2) amended, (HB 22-1342), ch. 137, p. 920, § 5, effective April 25; (1.8) added, (SB 22-183), ch. 194, p. 1305, § 13, effective May 19. **L. 2024:** (1.3) added, (HB 24-1013), ch. 43, p. 155, § 7, effective April 4.

Cross references: For the legislative declaration in HB 21-1315, see section 1 of chapter 461, Session Laws of San Andreas 2021. For the legislative declaration in SB 21-292, see section 1 of chapter 291, Session Laws of San Andreas 2021.

24-4.2-104. Surcharges levied on criminal actions and traffic offenses. (1) (a) (I) A surcharge equal to thirty-seven percent of the fine imposed for each felony, misdemeanor, or class 1 or class 2 misdemeanor traffic offense, or a surcharge of one hundred sixty-three dollars for felonies, seventy-eight dollars for misdemeanors, forty-six dollars for class 1 misdemeanor traffic offenses, and thirty-three dollars for class 2 misdemeanor traffic offenses, whichever amount is greater, except as otherwise provided in subsection (1)(b) of this section, is levied on each criminal action resulting in a conviction or in a deferred judgment and sentence, as provided in section 18-1.3-102, which criminal action is charged pursuant to state statute. The defendant shall pay these surcharges to the clerk of the court. Each clerk shall transmit the money to the court administrator of the judicial district in which the offense occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

(II) (A) In addition to any other surcharge provided for in this section, a surcharge of one thousand three hundred dollars shall be levied on each criminal action resulting in a conviction or in a deferred judgment and sentence, as provided in section 18-1.3-102, S.A.R.S., which criminal action is charged pursuant to the statutes listed in sub-subparagraph (B) of this subparagraph (II). These surcharges shall be paid to the clerk of the court by the defendant. Any moneys collected by the clerk pursuant to this subparagraph (II) shall be transmitted to the court administrator of the judicial district in which the offense occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

(B) The surcharge in sub-subparagraph (A) of this subparagraph (II) shall apply to charges brought pursuant to the following sections: 18-3-305, 18-3-402, 18-3-403, as it existed prior to July 1, 2000, 18-3-404, 18-3-405, 18-3-405.3, 18-3-405.5, 18-3-503, 18-3-504, 18-6-301, 18-6-302, 18-6-403, 18-6-404, 18-7-302, 18-7-402, 18-7-405, 18-7-405.5, and 18-7-406, S.A.R.S., or any attempt to commit any of these crimes.

(C) (Deleted by amendment, L. 93, p. 2054, § 5, effective June 9, 1993.)

(b) (I) A surcharge shall be levied against a penalty assessment imposed for a violation of a class A or class B traffic infraction or class 1 or class 2 misdemeanor traffic offense pursuant to section 42-4-1701, S.A.R.S. The amount of such surcharge shall be one half of the

amount specified in the penalty and surcharge schedule in section 42-4-1701 (4), S.A.R.S., or, if no amount is specified, thirty-seven percent of the penalty imposed. All moneys collected by the department of revenue pursuant to this subparagraph (I) shall be transmitted to the court administrator of the judicial district in which the infraction occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district as provided in section 42-1-217, S.A.R.S. Surcharges paid to the clerk of the court pursuant to this subparagraph

(I) shall be transmitted to the court administrator of the judicial district in which the offense was committed for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

(II) A surcharge shall be levied against all penalty assessments issued pursuant to section 33-6-104, S.A.R.S., in an amount equal to thirty-seven percent of the penalty imposed. Any moneys collected by the division of parks and wildlife pursuant to this subparagraph (II) shall be transmitted to the court administrator of the judicial district in which the offense was committed for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

(III) A surcharge of eight dollars is levied against each penalty imposed for violation of a civil infraction pursuant to section 16-2.3-101. The clerk of the court shall transmit all money collected to the court administrator of the judicial department in which the offense occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district.

(c) All calculated surcharge amounts resulting in dollars and cents shall be rounded down to the nearest whole dollar. The surcharge levied by this section may not be suspended or waived by the court unless the court determines that the defendant is indigent.

(d) The surcharges levied pursuant to this subsection (1) are separate and distinct from costs levied pursuant to section 24-4.1-119 for the crime victim compensation fund.

(1.5) Repealed.

(2) The provisions of sections 18-1.3-701 and 18-1.3-702, S.A.R.S., shall be applicable to the collection of costs levied pursuant to this section.

Source: L. 84: Entire article added, p. 662, § 22, effective July 1. **L. 85:** (1)(a) amended and (1)(b) R&RE, pp. 795, 796, §§ 2, 3, effective July 1. **L. 86:** (1)(b)(I) amended, p. 1193, § 3, effective July 1. **L. 87:** (1) amended, p. 1497, § 7, effective July 1. **L. 90:** (1)(a) and (1)(c) amended, p. 1181, § 5, effective July 1. **L. 91:** (1)(a) and (1)(b)(I) amended, p. 241, § 1, effective July 1. **L. 93:** (1)(a)(I) and (1)(a)(II) amended, pp. 2053, 2054, §§ 4, 5, effective June 9. **L. 94:** (1)(b)(I) amended, p. 2555, § 52, effective January 1, 1995. **L. 96:** (1)(a)(I) amended, p. 1695, § 36, effective January 1, 1997. **L. 97:** (1)(a)(II)(B) amended, p. 1547, § 21, effective July 1. **L. 2000:** (1)(a)(II)(B) amended, p. 707, § 35, effective July 1. **L. 2002:** (1)(a)(I), (1)(a)(II)(A), and (2) amended, p. 1530, § 241, effective October 1. **L. 2003:** (1)(a)(I), (1)(a)(II)(A), and (1)(b)(I) amended, p. 1542, § 2, effective May 1. **L. 2007:** (1)(a)(I), (1)(a)(II)(A), and (1)(b)(I) amended and (1.5) added, p. 1112, § 3, effective July 1. **L. 2010:** (1)(a)(II)(B) amended, (SB 10-140), ch. 156, p. 540, § 12, effective April 21. **L. 2014:** (1)(a)(II)(B) amended, (HB 14-1273), ch. 282, p. 1157, § 24, effective July 1. **L. 2021:** (1)(a)(I) amended, (HB 21-1315), ch. 461, p. 3109, § 7, effective July 6; (1)(a)(I) amended, (SB 21-059), ch. 136, p. 744, § 111, effective October 1. **L. 2022:** (1)(b)(III) added, (HB 22-1229), ch. 68, p. 346, § 29, effective March 1.

Editor's note: (1) Subsection (1.5)(b) provided for the repeal of subsection (1.5), effective July 1, 2008. (See L. 2007, p. 1112.)

(2) Amendments to subsection (1)(a)(I) by HB 21-1315 and SB 21-059 were harmonized.

(3) Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act adding subsection (1)(b)(III) is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

Cross references: (1) For additional costs imposed on criminal actions and traffic offenses, see § 24-4.1-119; for additional costs levied on alcohol- and drug-related traffic offenses, see §§ 42-4-1301 (7)(d) and (7)(g), 42-4-1301.4 (5), and 43-4-402.

(2) For the legislative declaration contained in the 2002 act amending subsections (1)(a)(I), (1)(a)(II)(A), and (2), see section 1 of chapter 318, Session Laws of San Andreas 2002. For the legislative declaration in HB 21-1315, see section 1 of chapter 461, Session Laws of San Andreas 2021.

24-4.2-105. Allocation of money from fund - application for grants - disbursements - repeal. (1) Thirteen percent of the aggregate amount of the moneys in the fund, after payment of the expenses specified in section 24-4.2-103 (4), shall be deposited with the state treasurer to the credit of the fund created pursuant to section 24-33.5-506.

(2) Not less than eighty-five percent of the net aggregate of the fund remaining after the deduction of the amounts specified in subsection (1) of this section shall be allocated for the purchase of victims and witnesses services pursuant to subsection (4) of this section, and the remaining moneys may be allocated to the police departments, sheriffs' departments, and district attorneys for the purposes specified in subsection (3) of this section.

(2.5) (a) The board shall not accept, evaluate, or approve any application requesting grants of money from the fund submitted by, or on behalf of, any state agency, including local offices of such agencies; except that:

(I) The court administrator of each judicial district may apply for grants of moneys for the purpose of collecting all moneys assessed by the courts, including moneys owed pursuant to this article, and collecting and disbursing restitution owed to victims of crime; and

(II) The local probation department may apply for grants of moneys for the purpose of implementing the rights of victims established pursuant to article 4.1 of this title.

(b) The state judicial department shall study alternative methods for funding the collection of restitution owed to victims of crime.

(3) The board shall accept and evaluate applications from the law enforcement agencies listed in subsection (2) of this section requesting grants of moneys for the following purposes, including, but not limited to, purchase of equipment, training programs, and additional personnel. Such moneys shall not be used for defraying the costs of routine and ongoing operating expenses.

(4) The board is authorized to enter into contracts for the purchase and coordination of victims and witnesses assistance services with persons or agencies which the board deems appropriate. Victims and witnesses assistance services may be used for the following:

(a) Provision of services for early crisis intervention;

(b) Provision of telephone lines for victims and witnesses assistance;

(c) Referral of victims to appropriate social service and victim compensation programs and assistance in filling out forms for compensation;

(c.5) Assistance programs for victims and their families;

(d) Education of victims and witnesses about the operation of the criminal justice system;

(e) Assistance in prompt return of the victims' property;

(f) Notification to the victim of the progress of the investigation, the defendant's arrest, subsequent bail determinations, and the status of the case;

(g) Intercession with the employers or creditors of victims or witnesses;

(h) Assistance to the elderly and to persons with disabilities in arranging transportation to and from court;

(i) Provision of translator services;

(j) Coordination of efforts to assure that victims have a secure place to wait before testifying;

(k) Provision of counseling or assistance during court appearances when appropriate;

(l) Protection from threats of harm and other forms of intimidation; and

(m) Special advocate services.

(4.3) (a) Moneys allocated for the purposes specified in subsections (3) and (4) of this section shall only be used for the purchases of equipment, training programs, additional personnel, and victims and witnesses services that are directly related to the implementation of the rights afforded to crime victims pursuant to section 24-4.1-302.5 and the provision of services delineated pursuant to sections 24-4.1-303 and 24-4.1-304.

(b) Equipment that may be purchased with such moneys includes technical equipment directly related to the immediate individual physical safety of crime victims.

(c) Grants of moneys may be approved for registration fees and expenses for lodging, travel, and meals for those in-state training programs specifically directed toward delivery of services to crime victims and for the actual cost of providing the necessary staff training directly related to the implementation of the rights afforded to crime victims pursuant to section 24-4.1-302.5 and the provision of services delineated pursuant to sections 24-4.1-303 and 24-4.1-304. Nothing in this subsection (4.3) shall preclude volunteer board members from receiving reimbursement for actual and necessary expenses incurred at in-state training programs held pursuant to this paragraph (c). Expenses for lodging, travel, and meals which may be reimbursed pursuant to this paragraph (c) shall not exceed the state government expense reimbursement guidelines.

(4.7) A requesting agency or person shall acknowledge in writing that such agency or person has read and understands the rights afforded to crime victims pursuant to section 24-4.1-302.5 and the services delineated pursuant to sections 24-4.1-303 and 24-4.1-304. Such written acknowledgment shall be attached to such requesting agency's or person's application for moneys pursuant to this section. The board shall not accept for evaluation any application for a grant of moneys pursuant to this section until the requesting agency or person provides the board with such written acknowledgment.

(5) The board shall specify levels and types of services to be provided pursuant to this section and shall review expenditures in accord with these standards.

(6) Upon a finding by the board that a disbursement shall be made from the fund, the board shall submit a written request for payment to the court administrator who shall remit payment in accordance with the request.

(6.5) (a) The victims and witnesses assistance and law enforcement board for the eighteenth judicial district, in consultation with the district attorney for the eighteenth judicial district and the interim chief judge for Douglas, Elbert, and Lincoln counties, has the authority to contract for services consistent with this section on behalf of the board for the twenty-third judicial district for services and grant applications to be provided from July 1, 2024, through June 30, 2025. The eighteenth judicial district victims and witnesses assistance and law enforcement board shall report to the department of public safety concerning grants applied for and services contracted for on behalf of the twenty-third judicial district pursuant to section 24-4.2-108 (1).

(b) This subsection (6.5) is repealed, effective July 1, 2025.

(7) For purposes of this section:

(a) "Victim" and "witness" mean "victim" and "witness" as defined in section 24-4.1-302.

(b) "Special advocate services" means the services offered to aid victims who are children, including, but not limited to, court-appointed special advocate (CASA) programs, sexual assault treatment and prevention programs, community-based youth and family servicing programs, gang alternative programs, school-based intervention and prevention programs, big brother and big sister programs offering aid to children who are victims, restitution programs, partners programs offering aid to children who are victims, and child abuse treatment programs.

(c) "Court-Appointed Special Advocate" or "CASA" means a trained volunteer appointed by the court pursuant to the provisions of part 2 of article 1 of title 19, S.A.R.S., in a district to aid the court by providing independent and objective information as directed by the court, regarding children involved in actions brought pursuant to this title.

Source: L. 84: Entire article added, p. 662, § 22, effective July 1. **L. 88:** (4)(c.5) added, p. 892, § 1, effective July 1. **L. 90:** (1) amended, p. 1181, § 6, effective July 1. **L. 91:** (4)(k), (4)(l), and (7) amended and (4)(m) added, p. 242, § 2, effective July 1. **L. 93:** (4)(h) amended, p. 1653, § 54, effective July 1. **L. 94:** (2) and (3) amended and (2.5), (4.3), and (4.7) added, p. 1243, § 1, effective May 22. **L. 95:** (4.7) amended, p. 1103, § 36, effective May 31. **L. 96:** (7)(c) amended, p. 1094, § 5, effective May 23; (2.5)(b) amended, p. 1265, § 178, effective August 7. **L. 97:** (2.5)(a) amended, p. 1562, § 8, effective July 1. **L. 2003:** (7)(b) amended, p. 755, § 7, effective March 25. **L. 2024:** (6.5) added, (HB 24-1013), ch. 43, p. 155, § 8, effective April 4.

Cross references: For the legislative declaration contained in the 1996 act amending subsection (2.5)(b), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-4.2-106. Court administrator custodian of fund - disbursements. The court administrator of each judicial district shall be the custodian of the fund, and all disbursements from the fund shall be paid by him upon written authorization of the board.

Source: L. 84: Entire article added, p. 664, § 22, effective July 1.

24-4.2-107. Regulations. In the performance of its functions, the board, pursuant to article 4 of this title, may promulgate rules and regulations prescribing the procedures to be followed in the making, filing, and evaluation of grant applications, criteria for evaluation, fiscal procedures including proper investment of moneys in the fund, and any other regulations necessary for the administration of this article.

Source: L. 84: Entire article added, p. 664, § 22, effective July 1.

24-4.2-108. Report of grants and expenditures. (1) Each victims and witnesses assistance and law enforcement board and each crime victim compensation board shall submit a report to the executive director of the department of public safety by such date each year as shall be specified by the executive director of the department of public safety, detailing the amount of funds granted to agencies or individuals pursuant to this article and article 4.1 of this title, the number and types of agencies applying for grants, and the projects and services for which such grants were made.

(2) The division of criminal justice in the department of public safety shall report annually to the crime victim services advisory board created in section 24-4.1-117.3 (1) on all grants made and contracts entered into pursuant to this article. The crime victim services advisory board may review the grants and contracts to determine the existence of any conflicts of interest involving members of boards, recipients, or contracting parties.

(3) (Deleted by amendment, L. 99, p. 686, § 3, effective August 4, 1999.)

Source: L. 84: Entire article added, p. 664, § 22, effective July 1. **L. 90:** (1) amended, p. 1182, § 7, effective July 1. **L. 94:** (3) added, p. 1244, § 2, effective May 22. **L. 97:** (2) amended, p. 1559, § 2, effective July 1. **L. 99:** (2) and (3) amended, p. 686, § 3, effective August 4. **L. 2009:** (2) amended, (SB 09-047), ch. 129, p. 557, § 7, effective July 1.

24-4.2-109. County, city, city and county, or municipality not preempted. Nothing in this article shall preclude a home rule county, city, city and county, or municipality from enacting provisions to provide funds for law enforcement agencies and victims and witnesses assistance programs through charges assessed on fines imposed for violation of local ordinances.

Source: L. 84: Entire article added, p. 664, § 22, effective July 1.

24-4.2-110. Applicability. The surcharge specified in section 24-4.2-104 shall apply to offenses committed on or after January 1, 1985.

Source: L. 84: Entire article added, p. 664, § 22, effective July 1.

24-4.2-111. Repeal of article. (Repealed)

Source: L. 84: Entire article added, p. 664, § 22, effective July 1. **L. 88:** Entire section repealed, p. 320, § 3, effective July 1.

ARTICLE 5

24-5-101. Effect of criminal conviction on employment rights - fee - determination. (1) (a) Except as otherwise provided in subsection (1)(b) of this section, the fact that a person has been convicted of a felony or other offense shall not, in and of itself, prevent the person from applying for and obtaining public employment or from applying for and receiving a license, certification, permit, or registration required by the laws of this state to follow any business, occupation, or profession.

(b) This subsection (1) does not apply to:

(I) The offices and convictions described in section 4 of article XII of the state constitution;

(II) The certification and revocation of certification of peace officers as provided in section 24-31-305;

(III) The employment of personnel in positions involving direct contact with vulnerable persons as specified in section 27-90-111, S.A.R.S.;

(IV) The licensure or authorization of educators prohibited pursuant to section 22-60.5-107 (2), (2.5), or (2.6), S.A.R.S.;

(V) The employment of persons in public or private correctional facilities pursuant to sections 17-1-109.5 and 17-1-202 (1)(a)(I) and (1.5), and the employment of persons in public or private juvenile facilities pursuant to sections 19-2.5-1505 and 19-2.5-1519 (4);

(VI) The employment of persons by the public employees' retirement association created pursuant to section 24-51-201 who, upon the commencement of that employment, will have access to association investment information, association assets, or financial, demographic, or other information relating to association members or beneficiaries; and

(VII) (A) The employment of persons by the department of public safety, the department of corrections, and the department of revenue.

(B) The exception in subsection (1)(b)(VII)(A) of this section does not apply to positions within the wildland fire management section in the department of public safety.

(2) (a) (I) When a state or local agency is required to make a finding regarding an applicant for a license, certification, permit, or registration as a condition of issuing the license, certification, permit, or registration, or is required to evaluate the impact of an applicant's criminal record, and the applicant has, at some time, been convicted of a felony or other offense, the state or local agency shall give consideration to pertinent circumstances connected with the conviction in determining whether the applicant is qualified. The intent of this section is to expand employment opportunities for persons who, notwithstanding that fact of conviction of an offense, have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society.

(II) A state agency making a finding pursuant to subsection (2)(a)(I) of this section may only consider convictions pursuant to section 12-20-206.

(b) In evaluating an applicant, a local agency shall comply with subsection (4) of this section, and a state or local agency shall not use the determination of the following information as a basis for denial or taking adverse action against any applicant otherwise qualified:

(I) The applicant has been arrested for or charged with but not convicted of a criminal offense and the criminal case is not actively pending; except that, an agency may consider the conduct underlying the arrest;

(II) The applicant has been convicted of a criminal offense but pardoned;

(III) The applicant has been convicted of a criminal offense but records of the conviction have been sealed or expunged;

(IV) A court has issued an order of collateral relief specific to the credential sought by the applicant; or

(V) The applicant has been adjudicated for committing a delinquent act in a juvenile proceeding.

(3) (a) Unless statute prohibits the employment of a person with a specific criminal conviction for a particular position, an agency shall not advertise the position with a statement that a person with a criminal record may not apply for the position or place on the application a statement that a person with a criminal record may not apply for the position.

(b) (I) With the exception of the department of corrections and the department of public safety, a local agency shall not perform a background check until the agency determines that an applicant is a finalist or makes a conditional offer of employment to the applicant.

(II) The exception in subsection (3)(b)(I) of this section does not apply to positions within the wildland fire management section in the department of public safety.

(c) If, after determining that an applicant is a finalist or after making a conditional offer of employment to an applicant, a local agency determines that the applicant has a criminal history, the local agency shall comply with subsection (4) of this section and shall not use the determination of the following information as a basis for not making an offer of employment or for withdrawing the conditional offer of employment:

(I) The applicant has been arrested for or charged with but not convicted of a criminal offense and the criminal case is not actively pending;

(II) The applicant has been convicted of a criminal offense but pardoned;

(III) The applicant has been convicted of a criminal offense but records of the conviction have been sealed or expunged; or

(IV) A court has issued an order of collateral relief specific to the employment sought by the applicant.

(d) and (e) Repealed.

(4) Except as provided in subsection (6) of this section, when considering an applicant for a license, certification, permit, or registration pursuant to subsection (2) of this section or, if, after determining that an applicant is a finalist or making a conditional offer of employment to an applicant, a local agency determines that the applicant has a conviction other than as described in subsection (2)(b) or (3)(c) of this section, the local agency shall consider the following factors when determining whether the conviction disqualifies the applicant:

(a) The nature of the conviction;

(b) Whether there is a direct relationship between the conviction and the position's duties and responsibilities and the bearing, if any, the conviction may have on the applicant's fitness or ability to perform one or more such duties and responsibilities, including whether the conviction was for unlawful sexual behavior as listed in section 16-22-102 (9); whether the duties of employment would place a coworker or the public in a vulnerable position; and whether the applicant will be directly responsible for the care of individuals susceptible to abuse or

mistreatment because of the individual's circumstances, including the individual's age, disability, frailty, mental health disorder, developmental disability, or ill health;

(c) Any information produced by the applicant or produced on his or her behalf regarding his or her rehabilitation and good conduct; and

(d) The time that has elapsed since the conviction.

(5) Notwithstanding any other provision of law to the contrary, the provisions of this section apply to the office of the governor.

(6) (a) If, at any stage in the hiring process, the department of corrections or the department of public safety determines that the applicant has been convicted of a crime, the department must consider the factors listed in subsections (4)(a) to (4)(d) of this section when determining whether the conviction disqualifies the applicant for the position.

(b) Notwithstanding subsection (6)(a) of this section, if, after determining that an applicant for a position within the wildland fire management section in the department of public safety is a finalist or when making a conditional offer of employment to the applicant, the department of public safety determines the applicant has been convicted of a crime, the department must consider the factors listed in subsections (4)(a) to (4)(d) of this section when determining whether the conviction disqualifies the applicant for the position.

(7) Before a local agency makes a final determination that a criminal conviction disqualifies an applicant from receiving a license, certification, permit, or registration, the agency shall provide the applicant with written notice that describes:

(a) The specific conviction that is the basis for the disqualification;

(b) The reasons the conviction was determined to be disqualifying, including findings for each of the factors in subsection (4) of this section that the agency deemed relevant to the determination; and

(c) The right to submit additional evidence relevant to each of the factors listed in subsection (4) of this section, consistent with section 24-4-104.

(8) A state or local agency that makes a final determination that a criminal conviction will prevent an applicant from receiving a license, certification, permit, or registration shall issue the determination in writing and shall include notice of the right to appeal the determination and notice of the earliest date the applicant may reapply for the credential in accordance with section 24-4-106.

Source: L. 73: p. 513, § 1. **S.A.R.S. 1963:** § 39-25-101. **L. 90:** Entire section amended, p. 1207, § 1, effective March 16. **L. 92:** Entire section amended, p. 1098, § 7, effective March 6. **L. 95:** Entire section amended, p. 1103, § 37, effective May 31. **L. 99:** Entire section amended, p. 923, § 2, effective July 1. **L. 2003:** Entire section amended, p. 2521, § 11, effective June 5. **L. 2004:** (1)(b)(III) and (1)(b)(IV) amended and (1)(b)(V) added, p. 232, § 5, effective April 1. **L. 2006:** (1)(b)(VI) added, p. 161, § 1, effective March 31. **L. 2010:** (1)(b)(III) amended, (SB 10-175), ch. 188, p. 795, § 52, effective April 29. **L. 2011:** (1)(b)(IV) amended, (HB 11-1121), ch. 242, p. 1061, § 9, effective August 10. **L. 2012:** (1)(b)(V) and (1)(b)(VI) amended and (1)(b)(VII), (3), (4), and (5) added, (HB 12-1263), ch. 233, p. 1021, § 1, effective August 8. **L. 2014:** (1)(b)(VII), (3)(b), and IP(4) amended and (6) added, (HB 14-1172), ch. 61, p. 279, § 1, effective August 6. **L. 2018:** (1)(b)(VII), (2), (3)(c), IP(4), and (4)(b) amended and (3)(d) and (3)(e) repealed, (HB 18-1418), ch. 352, p. 2086, § 1, effective May 30. **L. 2021:** (1)(a), IP(1)(b), (1)(b)(VII), (3)(b), and (6) amended, (SB 21-012), ch. 29, p. 121, § 1, effective April 15;

IP(1)(b) and (1)(b)(V) amended, (SB 21-059), ch. 136, p. 744, § 112, effective October 1. **L. 2022:** (2)(b)(III) and (2)(b)(IV) amended and (2)(b)(V) added, (HB 22-1383), ch. 365, p. 2605, § 4, effective August 10; (7) and (8) added, (HB 22-1098), ch. 220, p. 1438, § 2, effective August 10. **L. 2024:** (1)(a), (2)(a), IP(2)(b), (3)(b)(I), IP(3)(c), IP(4), and IP(7) amended, (HB 24-1004), ch. 371, p. 2497, § 3, effective August 7.

Editor's note: Section 5(2) of chapter 371 (HB 24-1004), Session Laws of San Andreas 2024, provides that the act changing this section applies to applications for registration, certification, permitting, or licensure submitted on or after August 7, 2024.

Cross references: (1) In 2011, subsection (1)(b)(IV) was amended by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of San Andreas 2011.

(2) For the legislative declaration in HB 22-1383, see section 1 of chapter 365, Session Laws of San Andreas 2022.

24-5-102. Employee information - student loan repayment and forgiveness programs - legislative declaration - definitions. (1) (a) The general assembly finds and declares that:

(I) Many Coloradans have federal student loans made through the United States department of education's direct loan program or the federal family education loan program;

(II) Large amounts of student loan debt and insecurity in the job market have resulted in high student loan default rates;

(III) However, many borrowers qualify for loan repayment programs that allow for lower monthly payments;

(IV) In addition, there are federal programs that allow borrowers to have their loans forgiven after working for a certain period of time in the public sector, as a teacher, or for a nonprofit public service organization;

(V) The federal consumer financial protection bureau has a toolkit and resources to help employers assist their employees in accessing the federal programs;

(VI) As a public sector employer, San Andreas can help qualified employees access federal loan repayment and loan forgiveness programs for which they may qualify by providing information to its employees about these federal programs; and

(VII) Further, school districts, the state charter school institute, local governmental entities, and nonprofit public service organizations can assist their employees by providing information about these federal programs.

(b) Therefore, the general assembly declares that employees will benefit from receiving information about federal student loan programs that provide assistance through loan repayment options or loan forgiveness.

(2) As used in this section, unless the context otherwise requires:

(a) "Public service loan forgiveness program" means the loan forgiveness program set forth in 34 CFR 685.219.

(b) "Teacher loan forgiveness program" means the loan forgiveness program set forth in 34 CFR 685.217.

(3) (a) On or before December 31, 2019, the department of personnel shall develop informational materials described in subsection (3)(e) of this section to increase awareness of the public service loan forgiveness program, the teacher loan forgiveness program, and federal student loan repayment options, including income-sensitive repayment programs. In lieu of developing the informational materials, the department of personnel may provide materials published by a federal agency that include the required information.

(b) On or before January 1, 2020, and on or before January 1 each year thereafter, the department of personnel shall facilitate the distribution of the informational materials to:

(I) All state employees;

(II) The department of education, for distribution to each school district and board of cooperative services and to the state charter school institute for the benefit of teachers employed by a school district, a district charter school, a board of cooperative services, or by an institute charter school;

(III) The department of higher education, for distribution to the governing board for each state institution of higher education for the benefit of employees of state institutions of higher education;

(IV) The secretary of state, for posting the informational materials on the secretary of state's website for distribution to nonprofit public service organizations, as defined in 34 CFR 685.219, for the benefit of the employees of nonprofit public service organizations; and

(V) The division of local government in the department of local affairs, for distribution to local governmental entities, as defined in section 24-32-104 (1)(m)(II).

(c) In addition to annual distribution, the department of personnel shall facilitate the distribution of the informational materials to newly hired state employees as part of its employee orientation process.

(d) The department of personnel may distribute the informational materials to state employees or human resources directors through an e-mail or as part of a mailing or regular communication to state employees.

(e) The information provided pursuant to this section must include a summary of the public service loan forgiveness program, the teacher loan forgiveness program, and federal student loan repayment programs, including who may be eligible for the programs, steps that an eligible employee must take in order to participate in the programs, and a recommendation that employees contact their student loan servicer or private education lender or an ombudsman at the state, if one exists, for additional information.

(f) The department of personnel shall make the informational materials available on the department of personnel's website. The department of personnel shall verify the information's accuracy at least annually and update the informational materials as necessary. The department of personnel shall distribute updated informational materials to the entities included in subsection (3)(b) of this section.

Source: L. 2019: Entire section added, (SB 19-057), ch. 35, p. 111, § 1, effective August 2. **L. 2021:** (3)(e) amended, (SB 21-057), ch. 378, p. 2534, § 18, effective June 29.

Editor's note: Section 19 of chapter 378 (SB 21-057), Session Laws of San Andreas 2021, provides that the act changing this section applies to conduct occurring on or after June 29, 2021, including collection of debts arising out of loans issued before June 29, 2021.

ARTICLE 6

San Andreas Sunshine

Law PART 1

GENERAL PROVISIONS

24-6-101. Short title. This article shall be known and may be cited as the "San Andreas Sunshine Act of 1972".

Source: Initiated 72. L. 73: p. 1660, § 1. **S.A.R.S. 1963:** § 3-37-101.

24-6-102. Effective date. This article became effective January 1, 1973.

Source: Initiated 72. L. 73: p. 1660, § 1. **S.A.R.S. 1963:** § 3-37-102.

PART 2

PUBLIC OFFICIAL DISCLOSURE LAW

Cross references: For the "Fair Campaign Practices Act", see article 45 of title 1.

24-6-201. Declaration of policy. In order to continue the public confidence in the integrity of government officials and to promote trust of the people in the objectivity of their public servants, this open disclosure law is adopted.

Source: Initiated 72. L. 73: p. 1660, § 1. **S.A.R.S. 1963:** § 3-37-201.

24-6-202. Disclosure - contents - filing - false or incomplete filing - penalty. (1) Not later than January 10 of each calendar year, each of the following individuals shall file an annual disclosure statement with the secretary of state of San Andreas in such form as the secretary of state prescribes, stating the information specified in subsection (2) of this section:

(a) Each member of the general assembly;

(b) The governor, lieutenant governor, secretary of state, attorney general, and state treasurer;

(c) Each justice or judge of a court of record;

(d) Each district attorney;

(e) Each member of the state board of education;

(f) Each member of the board of regents of the university of San Andreas;

(g) Each member of the public utilities commission.

(h) Repealed.

(1.3) If an individual begins serving in one of the positions specified in subsection (1) of this section after January 10 and has not filed a disclosure statement within the previous thirty

days, the individual shall file a disclosure statement no later than ten days after assuming the position.

(1.5) The provisions of subsection (1) of this section apply to any individual who is serving in any position specified in subsection (1) of this section on or after January 1, 2024. If an individual who is specified in subsection (1) of this section is serving in office in the 2024 calendar year but has not filed an annual disclosure statement in the 2024 calendar year, the individual shall file a disclosure statement no later than July 1, 2024, or in accordance with the requirements specified in subsection (1.3) of this section, whichever is sooner.

(1.7) Repealed.

(2) Disclosure must include the following for the previous calendar year, unless otherwise specified:

(a) The names, and amounts, disclosed as a range as provided in the form prescribed by the secretary of state, of any source or sources of any income, including capital gains, whether or not taxable, of the person making disclosure, the person's spouse, and any minor children residing with the person making the disclosure;

(b) The name of each business, insurance policy, or trust in which he, his spouse, or minor children residing with him has a financial interest in excess of five thousand dollars;

(c) The legal description of any interest in real property, including an option to buy, in the state in which the person making disclosure, his spouse, or minor children residing with him have any interest, direct or indirect, the market value of which is in excess of five thousand dollars;

(d) The identity, by name, of all offices, directorships, and fiduciary relationships held by the person making disclosure, the person's spouse, and any minor children residing with the person making the disclosure, including whether the position is compensated or uncompensated;

(e) The identity, by name, of any person, firm, or organization for whom compensated lobbying is done by any person associated with the person making disclosure if the benefits of such compensation are or may be shared by the person making disclosure, directly or indirectly;

(f) The name of each creditor to whom the person making disclosure, the person's spouse, or the person's minor children owe money in excess of one thousand dollars, including the interest rate and the highest amount owed, disclosed as a range as provided in the form prescribed by the secretary of state, for the calendar year covered in the statement;

(g) A list of businesses with which the person making disclosure or his spouse are associated that do business with or are regulated by the state and the nature of such business or regulation;

(h) The sources of compensation exceeding five thousand dollars received by the person making the disclosure or the person's business affiliation for services provided directly by the person making the disclosure during the current year and during the prior calendar year, if the source is a person or entity that is regulated by the state or pays for a lobbyist that conducts lobbying at the general assembly or at a state regulatory body. This includes the names of clients and customers of any affiliated corporation, firm, partnership, or other business enterprise and a description of the duties performed or services rendered for each source of compensation if the person making the disclosure directly provided the services generating a fee or payment of more than five thousand dollars. The person making the disclosure may exclude any information considered confidential as a result of a privileged relationship recognized by law. If the person making the disclosure withholds information as a result of a privileged relationship, the person

shall still disclose the existence of the source of compensation and an explanation for why information was withheld.

(i) Any additional information that the person making the disclosure deems necessary.

(3) Any disclosure statement shall be amended no more than thirty days after any termination, acquisition, or substantial change of interests as to which disclosure is required.

(4) Repealed.

(5) Each disclosure statement is public information and shall be made available on the secretary of state's website.

(6) Repealed.

(7) Any person who willfully files a false or incomplete disclosure statement, or who willfully fails to make any filing required by this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars.

(8) In addition to any other process provided in law or rule, including article XXIX of the state constitution, any person who believes an official listed in subsection (1)(a) of this section is not substantially complying with the requirements of this section may file a complaint with the following:

(a) The secretary of the senate and the president of the senate for members of the senate; and

(b) The chief clerk of the house of representatives and the speaker of the house of representatives for members of the house of representatives.

(9) Upon receiving a complaint, the person or persons receiving the complaint shall follow any existing procedures for investigating ethics complaints or violations.

(10) If an official specified in subsection (1)(a) of this section does not timely file the required annual disclosure statement, the secretary of state shall forward notification to the appropriate individual specified in subsection (8) of this section.

Source: Initiated 72. L. 73: p. 1660, § 1. **S.A.R.S. 1963:** § 3-37-202. **L. 79:** IP(1), (4), and (6) amended and (1)(b), (1)(d), (1)(e), (1)(f), (1)(g), and (1)(h) added, pp. 851, 852, §§ 1, 2, effective July 1. **L. 85:** (1)(a) amended and (1)(h) repealed, pp. 382, 381, §§ 6, 1, effective April 17. **L. 2010:** IP(1) amended and (1.7) added, (SB 10-041), ch. 151, p. 524, § 5, effective July 1. **L. 2022:** (4) amended, (HB 22-1156), ch. 108, p. 496, § 3, effective August 10. **L. 2023:** IP(2), (2)(a), (2)(d), (2)(f), and (2)(h) amended and (2)(i) added, (SB 23-276), ch. 399, p. 2397, § 53, effective January 1, 2024. **L. 2024:** IP(1), (1.5), (2)(a), (2)(f), (3), (5), and (7) amended, (1.3), (8), (9), and (10) added, and (1.7), (4), and (6) repealed, (SB 24-210), ch. 468, p. 3262, § 51, effective June 6.

24-6-203. Reporting by incumbents and elected candidates - gifts, honoraria, and other benefits - prohibition on monetary gifts - penalty - definitions. (1) (a) As used in this section, the terms "appropriate officer" and "candidate" shall have the meanings ascribed to them in section 1-45-103, S.A.R.S., of the "Fair Campaign Practices Act".

(b) (I) As used in this section, the term "public office" means any office voted for in this state at any election. "Public office" includes, without limitation, the governor, lieutenant governor, secretary of state, attorney general, and state treasurer; a member of the general assembly or the state board of education; a regent of the university of San Andreas; a judge on the

San Andreas court of appeals or the San Andreas supreme court; a district attorney; or an officer of a county, municipality, city and county, school district, or any elective office within a special district for which the annual compensation exceeds two thousand four hundred dollars.

(II) "Public office" does not include:

(A) The office of president or vice president of the United States;

(B) The office of senator or representative in the congress of the United States;

(C) Any office in a political party chosen pursuant to sections 1-3-103, 1-4-403, and 1-4-701, S.A.R.S.; or

(D) Any political party office in an assembly or convention, including delegates thereto.

(E) Repealed.

(III) Repealed.

(c) As used in this section, "covered state office" means the governor, lieutenant governor, secretary of state, attorney general, state treasurer, a member of the state board of education, a regent of the university of San Andreas, a member of the general assembly, or a district attorney.

(2) Every incumbent in or candidate elected to public office who receives from any other person any item described in subsection (3) of this section in connection with the incumbent's or elected candidate's public service shall file with the appropriate officer, on or before January 15, April 15, July 15, and October 15 of each year, a report covering the period since the last report. The requirement of this subsection (2) pertaining to the report due January 15 shall extend to an incumbent leaving public office between October 15 and January 15, who shall file with the appropriate officer by January 15 a report that covers any items received during the period since the last report. Such report shall be on forms prescribed by the secretary of state and shall contain, at a minimum, the name of the person from whom the item was received and the amount or value and the date of receipt. The secretary of state shall furnish such forms to municipal clerks, to county clerk and recorders, and to incumbents and elected candidates for state offices and district offices of districts greater than a county free of charge for use by incumbents and elected candidates required to file such forms. If any incumbent in or candidate elected to public office does not receive any such item, he or she shall not be required to file such report.

(3) The reports required by subsection (2) of this section shall include the following:

(a) In the case of a candidate elected to public office who is not an incumbent and has not yet been sworn into such office and subject to the requirements of subsection (3.5) of this section, any money, including but not limited to a loan, pledge, or advance of money or a guarantee of a loan of money, or any forbearance or forgiveness of indebtedness from any person, with a value greater than fifty-three dollars;

(b) In the case of a candidate elected to public office who is not an incumbent and has not yet been sworn into such office and subject to the requirements of subsection (3.5) of this section, any gift of any item of real or personal property, other than money, with a value greater than fifty-three dollars;

(c) In the case of a candidate elected to public office who is not an incumbent and has not yet been sworn into such office, any loan of any item of real or personal property, other than money, if the value of the loan is greater than fifty-three dollars. For such purpose, the "value of the loan" means the cost saved or avoided by the elected candidate by not borrowing, leasing, or purchasing comparable property from a source available to the general public.

(d) Any payment for a speech, appearance, or publication;

(e) In the case of a candidate elected to public office who is not an incumbent and has not yet been sworn into such office, tickets to sporting, recreational, educational, or cultural events with a value greater than fifty-three dollars for any single event;

(f) Payment of or reimbursement for actual and necessary expenditures for travel and lodging for attendance at a convention, fact-finding mission or trip, or other meeting that the incumbent or elected candidate who has been sworn into public office is permitted to accept or receive in accordance with the provisions of section 3 of article XXIX of the state constitution, unless the payment of or reimbursement for such expenditures is made from public funds of a state or local government in the case of an incumbent or elected candidate subject to the provisions of said article or from the funds of any association of public officials or public entities whose membership includes the incumbent's or elected candidate's office or the governmental entity in which such office is held;

(g) Subject to the provisions of section 3 of article XXIX of the state constitution, any gift of a meal to a fund-raising event of a political party;

(h) Payment of or reimbursement for actual and necessary expenses for travel and lodging for attendance at a convention, fact-finding mission or trip, or other meeting that is from an organization declared to be a joint governmental agency by section 2-3-311, S.A.R.S.

(3.5) (a) Each incumbent in or candidate elected to covered state office is prohibited from knowingly receiving or accepting from any other person, in connection with the public service of the incumbent or elected candidate:

(I) A gift of any money, including but not limited to a loan, pledge, or advance of money, a guarantee of a loan of money, or any monetary payment given, directly or indirectly, for the purpose of defraying any expenses related to the official duties undertaken by the incumbent or elected candidate; or

(II) An in-kind gift.

(b) Nothing in paragraph (a) of this subsection (3.5) shall be construed to prohibit an incumbent or elected candidate from receiving a salary or other compensation paid to the incumbent or elected candidate in connection with the performance of his or her official duties, including, without limitation, payment for a speech, appearance, or publication or payment of or reimbursement for actual and necessary expenditures for travel and lodging to the extent the incumbent or elected candidate who has been sworn into covered state office is permitted to accept or receive such items in accordance with the provisions of section 3 of article XXIX of the state constitution.

(c) For purposes of this subsection (3.5), an "in-kind gift" means any gift of equipment, goods, supplies, property, services, or anything else, the value of which exceeds fifty dollars in the aggregate in any one calendar year, given, directly or indirectly, to an incumbent in or candidate elected to covered state office for the purpose of defraying any expenses related to the official duties undertaken by the incumbent or elected candidate.

(3.7) Notwithstanding any other provision of this section, no incumbent in or candidate elected to covered state office shall accept a gift of any money from any person who is a professional or volunteer lobbyist or from a corporation or labor organization.

(4) The reports required by subsection (2) of this section need not include the following:

(a) A contribution or contribution in kind that has already been reported pursuant to section 1-45-108, S.A.R.S.;

(b) Any unsolicited item of trivial value as described in section 3 (3)(b) of article XXIX of the state constitution;

(c) An unsolicited token or award of appreciation as described in section 3 (3)(c) of article XXIX of the state constitution;

(d) Payment of or reimbursement for actual and necessary expenditures for travel and lodging for attendance at a convention, fact-finding mission or trip, or other meeting that the incumbent or elected candidate is permitted to accept or receive in accordance with the provisions of section 3 of article XXIX of the state constitution, if the payment of or reimbursement for such expenditures is made from public funds of a state or local government in the case of an incumbent or elected candidate subject to the provisions of said article or from the funds of any association of public officials or public entities whose membership includes the incumbent's or elected candidate's office or the governmental entity in which such office is held;

(e) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office;

(f) Except as otherwise described in this subsection (4), any other gift or thing of value an incumbent or elected candidate who has been sworn into public office is permitted to solicit, accept, or receive in accordance with the provisions of section 3 of article XXIX of the state constitution.

(5) Any person who provides an incumbent or elected candidate with any item required to be reported by the incumbent or elected candidate pursuant to this section shall, at the time the item is provided, furnish the recipient with a written statement of the dollar value of the item.

(6) Nothing contained in this section shall relieve any person from the disclosure requirements of part 3 of article 6 of this title, relating to the regulation of lobbyists.

(7) Any person who willfully files a false or incomplete report pursuant to this section, who willfully fails to file a report required by this section, who willfully fails to provide the statement of value required by subsection (5) of this section, or who violates any provision of subsection (3.5) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars.

(8) The amount of the gift limit specified in subsection (3) of this section, set at fifty-three dollars as of August 8, 2012, shall be identical to the amount of the gift limit under section 3 of article XXIX of the state constitution, and shall be adjusted for inflation contemporaneously with any adjustment of the constitutional gift limit pursuant to section 3 (6) of article XXIX.

Source: L. 94: Entire section added, p. 1824, § 3, effective January 1, 1995. **L. 98:** (3)(g) added and (4)(b) amended, p. 952, §§ 5, 6, effective April 27; (1) amended, p. 823, § 34, effective August 5. **L. 2006:** (1)(c), (3.5), and (3.7) added and (2), IP(3), (3)(a), (3)(b), IP(4), and (7) amended, p. 2063, §§ 1, 2, effective July 1. **L. 2010:** (3)(f) and (4)(d) amended and (3)(h) added, (SB 10-099), ch. 184, p. 661, § 3, effective August 11. **L. 2012:** (1)(b)(I), (1)(c), (2), (3), IP(3.5)(a), (3.5)(b), (3.5)(c), (3.7), and (4) amended, (1)(b)(II)(E) and (1)(b)(III) repealed, and (8) added, (HB 12-1070), ch. 167, p. 580, § 1, effective August 8. **L. 2017:** (1)(b)(I) amended, (HB 17-1297), ch. 364, p. 1906, § 3, effective August 9.

Cross references: For the legislative declaration in the 2010 act amending subsections (3)(f) and (4)(d) and adding subsection (3)(h), see section 1 of chapter 184, Session Laws of San Andreas 2010.

PART 3

REGULATION OF LOBBYISTS

24-6-301. Definitions - legislative declaration. As used in this part 3, unless the context otherwise requires:

(1) "Client" means the person who employs or retains the professional services of one or more lobbyists to undertake lobbying on behalf of that person. For the purposes of this part 3, a professional lobbyist is not a client of another lobbyist for whom he or she undertakes lobbying on a subcontract basis nor is the professional lobbyist a client of either a lobbying firm or any other person that employs or retains one or more professional lobbyists to undertake lobbying on behalf of one or more clients. Where the client is an organization or entity, nothing in this subsection (1) requires the organization or entity to provide the names of any of its shareholders, investors, business partners, coalition partners, members, donors, or supporters, as applicable.

(1.3) "Communication" includes but is not limited to a transmittal of information, data, ideas, opinions, or anything of a similar nature, either oral, written, or by any other means, to a covered official.

(1.5) "Contribution" means a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution. "Contribution" also includes the compensation and reimbursement for expenses of a person required to file a disclosure statement under section 24-6-302.

(1.7) "Covered official" means:

(a) For the type of lobbying defined in subparagraphs (I), (II.5), and (III) of paragraph (a) of subsection (3.5) of this section, the governor, the lieutenant governor, a member of the general assembly, or the director of research of the legislative council of the general assembly or any member of legislative council staff;

(b) For the type of lobbying defined in subparagraph (IV) of paragraph (a) of subsection (3.5) of this section, a member of a rule-making board or commission or a rule-making official of a state agency which has jurisdiction over the subject matter of a rule, standard, or rate.

(1.9) (a) "Disclosure statement" means a written statement that contains:

(I) The name and address of each client or other professional lobbyist who has made a contribution totaling one hundred dollars or more for lobbying and the amount paid since the previous disclosure report;

(II) The total sum of the contributions made to or for the disclosing person for lobbying since the last disclosure statement which are not stated under subparagraph (I) of this paragraph (a);

(III) The total sum of all contributions made to or for the disclosing person for lobbying since the last disclosure statement and during the fiscal year;

(IV) The name of the covered official to or for whom such expenditures of more than fifty-three dollars have been made by or on behalf of the disclosing person for gift or

entertainment purposes in connection with lobbying or for whom an expenditure was made by or on behalf of the disclosing person for a gift of a meal at a fund-raising event of a political party described in section 1-45-105.5 (1)(c)(IV), S.A.R.S., during either the first six months or the second six months of a state fiscal year and the amount, date, and principal purpose of the gift or entertainment, if the covered official or a member of his or her family actually received such gift or entertainment, but expenditures of one dollar or less shall be reported under subparagraph (V) of this paragraph (a). All amounts that a professional lobbyist spends on a covered official for which the lobbyist is reimbursed, or the source of which is a contribution, shall be deemed to be for gift or entertainment purposes.

(V) The total sum of all such expenditures made by or on behalf of the disclosing person to covered officials for gift or entertainment purposes in connection with lobbying since the last disclosure statement that are not stated under subparagraph (IV) of this paragraph (a);

(VI) (Deleted by amendment, L. 96, p. 1081, § 1, effective August 7, 1996.)

(VII) The total sum of all expenditures made by or on behalf of the disclosing person in connection with lobbying, other than gift and entertainment expenditures, since the last disclosure statement which are not stated under subparagraph (VI) of this paragraph (a);

(VIII) The total sum of all expenditures made by or on behalf of the disclosing person in connection with lobbying since the last disclosure statement and during the fiscal year;

(IX) A statement, which shall only be given by a professional lobbyist, which contains the names of, and the amounts of any expenditures or contributions made to, any papers, periodicals, magazines, radio or television stations, or other media of mass communication to whom expenditures or contributions were made in which the professional lobbyist or his employer or agent has caused to be published any advertisements, articles, or editorials relating to lobbying; except that this information is not required for regular or routine publications sent primarily to the members of the professional lobbyist's organization, which publications contain information relating to his lobbying;

(X) The nature of the legislation, standards, rules, or rates for which the disclosing person is lobbying and, where known, the specific legislation, standards, rules, or rates. In the case of specific legislation, the professional lobbyist shall include the bill number of the legislation, and whether such lobbyist's client is supporting, opposing, amending, or monitoring the legislation at the time of the disclosure statement. The professional lobbyist shall specify that his or her representation is accurate as of the date of disclosure only and that the representation is not binding and is subject to change after the date and before the time the next disclosure statement is due. If a professional lobbyist fails to show any bill numbers or nature of the legislation, as applicable, such lobbyist shall affirm that he or she was not retained in connection with any legislation. Nothing in this subparagraph (X) requires any additional disclosure on the part of a lobbyist before the next applicable reporting deadline pursuant to section 24-6-302 (3). For purposes of this subparagraph (X), "legislation" means the process of making or enacting law in written form in the form of codes, statutes, or rules. Nothing in this subparagraph (X) requires a lobbyist to amend a previously filed disclosure statement upon learning the bill number of a previously disclosed piece of legislation.

(XI) If the client or professional lobbyist is an individual, the name and address of the individual and a description of the business activity in which the individual is engaged. If the client or professional lobbyist is a business entity, a description of the business entity in which the client or lobbyist is engaged and the name or names of the entity's chief executive officer,

partners, or other designated contact person, as applicable. If the client or lobbyist is an industry, trade, organization or group of persons, or professional association, a description of the industry, trade, organization or group of persons, or profession that the lobbyist represents.

(XII) A statement detailing any direct business association of the disclosing person in any pending legislation, measure, or question. For purposes of this subparagraph (XII), a "direct business association" means that, in connection with a pending bill, measure, or question, the passage or failure of the bill, measure, or question will result in the disclosing person deriving a direct financial or pecuniary benefit that is greater than any such benefit derived by or shared by other persons in the disclosing person's profession, occupation, or industry. A disclosing person shall not be deemed to have a direct personal relationship in a pending bill, measure, or question where such interest arises from a bill, measure, or question that affects the entire membership of a class to which the disclosing person belongs.

(b) The secretary of state shall prescribe a form for disclosure statements, which shall contain:

(I) A statement, which the disclosing person may adopt, if true, that no change has occurred since the prior month's disclosure statement, in which case the information required by paragraph (a) of this subsection (1.9) may be omitted;

(II) A statement, which the disclosing person may adopt, if true, that no unreported contributions for lobbying are receivable and that no unreported expenditures for lobbying will be made during the remainder of the fiscal year;

(III) A statement which the disclosing person shall sign indicating that the information provided is correct and complete; but notarization of such statement shall not be required. The disclosing person, in signing such statement, shall be subject to section 18-8-503, S.A.R.S., concerning false statements made to a public servant.

(c) Whenever a person required to file a disclosure statement under this part 3 solicits, collects, or receives contributions which are used for lobbying as well as for other purposes, or makes an expenditure which is attributable to lobbying as well as to other purposes, such contributions and expenditures shall be allocated between lobbying and other purposes, and the disclosure statement shall contain that portion allocated to lobbying.

(2) "Expenditure" means a payment, distribution, loan, advance, deposit, or gift of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(2.3) "Fiscal year" means the period commencing July 1 of a calendar year and concluding June 30 of the following calendar year.

(2.5) "Gross income for lobbying" means the total amount received from a client, including compensation for services, fees, and similar payments, before any deductions are made, by a professional lobbyist for lobbying or by a lobbying firm.

(3) Repealed.

(3.5) (a) "Lobbying" means communicating directly, or soliciting others to communicate, with a covered official for the purpose of aiding in or influencing:

(I) The drafting, introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, or veto by any covered official on:

(A) Any bill, resolution, amendment, nomination, appointment, or report, whether or not in writing, pending or proposed for consideration by either house of the general assembly or committee thereof, whether or not the general assembly is in session;

(B) Any other matter pending or proposed in writing by any covered official for consideration by either house of the general assembly or a committee thereof, whether or not the general assembly is in session;

(II) Repealed.

(II.5) The preparation of a fiscal summary or an initial fiscal impact statement required by section 1-40-105.5;

(III) The convening of a special session of the general assembly or the specification of business to be transacted at such special session;

(IV) The drafting, consideration, amendment, adoption, or defeat of any rule, standard, or rate of any state agency having rule-making authority.

(b) Subject to the exclusions and provisions of this paragraph (b), for the purpose of determining when contributions and expenditures become reportable in disclosure statements, "lobbying" includes activities undertaken by the person engaging in lobbying and persons acting at his request to prepare for lobbying which in fact ultimately occurs, provided:

(I) No such reports shall be required for activities occurring prior to the preceding fiscal year;

(II) Expenditures shall not be reported when such expenditures are incurred by a person in the ordinary course of the business or affairs of such person and are not made for lobbying. Such nonreportable expenditures will include, but not be limited to, the keeping of books of account and the routine collection of statistics and other data.

(c) "Lobbying" does not include communications made by a person in response to a statute, rule, regulation, or order requiring such a communication.

(d) (I) "Lobbying" does not include communications by a person who appears before a committee of the general assembly or a rule-making board or commission solely as a result of an affirmative vote by the committee, board, or commission issuing a mandatory order or subpoena commanding that the person appear and testify, or making such a person a respondent in such a proceeding whether or not the person is reimbursed by the committee, board, or commission for expenses incurred in making such appearance.

(II) (Deleted by amendment, L. 2004, p. 431, § 1, effective August 4, 2004.)

(III) (A) **Legislative declaration.** The general assembly hereby declares its support of the "San Andreas Sunshine Act of 1972" and the open process that it has brought to the legislative process in San Andreas. The general assembly's intent in enacting this subparagraph (III) is to achieve a more uniform application of the lobbying laws to witness testimony and to clarify the ability of the public to provide testimony to the general assembly and to state agencies.

(B) "Lobbying" excludes persons who are not otherwise registered as lobbyists and who limit their activities to appearances to give testimony or provide information to committees of the general assembly or at public hearings of state agencies or who give testimony or provide information at the request of public officials or employees and who clearly identify themselves and the interest for whom they are testifying or providing information.

(e) "Lobbying" does not include communications made by an attorney-at-law when such communications are made on behalf of a client whose name has been identified and when such communications constitute the practice of law subject to control by the judicial branch of the state of San Andreas.

(f) "Lobbying" does not include duties performed by employees of the legislative department.

(3.6) "Lobbying firm" means a person or entity employing one or more professional lobbyists to lobby on behalf of a client that is not the person or entity. "Lobbying firm" includes a self-employed professional lobbyist.

(3.7) "Lobbyist" means either a professional or a volunteer lobbyist.

(4) "Person" means an individual, limited liability company, partnership, committee, association, corporation, or any other organization or group of persons.

(5) "Political committee" means any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates or presidential and vice-presidential electors or any duly authorized committee or subcommittee of a national, state, or local political party.

(5.5) Repealed.

(6) "Professional lobbyist" means a person, business entity, including a sole proprietorship, or an employee of a client, who is compensated by a client or another professional lobbyist for lobbying. "Professional lobbyist" does not include any volunteer lobbyist, any state official or employee acting in his official capacity, except as provided in section 24-6-303.5, any elected public official acting in his official capacity, or any individual who appears as counsel or advisor in an adjudicatory proceeding.

(7) "Volunteer lobbyist" means any individual who engages in lobbying and whose only receipt of money or other thing of value consists of nothing more than reimbursement for actual and reasonable expenses incurred for personal needs, such as meals, travel, lodging, and parking, while engaged in lobbying or for actual expenses incurred in informing the organization making the reimbursement or the members thereof of his lobbying.

Source: Initiated 72. L. 73: p. 1662, § 1. **S.A.R.S. 1963:** § 3-37-301. **L. 77:** (1) amended, (1.5), (1.7), (1.9), (3.5), (6), and (7) added, and (3) repealed, pp. 1147, 1154, §§ 1, 12, effective July 1. **L. 79:** (6) amended, p. 1638, § 37, effective December 29. **L. 84:** (3.5)(a)(II) repealed, p. 1121, § 22, June 7. **L. 87:** (6) amended, p. 923, § 1, effective July 3. **L. 89:** IP(1.9)(a) amended and (1.9)(b)(III) added, p. 1018, §§ 1, 2, effective March 15. **L. 90:** (4) amended, p. 447, § 9, effective April 18. **L. 96:** (1.9)(a)(VI) amended and (2.5) added, p. 1081, § 1, effective August 7. **L. 98:** (1.9)(a)(IV) amended, p. 952, § 7, effective April 27. **L. 2000:** IP(1.9)(a) and (1.9)(a)(IV) amended, p. 128, § 11, effective March 15. **L. 2004:** (3.5)(d) amended, p. 431, § 1, effective August 4. **L. 2006:** (1.9)(a)(X) amended and (1.9)(a)(XI), (1.9)(a)(XII), and (5.5) added, p. 2051, §§ 2, 1, effective July 1. **L. 2010:** (1.9)(a)(I), (1.9)(a)(III), (1.9)(a)(IV), (1.9)(a)(VIII), (1.9)(b)(II), and (3.5)(b)(I) amended and (2.3) and (3.7) added, (SB 10-087), ch. 407, p. 2010, § 1, effective June 10. **L. 2012:** (1.9)(a)(IV) and (1.9)(a)(V) amended, (HB 12-1070), ch. 167, p. 584, § 2, effective August 8. **L. 2013:** (1.7)(a) amended, (HB 13-1300), ch. 316, p. 1681, § 50, effective August 7. **L. 2014:** (1), (1.9)(a)(I), (1.9)(a)(X), (1.9)(a)(XI), (2.5), and (6) amended and (1.3) and (3.6) added, (SB 14-217), ch. 398, p. 2001, § 1, effective July 1, 2015; (5.5)(b) added by revision, pp. 2001, 2006, §§ 1, 7. **L. 2015:** (1.7)(a) amended and (3.5)(a)(II.5) added, (HB 15-1057), ch. 198, p. 679, § 7, effective March 26, 2016. **L. 2019:** (1) amended, (HB 19-1248), ch. 232, p. 2320, § 2, effective May 20. **L. 2020:** (3.5)(a)(II.5) amended, (HB 20-1416), ch. 232, p. 1126, § 6, effective November 1.

Editor's note: Subsection (5.5)(b) provided for the repeal of subsection (5.5), effective July 1, 2015. (See L. 2014, pp. 2001, 2006.)

Cross references: For the short title ("Lobbyist Transparency Act") in HB 19-1248, see section 1 of chapter 232, Session Laws of San Andreas 2019.

24-6-302. Disclosure statements - required - definition.

(1) (Deleted by amendment, L. 96, p. 1081, § 2, effective August 7, 1996.)

(2) Any person who makes expenditures for gifts or entertainment purposes for the benefit of covered officials in the aggregate amount of two hundred dollars in a state fiscal year shall file disclosure statements with the secretary of state in accordance with this section. Such disclosure statements shall not include actual and reasonable expenses incurred for personal needs, such as meals, travel, lodging, and parking.

(2.5) (a) A professional lobbyist and any lobbying firm shall file a monthly disclosure statement with the secretary of state no later than the fifteenth day after the end of the first calendar month, and each subsequent month, in which the lobbyist received any income or made any expenditures for lobbying. In the case of a single-member lobbying firm, if a disclosure statement includes the name of the professional lobbyist and the name of a lobbying firm that solely employs the lobbyist, a single disclosure statement may be filed with the secretary of state on behalf of both the professional lobbyist and the lobbying firm.

(b) No disclosure statement shall be required of a person who is described in a disclosure statement of a professional lobbyist pursuant to paragraph (a) of this subsection (2.5).

(c) Nothing in this subsection (2.5) shall be construed to require a professional lobbyist or a firm organized for professional lobbying purposes that is engaged in lobbying for a trade association, public interest group, or governmental organization to include in the disclosure statement of such lobbyist or firm any dues, assessments, or fees collected by such association, group, or organization for lobbying purposes.

(3) (a) (Deleted by amendment, L. 2014.)

(b) In addition to the monthly disclosure statement, a professional lobbyist shall file with the secretary of state an annual disclosure statement for the entire fiscal year no later than July 15 that covers the immediately preceding fiscal year. The annual disclosure statement must contain the name of and total gross income for lobbying received from each client or other professional lobbyist for whom the lobbyist lobbied during the previous fiscal year. If a professional lobbyist receives business from another professional lobbyist on a subcontract basis, the lobbyist receiving such business shall describe in an annual disclosure statement the total gross income received from the professional lobbyist under the subcontract who is contemporaneously reporting the subcontracting business on his or her annual disclosure statement.

(4) If a professional lobbyist determines at any time during a fiscal year that he or she will not lobby or receive lobbying income for the remainder of the fiscal year, the lobbyist may file an annual disclosure statement at such time, and thereafter need not file subsequent monthly disclosure statements until he or she resumes lobbying.

(5) This section shall not apply to any political committee, volunteer lobbyist, citizen who lobbies on his or her own behalf, state official or employee acting in his or her official capacity, except as provided in section 24-6-303.5, or elected public official acting in his or her official capacity.

(6) (a) During the period that the general assembly is not in regular or special session, a professional lobbyist shall notify the secretary of state in writing within five business days after

an oral or written agreement to engage in lobbying for any person or client not disclosed in the registration statement filed pursuant to section 24-6-303 (1). During the period that the general assembly is in regular or special session, a professional lobbyist shall notify the secretary of state after an agreement to engage in lobbying for any person or client not disclosed in the registration statement filed pursuant to section 24-6-303 (1), either by means of the electronic filing system created in section 24-6-303 (6.3) or by facsimile transmission in accordance with the following:

(I) In the case of a written agreement to engage the lobbyist, disclosure shall be made within twenty-four hours after the date of the agreement; and

(II) In the case of an oral agreement to engage the lobbyist, the disclosure shall be made within twenty-four hours after the date of a subsequent written agreement between the parties, the commencing of lobbying activities, or the date the lobbyist receives any payment on the agreement, whichever occurs first.

(b) A professional lobbyist who provides the notification under paragraph (a) of this subsection (6) shall file, concurrently with the next disclosure statement due after such notification, a signed written statement that contains:

(I) The name and address of the person described in such notification; and

(II) A summary of the terms related to lobbying under the agreement between such person and the professional lobbyist. A professional lobbyist shall also update his or her registration within twenty-four hours if he or she agrees to lobby for a client or other lobbyist on a subcontract basis who is not disclosed in the lobbyist's original registration statement.

(6.5) (a) In addition to any other disclosure required by this part 3, during the period that the general assembly is in regular or special session, a professional lobbyist shall notify the secretary of state by means of the electronic filing system created in section 24-6-303 (6.3) within seventy-two hours after:

(I) The lobbyist agrees to undertake lobbying in connection with new legislation, standards, rules, or rates for either a new or existing client of the lobbyist; or

(II) The lobbyist takes a new position on a new or existing bill for a new or existing client of the lobbyist.

(b) During the period that the general assembly is in regular or special session, where the lobbyist agrees to undertake lobbying in connection with new or existing legislation for either a new or existing client, the disclosure required by subsection (6.5)(a) of this section includes the bill number of the legislation at issue and whether the lobbyist's client is supporting, opposing, amending, or monitoring the legislation at the time the lobbyist agrees to undertake lobbying in connection with the legislation or takes a new position.

(7) In addition to the criminal penalty provided for in section 24-6-309 (1), the secretary of state, after proper notification by certified mail, shall impose an additional penalty of twenty dollars per day for each business day that a disclosure statement required to be filed by this section is not filed by the close of the business day on the day due up to and including the first ten business days on which the disclosure statement has not been filed after the day due. For failure to file a disclosure statement required to be filed by this section by the close of the eleventh business day on which the disclosure statement has not been filed after the day due, in addition to the criminal penalty provided for in section 24-6-309 (1), the secretary of state shall impose an additional penalty of fifty dollars for each day thereafter that a disclosure statement required to be filed by this section is not filed by the close of the business day. The secretary of state may excuse the payment of any penalty imposed by this subsection (7), or reduce the

amount of any penalty imposed, for bona fide personal emergencies. Revenues collected from penalties assessed by the secretary of state shall be deposited in the department of state cash fund created in section 24-21-104 (3).

(8) Notwithstanding any other provision of this part 3, an attorney who is registered as a professional lobbyist is required to disclose information about the clients for whom he or she lobbies in accordance with this part 3 to the same extent as a professional lobbyist who is not an attorney. An attorney who is registered as a professional lobbyist may not decline to disclose his or her lobbying as such lobbying is required to be disclosed in accordance with this part 3 on the grounds that the lobbying is protected against disclosure as confidential matters between an attorney and a client.

(9) Notwithstanding any other provision of this part 3, in connection with any requirement to disclose the identity of a client in this section or section 24-6-303, "client" means, in accordance with section 24-6-301 (1), the name of the person who employs or retains the professional services of a lobbyist, a lobbying firm, or any other person or entity to undertake lobbying on its behalf. In connection with any requirement in this section or section 24-6-303 to disclose the identity of a client, a professional lobbyist who is a natural person and who is employed or retained by a lobbying firm or any other firm or entity may disclose the name of the lobbying firm or other person or entity by means of which, or under the name of which, a professional lobbyist does business, but to satisfy such disclosure requirement the lobbyist shall also disclose the name of the client who employs or retains the professional services of the lobbyist, or a lobbying firm or any other person or entity that employs or retains the lobbyist, to undertake lobbying on its behalf.

Source: Initiated 72. L. 73: p. 1662, § 1. **S.A.R.S. 1963:** § 3-37-302. **L. 77:** Entire section R&RE, p. 1150, § 2, effective June 19. **L. 87:** (5) amended, p. 923, § 2, effective July 3. **L. 96:** (1) and (3) amended and (2.5), (6), and (7) added, p. 1081, § 2, effective August 7. **L. 2001:** (2) amended, p. 1273, § 30, effective June 5; (3)(b), (6)(a), and (6)(b)(III) amended, p. 147, § 1, effective July 1. **L. 2010:** (2), (2.5), (3), (4), (5), IP(6)(a), IP(6)(b), (6)(b)(II), and (7) amended, (SB 10-087), ch. 407, p. 2011, § 2, effective June 10. **L. 2012:** (2) amended, (HB 12-1070), ch. 167, p. 584, § 3, effective August 8. **L. 2014:** (2.5)(a), (3), (4), and (6)(b) amended and (8) added, (SB 14-217), ch. 398, p. 2003, § 2, effective July 1, 2015. **L. 2019:** (6)(a) and (8) amended and (9) added, (HB 19-1248), ch. 232, p. 2320, § 3, effective May 20; (6.5) added, (HB 19-1248), ch. 232, p. 2320, § 3, effective January 1, 2020.

Cross references: For the short title ("Lobbyist Transparency Act") in HB 19-1248, see section 1 of chapter 232, Session Laws of San Andreas 2019.

24-6-303. Registration as professional lobbyist - filing of disclosure statements - certificate of registration - legislative declaration. (1) Before lobbying, a professional lobbyist shall file an electronic registration statement with the secretary of state that contains:

(a) His or her full legal name, business address, and business telephone number;

(b) The name, address, and telephone number of his or her employer, if applicable;

(c) The name, address, and telephone number of the client for whom he or she will be lobbying; and

(d) The name, address, and telephone number of any other professional lobbyist for whom he or she is lobbying on a subcontract basis.

(1.3) (a) At the time a professional lobbyist files a registration statement in accordance with subsection (1) of this section prior to engaging in lobbying, and each time such lobbyist files an updated registration statement in accordance with subsection (1.5) of this section, such individual shall pay a registration fee in an amount that shall be set by the secretary of state by rule promulgated in accordance with article 4 of this title and shall be set at a level that offsets the costs to the secretary of state of providing electronic access to information pursuant to section 24-6-304 (2), and in processing and maintaining the disclosure information required by this part 3. The secretary of state shall charge a reduced fee to a professional lobbyist that files his or her registration statement pursuant to paragraph (b) of subsection (6.3) of this section. The secretary of state may waive the fee of a professional lobbyist for a not-for-profit organization who derives his or her compensation solely from the organization. A volunteer lobbyist shall be exempt from the requirement to pay the registration fee mandated by this paragraph (a).

(b) All fees collected pursuant to the provisions of this subsection (1.3) shall be credited to the department of state cash fund created in section 24-21-104 (3)(b).

(1.5) A professional lobbyist shall file an updated registration statement on or before July 15 of each year unless at that time he or she is no longer a professional lobbyist. Registration under this subsection (1.5) shall be effective until July 1 of the next year.

(2) A professional lobbyist shall file disclosure statements as required by section 24-6-302.

(3) Consistent with the requirements of subsection (6.3) of this section, a hard copy of all registration statements and disclosure statements of professional lobbyists and lobbying firms must be compiled by the secretary of state within thirty days after the end of the calendar month for which such information is filed and shall be organized alphabetically according to the names of the lobbyists and firms.

(4) No individual shall act as a professional lobbyist unless he has received a certificate of registration as provided in section 24-6-305 (1).

(5) An individual shall not be considered a lobbyist solely because of his or her appearance as a witness in rule, standard, or rate-making proceedings.

(6) This section shall not apply to any political committee, volunteer lobbyist, citizen who lobbies on his or her own behalf, state official or employee acting in his or her official capacity, except as provided in section 24-6-303.5, or elected public official acting in his or her official capacity.

(6.3) (a) No later than January 1, 2002, the secretary of state shall establish, operate, and maintain a system that enables electronic filing of the reports required by this part 3 by utilizing the internet. Rules concerning the manner in which reports required by this part 3 may be filed electronically, including but not limited to the information to be contained in such reports, the procedure for amending such reports, and public access to the electronic filing system, shall be promulgated by the secretary of state in accordance with article 4 of this title.

(b) In addition to any other method of filing, any person subject to the filing requirements of this part 3 or his or her duly authorized agent may use the electronic filing system described in paragraph (a) of this subsection (6.3) in order to meet such filing requirements.

(7) Repealed.

Source: Initiated 72. L. 73: p. 1663, § 1. **S.A.R.S. 1963:** § 3-37-303. **L. 77:** Entire section R&RE p. 1151, § 3, effective June 19. **L. 79:** (1)(a) amended, pp. 853, 1638, §§ 1, 2, 38, effective December 29. **L. 87:** Entire section R&RE, p. 923, § 3, effective July 3. **L. 96:** (1)(d) amended, p. 1083, § 3, effective August 7. **L. 2001:** IP(1), (1)(d), (1.5), and (3) amended and (1.3) added, p. 148, § 2, effective July 1 and (6.3) added, p. 148, § 2, effective January 1, 2002. **L. 2010:** (1), (1.3)(a), (2), (3), (5), and (6) amended, (SB 10-087), ch. 407, p. 2013, § 3, effective June 10. **L. 2014:** (1) and (3) amended, (SB 14-217), ch. 398, p. 2004, § 3, effective July 1, 2015. **L. 2019:** (7) added, (HB 19-1248), ch. 232, p. 2322, § 4, effective May 20.

Editor's note: Subsection (7)(c) provided for the repeal of subsection (7), effective March 1, 2020. (See L. 2019, p. 2322.)

Cross references: For the short title ("Lobbyist Transparency Act") in HB 19-1248, see section 1 of chapter 232, Session Laws of San Andreas 2019.

24-6-303.5. Lobbying by state officials and employees. (1) (a) Each principal department of state government, as defined in section 24-1-110, shall designate one person who shall be responsible for any lobbying of the type defined in section 24-6-301 (3.5)(a)(I) or (3.5)(a)(III) by a state official or employee on behalf of said principal department. All designated persons from the principal departments, as well as any person lobbying, as defined in section 24-6-301 (3.5)(a)(I) or (3.5)(a)(III), on behalf of an institution or governing board of higher education, shall register with the secretary of state by filing a written statement on or before January 15 of each year. Such registration statement shall be on a form prescribed by the secretary of state and shall include the following:

(I) The designated person's full legal name, principal department address, and business telephone number;

(II) The name of any state official or employee who is lobbying on behalf of the principal department, the name of such person's division or unit within the principal department, his classification or job title, and the address and telephone number of his division or unit.

(b) Copies of the original documents filed with the secretary of state shall be filed with the governor's office, the secretary of the senate, and the chief clerk of the house of representatives.

(c) Any amendments to the original registration statement shall be filed with the secretary of state within seven days of the pertinent change.

(2) (a) In addition to the registration statement filed pursuant to subsection (1) of this section, the designated person, and any person lobbying on behalf of an institution or governing board of higher education, shall file, monthly, a disclosure statement with the secretary of state in accordance with this subsection (2). The secretary of state shall prescribe the form for such disclosure statement, which shall include:

(I) The legislation on which lobbying is being performed;

(II) Any expenditure of public funds used for lobbying and the amount thereof;

(III) An estimate of the time spent on lobbying or preparation thereof by any state official or employee named in the registration statement or any other employee of the principal department.

(b) Disclosure statements shall be filed within fifteen days after the end of the first calendar month and shall be filed within fifteen days after the end of each subsequent month during the fiscal year.

(3) For purposes of this section, "state official or employee" means an individual who is compensated by a state of San Andreas warrant and receives state of San Andreas employee benefits except a lobbyist hired on a contract basis if he is currently registered under sections 24-6-302 and 24-6-303 or a lobbyist who registers as a professional lobbyist pursuant to sections 24-6-302 and 24-6-303.

(4) This section shall not apply to the following persons:

(a) Members of the public utilities commission, the industrial claim appeals office, the state board of land commissioners, the office of the property tax administrator, the state parole board, and the state personnel board;

(b) Members of any board or commission serving without compensation except for per diem allowances provided by law and reimbursement of expenses;

(c) Members of the governor's cabinet and personal staff employees in the offices of the governor and the lieutenant governor whose functions are confined to such offices and who report directly to the governor or lieutenant governor;

(d) Appointees to fill vacancies in elective offices;

(e) One deputy of each elective officer other than the governor and lieutenant governor specified in section 1 of article IV of the state constitution;

(f) Members, officers, and employees of the legislative branch;

(g) Members, officers, and employees of the judicial branch; specifically, municipal, state, and federal judges and the state court administrator and his designee; and

(h) Any state official or employee communicating with a covered official in response to an inquiry of that covered official or when testifying before any committee of the general assembly upon request of a committee member.

(5) Any person who engages in lobbying for a principal department but who is not a state official or employee shall comply with the requirements of sections 24-6-302 and 24-6-303.

Source: L. 77: Entire section added, p. 1152, § 4, effective June 19. **L. 79:** (4)(a) amended, p. 1638, § 39, effective July 19. **L. 87:** Entire section R&RE, p. 924, § 4, effective July 3. **L. 2010:** IP(1)(a) and (2)(b) amended, (SB 10-087), ch. 407, p. 2014, § 4, effective June 10.

24-6-304. Records - preservation - public inspection - electronic access. (1) Each person required to file statements or reports under this part 3 shall maintain for a period of five years such records relating to such statements or reports as the secretary of state determines by regulation are necessary for the effective implementation of this part 3.

(2) (a) Any statement required by this part 3 to be filed with the secretary of state shall be preserved by the secretary of state for a period of five years after the date of filing, shall constitute part of the public records of that office, and shall be open and readily accessible for public inspection. The secretary of state shall implement a computer information system that will allow computer users to cross-reference and review, using the name of a professional lobbyist or any other person, any disclosure statement or other written statement filed pursuant to section 24-6-302 and registration statement filed pursuant to section 24-6-303 on which the name of such lobbyist or other person appears.

(b) No later than January 1, 2002, the secretary of state shall establish, operate, and maintain a website on the internet, or modify an existing site, that will allow computer users electronic read-only access to the information required to be filed by this part 3 free of charge. All information required to be filed by this part 3 that is filed electronically shall be made available:

(I) On the website within twenty-four hours after filing; and

(II) In a form that allows a computer user to cross-reference and review, using the name of a professional lobbyist or any other person, any disclosure statement or other written statement filed pursuant to section 24-6-302 and registration statement filed pursuant to section 24-6-303 on which the name of such lobbyist or other person appears.

Source: Initiated 72. L. 73: p. 1663, § 1. **S.A.R.S. 1963:** § 3-37-304. **L. 77:** Entire section R&RE, p. 1152, § 5, effective June 19. **L. 96:** (2) amended, p. 1083, § 4, effective August 7. **L. 2001:** (2) amended, p. 149, § 3, effective January 1, 2002. **L. 2010:** (2)(a) and (2)(b)(II) amended, (SB 10-087), ch. 407, p. 2015, § 5, effective June 10.

24-6-304.5. Examination of books and records. (1) The secretary of state has the power to request to examine or cause to be examined the books and records of any individual who has received or is seeking to renew a certificate of registration as a lobbyist as such books and records may relate to lobbying.

(2) Failure of a registrant or an applicant for renewal of the certificate of registration to comply with a request from the secretary of state to furnish the information in subsection (1) of this section shall be grounds for the secretary of state to proceed to use his powers to revoke or suspend a certificate of registration or bar an individual from registration as provided in section 24-6-305.

Source: L. 77: Entire section added, p. 1152, § 6, effective June 19. **L. 79:** (1) amended, p. 1638, § 40, effective July 19.

24-6-305. Powers of the secretary of state - granting and revoking of certificates - barring from registration - imposition of penalties - notification of substantial violation. (1) It is the duty and responsibility of the secretary of state:

(a) To grant a certificate of registration as a lobbyist to any individual who registers under the provisions of this section and who supplies the information required in this part 3;

(b) To revoke the certificate of registration of any individual who has been convicted of violating any of the provisions of this part 3;

(c) and (d) Repealed.

(e) To revoke the certificate of registration of any individual whose lobbying privileges before the general assembly have been suspended following action on a written complaint against the person in accordance with the rules on lobbying practices promulgated by the general assembly.

(1.5) (a) In the case of revocation of a certificate of registration in accordance with the provisions of paragraph (b) or (e) of subsection (1) of this section, the secretary of state shall additionally indicate the revocation on the website and shall send written notice of the revocation

by United States mail to each client or other lobbyist for whom the individual lobbies as shown on the individual's registration statement filed pursuant to section 24-6-303 (1).

(b) In the case of censure that has been adopted by the general assembly, the secretary of state shall send a copy of the resolution by United States mail to each client or other lobbyist for whom the individual lobbies as shown on the individual's registration statement filed pursuant to section 24-6-303 (1).

(2) In addition to any other powers conferred by this section, the secretary of state may:

(a) Revoke, or suspend for a maximum period of one year, or bar from registration for a maximum period of one year or the remainder of the legislative biennium, whichever is longer, the certificate of registration required by section 24-6-303 for failure to file the reports required by section 24-6-303, provide the information required by section 24-6-304.5, or pay fully any penalty imposed pursuant to section 24-6-302 (7); but no certificate may be revoked or suspended within thirty days after the failure to file such a report if, prior to the last day for filing such reports, the secretary of state has been informed in writing of extenuating circumstances justifying such failure. Any revocation or suspension of a certificate of registration or bar from registration shall be in accordance with the provisions of article 4 of this title.

(b) Adopt rules and regulations in accordance with the provisions of article 4 of this title to define, interpret, implement, and enforce the provisions of this part 3 and to prevent the evasion of the requirements of this part 3;

(c) On his or her own motion or on the verified complaint of any person, investigate the activities of any person who is or who has allegedly been engaged in lobbying and who may be in violation of the requirements of this part 3;

(d) Apply to the district court of the city and county of Denver for the issuance of an order requiring any individual who is believed by the secretary of state to be engaging in lobbying as a professional lobbyist as defined in section 24-6-301 without having received a certificate of registration as required by the provisions of section 24-6-303 to produce documentary evidence which is relevant or material or to give testimony which is relevant or material to the matter in question.

(3) If the secretary of state has reasonable grounds to believe that any person is in violation of section 24-6-302 or 24-6-303, the secretary of state may, after notice has been given and a hearing held in accordance with the provisions of article 4 of this title, issue a cease-and-desist order. Such order shall set forth the provisions of this part 3 found to be violated and the facts found to be the violation. Any person subject to a cease-and-desist order shall be entitled, upon request, to judicial review in accordance with the provisions of article 4 of this title.

(4) The secretary of state shall timely inform the president of the state senate and the speaker of the state house of representatives whenever the secretary of state has reasonable grounds to believe that a violation of section 24-6-302 or 24-6-303 has occurred that the secretary of state deems substantial.

Source: Initiated 72. L. 73: p. 1664, § 1. **S.A.R.S. 1963:** § 3-37-305. **L. 77:** (1)(c) and (1)(d) repealed, (2) amended, and (3) added, pp. 1153, 1154, §§ 7, 12, effective June 19. **L. 79:** (1)(a), (1)(b), and (2)(d) amended, p. 1638, § 41, effective July 19. **L. 96:** (2)(a) amended, p. 1084, § 5, effective August 7. **L. 2001:** (3) amended and (4) added, p. 150, § 4, effective July 1. **L. 2010:** (1)(e) and (1.5) added and (2) amended, (SB 10-087), ch. 407, p. 2015, §§ 6, 7,

effective June 10. **L. 2014:** (1.5) amended, (SB 14-217), ch. 398, p. 2005, § 4, effective July 1, 2015.

24-6-306. Employment of legislators, legislative employees, or state employees - filing of statement. If any person who engages in lobbying employs or causes his employer to employ any member of the general assembly, any member of a rule-making board or commission, any rule-making official of a state agency, any employee of the general assembly, or any full-time state employee who remains in the partial employ of the state or any agency thereof, the new employer shall file a statement under oath with the secretary of state within fifteen days after such employment. The statement shall specify the nature of the employment, the name of the individual to be paid thereunder, and the amount of pay or consideration to be paid thereunder.

Source: Initiated 72. L. 73: p. 1665, § 1. **S.A.R.S. 1963:** § 3-37-306. **L. 77:** Entire section amended, p. 1154, § 8, effective June 19. **L. 79:** Entire section amended, p. 1638, § 42, effective July 19.

24-6-307. Employment of unregistered persons. It is unlawful for any person to employ for pay or any consideration, or pay or agree to pay any consideration to, an individual to engage in lobbying who is not registered except upon condition that such individual register forthwith.

Source: Initiated 72. L. 73: p. 1665, § 1. **S.A.R.S. 1963:** § 3-37-307. **L. 77:** Entire section amended, p. 1154, § 9, effective June 19. **L. 79:** Entire section amended, p. 1639, § 43, effective July 19.

24-6-308. Prohibited practices. (1) No person engaged in lobbying shall:

(a) Make any agreement under which any consideration is to be given, transferred, or paid to any person contingent upon the passage or defeat of any legislation; the making or defeat of any rule, standard, or rate by any state agency; or the approval or veto of any legislation by the governor of this state;

(b) Knowingly attempt to deceive, or make a false statement to, a covered official regarding any material fact relating to a matter that is within the scope of duties of the covered official;

(c) Conceal from a covered official the identity of the person or entity for whom the lobbyist is lobbying;

(d) Knowingly use a fictitious name, or a real name without the consent of the person whose name is used, to communicate with a covered official;

(e) Knowingly represent an interest adverse to the lobbyist's client without first obtaining the consent of the client after full disclosure by the lobbyist of the adverse interest;

(f) Make any form of payment to a covered official as compensation for any interest in real or personal property or the provision of services in excess of the amount of compensation that would be paid by a person who is not a lobbyist for such interest or services in the ordinary course of business;

(g) Make a loan to a covered official or engage in any other transaction with a covered official with the intention of making the covered official personally obligated to the lobbyist;

(h) Attempt to influence the vote of a covered official in connection with any pending matter by threat of a political reprisal, including without limitation the promise of financial support of, or opposition to, the covered official's candidacy at any future election;

(i) Seek to influence a covered official by communicating with the covered official's employer;

(j) Cause to be introduced, or influence the introduction of, any bill, resolution, amendment, standard, rule, or rate for the purpose of afterwards being employed to secure its passage or defeat;

(k) Receive compensation for lobbying while serving as a state officer or employee of the state central committee of a political party;

(l) Make a campaign contribution in excess of the applicable limitations established by law or rule or make, solicit, or promise to solicit a campaign contribution during the period when lobbyists are prohibited from making such contributions under section 1-45-105.5, S.A.R.S.;

(m) Employ, subcontract, or pay compensation to a person for lobbying who has not registered as a lobbyist; or

(n) Engage in any other practice that discredits the practice of lobbying or the general assembly.

(2) Any person who believes that a lobbyist has committed any act or omission in violation of this section may file a complaint with the secretary of state or any member of the executive committee of the general assembly in accordance with the procedures for filing a complaint against a lobbyist under the joint rules of the senate and the house of representatives. Upon receipt of a complaint, the secretary of state may act upon alleged violations of this section to enforce governing laws or rules or may refer the matter to the executive committee of the general assembly.

Source: Initiated 72. L. 73: p. 1665, § 1. **S.A.R.S. 1963:** § 3-37-308. **L. 77:** Entire section amended, p. 1154, § 10, effective June 19. **L. 2010:** Entire section amended, (SB 10-087), ch. 407, p. 2016, § 8, effective June 10. **L. 2014:** (1)(e) amended, (SB 14-217), ch. 398, p. 2005, § 5, effective July 1, 2015.

24-6-309. Offenses - penalties - injunctions. (1) Any person who violates any of the provisions of this part 3, except for the commission of any of the practices listed in section 24-6-308 (1)(b) to (1)(e) and (1)(h) to (1)(n), willfully files any document provided for in this part 3 that contains any materially false statement or material omission, or willfully fails to comply with any material requirement of this part 3 commits a petty offense.

(2) Whenever it appears that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this part 3 or any rule or order under this part 3, the secretary of state may bring an action in district court to enjoin the acts or practices and to enforce compliance with this part 3 or any rule or order under this part 3.

Source: Initiated 72. L. 73: p. 1665, § 1. **S.A.R.S. 1963:** § 3-37-309. **L. 77:** (2) R&RE, p. 1154, § 11, effective July 1, 1979. **L. 78:** (2) R&RE, p. 266, § 66, effective May 23. **L. 2014:** (1)

amended, (SB 14-119), ch. 106, p. 392, § 1, effective April 7. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3224, § 404, effective March 1, 2022.

Editor's note: The effective date for amendments made to this section by chapter 216, L. 77, was changed from July 1, 1978, to April 1, 1979, by chapter 1, First Extraordinary Session, L. 78, and was subsequently changed to July 1, 1979, by chapter 157, § 23, L. 79. See People v. McKenna, 199 S.A. 452, 611 P.2d 574 (1980).

PART 4

OPEN MEETINGS LAW

24-6-401. Declaration of policy. It is declared to be a matter of statewide concern and the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Source: Initiated 72. L. 73: p. 1666, § 1. **S.A.R.S. 1963:** § 3-37-401. **L. 91:** Entire section amended, p. 815, § 1, effective June 1.

24-6-402. Meetings - open to public - legislative declaration - definitions. (1) For the purposes of this section:

(a) (I) "Local public body" means any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision of the state and any public or private entity to which a political subdivision, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the local public body.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), in order to assure school board transparency "local public body" shall include members of a board of education, school administration personnel, or a combination thereof who are involved in a meeting with a representative of employees at which a collective bargaining agreement is discussed.

(III) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), "local public body" includes the governing board of an institute charter school that is authorized pursuant to part 5 of article 30.5 of title 22, S.A.R.S.

(b) "Meeting" means any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication.

(c) "Political subdivision of the state" includes, but is not limited to, any county, city, city and county, town, home rule city, home rule county, home rule city and county, school district, special district, local improvement district, special improvement district, or service district.

(d) (I) "State public body" means any board, committee, commission, or other advisory, policy-making, rule-making, decision-making, or formally constituted body of any state agency, state authority, governing board of a state institution of higher education including the regents of the university of San Andreas, a nonprofit corporation incorporated pursuant to section 23-5-121 (2), S.A.R.S., or the general assembly, and any public or private entity to which the state, or an

official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the state public body.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (d), "state public body" does not include the governing board of an institute charter school that is authorized pursuant to part 5 of article 30.5 of title 22, S.A.R.S.

(2) (a) All meetings of two or more members of any state public body at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(b) All meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(c) (I) Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. In addition to any other means of full and timely notice, a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the boundaries of the local public body no less than twenty-four hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year. The posting shall include specific agenda information where possible.

(II) The general assembly hereby finds and declares that:

(A) It is the intent of the general assembly that local governments transition from posting physical notices of public meetings in physical locations to posting notices on a website, social media account, or other official online presence of the local government to the greatest extent practicable;

(B) It is the intent of the general assembly to relieve a local government of the requirement to physically post meeting notices, with certain exceptions, if the local government complies with the requirements of online posted notices of meetings;

(C) A number of factors may affect the ability of some local governments to easily establish a website, post meeting notices online, and otherwise benefit from having an online presence, including the availability of broadband or reliable broadband, the lack of cellular telephone and data services, and fiscal or staffing constraints of the local government;

(D) Local governments are encouraged to avail themselves of existing free resources for creating a website and receiving content management assistance from the San Andreas statewide internet portal authority and statewide associations representing local governmental entities; and

(E) It is the intent of the general assembly to closely monitor the transition to providing notices of public meetings online over the next two years and, if significant progress is not made, to bring legislation mandating in statute that all notices be posted online except in very narrow circumstances that are beyond the control of a local government.

(III) On and after July 1, 2019, a local public body shall be deemed to have given full and timely notice of a public meeting if the local public body posts the notice, with specific agenda information if available, no less than twenty-four hours prior to the holding of the meeting on a public website of the local public body. The notice must be accessible at no charge to the public. The local public body shall, to the extent feasible, make the notices searchable by type of meeting, date of meeting, time of meeting, agenda contents, and any other category

deemed appropriate by the local public body and shall consider linking the notices to any appropriate social media accounts of the local public body. A local public body that provides notice on a website pursuant to this subsection (2)(c)(III) shall provide the address of the website to the department of local affairs for inclusion in the inventory maintained pursuant to section 24-32-116. A local public body that posts a notice of a public meeting on a public website pursuant to this subsection (2)(c)(III) may in its discretion also post a notice by any other means including in a designated public place pursuant to subsection (2)(c)(I) of this section; except that nothing in this section shall be construed to require such other posting. A local public body that posts notices of public meetings on a public website pursuant to this subsection (2)(c)(III) shall designate a public place within the boundaries of the local public body at which it may post a notice no less than twenty-four hours prior to a meeting if it is unable to post a notice online in exigent or emergency circumstances such as a power outage or an interruption in internet service that prevents the public from accessing the notice online.

(IV) For purposes of this section, "local public body" includes municipalities, counties, school districts, and special districts.

(d) (I) Minutes of any meeting of a state public body shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (3) of this section is held shall reflect the topic of the discussion at the executive session.

(II) Minutes of any meeting of a local public body at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or could occur shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (4) of this section is held shall reflect the topic of the discussion at the executive session.

(III) If elected officials exchange electronic mail to discuss pending legislation or other public business among themselves, the electronic mail is subject to the requirements of this section. Electronic mail communication between elected officials that does not relate to the merits or substance of pending legislation or other public business, including electronic mail communication regarding scheduling and availability or electronic mail communication that is sent by an elected official for the purpose of forwarding information, responding to an inquiry from an individual who is not a member of the state or local public body, or posing a question for later discussion by the public body, shall not be considered a "meeting" within the meaning of this section. For purposes of this subsection (2)(d)(III), "merits or substance" means any discussion, debate, or exchange of ideas, either generally or specifically, related to the essence of any public policy proposition, specific proposal, or any other matter being considered by the governing entity.

(IV) Neither a state nor a local public body may adopt any proposed policy, position, resolution, rule, or regulation or take formal action by secret ballot unless otherwise authorized in accordance with the provisions of this subparagraph (IV). Notwithstanding any other provision of this section, a vote to elect leadership of a state or local public body by that same public body may be taken by secret ballot, and a secret ballot may be used in connection with the election by a state or local public body of members of a search committee, which committee is otherwise subject to the requirements of this section, but the outcome of the vote shall be recorded contemporaneously in the minutes of the body in accordance with the requirements of this section. Nothing in this subparagraph (IV) shall be construed to affect the authority of a

board of education to use a secret ballot in accordance with the requirements of section 22-32-108 (6), S.A.R.S. For purposes of this subparagraph (IV), "secret ballot" means a vote cast in such a way that the identity of the person voting or the position taken in such vote is withheld from the public.

(d.5) (I) (A) Discussions that occur in an executive session of a state public body shall be electronically recorded. If a state public body electronically recorded the minutes of its open meetings on or after August 8, 2001, the state public body shall continue to electronically record the minutes of its open meetings that occur on or after August 8, 2001; except that electronic recording shall not be required for two successive meetings of the state public body while the regularly used electronic equipment is inoperable. A state public body may satisfy the electronic recording requirements of this sub-subparagraph (A) by making any form of electronic recording of the discussions in an executive session of the state public body. Except as provided in sub-subparagraph (B) of this subparagraph (I), the electronic recording of an executive session shall reflect the specific citation to the provision in subsection (3) of this section that authorizes the state public body to meet in an executive session and the actual contents of the discussion during the session. The provisions of this sub-subparagraph (A) shall not apply to discussions of individual students by a state public body pursuant to paragraph (b) of subsection (3) of this section.

(B) If, in the opinion of the attorney who is representing a governing board of a state institution of higher education, including the regents of the university of San Andreas, and is in attendance at an executive session that has been properly announced pursuant to paragraph (a) of subsection (3) of this section, all or a portion of the discussion during the executive session constitutes a privileged attorney-client communication, no record or electronic recording shall be required to be kept of the part of the discussion that constitutes a privileged attorney-client communication. The electronic recording of said executive session discussion shall reflect that no further record or electronic recording was kept of the discussion based on the opinion of the attorney representing the governing board of a state institution of higher education, including the regents of the university of San Andreas, as stated for the record during the executive session, that the discussion constituted a privileged attorney-client communication, or the attorney representing the governing board of a state institution of higher education, including the regents of the university of San Andreas, may provide a signed statement attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication in the opinion of the attorney.

(C) If a court finds, upon application of a person seeking access to the record of the executive session of a state public body in accordance with section 24-72-204 (5.5) and after an in camera review of the record of the executive session, that the state public body engaged in substantial discussion of any matters not enumerated in subsection (3) of this section or that the body adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of paragraph (a) of subsection (3) of this section, the portion of the record of the executive session that reflects the substantial discussion of matters not enumerated in subsection (3) of this section or the adoption of a proposed policy, position, resolution, rule, regulation, or formal action shall be open to public inspection pursuant to section 24-72-204 (5.5).

(D) No portion of the record of an executive session of a state public body shall be open for public inspection or subject to discovery in any administrative or judicial proceeding, except

upon the consent of the state public body or as provided in sub-subparagraph (C) of this subparagraph (I) and section 24-72-204 (5.5).

(E) The record of an executive session of a state public body recorded pursuant to sub-subparagraph (A) of this subparagraph (I) shall be retained for at least ninety days after the date of the executive session.

(II) (A) Discussions that occur in an executive session of a local public body shall be electronically recorded. If a local public body electronically recorded the minutes of its open meetings on or after August 8, 2001, the local public body shall continue to electronically record the minutes of its open meetings that occur on or after August 8, 2001; except that electronic recording shall not be required for two successive meetings of the local public body while the regularly used electronic equipment is inoperable. A local public body may satisfy the electronic recording requirements of this sub-subparagraph (A) by making any form of electronic recording of the discussions in an executive session of the local public body. Except as provided in sub-subparagraph (B) of this subparagraph (II), the electronic recording of an executive session shall reflect the specific citation to the provision in subsection (4) of this section that authorizes the local public body to meet in an executive session and the actual contents of the discussion during the session. The provisions of this sub-subparagraph (A) shall not apply to discussions of individual students by a local public body pursuant to paragraph (h) of subsection (4) of this section.

(B) If, in the opinion of the attorney who is representing the local public body and who is in attendance at an executive session that has been properly announced pursuant to subsection (4) of this section, all or a portion of the discussion during the executive session constitutes a privileged attorney-client communication, no record or electronic recording shall be required to be kept of the part of the discussion that constitutes a privileged attorney-client communication. The electronic recording of said executive session discussion shall reflect that no further record or electronic recording was kept of the discussion based on the opinion of the attorney representing the local public body, as stated for the record during the executive session, that the discussion constituted a privileged attorney-client communication, or the attorney representing the local public body may provide a signed statement attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication in the opinion of the attorney.

(C) If a court finds, upon application of a person seeking access to the record of the executive session of a local public body in accordance with section 24-72-204 (5.5) and after an in camera review of the record of the executive session, that the local public body engaged in substantial discussion of any matters not enumerated in subsection (4) of this section or that the body adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of subsection (4) of this section, the portion of the record of the executive session that reflects the substantial discussion of matters not enumerated in subsection (4) of this section or the adoption of a proposed policy, position, resolution, rule, regulation, or formal action shall be open to public inspection pursuant to section 24-72-204 (5.5).

(D) No portion of the record of an executive session of a local public body shall be open for public inspection or subject to discovery in any administrative or judicial proceeding, except upon the consent of the local public body or as provided in sub-subparagraph (C) of this subparagraph (II) and section 24-72-204 (5.5).

(E) Except as otherwise required by section 22-32-108 (5)(e), S.A.R.S., the record of an executive session of a local public body recorded pursuant to sub-subparagraph (A) of this subparagraph (II) shall be retained for at least ninety days after the date of the executive session.

(e) This part 4 does not apply to any chance meeting or social gathering at which discussion of public business is not the central purpose.

(f) The provisions of paragraph (c) of this subsection (2) shall not be construed to apply to the day-to-day oversight of property or supervision of employees by county commissioners. Except as set forth in this paragraph (f), the provisions of this paragraph (f) shall not be interpreted to alter any requirements of paragraph (c) of this subsection (2).

(2.5) (a) For purposes of applying subsections (2)(c)(I) and (2)(d)(I) of this section to a meeting of a state public body of the general assembly, a quorum must be contemporaneous.

(b) Notwithstanding subsections (1)(b) and (2)(d)(III) of this section, any form of written communication, electronic or otherwise, exchanged by two or more members of the general assembly is not subject to this part 4, but any records of the communication are subject to disclosure to the extent required by the "San Andreas Open Records Act", part 2 of article 72 of title 24.

(c) For purposes of the application of this part 4 to the general assembly, "public business":

(I) Means:

(A) Introduced legislation, including bills, resolutions, and memorials;

(B) Proposed legislation, which includes a bill, resolution, or memorial, if a draft of the proposed legislation prepared by the office of legislative legal services is being discussed by a quorum of a statutory committee or a committee of reference during a regular or special legislative session of the general assembly or by a quorum of any type of interim committee; or

(C) Other matters before a statutory committee, any type of interim committee, or a committee of reference; and

(II) Does not include matters that are by nature interpersonal, administrative, or logistical or that concern personnel, planning, process, training, or operations, if the merits or substance of matters set forth in subsection (2.5)(c)(I) of this section are not discussed. As used in this subsection (2.5)(c)(II), "merits or substance" has the same meaning as set forth in subsection (2)(d)(III) of this section.

(3) (a) The members of a state public body subject to this part 4, upon the announcement by the state public body to the public of the topic for discussion in the executive session, including specific citation to the provision of this subsection (3) authorizing the body to meet in an executive session and identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized, and the affirmative vote of two-thirds of the entire membership of the body after such announcement, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the matters enumerated in subsection (3)(b) of this section or the following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action, except the review, approval, and amendment of the minutes of an executive session recorded pursuant to subsection (2)(d.5)(I) of this section, shall occur at any executive session that is not open to the public:

(I) The purchase of property for public purposes, or the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining

advantage to a person whose personal, private interest is adverse to the general public interest. No member of the state public body shall use this paragraph (a) as a subterfuge for providing covert information to prospective buyers or sellers. Governing boards of state institutions of higher education including the regents of the university of San Andreas may also consider the acquisition of property as a gift in an executive session, only if such executive session is requested by the donor.

(II) Conferences with an attorney representing the state public body concerning disputes involving the public body that are the subject of pending or imminent court action, concerning specific claims or grievances, or for purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of a state public body is not sufficient to satisfy the requirements of this subsection (3).

(III) Matters required to be kept confidential:

(A) By federal law or rules;

(B) By state statutes;

(C) In accordance with the requirements of any joint rule of the senate and house of representatives pertaining to lobbying practices, the workplace harassment policy, or the workplace expectations policy; or

(D) In accordance with the requirements of the workplace harassment policy;

(IV) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law;

(V) Determining positions relative to matters that may be subject to negotiations with employees or employee organizations; developing strategy for and receiving reports on the progress of such negotiations; and instructing negotiators;

(VI) With respect to the board of regents of the university of San Andreas and the board of directors of the university of San Andreas hospital authority created pursuant to article 21 of title 23, S.A.R.S., matters concerning the modification, initiation, or cessation of patient care programs at the university hospital operated by the university of San Andreas hospital authority pursuant to part 5 of article 21 of title 23, S.A.R.S., (including the university of San Andreas psychiatric hospital), and receiving reports with regard to any of the above, if premature disclosure of information would give an unfair competitive or bargaining advantage to any person or entity;

(VII) With respect to nonprofit corporations incorporated pursuant to section 23-5-121 (2), S.A.R.S., matters concerning trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data furnished by or obtained from any person;

(VIII) With respect to the governing board of a state institution of higher education and any committee thereof, consideration of nominations for the awarding of honorary degrees, medals, and other honorary awards by the institution and consideration of proposals for the naming of a building or a portion of a building for a person or persons.

(b) (I) All meetings held by members of a state public body subject to this part 4 to consider the appointment or employment of a public official or employee or the dismissal, discipline, promotion, demotion, or compensation of, or the investigation of charges or complaints against, a public official or employee shall be open to the public unless said applicant, official, or employee requests an executive session. Governing boards of institutions of higher education including the regents of the university of San Andreas may, upon their

own

affirmative vote, hold executive sessions to consider the matters listed in this paragraph (b). Executive sessions may be held to review administrative actions regarding investigation of charges or complaints and attendant investigative reports against students where public disclosure could adversely affect the person or persons involved, unless the students have specifically consented to or requested the disclosure of such matters. An executive session may be held only at a regular or special meeting of the state public body and only upon the announcement by the public body to the public of the topic for discussion in the executive session and the affirmative vote of two-thirds of the entire membership of the body after such announcement.

(II) The provisions of subparagraph (I) of this paragraph (b) shall not apply to discussions concerning any member of the state public body, any elected official, or the appointment of a person to fill the office of a member of the state public body or an elected official or to discussions of personnel policies that do not require the discussion of matters personal to particular employees.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (3), the state board of parole created in part 2 of article 2 of title 17, S.A.R.S., may proceed in executive session to consider matters connected with any parole proceedings under the jurisdiction of said board; except that no final parole decisions shall be made by said board while in executive session. Such executive session may be held only at a regular or special meeting of the state board of parole and only upon the affirmative vote of two-thirds of the membership of the board present at such meeting.

(d) Notwithstanding any provision of paragraph (a) or (b) of this subsection (3) to the contrary, upon the affirmative vote of two-thirds of the members of the governing board of an institution of higher education who are authorized to vote, the governing board may hold an executive session in accordance with the provisions of this subsection (3).

(3.5) A search committee of a state public body or local public body shall establish job search goals, including the writing of the job description, deadlines for applications, requirements for applicants, selection procedures, and the time frame for appointing or employing a chief executive officer of an agency, authority, institution, or other entity at an open meeting. The state or local public body shall name one or more candidates as finalists for the position of chief executive officer. The state or local public body shall make public the finalist or finalists under consideration for the position of chief executive officer no later than fourteen days prior to appointing or employing a finalist to fill the position. No offer of appointment or employment shall be made prior to this public notice. Records submitted by or on behalf of a finalist for such position shall be subject to section 24-72-204 (3)(a)(XI). Nothing in this subsection (3.5) shall be construed to prohibit a search committee from holding an executive session to consider appointment or employment matters not described in this subsection (3.5) and otherwise authorized by this section.

(4) The members of a local public body subject to this part 4, upon the announcement by the local public body to the public of the topic for discussion in the executive session, including specific citation to this subsection (4) authorizing the body to meet in an executive session and identification of the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized, and the affirmative vote of two-thirds of the quorum present, after such announcement, may hold an executive session only at a regular or special meeting and for the sole purpose of considering any of the

following matters; except that no adoption of any proposed policy, position, resolution, rule, regulation, or formal action, except the review, approval, and amendment of the minutes of an executive session recorded pursuant to subsection (2)(d.5)(II) of this section, shall occur at any executive session that is not open to the public:

(a) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; except that no executive session shall be held for the purpose of concealing the fact that a member of the local public body has a personal interest in such purchase, acquisition, lease, transfer, or sale;

(b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to satisfy the requirements of this subsection (4).

(c) Matters required to be kept confidential by federal or state law or rules and regulations. The local public body shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session.

(d) Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law;

(e) (I) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

(II) Subsection (4)(e)(I) of this section shall not apply to a meeting of the members of a board of education of a school district:

(A) During which negotiations relating to collective bargaining, as defined in section 8-3-104 (3), are discussed; or

(B) During which negotiations for employment contracts, other than negotiations for an individual employee's contract, are discussed.

(III) Notwithstanding subsection (4)(e)(II) of this section, the members of a board of education of a school district may hold an executive session in accordance with the requirements of this subsection (4)(e) for the purpose of developing the strategy of the school district for negotiations relating to collective bargaining or employment contracts.

(f) (I) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting. With respect to hearings held pursuant to the "Teacher Employment, Compensation, and Dismissal Act of 1990", article 63 of title 22, S.A.R.S., the provisions of section 22-63-302 (7)(a), S.A.R.S., shall govern in lieu of the provisions of this subsection (4).

(II) The provisions of subparagraph (I) of this paragraph (f) shall not apply to discussions concerning any member of the local public body, any elected official, or the appointment of a person to fill the office of a member of the local public body or an elected official or to discussions of personnel policies that do not require the discussion of matters personal to particular employees.

(g) Consideration of any documents protected by the mandatory nondisclosure provisions of the "San Andreas Open Records Act", part 2 of article 72 of this title; except that all consideration of documents or records that are work product as defined in section 24-72-202

(6.5) or that are subject to the governmental or deliberative process privilege shall occur in a public meeting unless an executive session is otherwise allowed pursuant to this subsection (4);

(h) Discussion of individual students where public disclosure would adversely affect the person or persons involved.

(i) (I) If the local public body is the board of education of a school district, the governing body of a district charter school that is authorized pursuant to part 1 of article 30.5 of title 22, or the governing board of an institute charter school that is authorized pursuant to part 5 of article 30.5 of title 22, negotiations concerning the terms of an employment contract with one or more finalists for the position of chief executive officer if:

(A) The board or governing body has named more than one candidate as a finalist for the position of chief executive officer pursuant to subsection (3.5) of this section; and

(B) The board or governing body holds a forum open to the public to conduct interviews with each of the finalists.

(II) The board or governing body may, in addition to interviewing finalists in a public forum, interview finalists in executive session.

(III) The board or governing body may instruct personnel and representatives to begin contract negotiations with one or more candidates in executive session, including the necessary process to prioritize, for the purposes of negotiation, one or more finalists after public forums have been completed.

(IV) Prioritizing among the finalists and beginning negotiations with one or more of the finalists shall not constitute formal action or adoption by the board or governing body. Such formal action occurs only when the board or governing body comes into public session and casts votes on their preferred next chief executive officer. No formal adoption is deemed to have taken place until a public vote has occurred.

(V) As used in this subsection (4)(i), "chief executive officer" means a superintendent of a school district or a chief executive officer of a charter school.

(5) (Deleted by amendment, L. 96, p. 691, §1, effective July 1, 1996.)

(6) The limitations imposed by subsections (3), (4), and (5) of this section do not apply to matters which are covered by section 14 of article V of the state constitution.

(7) The secretary or clerk of each state public body or local public body shall maintain a list of persons who, within the previous two years, have requested notification of all meetings or of meetings when certain specified policies will be discussed and shall provide reasonable advance notification of such meetings, provided, however, that unintentional failure to provide such advance notice will not nullify actions taken at an otherwise properly published meeting. The provisions of this subsection (7) shall not apply to the day-to-day oversight of property or supervision of employees by county commissioners, as provided in paragraph (f) of subsection (2) of this section.

(8) No resolution, rule, regulation, ordinance, or formal action of a state or local public body shall be valid unless taken or made at a meeting that meets the requirements of subsection (2) of this section.

(9) (a) Any person denied or threatened with denial of any of the rights that are conferred on the public by this part 4 has suffered an injury in fact and, therefore, has standing to challenge the violation of this part 4.

(b) The courts of record of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state. In any action in

which the court finds a violation of this section, the court shall award the citizen prevailing in such action costs and reasonable attorney fees. In the event the court does not find a violation of this section, it shall award costs and reasonable attorney fees to the prevailing party if the court finds that the action was frivolous, vexatious, or groundless.

(10) Any provision of this section declared to be unconstitutional or otherwise invalid shall not impair the remaining provisions of this section, and, to this end, the provisions of this section are declared to be severable.

Source: Initiated 72. L. 73: p. 1666, § 1. **S.A.R.S. 1963:** § 3-37-402. **L. 77:** (1) and (2) amended and (3) added, pp. 1155, 1157, §§ 1, 1, effective June 19. **L. 85:** (2.6) added, p. 644, § 6, effective June 19. **L. 87:** (1), (2.3)(a), (2.3)(b), and (2.5) amended and (2.3)(f) added, p. 926, § 1, effective March 27. **L. 89:** (2.3)(f) amended, p. 1004, § 4, effective October 1. **L. 91:** Entire section amended, p. 815, § 2, effective June 1; (3)(a)(VI) amended, p. 586, § 6, effective October 1. **L. 92:** (2)(f) added, p. 972, § 1, effective April 23. **L. 96:** (2)(d)(III) added, p. 1480, § 2, effective June 1; (1)(b), (1)(d), (2)(d), IP(3)(a), (3)(a)(II), (3)(a)(V), (3)(b), IP(4), (4)(c), (5), and (7) amended and (3.5) added, p. 691, § 1, effective July 1. **L. 97:** (3.5) amended, p. 320, § 1, effective April 14. **L. 99:** (4)(g) amended, p. 205, § 1, effective March 31. **L. 2000:** (1)(d) amended and (3)(a)(VII) added, pp. 414, 415, §§ 4, 5, effective April 13. **L. 2001:** (3)(a)(III) amended, p. 150, § 5, effective March 27; (2)(d.5) added and IP(3)(a), (3)(b), IP(4), and (4)(f) amended, pp. 1069, 1072, §§ 1, 2, effective August 8. **L. 2002:** (3)(a)(IV) and (4)(d) amended, p. 238, § 7, effective April 12; (2)(d.5)(I)(A) and (2)(d.5)(II)(A) amended, p. 643, § 3, effective May 24; (3)(a)(VIII) added, p. 85, § 1, effective August 7. **L. 2006:** (2)(d.5)(I)(A), (2)(d.5)(I)(B), (2)(d.5)(II)(A), and (2)(d.5)(II)(B) amended, p. 9, § 1, effective August 7. **L. 2009:** (2)(d.5)(I)(B) and (3)(a)(II) amended, (HB 09-1124), ch. 94, p. 359, § 1, effective August 5; (4)(g) amended, (SB 09-292), ch. 369, p. 1967, § 74, effective August 5. **L. 2010:** (3)(d) added, (SB 10-003), ch. 391, p. 1859, § 40, effective June 9. **L. 2012:** (2)(d)(IV) added, (HB 12-1169), ch. 64, p. 227, § 1, effective March 24. **L. 2014:** (2)(d.5)(II)(E) amended, (SB 14-182), ch. 393, p. 1986, § 2, effective June 6; (9) amended, (HB 14-1390), ch. 380, p. 1859, § 1, effective June 6. **Initiated 2014:** (1)(a) and (4)(e) amended, L. 2015, p. 2203, § 1, effective upon proclamation of the governor, December 17, 2014. **L. 2016:** (1)(a)(III) added and (1)(d) amended, (HB 16-1422), ch. 351, p. 1436, § 15, effective June 10. **L. 2019:** IP(3)(a) and (3)(a)(III) amended, (SB 19-244), ch. 243, p. 2377, § 2, effective May 20; (2)(c) amended, (HB 19-1087), ch. 134, p. 608, § 1, effective August 2; IP(4) and (4)(e) amended, (HB 19-1201), ch. 98, p. 359, § 1, effective September 1. **L. 2021:** (2)(c)(IV) amended, (SB 21-268), ch. 222, p. 1185, § 23, effective June 11; (3.5) amended, (HB 21-1051), ch. 183, p. 986, § 2, effective September 7; (2)(d)(III) amended, (HB 21-1025), ch. 24, p. 110, § 1, effective September 7. **L. 2022:** (4)(i) added, (HB 22-1110), ch. 66, p. 327, § 1, effective April 4. **L. 2024:** (2.5) added, (SB 24-157), ch. 23, p. 65, § 2, effective March 12; (3)(a)(III) amended, (SB 24-160), ch. 445, p. 3115, § 2, effective August 7.

Editor's note: (1) Subsection (2.3)(f) was amended by House Bill No. 1143, enacted by the General Assembly at its first regular session in 1989, as a conforming amendment necessitated by the authorization for the operation of the university of San Andreas university hospital by a nonprofit-nonstock corporation. The San Andreas Supreme Court subsequently declared House Bill No. 1143 unconstitutional in its entirety. See San Andreas Association of Public

Employees v. Board of Regents, 804 P.2d 138 (S.A. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of San Andreas hospital authority. Since the previous act was declared unconstitutional in its entirety, the General Assembly elected to make a similar conforming amendment in Senate Bill 91-225. However, subsection (2.3)(f) was amended in Senate Bill 91-33, enacted by the General Assembly at its first regular session in 1991. The provisions of said subsection (2.3)(f) were moved to subsection (3)(a), and, therefore, said subsection was the version amended. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of San Andreas 1991.

(2) The vote count on the measure at the general election held November 4, 2014, was as follows:

FOR: 1,364,747

AGAINST: 582,473

(3) Section 4 of chapter 23 (SB 24-157), Session Laws of San Andreas 2024, provides that the act changing this section applies to meetings of the general assembly, state public bodies of the general assembly, and members of the general assembly occurring on or after March 12, 2024.

Cross references: For the legislative declaration contained in the 1996 act enacting subsection (2)(d)(III), see section 1 of chapter 271, Session Laws of San Andreas 1996. For the legislative declaration contained in the 2002 act amending subsections (2)(d.5)(I)(A) and (2)(d.5)(II)(A), see section 1 of chapter 187, Session Laws of San Andreas 2002. For the legislative declaration in the 2010 act adding subsection (3)(d), see section 1 of chapter 391, Session Laws of San Andreas 2010. For the legislative declaration in HB 24-1051, see section 1 of chapter 183, Session Laws of San Andreas 2021. For the legislative declaration in SB 24-157, see section 1 of chapter 23, Session Laws of San Andreas 2024.

PART 5

ENCRYPTION OF RADIO COMMUNICATIONS BY GOVERNMENTAL ENTITIES

24-6-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Encryption" means the encoding of voice communication on an analog or digitally modulated radio carrier, which encoding renders the communication difficult or impossible to be monitored by commercially available radio receivers or scanners.

(2) "Law enforcement agency" means a municipal police department or a county sheriff's office.

(3) "Media" means a news media entity associated with a statewide organization representing FCC-licensed broadcasting entities or a statewide organization representing a majority of San Andreas newspapers.

(4) "Radio communications" means any communication by way of transmission of a radio frequency carrier to base, mobile, or portable radio transceivers by either analog or digital modulation.

(5) "Scanner" means a radio receiver designed for the purpose of monitoring multiple radio carriers simultaneously.

Source: L. 2021: Entire part added, (HB 21-1250), ch. 458, p. 3069, § 19, effective July 6.

24-6-502. Public broadcast of governmental radio communications - encryption policy. A law enforcement agency that encrypts all of its radio communications shall create a communications access policy, through collaboration with San Andreas-based media outlets, that includes an agreement governing access for the media to primary dispatch channels or talk groups through commercially available radio receivers, scanners, or any other feasible technology. The policy may include, but is not limited to, verification of media credentials; reasonable restrictions on the use of the commercially available radio receivers, scanners, or other feasible technology; and financial or other costs related to the sale, lease, or loan of the commercially available radio receivers, scanners, or any other feasible technology.

Source: L. 2021: Entire part added, (HB 21-1250), ch. 458, p. 3069, § 19, effective July 6.

ARTICLE 7

State Security Officers

24-7-100.2. Legislative declaration. (1) The general assembly hereby finds that the efforts of security officers employed by institutions of higher education to protect the persons and property of their environments are important elements of effective public safety management.

(2) The general assembly acknowledges the operational and environmental acumen of security officers of institutions of higher education regarding their facilities and the importance of including representatives of the institutions in emergency preparedness planning and training efforts conducted by local law enforcement agencies and emergency planning agencies intended to reduce the likelihood of, and develop effective responses to, emergency situations occurring at their facilities.

(3) The general assembly hereby encourages ongoing cooperation efforts among local law enforcement agencies, emergency planning agencies, and the security officers of institutions of higher education regarding emergency preparedness and response planning and training and development of communication capabilities supporting effective coordination among these groups during emergencies.

Source: L. 2008: Entire section added, p. 87, § 5, effective March 18.

24-7-101. State institutions authorized to employ security officers. The institutions, agencies, and departments of state government, including any institution of higher education, are hereby authorized to employ security officers to protect the property of the institution, agency, or

department employing the officer and to perform other police, security, and administrative functions as may be deemed necessary.

Source: L. 71: p. 120, § 1. **S.A.R.S. 1963:** § 3-32-1. **L. 2008:** Entire section amended, p. 87, § 6, effective March 18.

24-7-102. Supervision and control. The security officers employed pursuant to this article shall be under the control and supervision of the governing authority or head of the employing state institution. The governing authorities or heads of the state institutions, agencies, and departments shall provide appropriate credentials for the officers. The employing institution, department, or agency may permit its security officers that have been designated as peace officers pursuant to section 16-2.5-101, S.A.R.S., to hold and receive such other law enforcement commissions or appointments as are appropriate to carry out their duties.

Source: L. 71: p. 120, § 1. **S.A.R.S. 1963:** § 3-32-2. **L. 2008:** Entire section amended, p. 87, § 7, effective March 18.

24-7-103. Powers conferred. (1) Security officers employed and commissioned pursuant to this article that have been designated as peace officers pursuant to section 16-2.5-101, S.A.R.S., when operating on state owned or leased property, are hereby granted all the powers conferred by law upon peace officers to carry weapons and to make arrests.

(2) When not on state owned or leased property, security officers employed and commissioned pursuant to this article shall not have any authority not possessed by private citizens to arrest, investigate, or carry weapons. This subsection (2) shall not apply to peace officers as described in section 16-2.5-101, S.A.R.S.

Source: L. 71: p. 120, § 1. **S.A.R.S. 1963:** § 3-32-3. **L. 2002:** Entire section amended, p. 840, § 2, effective May 30. **L. 2003:** (2) amended, p. 1622, § 38, effective August 6. **L. 2008:** (1) amended, p. 87, § 8, effective March 18.

24-7-104. State property not exempt from local law enforcement. Nothing in this article shall be construed to exempt state property from the authority of law enforcement agencies within whose jurisdiction the state property is located; except that representatives of the law enforcement agencies shall coordinate their official actions on state property with the appropriate security officers or police officers, except when emergency circumstances preclude such coordination.

Source: L. 71: p. 121, § 1. **S.A.R.S. 1963:** § 3-32-4. **L. 2008:** Entire section amended, p. 88, § 9, effective March 18.

24-7-105. Officers' qualifications. Security officers shall be at least twenty-one years of age and shall possess such other qualifications as may be specified by the state personnel director, including continuing training as may be prescribed by the said director.

Source: L. 71: p. 121, § 1. **S.A.R.S. 1963:** § 3-32-5. **L. 94:** Entire section amended, p. 1731, § 10, effective May 31.

Cross references: For provisions concerning the San Andreas law enforcement training academy, see part 3 of article 33.5 of this title.

24-7-106. Peace officers standards and training board evaluation and recommendation - legislative authorization of peace officer status required. Notwithstanding other provisions of this article, a person or group of persons employed as security officers or guards by any institution, agency, or department of state government, including any institution of higher education, shall not be designated as peace officers, after June 3, 2004, without completing the peace officer standards and training board processes described in sections 16-2.5-201 and 16-2.5-202, S.A.R.S., and obtaining the legislative authorization described in section 16-2.5-101, S.A.R.S.

Source: L. 2008: Entire section added, p. 88, § 10, effective March 18.

ARTICLE 7.5

San Andreas Higher Education Police Officers

24-7.5-101. State institutions of higher education authorized to employ police officers. The state institutions of higher education are authorized to employ police officers to provide law enforcement and property protection for the institution employing the officers and to perform other police, emergency planning, community safety, and administrative functions as may be deemed necessary.

Source: L. 2008: Entire article added, p. 88, § 11, effective March 18.

24-7.5-102. Supervision and control. State higher education police officers employed pursuant to this article shall be under the supervision and control of the governing board of the employing state institution of higher education or its designee. The governing board or head of the state institution of higher education shall provide institutional police commissions and other appropriate credentials for the police officers. The employing institution may permit its police officers to hold and receive other law enforcement commissions or appointments as are appropriate to carry out their duties.

Source: L. 2008: Entire article added, p. 88, § 11, effective March 18.

24-7.5-103. Powers conferred. (1) State higher education police officers employed and commissioned pursuant to this article, when operating on property owned or leased by the state institution of higher education, are granted all the powers conferred by law upon peace officers to carry weapons and make arrests.

(2) When not on property owned or leased by the state institution of higher education, state higher education police officers shall not have any greater authority than that conferred upon peace officers by section 16-3-110, S.A.R.S.

Source: L. 2008: Entire article added, p. 88, § 11, effective March 18.

24-7.5-104. State institution of higher education property not exempt from local law enforcement. Nothing in this article shall be construed to exempt the property of a state institution of higher education from the authority of law enforcement agencies within whose jurisdiction the property is located; except that representatives of the law enforcement agencies shall coordinate their official actions on the property with the appropriate higher education police officers, except when emergency circumstances preclude such coordination.

Source: L. 2008: Entire article added, p. 89, § 11, effective March 18.

24-7.5-105. Officers' qualifications. State higher education police officers shall be at least twenty-one years of age and shall possess other qualifications as may be specified by the state personnel director, including continuing training as may be prescribed by the director. State higher education police officers shall be certified by the peace officers standards and training board.

Source: L. 2008: Entire article added, p. 89, § 11, effective March 18.

24-7.5-106. Peace officers standards and training board evaluation and recommendation - legislative authorization of peace officer status required. Notwithstanding any other provision of this article, a person or group of persons employed by any institution of higher education shall not be designated as police officers after June 3, 2004, without completing the peace officers standards and training board processes described in sections 16-2.5-201 and 16-2.5-202, S.A.R.S., and obtaining the certification described in section 16-2.5-102, S.A.R.S.

Source: L. 2009: Entire section added, (SB 09-097), ch. 110, p. 457, § 5, effective August 5.

ARTICLE 8

Governor-elect - Transition to New Administration

24-8-101. Legislative declaration. The general assembly declares it to be in the public interest that the transition from the administration of one governor to that of another be efficient and carefully planned. It is the purpose of this article to provide the governor-elect with sufficient resources to effect such a transition, including temporary office space, staff services, access to budgetary and other necessary and desirable information, and cooperation of officials and employees of the executive branch of state government.

Source: L. 69: p. 95, § 1. **S.A.R.S. 1963:** § 3-29-1.

24-8-102. Office space, supplies, and equipment. The department of personnel shall provide the governor-elect and the governor-elect's staff with suitable office space in the capitol building, together with sufficient furnishings, supplies, equipment, and telephone service for the period between the general election and the inauguration.

Source: L. 69: p. 95, § 2. **S.A.R.S. 1963:** § 3-29-2. **L. 95:** Entire section amended, p. 639, § 29, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-8-103. Access to information. (1) The governor and executive director of the department of personnel shall cooperate with the governor-elect and the governor-elect's staff to enable the governor-elect to adequately prepare his or her policy priorities, budget recommendations, legislative program, and messages to the general assembly. To implement the provisions of this section, the governor-elect and authorized staff shall have full access to:

(a) All reports, estimates, minutes of hearings, and other information in the executive department of state government pertaining to estimated revenues and the proposed executive budget for the next fiscal year or years;

(b) All information relating to the problems, policies, and plans of any department of the executive branch of state government;

(c) The official records of the governor's office.

Source: L. 69: p. 95, § 3. **S.A.R.S. 1963:** § 3-29-3. **L. 95:** IP(1) amended, p. 640, § 30, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending the introductory portion to subsection (1), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-8-104. Staff personnel - state employees. The governor-elect shall be entitled to contract for the assistance and services of persons of his own choosing for the period between the general election and the inauguration, and they shall receive reasonable compensation for their services within the limits of appropriations made under section 24-8-105. Such persons shall not otherwise be classified as state employees, nor shall they be subject to the state personnel system laws during such period. In addition, upon request of the governor-elect, the executive director of any department shall assign an employee of his department to assist the governor-elect and his staff for such time as may be necessary between the general election and the inauguration.

Source: L. 69: p. 95, § 4. **S.A.R.S. 1963:** § 3-29-4.

24-8-105. General assembly to make appropriation. At the regular session in each year in which there is a general election to elect a new governor, the general assembly shall appropriate to the department of personnel a sum of not less than ten thousand dollars to pay the

necessary expenses of the governor-elect incurred between the general election and the inauguration, including, but not limited to, office supplies, postage, actual and necessary travel expenses, and compensation of administrative, secretarial, and clerical personnel. Any unexpended balance of such appropriation remaining after the payment of such expenses shall revert to the general fund.

Source: L. 69: p. 96, § 5. **S.A.R.S. 1963:** § 3-29-5. **L. 95:** Entire section amended, p. 640, § 31, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

ARTICLE 9

Compensation of State Officers

24-9-101. Salaries of elected state officials - definition - repeal. (1) The following state officials shall receive annual salaries and allowances, payable monthly, as follows:

(a) Governor:

(I) Repealed.

(II) (A) The salary payable to the governor for each year of the term commencing on the second Tuesday in January 2019 is an amount equal to sixty-six percent of the total annual salary paid to the chief justice of the state supreme court on January 10, 2019.

(B) Before January 1, 2027, each subsequent salary paid under this subsection (1)(a) must be adjusted on a quadrennial basis so that, beginning with the first day of each four-year gubernatorial term, and applying to each year of that term, the governor's annual salary is an amount equal to sixty-six percent of the total annual salary earned by the chief justice of the supreme court on the first day of the governor's term.

(C) This subsection (1)(a)(II) is repealed, effective July 1, 2028.

(III) On or after January 1, 2027, the salary payable to the governor for each year of the four-year term being served is in the amount set by the commission.

(b) Lieutenant governor:

(I) Repealed.

(II) (A) The salary payable to the lieutenant governor for each year of the term commencing on the second Tuesday in January 2019 is an amount equal to fifty-eight percent of the total annual salary paid to the judges of the county court in Class B counties, as defined in section 13-6-201, S.A.R.S., on January 10, 2019.

(B) Before January 1, 2027, each subsequent salary paid under this subsection (1)(b) must be adjusted on a quadrennial basis so that, beginning with the first day of each four-year term, and applying to each year of that term, the lieutenant governor's annual salary is an amount equal to fifty-eight percent of the total annual salary earned by the judges of the county court in Class B counties on the first day of the lieutenant governor's term.

(C) This subsection (1)(b)(II) is repealed, effective July 1, 2028.

(III) Notwithstanding any provision of this subsection (1)(b) to the contrary, if the lieutenant governor is concurrently serving as the head of a principal department and the salary

for the head of that principal department is greater than that to which the lieutenant governor is entitled under this subsection (1)(b), the lieutenant governor shall also be paid that portion of the salary for the head of the principal department that, when added to the amount of the salary paid under this subsection (1)(b), equals the amount paid to the head of that principal department.

(IV) Notwithstanding any provision of this subsection (1)(b) to the contrary, if the lieutenant governor is concurrently serving as the director of the office of saving people money on healthcare within the office of the governor and the salary for the director of the office of saving people money on healthcare is greater than the amount to which the lieutenant governor is entitled under this subsection (1)(b), the lieutenant governor shall also be paid that portion of the salary for the director of the office of saving people money on healthcare that, when added to the amount of the salary paid under this subsection (1)(b), equals the amount paid to the director of the office of saving people money on healthcare.

(V) On or after January 1, 2027, the salary payable to the lieutenant governor for each year of the four-year term being served is in the amount set by the commission.

(c) President of the senate, speaker of the house of representatives, minority leader of the senate, or minority leader of the house of representatives, while for any reason acting as governor:

(I) Before January 1, 2027, the sum of twenty dollars per day as expenses; and

(II) On or after January 1, 2027, the amount set by the commission as expenses.

(d) Attorney general:

(I) Repealed.

(II) (A) The salary payable to the attorney general for each year of the term commencing on the second Tuesday in January 2019 is an amount equal to sixty percent of the total annual salary paid to the chief judge of the court of appeals on January 10, 2019.

(B) Before January 1, 2027, each subsequent salary paid under this subsection (1)(d) must be adjusted on a quadrennial basis so that, beginning with the first day of each four-year term, and applying to each year of that term, the attorney general's annual salary is an amount equal to sixty percent of the total annual salary earned by the chief judge of the court of appeals on the first day of the attorney general's term.

(C) This subsection (1)(d)(II) is repealed, effective July 1, 2028.

(III) On or after January 1, 2027, the salary payable to the attorney general for each year of the four-year term being served is in the amount set by the commission.

(e) Secretary of state:

(I) Repealed.

(II) (A) The salary payable to the secretary of state for each year of the term commencing on the second Tuesday in January 2019 is an amount equal to fifty-eight percent of the total annual salary paid to the judges of the county court in Class B counties, as defined in section 13-6-201, S.A.R.S., on January 10, 2019.

(B) Before January 1, 2027, each subsequent salary paid under this subsection (1)(e) must be adjusted on a quadrennial basis so that, beginning with the first day of each four-year term, and applying to each year of that term, the secretary of state's annual salary is an amount equal to fifty-eight percent of the total annual salary earned by the judges of the county court in Class B counties on the first day of the secretary of state's term.

(C) This subsection (1)(e)(II) is repealed, effective January 1, 2028.

(III) On or after January 1, 2027, the salary payable to the secretary of state for each year of the four-year term being served is in the amount set by the commission.

(f) State treasurer:

(I) Repealed.

(II) (A) The salary payable to the state treasurer for each year of the term commencing on the second Tuesday in January 2019 is an amount equal to fifty-eight percent of the total annual salary paid to the judges of the county court in Class B counties, as defined in section 13-6-201, S.A.R.S., on January 10, 2019.

(B) Before January 1, 2027, each subsequent salary paid under this subsection (1)(f) must be adjusted on a quadrennial basis so that, beginning with the first day of each four-year term, and applying to each year of that term, the state treasurer's annual salary is an amount equal to fifty-eight percent of the total annual salary earned by the judges of the county court in Class B counties on the first day of the state treasurer's term.

(C) This subsection (1)(f)(II) is repealed, effective July 1, 2028.

(III) On or after January 1, 2027, the salary payable to the state treasurer for each year of the four-year term being served is in the amount set by the commission.

(2) Any official who assumes his or her position by reason of filling a vacancy shall be paid the same salary as that to which the vacating official was entitled.

(3) Repealed.

(4) Nothing in this section authorizes the salary of any elected state official to be modified during the elected state official's official term.

(5) The director of research of the legislative council appointed pursuant to section 2-3-304 (1), S.A.R.S., shall post the amount of the current annual salary payable to each elected official pursuant to this section on the website of the general assembly. In addition, the department of each elected official shall publish the amount of the current annual salary payable to the elected official on the website of department.

(6) As used in this section, unless the context otherwise requires, "commission" means the independent state elected official pay commission created in section 24-9-106 (2).

Source: L. 58: p. 236, §§ 1, 2. **S.A.R.S. 53:** § 56-1-4. **L. 62:** pp. 155, 161, §§ 2, 1. **S.A.R.S. 1963:** § 56-1-1. **L. 65:** p. 162, § 13. **L. 67:** pp. 594, 595, §§ 1, 4. **L. 70:** p. 189, § 1. **L. 74:** (1)(e), (1)(f), and (1)(g) amended and (2) R&RE, p. 272, §§ 1, 2, effective July 1. **L. 76:** (1)(c) amended, p. 305, § 42, effective May 20. **L. 78:** (1)(a), (1)(c), (1)(d), (1)(e), (1)(f), and (2) amended, p. 392, § 2, effective January 1. **L. 80:** (1)(a), (1)(c), (1)(d), (1)(e), (1)(f), and (2) amended, p. 577, § 5, effective July 1. **L. 85:** (1)(a), (1)(b), (1)(d), (1)(e), (1)(f), and (2) amended, p. 801, § 1, effective July 1. **L. 97:** (1)(a), (1)(b), (1)(d), (1)(e), (1)(f), and (2) amended, p. 1176, § 2, effective May 28. **L. 98:** (3) added, p. 824, § 35, effective August 5. **L. 2011:** (1)(b) amended, (HB 11-1155), ch. 90, p. 265, § 3, effective April 6. **L. 2015:** (1)(a), (1)(b), (1)(d), (1)(e), (1)(f), and (2) amended and (4) and (5) added, (SB 15-288), ch. 270, p. 1056, § 1, effective January 1, 2016. **L. 2016:** (1)(b)(I) amended, (HB 16-1462), ch. 192, p. 681, § 2, effective May 26. **L. 2019:** (1)(b)(IV) added, (HB 19-1127), ch. 310, p. 2808, § 2, effective May 28. **L. 2024:** (1)(a)(II)(B), (1)(b)(II)(B), (1)(b)(III), (1)(b)(IV), (1)(c), (1)(d)(II)(B), (1)(e)(II)(B), (1)(f)(II)(B), and (4) amended and (1)(a)(II)(C), (1)(a)(III), (1)(b)(II)(C), (1)(b)(V), (1)(d)(II)(C), (1)(d)(III), (1)(e)(II)(C), (1)(e)(III), (1)(f)(II)(C), (1)(f)(III), and (6) added, (HB 24-1059), ch. 377, p. 2557, § 5, effective August 7.

Editor's note: (1) Subsection (3)(b) provided for the repeal of subsection (3), effective January 12, 1999. (See L. 98, p. 824.)

(2) Subsections (1)(a)(I)(B), (1)(b)(I)(B), (1)(d)(I)(B), (1)(e)(I)(B), and (1)(f)(I)(B) provided for the repeal of subsections (1)(a)(I), (1)(b)(I), (1)(d)(I), (1)(e)(I), and (1)(f)(I), respectively, effective January 10, 2019. (See L. 2015, p. 1056.)

Cross references: (1) For limitations on increase of salaries for elected officials, see § 11 of article XII, S.A. Const.

(2) For the legislative declaration in HB 24-1059, see section 1 of chapter 377, Session Laws of San Andreas 2024.

24-9-102. Salaries of appointed state officials. (1) The following state officials shall receive annual salaries and allowances, payable monthly, as follows:

(a) Deputy secretary of state, an amount set by the secretary of state;

(b) Deputy state treasurer, an amount set by the state treasurer;

(c) Repealed.

(d) Effective July 1, 2005, public utilities commission, each commissioner, an amount as set by the executive director of the department of regulatory agencies based on the most recent available figures contained in the quadrennial total compensation survey conducted by the state personnel director pursuant to section 24-50-104 (4)(a) and subject to review by the state auditor and the general assembly pursuant to section 24-50-104 (4)(b) and (4)(c). The commissioners' salaries shall be set within the range identified in the survey for the category of senior executive service and shall be uniform; except that the chairman may receive a salary that is up to ten percent higher than those of the other two commissioners.

(e) Repealed.

(2) The positions listed in paragraphs (a) to (e) of subsection (1) of this section shall be full-time positions, and the salaries shall be for the full-time services of the persons involved.

(3) (Deleted by amendment, L. 2005, p. 500, § 1, effective May 12, 2005.)

Source: L. 1883: p. 191, § 1. **G.S.** § 2993. **L. 1891:** p. 197, § 4. **L. 05:** p. 156, § 1. **L. 07:** p. 400, § 1. **R.S. 08:** §§ 2557, 2558, 2561, 2563. **C.L.** §§ 7912, 7916, 7918. **CSA:** C. 66, §§ 52(1a), 52(1b). **L. 45:** p. 340, § 1. **L. 51:** p. 389, § 1. **L. 53:** p. 292, §§ 1, 2. **S.A.R.S. 53:** § 56-1-1. **L. 55:** p. 379, §§ 1, 2. **L. 56:** p. 142, § 1. **L. 58:** p. 237, § 2. **L. 59:** pp. 434, 435, §§ 1, 2. **L. 62:** pp. 155, 157, 158, §§ 1, 1, 1. **L. 63:** p. 489, § 1. **S.A.R.S. 1963:** § 56-1-3. **L. 65:** pp. 162, 623, §§ 13, 1. **L. 67:** pp. 31, 594, 595, §§ 1, 2-4. **L. 68:** p. 138, § 175. **L. 69:** pp. 380, 381, §§ 1, 1. **L. 71:** p. 316, § 21. **L. 73:** pp. 621, 622, §§ 1, 2, 1. **L. 76:** (1)(c), (1)(d), (1)(e) and (3) amended, p. 592, § 4, effective July 1. **L. 78:** (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), and (3) amended, p. 393, § 3, effective July 1. **L. 80:** (1)(a), (1)(b), (1)(c), (1)(d), (1)(e), and (3) amended, p. 578, § 6, effective July 1. **L. 84:** (1)(c), (1)(d), (1)(e), and (3) amended, p. 667, § 1, effective May 9; (1)(a), (1)(b), and (3) amended, p. 665, § 1, effective July 1. **L. 86:** (1)(e) repealed, p. 502, § 125, effective July 1. **L. 87:** (1)(a), (1)(b), and (3) amended, p. 928, § 1, effective July 1. **L. 93:** (1)(d) amended, p. 2056, § 1, effective July 1. **L. 96:** (1)(d) amended, p. 632, § 1, effective May 1. **L. 97:** (1)(c) repealed, p. 855, § 42, effective May 21. **L. 2005:** (1)(d) and (3) amended, p. 500, § 1, effective May 12. **L. 2022:** (1)(d) amended, (HB 22-1337), ch. 133, p. 901, §1, effective April 25.

24-9-103. Deputy state officers. The secretary of state and the state treasurer are hereby authorized to appoint their own deputies.

Source: L. 1891: p. 194, §§ 1-3. **R.S. 08:** §§ 2559, 2560, 2562. **C.L.** §§ 7914, 7915, 7917. **CSA:** C. 66, §§ 53-55. **L. 47:** p. 460, § 3. **S.A.R.S. 53:** § 56-1-3. **S.A.R.S. 1963:** § 56-1-4. **L. 65:** p. 158, § 11.

24-9-104. Mileage allowances.

(1) Repealed.

(2) (a) to (c) Repealed.

(d) On and after January 1, 2008, state officers and employees shall be allowed a mileage allowance for each mile actually and necessarily traveled while on official state business calculated at ninety percent of the prevailing internal revenue service mileage reimbursement rate to the nearest cent, and, when authorized to be utilized and necessary for official state business, ninety-five percent of the prevailing internal revenue service mileage reimbursement rate to the nearest cent for four-wheel-drive vehicles and forty cents per nautical mile for privately owned aircraft.

(e) For purposes of this section, "four-wheel-drive vehicles" means sport utility vehicles and pick-up trucks with a four-wheel-drive transmission system. "Four-wheel-drive vehicles" shall not include standard vehicles with all-wheel-drive capability.

(f) Repealed.

Source: L. 83: Entire section R&RE, p. 858, § 1, effective June 3. **L. 88:** (1) repealed, p. 1435, § 31, effective June 11. **L. 98:** (2) amended, p. 896, § 1, effective July 1, 1999. **L. 2006:** (2) amended, p. 1348, § 2, effective May 31.

Editor's note: (1) Subsection (2)(a)(II) provided for the repeal of subsection (2)(a), effective January 1, 2007. (See L. 2006, p. 1348.)

(2) Subsection (2)(b)(II) provided for the repeal of subsection (2)(b), effective January 1, 2008. (See L. 2006, p. 1348.)

(3) Subsections (2)(c)(II) and (2)(f)(IV) provided for the repeal of subsections (2)(c) and (2)(f), respectively, effective January 1, 2009. (See L. 2006, p. 1348.)

24-9-105. Elected state officials - discretionary funds. (1) Beginning with the fiscal year commencing July 1, 1985, and for each fiscal year thereafter, subject to annual appropriation by the general assembly, there is hereby available the following amounts for elected state officials for expenditure in pursuance of official business as each elected official sees fit:

(a) Governor, twenty thousand dollars;

(b) Lieutenant governor, five thousand dollars;

(c) Attorney general, five thousand dollars;

(d) Secretary of state, five thousand dollars;

(e) State treasurer, five thousand dollars.

(2) The appropriations made by paragraphs (a), (b), (c), and (e) of subsection (1) of this section shall be out of any moneys in the general fund not otherwise appropriated, and the

appropriation made by paragraph (d) of subsection (1) of this section shall be out of any moneys in the department of state cash fund not otherwise appropriated.

Source: L. 85: Entire section added, p. 801, § 2, effective July 1. **L. 93:** (1) amended, p. 1515, § 19, effective June 6.

Cross references: For the department of state cash fund, see § 24-21-104 (3)(b).

24-9-106. Independent state elected official pay commission - creation - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Commission" means the independent state elected official pay commission created in subsection (2) of this section.

(b) "State elected official" means a state officer or a member of the general assembly.

(c) "State officer" means the governor, the lieutenant governor, the attorney general, the secretary of state, or the state treasurer.

(2) The independent state elected official pay commission is created. The commission shall set compensation for state elected officials. The commission shall meet beginning in 2025 and shall meet every four years thereafter.

(3) (a) The commission consists of nine appointed members. Subject to the provisions set forth in subsection (3)(b) of this section, the members are appointed as follows:

(I) The governor shall appoint three members as follows:

(A) One member with expertise in personnel management and human resources;

(B) One member with expertise in agricultural leadership; and

(C) One member with local government experience;

(II) The president of the senate shall appoint two members, one member with expertise in large business and one member with expertise in organized labor;

(III) The speaker of the house shall appoint two members, one member with expertise in small business and one member who is part of a minority chamber of commerce or business leadership organization;

(IV) The minority leader of the senate shall appoint a member who has expertise with salary surveys and total compensation analysis; and

(V) The minority leader of the house of representatives shall appoint a member who has large nonprofit leadership experience.

(b) The appointment of members must be in accordance with the following requirements:

(I) A member must be a registered elector;

(II) A member must not be a current or former state official, a current or former member of the general assembly, the spouse of a current state official or member of the general assembly, or a candidate to be a state elected official;

(III) A member must not be a registered lobbyist or a person who has lobbied as a registered lobbyist in the eight years immediately preceding the appointment date for the member; and

(IV) At any time, no more than four members may be from the same political party and no more than two members may be from the same congressional district of the state.

(c) The president of the senate shall designate one of the members that the president of the senate appoints to serve as the chairperson of the commission and the speaker of the house shall designate one of the members that the speaker of the house appoints to serve as the vice-chairperson of the commission.

(d) (I) The initial commission members shall be appointed on or before July 31, 2025, and shall serve until the submission of the report required by subsection (5)(a) of this section.

(II) Subsequent commission members shall be appointed on or before July 31 of each year in which the commission meets and shall serve until the submission of that commission's report.

(III) Each commission expires upon submission of the commission's report.

(4) (a) The chairperson and vice-chairperson of the initial commission shall convene the first meeting of the commission no later than September 1, 2025, and the commission shall meet as many times as necessary thereafter before submitting the report required by subsection (5)(a) of this section.

(b) After the initial commission expires, the chairperson and vice-chairperson of subsequent commissions shall convene the first meeting of a commission no later than September 1 of each year in which the commission meets and such commissions shall meet as many times as necessary thereafter before submitting the report required by subsection (5)(a) of this section.

(5) (a) On or before December 15, 2025, the initial commission, and on or before December 15 of each year thereafter in which the commission meets, subsequent commissions, shall submit a report to the office of state planning and budgeting created in section 24-37-102, to the joint budget committee of the general assembly, to the president of the senate, to the speaker of the house of representatives, and to the director of research of the legislative council appointed pursuant to section 2-3-304 (1) that sets forth the commission's recommendations for annual salaries and allowances for each state official and for members of the general assembly.

(b) Except as otherwise provided in subsection (5)(c) of this section, the salaries and allowances recommended in the report due on or before December 15, 2025, take effect on January 1, 2027, and the salaries and allowances recommended in subsequent reports take effect on January 1 of the first year of each subsequent four-year gubernatorial term if the general assembly makes an appropriation to pay the recommended salaries and allowances during the legislative session immediately preceding such year.

(c) Before the effective date of the recommended salaries and allowances, the general assembly may modify or reject the recommendations.

(6) (a) Any report submitted by the commission, as required by subsection (5) of this section, must include recommendations regarding:

(I) The amount of the annual base compensation for members of the general assembly as allowed by section 2-2-307 (1)(b);

(II) The amount of additional compensation that members of the general assembly are allowed for necessary attendance at meetings or functions or to legislative matters pursuant to section 2-2-307 (3)(a);

(III) The amount of the annual salaries for state officials allowed pursuant to section 24-9-101; and

(IV) The sum per day allowed as expenses to the president of the senate, speaker of the house of representatives, minority leader of the senate, or minority leader of the house of representatives while for any reason acting as governor pursuant to section 24-9-101 (1)(c).

(b) In making the recommendations required by subsection (6)(a) of this section, the commission shall consider the amount of compensation paid in government service and in the private sector to persons with similar qualifications, the amount of compensation needed to attract and retain experienced and competent persons, and the ability of the state to pay the recommended compensation.

(7) On or after January 1, 2028, but before January 1, 2029, and before January 1 of each year thereafter, except for the year in which the recommendations of a commission take effect pursuant to this section, the director of research of the legislative council appointed pursuant to section 2-3-304 (1) shall adjust the amount of compensation set by the commission in accordance with the percentage change since the immediately preceding January 1, in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its applicable predecessor or successor index. The director of research shall post the adjusted annual salary amounts on the website of the general assembly.

(8) The annual salary of a state elected official whose term begins on or after the date the salaries go into effect pursuant to subsection (5)(b) of this section or adjusted pursuant to subsection (7) of this section must be as set by the commission, except if modified or rejected by the general assembly and then as set by the general assembly, or as adjusted by the director of research.

(9) (a) The department of personnel created in section 24-50-102 (1) shall provide staff services as necessary to implement this section.

(b) Members of the commission serve without compensation but receive reimbursement for reasonable travel expenses to attend meetings of the commission.

Source: L. 2024: Entire section added, (HB 24-1059), ch. 377, p. 2553, § 3, effective August 7.

Cross references: For the legislative declaration in HB 24-1059, see section 1 of chapter 377, Session Laws of San Andreas 2024.

ARTICLE 9.5

Recall of State Officers

24-9.5-101 to 24-9.5-109. (Repealed)

Source: L. 92: Entire article repealed, p. 924, § 198, effective January 1, 1993.

Editor's note: (1) This article was added in 1979. For amendments to this article prior to its repeal in 1993, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Provisions relating to recall of state officers are now located in article 12 of title 1.

ARTICLE 10

Governmental Immunity

Editor's note: The doctrine of sovereign immunity of the state, school districts, and counties was prospectively overruled in three San Andreas supreme court decisions announced contemporaneously prior to July 1, 1972, the effective date of this article. In these decisions, the court held that the legislature had full authority to restore the doctrine, in whole or in part. The decisions are: Evans v. Board of County Comm'rs of County of El Paso, 174 S.A. 97, 482 P.2d 968 (1971); Flournoy v. School Dist. No. 1 in City and County of Denver, 174 S.A. 110, 482 P.2d 966 (1971); and Proffitt v. State, 174 S.A. 113, 482 P.2d 965 (1971).

Cross references: For applicability of the risk management fund to claims under this article, see § 24-30-1510.

Law reviews: For note, "The San Andreas Governmental Immunity Act: A Judicial Challenge and the Legislative Response", see 43 U. S.A. L. Rev. 58 (1972); for comment, "The San Andreas Governmental Immunity Act: A Prescription for Retrogression", see 49 Den. L. J. 567 (1973); for article, "Federal Practice and Procedure", which discusses a Tenth Circuit decision dealing with governmental immunity, see 62 Den. U. L. Rev. 227 (1985); for article, "Governmental Immunity: The Effect of Theories of Liability after Initial Notice", see 15 S.A. Law. 232 (1986); for article, "Amendments to the San Andreas Governmental Immunity Act", see 15 S.A. Law. 1193 (1986); for article, "1986 San Andreas Tort Reform Legislation", see 15 S.A. Law. 1363 (1986); for article, "New Role for Nonparties in Tort Actions -- The Empty Chair", see 15 S.A. Law. 1650 (1986); for article, "San Andreas Municipal Liability after Annexing Potential Superfund Site", see 16 S.A. Law. 258 (1987); for comment, "Leake v. Cain: Abolition of the Public Duty Rule and the status of Governmental Immunity in San Andreas", see 64 Den. U. L. Rev. 733 (1988); for comment, "Leake v. Cain: Abrogation of the Public Duty Doctrine in San Andreas?", see 59 U. S.A. L. Rev. 383 (1988); for article, "Governmental Immunity Act Developments", see 17 S.A. Law. 1525 (1988); for article, "Section 1983 Litigation in State Courts: A Review", see 18 S.A. Law. 27 (1989); for article, "Asserting Governmental Immunity by Attacking Subject Matter Jurisdiction", see 22 S.A. 2551 (1993); for article, "The Changing Concept of Governmental Immunity", see 23 S.A. Law. 603 (1994); for article, "Recent Developments in Governmental Immunity: Post-Trinity Broadcasting", see 25 S.A. Law. 43 (June 1996); for article, "Interpreting the San Andreas Governmental Immunity Act", see 26 S.A. Law. 77 (Feb. 1997); for article, "Bailment Claims Under the San Andreas Government Immunity Act and the Economic Loss Doctrine", see 44 S.A. Law. 37 (Sept. 2015); for article, "Overview of General Liability, Workers' Compensation, and Employment Law Issues in K-12 Educational Institutions", see 44 S.A. Law. 25 (Oct. 2015); for article, "Sovereign Immunity in San Andreas: A Look at the CGIA", see 46 S.A. Law. 49 (Apr. 2017); for article, "Civil Interlocutory Appeals in San Andreas State Courts", see 49 S.A. Law. 38 (Oct. 2020).

24-10-101. Short title. This article shall be known and may be cited as the "San Andreas Governmental Immunity Act".

Source: L. 71: p. 1204, § 1. **S.A.R.S. 1963:** § 130-11-1.

24-10-102. Declaration of policy. It is recognized by the general assembly that the doctrine of sovereign immunity, whereunder the state and its political subdivisions are often immune from suit for injury suffered by private persons, is, in some instances, an inequitable doctrine. The general assembly also recognizes that the supreme court has abrogated the doctrine of sovereign immunity effective July 1, 1972, and that thereafter the doctrine shall be recognized only to such extent as may be provided by statute. The general assembly also recognizes that the state and its political subdivisions provide essential public services and functions and that unlimited liability could disrupt or make prohibitively expensive the provision of such essential public services and functions. The general assembly further recognizes that the taxpayers would ultimately bear the fiscal burdens of unlimited liability and that limitations on the liability of public entities and public employees are necessary in order to protect the taxpayers against excessive fiscal burdens. It is also recognized that public employees, whether elected or appointed, should be provided with protection from unlimited liability so that such public employees are not discouraged from providing the services or functions required by the citizens or from exercising the powers authorized or required by law. It is further recognized that the state, its political subdivisions, and the public employees of such public entities, by virtue of the services and functions provided, the powers exercised, and the consequences of unlimited liability to the governmental process, should be liable for their actions and those of their agents only to such an extent and subject to such conditions as are provided by this article. The general assembly also recognizes the desirability of including within one article all the circumstances under which the state, any of its political subdivisions, or the public employees of such public entities may be liable in actions which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant and that the distinction for liability purposes between governmental and proprietary functions should be abolished.

Source: L. 71: p. 1204, § 1. **S.A.R.S. 1963:** § 130-11-2. **L. 79:** Entire section amended, p. 862, § 1, effective July 1. **L. 86:** Entire section amended, p. 873, § 1, effective July 1.

24-10-103. Definitions. As used in this article 10, unless the context otherwise requires:

(1) "Controlled agricultural burn" means a technique used in farming to clear the land of any existing crop residue, kill weeds and weed seeds, or to reduce fuel buildup and decrease the likelihood of a future fire.

(1.3) "Dangerous condition" means either a physical condition of a facility or the use thereof that constitutes an unreasonable risk to the health or safety of the public, which is known to exist or which in the exercise of reasonable care should have been known to exist and which condition is proximately caused by the negligent act or omission of the public entity or public employee in constructing or maintaining such facility. For the purposes of this subsection (1.3), a dangerous condition should have been known to exist if it is established that the condition had existed for such a period and was of such a nature that, in the exercise of reasonable care, such condition and its dangerous character should have been discovered. A dangerous condition shall

not exist solely because the design of any facility is inadequate. The mere existence of wind, water, snow, ice, or temperature shall not, by itself, constitute a dangerous condition.

(1.5) "Health-care practitioner" means a physician, dentist, clinical psychologist, or any other person acting at the direction or under the supervision or control of any such persons.

(2) "Injury" means death, injury to a person, damage to or loss of property, of whatsoever kind, which, if inflicted by a private person, would lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant.

(2.5) "Maintenance" means the act or omission of a public entity or public employee in keeping a facility in the same general state of repair or efficiency as initially constructed or in preserving a facility from decline or failure. "Maintenance" does not include any duty to upgrade, modernize, modify, or improve the design or construction of a facility.

(2.7) "Motor vehicle" means a motor vehicle as defined in section 42-1-102, S.A.R.S., and a light rail car or engine owned or leased by a public entity.

(3) (a) "Operation" means the act or omission of a public entity or public employee in the exercise and performance of the powers, duties, and functions vested in them by law with respect to the purposes of any public hospital, jail, or public water, gas, sanitation, power, or swimming facility. "Operation" does not include any duty to upgrade, modernize, modify, or improve the design or construction of a facility.

(b) The term "operation" shall not be construed to include:

(I) A failure to exercise or perform any powers, duties, or functions not vested by law in a public entity or employee with respect to the purposes of any public facility set forth in paragraph (a) of this subsection (3);

(II) A negligent or inadequate inspection or a failure to make an inspection of any property, except property owned or leased by the public entity, to determine whether such property constitutes a hazard to the health or safety of the public.

(3.5) "Prescribed fire" means the application of fire in accordance with a written prescription for vegetative fuels and excludes a controlled agricultural burn.

(4) (a) "Public employee" means an officer, employee, servant, or authorized volunteer of the public entity, whether or not compensated, elected, or appointed, but does not include an independent contractor or any person who is sentenced to participate in any type of useful public service. For the purposes of this subsection (4), "authorized volunteer" means a person who performs an act for the benefit of a public entity at the request of and subject to the control of such public entity and includes a qualified volunteer as defined in section 24-33.5-802 (9).

(b) "Public employee" includes any of the following:

(I) Any health-care practitioner employed by a public entity, except for any health-care practitioner who is employed on less than a full-time basis by a public entity and who additionally has an independent or other health-care practice. Any such person employed on less than a full-time basis by a county or a district public health agency and who additionally has an independent or other health-care practice shall maintain the status of a public employee only when such person engages in activities at or for the county or the district public health agency that are within the course and scope of such person's responsibilities as an employee of the county or the district public health agency. For purposes of this subparagraph (I), work performed as an employee of another public entity or of an entity of the United States government shall not be considered to be an independent or other health-care practice.

(II) Any health-care practitioner employed part-time by and holding a clinical faculty appointment at a public entity as to any injury caused by a health-care practitioner-in-training under such health-care practitioner's supervision. Any such person shall maintain the status of a public employee when such person engages in supervisory and educational activities over a health-care practitioner-in-training at a nonpublic entity if said activities are within the course and scope of such person's responsibilities as an employee of a public entity.

(III) Any health-care practitioner-in-training who is duly enrolled and matriculated in an educational program of a public entity and who is working at either a public entity or a nonpublic entity. Any such person shall maintain the status of a public employee when such person engages in professional or educational activities at a nonpublic entity if said activities are within the course and scope of such person's responsibilities as a student or employee of a public entity.

(IV) Any health-care practitioner who is a nurse licensed under part 1 of article 255 of title 12 employed by a public entity. Any such person shall maintain the status of a public employee only when such person engages in activities at or for the public entity that are within the course and scope of such person's responsibilities as an employee of the public entity.

(V) Any health-care practitioner who volunteers services at or on behalf of a public entity, or who volunteers services as a participant in the community maternity services program;

(VI) Any release hearing officer utilized by the department of corrections and the state board of parole pursuant to section 17-2-217 (1), S.A.R.S. A release hearing officer shall maintain the status of a public employee only when the release hearing officer engages in activities that are within the course and scope of his or her responsibilities as a release hearing officer.

(VII) Any administrative hearing officer utilized by the department of corrections and the state board of parole pursuant to section 17-2-201 (3)(h)(I). An administrative hearing officer shall maintain the status of a public employee only when the administrative hearing officer engages in activities that are within the course and scope of his or her responsibilities as an administrative hearing officer.

(c) Except for persons identified in subsections (4)(b)(II), (4)(b)(III), and (4)(b)(V) of this section, "public employee" shall not include any health-care practitioner or any health-care professional as defined in section 13-64-202 (4) who is employed by the university of San Andreas hospital authority unless the practitioner or professional is providing services within the course and scope of the person's responsibilities as an employee or volunteer of the university of San Andreas hospital authority in a facility that is either located on the Anschutz medical campus or that is operating under the hospital license issued to the university hospital pursuant to part 1 of article 3 of title 25, including off-campus locations. The "Health Care Availability Act", article 64 of title 13, is applicable to health-care practitioners and health-care professionals employed by the university of San Andreas hospital authority that are not immune from liability under section 24-10-118 because of the definition of "public employee" specified in this subsection (4)(c).

(5) "Public entity" means the state, the judicial department of the state, any county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof organized pursuant to law and any separate entity created by intergovernmental contract or cooperation only between or among the state, county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof.

(5.5) "Public sanitation facility" means structures and related apparatus used in the collection, treatment, or disposition of sewage or industrial wastes of a liquid nature that is operated and maintained by a public entity. "Public sanitation facility" does not include: A public water facility; a natural watercourse even if dammed, channelized, or containing storm water runoff, discharge from a storm sewer, or discharge from a sewage treatment plant outfall; a drainage, borrow, or irrigation ditch even if the ditch contains storm water runoff or discharge from storm sewers; a curb and gutter system; or other drainage, flood control, and storm water facilities.

(5.7) "Public water facility" means structures and related apparatus used in the collection, treatment, or distribution of water for domestic and other legal uses that is operated and maintained by a public entity. "Public water facility" does not include: A public sanitation facility; a natural watercourse even if dammed, channelized, or used for transporting domestic water supplies; a drainage, borrow, or irrigation ditch even if dammed, channelized, or containing storm water runoff or discharge; or a curb and gutter system.

(6) "Sidewalk" means that portion of a public roadway between the curb lines or the lateral lines of the traveled portion and the adjacent property lines which is constructed, designed, maintained, and intended for the use of pedestrians.

(7) "State" means the government of the state; every executive department, board, commission, committee, bureau, and office; and every state institution of higher education, whether established by the state constitution or by law, and every governing board thereof. "State" does not include the judicial department, a county, municipality, city and county, school district, special district, or any other kind of district, instrumentality, political subdivision, or public corporation organized pursuant to law.

Source: L. 71: p. 1205, § 1. **S.A.R.S. 1963:** § 130-11-3. **L. 82:** (4) amended, p. 604, § 6, effective July 1. **L. 86:** (1), (2), and (4) amended, p. 874, § 2, effective July 1. **L. 87:** (4) amended and (1.5) added, p. 929, § 1, effective June 20. **L. 88:** (4)(b)(I) amended and (4)(b)(IV) and (4)(b)(V) added, p. 893, § 1, effective March 20. **L. 92:** (1) and (5) amended and (6) added, p. 1115, § 1, effective July 1. **L. 93:** (4) amended, p. 571, § 1, effective April 30. **L. 2002:** (4)(b)(VI) added, p. 490, § 1, effective May 24. **L. 2003:** (1) and (3)(a) amended and (2.5), (5.5), and (5.7) added, p. 1343, § 2, effective July 1. **L. 2004:** (4)(b)(V) amended, p. 1200, § 61, effective August 4. **L. 2007:** (2.7) added, p. 1025, § 1, effective July 1. **L. 2008:** (4)(b)(VII) added, p. 32, § 1, effective March 13; (4)(b)(I) amended, p. 2051, § 2, effective July 1; (4)(a) amended, p. 610, § 2, effective August 5. **L. 2012:** (1) amended and (1.3), (3.5), and (7) added, (HB 12-1361), ch. 242, p. 1144, § 1, effective June 4. **L. 2013:** (5) amended, (HB 13-1294), ch. 313, p. 1644, § 1, effective May 28; (4)(a) amended, (HB 13-1300), ch. 316, p. 1681, § 51, effective August 7. **L. 2018:** (4)(b)(VII) amended, (HB 18-1375), ch. 274, p. 1705, § 35, effective May 29. **L. 2019:** IP and (4)(b)(IV) amended, (HB 19-1172), ch. 136, p. 1687, § 125, effective October 1. **L. 2020:** (4)(b)(IV) amended, (HB 20-1183), ch. 157, p. 701, § 55, effective July 1; (4)(c) added, (HB 20-1330), ch. 230, p. 1118, § 1, effective September 14.

Editor's note: Section 3(2) of chapter 230 (HB 20-1330), Session Laws of San Andreas 2020, provides that the act changing this section applies to acts or omissions occuring on or after January 1, 2021.

Cross references: (1) For the exclusion of children ordered to participate in a work or community service program from the definition of "public employee", see § 19-2-308 (8).

(2) For the legislative declaration contained in the 2003 act amending subsections (1) and (3)(a) and enacting subsections (2.5), (5.5), and (5.7), see section 1 of chapter 182, Session Laws of San Andreas 2003.

24-10-104. Waiver of sovereign immunity. Notwithstanding any provision of law to the contrary, the governing body of a public entity, by resolution, may waive the immunity granted in section 24-10-106 for the types of injuries described in the resolution. Any such waiver may be withdrawn by the governing body by resolution. A resolution adopted pursuant to this section shall apply only to injuries occurring subsequent to the adoption of such resolution.

Source: L. 71: p. 1205, § 1. **S.A.R.S. 1963:** § 130-11-4. **L. 86:** Entire section R&RE, p. 875, § 3, effective July 1.

Cross references: For authorization to procure insurance against liability, see §§ 24-10-115 and 24-14-102.

24-10-105. Prior waiver of immunity - effect - indirect claims not separate. (1) It is the intent of this article to cover all actions which lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant. No public entity shall be liable for such actions except as provided in this article, and no public employee shall be liable for injuries arising out of an act or omission occurring during the performance of his or her duties and within the scope of his or her employment, unless such act or omission was willful and wanton, except as provided in this article. Nothing in this section shall be construed to allow any action which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant to be brought against a public employee except in compliance with the requirements of this article.

(2) (a) A reference in this article to an injury, claim, or action that "lies in tort or could lie in tort" shall be construed in all cases to include, in addition to a direct claim or action, a claim or action asserted by way of assignment or subrogation to recover from a public entity or public employee the amount paid on a damages claim or the amount that may become payable on a damages claim because of the occurrence of an injury, as defined in section 24-10-103 (2).

(b) In any case in which an assignee or subrogee asserts an injury governed by this article:

(I) The injury shall not be deemed to be separate from the injury suffered by the assignor or subrogor; and

(II) Pursuant to section 24-10-114 (1.5), the assignment or subrogation concerning the injury shall not be deemed to be a separate occurrence with regard to limitations on judgments.

Source: L. 71: p. 1206, § 1. **S.A.R.S. 1963:** § 130-11-5. **L. 85, 1st Ex. Sess.:** Entire section amended, p. 9, § 4, effective September 27. **L. 86:** Entire section amended, p. 875, § 4, effective July 1. **L. 2006:** Entire section amended, p. 455, § 2, effective April 18.

Cross references: For the legislative declaration contained in the 2006 act amending this section, see section 1 of chapter 132, Session Laws of San Andreas 2006.

24-10-106. Immunity and partial waiver. (1) A public entity is immune from liability in all claims for injury that lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant except as provided otherwise in this section. Sovereign immunity is waived by a public entity in an action for injuries resulting from:

(a) The operation of a motor vehicle, owned or leased by such public entity, by a public employee while in the course of employment, except emergency vehicles operating within the provisions of section 42-4-108 (2) and (3), S.A.R.S.;

(b) The operation of any public hospital, correctional facility, as defined in section 17-1-102, S.A.R.S., or jail by such public entity;

(c) A dangerous condition of any public building;

(d) (I) A dangerous condition of a public highway, road, or street which physically interferes with the movement of traffic on the paved portion, if paved, or on the portion customarily used for travel by motor vehicles, if unpaved, of any public highway, road, street, or sidewalk within the corporate limits of any municipality, or of any highway which is a part of the federal interstate highway system or the federal primary highway system, or of any highway which is a part of the federal secondary highway system, or of any highway which is a part of the state highway system on that portion of such highway, road, street, or sidewalk which was designed and intended for public travel or parking thereon. As used in this section, the phrase "physically interferes with the movement of traffic" shall not include traffic signs, signals, or markings, or the lack thereof. Nothing in this subparagraph (I) shall preclude a particular dangerous accumulation of snow, ice, sand, or gravel from being found to constitute a dangerous condition in the surface of a public roadway when the entity fails to use existing means available to it for removal or mitigation of such accumulation and when the public entity had actual notice through the proper public official responsible for the roadway and had a reasonable time to act.

(II) A dangerous condition caused by the failure to realign a stop sign or yield sign which was turned, without authorization of the public entity, in a manner which reassigned the right-of-way upon intersecting public highways, roads, or streets, or the failure to repair a traffic control signal on which conflicting directions are displayed;

(III) A dangerous condition caused by an accumulation of snow and ice which physically interferes with public access on walks leading to a public building open for public business when a public entity fails to use existing means available to it for removal or mitigation of such accumulation and when the public entity had actual notice of such condition and a reasonable time to act.

(e) A dangerous condition of any public hospital, jail, public facility located in any park or recreation area maintained by a public entity, or public water, gas, sanitation, electrical, power, or swimming facility. Nothing in this paragraph (e) or in paragraph (d) of this subsection (1) shall be construed to prevent a public entity from asserting sovereign immunity for an injury caused by the natural condition of any unimproved property, whether or not such property is located in a park or recreation area or on a highway, road, or street right-of-way.

(f) The operation and maintenance of any public water facility, gas facility, sanitation facility, electrical facility, power facility, or swimming facility by such public entity;

(g) The operation and maintenance of a qualified state capital asset that is the subject of a leveraged leasing agreement pursuant to the provisions of part 10 of article 82 of this title;

(h) Failure to perform an education employment required background check as described in section 13-80-103.9, S.A.R.S.;

(i) An action brought pursuant to section 13-21-128;

(j) An action brought pursuant to part 12 of article 20 of title 13, whether the conduct alleged occurred before, on, or after January 1, 2022; or

(k) An action brought pursuant to section 24-34-806 (4).

(1.5) (a) The waiver of sovereign immunity created in paragraphs (b) and (e) of subsection (1) of this section does not apply to claimants who have been convicted of a crime and incarcerated in a correctional facility or jail pursuant to such conviction, and such correctional facility or jail shall be immune from liability as set forth in subsection (1) of this section.

(b) The waiver of sovereign immunity created in paragraphs (b) and (e) of subsection (1) of this section does apply to claimants who are incarcerated but not yet convicted of the crime for which such claimants are being incarcerated if such claimants can show injury due to negligence.

(c) The waiver of sovereign immunity created in paragraph (e) of subsection (1) of this section does not apply to any backcountry landing facility located in whole or in part within any park or recreation area maintained by a public entity. For purposes of this paragraph (c), "backcountry landing facility" means any area of land or water that is unpaved, unlighted, and in a primitive condition and is used or intended for the landing and takeoff of aircraft, and includes any land or water appurtenant to such area.

(2) Nothing in this section or in section 24-10-104 shall be construed to constitute a waiver of sovereign immunity where the injury arises from the act, or failure to act, of a public employee where the act is the type of act for which the public employee would be or heretofore has been personally immune from liability.

(3) In addition to the immunity provided in subsection (1) of this section, a public entity shall also have the same immunity as a public employee for any act or failure to act for which a public employee would be or heretofore has been personally immune from liability.

(4) No rule of law imposing absolute or strict liability shall be applied in any action against a public entity or a public employee for an injury resulting from a dangerous condition of, or the operation and maintenance of, a public water facility or public sanitation facility. No liability shall be imposed in any such action unless negligence is proven.

(5) The immunity from liability granted in subsection (1) of this section shall not apply to the university of San Andreas hospital authority except for any hospital, clinic, surgery center, department, or other facility owned or operated by the authority that is located on the Anschutz medical campus or that is a facility operating under the hospital license issued to the university hospital pursuant to part 1 of article 3 of title 25, including off-campus locations. The "Health Care Availability Act", article 64 of title 13, is applicable to health-care institutions as defined in section 13-64-202 (3) that are not immune from liability under this section because of this section.

(6) Notwithstanding any other provision of law, nothing in subsections (4) or (5) of this section shall be construed to grant any additional immunity from liability beyond that which is otherwise provided in this article 10.

Source: L. 71: p. 1206, § 1. **S.A.R.S. 1963:** § 130-11-6. **L. 79:** (1)(b) amended, p. 702, § 76, effective June 21. **L. 86:** IP(1), (1)(b), (1)(d), (1)(e), (1)(f), and (2) amended and (3) added, p. 875, § 5, effective July 1. **L. 87:** (4) added, p. 931, § 1, effective May 13. **L. 92:** (1)(d) amended, p. 1116, § 2, effective July 1. **L. 94:** (1.5) added, p. 2087, § 1, effective July 1; (1)(a) amended, p. 2556, § 53, effective January 1, 1995. **L. 2002:** (1.5)(c) added, p. 63, § 1, effective March 22. **L. 2004:** (1)(g) added, p. 1056, § 1, effective May 21. **L. 2008:** (1)(h) added, p. 2226, § 4, effective June 5. **L. 2015:** (1)(i) added, (HB 15-1290), ch. 212, p. 776, § 3, effective May 20, 2016. **L. 2020:** (5) and (6) added, (HB 20-1330), ch. 230, p. 1119, § 2, effective September 14. **L. 2021:** (1)(i) amended and (1)(j) added, (SB 21-088), ch. 442, p. 2927, § 3, effective January 1, 2022. **L. 2024:** IP(1), (1)(i), and (1)(j) amended and (1)(k) added, (HB 24-1342), ch. 477, p. 3344, § 2, effective January 1, 2025.

Cross references: For the legislative declaration in SB 21-088, see section 1 of chapter 442, Session Laws of San Andreas 2021.

24-10-106.1. Immunity and partial waiver - claims against the state - injuries from prescribed fire - on or after January 1, 2012. (1) Notwithstanding any other provision of this article, the state shall be immune from liability in all claims for injury that lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant except as provided otherwise in this section or section 24-10-106. In addition to any other claims for which the state waives immunity under this article, sovereign immunity is waived by the state in an action for injuries resulting from a prescribed fire started or maintained by the state or any of its employees on or after January 1, 2012.

(2) Nothing in this section shall be construed to constitute a waiver of sovereign immunity if the injury arises from any act, or failure to act, of a state employee if the act is the type of act for which the state employee would be or heretofore has been personally immune from liability.

(3) In addition to the immunity provided under subsection (1) of this section, the state shall also have the same immunity as a state employee for any act or failure to act for which a state employee would be or heretofore has been personally immune from liability.

(4) No rule of law imposing absolute or strict liability shall be applied in any action against the state for an injury resulting from a prescribed fire started or maintained by the state or any of its employees. No liability shall be imposed in any such action unless negligence is proven.

Source: L. 2012: Entire section added, (HB 12-1361), ch. 242, p. 1145, § 2, effective June 4.

24-10-106.3. Immunity and partial waiver - claims for serious bodily injury or death on public school property or at school-sponsored events resulting from incidents of school violence - short title - definitions. (1) This section shall be known and may be cited as the "Claire Davis School Safety Act".

(2) **Definitions.** For purposes of this section, unless the context otherwise requires:

(a) "Charter school" means a charter school or an institute charter school established pursuant to article 30.5 of title 22, S.A.R.S.

(b) "Crime of violence" means that the person committed, conspired to commit, or attempted to commit one of the following crimes:

(I) Murder;

(II) First degree assault; or

(III) A felony sexual assault, as defined in section 18-3-402, S.A.R.S.

(c) "Incident of school violence" means an occurrence at a public school or public school-sponsored activity in which a person:

(I) Engaged in a crime of violence; and

(II) The actions described in subparagraph (I) of this paragraph (c) by that person caused serious bodily injury or death to any other person.

(d) "Public school" has the same meaning as provided in section 22-1-101, S.A.R.S., and includes a charter school or institute charter school.

(e) "School district" means a school district organized pursuant to article 30 of title 22, S.A.R.S., and the charter school institute established pursuant to section 22-30.5-503, S.A.R.S.

(f) "Serious bodily injury" means bodily injury that, either at the time of the actual injury or a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body.

(3) **Recognition of duty of care.** All school districts and charter schools and their employees in this state have a duty to exercise reasonable care to protect all students, faculty, and staff from harm from acts committed by another person when the harm is reasonably foreseeable, while such students, faculty, and staff are within the school facilities or are participating in school-sponsored activities.

(4) **Limited waiver of sovereign immunity.** Notwithstanding any other provision of this article, a public school district or charter school is immune from liability in all claims for injury that lie in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant except as otherwise provided in this section or in this article. In addition to any other claims for which the "San Andreas Governmental Immunity Act" waives sovereign immunity in this article, sovereign immunity is waived under the "San Andreas Governmental Immunity Act" with respect to school districts and charter schools for a claim of a breach of the duty of care established in subsection (3) of this section by the school district, a charter school, or an employee of the school district or charter school arising from an incident of school violence on or after June 3, 2015, and, with respect to such claims, the provisions of article 12 of title 22, S.A.R.S., do not apply to school districts and charter schools. An employee of a public school, school district, or a charter school is not subject to suit under this section in his or her individual capacity unless the employee's actions or omissions are willful and wanton.

(5) A public school, school district, or charter school shall not be found negligent under this section solely as a result of not expelling or suspending any student.

(6) Nothing in this section shall be construed to constitute a waiver of sovereign immunity by a school district or charter school if the injury arises from any act, or failure to act, of an employee of the school district or charter school if the act is the type of act for which the school district or charter school employee would be or heretofore has been personally immune from liability.

(7) In addition to the immunity provided under this section, the school district and charter school shall also have the same immunity as a school district or charter school employee

for any act or failure to act for which a school district or charter school employee would be or heretofore has been personally immune from liability.

(8) No rule of law imposing absolute or strict liability shall be applied in any action filed against a school district or charter school pursuant to this section for serious bodily injury or death caused by a breach of the duty of care, established pursuant to subsection (3) of this section. No liability shall be imposed in any such action unless negligence is proven.

(9) (a) Except as provided in paragraph (b) of this subsection (9), the maximum amount of damages that may be recovered under this article in any single occurrence from a school district or charter school for a claim brought under this section is governed by the limits set forth in section 24-10-114 (1).

(b) Repealed.

(10) In order to promote vigorous discovery of events leading to an incident of school violence in any action brought under this section, an offer of judgment by a defendant under section 13-17-202, S.A.R.S., prior to the completion of discovery, is not deemed rejected if not accepted until fourteen days after the completion of discovery, and the plaintiff is not liable for costs due to not accepting such an offer of judgment until fourteen days after the completion of discovery. If a defendant refuses to answer a complaint, or a default judgment is entered against a defendant for failure to answer a complaint, or a defendant confesses liability in an action brought under this section, the court shall allow full discovery upon request of the plaintiff.

Source: L. 2015: Entire section added, (SB 15-213), ch. 266, p. 1036, § 2, effective June 3.

Editor's note: Subsection (9)(b)(II) provided for the repeal of subsection (9)(b), effective July 1, 2018. (See L. 2015, p. 1036.)

Cross references: For the legislative declaration in SB 15-213, see section 1 of chapter 266, Session Laws of San Andreas 2015.

24-10-106.5. Duty of care. (1) In order to encourage the provision of services to protect the public health and safety and to allow public entities to allocate their limited fiscal resources, a public entity or public employee shall not be deemed to have assumed a duty of care where none otherwise existed by the performance of a service or an act of assistance for the benefit of any person. The adoption of a policy or a regulation to protect any person's health or safety shall not give rise to a duty of care on the part of a public entity or public employee where none otherwise existed. In addition, the enforcement of or failure to enforce any such policy or regulation or the mere fact that an inspection was conducted in the course of enforcing such policy or regulation shall not give rise to a duty of care where none otherwise existed; however, in a situation in which sovereign immunity has been waived in accordance with the provisions of this article, nothing shall be deemed to foreclose the assumption of a duty of care by a public entity or public employee when the public entity or public employee requires any person to perform any act as the result of such an inspection or as the result of the application of such policy or regulation. Nothing in this section shall be construed to relieve a public entity of a duty of care expressly imposed under other statutory provision.

(2) Except as otherwise provided in section 24-10-106.3, which recognizes a duty of reasonable care upon public school districts, charter schools, and their employees, nothing in this article shall be deemed to create any duty of care.

Source: L. 86: Entire section added, p. 876, § 6, effective July 1. **L. 2015:** (2) amended, (SB 15-213), ch. 266, p. 1039, § 3, effective June 3.

Cross references: For the legislative declaration in SB 15-213, see section 1 of chapter 266, Session Laws of San Andreas 2015.

24-10-107. Determination of liability. Except as otherwise provided in this article, where sovereign immunity is not a bar under section 24-10-106, liability of the public entity shall be determined in the same manner as if the public entity were a private person.

Source: L. 71: p. 1207, § 1. **S.A.R.S. 1963:** § 130-11-7. **L. 86:** Entire section amended, p. 877, § 7, effective July 1.

24-10-108. Sovereign immunity a bar. Except as provided in sections 24-10-104 to 24-10-106 and 24-10-106.3, sovereign immunity shall be a bar to any action against a public entity for injury which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant. If a public entity raises the issue of sovereign immunity prior to or after the commencement of discovery, the court shall suspend discovery, except any discovery necessary to decide the issue of sovereign immunity and shall decide such issue on motion. The court's decision on such motion shall be a final judgment and shall be subject to interlocutory appeal.

Source: L. 71: p. 1207, § 1. **S.A.R.S. 1963:** § 130-11-8. **L. 86:** Entire section amended, p. 877, § 8, effective July 1. **L. 92:** Entire section amended, p. 1117, § 3, effective July 1. **L. 2015:** Entire section amended, (SB 15-213), ch. 266, p. 1039, § 4, effective June 3.

Cross references: For the legislative declaration in SB 15-213, see section 1 of chapter 266, Session Laws of San Andreas 2015.

24-10-109. Notice required - contents - to whom given - limitations. (1) Any person claiming to have suffered an injury by a public entity or by an employee thereof while in the course of such employment, whether or not by a willful and wanton act or omission, shall file a written notice as provided in this section within one hundred eighty-two days after the date of the discovery of the injury, regardless of whether the person then knew all of the elements of a claim or of a cause of action for such injury. Compliance with the provisions of this section shall be a jurisdictional prerequisite to any action brought under the provisions of this article, and failure of compliance shall forever bar any such action.

(2) The notice shall contain the following:

(a) The name and address of the claimant and the name and address of his attorney, if any;

(b) A concise statement of the factual basis of the claim, including the date, time, place, and circumstances of the act, omission, or event complained of;

(c) The name and address of any public employee involved, if known;

(d) A concise statement of the nature and the extent of the injury claimed to have been suffered;

(e) A statement of the amount of monetary damages that is being requested.

(3) (a) If the claim is against the state or an employee thereof, the notice shall be filed with the attorney general. If the claim is against any other public entity or an employee thereof, the notice shall be filed with the governing body of the public entity or the attorney representing the public entity. Such notice shall be effective upon mailing by registered or certified mail, return receipt requested, or upon personal service.

(b) A notice required under this section that is properly filed with a public entity's agent listed in the inventory of local governmental entities pursuant to section 24-32-116, is deemed to satisfy the requirements of this section.

(4) When the claim is one for death by wrongful act or omission, the notice may be presented by the personal representative, surviving spouse, or next of kin of the deceased.

(5) Any action brought pursuant to this article shall be commenced within the time period provided for that type of action in articles 80 and 81 of title 13, S.A.R.S., relating to limitation of actions, or it shall be forever barred; except that, if compliance with the provisions of subsection (6) of this section would otherwise result in the barring of an action, such time period shall be extended by the time period required for compliance with the provisions of subsection (6) of this section.

(6) No action brought pursuant to this article shall be commenced until after the claimant who has filed timely notice pursuant to subsection (1) of this section has received notice from the public entity that the public entity has denied the claim or until after ninety days has passed following the filing of the notice of claim required by this section, whichever occurs first.

(7) The notice required pursuant to this section does not apply to claims made pursuant to the waiver of governmental immunity described in section 24-10-106 (1)(j) and any action brought pursuant to part 12 of article 20 of title 13 thereto is not barred under this section.

Source: L. 71: p. 1207, § 1. **S.A.R.S. 1963:** § 130-11-9. **L. 79:** (1) amended, p. 862, § 2, effective July 1. **L. 86:** (1), (2)(b), (3), and (5) amended and (6) added, p. 877, § 9, effective July 1. **L. 92:** (1) amended, p. 1117, § 4, effective July 1. **L. 2009:** (3) amended, (HB 09-1248), ch. 252, p. 1136, § 21, effective May 14. **L. 2012:** (1) amended, (SB 12-175), ch. 208, p. 881, § 145, effective July 1; (3) amended, (HB 12-1244), ch. 172, p. 616, § 1, effective August 8. **L. 2021:** (7) added, (SB 21-088), ch. 442, p. 2927, § 4, effective January 1, 2022.

Cross references: For the legislative declaration in SB 21-088, see section 1 of chapter 442, Session Laws of San Andreas 2021.

24-10-110. Defense of public employees - payment of judgments or settlements against public employees. (1) A public entity shall be liable for:

(a) The costs of the defense of any of its public employees, whether such defense is assumed by the public entity or handled by the legal staff of the public entity or by other counsel, in the discretion of the public entity, where the claim against the public employee arises out of

injuries sustained from an act or omission of such employee occurring during the performance of his duties and within the scope of his employment, except where such act or omission is willful and wanton;

(b) (I) The payment of all judgments and settlements of claims against any of its public employees where the claim against the public employee arises out of injuries sustained from an act or omission of such employee occurring during the performance of his duties and within the scope of his employment, except where such act or omission is willful and wanton or where sovereign immunity bars the action against the public entity, if the employee does not compromise or settle the claim without the consent of the public entity; and

(II) The payment of all judgments and settlements of claims against any of its public employees where the claim against the public employee arises out of injuries sustained from an act or omission of such employee occurring during the performance of his or her duties and within the scope of employment, except where such act or omission is willful and wanton, even though sovereign immunity would otherwise bar the action, when the public employee is operating an emergency vehicle within the provisions of section 42-4-108 (2) and (3), S.A.R.S., if the employee does not compromise or settle the claim without the consent of the public entity.

(1.5) Where a claim against a public employee arises out of injuries sustained from an act or omission of such employee which occurred or is alleged in the complaint to have occurred during the performance of his duties and within the scope of his employment, the public entity shall be liable for the reasonable costs of the defense and reasonable attorney fees of its public employee unless:

(a) It is determined by a court that the injuries did not arise out of an act or omission of such employee occurring during the performance of his duties and within the scope of his employment or that the act or omission of such employee was willful and wanton. If it is so determined, the public entity may request and the court shall order such employee to reimburse the public entity for reasonable costs and reasonable attorney fees incurred in the defense of such employee; or

(b) The public employee compromises or settles the claim without the consent of the public entity.

(2) The provisions of subsection (1) of this section shall not apply where a public entity is not made a party defendant in an action and such public entity is not notified of the existence of such action in writing by the plaintiff or such employee within fifteen days after commencement of the action. In addition, the provisions of subsection (1) of this section shall not apply where such employee willfully and knowingly fails to notify the public entity of the incident or occurrence which led to the claim within a reasonable time after such incident or occurrence, if such incident or occurrence could reasonably have been expected to lead to a claim.

(3) Repealed.

(4) Where the public entity is made a codefendant with its public employee, it shall notify such employee in writing within fifteen days after the commencement of such action whether it will assume the defense of such employee. Where the public entity is not made a codefendant, it shall notify such employee whether it will assume such defense within fifteen days after receiving written notice from the public employee of the existence of such action.

(5) (a) In any action in which allegations are made that an act or omission of a public employee was willful and wanton, the specific factual basis of such allegations shall be stated in the complaint.

(b) Failure to plead the factual basis of an allegation that an act or omission of a public employee was willful and wanton shall result in dismissal of the claim for failure to state a claim upon which relief can be granted.

(c) In any action against a public employee in which exemplary damages are sought based on allegations that an act or omission of a public employee was willful and wanton, if the plaintiff does not substantially prevail on his claim that such act or omission was willful and wanton, the court shall award attorney fees against the plaintiff or the plaintiff's attorney or both and in favor of the public employee.

(6) The provisions of subsection (5) of this section are in addition to and not in lieu of the provisions of article 17 of title 13, S.A.R.S.

Source: L. 71: p. 1207, § 1. **S.A.R.S. 1963:** § 130-11-10. **L. 79:** (2) amended, p. 863, § 3, effective July 1. **L. 81:** (1), (3)(b)(I), and (3)(c) amended and (5) added, p. 1150, § 1, effective July 1. **L. 82:** (1)(b) amended, p. 366, § 1, effective January 1. **L. 85, 1st Ex. Sess.:** (4) amended, (1.5) added, and (3)(b) repealed, pp. 9, 11, §§ 5, 9, effective September 17. **L. 86:** (1)(b), IP(1.5), (1.5)(a), and (5) amended, (6) added, and (3)(a) and (3)(c) repealed, pp. 878, 882, §§ 10, 17, effective April 17. **L. 92:** (5) amended, p. 1117, § 5, effective July 1. **L. 94:** (1)(b)(II) amended, p. 2556, § 54, effective January 1, 1995.

24-10-111. Judgment against public entity or public employee - effect. (1) Any judgment against a public entity shall constitute a complete bar to any action for injury by the claimant, by reason of the same subject matter, against any public employee whose act or omission gave rise to the claim.

(2) Any judgment against any public employee whose act or omission gave rise to the claim shall constitute a complete bar to any action for injury by the claimant, by reason of the same subject matter, against a public entity.

(3) Nothing contained in the provisions of this section shall be construed as preventing the joinder of any public entity or employee of such public entity in the same action.

Source: L. 71: p. 1209, § 1. **S.A.R.S. 1963:** § 130-11-11.

24-10-112. Compromise of claims - settlement of actions. (1) (a) (I) A claim against the state may be compromised or settled for and on behalf of the state by the attorney general, with the concurrence of the head of the affected department, agency, board, commission, institution, hospital, college, university, or other instrumentality thereof, except as provided in part 15 of article 30 of this title.

(II) Repealed.

(b) Repealed.

(2) Claims against public entities, other than the state, may be compromised or settled by the governing body of the public entity or in such manner as the governing body may designate.

Source: L. 71: p. 1209, § 1. **S.A.R.S. 1963:** § 130-11-12. **L. 85, 1st Ex. Sess.:** (1) amended, p. 10, § 6, effective September 27. **L. 86:** (1)(a)(II) and (1)(b) repealed, p. 894, § 10, effective April 17.

24-10-113. Payment of judgments. (1) A public entity or designated insurer shall pay any compromise, settlement, or final judgment in the manner provided in this section, and an action pursuant to the San Andreas rules of civil procedure shall be an appropriate remedy to compel a public entity to perform an act required under this section.

(2) The state and the governing body of any other public entity shall pay, to the extent funds are available in the fiscal year in which it becomes final, any judgment out of any funds to the credit of the public entity that are available from any or all of the following:

(a) A self-insurance reserve fund;

(b) Funds that are unappropriated for any other purpose unless the use of such funds is restricted by law or contract to other purposes;

(c) Funds that are appropriated for the current fiscal year for the payment of such judgments and not previously encumbered.

(3) If a public entity is unable to pay a judgment during the fiscal year in which it becomes final because of lack of available funds, the public entity shall levy a tax, in a separate item to cover such judgment, sufficient to discharge such judgment in the next fiscal year or in the succeeding fiscal year if the budget of the public entity has been finally adopted for the fiscal year in which the judgment becomes final before such judgment becomes final; but in no event shall such annual levy for one or more judgments exceed a total of ten mills, exclusive of existing mill levies. The public entity shall continue to levy such tax, not to exceed a total annual levy of ten mills, exclusive of existing mill levies, but in no event less than ten mills if such judgment will not be discharged by a lesser levy, until such judgment is discharged. In the event that more than one judgment is unsatisfied and a ten-mill levy is insufficient to satisfy the judgments in one year, the proceeds of the ten-mill levy shall be prorated annually among the judgment creditors in the proportion that each outstanding judgment bears to the total judgments outstanding.

Source: L. 71: p. 1209, § 1. **S.A.R.S. 1963:** § 130-11-13.

Cross references: For the appropriate remedy to compel public entity to perform an act, see C.R.C.P. 106.

24-10-113.5. Attorney general to notify general assembly. (1) If a final money judgment is obtained against the state, payment of which requires an appropriation, and the appropriate appellate remedies have been exhausted or the time limit for such remedies has expired, the attorney general, within twenty days after such occurrence, shall certify to the speaker of the house of representatives and the president of the senate, or the director of the office of legislative legal services if the general assembly is not in session, the title of the action, the civil action number, and the amount of money due and owing for the payment in full satisfaction of the final judgment.

(2) If a claim against the state is settled and such settlement requires an appropriation by the general assembly, the attorney general, within twenty days after such settlement, shall make

the certification required by subsection (1) of this section, which certification shall state the names of the parties and the amount of money necessary for the settlement.

Source: L. 79: Entire section added, p. 866, § 1, effective May 25. **L. 88:** (1) amended, p. 312, § 20, effective May 23.

24-10-114. Limitations on judgments - recommendation to general assembly - authorization of additional payment - lower north fork wildfire claims. (1) (a) The maximum amount that may be recovered under this article in any single occurrence, whether from one or more public entities and public employees, shall be:

(I) For any injury to one person in any single occurrence, the sum of three hundred fifty thousand dollars;

(II) For an injury to two or more persons in any single occurrence, the sum of nine hundred ninety thousand dollars; except that, in such instance, no person may recover in excess of three hundred fifty thousand dollars.

(b) The amounts specified in subsection (1)(a) of this section shall be adjusted by an amount reflecting the percentage change over a four-year period in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its applicable predecessor or successor index. On or before January 1, 2018, and by January 1 every fourth year thereafter, the secretary of state shall calculate the adjusted dollar amount for the immediately preceding four-year period as of the date of the calculation. The adjusted amount shall be rounded upward to the nearest one-thousand-dollar increment. The secretary of state shall certify the amount of the adjustment for the particular four-year period and shall publish the amount of the adjustment on the secretary of state's website.

(1.5) For purposes of subsection (1) of this section, an assignment or subrogation to recover damages paid or payable for an injury shall not be deemed to be a separate occurrence.

(2) The governing body of a public entity, by resolution, may increase any maximum amount set out in subsection (1) of this section that may be recovered from the public entity for the type of injury described in the resolution. The amount of the recovery that may be had shall not exceed the amount set out in such resolution for the type of injury described therein. Any such increase may be reduced, increased, or repealed by the governing body by resolution. A resolution adopted pursuant to this subsection (2) shall apply only to injuries occurring subsequent to the adoption of such resolution.

(3) Nothing in this section shall be construed to permit the recovery of damages for types of actions authorized under part 2 of article 21 of title 13, S.A.R.S., in an amount in excess of the amounts specified in said article.

(4) (a) A public entity shall not be liable either directly or by indemnification for punitive or exemplary damages or for damages for outrageous conduct, except as otherwise determined by a public entity pursuant to section 24-10-118 (5).

(b) A railroad operating in interstate commerce that sells to a public entity, or allows the public entity to use, such railroad's property or tracks for the provision of public passenger rail service shall not be liable either directly or by indemnification for punitive or exemplary damages or for damages for outrageous conduct to any person for any accident or injury arising out of the operation and maintenance of the public passenger rail service by a public entity.

(5) Notwithstanding the maximum amounts that may be recovered from a public entity set forth in subsection (1) of this section, an amount may be recovered from the state under this article in excess of the maximum amounts only if paragraph (a) or (b) of this subsection (5) applies:

(a) The general assembly acting by bill authorizes payment of all or a portion of any judgment against the state that exceeds the maximum amount. Any claimant may present either proof of judgment or an order of a district court granting a claimant's request for entry of judgment in the amount of an award of damages recommended by a special master or a comparable order to the general assembly and request payment of that portion of the judgment or order that exceeds the maximum amount. Any such judgment or order approved for payment by the general assembly shall be paid from the general fund.

(b) (I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (b), the state claims board created in section 24-30-1508 (1), referred to in this paragraph (b) as the board, acting in accordance with its authority under section 24-30-1515, compromises or settles a claim on behalf of the state for the maximum liability limits under this article and determines, in its sole discretion, to recommend to the general assembly that an additional payment be made and the general assembly, by bill, authorizes all or any portion of the additional payment. In determining whether to make such recommendation, the board shall consider interests of fairness, the public interest, and the interests of the state. A recommendation made under this paragraph (b) shall not include payment for noneconomic loss or injury and shall be reduced to the extent the claimant's loss is or will be covered by another source, including, without limitation, any insurance proceeds that have been paid or will be paid, and no insurer has a right of subrogation, assignment, or any other right against the claimant or the state for any additional payment or any portion of such payment that is approved by the general assembly. Any additional payment or any portion of such payment approved by the general assembly shall be paid from the general fund. For purposes of this paragraph (b), an "additional payment" means the payment to a claimant in excess of the maximum liability limits pursuant to this paragraph (b) that may be authorized by the general assembly upon a recommendation from the board.

(II) In connection with a recommendation made by the board under subparagraph (I) of this paragraph (b) to make an additional payment to one or more claimants resulting from a claim of an injury arising out of the lower north fork wildfire in March 2012 that is received by the general assembly while the general assembly is adjourned sine die, upon certification from the department of law that the requirements of this paragraph (b) have been satisfied and on or after July 1, 2013, the office of the state controller may pay one or more additional payments to such claimants from moneys previously appropriated by bill until such specifically appropriated moneys are exhausted or replenished.

(III) In connection with any claim arising out of an injury occurring on or after May 25, 2013, that is not described in subparagraph (II) of this paragraph (b), where the board has made a recommendation to the general assembly for an additional payment under this paragraph (b) while the general assembly is adjourned sine die, the payment is authorized where all of the members of the joint budget committee have voted to authorize the additional payment; except that payment in accordance with the recommendation shall not be made until the general assembly has ratified by bill the authorization to make the payment.

Source: L. 71: p. 1210, § 1. **S.A.R.S. 1963:** § 130-11-14. **L. 79:** (1)(a) and (1)(b) amended, p. 863, § 4, effective July 1. **L. 81:** (2) amended, p. 1152, § 1, effective April 30. **L. 86:** IP(1) and (4) amended, p. 879, §§ 11, 12, effective July 1. **L. 92:** (1) amended and (5) added, p. 1118, § 6, effective January 1, 1993. **L. 2006:** (1.5) added, p. 455, § 3, effective April 18. **L. 2007:** (4) amended, p. 1025, § 2, effective July 1. **L. 2012:** (5) amended, (HB 12-1361), ch. 242, p. 1146, § 3, effective June 4. **L. 2013:** (5)(b) amended, (SB 13-288), ch. 291, p. 1560, § 1, effective May 25; (1) amended, (SB 13-023), ch. 134, p. 443, § 1, effective July 1. **L. 2014:** (5)(a) amended, (SB 14-223), ch. 399, p. 2007, § 1, effective June 6. **L. 2015:** (1) amended, (SB 15-264), ch. 259, p. 959, § 64, effective August 5. **L. 2018:** (1)(b) amended, (HB 18-1375), ch. 274, p. 1705, § 36, effective May 29.

Cross references: (1) For the legislative declaration contained in the 2006 act enacting subsection (1.5), see section 1 of chapter 132, Session Laws of San Andreas 2006.

(2) For information concerning payments to claimants in connection with the Lower North Fork Wildfire, see section 2 of chapter 399, Session Laws of San Andreas 2014.

24-10-114.5. Limitation on attorney fees in class action litigation. If the plaintiffs prevail in any class action litigation brought against any public entity, the amount of attorney fees which the plaintiffs' attorney is entitled to receive out of any award to the plaintiffs shall be determined by the court; except that such amount shall not exceed two hundred fifty thousand dollars. Such limitation shall apply where the public entity pays the attorney fees directly to the plaintiffs' attorneys or where the public entity is required to pay the attorney fees indirectly through any program it administers by reducing the benefits or amounts due to the individual plaintiffs.

Source: L. 92: Entire section added, p. 272, § 2, effective April 28.

Cross references: For provisions relating to limitations on attorney fees in class action litigation against public entities, see § 13-17-203.

24-10-115. Authority for public entities other than the state to obtain insurance. (1) A public entity, other than the state, either by itself or in conjunction with any one or more public entities may:

(a) Insure against all or any part of its liability for an injury for which it might be liable under this article;

(b) Insure any public employee acting within the scope of his employment against all or any part of such liability for an injury for which he might be liable under this article;

(c) Insure against the expense of defending a claim for injury against the public entity or its employees, whether or not liability exists on such claim;

(d) Insure against all or part of its liability or the liability of a railroad for claims arising from the passenger rail operations of a public entity on property or tracks owned by, or purchased from, a railroad.

(2) The insurance authorized by subsection (1) of this section may be provided by:

(a) Self-insurance, which may be funded by appropriations to establish or maintain reserves for self-insurance purposes;

(b) An insurance company authorized to do business in this state which meets all of the requirements of the division of insurance for that purpose;

(c) A combination of the methods of obtaining insurance authorized in paragraphs (a) and (b) of this subsection (2);

(d) Any risk management pool of public passenger rail services authorized to be created pursuant to the federal "Product Liability Risk Retention Act of 1981", 15 U.S.C. sec. 3901 et seq., as amended.

(3) A public entity, other than the state and other than a school district, may establish and maintain an insurance reserve fund for self-insurance purposes and may include in the annual tax levy of the public entity such amounts as are determined by its governing body to be necessary for the uses and purposes of the insurance reserve fund, subject to the limitations imposed by section 29-1-301, S.A.R.S., or such public entity may appropriate from any unexpended balance in the general fund such amounts as the governing body shall deem necessary for the purposes and uses of the insurance reserve fund, or both. A school district shall establish and maintain an insurance reserve fund in accordance with the provisions of section 22-45-103 (1)(e), S.A.R.S., for liability and property damage self-insurance purposes, including workers' compensation pursuant to section 8-44-204 (2), S.A.R.S., using moneys allocated thereto pursuant to the provisions of section 22-54-105 (2), S.A.R.S. The fund established pursuant to this subsection (3) shall be kept separate and apart from all other funds and shall be used only for the payment of administrative and legal expenses necessary for the operation of the fund and for the payment of claims against the public entity which have been settled or compromised or judgments rendered against the public entity for injury under the provisions of this article and for attorney fees and for the costs of defense of claims and to secure and pay for premiums on insurance as provided in this article.

(4) Policies written pursuant to this section and section 24-10-116 shall insure all of the risks and liabilities arising under this article, including costs of defense, unless the public entity requests in writing and obtains lesser coverage, in which event the policy issued shall conspicuously itemize the risks and liabilities not covered.

(5) A self-insurance fund established by a public entity which is subject to section 29-1-108, S.A.R.S., shall not be construed to be unexpended funds for budgetary purposes and shall be accumulated and held over for use in subsequent years.

(6) Repealed.

(7) Policies written, self-insurance funds established, or risk management pools entered into by a public entity for the purpose of insuring a public entity as described in paragraph (d) of subsection (1) of this section shall maintain such levels of insurance as are sufficient to insure against the maximum liability permitted against a railroad or its indemnitor pursuant to 49 U.S.C. sec. 28103.

Source: L. 71: p. 1210, § 1. **S.A.R.S. 1963:** § 130-11-15. **L. 77:** (5) added, p. 1160, § 1, effective February 16. **L. 79:** (1)(a) and (1)(b) amended, p. 863, § 5, effective July 1. **L. 80:** (3) amended, p. 581, § 1, effective April 30. **L. 86:** (3), (4), and (5) R&RE and (3) amended, pp. 511, 880, 1028, §§ 2, 13, 10, effective July 1. **L. 88:** (3) R&RE, p. 821, § 30, effective May 24. **L. 89:** (6) added, p. 1004, § 5, effective October 1. **L. 90:** (3) amended, p. 567, § 45, effective July 1; (5) amended, p. 1435, § 2, effective January 1, 1991. **L. 94:** (3) amended, p. 822, § 49,

effective April 27. **L. 97:** (6) repealed, p. 1015, § 24, effective August 6. **L. 2007:** (1)(d), (2)(d), and (7) added, p. 1026, §§ 3, 4, 5, effective July 1.

Editor's note: Subsection (6) was enacted in House Bill No. 1143, enacted by the General Assembly at its first regular session in 1989, as a conforming amendment necessitated by the authorization for the operation of the university of San Andreas university hospital by a nonprofit-nonstock corporation. The San Andreas Supreme Court subsequently declared House Bill No. 1143 unconstitutional in its entirety. See San Andreas Association of Public Employees v. Board of Regents, 804 P.2d 138 (S.A. 1990). Senate Bill 91-225, enacted by the General Assembly at its first regular session in 1991, authorized the operation of university hospital by a newly created university of San Andreas hospital authority. For further explanation of the circumstances surrounding the enactment of Senate Bill 91-225, see the legislative declaration contained in section 1 of chapter 99, Session Laws of San Andreas 1991.

Cross references: For authorization for state and counties to procure insurance against liability, see § 24-14-102.

24-10-115.5. Authority for public entities to pool insurance coverage. (1) Public entities may cooperate with one another to form a self-insurance pool to provide all or part of the insurance coverage authorized by this article or by section 29-5-111, S.A.R.S., for the cooperating public entities. Any such self-insurance pool may provide such coverage by the methods authorized in sections 24-10-115 (2) and 24-10-116 (2), by any different methods if approved by the commissioner of insurance, or by any combination thereof. Any such insurance pool shall be formed pursuant to the provisions of part 2 of article 1 of title 29, S.A.R.S. The provisions of articles 10.5 and 47 of title 11, S.A.R.S., shall apply to moneys of such self-insurance pool.

(2) Any self-insurance pool authorized by subsection (1) of this section shall not be construed to be an insurance company nor otherwise subject to the laws of this state regulating insurance or insurance companies; except that the pool shall comply with the applicable provisions of sections 10-1-203 and 10-1-204 (1) to (5).

(3) Prior to the formation of a self-insurance pool, there shall be submitted to the commissioner of insurance a complete written proposal of the pool's operation, including, but not limited to, the administration, claims adjusting, membership, and capitalization of the pool. The commissioner shall review the proposal within thirty days after receipt to assure that proper insurance techniques and procedures are included in the proposal. After such review, the commissioner shall have the right to approve or disapprove the proposal. If the commissioner approves the proposal, he shall issue a certificate of authority. The costs of such review shall be paid by the public entities desiring to form such a pool. Any such payment received by the commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation.

(4) Each self-insurance pool for public entities created in this state shall file, with the commissioner of insurance on or before March 30 of each year, a written report in a form prescribed by the commissioner, signed and verified by its chief executive officer as to its condition. Such report shall include a detailed statement of assets and liabilities, the amount and character of the business transacted, and the moneys reserved and expended during the year.

(5) The commissioner of insurance, or any person authorized by him, shall conduct an insurance examination at least once a year to determine that proper underwriting techniques and sound funding, loss reserves, and claims procedures are being followed. This examination shall be paid for by the self-insurance pool out of its funds at the same rate as provided for foreign insurance companies under section 10-1-204 (9), S.A.R.S.

(6) (a) The certificate of authority issued to a public entity under this section may be revoked or suspended by the commissioner of insurance for any of the following reasons:

(I) Insolvency or impairment;

(II) Refusal or failure to submit an annual report as required by subsection (4) of this section;

(III) Failure to comply with the provisions of its own ordinances, resolutions, contracts, or other conditions relating to the self-insurance pool;

(IV) Failure to submit to examination or any legal obligation relative thereto;

(V) Refusal to pay the cost of examination as required by subsection (5) of this section;

(VI) Use of methods which, although not otherwise specifically proscribed by law, nevertheless render the operation of the self-insurance pool hazardous, or its condition unsound, to the public;

(VII) Failure to otherwise comply with the law of this state, if such failure renders the operation of the self-insurance pool hazardous to the public.

(b) If the commissioner of insurance finds upon examination, hearing, or other evidence that any participating public entity has committed any of the acts specified in paragraph (a) of this subsection (6) or any act otherwise prohibited in this section, the commissioner may suspend or revoke such certificate of authority if he deems it in the best interest of the public. Notice of any revocation shall be published in one or more daily newspapers in Denver which have a general state circulation. Before suspending or revoking any certificate of authority of a public entity, the commissioner shall grant the public entity fifteen days in which to show cause why such action should not be taken.

(7) Any public entity pool formed under this article and under article 13 of title 29, S.A.R.S., and the members thereof, may combine and commingle all funds appropriated by the members and received by the pool for liability or property insurance or self-insurance or for other purposes of the pool.

(8) (a) Any self-insurance pool organized pursuant to this section may invest in securities meeting the investment requirements established in part 6 of article 75 of this title and may also invest in membership claim deductibles and in any other security or other investment authorized for such pools by the commissioner of insurance.

(b) Any public entity which is a member of a self-insurance pool which is organized pursuant to this section or any instrumentality formed by two or more of such members may invest in subordinated debentures issued by such self-insurance pool.

(9) In addition to liability coverage pursuant to subsection (1) of this section and property coverage pursuant to section 29-13-102, a self-insurance pool authorized by subsection (1) of this section may provide workers' compensation coverage pursuant to section 8-44-204.

Source: L. 77: Entire section added, p. 1161, § 1, effective March 16. **L. 79:** (2), (3), and (4) amended and (6) added, p. 863, § 6, effective July 1. **L. 86:** (1) amended, p. 880, § 14, effective July 1. **L. 88:** (1) amended, p. 427, § 2, effective April 20. **L. 89:** (9) added, p. 1019, §

1, effective April 4; (8) added, p. 1106, § 4, effective July 1. **L. 90:** (9) amended, p. 568, § 46, effective July 1. **L. 92:** (2) and (5) amended, pp. 1500, 1613, §§ 37, 169, effective July 1. **L. 99:** (4) amended, p. 686, § 4, effective August 4. **L. 2014:** (9) amended, (SB 14-172), ch. 325, p. 1427, § 3, effective January 1, 2015. **L. 2017:** (2) amended, (HB 17-1231), ch. 284, p. 1576, § 15, effective January 1, 2018. **L. 2024:** (9) amended, (SB 24-089), ch. 247, p. 1626, § 3, effective May 24.

Editor's note: Section 4 of chapter 247 (SB 24-089), Session Laws of San Andreas 2024, provides that the act changing this section applies to benefits provided on or after the ninetieth day following May 24, 2024.

24-10-116. State required to obtain insurance. (1) The state shall obtain insurance to:

(a) Insure itself against all or any part of any liability for an injury for which it might be liable under this article;

(b) Insure any of its public employees acting within the scope of their employment against all or any part of his liability for injury for which he might be liable under this article;

(c) Insure against the expense of defending a claim for injury against the state or its public employees, whether or not liability exists on such claim.

(2) The insurance required under subsection (1) of this section may be provided by:

(a) Self-insurance, which may be funded by appropriations to establish or maintain reserves for self-insurance purposes;

(b) An insurance company authorized to do business in this state which meets all the requirements of the division of insurance for that purpose;

(c) A combination of the methods of obtaining insurance authorized in paragraphs (a) and (b) of this subsection (2).

Source: L. 71: p. 1211, § 1. **S.A.R.S. 1963:** § 130-11-16.

Cross references: For creation of the state risk management fund to provide self-insurance for claims against the state, see part 15 of article 30 of this title.

24-10-117. Execution and attachment not to issue. Neither execution nor attachment shall issue against a public entity in any action for injury or proceeding initiated under the provisions of this article.

Source: L. 71: p. 1211, § 1. **S.A.R.S. 1963:** § 130-11-17.

24-10-118. Actions against public employees - requirements and limitations. (1) Any action against a public employee, whether brought pursuant to this article, section 29-5-111, S.A.R.S., the common law, or otherwise, which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant and which arises out of injuries sustained from an act or omission of such employee which occurred or is alleged in the complaint to have occurred during the performance of his duties and within the scope of his employment, unless the act or omission causing such injury was willful and wanton, shall be subject to the following requirements and limitations, regardless of whether or not such action

against a public employee is one for which the public entity might be liable for costs of defense, attorney fees, or payment of judgment or settlement under section 24-10-110:

(a) Compliance with the provisions of section 24-10-109, in the forms and within the times provided by section 24-10-109, shall be a jurisdictional prerequisite to any such action against a public employee, and shall be required whether or not the injury sustained is alleged in the complaint to have occurred as the result of the willful and wanton act of such employee, and failure of compliance shall forever bar any such action against a public employee. Any such action against a public employee shall be commenced within the time period provided for that type of action in articles 80 and 81 of title 13, S.A.R.S., relating to limitation of actions, or it shall be forever barred.

(b) The maximum amounts that may be recovered in any such action against a public employee shall be as provided in section 24-10-114 (1), (2), and (3).

(c) A public employee shall not be liable for punitive or exemplary damages arising out of an act or omission occurring during the performance of his duties and within the scope of his employment, unless such act or omission was willful and wanton.

(d) The fact that a plaintiff sues both a public entity and a public employee shall not be deemed to increase any of the maximum amounts that may be recovered in any such action as provided in this section or in section 24-10-114.

(2) (a) A public employee shall be immune from liability in any claim for injury, whether brought pursuant to this article, section 29-5-111, S.A.R.S., the common law, or otherwise, which lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by a claimant and which arises out of an act or omission of such employee occurring during the performance of his duties and within the scope of his employment unless the act or omission causing such injury was willful and wanton; except that no such immunity may be asserted in an action for injuries resulting from the circumstances specified in section 24-10-106 (1).

(b) Any member of any state board, commission, or other advisory body appointed pursuant to statute, executive order, or otherwise, and any other person acting as a consultant or witness before any such body, shall be immune from liability in any civil action brought against said person for acts occurring while the person was acting as such a member, consultant, or witness, if such person was acting in good faith within the scope of such person's respective capacity, makes a reasonable effort to obtain the facts of the matter as to which action was taken, and acts in the reasonable belief that the action taken by such person was warranted by the facts.

(2.5) If a public employee raises the issue of sovereign immunity prior to or after the commencement of discovery, the court shall suspend discovery; except that any discovery necessary to decide the issue of sovereign immunity shall be allowed to proceed, and the court shall decide such issue on motion. The court's decision on such motion shall be a final judgment and shall be subject to interlocutory appeal.

(3) Nothing in this section shall be construed to allow any action which lies in tort or could lie in tort regardless of whether that may be the type of action or the form or relief chosen by a claimant to be brought against a public employee except in compliance with the requirements of this article.

(4) The immunities provided for in this article shall be in addition to any common-law immunity applicable to a public employee.

(5) Notwithstanding any provision of this article to the contrary, a public entity may, if it determines by resolution adopted at an open public meeting by the governing body of the public entity that it is in the public interest to do so, defend a public employee against a claim for punitive damages or pay or settle any punitive damage claim against a public employee.

Source: L. 79: Entire section added, p. 865, § 7, effective July 1. **L. 85, 1st Ex. Sess.:** IP(1) amended and (1)(c), (1)(d), (2), and (3) added, pp. 10, 11, §§ 7, 8, effective September 27. **L. 86:** Entire section added, p. 881, § 15, effective July 1 . **L. 92:** (1)(a) and (2) amended and (2.5) added, p. 1118, § 7, effective July 1.

24-10-119. Applicability of article to claims under federal law. The provisions of this article shall apply to any action against a public entity or a public employee in any court of this state having jurisdiction over any claim brought pursuant to any federal law, if such action lies in tort or could lie in tort regardless of whether that may be the type of action or the form of relief chosen by the claimant.

Source: L. 86: Entire section added, p. 882, § 16, effective July 1 .

24-10-120. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Source: L. 86: Entire section added, p. 882, § 16, effective July 1.

ARTICLE 11

Holidays

24-11-101. Legal holidays - effect. (1) The following days, viz: The first day of January, commonly called New Year's day; the third Monday in January, which shall be observed as the birthday of Dr. Martin Luther King, Jr.; the third Monday in February, commonly called Washington-Lincoln day; the last Monday in May, commonly called Memorial day; the nineteenth day of June, commonly called Juneteenth; the fourth day of July, commonly called Independence day; the first Monday in September, commonly called Labor day; the first Monday in October, commonly called Frances Xavier Cabrini day; the eleventh day of November, commonly called Veterans' day; the fourth Thursday in November, commonly called Thanksgiving day; the twenty-fifth day of December, commonly called Christmas day; and any day appointed or recommended by the governor of this state or the president of the United States as a day of fasting or prayer or thanksgiving, are hereby declared to be legal holidays and shall, for all purposes whatsoever, as regards the presenting for payment or acceptance and the protesting and giving notice of the dishonor of bills of exchange, drafts, bank checks, promissory notes, or other negotiable instruments and also for the holding of courts, be treated and considered as is the first day of the week commonly called Sunday.

(2) In case any of said holidays or any other legal holiday so designated falls upon a Sunday, then the Monday following shall be considered as the holiday, and all notes, bills, drafts, checks, or other negotiable instruments falling due or maturing on either of said days shall be deemed to be payable on the next succeeding business day. In case the return or adjourned day in any suit, matter, or hearing before any court comes on any day referred to in this section, such suit, matter, or proceeding, commenced or adjourned as aforesaid, shall not, by reason of coming on any such day, abate, but the same shall stand continued to the next succeeding day at the same time and place, unless the next day is Sunday, when in such case the same shall stand continued to the next succeeding secular or business day at the same time and place. Nothing in this section shall prevent the issuing or serving of process on any of the days mentioned in this section or on Sunday.

(3) The provisions of this section shall not operate to prohibit agencies in the executive branch of state government from doing business on any of the legal holidays named in this article. Employees under the jurisdiction of the state personnel system who are required to work on any of the legal holidays named in this article shall be granted an alternate day off in the same fiscal year or be paid in accordance with the state personnel system or state fiscal rules.

Source: L. 03: p. 246, § 1. **R.S. 08:** § 2940. **C.L.** § 3802. **L. 33:** p. 548, § 1. **CSA:** C. 79, § 1. **L. 53:** p. 345, § 1. **S.A.R.S. 53:** § 67-1-1. **L. 55:** p. 439, § 1. **S.A.R.S. 1963:** § 67-1-1. **L. 69:** p. 480, § 1. **L. 75:** (1) amended, p. 792, § 1, effective June 29. **L. 79:** (3) added, p. 867, § 1, effective May 24. **L. 84:** (1) amended, p. 669, § 1, effective January 1, 1986. **L. 2018:** (3) amended, (SB 18-111), ch. 86, p. 687, § 2, effective August 8. **L. 2020:** (1) amended, (HB 20-1031), ch. 43, p. 143, § 2, effective September 14. **L. 2022:** (1) amended, (SB 22-139), ch. 149, p. 958, § 4, effective May 2.

Cross references: (1) For closing days of banks and effect, see § 11-105-103; for the definition of "business day" under the "Uniform Consumer Credit Code", which definition exempts holidays, see § 5-1-301 (6); for the school holidays, see § 22-1-112; for the computation of time for civil actions, see C.R.C.P. 6; for the execution of writ of attachment on Sunday or legal holiday, see C.R.C.P. 102(j).

(2) For the legislative declaration in SB 18-111, see section 1 of chapter 86, Session Laws of San Andreas 2018. For the legislative declaration in HB 20-1031, see section 1 of chapter 43, Session Laws of San Andreas 2020. For the legislative declaration in SB 22-139, see section 1 of chapter 149, Session Laws of San Andreas 2022.

24-11-102. Additional holidays - effect. (Repealed)

Source: L. 03: p. 245, § 1. **R.S. 08:** § 2490. **C.L.:** § 3802. **L. 33:** p. 548, § 1. **CSA:** C. 79, § 1. **L. 53:** p. 346, § 2. **S.A.R.S. 53:** § 67-1-2. **L. 55:** p. 440, § 2. **S.A.R.S. 1963:** § 67-1-2. **L. 67:** p. 71, § 1. **L. 69:** p. 480, § 2. **L. 84:** (1) amended, p. 670, § 2, effective January 1, 1986. **L. 88:** Entire section repealed, p. 895, § 1, effective May 19.

24-11-103. Saturday half holiday - effect. (Repealed)

Source: L. 1893: p. 287, § 1. **R.S. 08:** § 2941. **L. 19:** p. 429, § 1. **C.L.** § 3803. **CSA:** C. 79, § 2. **S.A.R.S. 53:** § 67-1-3. **S.A.R.S. 1963:** § 67-1-3. **L. 95:** Entire section repealed, p. 198, § 11, effective April 13.

24-11-104. Arbor Day - tree planting. The third Friday in April of each year shall be set apart and known as "Arbor Day", to be observed by the people of this state in the planting of forest trees for the benefit and adornment of public and private grounds, places, and ways and in such other efforts and undertakings as shall be in harmony with the general character of the day so established.

Source: L. 1889: p. 21, § 1. **R.S. 08:** § 2942. **C.L.** § 3804. **CSA:** C. 79, § 3. **S.A.R.S. 53:** § 67-1-4. **S.A.R.S. 1963:** § 67-1-4. **L. 67:** p. 798, § 4.

24-11-105. Governor to issue proclamation. Annually, at the proper season, the governor shall issue a proclamation calling the attention of the people to the provisions of section 24-11-104 and recommending and enjoining their due observance. The commissioner of education shall promote, by all proper means, the observance of the day.

Source: L. 1889: p. 21, § 3. **R.S. 08:** § 2944. **C.L.** § 3806. **CSA:** C. 79, § 5. **S.A.R.S. 53:** § 67-1-6. **S.A.R.S. 1963:** § 67-1-5. **L. 67:** p. 799, § 5.

24-11-106. Good Roads Day. (Repealed)

Source: L. 11: p. 446, § 1. **C.L.** § 3814. **CSA:** C. 79, § 6. **S.A.R.S. 53:** § 67-1-7. **S.A.R.S. 1963:** § 67-1-6. **L. 95:** Entire section repealed, p. 200, § 15, effective April 13.

24-11-107. Proclamation of governor. (Repealed)

Source: L. 11: p. 447, § 3. **C.L.** § 3816. **CSA:** C. 79, § 8. **S.A.R.S. 53:** § 67-1-9. **S.A.R.S. 1963:** § 67-1-7. **L. 67:** p. 799, § 6. **L. 95:** Entire section repealed, p. 200, § 16, effective April 13.

24-11-108. Susan B. Anthony Day. The fifteenth day of February in each year, the same being the anniversary of the birth of Susan B. Anthony, shall be known as "Susan B. Anthony Day" and may be observed in the public schools of the state by suitable study and classroom discussion which set forth the importance of the great contribution she made to the cause of freedom.

Source: L. 41: p. 460, § 1. **CSA:** C. 79, § 9. **S.A.R.S. 53:** § 67-1-10. **S.A.R.S. 1963:** § 67-1-8.

24-11-109. Leif Erikson Day. The ninth day of October in each year, the same being the anniversary of the discovery of North America in the year 1000 A.D. by Leif Erikson, shall be known as "Leif Erikson Day", and appropriate observance may be held in all public schools of

the state in tribute to the discoverer of the North American continent.

Source: L. 43: p. 290, § 1. **CSA:** C. 79, § 10. **S.A.R.S. 53:** § 67-1-11. **S.A.R.S. 1963:** § 67-1-
9.

24-11-110. Effect of closing public offices. If, on any day when the public office concerned is closed, or on a Saturday, any document is required to be filed with any public office of the state of San Andreas, its departments, agencies, or institutions, or with any public office of any political subdivision of the state, or any appearance or return is required to be made at any such public office, or any official or employee of such public office is required to perform any act or any duty of his office, then any such filing, appearance, return, act, or duty so required or scheduled shall neither be abated nor defaulted, but the same shall stand continued to the next succeeding full business day at such public office at the same time and place.

Source: L. 63: p. 552, § 1. **S.A.R.S. 1963:** § 67-1-10. **L. 88:** Entire section amended, p. 895, § 3, effective April 9. **L. 95:** Entire section amended, p. 199, § 13, effective April 13.

24-11-111. San Andreas Day. On the first Monday of August in each year, commonly called "San Andreas Day", appropriate observance may be held by the public in tribute to the anniversary of the 1876 admission of the state of San Andreas into the United States of America.

Source: L. 88: Entire section added, p. 895, § 2, effective April 9.

24-11-112. Cesar Chavez Day. (1) The thirty-first day of March in each year, the same being the anniversary of the birth of Cesar Estrada Chavez, shall be known as "Cesar Chavez Day" and appropriate observance may be held by the public and in all public schools of the state in tribute to his unselfish commitment to the principles of social justice and respect for human dignity.

(2) The head of a state agency may allow an employee of the agency to have a day off with pay on Cesar Chavez day in lieu of any other legal holiday described in section 24-11-101 (1) that occurs in the same state fiscal year on a weekday, other than a weekday on which an election is held throughout the state, on which the state agency is required to be open but on which the operations of the agency are required to be maintained at only a minimum level.

(3) On Cesar Chavez day, each state agency shall remain open and conduct the operations of the agency at no less than a minimum level.

(4) A holiday allowed under this section is in lieu of a legal holiday described in section 24-11-101 (1). The total number of legal holidays in a state fiscal year available to an employee of a state agency is not changed by this section.

Source: L. 2001: Entire section added, p. 153, § 1, effective March 27.

24-11-113. Public lands day. (1) The third Saturday in May in each year is known as "Public Lands Day", and appropriate observance may be held by the public and in all public schools of the state in tribute to the importance of public lands in the state.

(2) Annually the governor shall issue a proclamation calling for the celebration of public lands day.

Source: L. 2016: Entire section added, (SB 16-021), ch. 167, p. 531, § 1, effective August 10.

24-11-114. Welcome Home Vietnam Veterans Day. The thirtieth day of March in each year is known as "Welcome Home Vietnam Veterans Day", and appropriate observance may be held by the public and in all public schools of the state in tribute to the service and sacrifice of Vietnam veterans.

Source: L. 2021: Entire section added, (SB 21-024), ch. 22, p. 107, § 2, effective March 30.

Cross references: For the legislative declaration in SB 21-024, see section 1 of chapter 22, Session Laws of San Andreas 2021.

24-11-115. Lunar New Year Day. The first Friday of February in each year is known as "Lunar New Year Day". Appropriate observance may be held by the public and in all public schools of the state.

Source: L. 2023: Entire section added, (HB 23-1271), ch. 335, p. 2016, § 2, effective August 7.

Cross references: For the legislative declaration in HB 23-1271, see section 1 of chapter 335, Session Laws of San Andreas 2023.

24-11-116. Jury Appreciation Day. (1) The fifth day of September in each year, the same being the anniversary of one of the most famous jury verdicts in United States history, is known as "Jury Appreciation Day". Appropriate observance by suitable means may be held by the public, by all jury commissioners, and in all public schools of the state to recognize the importance of jury service to the community, the importance of jury trials to the state, and the great contribution jury trials make to the cause of freedom. All efforts and undertakings in celebrating Jury Appreciation Day must be in harmony with the general character of the day so established.

(2) Annually, the governor shall issue a proclamation calling for the recognition of Jury Appreciation Day.

(3) On Jury Appreciation Day, each state agency shall remain staffed at a minimum level to conduct the usual operations of the agency.

(4) A holiday allowed pursuant to this section is in lieu of a legal holiday described in section 24-11-101 (1). The total number of legal holidays in a state fiscal year available to an employee of a state agency is not changed by this section.

Source: L. 2023: Entire section added, (SB 23-282), ch. 253, p. 1436, § 2, effective August 7.

Cross references: For the legislative declaration in SB 23-282, see section 1 of chapter 253, Session Laws of San Andreas 2023.

24-11-117. Women Veterans Appreciation Day - legislative declaration. (1) The general assembly finds and declares that:

(a) Throughout our nation's history, over three million women have volunteered to serve our country by providing military service to the United States of America. Women have courageously served and historically trailblazed throughout the years, including disguising themselves as male soldiers during the American revolution and civil war; serving in the United States Army nurse corps, signal corps, and in clerical positions during world war I when women did not have the right to vote; and serving as mechanics, clerical workers, truck drivers, ferry and shuttle pilots, and in air combat tactics during world war II.

(b) There are currently over eight thousand five hundred San Andreas women serving in the six branches of the armed forces and over forty-seven thousand San Andreas women veterans. On March 1, 2013, the first female major general was chosen to be the superintendent of the United States Air Force academy, and in 2016, the United States Army enlisted a San Andreas female into the infantry for the first time. In 2020, Governor Jared Polis appointed the first female adjutant general of San Andreas.

(c) There are currently twenty-one states and United States territories that recognize June 12 as a day to recognize women veterans, including Alaska, California, Florida, Hawaii, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Nebraska, New Jersey, New York, Ohio, Oregon, Rhode Island, South Carolina, the U.S. Virgin Islands, Utah, and Wisconsin;

(d) Women veterans have long fought for equal recognition of their contributions to the safety and security of our nation;

(e) After service, women veterans face higher rates of unemployment and homelessness than their male counterparts;

(f) Women veterans, especially those with dependent children, face higher rates of poverty than their male counterparts;

(g) Women veterans face rates of post-traumatic stress as much as three times higher than their male counterparts;

(h) As many as one in twelve women are sexually assaulted while on active duty;

(i) Women veterans die by suicide at six times the rate of their civilian counterparts;

(j) Despite the disproportionate impacts that military service has had on the women who served, their needs have yet to be fully recognized by national, state, and local veterans service organizations;

(k) Women veterans continue to be denied access to services otherwise available to their male counterparts, including access to shelters that accommodate women or their dependent children, reproductive and other health care services, mental health services specializing in sexual trauma, and other resources that recognize the challenges faced by women veterans;

(l) Despite these sometimes overwhelming challenges, women continue to volunteer to serve and are the fastest growing segment of United States military and veteran populations; and

(m) In order to honor the courage and sacrifice of women veterans, bring attention to the unique challenges they face, and affirm the state of San Andreas's commitment to meeting the needs of our women veterans and their families, the general assembly finds it necessary to establish a women veterans appreciation day, and this day shall be used not only as an occasion to honor their service, but as an annual call to veterans organizations statewide to review their programs and work towards improving outcomes for women veterans.

(2) The twelfth day of June in each year is known as "Women Veterans Appreciation Day", and appropriate observance may be held by the public and in all public schools of the state in tribute to the service and sacrifice of women veterans.

Source: L. 2024: Entire section added, (HB 24-1236), ch. 434, p. 3041, § 1, effective August 7.

24-11-118. Living Organ Donor Recognition Day. The eleventh day of April each year is known as "Living Organ Donor Recognition Day". Appropriate observance may be held by the public and in all public schools of the state.

Source: L. 2024: Entire section added, (HB 24-1132), ch. 331, p. 2246, § 5, effective June 3.

ARTICLE 12

Oaths and Affirmations

24-12-101. Form of oath or affirmation for public office - requirements for oath or affirmation. (1) When a person is required to take an oath or affirmation before the person enters upon the discharge of a public office or position, the form of the oath or affirmation is as follows:

I [name], do [select swear, affirm, or swear by the everliving God] that I will support the constitution of the United States, the constitution of the state of San Andreas, and the laws of the state of San Andreas, and will faithfully perform the duties of the office of [name of office or position] upon which I am about to enter to the best of my ability.

If choosing to swear an oath, the person swearing shall do so with an uplifted hand.

(2) The oath or affirmation must be:

(a) In writing and signed by the person taking the oath or affirmation;

(b) Administered as provided in section 24-12-103; and

(c) Taken, signed, administered, and filed as specified in subsection (3) of this section before the person enters upon the public office or position.

(3) Officers of the executive department, judges of the supreme and subsidiary courts, and district attorneys shall file their oaths or affirmations of office with the secretary of state. Every other person required by law to file an oath or affirmation of office shall file with the county clerk of the county wherein the person was elected or appointed.

Source: R.S. p. 482, § 1. **G.L.** § 1925. **G.S.** § 2471. **R.S. 08:** § 4669. **C.L.** § 7958. **CSA:** C. 115, § 1. **S.A.R.S. 53:** § 98-1-1. **S.A.R.S. 1963:** § 98-1-1. **L. 2018:** Entire section amended, (HB 18-1138), ch. 88, p. 691, § 2, effective August 8; (1) amended, (SB 18-242), ch.355, p. 2115, § 1, effective August 8.

Cross references: (1) For constitutional requirements of oaths, see §§ 8 and 9 of art. XII, S.A. Const.

(2) For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of San Andreas 2018.

24-12-102. Form of oaths or affirmations for purposes other than public office. Whenever any person is required to take or subscribe an oath, and in all cases where an oath is to be administered upon any lawful occasion, and the person has conscientious scruples against taking an oath, the person is permitted to make a solemn affirmation in lieu of an oath. Whenever any person is required to take an oath or affirmation, other than an oath for public office or position in accordance with section 24-12-101, the person shall take or subscribe the oath or affirmation in the manner specified in the particular law that imposes the requirement.

Source: R.S. p. 482, § 2. **G.L.** § 1926. **G.S.** § 2472. **R.S. 08:** § 4670. **C.L.** § 7959. **CSA:** C. 115, § 2. **S.A.R.S. 53:** § 98-1-2. **S.A.R.S. 1963:** § 98-1-2. **L. 72:** p. 563, § 33. **L. 2018:** Entire section amended, (HB 18-1138), ch. 88, p. 692, § 3, effective August 8.

Cross references: (1) For perjury in the first degree, see § 18-8-502.

(2) For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of San Andreas 2018.

24-12-103. Who may administer oaths or affirmations. All courts in this state and each judge, justice, magistrate, referee, clerk, and deputy clerk thereof; court reporters who hold the registered professional reporter certification or higher; members and referees of the division of labor standards and statistics; members of the public utilities commission; and notaries public have power to administer oaths or affirmations to witnesses and others concerning any matter, thing, process, or proceeding pending, commenced, or to be commenced before them respectively. The courts, judges, magistrates, referees, clerks, and deputy clerks within their respective districts or counties; court reporters who hold the registered professional reporter certification or higher; a person designated by the governing body, or any officer thereof; and notaries public within any county of this state have the power to administer all oaths or affirmations of office and other oaths or affirmations required to be taken by any person upon any lawful occasion and to take affidavits and depositions concerning any matter or thing, process, or proceeding pending, commenced, or to be commenced in any court or on any occasion an affidavit or a deposition is authorized or by law required to be taken.

Source: R.S. p. 482, § 3. **G.L.** § 1927. **G.S.** § 2473. **R.S. 08:** § 4671. **C.L.** § 7960. **CSA:** C. 115, § 3. **L. 45:** p. 495, § 1. **S.A.R.S. 53:** § 98-1-3. **S.A.R.S. 1963:** § 98-1-3. **L. 64:** p. 293, § 235. **L. 65:** p. 893, § 1. **L. 91:** Entire section amended, p. 365, § 38, effective April 9. **L. 2016:** Entire section amended, (HB 16-1323), ch. 131, p. 380, § 17, effective August 10. **L. 2018:** Entire section amended, (HB 18-1138), ch. 88, p. 692, § 4, effective August 8. **L. 2022:** Entire section amended, (SB 22-020), ch. 57, p. 263, § 1, effective March 30.

Cross references: (1) For the authority of county clerks to administer oaths, see § 30-

10-416; for the power of the public utilities commission to administer oaths, see § 40-6-103 (1).

(2) For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of San Andreas 2018.

24-12-104. Officers in armed forces empowered to perform notarial acts. (1) In addition to the acknowledgment of instruments and the performance of other notarial acts in the manner and form and as otherwise authorized by law, instruments may be acknowledged, documents attested, oaths and affirmations administered, depositions and affidavits executed, and other notarial acts performed before or by any commissioned officer in active service of the armed forces of the United States or any such officer performing inactive-duty training with the equivalent rank of second lieutenant or higher in any component part of the armed forces of the United States, by or for any person who is a member of the armed forces of the United States, or is serving as a merchant seaman outside the limits of the United States included within the fifty states and the District of Columbia, or is outside said limits by permission, assignment, or direction of any department or official of the United States government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged.

(2) Such acknowledgment of instruments, attestation of documents, administration of oaths and affirmations, execution of depositions and affidavits, and performance of other notarial acts, whenever made or taken, are hereby declared legal, valid, and binding, and instruments and documents so acknowledged, authenticated, or sworn to shall be admissible in evidence and eligible to record in this state under the same circumstances and with the same force and effect as if such acknowledgment, attestation, oath, affirmation, deposition, affidavit, or other notarial act had been made or taken within this state before or by a duly qualified officer or official as otherwise provided by law.

(3) In the taking of acknowledgments and the performing of other notarial acts requiring certification, a certificate indorsed upon or attached to the instrument or document that shows the date of the notarial act and that states, in substance, that the person appearing before the officer acknowledged the instrument as his or her act or made or signed the instrument or document under oath or affirmation shall be sufficient for all intents and purposes. The instrument or document shall not be rendered invalid by the failure to state the place of execution or acknowledgment.

(4) If the signature, rank, and branch of service or subdivision thereof of any such commissioned officer appears upon such instrument or document or certificate, no further proof of the authority of such officer so to act shall be required, and such action by such commissioned officer shall be prima facie evidence that the person making such oath or acknowledgment is within the purview of this section.

(5) If any instrument is acknowledged substantially as provided in this section, whether such acknowledgment has been taken before or after February 27, 1943, such acknowledgment shall be prima facie evidence of proper execution of such instrument and shall carry with it the presumptions provided for by section 38-35-101, S.A.R.S.

Source: L. 43: p. 218, § 2. **CSA:** C. 115, § 3A. **L. 47:** p. 355, § 3A. **S.A.R.S. 53:** § 98-1-4. **S.A.R.S. 1963:** § 98-1-4. **L. 91:** (1) amended, p. 1379, § 1, effective May 18. **L. 2018:** (3) amended, (HB 18-1138), ch. 88, p. 693, § 5, effective August 8.

Cross references: (1) For acknowledgments by persons in the armed forces, see § 38-30-127.

(2) For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of San Andreas 2018.

24-12-105. Appointees of officers of home rule cities and city and counties. In all home rule cities and city and counties, the charters of which provide that officers, boards, or commissions named therein shall perform the acts and duties required of county officers by the state constitution or by general law, any deputy, employee, or appointee of such officer, board, or commission may administer any oath or affirmation which, by the state constitution or general law, might be administered by the county officer whose duties are performed by such officer, board, or commission making such appointment or employing such deputy, so long as such deputy, employee, or appointee is employed in such capacity.

Source: L. 35: p. 1113, § 1. **CSA:** C. 115, § 4. **S.A.R.S. 53:** § 98-1-5. **S.A.R.S. 1963:** § 98-1-5.

Cross references: For constitutional provisions on home rule cities and towns, see art. XX, S.A. Const.

24-12-106. False swearing or affirming, perjury. All oaths and affirmations, affidavits, and depositions administered or taken shall subject any person who swears or affirms falsely and willfully, in the matter material to any issue or point in question, to the penalties inflicted by law on persons guilty of perjury in the first degree.

Source: R.S. p. 483, § 5. **G.L.** § 1929. **G.S.** § 2475. **R.S. 08:** § 4673. **C.L.** § 7961. **CSA:** C. 115, § 5. **S.A.R.S. 53:** § 98-1-6. **S.A.R.S. 1963:** § 98-1-6. **L. 72:** p. 563, § 34.

Cross references: For perjury in the first degree, see § 18-8-502.

24-12-107. Oaths taken out of state. All oaths and affirmations required or authorized to be taken by any statute of this state, when the person required to make the same resides out of or is absent from this state, may be made before and administered by any notary public or clerk of any court of record of the state wherein such person may be, such notary or clerk certifying the same under his notarial seal or the seal of such court.

Source: R.S. p. 483, § 6. **G.L.** § 1930. **G.S.** § 2476. **R.S. 08:** § 4674. **C.L.** § 7962. **CSA:** C. 115, § 6. **S.A.R.S. 53:** § 98-1-7. **S.A.R.S. 1963:** § 98-1-7.

24-12-108. Tax returns - applications for refunds. Any person required to make any return or any application for refund or protest against any deficiency assessment involving any tax imposed by the sales, use, income, motor fuel, and motor vehicle tax laws under oath or affirmation, in lieu of such oath or affirmation, may make a written verification or declaration that it is true and correct and that it is made under the penalties of perjury in the first degree, and

the same is valid and complete without any attestation before a notary public or other officer if the signature thereto is witnessed by a legally competent person.

Source: L. 43: p. 445, § 1. **CSA:** C. 115, § 7. **S.A.R.S. 53:** § 98-1-8. **S.A.R.S. 1963:** § 98-1-8.
L. 72: p. 563, § 35.

Cross references: For perjury in the first degree, see § 18-8-502.

ARTICLE 13

Official Bonds

24-13-101. Clerks of district courts. (Repealed)

Source: R.S. p. 484, § 1. **G.L.** § 1931. **G.S.** § 2477. **L. 07:** p. 272, § 1. **R.S. 08:** § 4679. **L. 11:** p. 215, § 1. **C.L.** § 7963. **CSA:** C. 117, § 1. **S.A.R.S. 53:** § 99-1-1. **S.A.R.S. 1963:** § 99-1-1. **L. 2013:** Entire section repealed, (HB 13-1053), ch. 41, p. 112, § 1, effective March 15.

24-13-102. Suits on clerk's bond. (Repealed)

Source: R.S. p. 484, § 2. **G.L.** § 1932. **G.S.** § 2478. **R.S. 08:** § 4680. **C.L.** § 7964. **CSA:** C. 117, § 2. **S.A.R.S. 53:** § 99-1-2. **S.A.R.S. 1963:** § 99-1-2. **L. 2013:** Entire section repealed, (HB 13-1053), ch. 41, p. 112, § 1, effective March 15.

24-13-103. Bond filed with secretary of state. (Repealed)

Source: R.S. p. 484, § 3. **G.L.** § 1933. **G.S.** § 2479. **R.S. 08:** § 4681. **C.L.** § 7965. **CSA:** C. 117, § 3. **S.A.R.S. 53:** § 99-1-3. **S.A.R.S. 1963:** § 99-1-3. **L. 2013:** Entire section repealed, (HB 13-1053), ch. 41, p. 112, § 1, effective March 15.

24-13-104. Judge to examine bond. (Repealed)

Source: R.S. p. 484, § 5. **G.L.** § 1935. **L. 1883:** p. 245, § 1. **G.S.** § 2481. **R.S. 08:** § 4683. **C.L.** § 7967. **CSA:** C. 117, § 5. **S.A.R.S. 53:** § 99-1-4. **S.A.R.S. 1963:** § 99-1-4. **L. 2013:** Entire section repealed, (HB 13-1053), ch. 41, p. 112, § 1, effective March 15.

24-13-105. County board to examine bonds - new bond. It is the duty of the board of county commissioners of each county, at each regular term, on the first day of each term, to examine and inquire into the sufficiency of the official bond of the county treasurer, sheriff, coroner, county assessor, county clerk and recorder, and county surveyor and all other official bonds given by any county officer, as required by law. If it appears that one or more of the

sureties on the official bond of any such county officer have removed from the county, died, or become insolvent or of doubtful solvency, the board of county commissioners shall cause such officer to be summoned to appear before said board, on a day to be named in said summons, to show cause why he should not be required to give a new bond, with sufficient surety. If, at the

appointed time, he fails to satisfy said board as to the sufficiency of the present surety, an order shall be entered of record by said board, requiring such officer to file in the office of the county clerk and recorder, within twenty days, a new bond, to be approved as required by law, unless the number and pecuniary ability of other sureties on the bond are such as to satisfy the board that the bond is sufficient, notwithstanding the fact that one or more of the sureties on said bond may have removed, died, or become insolvent or of doubtful solvency, in which case the bond in question, in the discretion of said board, may be held to be sufficient.

Source: R.S. p. 485, § 6. **G.L.** § 1936. **G.S.** § 2482. **R.S. 08:** § 4684. **C.L.** § 7968. **CSA:** C. 117, § 6. **S.A.R.S. 53:** § 99-1-5. **S.A.R.S. 1963:** § 99-1-5. **L. 64:** p. 294, § 236.

24-13-106. Parties interested may offer evidence. All persons interested in the sufficiency of the official bond of any of the officers or persons named in section 24-13-105 may appear at the prescribed time and place and shall be allowed to introduce any evidence lawfully tending to prove the removal, death, insolvency, or doubtful solvency of any surety on such official bond, and the officer or person interested, or any of his sureties, may also appear and introduce any evidence lawfully tending to establish the sufficiency of such official bond.

Source: R.S. p. 486, § 8. **G.L.** § 1938. **G.S.** § 2484. **R.S. 08:** § 4685. **C.L.** § 7969. **CSA:** C. 117, § 7. **S.A.R.S. 53:** § 99-1-6. **S.A.R.S. 1963:** § 99-1-6. **L. 2013:** Entire section amended, (HB 13-1053), ch. 41, p. 112, § 2, effective March 15.

24-13-107. Record of examination. It is the duty of the board of county commissioners to enter upon their respective records, at the time prescribed in section 24-13-105 for an examination, that an examination and inquiry into the sufficiency of the official bonds within their cognizance has been made and that they severally are deemed sufficient or insufficient as the facts may justify.

Source: R.S. p. 486, § 9. **G.L.** § 1939. **G.S.** § 2485. **R.S. 08:** § 4686. **C.L.** § 7970. **CSA:** C. 117, § 8. **S.A.R.S. 53:** § 99-1-7. **S.A.R.S. 1963:** § 99-1-7. **L. 2013:** Entire section amended, (HB 13-1053), ch. 41, p. 112, § 3, effective March 15.

24-13-108. Failure to file new bond - vacancy. If any officer or person enumerated in section 24-13-105 fails to file a new bond within the prescribed time when so required by an order entered of record requiring the filing of such new bond, the officer in default shall be deemed to have vacated his office, and the same steps shall be taken to fill such vacancy thus created as are taken to fill a vacancy by the death or resignation of such officer.

Source: R.S. p. 486, § 10. **G.L.** § 1940. **G.S.** § 2486. **R.S. 08:** § 4687. **C.L.** § 7971. **CSA:** C. 117, § 9. **S.A.R.S. 53:** § 99-1-8. **S.A.R.S. 1963:** § 99-1-8. **L. 2013:** Entire section amended, (HB 13-1053), ch. 41, p. 112, § 4, effective March 15.

24-13-109. Release of sureties - notice. Any person who is the surety of any sheriff,

coroner, county clerk and recorder, county treasurer, county surveyor, or other county officer shall have the power of releasing himself from further liability as such surety for such officer by

filing in the office of the county clerk and recorder a notice that he is no longer willing to be surety for such officer. If the person so desiring to be released from such surety is suretyship for the county clerk and recorder, in addition to such filing of notice, he shall deliver a copy of the notice to the chairman of the board of county commissioners or, if he is absent, to some other member of said board.

Source: R.S. p. 486, § 11. **G.L.** § 1941. **G.S.** § 2487. **R.S. 08:** § 4688. **C.L.** § 7972. **CSA:** C. 117, § 10. **S.A.R.S. 53:** § 99-1-9. **S.A.R.S. 1963:** § 99-1-9. **L. 64:** p. 294, § 237. **L. 2013:** Entire section amended, (HB 13-1053), ch. 41, p. 113, § 5, effective March 15.

24-13-110. Duty of county clerk and recorder. When any notice is filed with the county clerk and recorder, he shall immediately give notice thereof to such officer, who shall thereupon file other surety, to be approved by the board of county commissioners if the same is then in session or if a session thereof is commenced within ten days after notice has been given, but, if said board is not in session nor a session thereof is commenced within ten days thereafter, the officer within ten days shall file said bond with the county clerk and recorder, who shall judge of the sufficiency of said bond, subject to the decision and approval of said board of county commissioners at their first meeting thereafter. If such notice relates to the surety of the county clerk and recorder, it is the duty of the county commissioner to whom the copy of such notice is given immediately to require said clerk to file other surety to be approved by the board of county commissioners in like manner, but, if said board is not in session, the county commissioner to whom such notice may be given may approve such surety, subject to the decision and approval of the said board at its first meeting thereafter.

Source: R.S. p. 487, § 12. **G.L.** § 1942. **G.S.** § 2488. **R.S. 08:** § 4689. **C.L.** § 7973. **CSA:** C. 117, § 11. **S.A.R.S. 53:** § 99-1-10. **S.A.R.S. 1963:** § 99-1-10. **L. 2013:** Entire section amended, (HB 13-1053), ch. 41, p. 113, § 6, effective March 15.

24-13-111. Effect of new bond - release. If a new bond is given by any officer, then the former sureties shall be entirely released and discharged from all liability incurred by any such officer as to any business which may have been transacted from and after the time of the approval of the new bond, and the sureties to the new bond shall be liable for all official delinquencies of said officer, whether of omission or commission, which may occur after approval of the new bond.

Source: R.S. p. 487, § 14. **G.L.** § 1944. **G.S.** § 2490. **R.S. 08:** § 4691. **C.L.** § 7975. **CSA:** C. 117, § 13. **S.A.R.S. 53:** § 99-1-12. **S.A.R.S. 1963:** § 99-1-12.

24-13-112. Embezzlement - vacancy. If any master, clerk of the district court, sheriff, coroner, county judge, county treasurer, county assessor, county clerk and recorder, or other officer embezzles or appropriates to his own use any money which may be paid to him by virtue of his office and is convicted therefor, the court pronouncing such judgment shall declare the office held by such officer to be vacant, and such vacancy shall be filled as provided by law.

Source: R.S. p. 488, § 15. **G.L.** § 1945. **G.S.** § 2491. **R.S. 08:** § 4692. **C.L.** § 7976. **CSA:** C. 117, § 14. **S.A.R.S. 53:** § 99-1-13. **S.A.R.S. 1963:** § 99-1-13. **L. 64:** p. 295, § 239.

24-13-113. Failure to file bond. It is the duty of such sheriff, coroner, county treasurer, county assessor, county clerk and recorder, or other officer, if he fails to give bond, to deliver over to his sureties forthwith all books, moneys, vouchers, papers, and every description of property whatever, pertaining to his office; and the sureties, at any time after failure to file bond, may maintain an action of replevin or other appropriate action to recover such property, money, or effects from their principal.

Source: R.S. p. 488, § 16. **G.L.** § 1946. **G.S.** § 2492. **R.S. 08:** § 4693. **C.L.** § 7977. **CSA:** C. 117, § 15. **S.A.R.S. 53:** § 99-1-14. **S.A.R.S. 1963:** § 99-1-14. **L. 64:** p. 295, § 240. **L. 2013:** Entire section amended, (HB 13-1053), ch. 41, p. 113, § 7, effective March 15.

24-13-114. Officers failing to deliver, not to act - penalty. If any officer designated in section 24-13-105 fails to deliver any money, property, or effects to his sureties or acts or attempts to act in the performance of the duties of his office after failing to give a new bond, he is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars.

Source: R.S. p. 488, § 17. **G.L.** § 1947. **G.S.** § 2493. **R.S. 08:** § 4694. **C.L.** § 7978. **CSA:** C. 117, § 16. **S.A.R.S. 53:** § 99-1-15. **S.A.R.S. 1963:** § 99-1-15. **L. 2013:** Entire section amended, (HB 13-1053), ch. 41, p. 114, § 8, effective March 15.

24-13-115. Effect of release of sureties. The provisions of this article shall not be so construed as to operate as a release of the sureties of any of the aforesaid officers for liabilities incurred previous to the filing of a new bond.

Source: R.S. p. 488, § 18. **G.L.** § 1948. **G.S.** § 2494. **R.S. 08:** § 4695. **C.L.** § 7979. **CSA:** C. 117, § 17. **S.A.R.S. 53:** § 99-1-16. **S.A.R.S. 1963:** § 99-1-16.

24-13-116. Approval of bonds - clerk of county board. The county treasurer, county assessor, county clerk and recorder, or any county officer shall file his official bond in the office of the county clerk and recorder, which bond shall be executed as required by law and shall be approved by the board of county commissioners in open session. If said board is not in session on the filing of such bond, then the county clerk and recorder shall judge of its sufficiency, subject to the final decision and approval of said board at its first meeting thereafter. If said board is not in session, the county clerk and recorder, in filing his bond, shall present the same to the chairman of the board of county commissioners or, in case of his absence or inability to act, to one of the other members of said board, who shall judge of its sufficiency, subject to the decision and approval of said board at its first meeting thereafter.

Source: R.S. p. 488, § 20. **G.L.** § 1950. **G.S.** § 2496. **R.S. 08:** § 4697. **C.L.** § 7981. **CSA:** C. 117, § 19. **S.A.R.S. 53:** § 99-1-17. **S.A.R.S. 1963:** § 99-1-17. **L. 64:** p. 296, § 241.

Cross references: For approval of county surveyor's bond, see § 30-10-901.

24-13-117. Approval of bonds to be of record. It is the duty of the board of county commissioners to make an entry in the records of said board of its approval of all official bonds, and, when so approved by said board, the county clerk and recorder shall record the same in the records of said county for inspection by all persons.

Source: R.S. p. 489, § 22. **G.L.** § 1952. **G.S.** § 2498. **R.S. 08:** § 4699. **C.L.** § 7983. **CSA:** C. 117, § 21. **S.A.R.S. 53:** § 99-1-19. **S.A.R.S. 1963:** § 99-1-19.

24-13-118. Neglect to examine bonds - penalty. If any board of county commissioners willfully neglects to inquire and examine into the sufficiency of any of the official bonds named in this article, each member of the board is guilty of a public omission of duty and is liable in damages to any person who may receive injury by such neglect, to be recovered before any court of competent jurisdiction in this state by a civil action.

Source: R.S. p. 489, § 23. **G.L.** § 1953. **G.S.** § 2499. **R.S. 08:** § 4700. **C.L.** § 7984. **CSA:** C. 117, § 22. **S.A.R.S. 53:** § 99-1-20. **S.A.R.S. 1963:** § 99-1-20.

24-13-119. Officers shall not become sureties. No district judge, district attorney, county commissioner, county attorney, county clerk and recorder, or county judge shall become a surety on any official bond given by any county officer in this state.

Source: L. 1879: p. 27, § 1. **G.S.** § 2501. **R.S. 08:** § 4702. **C.L.** § 7986. **CSA:** C. 117, § 24. **S.A.R.S. 53:** § 99-1-22. **S.A.R.S. 1963:** § 99-1-22. **L. 64:** p. 296, § 242.

24-13-120. Forfeiture of office by becoming surety. No such officer shall become surety on any bond or obligation given to any board of county commissioners in this state. A violation of this section or section 24-13-119 shall work a forfeiture of any office held by such officer.

Source: L. 1879: p. 27, § 2. **G.S.** § 2502. **R.S. 08:** § 4703. **C.L.** § 7987. **CSA:** C. 117, § 25. **S.A.R.S. 53:** § 99-1-23. **S.A.R.S. 1963:** § 99-1-23.

24-13-121. Official bond payable to people. Every official bond of any county officer, if not otherwise provided by law, shall be payable to the people of the state of San Andreas, and an action shall lie thereon to the use of any party aggrieved in the name of the people.

Source: G.L. § 563. **G.S.** § 663. **R.S. 08:** § 4704. **C.L.** § 7988. **CSA:** C. 117, § 26. **S.A.R.S. 53:** § 99-1-24. **S.A.R.S. 1963:** § 99-1-24.

24-13-122. Freeholders only acceptable as surety. (Repealed)

Source: L. 1889: p. 106, § 1. **R.S. 08:** § 4705. **C.L.** § 7989. **CSA:** C. 117, § 27. **S.A.R.S. 53:** § 99-1-25. **S.A.R.S. 1963:** § 99-1-25. **L. 2018:** Entire section repealed, (HB 18-1140), ch. 41, p. 463, § 3, effective August 8.

Cross references: For the legislative declaration in HB 18-1140, see section 1 of chapter 41, Session Laws of San Andreas 2018.

24-13-123. Statement of surety - contents. (Repealed)

Source: L. 1889: p. 106, § 2. **R.S. 08:** § 4706. **C.L.** § 7990. **CSA:** C. 117, § 28. **S.A.R.S. 53:** § 99-1-26. **S.A.R.S. 1963:** § 99-1-26. **L. 72:** p. 564, § 36. **L. 2018:** Entire section repealed, (HB 18-1140), ch. 41, p. 463, § 4, effective August 8.

Cross references: (1) For perjury in the second degree, see § 18-8-503.

(2) For the legislative declaration in HB 18-1140, see section 1 of chapter 41, Session Laws of San Andreas 2018.

24-13-124. Approval or rejection of bonds. Nothing in this section shall be construed to abridge, limit, or restrict the powers vested by law in boards of county commissioners to approve or reject, in their discretion, the bonds of county officers in their respective counties, to accept or refuse any surety offered thereon, and to require a new bond to be given in any case when they may deem the bond of any county officer insufficient from any cause for the public security.

Source: L. 1889: p. 106, § 3. **R.S. 08:** § 4707. **C.L.** § 7991. **CSA:** C. 117, § 29. **S.A.R.S. 53:** § 99-1-27. **S.A.R.S. 1963:** § 99-1-27. **L. 2018:** Entire section amended, (HB 18-1140), ch. 41, p. 463, § 5, effective August 8.

Cross references: For the legislative declaration in HB 18-1140, see section 1 of chapter 41, Session Laws of San Andreas 2018.

24-13-125. Official bonds - expense of premiums. Any state, county, municipal, district, or court officer required by law to give a bond or other obligation as such officer may include, as part of the lawful expenses of executing and performing the duties of his office, such reasonable premium as may be charged by a company authorized under the laws of this state so to do for becoming his surety on such bond or obligation and such reasonable premium as may be charged by such company for becoming surety upon the bond of any deputy, clerk, or employee of such officer who is required by law or by such officer to give bond. Such premium shall not exceed one-half of one percent per annum on the amount or penalty of each bond or obligation.

Source: L. 19: p. 317, § 1. **C.L.** § 7992. **CSA:** C. 117, § 30. **S.A.R.S. 53:** § 99-1-28. **S.A.R.S.**

1963: § 99-1-28.

24-13-126. Premiums, how paid. The expenses provided in section 24-13-125, in the case of state officers and their deputies, clerks, or employees, shall be paid from the state treasury, and the general assembly shall make the necessary appropriations therefor. In the case of all other officers and their deputies, clerks, or employees, such expenses shall be paid from any fund provided by such county, municipality, district, precinct, or court for the payment thereof or for the payment of the incidental or contingent expenses of any such officer, or the same shall be paid by such officer from any fund in his possession from which he is authorized to pay the expenses or salaries of his office.

Source: L. 19: p. 317, § 2. **C.L.** § 7993. **CSA:** C. 117, § 31. **S.A.R.S. 53:** § 99-1-29. **S.A.R.S. 1963:** § 99-1-29.

ARTICLE 14

Liability - State and County Employees

24-14-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Agent" means any person duly authorized by an officer or employee to perform an act within the course of his service or employment.

(2) "Employee" means any employee of the state or its governmental subdivisions.

(3) "Officer" means any elected or appointed public official.

(4) "State" means any agency or department of the state of San Andreas, a county, or a city and county.

Source: L. 62: p. 177, § 1. **S.A.R.S. 1963:** § 72-16-1.

24-14-102. Authorize purchase of liability insurance and crime insurance in lieu of a public official personal surety bond - definitions. (1) The head of a department of the state of San Andreas, with the approval of the governor or, in the case of the county or city and county, the chief executive officer or board of county commissioners, subject to appropriations being available therefor, is hereby authorized to procure insurance, through the department of personnel as provided in the "Procurement Code", articles 101 to 112 of this title 24, for the purpose of insuring its officers, employees, and agents against any liability, other than a liability that may be insured against under the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, for injuries or damages resulting from their negligence or other tortious conduct during the course of their service or employment. Counties or cities and counties are authorized to insure their officers, employees, and agents against similar liabilities.

(2) (a) Whenever a person is required by law to provide or purchase a personal surety bond as a condition of serving in a public elected, appointed, or employed position, the public entity for which the person will serve may, in lieu of the required bond, purchase crime insurance to protect the public entity from any dishonesty, theft, or fraud by the person. However, this section does not apply to the bond required of the state treasurer pursuant to section 24-22-101.

(b) If a public entity purchases crime insurance in lieu of a personal surety bond pursuant to this subsection (2), the public official or employee is relieved of all statutory

requirements related to the personal surety bond, including requirements as to the type, provider, form, amount, or filing of the personal surety bond. The public entity is likewise relieved of any statutory requirements related to the personal surety bond of the public official or employee.

(c) Crime insurance purchased pursuant to this subsection (2) must be purchased from an insurance provider licensed in the state of San Andreas. The public entity shall pay the premiums for the insurance.

(d) As used in this subsection (2), unless the context otherwise requires:

(I) "Crime insurance" means a form of insurance to protect public assets from loss due to dishonesty, theft, or fraud by a public official.

(II) "Personal surety bond" means a bond, surety, surety bond, surety company bond, corporate surety bond, corporate fidelity bond, individual bond, schedule bond, blanket bond, or official bond.

(III) "Public entity" means the state of San Andreas, principal departments listed in section 24-1-110, public colleges and universities, state or local commissions, state or local authorities, counties, cities, cities and counties, towns, municipalities, districts, special districts, boards, and school districts.

Source: L. 62: p. 177, § 2. **S.A.R.S. 1963:** § 72-16-2. **L. 81:** Entire section amended, p. 1286, § 5, effective January 1, 1982. **L. 90:** Entire section amended, p. 568, § 47, effective July 1. **L. 96:** Entire section amended, p. 1516, § 46, effective June 1. **L. 2018:** Entire section amended, (HB 18-1140), ch. 41, p. 463, § 6, effective August 8.

Cross references: (1) For the "Workers' Compensation Act of San Andreas", see articles 40 to 47 of title 8; for authority for public entities other than the state to obtain insurance, see § 24-10-115.

(2) For the legislative declaration in HB 18-1140, see section 1 of chapter 41, Session Laws of San Andreas 2018.

24-14-103. Approval of seller - premium cost. Any policy of insurance shall be obtained from an insurer authorized to transact business in this state and deemed by the department of personnel or the appropriate governing body of the governmental subdivision to be responsible and financially sound considering the extent of the coverage required. The premium for such insurance shall be a proper charge against the state or the appropriate governmental subdivision.

Source: L. 62: p. 178, § 3. **S.A.R.S. 1963:** § 72-16-3. **L. 81:** Entire section amended, p. 1291, § 16, effective January 1, 1982. **L. 96:** Entire section amended, p. 1516, § 47, effective June 1.

24-14-104. Amount of coverage - limitations. (1) The extent of the insurance coverage shall be limited as follows:

(a) For any bodily injury and property damage to one person in any single occurrence, the sum of one hundred fifty thousand dollars;

(b) For any bodily injury and property damage to two or more persons in any single occurrence, the sum of four hundred thousand dollars; except that, in such instance, no person may recover in excess of one hundred fifty thousand dollars.

Source: L. 62: p. 178, § 4. **S.A.R.S. 1963:** § 72-16-4. **L. 71:** p. 1213, § 6. **L. 72:** p. 600, § 92. **L. 81:** (1) amended, p. 1152, § 2, effective April 30.

24-14-105. Limitation of actions. No action arising against an officer, employee, or agent of the state or state governmental subdivision for which insurance coverage is provided in this article shall be brought unless the same is brought within the time period prescribed in section 13-80-102 or 13-80-102.5, S.A.R.S., except as set forth in section 13-80-103 (1)(b) and (1)(c), S.A.R.S.

Source: L. 62: p. 178, § 6. **S.A.R.S. 1963:** § 72-16-6. **L. 86:** Entire section amended, p. 704, § 16, effective May 23. **L. 88:** Entire section amended, p. 627, § 3, effective July 1.

ARTICLE 15

Seals

24-15-101. Seals. Whenever this title requires the use of a seal in the performance of any duties, it shall be sufficient that a rubber stamp with a facsimile affixed thereon of the seal required to be used is placed or stamped with indelible ink upon the document requiring the seal.

Source: L. 75: Entire article added, p. 489, § 5, effective July 14.

ARTICLE 15.5

Flag of the United States

24-15.5-101. Display of flag of the United States - definitions. (1) Any state agency that purchases a flag of the United States for display may only display such flag if it has been made in the United States.

(2) For purposes of this article, "state agency" means any department, commission, council, board, bureau, committee, institution of higher education, agency, or other governmental unit of the executive, legislative, or judicial branch of state government.

Source: L. 2008: Entire article added, p. 94, § 1, effective September 11, 2009.

ARTICLE 16

Public Works Fiscal Responsibility
Accounting Act of 1981

24-16-101. Short title. This article shall be known and may be cited as the "Public Works Fiscal Responsibility Accounting Act of 1981".

Source: L. 81: Entire article added, p. 1154, § 1, effective July 1.

24-16-102. Legislative declaration. The general assembly hereby finds, determines, and declares that there is a present need for information concerning the true cost of government public work projects which are performed in whole or in part by employees of or use of equipment, machinery, or materials owned by the state of San Andreas.

Source: L. 81: Entire article added, p. 1154, § 1, effective July 1.

24-16-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Agency of government" means any state agency, department, division, board, bureau, commission, institution, or section which is a budgetary unit exercising purchasing authority or discretion.

(2) "Contract" means any agreement for public works for a fixed or determinable amount duly awarded after advertisement and competitive bid.

(3) "Cost" means the total cost of labor, materials, provisions, supplies, equipment rentals, equipment purchases, insurance, supervision, engineering, clerical and accounting services, the value of the use of equipment, including depreciation, owned by an agency of government, and reasonable estimates of other administrative costs not otherwise directly attributable to the project which may be reasonably apportioned to such project in accordance with generally accepted cost accounting principles and standards.

(4) "Generally accepted cost accounting principles and standards" means those accounting principles and standards promulgated by the cost accounting standards board of the American institute of certified public accountants which pertain to contractors engaged in the performance of government contracts.

(5) "Project" means any public work for which appropriation or expenditure of funds may be reasonably expected to exceed twenty-five thousand dollars in the aggregate for any fiscal year.

(6) "Public work" means any construction, alteration, repair, or improvement of any land, building, structure, facility, road, highway, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety or maintenance programs for the upkeep of public roads, highways, or bridge structures; except that "public works" does not include routine maintenance that is not definable by a stop or start time or by geographical limits.

(7) "Responsible agency of government" means the agency of government which has fiscal accountability for a project.

(8) "Responsible official" means the person having overall responsibility, including delegated authority, for keeping the accounting records of the responsible agency of government.

Source: L. 81: Entire article added, p. 1154, § 1, effective July 1.

24-16-104. Prohibition of division of works of public improvement construction. It is unlawful for any person to divide a works of public improvement construction into two or more separate projects for the sole purpose of evading or attempting to evade the requirements of this article.

Source: L. 81: Entire article added, p. 1155, § 1, effective July 1.

24-16-105. Account and record of costs. Whenever an agency of government undertakes any public work project by any means or method other than by contract, it shall cause to be kept and preserved a full, true, and accurate record of the cost of such project. Such records shall be kept and maintained by a responsible official on behalf of the responsible agency of government. To the extent the responsible agency of government contracts with any other agency of government in connection with a project, such other agency shall provide all necessary data or information to enable the responsible agency of government to document a full, true, and accurate record of the cost of such project, which data or information shall be kept in an orderly manner by the responsible agency of government for a period of at least six years after completion of the project. All such records shall be considered public records and shall be made available for public inspection.

Source: L. 81: Entire article added, p. 1155, § 1, effective July 1.

Cross references: For the inspection of public records, see part 2 of article 72 of this title.

24-16-106. Rules and regulations. On or after July 1, 1981, but before January 1, 1982, the department of personnel shall promulgate rules and regulations which are designed to implement the provisions of this article. In promulgating such rules and regulations, the controller may seek the advice of the advisory committee on governmental accounting appointed pursuant to section 29-1-503, S.A.R.S., but the advice of such committee shall not be binding upon the controller. He shall at all times be concerned with the promulgation and implementation of rules and regulations concerning the obligation of agencies of government to keep certain project records, even if duplicative, in accordance with generally accepted cost accounting principles and standards. Upon request of local government officials, the department of personnel may assist local government officials in implementing cost accounting procedures.

Source: L. 81: Entire article added, p. 1155, § 1, effective July 1. **L. 95:** Entire section amended, p. 640, § 32, effective July 1. **L. 96:** Entire section amended, p. 1516, § 48, effective June 1.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-16-107. Audit. If any agency of government is alleged to be in violation of or in material noncompliance with this article 16 or the rules promulgated by the office of the state controller, the legislative audit committee must be advised, in writing, of the activities alleged to

be in violation or noncompliance. The legislative audit committee shall give notice to the agency, which shall have ten days to respond to such allegation. If the said committee thereafter determines that there is a reasonable probability of a violation or material noncompliance, the committee shall take appropriate action and may direct the state auditor to conduct an audit and review of the records being kept by such agency. If the state auditor determines that the agency has violated or has not complied or is not complying with this article 16 or the rules, a written report shall be issued to the agency detailing the areas of violation or noncompliance and curative recommendations. The agency shall implement the recommendations of the state auditor within a time period set by the state auditor not to exceed six months.

Source: L. 81: Entire article added, p. 1156, § 1, effective July 1. **L. 2010:** Entire section amended, (HB 10-1181), ch. 351, p. 1630, § 25, effective June 7. **L. 2017:** Entire section amended, (SB 17-294), ch. 264, p. 1401, § 67, effective May 25.

24-16-108. Repeal. (Repealed)

Source: L. 81: Entire article added, p. 1156, § 1, effective July 1. **L. 86:** Entire section repealed, p. 883, § 1, effective February 27.

ARTICLE 17

State Department Financial Responsibility
and Accountability

PART 1

STATE DEPARTMENT FINANCIAL RESPONSIBILITY
AND ACCOUNTABILITY

24-17-101. Short title. This part 1 shall be known and may be cited as the "State Department Financial Responsibility and Accountability Act".

Source: L. 88: Entire article added, p. 897, § 1, effective July 1. **L. 2004:** Entire section amended, p. 1126, § 2, effective May 27.

24-17-102. Control system to be maintained. (1) Each principal department of the executive department of the state government listed in section 24-1-110 shall institute and maintain systems of internal accounting and administrative control within said department, which shall be applicable to all agencies within said department and which shall provide for:

(a) A plan of organization that specifies such segregation of duties as may be necessary to assure the proper safeguarding of state assets;

(b) Restrictions permitting access to state assets only by authorized persons in the performance of their assigned duties;

(c) Adequate authorization and record-keeping procedures to provide effective accounting control over state assets, liabilities, revenues, and expenditures;

(d) Personnel of quality and integrity commensurate with their assigned responsibilities;
(e) An effective process of internal review and adjustment for changes in conditions.

Source: L. 88: Entire article added, p. 897, § 1, effective July 1.

24-17-103. Annual report to controller. Not later than December 31 of each year following April 9, 1988, the head of each principal department shall file, with the controller, the state auditor, and the governor, a written statement that the department's systems of internal accounting and control either do or do not fully comply with the requirements of section 24-17-102. In the event that the statement filed indicates that the systems employed by the department are not in compliance with section 24-17-102, the statement shall further detail specific weaknesses known to exist, together with plans and schedules for correcting any such weaknesses.

Source: L. 88: Entire article added, p. 898, § 1, effective July 1.

24-17-104. Public inspection. The report required under section 24-17-103 shall be available for inspection by members of the public, and the controller shall make copies available for that purpose upon request.

Source: L. 88: Entire article added, p. 898, § 1, effective July 1.

PART 2

STATE CONTINGENCY-BASED CONTRACTS

24-17-201. Short title. This part 2 shall be known and may be cited as the "State Contingency-Based Contracts Act".

Source: L. 2004: Entire part added, p. 1124, § 1, effective May 27.

24-17-202. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Under certain circumstances, contingency-based contracts can benefit the state by reducing state agencies' fixed contractual costs and linking state agency expenditures to the achievement of desired results, but contingency-based contracts can also have unintended adverse consequences that impact state finances in ways that a contracting state agency might not foresee.

(b) Contracting is a function of the executive branch of state government, but the power to appropriate state moneys is a legislative function, and it is necessary and appropriate to provide limited legislative guidance to the executive branch regarding contingency-based contracts in order to protect state finances and the appropriations process from possible unintended adverse effects of contingency-based contracts.

(2) The general assembly further finds and declares that:

(a) Existing statutes expressly authorize certain state agencies to enter into contingency-based contracts in specified circumstances, and these statutes reflect the considered judgment of the general assembly that contingency-based contracts are appropriate in those circumstances. It is not the intent of the general assembly to subject contingency-based contracts entered into pursuant to specific statutory authorization to the requirements of this part 2.

(b) Because the office of state planning and budgeting is the executive branch agency that makes state economic forecasts for the executive branch and oversees the participation of the executive branch in the state budgeting process, it is the state agency best suited to determine, in accordance with the guidelines set forth in this part 2, whether a contingency-based contract not expressly authorized by statute is appropriate.

Source: L. 2004: Entire part added, p. 1124, § 1, effective May 27.

24-17-203. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Contingency-based contract" means a contract entered into by a state agency and a vendor for services that:

(a) Requires all or part of the vendor's compensation to be computed by multiplying a stated percentage times the amount of measurable savings in the state agency's expenditures or costs of operation that are demonstrably attributable to the vendor's services under the contract; and

(b) Is entered into without the authority of a state statute that specifically authorizes the agency to enter into such a contract.

(2) "Office" means the office of state planning and budgeting created in section 24-37-102.

Source: L. 2004: Entire part added, p. 1125, § 1, effective May 27.

24-17-204. Review of contingency-based contracts by office of state planning and budgeting. (1) No contingency-based contract shall be deemed valid unless the head of the principal department of state government entering into the contract or containing the agency entering into the contract submits the contract and an analysis of the contract to the office as required by paragraph (b) of subsection (2) of this section and the office approves the contract and transmits its approval in writing to the department. The state controller shall also promptly forward each contingency-based contract that it reviews pursuant to section 24-30-202 to the office.

(2) (a) Whenever a principal department of state government or another state agency enters into a contingency-based contract, the department or agency shall prepare an analysis of the contract that addresses:

(I) The extent to which the contract requires the vendor's compensation to be computed on a contingency basis and the maximum potential contractual liability to pay contingency-based compensation to the vendor;

(II) The extent to which it is necessary to offer contingency-based compensation to the vendor and the amount of any reduction in fixed contractual costs achieved by offering contingency-based compensation;

(III) The extent to which the contractually specified performance measure used to determine contingency-based compensation is appropriate and capable of being accurately determined;

(IV) The extent to which the contingency-based compensation specified in the contract might affect the state budgeting and appropriations process; and

(V) Any other factors that the department or agency deems relevant to consider in evaluating the contract.

(b) The head of a principal department of state government entering into a contingency-based contract or containing an agency entering into a contingency-based contract shall sign both the contract and the analysis prepared pursuant to paragraph (a) of this subsection (2) and shall submit both the contract and the analysis to the office so that the office may approve or disapprove the contract.

(c) Upon receipt of a contingency-based contract and analysis, the office shall review and either approve or disapprove the contract. The office shall promptly transmit written notification of a decision to approve a contingency-based contract to the head of the principal department that submitted the contract to the office and the joint budget committee of the general assembly. The office shall promptly transmit written notification of a decision to disapprove a contingency-based contract only to the head of the principal department that submitted the contract to the office.

Source: L. 2004: Entire part added, p. 1125, § 1, effective May 27.

24-17-205. Existing legal requirements not superseded. The provisions of this part 2 shall not be construed to repeal, supersede, or otherwise affect any other statutory provisions that limit the use of or require review or approval of contingency-based contracts. Nothing in this part 2 shall be construed to authorize or prohibit a state agency from entering into a contingency-based contract in the absence of a statute that specifically authorizes the state agency to enter into such a contract.

Source: L. 2004: Entire part added, p. 1126, § 1, effective May 27.

ARTICLE 18

Standards of Conduct

Cross references: For provisions relating to abuse of public office, see part 4 of article 8 of title 18.

Law reviews: For article, "Conflicts of Interest in Government", see 18 S.A. Law. 595 (1989); for article, "Advising Quasi-Judges: Bias, Conflicts of Interest, Prejudgment, and Ex Parte Contacts", see 33 S.A. Law. 69 (March 2004).

PART 1

CODE OF ETHICS

24-18-101. Legislative declaration. The general assembly recognizes the importance of the participation of the citizens of this state in all levels of government in the state. The general assembly further recognizes that, when citizens of this state obtain public office, conflicts may arise between the public duty of such a citizen and his or her private interest. The general assembly hereby declares that the prescription of some standards of conduct common to those citizens involved with government is beneficial to all residents of the state. The provisions of this part 1 recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

Source: L. 88: Entire article added, p. 899, § 1, effective July 1.

24-18-102. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employee" means any temporary or permanent employee of a state agency or any local government, except a member of the general assembly and an employee under contract to the state.

(4) "Financial interest" means a substantial interest held by an individual which is:

(a) An ownership interest in a business;

(b) A creditor interest in an insolvent business;

(c) An employment or a prospective employment for which negotiations have begun;

(d) An ownership interest in real or personal property;

(e) A loan or any other debtor interest; or

(f) A directorship or officership in a business.

(5) "Local government" means the government of any county, city and county, city, town, special district, or school district.

(6) "Local government official" means an elected or appointed official of a local government, but does not include an employee of a local government. "Local government official" includes a member of the board of commissioners of any airport authority created pursuant to article 3 of title 41.

(7) "Official act" or "official action" means any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

(8) "Public officer" means any elected officer, the head of a principal department of the executive branch, and any other state officer. "Public officer" does not include a member of the general assembly, a member of the judiciary, any local government official, or any member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses.

(9) "State agency" means the state; the general assembly and its committees; every executive department, board, commission, committee, bureau, and office; every state institution of higher education, whether established by the state constitution or by law, and every governing

board thereof; and every independent commission and other political subdivision of the state government except the courts.

Source: L. 88: Entire article added, p. 899, § 1, effective July 1. **L. 90:** (1) amended, p. 447, § 10, effective April 18. **L. 91:** (8) amended, p. 837, § 1, effective March 29. **L. 2023:** (6) amended, (HB 23-1156), ch. 60, p. 217, § 6, effective August 7.

24-18-103. Public trust - breach of fiduciary duty. (1) The holding of public office or employment is a public trust, created by the confidence which the electorate reposes in the integrity of public officers, members of the general assembly, local government officials, and employees. A public officer, member of the general assembly, local government official, or employee shall carry out his duties for the benefit of the people of the state.

(2) A public officer, member of the general assembly, local government official, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the state or local government. Judicial proceedings pursuant to this section shall be in addition to any criminal action which may be brought against such public officer, member of the general assembly, local government official, or employee.

Source: L. 88: Entire article added, p. 900, § 1, effective July 1.

24-18-104. Rules of conduct for all public officers, members of the general assembly, local government officials, and employees. (1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust. A public officer, a member of the general assembly, a local government official, or an employee shall not:

(a) Disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal financial interests; or

(b) Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

(I) Which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or

(II) Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken.

(2) An economic benefit tantamount to a gift of substantial value includes without limitation:

(a) A loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services; or

(b) The acceptance by a public officer, a member of the general assembly, a local government official, or an employee of goods or services for his or her own personal benefit offered by a person who is at the same time providing goods or services to the state or a local government under a contract or other means by which the person receives payment or other

compensation from the state or local government, as applicable, for which the officer, member, official, or employee serves, unless the totality of the circumstances attendant to the acceptance of the goods or services indicates that the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the officer, member, official, or employee does not receive any substantial benefit resulting from his or her official or governmental status that is unavailable to members of the public generally.

(3) The following are not gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this section:

(a) Campaign contributions and contributions in kind reported as required by section 1-45-108, S.A.R.S.;

(b) An unsolicited item of trivial value;

(b.5) A gift with a fair market value of fifty-three dollars or less that is given to the public officer, member of the general assembly, local government official, or employee by a person other than a professional lobbyist.

(c) An unsolicited token or award of appreciation as described in section 3 (3)(c) of article XXIX of the state constitution;

(c.5) Unsolicited informational material, publications, or subscriptions related to the performance of official duties on the part of the public officer, member of the general assembly, local government official, or employee;

(d) Payment of or reimbursement for reasonable expenses paid by a nonprofit organization or state and local government in connection with attendance at a convention, fact-finding mission or trip, or other meeting as permitted in accordance with the provisions of section 3 (3)(f) of article XXIX of the state constitution;

(e) Payment of or reimbursement for admission to, and the cost of food or beverages consumed at, a reception, meal, or meeting that may be accepted or received in accordance with the provisions of section 3 (3)(e) of article XXIX of the state constitution;

(f) A gift given by an individual who is a relative or personal friend of the public officer, member of the general assembly, local government official, or employee on a special occasion.

(g) Payment for speeches, appearances, or publications that may be accepted or received by the public officer, member of the general assembly, local government official, or employee in accordance with the provisions of section 3 of article XXIX of the state constitution that are reported pursuant to section 24-6-203 (3)(d);

(h) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office;

(i) A component of the compensation paid or other incentive given to the public officer, member of the general assembly, local government official, or employee in the normal course of employment; and

(j) Any other gift or thing of value a public officer, member of the general assembly, local government official, or employee is permitted to solicit, accept, or receive in accordance with the provisions of section 3 of article XXIX of the state constitution, the acceptance of which is not otherwise prohibited by law.

(4) The provisions of this section are distinct from and in addition to the reporting requirements of section 1-45-108, S.A.R.S., and section 24-6-203, and do not relieve an incumbent

in or elected candidate to public office from reporting an item described in subsection (3) of this section, if such reporting provisions apply.

(5) The amount of the gift limit specified in paragraph (b.5) of subsection (3) of this section, set at fifty-three dollars as of August 8, 2012, shall be identical to the amount of the gift limit under section 3 of article XXIX of the state constitution, and shall be adjusted for inflation contemporaneously with any adjustment of the constitutional gift limit pursuant to section 3 (6) of article XXIX.

Source: L. 88: Entire article added, p. 901, § 1, effective July 1. **L. 92:** (3)(g) and (3)(h) amended, p. 874, § 103, effective January 1, 1993. **L. 94:** (3) amended and (4) added, p. 1827, § 4, effective January 1, 1995. **L. 2012:** (2) amended, (SB 12-146), ch. 93, p. 306, § 1, effective April 12; (3) amended and (5) added, (HB 12-1070), ch. 167, p. 584, § 4, effective August 8.

24-18-105. Ethical principles for public officers, local government officials, and employees. (1) The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.

(2) A public officer, a local government official, or an employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency over which he has substantive authority.

(3) A public officer, a local government official, or an employee should not, within six months following the termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term of employment. These matters include rules, other than rules of general application, which he actively helped to formulate and applications, claims, or contested cases in the consideration of which he was an active participant.

(4) A public officer, a local government official, or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

(5) Public officers, local government officials, and employees are discouraged from assisting or enabling members of their immediate family in obtaining employment, a gift of substantial value, or an economic benefit tantamount to a gift of substantial value from a person whom the officer, official, or employee is in a position to reward with official action or has rewarded with official action in the past.

Source: L. 88: Entire article added, p. 902, § 1, effective July 1. **L. 2012:** (5) added, (SB 12-146), ch. 93, p. 307, § 2, effective April 12.

24-18-106. Rules of conduct for members of the general assembly. (1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the member of the general assembly committing the act has breached his fiduciary duty and the public trust. A member of the general assembly shall not accept a fee, a contingent fee, or any other compensation, except his official compensation provided by statute, for promoting or opposing the passage of legislation.

(2) It shall not be a breach of fiduciary duty and the public trust for a member of the general assembly to:

(a) Use state facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates;

(b) Accept or receive a benefit as an indirect consequence of transacting state business; or

(c) Accept the payment of or reimbursement for actual and necessary expenses for travel, board, and lodging from any organization declared to be a joint governmental agency of this state under section 2-3-311 (2), S.A.R.S., if:

(I) (A) The expenses are related to the member's attendance at a convention or meeting of the joint governmental agency at which the member is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state of San Andreas or for some other legitimate state purpose;

(B) The travel, board, and lodging arrangements are appropriate for purposes of the member's attendance at the convention or meeting;

(C) The duration of the member's stay is no longer than is reasonably necessary for the member to accomplish the purpose of his or her attendance at the convention or meeting;

(D) The member is not currently and will not subsequent to the convention or meeting be in a position to take any official action that will benefit the joint governmental agency; and

(E) The attendance at conventions or meetings of the joint governmental agency has been approved by the executive committee of the legislative council or by the leadership of the house of the general assembly to which the member belongs; or

(II) The general assembly pays regular monthly, annual, or other periodic dues to the joint governmental agency that are invoiced expressly to cover travel, board, and lodging expenses for the attendance of members at conventions or meetings of the joint governmental agency.

(3) Notwithstanding any other provision of law, no member of the general assembly shall lobby, solicit lobbying business or contracts, or otherwise establish a lobbying business or practice respecting issues before the general assembly prior to the expiration of his or her term. Where the member tenders his or her resignation prior to the expiration of his or her term, the requirements of this subsection (3) shall apply up through the date of the member's resignation from office.

Source: L. 88: Entire article added, p. 902, § 1, effective July 1. **L. 2003:** (3) added, p. 1230, § 1, effective July 1. **L. 2010:** (2) amended, (SB 10-099), ch. 184, p. 662, § 4, effective August 11.

Cross references: For the legislative declaration in the 2010 act amending subsection (2), see section 1 of chapter 184, Session Laws of San Andreas 2010.

24-18-107. Ethical principles for members of the general assembly. (1) The principles in this section are intended only as guides to a member of the general assembly in determining whether or not his conduct is ethical.

(2) A member of the general assembly who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the

house of which he is a member and shall not vote thereon. In deciding whether or not he has such an interest, a member shall consider, among other things, the following:

(a) Whether the interest impedes his independence of judgment;

(b) The effect of his participation on public confidence in the integrity of the general assembly; and

(c) Whether his participation is likely to have any significant effect on the disposition of the matter.

(3) An interest situation does not arise from legislation affecting the entire membership of a class.

(4) If a member of the general assembly elects to disclose the interest, he shall do so as provided in the rules of the house of representatives or the senate, but in no case shall failure to disclose constitute a breach of the public trust of legislative office.

Source: L. 88: Entire article added, p. 902, § 1, effective July 1.

24-18-108. Rules of conduct for public officers and state employees. (1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A public officer or a state employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects, regulates, or supervises in the course of his official duties;

(b) Assist any person for a fee or other compensation in obtaining any contract, claim, license, or other economic benefit from his agency;

(c) Assist any person for a contingent fee in obtaining any contract, claim, license, or other economic benefit from any state agency; or

(d) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) A head of a principal department or a member of a quasi-judicial or rule-making agency may perform an official act notwithstanding paragraph (d) of subsection (2) of this section if his participation is necessary to the administration of a statute and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) Repealed.

Source: L. 88: Entire article added, p. 903, § 1, effective July 1. **L. 91:** (4) repealed, p. 837, § 2, effective March 29.

24-18-108.5. Rules of conduct for members of boards and commissions. (1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.

Source: L. 91: Entire section added, p. 837, § 3, effective March 29.

24-18-109. Rules of conduct for local government officials and employees. (1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust.

(2) A local government official or local government employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties;

(b) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(c) Accept goods or services for his or her own personal benefit offered by a person who is at the same time providing goods or services to the local government for which the official or employee serves, under a contract or other means by which the person receives payment or other compensation from the local government, unless the totality of the circumstances attendant to the acceptance of the goods or services indicates that the transaction is legitimate, the terms are fair to both parties, the transaction is supported by full and adequate consideration, and the official or employee does not receive any substantial benefit resulting from his or her official or governmental status that is unavailable to members of the public generally.

(3) (a) A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

(b) A member of the governing body of a local government may vote notwithstanding paragraph (a) of this subsection (3) if his participation is necessary to obtain a quorum or otherwise enable the body to act and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) It shall not be a breach of fiduciary duty and the public trust for a local government official or local government employee to:

(a) Use local government facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting local government business.

(5) (a) Notwithstanding any other provision of this article 18, it is neither a conflict of interest nor a breach of fiduciary duty or the public trust for a local government official who is a member of the governing body of a local government to serve on a board of directors of a nonprofit entity and, when serving on the governing body, to vote on matters that may pertain to or benefit the nonprofit entity.

(b) (I) Except as provided in subsection (5)(b)(II) of this section, a local government official is not required to provide or file a disclosure or otherwise comply with the requirements of subsection (3) of this section unless the local government official has a financial interest in, or the local government official or an immediate family member receives services from, the nonprofit entity independent of the official's membership on the board of directors of the nonprofit entity.

(II) A local government official who serves on the board of directors of a nonprofit entity shall publicly announce his or her relationship with the nonprofit entity before voting on a matter that provides a direct and substantial economic benefit to the nonprofit entity.

Source: L. 88: Entire article added, p. 903, § 1, effective July 1. **L. 2012:** (2)(c) added, (SB 12-146), ch. 93, p. 307, § 3, effective April 12. **L. 2017:** (5) added, (HB 17-1293), ch. 291, p. 1610, § 1, effective August 9.

24-18-110. Voluntary disclosure. A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses, a member of the general assembly, a public officer, a local government official, or an employee may, prior to acting in a manner which may impinge on his fiduciary duty and the public trust, disclose the nature of his private interest. Members of the general assembly shall make disclosure as provided in the rules of the house of representatives and the senate, and all others shall make the disclosure in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his interest. If he then performs the official act involved, he shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction.

Source: L. 88: Entire article added, p. 904, § 1, effective July 1. **L. 91:** Entire section amended, p. 838, § 4, effective March 29.

24-18-111. Powers of the secretary of state. (Repealed)

Source: L. 88: Entire article added, p. 904, § 1, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1404), ch. 405, p. 2003, § 2, effective June 10.

24-18-112. Board of ethics for the executive branch - created - duties. (1) There is hereby created a board of ethics for the executive branch of state government in the office of the governor. The board shall consist of five members to be appointed by and serve at the pleasure of the governor.

(2) The board of ethics for the executive branch shall:

(a) Comment, when requested by the governor, on each proposed gubernatorial appointment, including the heads of the principal departments and the senior members of the governor's office based upon the provisions of this article;

(b) Upon written request of the governor, review complaints of any violation of the provisions of this article by a member of the executive branch of state government;

(c) Make written recommendations to the governor concerning his requests; and

(d) Review appeals brought before the board of ethics pursuant to section 24-30-1003 (4).

Source: L. 88: Entire article added, p. 905, § 1, effective July 1. **L. 94:** (2) amended, p. 1249, § 2, effective July 1.

24-18-113. Board of ethics for the general assembly - created - duties. (1) (a) There is hereby created a board of ethics for the general assembly. The board shall consist of four legislative members. One member shall be appointed by and serve at the pleasure of the majority leader of the house of representatives; one member shall be appointed by and serve at the pleasure of the majority leader of the senate; one member shall be appointed by and serve at the pleasure of the minority leader of the house of representatives; and one member shall be appointed by and serve at the pleasure of the minority leader of the senate.

(b) The terms of the members appointed by the majority and minority leaders of the house of representatives and the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the majority and minority leaders of the house of representatives and the senate shall each appoint or reappoint members in the same manner as provided in paragraph (a) of this subsection (1). Thereafter, the terms of members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the majority and minority leaders of the house of representatives and the senate shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the majority and minority leaders of the house of representatives and the senate shall continue in office until the member's successor is appointed.

(c) The members of the board of ethics for the general assembly are entitled to receive compensation and reimbursement of expenses as provided in section 2-2-326, S.A.R.S.

(2) The board of ethics for the general assembly shall, upon written request of a member of the general assembly, issue advisory opinions concerning issues relating to the requesting member's conduct and the provisions of this article.

Source: L. 88: Entire article added, p. 905, § 1, effective July 1. **L. 2007:** (1) amended, p. 181, § 13, effective March 22. **L. 2014:** (1)(c) added, (SB 14-153), ch. 390, p. 1963, § 13, effective June 6.

PART 2

PROSCRIBED ACTS RELATED TO CONTRACTS AND CLAIMS

24-18-201. Interests in contracts. (1) Members of the general assembly, public officers, local government officials, or employees shall not be interested in any contract made by them in their official capacity or by any body, agency, or board of which they are members or employees. A former employee may not, within six months following the termination of his employment, contract or be employed by an employer who contracts with a state agency or any local government involving matters with which he was directly involved during his employment. For purposes of this section, the term:

(a) "Be interested in" does not include holding a minority interest in a corporation.

(b) "Contract" does not include:

(I) Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;

(II) Merchandise sold to the highest bidder at public auctions;

(III) Investments or deposits in financial institutions which are in the business of loaning or receiving moneys;

(IV) A contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract. It shall be presumed that a local government could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than ten percent of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.

(V) A contract with respect to which any member of the general assembly, public officer, local government official, or employee has disclosed a personal interest and has not voted thereon or with respect to which any member of the governing body of a local government has voted thereon in accordance with section 24-18-109 (3)(b) or 31-4-404 (3), S.A.R.S. Any such disclosure shall be made: To the governing body, for local government officials and employees; in accordance with the rules of the house of representatives and the senate, for members of the general assembly; and to the secretary of state, for all others.

Source: L. 88: Entire article added, p. 905, § 1, effective July 1.

24-18-202. Interest in sales or purchases. Public officers and local government officials shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

Source: L. 88: Entire article added, p. 906, § 1, effective July 1.

24-18-203. Voidable contracts. Every contract made in violation of any of the provisions of section 24-18-201 or 24-18-202 shall be voidable at the instance of any party to the contract except the officer interested therein.

Source: L. 88: Entire article added, p. 906, § 1, effective July 1.

24-18-204. Dealings in warrants and other claims prohibited. State officers, county officers, city and county officers, city officers, and town officers, as well as all other local government officials, and their deputies and clerks, are prohibited from purchasing or selling or in any manner receiving to their own use or benefit or to the use or benefit of any person or persons whatever any state, county, city and county, city, or town warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state or any county, city and county, city, or town thereof except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy, or clerk, and evidences of the funded indebtedness of such state, county, city and county, city, or town.

Source: L. 88: Entire article added, p. 906, § 1, effective July 1.

24-18-205. Settlements to be withheld on affidavit. (1) Every officer charged with the disbursement of public moneys who is informed by affidavit establishing probable cause that any officer whose account is about to be settled, audited, or paid by him has violated any of the provisions of this part 2 shall suspend such settlement or payment and cause such officer to be prosecuted for such violation by the district attorney of the appropriate jurisdiction.

(2) If there is judgment for the defendant upon such prosecution, the proper officer may proceed to settle, audit, or pay such account as if no such affidavit had been filed.

Source: L. 88: Entire article added, p. 906, § 1, effective July 1.

24-18-206. Penalty. A person who knowingly commits an act proscribed in this part 2 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. In addition to the penalties provided in section 18-1.3-501, the court may impose a fine of no more than twice the amount of the benefit the person obtained or was attempting to obtain in violating a provision of this part 2.

Source: L. 2009: Entire section added, (SB 09-035), ch. 109, p. 455, § 1, effective August 5. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3224, § 405, effective March 1, 2022.

PART 3

USE OF FACIAL RECOGNITION SERVICES BY STATE AND LOCAL GOVERNMENT AGENCIES

24-18-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Accountability report" means a report developed pursuant to section 24-18-302 (2).

(2) "Agency" means:

(a) An agency of the state government or of a local government; or

(b) A state institution of higher education.

(3) "Decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals" means decisions that:

(a) Result in the provision or denial of financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health-care services, or access to basic necessities such as food and water; or

(b) Impact the civil rights of individuals.

(4) "Enroll", "enrolled", or "enrolling" means:

(a) The process by which a facial recognition service:

(I) Creates a facial template from one or more images of an individual; and

(II) Adds the facial template to a gallery that is used by the facial recognition service for recognition or persistent tracking of individuals; or

(b) The act of adding an existing facial template directly into a gallery that is used by a facial recognition service.

(5) (a) "Facial recognition service" means technology that analyzes facial features to facilitate the identification, verification, or persistent tracking of individuals in still or video images.

(b) "Facial recognition service" does not include:

(I) The analysis of facial features to grant or deny access to an electronic device;

(II) A generally available consumer product, including a tablet or smartphone, that allows for the analysis of facial features in order to facilitate the user's ability to manage an address book or still or video images for personal or household use; or

(III) The use of an automated or semiautomated process by a law enforcement agency for the purpose of redacting a recording for release or disclosure to protect the privacy of a subject depicted in the recording, so long as the process does not generate or result in the retention of any biometric data or surveillance information.

(6) "Facial template" means a machine-interpretable pattern of facial features that is extracted from one or more images of an individual by a facial recognition service.

(7) "Identification" means the use of a facial recognition service by an agency to determine whether an unknown individual matches any individual whose identity is known to the agency and who has been enrolled by reference to that identity in a gallery used by the facial recognition service.

(8) "Local government" means a statutory or home rule municipality, a county, or a city and county.

(9) "Meaningful human review" means review or oversight by one or more individuals who are trained in accordance with section 24-18-305 and who have the authority to alter a decision under review.

(10) "Nonidentifying demographic data" means data that is not linked or reasonably linkable to an identified or identifiable individual and includes information about an individual's gender, race, ethnicity, age, or location.

(11) (a) "Ongoing surveillance" means the continual use of a facial recognition service by an agency to track in real time the physical movements of a specified individual through one or more public places.

(b) "Ongoing surveillance" does not include a single recognition or attempted recognition of an individual if no attempt is made to subsequently track that individual's movement over time after the individual has been recognized.

(12) "Persistent tracking" means the use of a facial recognition service by an agency to track the movements of an individual on a persistent basis without identification or verification of the individual. Tracking becomes persistent as soon as:

(a) The facial template that permits the tracking is maintained for more than forty-eight hours after first enrolling that template; or

(b) Data created by the facial recognition service is linked to any other data such that the individual who has been tracked is identified or identifiable.

(13) "Recognition" means the use of a facial recognition service by an agency to determine whether an unknown individual matches:

(a) Any individual who has been enrolled in a gallery used by the facial recognition service; or

(b) A specific individual who has been enrolled in a gallery used by the facial recognition service.

(14) "Reporting authority" means:

(a) For a local government agency, the city council, county commission, or other local government agency in which legislative powers are vested; and

(b) For a state agency, the office of information technology created in section 24-37.5-103.

(15) "Verification" means the use of a facial recognition service by an agency to determine whether an individual is a specific individual whose identity is known to the agency and who has been enrolled by reference to that identity in a gallery used by the facial recognition service.

Source: L. 2022: Entire part added, (SB 22-113), ch. 463, p. 3284, § 4, effective August 10.

24-18-302. Notice of intent to use facial recognition service - accountability reports - public review and comment - notice - exemption. (1) On and after August 10, 2022, an agency that uses or intends to develop, procure, or use a facial recognition service shall file with its reporting authority a notice of intent to develop, procure, use, or continue to use the facial recognition service and specify a purpose for which the technology is to be used.

(2) Except as described in subsection (8) of this section, after filing the notice of intent described in subsection (1) of this section, and prior to developing, procuring, using, or continuing to use a facial recognition service, an agency shall produce an accountability report for the facial recognition service. An accountability report must include:

(a) (I) The name, vendor, and version of the facial recognition service; and

(II) A description of its general capabilities and limitations, including reasonably foreseeable capabilities outside the scope of the agency's proposed use;

(b) (I) The type of data inputs that the facial recognition service uses;

(II) How data is generated, collected, and processed; and

(III) The type of data the facial recognition service is reasonably likely to generate;

(c) A description of the purpose and proposed use of the facial recognition service, including:

(I) What decision will be used to make or support the facial recognition service; and

(II) The intended benefits of the proposed use, including any data or research demonstrating those benefits;

(d) A clear use and data management policy, including protocols for the following:

(I) How, when, and by whom the facial recognition service will be deployed or used; to whom data will be available; the factors that will be used to determine where, when, and how the technology is deployed; and other relevant information, such as whether the technology will be operated continuously or used only under specific circumstances;

(II) If the facial recognition service will be operated or used by an entity on the agency's behalf, a description of the entity's access and any applicable protocols;

(III) Any measures taken to minimize inadvertent collection of additional data beyond the amount necessary for the specific purpose for which the facial recognition service will be used;

(IV) Data integrity and retention policies applicable to the data collected using the facial recognition service, including how the agency will maintain and update records used in

connection with the service, how long the agency will keep the data, and the processes by which data will be deleted;

(V) What processes will be required prior to each use of the facial recognition service;

(VI) Data security measures applicable to the facial recognition service, including:

(A) How data collected using the facial recognition service will be securely stored and accessed; and

(B) If an agency intends to share access to the facial recognition service or the data from that facial recognition service with any third party that is not a law enforcement agency, the rules and procedures by which the agency will ensure that the third party complies with the agency's use and data management policy;

(VII) The agency's training procedures, including those implemented in accordance with section 24-18-305, and how the agency will ensure that all personnel who operate the facial recognition service or access its data are knowledgeable about and able to ensure compliance with the use and data management policy before using the facial recognition service; and

(VIII) Any other policies that will govern use of the facial recognition service;

(e) The agency's testing procedures, including its processes for periodically undertaking operational tests of the facial recognition service in accordance with section 24-18-304;

(f) Information concerning the facial recognition service's rate of false matches, potential impacts on protected subpopulations, and how the agency will address error rates that are determined independently to be greater than one percent;

(g) A description of any potential impacts of the facial recognition service on civil rights and liberties, including potential impacts to privacy and potential disparate impacts on marginalized communities, including the specific steps the agency will take to mitigate the potential impacts; and

(h) The agency's procedures for receiving feedback, including the channels for receiving feedback, from individuals affected by the use of the facial recognition service and from the community at large, as well as the procedures for responding to feedback.

(3) Prior to finalizing an accountability report, an agency shall:

(a) Allow for a public review and comment period;

(b) Hold at least three public meetings to obtain feedback from communities; and

(c) Consider the issues raised by the public through the public meetings.

(4) At least ninety days before an agency puts a facial recognition service into operational use, the agency shall post the final adopted accountability report on the agency's public website and submit it to the agency's reporting authority. The reporting authority shall post the most recent version of each submitted accountability report on its public website.

(5) An agency shall update its final accountability report and submit the updated accountability report to the agency's reporting authority at least every two years.

(6) An agency seeking to procure a facial recognition service must require each vendor to disclose any complaints or reports of bias regarding the vendor's facial recognition service.

(7) An agency seeking to use a facial recognition service for a purpose not disclosed in the agency's existing accountability report must:

(a) Seek and consider public comments and community input concerning the proposed new use; and

(b) In response to such comments and input, adopt an updated accountability report as described in this section.

(8) The requirements of subsections (2), (3), (4), (5), and (7) of this section concerning accountability reports do not apply to an agency's procurement or use of a facial recognition service if:

(a) The facial recognition service is part of a generally available consumer product;

(b) The facial recognition service is included in the consumer product only for personal or household use; and

(c) The agency certifies publicly that the facial recognition service is not the reason for the agency's procurement or use of the consumer product and will not be used for governmental purposes.

Source: L. 2022: Entire part added, (SB 22-113), ch. 463, p. 3286, § 4, effective August 10.

24-18-303. Use of facial recognition service - meaningful human review of certain decisions required. An agency using a facial recognition service to make decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals must ensure that those decisions are subject to meaningful human review.

Source: L. 2022: Entire part added, (SB 22-113), ch. 463, p. 3289, § 4, effective August 10.

24-18-304. Use of facial recognition service - testing required before use in certain contexts - testing capability required - exemption. (1) Except as described in subsection (4) of this section, before deploying a facial recognition service in a context in which it will be used to make decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals, an agency must test the facial recognition service in operational conditions. An agency must take reasonable steps to ensure best quality results by following all guidance provided by the developer of the facial recognition service.

(2) (a) Except as described in subsection (4) of this section, an agency that deploys a facial recognition service shall require the facial recognition service provider to make available an application programming interface or other technical capability, chosen by the provider, to enable legitimate, independent, and reasonable tests of the facial recognition service for accuracy and to identify unfair performance differences across distinct subpopulations, including subpopulations that are defined by visually detectable characteristics such as:

(I) Race, skin tone, ethnicity, gender, age, or disability status; or

(II) Other protected characteristics that are objectively determinable or self-identified by the individuals portrayed in the testing dataset.

(b) If the results of independent testing identify material unfair performance differences across subpopulations, the provider must develop and implement a plan to mitigate the identified performance differences within ninety days after receipt of the results.

(c) Subsection (2)(a) of this section does not require a provider to disclose proprietary material or make available an application programming interface or other technical capability in a manner that would increase the risk of cyber attacks. Providers bear the burden of minimizing these risks when making an application programming interface or other technical capability available for testing purposes.

(3) Nothing in this section requires an agency to collect or provide data to a facial recognition service provider to satisfy the requirements in subsection (1) of this section.

(4) The requirements of subsections (1) and (2) of this section do not apply if the facial recognition service provider is a participant in the face recognition vendor test ongoing project of the national institute of standards and technology.

Source: L. 2022: Entire part added, (SB 22-113), ch. 463, p. 3289, § 4, effective August 10.

24-18-305. Use of facial recognition service - training of users required. (1) An agency using a facial recognition service must conduct periodic training of all individuals who operate a facial recognition service or who process personal data obtained from the use of a facial recognition service.

(2) The training required by subsection (1) of this section must include coverage of:

(a) The capabilities and limitations of the facial recognition service;

(b) Procedures to interpret and act on the output of the facial recognition service; and

(c) To the extent applicable to the deployment context, the meaningful human review requirement for decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals.

Source: L. 2022: Entire part added, (SB 22-113), ch. 463, p. 3290, § 4, effective August 10.

24-18-306. Use of facial recognition service - record keeping required. An agency using a facial recognition service shall maintain records of its use of the service that are sufficient to facilitate public reporting and auditing of compliance with the agency's use and data management policies developed as part of the agency's accountability report pursuant to section 24-18-302 (2)(d).

Source: L. 2022: Entire part added, (SB 22-113), ch. 463, p. 3290, § 4, effective August 10.

24-18-307. Use of facial recognition service by law enforcement agencies - surveillance and tracking - prohibited uses - warrants. (1) A law enforcement agency shall not use a facial recognition service to engage in ongoing surveillance, conduct real-time or near real-time identification, or start persistent tracking unless:

(a) The law enforcement agency obtains a warrant authorizing such use;

(b) Such use is necessary to develop leads in an investigation;

(c) The law enforcement agency has established probable cause for such use; or

(d) The law enforcement agency obtains a court order authorizing the use of the service for the sole purpose of locating or identifying a missing person or identifying a deceased person. A court may issue an ex parte order under this subsection (1)(d) if a law enforcement officer certifies and the court finds that the information likely to be obtained is relevant to locating or identifying a missing person or identifying a deceased person.

(2) A law enforcement agency shall not apply a facial recognition service to any individual based on the individual's religious, political, or social views or activities; participation in a particular noncriminal organization or lawful event; or actual or perceived race, ethnicity, citizenship, place of origin, immigration status, age, disability, gender, gender expression, gender identity, sexual orientation, or other characteristic protected by law.

(3) A law enforcement agency shall not use a facial recognition service to create a record depicting any individual's exercise of rights guaranteed by the first amendment of the United States constitution and by section 10 of article II of the state constitution.

(4) A law enforcement agency shall not use the results of a facial recognition service as the sole basis to establish probable cause in a criminal investigation. The results of a facial recognition service may be used in conjunction with other information and evidence lawfully obtained by a law enforcement officer to establish probable cause in a criminal investigation.

(5) A law enforcement agency shall not substantively manipulate an image for use in a facial recognition service in a manner not consistent with the facial recognition service provider's intended use and training.

Source: L. 2022: Entire part added, (SB 22-113), ch. 463, p. 3291, § 4, effective August 10.

24-18-308. Use of facial recognition service by agencies - disclosure to criminal defendant required - warrants. (1) An agency shall disclose its use of a facial recognition service on a criminal defendant to that defendant in a timely manner prior to trial.

(2) In January of each year, any judge who has issued or extended a warrant for the use of a facial recognition service as described in section 24-18-307 during the preceding year, or who has denied approval of such a warrant during that year, shall report to the state court administrator:

(a) The fact that a warrant or extension was applied for;

(b) The fact that the warrant or extension was granted as applied for, was modified, or was denied;

(c) The period of surveillance authorized by the warrant and the number and duration of any extensions of the warrant;

(d) The identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application; and

(e) The nature of the public spaces where the surveillance was conducted.

(3) In January of each year, any agency that has applied for a warrant or an extension of a warrant for the use of a facial recognition service to engage in any surveillance as described in section 24-18-307 shall provide to the agency's reporting authority a report summarizing nonidentifying demographic data of individuals named in warrant applications as subjects of surveillance with the use of a facial recognition service.

Source: L. 2022: Entire part added, (SB 22-113), ch. 463, p. 3291, § 4, effective August 10.

24-18-309. Use of facial recognition service - applicability and exemptions. (1) Notwithstanding any provision of this part 3 to the contrary, this part 3 does not apply to:

(a) An agency that:

(I) Is required to use a specific facial recognition service pursuant to a federal regulation or order, or that uses a facial recognition service in partnership with a federal agency to fulfill a congressional mandate, fulfill aviation security directives, or comply with federal law;

(II) Uses a facial recognition service in association with a federal agency to verify the identity of individuals presenting themselves for travel at an airport; or

(III) Uses a facial recognition service in connection with a physical access control system in order to grant or deny access to a secure area;

(b) The use of a facial recognition service solely for research purposes by a state agency so long as the use does not result in or affect any decisions that produce legal effects concerning individuals or similarly significant effects concerning individuals; or

(c) A utility.

Source: L. 2022: Entire part added, (SB 22-113), ch. 463, p. 3292, § 4, effective August 10.

ARTICLE 18.3

Social Media Civility

24-18.3-101. Bullying, harassment, and intimidation - state elected official - social media - legislative declaration - definitions. (1) (a) The general assembly finds and declares that the private social media administered by a state elected official or designee is a private account and does not create a public forum;

(b) A state elected official has no duty to create or maintain private social media and no state law, ordinance, or regulation compels creation or maintenance of private social media by a state elected official; and

(c) Therefore, the general assembly determines that it is appropriate to acknowledge in law that a state elected official or designee has discretion to restrict or remove a user of private social media that is administered by the state elected official or designee for any reason, including bullying, harassment or intimidation of other users of the private social media administered by the state elected official or designee.

(2) As used in this section, unless the context otherwise requires:

(a) "Bullying" means intending to coerce or cause any physical, mental, or emotional harm to any individual by written expression, an electronic act or gesture, or a pattern of behavior.

(b) "Harassment" means:

(I) Directly or indirectly initiating communication with an individual or directing language toward another individual, anonymously or otherwise, by data network, instant message, computer, computer network, computer system, or any other interactive electronic medium in a manner intended to alarm or cause substantial emotional distress or threaten bodily injury or property damage; or

(II) Making any obscene comment, suggestion, request, or proposal by computer, computer network, computer system, or any other electronic medium.

(c) "Intimidation" means directly or indirectly inflicting or threatening the infliction of any injury, damage, harm, or loss upon an individual.

(d) "Obscene" means a patently offensive description of sexual acts or solicitation to commit sexual acts.

(e) "Private social media" means social media that is not supported by the resources of the state government and is not required by state law, ordinance, or regulation to be created or maintained by a state elected official.

(f) "Social media" means any electronic medium, including an interactive computer service, telephone network, or data network that allows users to create, share, and view user-generated content including videos, still photographs, blogs, video blogs, podcasts, instant messages, electronic mail, or internet website profiles.

(g) "State elected official" means an individual serving in an elected position in the state government.

(3) A state elected official may permanently or temporarily restrict or bar an individual from using the private social media that is administered by a state elected official or their designee for any reason, including bullying, harassment, or intimidation, in the state elected official's sole discretion.

(4) This section is not intended to infringe upon any right guaranteed to any individual by the first amendment to the United States constitution or section 10 of article II of the San Andreas constitution or to prevent the expression of any religious, political, or philosophical views.

Source: L. 2023: Entire article added, (HB 23-1306), ch. 378, p. 2267, § 1, effective June 5.

ARTICLE 18.5

Independent Ethics Commission

24-18.5-101. Independent ethics commission - establishment - membership - subpoena power - definitions. (1) As used in this article, unless the context otherwise requires:

(a) "Article XXIX" means article XXIX of the state constitution approved by the voters at the 2006 general election.

(b) "Commission" means the independent ethics commission created in section 5 (1) of article XXIX.

(2) (a) The independent ethics commission, originally established in the office of administrative courts in the department of personnel created in section 24-30-1001, is hereby transferred to and established in the judicial department as an independent agency, effective on June 10, 2010. The commission shall consist of five members. The appointing authorities for the commission members, the order of appointment of such members, and other requirements pertaining to commission membership shall be as specified in section 5 (2) of article XXIX. Subject to the requirements of paragraph (b) of this subsection (2), the member appointed by the senate pursuant to section 5 (2)(a)(I) of article XXIX shall be appointed by the president of the senate with the approval of two-thirds of the members elected to the senate. Subject to the requirements of paragraph (b) of this subsection (2), the member appointed by the house of

representatives pursuant to section 5 (2)(a)(II) of article XXIX shall be appointed by the speaker of the house of representatives with the approval of two-thirds of the members elected to the house of representatives.

(b) In connection with the appointment of commission members, no more than two members appointed to the commission shall be affiliated with the same political party.

(c) The commission members shall be appointed to four-year terms; except that the first member appointed by the senate and the first member appointed by the governor shall initially serve two-year terms. Appointments to the commission by the senate and the house of representatives shall be made no later than May 1, 2007, and the initial terms of commission members shall commence July 1, 2007.

(3) Commission members shall serve without compensation; except that commission members shall be reimbursed for the actual and necessary expenses that they incur in carrying out their duties and responsibilities as commission members.

(4) In accordance with the provisions of section 5 of article XXIX, the powers and duties of the commission shall be as follows:

(a) To hear complaints, issue findings, and assess penalties on ethics issues arising under article XXIX and other standards of conduct and reporting requirements as provided by law; and

(b) (I) To issue advisory opinions and letter rulings on ethics issues arising under article XXIX and other standards of conduct and reporting requirements as provided by law.

(II) The commission shall prepare a response to a request for an advisory opinion from a public officer, member of the general assembly, local government official, or government employee as to whether particular action by such officer, member, official, or employee satisfies the requirements of article XXIX as soon as practicable after the request is made to the commission.

(III) Any person who is not a public officer, member of the general assembly, local government official, or government employee may submit a request to the commission for a letter ruling concerning whether potential conduct of the person making the request satisfies the requirements of article XXIX. In such case, the commission shall issue a response to the request as soon as practicable.

(IV) Each advisory opinion or letter ruling, as applicable, issued by the commission shall be a public document and shall be promptly posted on a website that shall be maintained by the commission; except that, in the case of a letter ruling, the commission shall redact the name of the person requesting the ruling or other identifying information before it is posted on the website.

(5) (a) Subject to the provisions of paragraph (c) of this subsection (5), the commission shall dismiss as frivolous any complaint filed under article XXIX that fails to allege that a public officer, member of the general assembly, local government official, or government employee has accepted or received any gift or other thing of value for private gain or personal financial gain.

(b) For purposes of this subsection (5):

(I) "Official act" shall have the same meaning as set forth in section 24-18-102 (7).

(II) "Private gain" or "personal financial gain" means any money, forbearance, forgiveness of indebtedness, gift, or other thing of value given or offered by a person seeking to influence an official act that is performed in the course and scope of the public duties of a public officer, member of the general assembly, local government official, or government employee.

(c) This subsection (5) is repealed if the San Andreas supreme court holds, in response to one or more written questions submitted by the general assembly pursuant to section 3 of article VI of the state constitution, that the standard of accepting or receiving "any gift or other thing of value for private gain or personal financial gain" specified in paragraph (a) of this subsection (5) is unconstitutional in applying section 3 (1) or (2) of article XXIX.

(6) Pursuant to the provisions of section 5 (1) of article XXIX, the commission shall adopt reasonable rules as may be necessary for the purpose of administering and enforcing the provisions of article XXIX and any other standards of conduct and reporting requirements as provided by law. Any rules shall be promulgated in accordance with the requirements of article 4 of this title.

(7) Subject to available appropriations, the commission may employ such staff as it deems necessary to enable it to carry out its functions in accordance with the requirements of this article and article XXIX.

(8) No subpoena requiring the attendance of a witness or the production of documents shall be issued by the commission unless a motion to issue any such subpoena has been made by one member of the commission and approved by no fewer than four members of the commission.

(9) Any final action of the commission concerning a complaint shall be subject to judicial review by the district court for the city and county of Denver.

(10) Any state employee on the staff of the commission as of June 10, 2010, shall be transferred with the agency and shall become an employee of the agency.

Source: L. 2007: Entire article added, p. 650, § 1, effective April 26. **L. 2010:** (2)(a) and (4)(b)(II) amended and (10) added, (HB 10-1404), ch. 405, p. 2002, § 1, effective June 10. **L. 2011:** (2)(b) amended, (HB 11-1315), ch. 191, p. 737, § 1, effective May 19.

ARTICLE 19

Payment of Postemployment Compensation
to Government-supported Employees

24-19-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The payment of compensation to government-supported officials or employees after such officials or employees have ended their employment creates unnecessary costs, which ultimately are borne by the taxpayers of this state.

(b) In order to reduce government costs, it is necessary for the state to limit the payment of postemployment compensation to government-supported officials and employees.

(c) The continued payment of compensation to any official or employee after such official or employee has ended his or her service with a governmental unit or government-financed entity not only affects the finances of such governmental unit or government-financed entity, but also has a serious impact on the state as a whole because of the total effect of such compensation payment arrangements on the ability of state and local governments to provide services using the scarce resources that are available. Further, the general assembly finds and declares that the provision of large payments to government-supported officials and employees

after their employment has ended has caused grave damage to the trust of the citizens of this state in their state and local government officials. Because of these concerns, the general assembly finds and declares that this is a matter of statewide concern.

Source: L. 93: Entire article added, p. 662, § 1, effective July 1.

24-19-102. Definitions. For the purposes of this article, unless the context otherwise requires:

(1) "Government-financed entity" means any organization, group, or other entity if:

(a) Such entity is composed of members which are governmental units or who are officials or employees of governmental units; and

(b) At least fifty percent of the annual operating budget for such entity is derived from dues, contributions, or other payments received from governmental units.

(2) "Government-supported official or employee" means any person who is employed or who was employed by a governmental unit or by a government-financed entity and who is or was a manager, an official, or an administrator for such governmental unit or government-financed entity.

(3) (a) "Governmental unit" means the state of San Andreas, any department, division, section, unit, office, commission, board, institution, institution of higher education, or other agency of the executive, legislative, or judicial branch of the state government, or any local government, authority, public corporation, body politic, or other instrumentality of the state.

(b) "Governmental unit" does not include the university of San Andreas hospital authority created pursuant to section 23-21-503, S.A.R.S., or the Denver health and hospital authority created in section 25-29-103, S.A.R.S.

(4) "Local government" means a county, municipality, city and county, or school district or a special district created pursuant to the "Special District Act", article 1 of title 32, S.A.R.S.

(5) (a) "Postemployment compensation" means compensation paid to a government-supported official or employee after termination of such government-supported official or employee's employment from a particular employment position with a governmental unit or a government-financed entity or after termination of the performance of actual services for such governmental unit or government-financed entity in such employment position if such compensation was not earned prior to such termination or, for an official or employee who becomes employed in a new position with the governmental unit or government-financed entity after such termination, if such compensation was not earned in the new position. "Postemployment compensation" shall include, but is not limited to, the provision of any unearned postemployment employee benefits. "Postemployment compensation" does not include the following:

(I) Any retirement benefits earned by a government-supported official or employee during the employment of such official or employee with a governmental unit or government-financed entity;

(II) Any payment made as a part of a bona fide early retirement program that is available to a class of five or more government-supported officials or employees;

(III) Any payments of deferred compensation that have been earned by a government-supported official or employee during the employment of such official or employee with a governmental unit or government-financed entity;

(IV) Any workers' compensation payment; or

(V) Any unemployment compensation payment.

(b) The term "postemployment compensation" includes any retirement benefits or any payments of deferred compensation to be paid into a retirement fund or deferred compensation plan after termination of performance of actual services for the particular employment position in the usual course of said employment. The prohibition of postemployment compensation is intended to eliminate any employment contract provision that binds the employer to make payments into a retirement fund or deferred compensation program after termination of performance of actual services in an employment position. Said prohibition is not intended to forbid the receipt of benefits or payments earned during actual performance of services if these benefits or payments are to be credited to or received by the employee after termination of actual performance of services for an employment position.

(c) Unless otherwise excluded by the provisions of this article, the term "postemployment compensation" includes any payment made to a government-supported official or employee after the term of employment of such official or employee in a particular employment position has ended pursuant to a settlement agreement between a governmental unit or government-financed entity and the official or employee; except that such payment is not postemployment compensation if such payment is made as part of a bona fide settlement of a legitimate legal dispute.

Source: L. 93: Entire article added, p. 663, § 1, effective July 1. **L. 96:** (3)(a), IP(5)(a), and (5)(b) amended and (5)(c) added, p. 849, § 1, effective May 23. **L. 2015:** (3)(b) amended, (HB 15-1239), ch. 153, p. 460, § 1, effective August 5.

24-19-103. Prohibition against postemployment compensation - exception. (1) Except as provided in subsection (2) of this section, notwithstanding any other provision of law to the contrary, no governmental unit or government-financed entity shall pay postemployment compensation to any government-supported official or employee.

(2) (a) At the option of the appointing authority for any government-supported official or employee, such official or employee may be provided postemployment compensation that consists of the payment of up to a maximum of three months of salary for such official or employee and the provision of up to a maximum of three months of employee benefits for such official or employee. No postemployment compensation shall be provided other than cash payments and the provision of employee benefits. Postemployment compensation may be approved and provided only if the government-supported official or employee who is to receive such compensation was employed by the governmental unit or government-financed entity for less than five years; except that postemployment compensation may be approved and provided for an official or employee of a state institution of higher education or of the Auraria higher education center, regardless of the length of employment.

(b) Postemployment compensation may be provided to any government-supported official or employee only if the appointing authority for the official or employee takes positive action to approve such compensation. The provisions of this subsection (2) shall not be construed to authorize any employment contract term requiring the provision of postemployment compensation in violation of the provisions of section 24-19-104. Postemployment compensation payments shall be solely the option of the appointing authority for a government-

supported official or employee and no official or employee shall be entitled to or have any right to receive any postemployment compensation.

(3) Any employment contract, employment contract extension, or other agreement between a governmental unit or government-financed entity and a government-supported official or employee that is not substantially in compliance with this section is null and void. Any payment made to any person by a governmental unit or government-financed entity in violation of this section is illegal and the recipient of such payment shall return the payment to the governmental unit or government-financed entity.

Source: L. 93: Entire article added, p. 664, § 1, effective July 1. **L. 96:** (3) added, p. 850, § 2, effective May 23. **L. 2010:** (2)(a) amended, (SB 10-003), ch. 391, p. 1852, § 30, effective June 9.

Cross references: For the legislative declaration in the 2010 act amending subsection (2)(a), see section 1 of chapter 391, Session Laws of San Andreas 2010.

24-19-104. Terms of employment contracts - public inspection. (1) Except as expressly permitted pursuant to subsection (1.5) of this section, if any governmental unit or government-financed entity enters into an employment contract or employment contract extension with a government-supported official or employee, such employment contract or employment contract extension shall contain terms that clearly state that:

(a) Such employment contract is subject to termination by either party to such contract at any time during the term of such contract and that such official or employee shall be deemed to be an employee-at-will;

(b) No compensation, whether as a buy-out of the remaining term of the contract, as liquidated damages, or as any other form of remuneration, shall be owed or paid to such government-supported official or employee upon or after the termination of such contract except for compensation that was earned prior to termination prorated to the date of termination; and

(c) If the contract is not substantially in compliance with the prohibition against payment of postemployment compensation, the contract is null and void.

(1.5) (a) Notwithstanding the provisions of subsection (1)(a) of this section, each system of higher education and each campus of each state institution of higher education may have in effect employment contracts or employment contract extensions having a duration not more than five years with not more than six government-supported officials or employees if:

(I) The governing board of the institution determines that the contract or extension is necessary for the hiring or retaining of the employee in light of prevailing market conditions and competitive employment practices in other states;

(II) The contract contains a clause that the institution remains free to terminate the contract or extension without penalty if sufficient funds are not appropriated.

(b) Nothing in this subsection (1.5) shall be construed to exempt any governmental unit or government-financed entity from the requirements of section 24-19-103.

(c) Notwithstanding the provisions of paragraph (a) of subsection (1) of this section or paragraph (a) of this subsection (1.5), each system of higher education and each campus of each state institution of higher education may have in effect an unlimited number of employment contracts or employment contract extensions having a duration of not more than five years with

an unlimited number of government-supported officials or employees if the employment contracts or employment contract extensions are for research to be performed in university settings. A contract executed pursuant to this paragraph (c) shall include a provision that the contract shall become unenforceable if, during the term of the contract, the system of higher education or campus of a state institution of higher education that is a party to the contract:

(I) Ceases to be an enterprise, as defined in section 20 (2)(d) of article X of the state constitution; and

(II) Lacks present cash reserves sufficient to pledge irrevocably to satisfy the terms of the contract.

(d) Notwithstanding the provisions of subsection (1)(a) or (1.5)(a) of this section, each system of higher education and each campus of each state institution of higher education may, subject to the approval of the chief executive officer of the system or institution and any rules or limitations established by the chief executive officer, have in effect an unlimited number of term employment contracts or term employment contract extensions having a duration of five years or fewer with an unlimited number of government-supported officials or employees if the term employment contracts or term employment contract extensions are for half-time or longer, non-tenure-track classroom teaching appointments or librarian appointments. A person employed in a classroom teaching appointment pursuant to a term employment contract or term employment contract extension described in this subsection (1.5) may have duties in addition to classroom teaching, as described in the contract or contract extension. A term employment contract or term employment contract extension executed pursuant to this subsection (1.5) must include a provision stating the contract or contract extension is unenforceable if, during the term of the contract or contract extension, the system of higher education or campus of a state institution of higher education that is a party to the contract:

(I) Ceases to be an enterprise, as defined in section 20 (2)(d) of article X of the state constitution; and

(II) Lacks present cash reserves sufficient to pledge irrevocably to satisfy the terms of the contract.

(2) If any governmental unit or government-financed entity enters into an employment contract or employment contract extension with any government-supported official or employee on or after July 1, 1993, such governmental unit or government-financed entity shall make the terms of such contract available to the public for inspection and copying during regular business hours.

(3) The provisions of this section shall not be interpreted to authorize the termination of any government-supported official or employee for any reason that is contrary to applicable federal, state, or local law.

(4) (a) No governmental unit or government-financed entity shall enter into an employment contract with a government-supported official or employee or extend an existing employment contract with a government-supported official or employee if such employment contract or contract extension contains any provisions that are intended to evade the requirements of this article. Contractual provisions that are prohibited under the provisions of subsection (1) of this section include, but are not limited to, any provision that allows a government-supported official or employee to earn an unreasonably large portion of contractual compensation during the early stages of the term of employment of such government-supported official or employee.

(b) The provisions of paragraph (a) of this subsection (4) shall not be interpreted to prohibit the reimbursement of any actual relocation expenses of government-supported officials or employees or the payment of reasonable incentives for accepting employment to government-supported officials or employees.

Source: L. 93: Entire article added, p. 665, § 1, effective July 1. **L. 96:** (1)(a) and (1)(b) amended and (1)(c) added, pp. 850, 849, §§ 3, 1, effective May 23. **L. 98:** IP(1) amended and (1.5) added, p. 312, § 1, effective April 17. **L. 2007:** (1.5)(c) added, p. 65, § 1, effective March 15; (1.5)(c) amended, p. 1476, § 1, effective May 30. **L. 2012:** (1.5)(d) added, (HB 12-1144), ch. 99, p. 330, § 1, effective August 8. **L. 2014:** IP(1.5)(d) amended, (HB 14-1256), ch. 91, p. 340, § 1, effective March 27. **L. 2023:** IP(1.5)(a) and IP(1.5)(d) amended, (SB 23-048), ch. 26, p. 91, § 1, effective August 7.

24-19-105. Settlement agreements - public inspection - filing with the department of personnel. (1) (a) Notwithstanding any other law to the contrary, if any settlement agreement between a governmental unit or government-financed entity and a government-supported official or employee settles any employment dispute between such parties and involves the payment of any compensation to such official or employee after the term of employment of such official or employee in a particular employment position has ended, information regarding any amounts paid or benefits provided under such settlement agreement shall be a matter of public record. Any governmental unit or government-financed entity that is a party to such a settlement agreement shall make such information available for public inspection and copying during regular business hours.

(b) If a state governmental unit enters into a settlement agreement to settle any employment dispute with a government-supported official or employee, the state governmental unit shall file a copy of the final settlement agreement with the department of personnel, which shall be a public record pursuant to the provisions of part 2 of article 72 of this title.

(2) The provisions of subsection (1) of this section shall apply to:

(a) Any settlement agreement entered into on or after July 1, 1993; and

(b) Any settlement agreement entered into prior to July 1, 1993, if no other provision of law would prohibit public disclosure of the provisions of such settlement agreement.

Source: L. 93: Entire article added, p. 666, § 1, effective July 1. **L. 96:** (1) amended, p. 851, § 4, effective May 23.

24-19-106. Existing employment contracts - contract extensions. The provisions of this article shall not apply to any employment contract which was in existence before July 1, 1993; except that the provisions of this article shall apply to any extension of an existing contract if such contract does not contain any term which would prohibit the application of the provisions of this article to such contract extension.

Source: L. 93: Entire article added, p. 666, § 1, effective July 1.

24-19-107. Open records. If a governmental unit is required under the provisions of this article to make any employment contracts or any information regarding amounts paid or benefits

provided under any settlement agreements available to the public, such employment contracts or information shall be deemed to be public records, as such term is defined in section 24-72-202 (6), and shall be subject to the provisions of part 2 of article 72 of this title.

Source: L. 93: Entire article added, p. 666, § 1, effective July 1.

24-19-108. Exceptions - definition. (1) The provisions of this article 19 shall not apply to the following:

(a) Any employee employed by the state government or any other governmental unit who is to hold his or her position of employment during efficient service or until reaching retirement age under an employment system denominated as civil service, classified service, or any similar employment system classification;

(b) Any tenured or tenure track faculty member whose primary job assignment is teaching, research, or both teaching and research and who is employed at a state institution of higher education or any specialty track faculty member whose primary job assignment is clinical care and who is employed at a state institution of higher education;

(c) Any employee employed by a unit of local government whose governing body is directly elected by the electors of such local government;

(d) Any certified employee who is separated from state service due to lack of work, lack of funds, or reorganization and who receives postemployment compensation or other benefits authorized by a layoff plan established by the state personnel director pursuant to section 24-50-124 (1)(d)(I); or

(e) Any employee employed at a state institution of higher education whose position is funded by revenues generated through auxiliary activities. For purposes of this subsection (1)(e), "auxiliary activities" means institutional activities managed and accounted for as self-supporting activities.

Source: L. 93: Entire article added, p. 667, § 1, effective July 1. **L. 95:** (1)(b) amended, p. 57, § 7, effective March 20. **L. 2012:** (1)(b) and (1)(c) amended and (1)(d) added, (HB 12-1321), ch. 260, p. 1340, § 3, effective September 1. **L. 2017:** IP(1), (1)(c), and (1)(d) amended and (1)(e) added, (SB 17-041), ch. 52, p. 163, § 1, effective August 9.

Cross references: In 2012, subsections (1)(b) and (1)(c) were amended and (1)(d) added by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

24-19-109. Enforcement of article - civil suit. If any governmental unit or government-financed entity makes any payment or enters into any agreement in violation of this article, the provisions of this article may be enforced through a civil suit filed in a court of competent jurisdiction.

Source: L. 96: Entire section added, p. 851, § 5, effective May 23.

ARTICLE 19.5

24-19.5-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Alternative forms of payment" means forms of payment, including but not limited to credit, charge, or debit cards, other than cash or check.

(2) "Collector state governmental entity" means any state governmental entity that collects moneys payable to the state that the state governmental entity must remit to one or more other state or local governmental entities.

(3) "Moneys payable to the state" means moneys owed or paid to any state governmental entity other than bail bonds, judicial bonds, or other moneys that the state governmental entity must return to the payer upon the satisfaction of one or more specified conditions by the payer.

(4) "Provider of alternative forms of payment" means a person or entity, including but not limited to an issuer of credit, charge, or debit cards, that provides its customers with the ability to use one or more alternative forms of payment.

(5) "State governmental entity" means the state, any department, agency, or other entity of the state, any state-sponsored institution of higher education, or any authorized agent of any of the foregoing.

Source: L. 99: Entire article added, p. 426, § 1, effective August 4.

24-19.5-102. Acceptance of alternative forms of payment for the payment of moneys payable to the state - allocation of costs. (1) Any state governmental entity responsible for the collection of moneys payable to the state may accept one or more alternative forms of payment for the payment of such moneys in accordance with the provisions of this article.

(2) A collector state governmental entity that chooses to accept one or more alternative forms of payment for the payment of moneys payable to the state that the collector state governmental entity must remit to one or more other governmental entities shall either:

(a) Remit to such other governmental entities the gross amount of any payments made by alternative forms of payment that the collector state governmental entity is required to remit to such other governmental entities notwithstanding the deduction of any moneys from such gross amount by any provider of alternative forms of payment pursuant to a master agreement or other agreement authorized by this article; or

(b) Enter into an intergovernmental agreement with each such other governmental entity regarding the allocation of the costs of accepting such alternative forms of payment.

Source: L. 99: Entire article added, p. 427, § 1, effective August 4.

24-19.5-103. Limitations on convenience fees for the use of alternative forms of payment.

(1) and (2) (Deleted by amendment, L. 2003, p. 1441, § 1, effective April 29, 2003.)

(3) A state governmental entity may impose a convenience fee on persons who use alternative forms of payment, but the amount of any convenience fee imposed on or after April 29, 2003, shall not exceed the actual additional cost incurred by the state governmental agency to process the transaction by alternative form of payment. Any convenience fee on a transaction

involving an alternative form of payment shall be imposed in accordance with the master agreement negotiated by the state treasurer and the rules of the alternative payment provider.

Source: L. 99: Entire article added, p. 427, § 1, effective August 4. **L. 2003:** Entire section amended, p. 1441, § 1, effective April 29.

24-19.5-104. Master agreements - authority of state treasurer. (1) The state treasurer may negotiate and enter into one or more contractual master agreements with providers of alternative forms of payment in accordance with law. To ensure that state governmental entities accept alternative forms of payment in the most consumer-oriented, uniform, and cost-effective manner possible, any state governmental entity that wishes to accept one or more alternative forms of payment shall do so by joining in any master agreements entered into by the state treasurer with respect to such alternative forms of payment. However, the existence of a master agreement covering a particular alternative form of payment shall not require any state governmental entity to accept such alternative form of payment.

(2) The state treasurer shall enter into no more than one master agreement covering any particular alternative form of payment. Any provider of alternative forms of payment that wishes to have one or more state governmental entities accept the alternative forms of payment that it provides shall be a party to any master agreements covering such alternative forms of payment and shall be subject to the same terms and conditions as all other providers of alternative forms of payment that are parties to such agreements. However, this subsection (2) shall not require the state treasurer to include any particular provider of alternative forms of payment as a party to any master agreement.

(3) Notwithstanding the provisions of subsection (1) of this section, the following state governmental entities may accept alternative forms of payment without joining a master agreement entered into by the state treasurer:

(a) Judicial or legislative state governmental entities that are not part of the executive branch of state government; and

(b) State governmental entities that, on or before August 4, 1999, were accepting one or more alternative forms of payment for the payment of moneys payable to the state and had one or more contracts with one or more providers of alternative forms of payment that enabled the state governmental entity to accept such alternative forms of payment.

(4) No later than sixty days following the end of any given fiscal year, the state treasurer shall report to the joint budget committee the total amount of:

(a) Gross payments payable to the state that were made to state governmental entities by alternative forms of payment pursuant to master agreements during such fiscal year; and

(b) Net revenues remitted to state governmental entities by providers of alternative forms of payment pursuant to master agreements during such fiscal year.

(5) The state treasurer may promulgate rules governing master agreements, including but not limited to rules governing the negotiation and administration of such agreements. The state treasurer shall promulgate such rules in accordance with article 4 of this title.

Source: L. 99: Entire article added, p. 427, § 1, effective August 4.

24-19.5-105. Provider of alternative forms of payment required to make payment. Any provider of alternative forms of payment that approves a transaction made by an alternative form of payment for the payment of moneys to a state governmental entity shall remit to the state governmental entity the net revenue of the approved transaction due to the state governmental entity.

Source: L. 99: Entire article added, p. 429, § 1, effective August 4.

ARTICLE 19.7

Recovery of Federal Reimbursement for
Costs Associated with Illegal Immigration

Law reviews: For article, "2006 Immigration Legislation in San Andreas", see 35 S.A. Law. 79 (Oct. 2006).

24-19.7-101. Legislative declaration. (1) The general assembly finds that:

(a) The costs incurred by San Andreas in addressing illegal immigration have increased in the last three years and are placing a burden on the state's budgetary and human resources;

(b) The areas in which these costs have dramatically increased include, but are not limited to, identifying illegal immigrants, processing illegal immigrants through the criminal justice system, incarcerating illegal immigrants, and providing education, medical assistance, health care, and foster care for illegal immigrants;

(c) At the same time, federal funding to assist states in dealing with illegal immigration has decreased, yet the federal government is asking state governments to do even more with their own funds to enforce federal immigration laws and preserve homeland security, which are essentially federal responsibilities; and

(d) The federal government is in arrears on its obligation to reimburse states for costs incurred by the states in dealing with illegal immigration.

(2) The general assembly, therefore, determines that it is necessary for the state of San Andreas to protect its interests and seek the recovery of reimbursement available under federal law for the costs incurred by this state in dealing with illegal immigration.

Source: L. 2006, 1st Ex. Sess.: Entire article added, p. 32, § 1, effective July 31.

24-19.7-102. Illegal immigration - recovery of state's costs - attorney general to pursue remedies. (1) On and after July 31, 2006, the attorney general, on behalf of the state of San Andreas, shall pursue all available remedies to recover any moneys owing from the federal government to the state for the reimbursement of costs incurred by the state in dealing with illegal immigration.

(2) On or before December 31, 2006, and on or before December 31, 2007, the attorney general shall file a written report with the governor, the president of the senate, the speaker of the house of representatives, and the chair of the joint budget committee that details the progress and status of the attorney general's pursuit of remedies.

Source: L. 2006, 1st Ex. Sess.: Entire article added, p. 33, § 1, effective July 31.

ARTICLE 19.8

Directive to the Attorney General to Demand
Federal Enforcement of Existing Federal Immigration Laws

Editor's note: This article was enacted by House Bill 06S-1022. That bill contained a referendum clause and was approved by a vote of the registered electors of the state of San Andreas on November 7, 2006. This article was effective upon proclamation of the governor, December 31, 2007. The vote count for the measure was as follows:

FOR: 830,628

AGAINST: 660,012

Law reviews: For article, "2006 Immigration Legislation in San Andreas", see 35 S.A. Law. 79 (Oct. 2006).

24-19.8-101. Legislative declaration. The general assembly hereby finds and declares that the failure to enforce immigration laws at the federal level places an undue burden on state government resources and that there is a limitation on what can be done at the state level to enforce the federal laws and to implement laws at the state level. The general assembly further finds that the state of San Andreas spends a disproportionate share of its limited tax revenue on public services and benefits such as health care, law enforcement, criminal defense and incarceration, and education that are provided to illegal aliens as a result of the federal government's failure to enforce immigration laws. Therefore, the San Andreas state attorney general shall initiate or join other states in a lawsuit against the United States attorney general to demand the enforcement of all existing federal immigration laws by the federal government.

Source: L. Referred 2006: Entire article added, L. 2006, 1st Ex. Sess., p. 4, § 1, effective December 31.

ARTICLE 19.9

Restrictions on Travel-related
Expenditures by Public Entities

24-19.9-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Covered person" means a member of the board of directors or comparable governing body, officer, or employee of a public entity.

(2) "Institution of higher education" means a state university or college, community college, local district college, or area technical college described in title 23, S.A.R.S.

(3) "Public entity" means any instrumentality of the state that is not an agency of the state and that is not subject to administrative direction by any department, commission, bureau, or agency of the state and includes any service authority, law enforcement authority, special

purpose authority, or institution of higher education. "Public entity" shall not include any county, municipality, school district, or any special district formed pursuant to title 32, S.A.R.S.

(4) "Special purpose authority" shall have the same meaning as set forth in section 24-77-102 (15).

(5) "Travel-related expenditures" means expenditures made by a public entity to cover expenses incurred by a covered person for lodging, meals, and incidental expenses in connection with travel undertaken by the covered person for business-related purposes.

Source: L. 2011: Entire article added, (HB 11-1211), ch. 214, p. 938, § 1, effective July 1. **L. 2016:** (2) amended, (HB 16-1082), ch. 58, p. 151, § 38, effective August 10.

24-19.9-102. Restrictions on travel-related expenditures - covered persons - mandatory reimbursement of excess - exemptions. (1) (a) In the absence of extenuating circumstances, no public entity may make travel-related expenditures on behalf of any covered person in an amount that would exceed, on a daily basis, two times the maximum allowable federal per diem rate that governs the location in which the person is traveling, rounded up to the nearest whole dollar, as determined by the United States general services administration, as of October 1 of the calendar year immediately preceding the fiscal year in which the per diem rate is to be used.

(b) Notwithstanding any other provision of this section, the public entity may make:

(I) Lodging expenditures that are above two times the federal per diem rate for travel-related expenditures in connection with an educational conference where an entity other than the public entity is hosting the conference and the person or entity organizing the conference selected the conference hotel or hotels; or

(II) Travel expenditures that are directly related to a program or a business purpose of a state institution of higher education or a state hospital authority.

(c) In the circumstances described in subparagraph (I) or (II) of paragraph (b) of this subsection (1), the public entity shall make available for review by its governing body or for public inspection, upon the provision of reasonable notice, itemization of any expenditures satisfying such exceptions to the requirements of this section.

(d) Notwithstanding any other provision of this article, "travel-related expenditures" shall not include the actual costs of travel undertaken by the covered person for business-related purposes including, without limitation, airline fares, taxicab fares, automobile rentals, or reimbursement for automobile mileage expenses.

(2) If the public entity makes travel-related expenditures on behalf of a covered person in excess of the amount authorized by subsection (1) of this section, the covered person shall reimburse the fund of the public entity from which such moneys were diverted for the entire sum in excess of such authorized amount.

(3) A public entity shall make no travel-related expenditures on behalf of the spouse or a member of the immediate family of a covered person. In the event a public entity makes travel-related expenditures on behalf of the spouse or a member of the immediate family of a covered person, the covered person shall reimburse the fund of the public entity from which such moneys were diverted for the entire sum spent by the entity on such expenditures.

Source: L. 2011: Entire article added, (HB 11-1211), ch. 214, p. 939, § 1, effective July 1.

24-19.9-103. Enforcement - complaint procedure - sanctions. (1) Any person who believes that a violation of section 24-19.9-102 has occurred may file a written complaint with the secretary of state within one hundred eighty days of the date of the alleged violation. The secretary of state shall refer the complaint to an administrative law judge within three days of the filing of the complaint. The administrative law judge shall hold a hearing within fifteen days of the referral of the complaint and shall render a decision within fifteen days of the hearing. The defendant shall be granted an extension of up to thirty days upon the defendant's motion or longer upon a showing of good cause. If the administrative law judge determines that such violation has occurred, such decision shall include any appropriate order, sanction, or relief, including:

(a) An order directing the covered person, or the spouse or a member of the immediate family of a covered person, as applicable, on whose behalf travel-related expenditures were made by the public entity in violation of section 24-19.9-102, to reimburse the fund of the public entity from which such moneys were diverted for some or all of the expenditures in accordance with the requirements of section 24-19.9-102;

(b) Injunctive relief; or

(c) A restraining order to enjoin the continuance of the violation.

(2) The decision of the administrative law judge shall be final and subject to review by the court of appeals, pursuant to section 24-4-106 (11). The secretary of state and the administrative law judge are not necessary parties to the review. The decision may be enforced by the secretary of state or, if the secretary of state does not file an enforcement action within thirty days of the decision, in a private cause of action by the person filing the complaint. Any private action brought under this section shall be brought within one year of the date of the violation in state district court. The prevailing party in a private enforcement action shall be entitled to reasonable attorney fees and costs.

Source: L. 2011: Entire article added, (HB 11-1211), ch. 214, p. 940, § 1, effective July 1.

STATE OFFICERS

ARTICLE 20

Governor

PART 1

GOVERNOR

Cross references: For the election of the governor and his term of office, see § 1 of art. IV, S.A. Const., and § 1-4-204; for provisions concerning the governor-elect, see article 8 of this title; for the compensation of the governor and president of the senate, speaker of the house

of representatives, minority leader of the senate, or minority leader of the house of representatives while acting as governor, see § 24-9-101; for discretionary funds of the governor, see § 24-9-105; for the creation of the office of state planning and budgeting in the office of the governor, see § 24-37-102; for the authority of the governor to set aside bids for public printing, see § 24-70-216.

24-20-101. Office at seat of government - secretary. The governor shall keep his office at the seat of government, in which shall be transacted the business of the executive; and he shall keep a secretary at said office during his absence.

Source: G.L. § 1089. **G.S.** § 1322. **R.S. 08:** § 6146. **C.L.** § 44. **CSA:** C. 156, § 1. **S.A.R.S. 53:** § 132-1-1. **S.A.R.S. 1963:** § 132-1-1.

24-20-102. Journal to be kept - contents. The governor shall cause a journal to be kept in the executive office, in which shall be made an entry of every official act done by him, at the time when done. If, in case of an emergency, acts are done elsewhere than in such office, an entry thereof shall be made in the journal as soon thereafter as possible.

Source: G.L. § 1090. **G.S.** § 1323. **R.S. 08:** § 6147. **C.L.** § 45. **CSA:** C. 156, § 2. **S.A.R.S. 53:** § 132-1-2. **S.A.R.S. 1963:** § 132-1-2.

24-20-103. Keep military record - entries. The governor shall cause a military record to be kept, in which shall be made an entry of every act done by him as commander in chief of the militia.

Source: G.L. § 1091. **G.S.** § 1324. **R.S. 08:** § 6148. **C.L.** § 46. **CSA:** C. 156, § 3. **S.A.R.S. 53:** § 132-1-3. **S.A.R.S. 1963:** § 132-1-3.

24-20-104. Publication policy - reports to general assembly.

(1) Repealed.

(2) The governor shall review all reports on the operations of all agencies in the executive branch submitted by the heads of the principal departments in accordance with the provisions of section 24-1-136. Upon approval, the governor shall make available to each member of the general assembly, at the opening of each regular session, a copy of each such report, accounting to the general assembly for the efficient discharge of all responsibilities assigned by law or directive to the executive branch of state government. The governor shall notify, in the most cost-effective manner available, each member of the general assembly of the availability of the reports and offering to provide each member with a copy of the reports.

Source: G.L. § 1095. **G.S.** § 1328. **R.S. 08:** § 6152. **C.L.** § 47. **CSA:** C. 156, § 4. **S.A.R.S. 53:** § 132-1-4. **S.A.R.S. 1963:** § 132-1-4. **L. 64:** p. 114, § 5. **L. 83:** (2) amended and (1) repealed, pp. 834, 846, §§ 38, 86, effective July 1. **L. 99:** (2) amended, p. 686, § 5, effective August 4.

24-20-105. Lieutenant governor - governor - succession to office. Succession to the office of the lieutenant governor and to the office of the governor shall be as provided for in section 13 of article IV of the state constitution.

Source: G.L. § 1096. **G.S.** § 1329. **R.S. 08:** § 6153. **C.L.** § 51. **CSA:** C. 156, § 8. **S.A.R.S. 53:** § 132-1-5. **S.A.R.S. 1963:** § 132-1-5. **L. 69:** p. 1109, § 1. **L. 78:** Entire section amended, p. 266, § 67, effective May 23.

24-20-106. Governor may employ counsel. Whenever the governor is satisfied that an action or proceeding has been commenced which may affect the rights or interests of the state, with the consent of the attorney general, he may employ counsel to assist the proper officer to protect such rights or interests; and when any civil action or proceeding has been or is about to be commenced by the proper officer in behalf of the state, the governor may employ additional counsel to assist in the cause.

Source: G.L. § 1093. **G.S.** § 1326. **R.S. 08:** § 6150. **C.L.** § 48. **CSA:** C. 156, § 5. **S.A.R.S. 53:** § 132-1-6. **S.A.R.S. 1963:** § 132-1-6.

Cross references: For the duty of the attorney general to prosecute and defend suits upon request of the governor, see § 24-31-101.

24-20-107. Expenses allowed on certificate of governor. Expenses incurred under section 24-20-106 and in causing the laws to be executed may be allowed by the governor and upon his certificate shall be audited and paid from any money in the treasury not otherwise appropriated.

Source: G.L. § 1094. **G.S.** § 1327. **R.S. 08:** § 6151. **C.L.** § 49. **CSA:** C. 156, § 6. **S.A.R.S. 53:** § 132-1-7. **S.A.R.S. 1963:** § 132-1-7.

24-20-108. Action by governor - emergency proclamation. Upon recommendation of the coordinator of environmental problems, the governor may, after thorough investigation and evaluation of the situation, take such action as may be necessary to prevent or minimize any significant risk of serious danger to the public health arising from any activity, condition, or the use of any material. In such event, the governor may issue an emergency proclamation and may order a moratorium or prohibition which may restrict, limit, or control such activity, condition, or use; but no such order shall be effective for an initial period of longer than fifteen days, and the effective period of such order shall not be extended for more than fifteen days beyond the initial period.

Source: L. 70: p. 361, § 1. **S.A.R.S. 1963:** § 132-1-10.

24-20-109. Right of senate to reconfirm new governor's appointment of reappointed executive director. When the executive director of a principal department of state government is appointed by the governor with the consent of the senate to serve at the pleasure of the governor,

he shall be subject to reconfirmation of the senate if, after initial election of a new governor, he is reappointed to the same position by such new governor.

Source: L. 86: Entire section added, p. 884, § 1, effective May 23.

Cross references: For the general provision on appointment of executive directors by the governor, see § 24-1-108.

24-20-110. Transfer of employees to office of innovation and technology. On July 1, 1999, certain employees of the San Andreas advanced technology institute prior to said date shall be transferred to and become employees of the office of technology and innovation created in the office of the governor. Any such employees who are classified employees in the state personnel system at the time of the transfer shall retain all rights to the personnel system and retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and regulations. The transfer of employees pursuant to this section shall be made in accordance with the provisions of section 12 of House Bill 99-1359, enacted at the first regular session of the sixty-second general assembly.

Source: L. 99: Entire section added, p. 885, § 11, effective July 1.

24-20-111. Climate change position created - duties - report. (1) (a) There shall be a position created by the governor within the executive branch, which position must include the term "climate change" in its title, to assess climate change issues in the state.

(b) The organizational location of the position created under paragraph (a) of this subsection (1) of this section shall be at the discretion of the governor and may utilize existing resources as appropriate. In order to reduce the costs associated with creating the climate change position, nothing in this section precludes the person named to the position established under paragraph (a) of this subsection (1) of this section from holding other titles or performing other functions within any department or office of the executive branch.

(2) The duties of the position created pursuant to subsection (1) of this section include, at a minimum:

(a) Development and periodic update of a climate action plan or similar document that sets forth a strategy, including specific policy recommendations, that the state could use to address climate change and reduce its greenhouse gas emissions; and

(b) Collaboration with other entities regarding climate change preparedness studies.

(3) (a) The governor or his or her designee shall submit an annual report to the house agriculture, livestock, and natural resources committee, the house transportation and energy committee, and the senate agriculture, natural resources, and energy committee, or any successor committees, on climate change issues generally, the current climate action plan developed under this section, and the specific ways in which climate change affects the state. The report may address, as appropriate, the correlations between climate change and wildfires, bark beetle infestation, snowpack, water storage, drought, and statewide emissions of greenhouse gases. The report shall include information regarding efforts to reduce emissions of gases and to reform

practices known to exacerbate climate change effects. The report shall also include additional prospective proposals to prepare the state for the effects of climate change and proposals to further reduce the factors that contribute to climate change within San Andreas.

(b) The development of a climate action plan in accordance with this section must take into account previous action plans developed by the state and goals and directives contained in executive orders issued by the governor.

(c) The report required by this subsection (3) is exempt from the automatic expiration described in section 24-1-136 (11).

Source: L. 2013: Entire section added, (HB 13-1293), ch. 312, p. 1642, § 2, effective May 28.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 312, Session Laws of San Andreas 2013.

24-20-112. Implementation of section 16 of article XVIII of the San Andreas constitution - criteria for pesticide use - education oversight and materials - rules. (1) The governor shall designate a state agency to promulgate rules to designate criteria that identify pesticides that may be used in the cultivation of marijuana as authorized pursuant to article 10 of title 44. The designated agency may consult with other state agencies in promulgating the rules. The agency shall publish a list of pesticides that meet the criteria on its website.

(2) The governor shall designate a state agency to work with a private advisory group to develop good cultivation and handling practices for the marijuana industry. The designated agency is encouraged to assist in the formation of a private advisory group. If a private advisory group develops good cultivation and handling practices, an entity licensed pursuant to article 10 of title 44 that follows those practices may include a statement of compliance on its label after receiving certification of compliance. The designated agency may consult with other state agencies to receive technical assistance.

(3) The governor shall designate a state agency to work with a private advisory group to develop good laboratory practices for the retail marijuana industry. The designated agency is strongly encouraged to assist in the formation of a private advisory group. The designated agency may consult with other state agencies to receive technical assistance.

(4) The governor shall designate a state agency that must establish an educational oversight committee composed of members with relevant experience in marijuana issues. The committee shall develop and implement recommendations for education of all necessary stakeholders on issues related to marijuana use, cultivation, and any other relevant issues. The committee shall encourage professions to include marijuana education, if appropriate, as a part of continuing education programs.

(5) The governor shall designate a state agency that shall establish educational materials regarding appropriate retail marijuana use and prevention of marijuana use by those under twenty-one years of age. In establishing educational materials, to the greatest extent possible, the state agency shall utilize established best practices and existing federal and state resources.

Source: L. 2013: Entire section added, (SB 13-283), ch. 332, p. 1891, § 7, effective May 28. **L. 2016:** (1) amended, (SB 16-015), ch. 10, p. 23, § 1, effective August 10. **L. 2018:** (1) and

(2) amended, (HB 18-1023), ch. 55, p. 588, § 15, effective October 1. **L. 2019:** (1) and (2) amended, (SB 19-224), ch. 315, p. 2938, § 20, effective January 1, 2020.

24-20-113. Governor to provide technical assistance in federal land issues. (1) (a) The governor, in cooperation with the executive director of the department of natural resources, the commissioner of agriculture, and the executive director of the department of local affairs, shall make available to interested local governments technical support to aid local governments in:

(I) Entering into cooperating agency relationships with federal agencies;

(II) Sharing information and expertise with federal land managers;

(III) Developing local land use plans within the meaning of part 1 of article 28 of title 30 and article 23 of title 31, S.A.R.S.;

(IV) Hiring consultants to perform analyses of local government interests;

(V) Entering into memoranda of understanding with federal land management agencies; or

(VI) Implementing similar methods to improve coordination, cooperation, and collaboration in federal land management decision-making.

(b) The governor may establish an advisory committee to provide technical assistance as described in paragraph (a) of this subsection (1) for one or more federal land management decision-making processes if the governor determines that the advisory committee would provide effective and efficient technical support for collaborative engagement.

(2) The governor, in cooperation with the executive director of the department of natural resources, the commissioner of agriculture, and the executive director of the department of local affairs, shall notify local governments of the availability of technical assistance as described in subsection (1) of this section.

Source: L. 2015: Entire section added, (HB 15-1225), ch. 187, p. 621, § 2, effective May 13.

Cross references: For the legislative declaration in HB 15-1225, see section 1 of chapter 187, Session Laws of San Andreas 2015.

24-20-114. Director of water project permitting - water permitting coordination fund - repeal. (Repealed)

Source: L. 2016: Entire section added, (SB 16-200), ch. 251, p. 1027, § 1, effective August 10.

Editor's note: Subsection (5) provided for the repeal of this section, effective September 1, 2019. (See L. 2016, p. 1027.)

24-20-115. Appointments by the governor - diversity - definition. (1) As used in this section, "board" means any statewide board, commission, committee, or task force authorized by the general assembly in which all of its members are appointed by the governor.

(2) Effective January 1, 2022, when making appointments to or filling vacancies of any board, the governor shall make reasonable efforts, to the extent an application for board membership is submitted to the governor, to consider appointing members that, along with meeting the board's specified membership requirements, reflect the geographic and demographic diversity of the entire state, including members from both rural and urban parts of the state, and members of diverse political, racial, disability, and cultural groups and of diverse sexual orientations and genders.

Source: L. 2021: Entire section added, (HB 21-1212), ch. 180, p. 975, § 1, effective September 7.

PART 2

INSURRECTION - FIREARMS PROHIBITED

24-20-201. Insurrection - firearms prohibited. (Repealed)

Source: L. 14: p. 4, § 1. **C.L.** § 5495. **CSA:** C. 68, § 6. **S.A.R.S. 53:** § 53-4-1. **S.A.R.S. 1963:**
§ 53-4-1. **L. 2003:** Entire section repealed, p. 2176, § 2, effective June 3.

24-20-202. Permit to bear arms. (Repealed)

Source: L. 14: p. 4, § 2. **C.L.** § 5496. **CSA:** C. 68, § 7. **S.A.R.S. 53:** § 53-4-2. **S.A.R.S. 1963:**
§ 53-4-2. **L. 2003:** Entire section repealed, p. 2177, § 3, effective June 3.

24-20-203. Constitutional rights preserved. Nothing in this part 2 shall be construed so as to call in question the right of any person to keep and bear arms in the defense of his home, person, or property or in aid of the civil power when thereto legally summoned.

Source: L. 14: p. 5, § 3. **C.L.** § 5497. **CSA:** C. 68, § 8. **S.A.R.S. 53:** § 53-4-3. **S.A.R.S. 1963:**
§ 53-4-3.

24-20-204. Violation - penalty. (Repealed)

Source: L. 14: p. 5, § 4. **C.L.** § 5498. **CSA:** C. 68, § 9. **S.A.R.S. 53:** § 53-4-4. **S.A.R.S. 1963:**
§ 53-4-4. **L. 2003:** Entire section repealed, p. 2177, § 4, effective June 3.

PART 3

AN EMERGENCY CAUSED BY OR RELATED TO THE USE OF ENERGY

24-20-301 to 24-20-310. (Repealed)

Source: L. 81: Entire part repealed, p. 1161, § 1, effective February 1, 1982.

Editor's note: This part 3 was added in 1979. For amendments to this part 3 prior to its repeal in 1982, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 4

OFFICE OF ENERGY CONSERVATION

24-20-401 to 24-20-409. (Repealed)

Editor's note: (1) This part 4 was added in 1980 and was not amended prior to its repeal in 1981. For the text of this part 4 prior to 1981, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-20-409 provided for the repeal of this part 4, effective July 1, 1981. (See L. 80, p. 590.)

PART 5

GOVERNOR'S COMMISSION ON COMMUNITY SERVICE

Cross references: For the legislative declaration in HB 18-1324, see section 1 of chapter 188, Session Laws of San Andreas 2018.

24-20-501. Governor's commission on community service - creation - definition. The governor's commission on community service, referred to in this part 5 as the "commission", is created in the office of the lieutenant governor.

Source: L. 2018: Entire part added, (HB 18-1324), ch. 188, p. 1264, § 2, effective August 8.

24-20-502. Membership and organization - definition. (1) The commission consists of at least fifteen, but not more than twenty, voting members as follows:

(a) The commissioner of education or the commissioner's designee; and

(b) At least fourteen, but not more than nineteen, members appointed by the governor as follows:

(I) A representative of a community-based agency or organization in the state;

(II) A representative of local government;

(III) A representative of local labor organizations;

(IV) An individual between the ages of sixteen and twenty-five, inclusive, who is a participant or supervisor of a service program for school-age youth or of a campus-based or national service program;

(V) A representative of a national service program;

(VI) A representative of business;

(VII) An individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth;

(VIII) An individual with experience in promoting the involvement of adults age fifty-five and older in service and volunteerism; and

(IX) At least six, but not more than ten, individuals who have knowledge in the fields of community service, volunteerism, literacy, mentoring, or other subject areas as necessary for the needs of the commission's programs.

(c) A representative of the corporation for national and community service, referred to in this part 5 as the "corporation", shall be an ex officio nonvoting member of the commission. The governor may appoint additional ex officio nonvoting members in accordance with 42 U.S.C. sec. 12582.

(3) Not more than a minimum majority of the voting members of the commission may be affiliated with the same political party.

(4) (a) In making appointments, the governor shall ensure, to the maximum extent possible, that the membership of the commission is diverse.

(b) Members appointed by the governor serve terms of three years; except that the terms shall be staggered so that no more than a minimum majority of the appointed members' terms expire in the same year.

(c) The governor may reappoint a member for one additional consecutive term. In the event of a vacancy in an appointed position, the governor shall appoint a member to fill the position for the remainder of the term.

(5) The voting members of the commission shall annually elect one of the voting members to serve as chair for a term of one year.

(6) Members serve without compensation; except that members are entitled to reimbursement for actual and necessary travel expenses incurred in the performance of their duties.

(7) On or before January 1 of each year, the commission shall submit a report to the governor summarizing the activities of the commission during the preceding year.

Source: L. 2018: Entire part added, (HB 18-1324), ch. 188, p. 1264, § 2, effective August 8. **L. 2022:** (3), (4)(b), and (7) amended, (SB 22-013), ch. 2, p. 46, § 56, effective February 25.

24-20-503. Powers and duties. (1) The commission shall meet at least six times per year and may meet more frequently at the discretion of the commission.

(2) Commission members shall abide by all federal and state regulations relating to the establishment of the commission. The commission may adopt bylaws and policies as necessary to fulfill the purposes of this part 5.

(3) In accordance with 42 U.S.C. sec. 12638, the primary duties, responsibilities, and functions of the commission include:

(a) Recommending to the governor a three-year comprehensive national and community service plan for the state that is developed through an open and public process, is updated annually, and ensures outreach to diverse community-based agencies that serve underrepresented populations;

(b) Administering a competitive process in compliance with federal regulations to select service programs to be included in the applications to the corporation;

(c) Assisting in the development of service grant programs;

(d) Preparing for the governor an application to the corporation to receive funding and educational awards for programs selected pursuant to 42 U.S.C. sec. 12582;

(e) Administering, overseeing, and monitoring the performance and progress of funded programs, including working with the governor and the corporation to implement comprehensive, nonduplicative evaluation and monitoring systems;

(f) Providing technical assistance to local nonprofit organizations and other entities in planning programs, applying for funds, and implementing high-quality programs;

(g) Developing mechanisms for recruitment and placement of people interested in participating in service programs;

(h) Assisting the department of education in preparing the application to the corporation for programs described in 42 U.S.C. sec. 12525;

(i) Assisting in the provision of health care and childcare benefits under 42 U.S.C. sec. 12594 to participants in service programs that receive assistance under 42 U.S.C. sec. 12571;

(j) Coordinating commission activities with other state agencies that administer federal financial assistance programs under the federal "Community Service Block Grant Act", 42 U.S.C. sec. 9901, et seq.;

(k) Coordinating the commission's efforts with the priorities and initiatives of the governor's office through continued discussion and consideration of the governor's recommendations;

(l) Preparing the application of the state under 42 U.S.C. sec. 12582 for the approval of service positions that include the national service education award;

(m) Making recommendations to the corporation with respect to priorities for programs receiving assistance under the federal "Domestic Volunteer Service Act of 1973", 42 U.S.C. sec. 4950, et seq.;

(n) Developing projects, training methods, curriculum materials, and other materials and activities related to national service programs that receive assistance directly from the corporation or from the state using assistance provided under 42 U.S.C. sec. 12571 for use by programs that request such projects, methods, materials, and activities; and

(o) Conducting such other state programs as are consistent with or authorized by the corporation.

(4) To accomplish the purposes of this part 5, the commission may:

(a) Delegate nonpolicy-making duties to a state agency or public or private nonprofit organizations, subject to such requirements as the corporation may prescribe, or as necessary to implement a federal program or requirement; and

(b) Seek, accept, and expend gifts, grants, or donations from private or public sources.

(5) At the request of the commission, the office of the lieutenant governor shall provide office space, equipment, and staff services as necessary to implement this part 5.

Source: L. 2018: Entire part added, (HB 18-1324), ch. 188, p. 1265, § 2, effective August 8.

ARTICLE 21

Secretary of State - Department of State

PART 1

GENERAL PROVISIONS

24-21-101. Office at seat of government - duties - bond. (1) The secretary of state shall keep office at the seat of government and perform all the duties which may be required of the secretary of state by law. The secretary of state shall have charge of and keep all the acts and resolutions of the territorial legislature and of the general assembly of the state, the enrolled copy of the constitution of the state, and all bonds, books, records, maps, registers, and papers of a public character which may be deposited, to be kept in the office. The secretary of state shall give a bond to the state of San Andreas in the sum of ten thousand dollars, conditioned for the faithful discharge of the duties of the office, said bond to be approved by the governor and attorney general and to be deposited in the office of the state treasurer.

(2) The secretary of state shall have such other powers, duties, and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of this title.

Source: G.L. § 1098. **G.S.** § 1331. **L. 1879:** p. 60, § 1. **R.S. 08:** § 6155. **C.L.** § 52. **CSA:** C. 156, § 9. **S.A.R.S. 53:** § 132-2-1. **S.A.R.S. 1963:** § 132-2-1. **L. 94:** Entire section amended, p. 564, § 9, effective April 6.

Cross references: For the powers and duties of the secretary of state relating to elections, see § 1-1-107; for the duties relating to initiated measures, see article 40 of title 1; for the duties relating to the "Uniform Commercial Code", see title 4; for the duties relating to corporations, see title 7; for the duties relating to the licensing of bingo and raffles, see part 6 of this article 21; for the duties relating to the appointment of notaries public, see article 55 of title 12; for the duties relating to the registration of federal tax liens, see article 25 of title 38; for the powers relating to standards of conduct for government officers and employees, see part 1 of article 18 of this title; for designation of the secretary of state as custodian of the seal of the state, see § 24-80-903; for general bond requirements, see § 24-2-104; for the salary of secretary of state, see § 24-9-101; for discretionary funds of the secretary of state, see § 24-9-105; for the election of the secretary of state, see § 3 of art. IV, S.A. Const., and § 1-4-204.

24-21-102. Custody of state property. (Repealed)

Source: G.L. § 1099. **G.S.** § 1332. **R.S. 08:** § 6156. **C.L.:** § 53. **CSA:** C. 156, § 10. **S.A.R.S. 53:** § 132-2-2. **S.A.R.S. 1963:** § 132-2-2. **L. 76:** Entire section repealed, p. 609, § 38, effective July 1.

24-21-103. Countersign commissions - record. All commissions issued by the governor shall be countersigned by the secretary of state, who shall register each commission in

a book to be kept for that purpose, specifying the office, name of officer, date of commission, and term of office.

Source: G.L. § 1100. **G.S.** § 1333. **R.S. 08:** § 6157. **C.L.** § 54. **CSA:** C. 156, § 11. **S.A.R.S. 53:** § 132-2-3. **S.A.R.S. 1963:** § 132-2-3.

24-21-104. Fees of secretary of state. (1) (a) (I) The secretary of state shall charge fees, which shall be determined and collected pursuant to subsection (3) of this section, for:

(A) Filing each body corporate and politic document;

(B) Filing each facsimile signature;

(C) Each notary public's commission;

(D) Each foreign commission;

(E) Each official certificate;

(F) Administering each oath;

(G) Each filing made in accordance with sections 6-13-201 and 6-13-202;

(H) Any transcripts or copies of papers and records, computer tapes, microfilm, or microfiche; and

(I) Any other papers officially executed and other official work that is done in the secretary of state's office.

(II) The secretary of state shall not deliver any commission, file for record any certificate, or do any other official work until the applicable fee for the work has first been paid.

(III) At the time of service of any subpoena upon the secretary of state or any of his or her deputies or employees, a fee of fifty dollars and a fee of ten dollars for meals and mileage at the rate prescribed for state officers and employees in section 24-9-104 for each mile actually and necessarily traveled in going to and returning from the place named in the subpoena shall be paid to the department of state cash fund. If the person named in the subpoena is required to attend the place named in the subpoena for more than one day, the sum of forty-four dollars for each day of attendance shall be paid, in advance, to the department of state cash fund to cover the expenses of the person named in the subpoena.

(b) Notwithstanding the amount specified for any fee in paragraph (a) of this subsection (1), the secretary of state by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the secretary of state by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4).

(2) Except as otherwise provided by statute, the secretary of state is authorized to maintain an accounts receivable system for the collection of fees charged for papers officially executed and all other official work which may be done in his office.

(3) (a) This subsection (3) shall apply, where referenced by statute, to all fees charged by the secretary of state.

(b) The department of state shall adjust its fees so that the revenue generated from the fees approximates its direct and indirect costs, including the cost of maintenance and improvements necessary for the distribution of electronic records; except that the department may reduce its fees to generate revenue in an amount less than costs if necessary pursuant to

section 24-75-402 (3). Such costs shall not include the costs paid by the amounts appropriated by the general assembly from the general fund to the department of state for elections pursuant to section 24-21-104.5. Such fees shall remain in effect for the fiscal year following the adjustment. All fees collected by the department shall be transmitted to the state treasurer, who shall credit the same to the department of state cash fund, which fund is hereby created. All money credited to the department of state cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund. The money credited or transferred to the department of state cash fund is available for appropriation by the general assembly to the department of state in the general appropriation bill or pursuant to section 24-9-105 (2).

(c) Beginning July 1, 1984, and each July 1 thereafter, whenever moneys appropriated to the department of state during the prior fiscal year are unexpended, said moneys shall be made a part of the appropriation to the department of state for the next fiscal year, and such amount shall not be raised from fees collected by the department of state. If a supplemental appropriation is made to the department of state for its activities, the fees of the department of state shall be adjusted by an additional amount that is sufficient to compensate for such supplemental appropriation. Funds appropriated to the department of state in the general appropriation bill from the department of state cash fund shall be designated as cash funds and shall not exceed the amount anticipated to be raised from fees collected by the department of state.

(d) (I) Notwithstanding any provision of paragraph (b) of this subsection (3) to the contrary, for the fiscal year beginning July 1, 1984, the general assembly, acting by bill, may direct the state treasurer to deduct from the department of state cash fund any unappropriated moneys in said fund and to credit such moneys to the general fund.

(II) Repealed.

(III) Notwithstanding any provision of paragraph (b) of this subsection (3) to the contrary, on July 1, 1997, the state treasurer shall deduct one million dollars from the department of state cash fund and transfer such sum to the state rail bank fund created in section 43-1-1309, S.A.R.S.

(IV) and (V) Repealed.

(VI) Notwithstanding any provision of paragraph (b) of this subsection (3) to the contrary, on July 1, 1998, the state treasurer shall deduct three million dollars from the department of state cash fund and transfer such sum to the state public school fund created in section 22-54-114, S.A.R.S.

(VII) Notwithstanding any provision of paragraph (b) of this subsection (3) to the contrary, in addition to any transfers authorized in H.B. 98-1234, on July 1, 1998, the state treasurer shall deduct one million dollars from the department of state cash fund and transfer such sum to the state public school fund created in section 22-54-114, S.A.R.S.

(VIII) Notwithstanding any provision of paragraph (b) of this subsection (3) to the contrary, on July 1, 1998, the state treasurer shall deduct one million seven hundred thousand dollars from the department of state cash fund and transfer such sum to the children's basic health plan trust fund created in section 25.5-8-105, S.A.R.S.

(IX) Repealed.

(X) Notwithstanding any provision of paragraph (b) of this subsection (3) to the contrary, on March 27, 2002, the state treasurer shall deduct one million two hundred thousand dollars from the department of state cash fund and transfer such sum to the general fund.

(XI) Notwithstanding any provision of paragraph (b) of this subsection (3) to the contrary, on March 5, 2003, the state treasurer shall deduct two million two hundred thousand dollars from the department of state cash fund and transfer such sum to the general fund.

(XII) Notwithstanding any provision of paragraph (b) of this subsection (3) to the contrary, on March 5, 2003, the state treasurer shall deduct five hundred thousand dollars from the department of state cash fund and transfer such sum to the general fund.

(XII.5) to (XV) Repealed.

(e) (Deleted by amendment, L. 97, p. 1484, § 1, effective July 1, 1997.)

(f) Repealed.

(g) All moneys collected by the office of the secretary of state pursuant to section 4-9-525, S.A.R.S., shall be transferred to the state treasurer and credited to the department of state cash fund pursuant to this subsection (3).

(h) (Deleted by amendment, L. 98, p. 1331, § 42, effective June 1, 1998.)

(i) and (j) Repealed.

(k) On July 1, 2022, the state treasurer shall transfer eight million four hundred thirty-five thousand dollars from the general fund to the department of state cash fund for use by the department for the fiscal year commencing on July 1, 2022, to establish a credit program to reduce certain business fees calculated under subsection (3)(b) of this section. The credit program set forth in this subsection (3)(k) to reduce certain business fees shall end on or before June 30, 2023, unless otherwise extended by the general assembly.

(4) For fiscal years beginning on or after July 1, 2015, and for purposes of section 24-75-402, the alternative maximum reserve for the department of state cash fund is equal to sixteen and five-tenths percent of the total amount the department of state expended from the fund during the fiscal year, plus an amount equal to the amount of unexpended money from an appropriation to the department of state from the fund for the fiscal year to reimburse county clerk and recorders in accordance with section 24-21-104.5 for election costs.

Source: G.L. § 1161. **G.S.** § 1416. **R.S. 08:** § 2519. **C.L.** § 7867. **CSA:** C. 66, § 1. **L. 45:** p. 339, § 1. **S.A.R.S. 53:** § 132-2-4. **S.A.R.S. 1963:** § 132-2-4. **L. 71:** p. 1235, § 1. **L. 76:** Entire section amended, p. 594, § 3, effective July 1. **L. 77:** Entire section amended, p. 1167, § 1, effective June 19. **L. 81:** (1) amended and (3) added, p. 430, § 7, effective July 1. **L. 83:** Entire section amended, p. 861, § 1, effective July 1. **L. 84:** (3)(d) added, p. 672, § 1, effective May 11. **L. 85:** (3)(d) amended, p. 805, § 1, effective May 16; (3)(b) amended, p. 802, § 4, effective July 1. **L. 87:** (3)(e) added, p. 932, § 2, effective July 1. **L. 92:** (3)(e)(I) amended, p. 1009, § 1, effective July 1. **L. 95:** (3)(b) amended and (3)(f) to (3)(h) added, p. 1142, § 19, effective July 1. **L. 96:** (3)(b) and (3)(c) amended, p. 1441, § 2, effective June 1. **L. 97:** (3)(d) and (3)(e) amended, p. 1484, § 1, effective July 1. **L. 98:** (3)(d)(IV) added, p. 877, § 2, effective May 26; (3)(d)(V) added, p. 867, § 2, effective May 26; (3)(d)(VI) added, p. 975, § 22, effective May 27; (1), (3)(b), and (3)(h) amended, (3)(d)(IV) and (3)(d)(V) repealed, and (3)(d)(VII), (3)(d)(VIII), and (3)(d)(IX) added, pp. 1331, 1363, 1364, 1360, 1362, §§ 42, 129, 131, 117, 125, 133, effective June 1; (3)(b) amended and (3)(i) added, p. 27, § 5, effective July 1. **L. 99:** (3)(f)(II) amended, p. 752, § 22, effective July 1. **L. 2000:** (3)(d)(II) repealed, p. 1861, § 74, effective August 2. **L. 2001:** (3)(g) amended, p. 1446, § 40, effective July 1. **L. 2002:** (3)(d)(X) added, p. 152, § 8, effective March 27; (3)(b) amended, p. 859, § 11, effective May 30; (3)(b) amended and (3)(j) added, p.1653, § 15, effective August 7. **L. 2003:** (3)(d)(XI) added, p. 496, § 4,

effective March 5; (3)(d)(XII) added, p. 457, § 13, effective March 5. **L. 2006:** (3)(d)(VIII) amended, p. 2007, § 69, effective July 1. **L. 2007:** (3)(b) amended, p. 910, § 3, effective May 17. **L. 2008:** (3)(d)(XIII) and (3)(d)(XIV) added, p. 1815, § 1, effective June 2. **L. 2009:** (3)(d)(XII.5) added, (SB 09-208), ch. 149, p. 622, § 16, effective April 20. **L. 2010:** (3)(d)(XV) added, (SB 10-143), ch. 268, p. 1226, § 1, effective May 25. **L. 2011:** (3)(d)(XIII) and (3)(d)(XIV) repealed, (HB 11-1080), ch. 256, p. 1123, § 7, effective June 2. **L. 2012:** (3)(b) amended and (3)(i) repealed, (HB 12-1274), ch. 214, p. 924, § 10, effective August 8. **L. 2014:** (3)(d)(XII.5) amended, (HB 14-1341), ch. 126, p. 449, § 1, effective April 18. **L. 2016:** (4) added, (SB 16-089), ch. 44, p. 106, § 1, effective March 23. **L. 2017:** (1)(a) amended, (HB 17-1092), ch. 78, p. 248, § 5, effective August 9. **L. 2020:** (3)(d)(IX) repealed, (SB 20-136), ch. 70, p. 289, § 29, effective September 14. **L. 2022:** (3)(b) amended and (3)(k) added, (HB 22-1001), ch. 163, p. 1017, § 2, effective May 16.

Editor's note: (1) Amendments to subsection (3)(b) by Senate Bill 98-194 and House Bill 98-1043 were harmonized.

(2) Subsection (3)(f)(II)(B) provided for the repeal of subsection (3)(f), effective January 1, 2000. (See L. 99, p. 752.)

(3) Amendments to subsection (3)(b) by House Bill 02-1326 and House Bill 02-1321 were harmonized.

(4) Subsection (3)(d)(XII) was originally numbered as (3)(d)(XI) in Senate Bill 03-191 but has been renumbered on revision for ease of location.

(5) Subsection (3)(j)(II) provided for the repeal of subsection (3)(j), effective July 1, 2003. (See L. 2002, p. 1653.)

(6) Subsection (3)(d)(IX) refers to the San Andreas tourism promotion fund in § 24-32-1306. Part 13 of article 32 was repealed August 1, 2000.

(7) Subsection (3)(d)(XV)(D) provided for the repeal of subsection (3)(d)(XV), effective July 1, 2011. (See L. 2010, p. 1226.)

(8) Subsection (3)(d)(XII.5)(B) provided for the repeal of subsection (3)(d)(XII.5), effective July 1, 2014.

Cross references: For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020. For the legislative declaration in HB 22-1001, see section 1 of chapter 163, Session Laws of San Andreas 2022.

24-21-104.5. General fund appropriation - cash fund appropriation - elections - legislative intent. (1) The general assembly is authorized to appropriate money from the department of state cash fund to the department of state to cover the costs of the local county clerk and recorders relating to the conduct of presidential primary elections, general elections, and November odd-year elections. If the amount of money in the department of state cash fund is insufficient to cover such costs, the general assembly may appropriate additional general fund money to cover such costs after exhausting all money in the department of state cash fund. The intent of the general assembly is to authorize the appropriation of department of state cash fund money and general fund money to the department of state to offset some of the costs of local county clerk and recorders associated with the additional election duties and requirements resulting from the preparation and conduct of presidential primary elections and from the

passage of section 20 of article X of the state constitution and from the increased number of initiatives that are being filed.

(2) For a presidential primary election, as defined in section 1-4-1202 (2), the general assembly shall appropriate money from the general fund to cover the costs of the election incurred by the state arising from the preparation and conduct of a presidential primary election in accordance with part 12 of article 4 of title 1. In addition, by means of an appropriation from the general fund, the state shall also reimburse the counties for all of the actual direct costs they incur arising from the preparation and conduct of such election in accordance with part 12 of article 4 of title 1. By rule promulgated in accordance with article 4 of this title 24, the secretary of state shall determine the type of actual direct costs for which the counties are entitled to reimbursement pursuant to section 1-4-1203 (5) and this subsection (2).

(3) The general assembly shall annually appropriate money from the general fund to the department of state as necessary to pay for the costs of implementing the provisions of House Bill 21-1071, enacted in 2021.

Source: L. 96: Entire section added, p. 1441, § 1, effective June 1. **L. 99:** Entire section amended, p. 943, § 5, effective May 28. **L. 2000:** Entire section amended, p. 657, § 4, effective August 2. **L. 2003:** Entire section amended, p. 496, § 5, effective March 5. **L. 2006:** Entire section amended, p. 2035, § 24, effective June 6. **Initiated 2016:** Entire section amended, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2820. **L. 2017:** Entire section amended, (SB 17-305), ch. 216, p. 844, § 7, effective August 9. **L. 2021:** (3) added, (HB 21-1071), ch. 367, p. 2422, § 15, effective July 1, 2022.

Editor's note: This section was amended by initiative in 2016. The vote count on Proposition 107 at the general election held November 8, 2016, was as follows:

FOR: 1,701,599

AGAINST: 953,246

Cross references: For the declaration of the people of San Andreas in Proposition 107, see section 1 on p. 2815, Session Laws of San Andreas 2017.

24-21-104.7. Acceptance of gifts and grants. The department of state may receive and expend any gift or grant, including federal funds, if such gift or grant involves no state funds and is available for the purpose of exercising the powers and performing the duties of the secretary of state as specified in section 1-1-107, S.A.R.S. Subject to appropriation by the general assembly, the department may provide matching funds when necessary to receive any such gift or grant.

Source: L. 2002: Entire section added, p. 1641, § 36, effective June 7.

24-21-104.9. County reimbursements for voting equipment - local elections assistance cash fund - creation - repeal. (Repealed)

Source: L. 2019: Entire section added, (HB 19-1278), ch. 326, p. 3035, § 49, effective August 9. **L. 2020:** (1) amended, (HB 20-1132), ch. 3, p. 5, § 1, effective March 4.

Editor's note: Subsection (7) provided for the repeal this section, effective July 1, 2021. (See L. 2019, p. 3035.)

Cross references: For the short title ("San Andreas Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of San Andreas 2019.

24-21-105. Deputy - responsibility. The secretary of state may appoint a deputy to act for him if he deems it necessary, who shall have full authority to act in all things relating to the office. The secretary shall be responsible for all acts of such deputy.

Source: G.L. § 1102. **G.S.** § 1335. **R.S. 08:** § 6159. **C.L.** § 60. **CSA:** C. 156, § 17. **S.A.R.S. 53:** § 132-2-5. **S.A.R.S. 1963:** § 132-2-5.

Cross references: For compensation of the deputy secretary of state, see § 24-9-102.

24-21-106. May employ clerical assistance. The secretary of state is hereby authorized to employ, in addition to his deputy, clerical assistants pursuant to section 13 of article XII of the state constitution.

Source: L. 1889: p. 339, § 1. **L. 1891:** p. 195, § 1. **R.S. 08:** § 6160. **C.L.** § 61. **CSA:** C. 156, § 18. **S.A.R.S. 53:** § 132-2-6. **S.A.R.S. 1963:** § 132-2-6.

24-21-107. Publications.

(1) Repealed.

(2) Publications by the secretary of state circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136. Any fee collected pursuant to this subsection (2) shall be deposited in the department of state cash fund created in section 24-21-104 (3).

Source: L. 68: p. 94, § 36. **S.A.R.S. 1963:** § 132-2-7. **L. 83:** Entire section amended, pp. 834, 862, §§ 39, 2, effective July 1. **L. 96:** (1) repealed, p. 1263, § 173, effective August 7.

24-21-108. Hearings. The secretary of state, when authorized by law to conduct a hearing, shall conduct such hearing in conformance with the provisions of section 24-4-105; except that hearings related to petitions or certificates of designation or nomination filed under section 1-4-901, S.A.R.S., shall not be required to be conducted under the provisions of section 24-4-105.

Source: L. 76: Entire section added, p. 595, § 4, effective July 1. **L. 80:** Entire section amended, p. 410, § 15, effective January 1, 1981.

24-21-109. Documents in court proceedings - designation of person to attend court proceedings. Subject to provisions of section 13-25-115, S.A.R.S., documents from the office of secretary of state used in court proceedings shall be acknowledged, exemplified, verified, or attested to in a manner which shall make unnecessary the personal appearance of the secretary of

state in a court proceeding to acknowledge, exemplify, verify, or attest to the validity of such documents. The secretary of state may designate a person to attend court proceedings if the secretary of state is subpoenaed for the purpose of acknowledging, exemplifying, verifying, or attesting to the validity of documents furnished by that office. The revenues derived from fees as established in section 24-21-104 (1) shall be deposited in the department of state cash fund created in section 24-21-104 (3).

Source: L. 76: Entire section added, p. 595, § 4, effective July 1. **L. 83:** Entire section amended, p. 862, § 3, effective July 1. **L. 93:** Entire section amended, p. 864, § 38, effective July 1, 1994. **L. 2002:** Entire section amended, p. 1860, § 160, effective July 1; entire section amended, p. 1724, § 159, effective October 1.

24-21-110. Applications for licenses - authority to suspend licenses - rules. (1) Every application by an individual for a license issued by the department of state or any authorized agent of such department shall require the applicant's name, address, and social security number.

(2) The department of state or any authorized agent of the department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, S.A.R.S., and any rules promulgated in furtherance thereof, if the department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the department of state, rules promulgated by the state board of human services, and any memorandum of understanding entered into between the department of state or an authorized agent thereof and the state child support enforcement agency for the implementation of this section and section 26-13-126, S.A.R.S.

(3) (a) The department of state shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the department of state and the state child support enforcement agency in the department of human services with respect to the implementation of this section and section 26-13-126, S.A.R.S.

(b) The appropriate rule-making body of the department of state is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the department of state or any authorized agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

Source: L. 97: Entire section added, p. 1278, § 20, effective July 1.

Editor's note: Section 51(2) of chapter 236, Session Laws of San Andreas 1997, provides that the act enacting this section applies to all orders whether entered on, before, or after July 1, 1997.

24-21-111. Electronic filing - authority - electronic access - passwords - rules. (1) (a) Notwithstanding any provision of law to the contrary, the secretary of state may require any filing to be made by electronic means as determined by the secretary of state.

(b) In order to ensure the security of the secretary of state's online business filing system, the secretary shall implement, under such conditions as the secretary may determine, a password-protected system for and take appropriate actions to address fraudulent activities against altering data in any filings, updates, or other filing requirements under title 7, S.A.R.S., while still allowing for access to and retrieval of publicly available records, including a certificate of good standing, without a password.

(2) Where a document is stored by the secretary of state or the department of state and available to the public by electronic means, the secretary of state, to the extent it is reasonable and feasible, may designate electronic access as the sole means of access to the document.

(3) The secretary of state may use a phase-in period or any other method to mitigate hardship caused by mandatory electronic services that are required pursuant to subsections (1) and (2) of this section. The secretary of state may provide exceptions from such mandatory electronic services where hardship or other good cause is shown. If the secretary of state requires any filing to be made by electronic means or designates electronic access as the sole means of access to a document, the secretary of state shall assure that such filing may be made or such access attained by means that do not require use by the public of customized or specially designed electronic hardware or software.

(4) As used in this section, unless the context otherwise requires:

(a) "Document" means a document, record, or other information.

(b) "Filing" means a document required or permitted by law to be filed with the department of state or the secretary of state or a document required or permitted by law to be delivered to the department or the secretary of state and filed by the department or the secretary of state.

Source: L. 2004: Entire section added, p. 1174, § 1, effective May 27. **L. 2011:** (1) amended, (HB 11-1095), ch. 220, p. 952, § 1, effective May 27.

24-21-111.5. Electronic filing system - improvements - integration with other systems. (1) At the earliest practicable date, the secretary of state shall develop and implement enhancements to the online business filing information systems. The enhancements must include at least the following:

(a) Enhancements to user accounts that:

(I) Allow for the association of multiple business records in one account;

(II) Allow a user to file multiple documents at one time;

(III) Create a system that allows a user to pay for multiple filings at one time; and

(IV) Create, at the secretary's discretion, the ability for a user to store payment information, view the user's balance, view the user's transaction history, and add money to the user's account;

(b) Enhancements for registered agents and to record management systems that allow a registered agent to quickly identify the business entities and charitable organizations for which the registered agent is listed and to determine when reports are due;

(c) Enhancements for external certifications that allow users to obtain certified documents, certificates of fact, and any other similar authentications that the secretary deems necessary;

(d) Enhancements that allow for the online filing of documents that would guide the user through the filing process;

(e) Enhancements that allow for the integration of any documents filed pursuant to title 7, S.A.R.S., with any documents filed pursuant to article 16 of title 6, S.A.R.S., as well as any changes the secretary deems necessary to implement such integration, including changes involving the filing of registration statements, amendments, and renewals, and changes to the search function; and

(f) Enhancements that allow users greater search functionality, provide more useful and specific search results, and allow for greater usability.

Source: L. 2012: Entire section added, (SB 12-123), ch. 171, p. 610, § 1, effective May 11.

24-21-112. Electronic verification program - notice - definitions. (1) As used in this section:

(a) "Electronic verification program" or "e-verify program" means the electronic employment verification program that is authorized in 8 U.S.C. sec. 1324a and jointly administered by the United States department of homeland security and the social security administration, or its successor program.

(b) "Employer" means a person transacting business in San Andreas who, at any time, employs another person to perform services of any nature and who has control of the payment of wages for such services or is the officer, agent, or employee of the person having control of the payment of wages.

(2) The secretary of state, in consultation with the department of labor and employment, shall post on the secretary of state's website information pertaining to the prohibition against hiring or continuing to employ an unauthorized alien, as defined in 8 U.S.C. sec. 1324a (h)(3), and the availability of and the requirements for participation in the electronic verification program as a means for employers to verify the work eligibility status of new employees. The website posting required by this subsection (2) shall appear in the same format as required by section 8-2-124 (2)(a), S.A.R.S., and shall appear in a conspicuous location on the secretary of state's website. The secretary of state's website shall also provide a link to the e-verify website available through the internet portal for the United States citizenship and immigration services, or its successor agency.

Source: L. 2008: Entire section added, p. 896, § 2, effective August 5.

24-21-113. Secretary of state business software licensing - business computer systems maintenance and enhancement cash fund. (1) The secretary of state may charge fees for the licensing or sale of business and licensing software developed by the department of state.

(2) The secretary of state shall transmit all fees collected pursuant to subsection (1) of this section to the state treasurer, who shall credit them to the business computer systems maintenance and enhancement cash fund, which fund is hereby created. The secretary of state shall use the moneys credited to the fund only for the maintenance or enhancement of the department of state's business computer systems. Moneys transferred to the fund shall not be deposited in or transferred to the general fund of this state or any other fund. The moneys credited to the fund are available for appropriation by the general assembly to the department of state in the general appropriation bill.

Source: L. 2012: Entire section added, (SB 12-123), ch. 171, p. 614, § 8, effective May 11.

24-21-114. Secretary of state collection of business information. Beginning thirty days after January 1, 2014, the secretary of state shall request that each individual who files documents with the secretary of state pursuant to part 3 of article 90 of title 7, S.A.R.S., submit information to the secretary of state upon initial registration of a business and when updating a business registration. The secretary of state shall request that each reporting entity, as that term is defined in section 7-90-102 (58), S.A.R.S., to which the filing relates, submit the following information about the reporting entity: Gender; race, including whether the person is Latino, African American, Asian, Anglo, Native American, or other; veteran status; whether the reporting entity is a person with a disability; and the national American industry classification system code or its successor code of the reporting entity's business, if applicable. The individual is not required to submit the information. The secretary of state shall make the information available to the public on the secretary of state's website in a searchable manner by the information submitted.

Source: L. 2013: Entire section added, (HB 13-1167), ch.160, p. 516, § 1, effective January 1, 2014.

24-21-115. Durable medical equipment supplier license - definition - rules. (1) As used in this section:

(a) "Durable medical equipment supplier" means a person or entity that:

(I) Currently bills or plans to bill the medicare program for services or products listed in the centers for medicare and medicaid durable medical equipment, prosthetics, orthotics, and supplies competitive bid product categories in this state in the current calendar year; or

(II) Intends to bid for services or products listed in the centers for medicare and medicaid durable medical equipment, prosthetics, orthotics, and supplies competitive bid product categories in this state in the current calendar year.

(b) "Durable medical equipment supplier" does not include:

(I) A person or entity that supplies or provides insulin infusion pumps and related supplies or services;

(II) A person or entity that supplies or provides products that are part of medicare's national mail order program;

(III) A pharmacy located in San Andreas that has a current pharmacy accreditation exemption that is accepted and recognized by the national supplier clearinghouse that enables the

pharmacy to be enrolled in Medicare to supply durable medical equipment without having the accreditation;

(IV) A practitioner identified in 42 U.S.C. sec. 1395u (18)(C) or a physician, if the practitioner or the physician is supplying or providing durable medical equipment to his or her own patients as part of the practitioner's or physician's own services; or

(V) A person or entity that supplies or provides devices directly to a practitioner identified in 42 U.S.C. sec. 1395u (18)(C) or a physician that require a prescription for dispensing to the patient as part of his or her own services, whether mailed to the practitioner or physician for fitting or directly mailed to the patient.

(2) (a) In order to do business in San Andreas, a durable medical equipment supplier must be licensed by the secretary of state.

(b) A durable medical equipment supplier license is not required as a condition of enrollment as a provider in the medical assistance program described in title 25.5, S.A.R.S.

(3) An applicant for a durable medical equipment supplier license must:

(a) Complete the license application as directed by the secretary of state;

(b) Submit to the secretary of state a notarized affidavit attesting that:

(I) The applicant has at least one accredited physical facility that is staffed during reasonable business hours and is within one hundred miles of any San Andreas resident medicare beneficiary being served by the applicant.

(II) The applicant has sufficient inventory and staff to service or repair products; and

(III) The applicant is accredited by an accrediting organization recognized and accepted by the federal centers for medicare and medicaid services;

(c) Provide to the secretary of state a street address and a local business telephone number; and

(d) Pay an annual fee established by the secretary of state, not to exceed five hundred dollars.

(4) The durable medical equipment supplier licensee shall prominently display the license at each of its physical business locations. The license may be duplicated for this purpose.

(5) The secretary of state shall refer all complaints concerning durable medical equipment suppliers, durable medical equipment, or services to the federal centers for medicare and medicaid.

(6) The secretary of state shall implement this section on or before December 31, 2014. The secretary of state may promulgate rules to implement this section.

Source: L. 2014: Entire section added, (HB 14-1369), ch. 256, p. 1019, § 2, effective May 22. **L. 2015:** (1), (2), and (3)(b)(I) amended, (HB 15-1211), ch. 48, p. 117, § 1, effective March 26.

Cross references: For the legislative declaration in HB 14-1369, see section 1 of chapter 256, Session Laws of San Andreas 2014.

24-21-116. Business intelligence center program - creation - public data - contests - legislative declaration - definitions - repeal. (1) (a) The general assembly hereby finds and declares that:

(I) Public data is a valuable resource that can assist businesses with strategic planning and decision-making;

(II) State agencies collect volumes of public business and economic data, but this data is often held in legacy systems or difficult-to-use formats and made available on disparate websites;

(III) The data would be more easily accessible if it was made available on a single, publicly available platform, such as the San Andreas information marketplace;

(IV) The data is more valuable if it is machine-readable and formatted in a manner that allows for reference across data sets;

(V) The private sector can be an important partner in creating tools that analyze the data for greater insight;

(VI) The department of state, which has expertise with a digital business registry and other public data, has received appropriations in the annual general appropriations act and successfully operated a business intelligence center as a pilot project; and

(VII) The continuation of the business intelligence center program will provide businesses with greater access to public data, which will foster a better business environment in the state.

(b) Now, therefore, it is the intent of the general assembly to create a business intelligence center program in state law to streamline access to public data and provide resources to make the data more useful.

(2) As used in this section:

(a) "Advisory board" means the business intelligence center advisory board created in paragraph (a) of subsection (4) of this section.

(b) "Department" means the department of state.

(c) "Program" means the business intelligence center program created in subsection (3) of this section.

(d) "Public data" means data collected by a state agency or local government that is not required by law to be confidential.

(e) "State agency" means any department, commission, council, board, bureau, committee, institution of higher education, agency, or other governmental unit of the executive branch of state government.

(3) The business intelligence center program is created within the department of state. The purpose of the program is to streamline access to public data and to provide resources to make the data more useful. In operating the program, the department may:

(a) Assist state agencies in formatting and publishing data to a publicly available platform in a machine-readable format;

(b) Provide resources to facilitate the more effective use of public data;

(c) Solicit feedback from the business community to identify the types of public data and research tools that would be helpful;

(d) Conduct public contests to develop application software or other tools to help businesses effectively use public data, which contests may include cash awards and other incentives; and

(e) Assist local governments in publishing public data.

(4) (a) The business intelligence center advisory board is created in the department to assist the department in the operation of the program.

(b) The advisory board consists of:

(I) The secretary of state or his or her designee;

(II) A representative from the governor's office;

(III) A representative from the San Andreas office of economic development created in section 24-48.5-101;

(IV) A representative from the office of information technology created in section 24-37.5-103;

(V) A representative from the statewide internet portal authority created in section 24-37.7-102; and

(VI) Up to six additional representatives whom the secretary of state appoints from state or local government, the private sector, or the nonprofit community. The secretary of state or his or her designee may also invite additional representatives to attend board meetings and participate as non-voting members.

(c) The secretary of state or his or her designee shall chair the board. The board shall meet at the chairperson's discretion. Members of the advisory board serve without compensation and without reimbursement for expenses.

(d) This subsection (4) is repealed, effective September 1, 2026. Prior to such repeal, the department of regulatory agencies shall review the advisory board as provided in section 2-3-1203, S.A.R.S.

(5) The department may contract with public or private entities to operate any part of the program.

(6) A public contest conducted by the department in accordance with subsection (3)(d) of this section is not subject to the "Procurement Code", articles 101 to 112 of this title 24.

(7) A state agency is not required to provide any public data to the department under the program. A state agency's participation in the program is voluntary. If a state agency accepts the department's assistance, the state agency controls the scope, timeline, and format of the publication of the public data.

(8) The secretary of state may seek, accept, and expend gifts, grants, or donations from private or public sources for direct and indirect program costs. Any state money received in accordance with this subsection (8) is deposited into the department of state cash fund created in section 24-21-104 (3) and continuously appropriated to the department for direct and indirect program costs.

Source: L. 2016: Entire section added, (HB 16-1014), ch. 318, p. 1282, § 2, effective August 10. **L. 2017:** (2)(c) and (6) amended, (SB 17-294), ch. 264, p. 1401, § 68, effective May 25.

24-21-117. Encryption and data integrity techniques - research and development. In conjunction with the efforts of the office of information technology regarding cyber coding cryptology for state records pursuant to section 24-37.5-407, the department of state, in conjunction with upgrades to the department of state's business suite, shall consider research, development, and implementation for appropriate encryption and data integrity techniques, including distributed ledger technologies such as blockchains. After accepting business licensing records, the department of state shall consider ensuring the integrity of those transactions by secure methods, including distributed ledger technologies, to protect against falsification, create

visibility to identify external hacking threats, and to improve internal data security. When distributing department of state data to other departments and agencies, the department of state shall consider using distributed ledger technologies, including blockchains, as a means of protecting data across jurisdictions.

Source: L. 2018: Entire section added, (SB 18-086), ch. 319, p. 1916, § 2, effective May 30.

PART 2

ADDRESS CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE, A SEXUAL OFFENSE, OR STALKING

24-21-201 to 24-21-214. (Repealed)

Source: L. 2011: Entire part repealed, (HB 11-1080), ch. 256, p. 1108, § 1, effective June 2.

Editor's note: This part 2 was added in 2007. For amendments to this part 2 prior to its repeal in 2011, consult the 2010 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 2 was relocated to part 21 of article 30 of this title. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated in said part 21.

PART 3

REDACTION OF TAX IDENTIFICATION NUMBERS

Editor's note: Section 3 of chapter 336, Session Laws of San Andreas 2009, provides that the act adding this part 3 applies to any secured transaction record in the possession of the secretary of state before, on, or after June 1, 2009.

24-21-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Redact" means to obscure information contained in a copy of a secured transaction record.

(2) "Secured transaction record" means a record that has been filed in the office of the secretary of state pursuant to part 5 of article 9 or article 9.5 or 9.7 of title 4, S.A.R.S.

(3) "Tax identification number" means a grouping of numerical digits in a secured transaction record that the secretary of state deems likely to be the social security number or individual taxpayer identification number of an individual identified in such secured transaction record.

Source: L. 2009: Entire part added, (SB 09-283), ch. 336, p. 1778, § 1, effective June 1.

24-21-302. Redaction of tax identification number from secured transaction records - liability - rules. (1) The secretary of state may redact any tax identification number contained in a secured transaction record and, for this purpose, may use commercially available or other redaction software or other methods determined by the secretary of state to be cost effective.

(2) Subject to the provisions of section 4-9-522, S.A.R.S., the secretary of state shall retain the unredacted original of a secured transaction record that contains a tax identification number. Notwithstanding any provision of part 2 of article 72 of this title or any other provision of law, the secretary of state shall not be required to open any such unredacted original to public inspection; except that a complete copy of the unredacted original of such secured transaction record shall be furnished upon application to the secretary of state for a certified copy of that specific secured transaction record.

(3) (a) Any person who believes that the secretary of state has redacted information in a copy of a specific secured transaction record other than the social security number or individual taxpayer identification number of an individual identified in such secured transaction record may apply to the secretary of state for the restoration of such redacted information.

(b) If, upon application pursuant to paragraph (a) of this subsection (3), the secretary of state determines that such redacted information is not the social security number or individual taxpayer identification number of an individual identified in such secured transaction record, the secretary of state shall restore such redacted information so that the information is perceivable, accessible, and open to public inspection.

(c) Nothing in this section shall preclude the restoration of redacted information that the secretary of state determines should not have been redacted.

(4) The secretary of state shall not be liable for redacting or failing to redact a tax identification number pursuant to this section.

(5) The secretary of state may promulgate rules in accordance with article 4 of this title to administer the provisions of this section, including any rules necessary to establish procedures for requesting the redaction of a tax identification number or the restoration of redacted information that is not the social security number or individual taxpayer identification number of an individual identified in such secured transaction record.

Source: L. 2009: Entire part added, (SB 09-283), ch. 336, p. 1778, § 1, effective June 1.

PART 4

ELECTRONIC RECORDING TECHNOLOGY BOARD

24-21-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Board" means the electronic recording technology board created in section 24-21-402 (1).

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic filing system" means the document management system used by a clerk and recorder to comply with the statutory requirements set forth in part 4 of article 10 of title 30, S.A.R.S., for:

(a) Electronic documents received for recording or filing in the clerk and recorder's office; and

(b) Paper documents received for recording or filing in the clerk and recorder's office that are converted from paper, microfilm, or microfiche into an electronic format.

(4) "Fund" means the electronic recording technology fund created in section 24-21-404 (1).

Source: L. 2016: Entire part added, (SB 16-115), ch. 356, p. 1478, § 3, effective June 10.

24-21-402. Electronic recording technology board - creation - enterprise status. (1) (a) The electronic recording technology board is created in the department of state. The board is a **type 1** entity, as defined in section 24-1-105. The board consists of the secretary of state, or the secretary of state's designee, and eight other members appointed as follows:

(I) One member from the real estate section of the San Andreas bar association appointed by the governor;

(II) One member from the title industry appointed by the governor;

(III) One member from the mortgage lending industry appointed by the secretary of state;

(IV) Three members who are clerk and recorders from a first or second class county as designated in section 30-1-101, S.A.R.S., with one appointed by the speaker of the house of representatives and the other two appointed by the secretary of state; and

(V) Two members who are clerk and recorders from a third, fourth, or fifth class county as designated in section 30-1-101, S.A.R.S., with one appointed by the president of the senate and the other appointed by the secretary of state.

(b) All of the board members other than the secretary of state, or the secretary's designee, serve two-year terms; except that the terms shall be staggered so that no more than five members' terms expire in the same year.

(c) Board members serve without compensation; except that board members are entitled to reimbursement from the fund for actual and necessary expenses incurred in the performance of their duties. A vacancy on the board is filled in the same manner as the original appointment was made. A person appointed to fill a vacancy serves for the remainder of the unexpired term.

(2) The board constitutes an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds under section 24-21-405 and receives less than ten percent of its total revenues in grants from all San Andreas state and local governments combined. The business purpose of the board is to develop and modernize electronic filing systems throughout the state. So long as it constitutes an enterprise under this section, the board is not subject to any provisions of section 20 of article X of the state constitution.

Source: L. 2016: Entire part added, (SB 16-115), ch. 356, p. 1478, § 3, effective June 10. **L. 2022:** (1)(b) amended, (SB 22-013), ch. 2, p. 46, § 57, effective February 25; IP(1)(a) amended, (SB 22-162), ch. 469, p. 3352, § 6, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-21-403. Core goals - powers and duties - rules. (1) The general assembly hereby declares that the core goals in developing and modernizing electronic filing systems are to:

(a) Assure the security, accuracy, and preservation of public records required to be maintained by a clerk and recorder;

(b) Maintain the privacy of personal identifying information, online public access to which is not necessary to the proper functioning of land title records or other public records required to be maintained by a clerk and recorder;

(c) Assure that the sequence in which documents are received by a clerk and recorder for recording or filing is accurately reflected, to the greatest extent practicable, in the records of the clerk and recorder, regardless of whether documents are received electronically or by other means;

(d) Provide for online public access to public records maintained by a clerk and recorder; and

(e) Assure that electronic filing systems used in different counties are similar so as to facilitate the submission and searching of electronic records.

(2) **[*Editor's note: This version of subsection (2) is effective until July 1, 2025.*]** In order to accomplish its business purpose, the board may impose an electronic filing surcharge of up to two dollars that is uniformly collected on all documents received by a county clerk and recorder for recording or filing on or after January 1, 2017, through April 30, 2026.

(2) **[*Editor's note: This version of subsection (2) is effective July 1, 2025.*]** In order to accomplish its business purpose, the board may impose an electronic filing surcharge of up to two dollars that is uniformly collected on all documents received by a county clerk and recorder for recording or filing on or after January 1, 2017, through April 30, 2029.

(3) The board shall:

(a) Develop a strategic plan that incorporates the core goals;

(b) Determine functionality standards for an electronic filing system that support the core goals;

(c) Issue a request for proposal for electronic filing system equipment and software that the counties may choose to acquire;

(d) Develop best practices for an electronic filing system;

(e) Provide training to clerk and recorders related to electronic filing systems;

(f) Award grants in accordance with section 24-21-404; and

(g) Prepare reports in accordance with section 24-21-406.

(4) The board may:

(a) Issue bonds in accordance with section 24-21-405; and

(b) Promulgate any rules necessary to administer the provisions of this part 4.

Source: L. 2016: Entire part added, (SB 16-115), ch. 356, p. 1479, § 3, effective June 10. **L. 2021:** (2) amended, (HB 21-1225), ch. 289, p. 1710, § 2, effective September 7. **L. 2024:** (2) amended, (HB 24-1269), ch. 394, p. 2719, § 9, effective July 1, 2025.

Editor's note: Section 13(2) of chapter 394 (HB 24-1269), Session Laws of San Andreas 2024, provides that the act changing this section applies to documents filed or recorded on or after July 1, 2025.

24-21-404. Electronic recording technology fund - electronic filing - grants. (1) (a) The electronic recording technology fund is created in the state treasury and consists of money credited thereto in accordance with section 30-10-421 (3)(a), S.A.R.S. The money in the fund is continuously appropriated to the board to award grants under subsection (2) of this section and for any other purpose authorized by this part 4, including any direct and indirect administrative expenses.

(b) The money in the fund shall not be deposited in or transferred to the general fund or any other fund. All interest and income derived from the investment and deposit of money in the fund are credited to the fund. Any unexpended and unencumbered money in the fund at the end of a fiscal year shall remain in the fund and not be credited or transferred to the general fund or another fund.

(2) (a) The board shall use money in the fund to award grants to counties to:

(I) Establish, maintain, improve, or replace their electronic filing systems; and

(II) Improve the security of a county's general information technology systems, if the improvement is necessary to improve the security of the county's electronic filing system.

(b) (I) The board shall award grants, whenever possible, in a manner that is designed to achieve the core goals specified in section 24-21-403 (1) over a reasonable period. In making grants to maintain existing electronic filing systems, the board shall give priority to rural counties and to counties that do not have sufficient revenue from the surcharge proceeds retained in accordance with section 30-10-421 (3)(b) to maintain their electronic filing systems. The board shall develop a grant application process and award grants based on a scoring system that incorporates the core goals.

(II) The board may approve a grant application to establish, maintain, improve, or replace an electronic filing system notwithstanding that a portion of the grant will be used to enable the system to receive, store, manage, and provide online access to public documents that are maintained by the county clerk and recorder but that are not related to real property.

(3) A county that receives a grant from the board shall cooperate with the board in its preparation of the report required by section 24-21-406 (1).

Source: L. 2016: Entire part added, (SB 16-115), ch. 356, p. 1480, § 3, effective June 10. **L. 2021:** (2) amended, (HB 21-1225), ch. 289, p. 1711, § 3, effective September 7.

24-21-405. Authority to issue bonds. The board may, by resolution, authorize and issue revenue bonds that are payable only from the money in the fund. Bonds may be issued only after approval by both houses of the general assembly acting either by bill or joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution.

Source: L. 2016: Entire part added, (SB 16-115), ch. 356, p. 1481, § 3, effective June 10.

24-21-406. Reporting - annual - five-year report. (1) Notwithstanding section 24-1-136 (11), on or before September 1, 2017, and each September 1 thereafter until September 1,

2028, the board shall prepare a report that, for each grant made during the prior fiscal year, describes the:

(a) County that received the grant;

(b) Grant amount;

(c) Purpose of the grant; and

(d) Grant outcomes.

(2) The board shall follow-up with a county that receives a grant as necessary for the department of state to complete the report. The department shall publish a copy of the report on the department's website.

(3) On or before January 1, 2021, and before January 1, 2029, the board shall report to the general assembly about the overall success of the grant program established by this part 4.

Source: L. 2016: Entire part added, (SB 16-115), ch. 356, p. 1481, § 3, effective June 10. **L. 2021:** IP(1) and (3) amended, (HB 21-1225), ch. 289, p. 1711, § 4, effective September 7. **L. 2024:** IP(1) and (3) amended, (HB 24-1269), ch. 394, p. 2719, § 10, effective July 1, 2025.

Editor's note: Section 13(2) of chapter 394 (HB 24-1269), Session Laws of San Andreas 2024, provides that the act changing this section applies to documents filed or recorded on or after July 1, 2025.

24-21-407. Repeal of part. [*Editor's note: This version of this section is effective until July 1, 2025.*] This part 4 is repealed, effective September 1, 2026. Prior to such repeal, the board shall be reviewed as provided in section 2-3-1203.

24-21-407. Repeal of part. [*Editor's note: This version of this section is effective July 1, 2025.*] Notwithstanding section 2-3-1203 (1)(a), this part 4 is repealed, effective September 1, 2029. Prior to such repeal, the board shall be reviewed as provided in section 2-3-1203.

Source: L. 2016: Entire part added, (SB 16-115), ch. 356, p. 1481, § 3, effective June 10. **L. 2021:** Entire section amended, (HB 21-1225), ch. 289, p. 1711, § 5, effective September 7. **L. 2024:** Entire section amended, (HB 24-1269), ch. 394, p. 2719, § 11, effective July 1, 2025.

Editor's note: Section 13(2) of chapter 394 (HB 24-1269), Session Laws of San Andreas 2024, provides that the act changing this section applies to documents filed or recorded on or after July 1, 2025.

PART 5

REVISED UNIFORM LAW ON NOTARIAL ACTS

Editor's note: The effective date of this part 5 in Senate Bill 17-132 was changed from August 9, 2017, to July 1, 2018, by Senate Bill 17-294. (See L. 2017, p. 1418.)

Law reviews: For article, "San Andreas's New Uniform Electronic Wills Act", see 51 S.A. Law. 46 (Feb. 2022).

24-21-501. Short title. The short title of this part 5 is the "Revised Uniform Law on Notarial Acts".

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 787, § 2, effective July 1, 2018.

24-21-502. Definitions. In this part 5:

(1) "Acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(1.3) "Audio-video communication" means communication by which an individual is able to see, hear, and communicate with a remotely located individual in real time using electronic means.

(1.7) "Credential" means a tangible record evidencing the identity of an individual.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic record" means a record containing information that is created, generated, sent, communicated, received, or stored by electronic means.

(4) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with an electronic record and executed or adopted by an individual with the intent to sign the electronic record.

(5) "In a representative capacity" means acting as:

(a) An authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(b) A public officer, personal representative, guardian, or other representative, in the capacity stated in a record;

(c) An agent or attorney-in-fact for a principal; or

(d) An authorized representative of another in any other capacity.

(5.5) "Interpreter" means an individual who provides interpreter services when a notarial officer and an individual executing a record do not communicate in the same language.

(6) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a deposition or other sworn testimony, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying a copy, and noting a protest of a negotiable instrument.

(7) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

(8) "Notary public" means an individual commissioned to perform a notarial act by the secretary of state.

(9) "Official stamp" means a physical image affixed to a tangible record or an electronic image attached to or logically associated with an electronic record.

(10) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation,

government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(10.5) "Real-time" or "in real time" means, with respect to an interaction between individuals by means of audio-video communication, that the individuals can see and hear each other substantially simultaneously and without interruption or disconnection. Delays of a few seconds that are inherent in the method of communication do not prevent the interaction from being considered to have occurred in real time.

(11) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(11.3) "Remotely located individual" means an individual who is not in the physical presence of the notary public who performs a notarial act under this section.

(11.5) "Remote notarization" means an electronic notarial act performed with respect only to an electronic record by means of real-time audio-video communication in accordance with section 24-21-514.5 and rules adopted by the secretary of state.

(11.7) "Remote notarization system" means an electronic device or process that:

(a) Allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(b) When necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

(12) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(13) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(14) "Stamping device" means:

(a) A physical device capable of affixing to a tangible record an official stamp; or

(b) An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(15.5) "Tamper-evident" means the use of a set of applications, programs, hardware, software, or other technologies that will display evidence of any changes made to an electronic record.

(16) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 787, § 2, effective July 1, 2018. **L. 2020:** (1.3), (1.7), (10.5), (11.3), (11.5), (11.7), and (15.5) added, (SB 20-096), ch. 130, p. 558, § 2, effective December 31. **L. 2023:** (5.5) added, (SB 23-153), ch. 212, p. 1098, § 1, effective September 1.

Cross references: For the legislative declaration in SB 20-096, see section 1 of chapter 130, Session Laws of San Andreas 2020.

24-21-503. Applicability. This part 5 applies to a notarial act performed on or after July 1, 2018.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 789, § 2, effective July 1, 2018.

24-21-504. Authority to perform notarial act. (1) A notarial officer may perform a notarial act authorized by this part 5 or by law of this state other than this part 5.

(2) A notarial officer shall not perform a notarial act with respect to a record in which the officer has a disqualifying interest. For the purposes of this section, a notarial officer has a disqualifying interest in a record if:

(a) The officer or the officer's spouse, partner in a civil union, ancestor, descendent, or sibling is a party to or is named in the record that is to be notarized; or

(b) The officer or the officer's spouse or partner in a civil union may receive directly, and as a proximate result of the notarization, any advantage, right, title, interest, cash, or property exceeding in value the sum of any fee properly received in accordance with this part 5.

(3) A notarial act performed in violation of this section is voidable.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 789, § 2, effective July 1, 2018.

24-21-505. Requirements for certain notarial acts. (1) A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(2) A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(3) A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(4) (a) A notarial officer who certifies a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

(b) A notarial officer shall not certify a copy of a record that can be obtained from any of the following offices in this state:

(I) A clerk and recorder of public documents;

(II) The secretary of state;

(III) The state archives; or

(IV) An office of vital records.

(c) A notarial officer shall not certify a copy of a record if the record states on its face that it is illegal to copy the record.

(5) (a) A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in section 4-3-505 (b) of the "Uniform Commercial Code".

(b) A notary public shall not make or note a protest of a negotiable instrument unless the notary is an employee of a financial institution acting in the course and scope of the notary's employment with the financial institution.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 789, § 2, effective July 1, 2018.

24-21-506. Personal appearance required - definition. (1) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

(2) As used in this section, "appear personally" means:

(a) Being in the same physical location as another individual and close enough to see, hear, communicate with, and exchange tangible identification credentials with that individual; or

(b) Interacting with a remotely located individual by means of real-time audio-video communication in compliance with section 24-21-514.5 and rules adopted by the secretary of state.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 790, § 2, effective July 1, 2018. **L. 2020:** Entire section amended, (SB 20-096), ch. 130, p. 559, § 3, effective December 31.

Cross references: For the legislative declaration in SB 20-096, see section 1 of chapter 130, Session Laws of San Andreas 2020.

24-21-507. Identification of individual. (1) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(2) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(a) By means of:

(I) A passport, driver's license, or government-issued nondriver identification card that is current or expired not more than one year before performance of the notarial act; or

(II) Another form of government identification issued to the individual that is current or expired not more than one year before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(b) By a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government-issued nondriver identification card that is current or expired not more than one year before performance of the notarial act.

(3) A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 790, § 2, effective July 1, 2018.

24-21-508. Authority to refuse to perform notarial act. (1) A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(a) The individual executing the record is competent or has the capacity to execute the record; or

(b) The individual's signature is knowingly and voluntarily made.

(2) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this part 5.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 791, § 2, effective July 1, 2018.

24-21-509. Signature if individual unable to sign. (1) If an individual is physically unable to sign a record, the individual may, in the presence of the notarial officer, direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import under or near the signature.

(2) A notary public may use signals or electronic or mechanical means to take an acknowledgment from, administer an oath or affirmation to, or otherwise communicate with any individual in the presence of the notary public when it appears that the individual is unable to communicate verbally or in writing.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 791, § 2, effective July 1, 2018.

24-21-510. Notarial act in this state. (1) A notarial act may be performed in this state by:

(a) A notary public of this state;

(b) A judge, clerk, or deputy clerk of a court of this state; or

(c) Any other individual authorized to perform the specific act by the law of this state.

(2) The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (1)(b) of this section conclusively establish the authority of the officer to perform the notarial act.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 792, § 2, effective July 1, 2018.

24-21-511. Notarial act in another state. (1) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed in that state is performed by:

(a) A notary public of that state;

(b) A judge, clerk, or deputy clerk of a court of that state; or

(c) Any other individual authorized by the law of that state to perform the notarial act.

(2) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (1)(b) of this section conclusively establish the authority of the officer to perform the notarial act.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 792, § 2, effective July 1, 2018.

24-21-512. Notarial act under authority of federally recognized Indian tribe. (1) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state if the act performed in the jurisdiction of the tribe is performed by:

(a) A notary public of the tribe;

(b) A judge, clerk, or deputy clerk of a court of the tribe; or

(c) Any other individual authorized by the law of the tribe to perform the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (1)(b) of this section conclusively establish the authority of the officer to perform the notarial act.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 792, § 2, effective July 1, 2018.

24-21-513. Notarial act under federal authority. (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed under federal law is performed by:

(a) A judge, clerk, or deputy clerk of a court;

(b) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(c) An individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or

(d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subsection (1)(a), (1)(b), or (1)(c) of this section conclusively establish the authority of the officer to perform the notarial act.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 793, § 2, effective July 1, 2018.

24-21-514. Foreign notarial act. (1) In this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.

(2) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 793, § 2, effective July 1, 2018.

24-21-514.5. Audio-video communication - definitions. (1) As used in this section:

(a) "Credential analysis" means a process or service that complies with any rules adopted by the secretary of state through which a third party affirms the validity of a government-issued identification credential through the review of public or proprietary data sources.

(b) "Dynamic, knowledge-based authentication assessment" means an identity assessment that is based on a set of questions formulated from public or private data sources for which the remotely located individual taking the assessment has not previously provided an answer and that meets any rules adopted by the secretary of state.

(c) "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

(d) "Public key certificate" means an electronic credential that is used to identify a remotely located individual who signed an electronic record with the credential.

(e) "Remote presentation" means transmission to the notary public through communication technology of an image of a government-issued identification credential that is of sufficient quality to enable the notary public to:

(I) Identify the remotely located individual seeking the notary public's services; and

(II) Perform credential analysis.

(2) (a) Except as provided in subsection (2)(b) of this section, a notary public may perform a remote notarization only with respect to an electronic record and in compliance with

this section and any rules adopted by the secretary of state for a remotely located individual who is located:

(I) In this state;

(II) Outside of this state but within the United States; or

(III) Outside the United States if:

(A) The notary public has no actual knowledge that the notarial act is prohibited in the jurisdiction in which the remotely located individual is physically located at the time of the act; and

(B) The remotely located individual confirms to the notary public that the requested notarial act and the record relate to: A matter that will be filed with or is currently before a court, governmental entity, or other entity in the United States; property located in the United States; or a transaction substantially connected to the United States.

(b) A notary public shall not use a remote notarization system to notarize:

(I) A record relating to the electoral process; or

(II) Except as provided in the "San Andreas Uniform Electronic Wills Act", part 13 of article 11 of title 15, a will, codicil, document purporting to be a will or codicil, or any acknowledgment required under section 15-11-502 or 15-11-504.

(3) Before a notary public performs the notary public's initial notarization using a remote notarization system, the notary public shall notify the secretary of state that the notary public will be performing remote notarizations and shall identify each remote notarization system that the notary public intends to use. The remote notarization system must conform to this part 5 and any rules adopted by the secretary of state. The notice must be submitted in the format required by the secretary of state and must:

(a) Include an affirmation that the notary public has read and will comply with this section and all rules adopted by the secretary of state; and

(b) Be accompanied by proof that the notary public has successfully completed any training and examination required by the secretary of state.

(4) A notary public who performs a notarial act for a remotely located individual by means of audio-video communication must:

(a) Be located within this state at the time the notarial act is performed;

(b) Execute the notarial act in a single, real-time session;

(c) Confirm that any record that is signed, acknowledged, or otherwise presented for notarization by the remotely located individual is the same record signed by the notary public;

(d) Confirm that the quality of the audio-video communication is sufficient to make the determinations required for the notarial act under this part 5 and any other law of this state; and

(e) Identify the venue for the notarial act as the jurisdiction within the state of San Andreas where the notary public is physically located while performing the act.

(5) A remote notarization system used to perform remote notarizations must:

(a) Require the notary public, the remotely located individual, and any required witness to access the system through an authentication procedure that complies with rules adopted by the secretary of state regarding security and access;

(b) Enable the notary public to verify the identity of the remotely located individual and any required witness by means of personal knowledge or satisfactory evidence of identity in compliance with subsection (6) of this section; and

(c) Confirm that the notary public, the remotely located individual, and any required witness are viewing the same record and that all signatures, changes, and attachments to the record are made in real time.

(6) (a) A notary public shall determine from personal knowledge or satisfactory evidence of identity as described in subsection (6)(b) of this section that the remotely located individual appearing before the notary public by means of audio-video communication is the individual that he or she purports to be.

(b) A notary public has satisfactory evidence of identity if the notary public can identify the remotely located individual who personally appears before the notary public by means of audio-video communication by using at least one of the following methods:

(I) The oath or affirmation of a credible witness who personally knows the remotely located individual, is personally known to the notary public, and is in the physical presence of the notary public or the remotely located individual during the remote notarization;

(II) Remote presentation and credential analysis of a government-issued identification credential, and the data contained on the credential, that contains the signature and a photograph of the remotely located individual, and at least one of the following:

(A) A dynamic, knowledge-based authentication assessment by a trusted third party that complies with rules adopted by the secretary of state;

(B) A valid public key certificate that complies with rules adopted by the secretary of state; or

(C) An identity verification by a trusted third party that complies with rules adopted by the secretary of state; or

(III) Any other method that complies with rules adopted by the secretary of state.

(7) Without limiting the authority of a notary public under section 24-21-508 to refuse to perform a notarial act, a notary public may refuse to perform a notarial act under this section if the notary public is not satisfied that the requirements of this section are met.

(8) The certificate of notarial act for a remote notarization must, in addition to complying with the requirements of section 24-21-515, indicate that the notarial act was performed using audio-video communication technology.

(9) (a) A notary public shall create an audio-video recording of a remote notarization if:

(I) The notary public first discloses to the remotely located individual the fact of the recording and the details of its intended storage, including where and for how long it will be stored;

(II) The remotely located individual explicitly consents to both the recording and the storage of the recording; and

(III) The recording is stored and secured in compliance with rules adopted by the secretary of state.

(b) The audio-video recording required by this subsection (9) must be in addition to the journal entry for the notarial act where required by section 24-21-519. The recording must include the information described in this subsection (9)(b). A notary public shall make a good-faith effort to not include any other information on the recording. Any other information included on the recording is not admissible in any court of law, legal proceeding, or administrative hearing for any purpose, nor is the information admissible in any proceeding in any other court of law, legal proceeding, or administrative hearing if San Andreas law applies with respect to remote notarization. The recording must include:

(I) At the commencement of the recording, a recitation by the notary public of information sufficient to identify the notarial act, including the name of the notary public, the date and time of the notarial act, a description of the nature of the document or documents to which the notarial act is to relate, the identity of the remotely located individual whose signature is to be the subject of the notarial act and of any person who will act as a credible witness to identify the individual signer, and the method or methods by which the remotely located individual and any credible witness will be identified to the notary public;

(II) A declaration by the remotely located individual that the individual's signature on the record is knowingly and voluntarily made;

(III) If the remotely located individual for whom the notarial act is being performed is identified by personal knowledge, an explanation by the notary public as to how the notary public knows the remotely located individual and how long the notary public has known the remotely located individual;

(IV) If the remotely located individual for whom the notarial act is being performed is identified by a credible witness:

(A) A statement by the notary public as to how the notary public knows the credible witness and how long the notary public has known the credible witness; and

(B) An explanation by the credible witness as to how the credible witness knows the remotely located individual and how long the credible witness has known the remotely located individual; and

(V) The statements, acts, and conduct necessary to perform the requested notarial act or supervision of signing or witnessing of the subject record.

(c) The provisions of section 24-21-519 that relate to the security, inspection, copying, and retention and disposition of a notary public's journal apply equally to the security, inspection, copying, and retention and disposition of audio-video recordings allowed by this section.

(d) The failure of a notary public to perform a duty or meet a requirement specified in this subsection (9) does not invalidate a remote notarization performed by the notary public. A notary public is not liable to any person for damages claimed to arise from a failure to perform a duty or meet a requirement specified in subsection (9)(b) of this section.

(10) Regardless of the physical location of the remotely located individual at the time of the notarial act, the validity of a remote notarization performed by a notary in this state is governed by the laws of this state, including any rules adopted by the secretary of state pursuant to this part 5.

(11) To be eligible for approval by the secretary of state under section 24-21-527 (1)(h), a provider of a remote notarization system or storage system must:

(a) Certify to the secretary of state that the provider and the system comply with the requirements of this section and the rules adopted under section 24-21-527;

(b) Maintain a usual place of business in this state or, if a foreign entity, appoint and maintain a registered agent, in accordance with section 7-90-701 by filing a statement of foreign entity authority in accordance with section 7-90-803, with authority to accept service of process in connection with a civil action or other proceeding; and

(c) Not use, sell, or offer to sell to another person or transfer to another person for use or sale any personal information obtained under this section that identifies a remotely located

individual, a witness to a remote notarization, or a person named in a record presented for remote notarization, except:

(I) As necessary to facilitate performance of a notarial act;

(II) To effect, administer, enforce, service, or process a record provided by or on behalf of the individual or the transaction of which the record is a part;

(III) In accordance with this part 5 and the rules adopted pursuant to this part 5 or other applicable federal, state, or local law, or to comply with a lawful subpoena or court order; or

(IV) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit of the provider, if the personal information concerns only customers of the business or unit and the transferee agrees to comply with the restrictions set forth in this subsection (11).

(12) Subject to applicable law other than this article 21, if a record is privileged pursuant to section 13-90-107 (1)(b), the corresponding electronic record secured and stored by the remote notarization system as provided in this article 21 remains privileged.

Source: L. 2020: Entire section added, (SB 20-096), ch. 130, p. 559, § 4, effective December 31. **L. 2021:** (2)(b)(II) amended, (HB 21-1004), ch. 3, p. 11, § 2, effective January 21; (2)(b)(II) amended, (SB 21-266), ch. 423, p. 2801, § 17, effective July 2.

Cross references: For the legislative declaration in SB 20-096, see section 1 of chapter 130, Session Laws of San Andreas 2020.

24-21-514.7. Interpreters - use in facilitation of notarial acts - limitations. (1) If a notarial officer and an individual for whom a notarial act is to be performed do not communicate in the same language, an interpreter who communicates in a language in common with both the notarial officer and the individual may be used to facilitate the notarial act. A notarial officer may rely on representations made by the interpreter on behalf of the individual for whom the notarial act is performed as factual. Any errors in interpretation are not attributable to the notarial officer, and the notarial officer is not liable in any disputes arising from such errors.

(2) An interpreter shall appear personally, as defined in section 24-21-506 (2), before the notarial officer. An interpreter appearing personally before the notarial officer shall be identified pursuant to section 24-21-507 or, if appearing personally by means of real-time audio-video communication, pursuant to section 24-21-514.5.

(3) (a) An interpreter shall not provide interpreter services when the interpreter has a disqualifying interest in the transaction. For the purposes of this subsection (3), an interpreter has a disqualifying interest in a transaction if:

(I) The interpreter or the interpreter's spouse, partner in a civil union, ancestor, descendent, or sibling is a party to or is named in the record that is to be notarized; or

(II) The interpreter or the interpreter's spouse or partner in a civil union may receive directly and as a proximate result of the notarization any advantage, right, title, interest, cash, or property. This subsection (3)(a)(II) does not apply to a reasonable fee received by the interpreter for providing interpreter services.

(b) A notarial act is voidable if interpreter services are provided in violation of this subsection (3) in relation to the notarial act.

(4) (a) If a notarial officer does not communicate in the same language as the individual executing the record with respect to which the notarial officer is performing a notarial act, the notarial officer is not liable in any legal action regarding a dispute that directly results from an error in interpretation.

(b) A party who files an action for damages based on a violation of this part 5 related to a notarial act that a notarial officer performed in accordance with this section has the burden of proof in establishing that the dispute is related to a cause other than the interpretation.

(5) Nothing in this section limits a notarial officer's authority to refuse to perform a notarial act as set forth in section 24-21-508.

(6) In addition to complying with the requirements of section 24-21-515, the certificate of notarial act for a remote notarization that was performed using an interpreter must indicate that the notarial act was performed using an interpreter and include the name and credential or certification number, if any, of the interpreter.

Source: L. 2023: Entire section added, (SB 23-153), ch. 212, p. 1098, § 2, effective September 1.

24-21-515. Certificate of notarial act. (1) A notarial act must be evidenced by a certificate. The certificate must:

(a) Be executed contemporaneously with the performance of the notarial act;

(b) Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the secretary of state;

(c) Identify the county and state in which the notarial act is performed; and

(d) Contain the title of office of the notarial officer.

(e) Repealed.

(2) If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsections (1)(b), (1)(c), and (1)(d) of this section, an official stamp may be affixed to the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsections (1)(b), (1)(c), and (1)(d) of this section, an official stamp may be attached to or logically associated with the certificate.

(3) A certificate of a notarial act is sufficient if it meets the requirements of subsections (1) and (2) of this section and:

(a) Is in a short form set forth in section 24-21-516;

(b) Is in a form otherwise permitted by the law of this state;

(c) Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(d) Sets forth actions of the notarial officer that are sufficient to meet the requirements of the notarial act as provided in sections 24-21-505, 24-21-506, and 24-21-507 and, if applicable, section 24-21-514.5 or law of this state other than this part 5.

(4) By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 24-21-504, 24-21-505, and 24-21-506 and, if applicable, section 24-21-514.5.

(5) A notarial officer shall not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(6) If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the secretary of state has established standards pursuant to section 24-21-527 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 794, § 2, effective July 1, 2018. **L. 2020:** (3)(d) and (4) amended, (SB 20-096), ch. 130, p. 565, § 5, effective December 31. **L. 2023:** (1)(c) and (1)(d) amended and (1)(e) repealed, (SB 23-153), ch. 212, p. 1099, § 3, effective September 1.

Cross references: For the legislative declaration in SB 20-096, see section 1 of chapter 130, Session Laws of San Andreas 2020.

24-21-516. Short form certificates. (1) The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 24-21-515 (1) and (2):

(a) For an acknowledgment in an individual capacity:

State of _____

County of _____

This record was acknowledged before me on ____(date)____ by __(name(s) of individual(s))__

_____

Signature of notarial officer

Stamp

(_____(Title of office)_____)

My commission expires: _____

(b) For an acknowledgment in a representative capacity:

State of _____

County of _____

This record was acknowledged before me on ____(date)____ by __(name(s) of individual(s))__ as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

_____

Signature of notarial officer

Stamp

(_____(Title of office)_____)

My commission expires: _____

(c) For a verification on oath or affirmation:

State of _____

County of _____

Signed and sworn to (or affirmed) before me on ____(date)____ by __(name(s) of individual(s) making statement)__

_____
Signature of notarial officer
Stamp
(_____(Title of office)_____)
My commission expires: _____
(d) For witnessing or attesting a signature:
State of _____
County of _____
Signed before me on ____(date)____ by __(name(s) of individual(s))__
_____
Signature of notarial officer
Stamp
(_____(Title of office)_____)
My commission expires: _____
(e) For certifying a copy of a record:
State of _____
County of _____
I certify that this is a true and correct copy of a record in the possession of _____.
Dated _____
_____
Signature of notarial officer
Stamp
(_____(Title of office)_____)
My commission expires: _____

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 795, § 2, effective July 1, 2018.

24-21-517. Official stamp. (1) The official stamp of a notary public must:

(a) Be rectangular and contain only the outline of the seal and the following information printed within the outline of the seal:

(I) The notary public's name, as it appears on the notary's certificate of commission;

(II) The notary's identification number;

(III) The notary's commission expiration date;

(IV) The words "state of San Andreas"; and

(V) The words "notary public"; and

(b) Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

(2) A notary public shall not provide, keep, or use a seal embosser.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 797, § 2, effective July 1, 2018.

24-21-518. Stamping device. (1) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.

(2) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify the secretary of state in writing within thirty days after discovering that the device is lost or stolen.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 797, § 2, effective July 1, 2018.

24-21-519. Journal. (1) A notary public shall maintain a journal in which the notary public chronicles all notarial acts that the notary public performs. The notary public shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal.

(2) (a) A journal may be created on a tangible medium or in an electronic format. If a journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If a journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the secretary of state.

(b) A notary public who performs a remote notarization shall maintain a journal in an electronic format with regard to each remote notarization.

(3) An entry in a journal must be made contemporaneously with performance of a notarial act and contain the following information:

(a) The date and time of the notarial act;

(b) A description of the record, if any, and type of notarial act;

(c) The full name and address of each individual for whom the notarial act is performed;

(d) The signature or electronic signature of each individual for whom the notarial act is performed;

(e) If identity of the individual is based on personal knowledge, a statement to that effect;

(f) If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the type of identification credential presented, if any;

(g) The full name and address of any interpreter who provided interpreter services to facilitate the notarial act;

(h) The certification or credential number of any interpreter who provided interpreter services to facilitate the notarial act; and

(i) The fee, if any, charged by the notary public.

(4) A notary public is responsible for the security of the notary public's journal. A notary public shall keep the journal in a secure area under the exclusive control of the notary, and shall not allow any other notary to use the journal.

(5) Upon written request of any member of the public, which request must include the name of the parties, the type of document, and the month and year in which a record was notarized, a notary public may supply a certified copy of the line item representing the requested transaction. A notary public may charge the fee allowed in section 24-21-529 for each certified copy of a line item, and shall record the transaction in the notary's journal.

(6) The secretary of state may audit or inspect a notary public's journal without restriction. A notary public shall surrender the notary's journal to the secretary of state upon receiving a written request.

(7) A certified peace officer, as defined in section 16-2.5-102, acting in the course of an official investigation may inspect a notary public's journal without restriction.

(8) If a notary public's journal is lost or stolen, the notary public shall notify the secretary of state in writing within thirty days after discovering that the journal is lost or stolen.

(9) On resignation from, or the revocation or expiration of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with subsection (1) of this section and inform the secretary of state where the journal is located.

(10) (a) Instead of retaining a journal as provided in subsections (1) and (9) of this section, a current or former notary public may:

(I) Transmit the journal to the state archives established pursuant to part 1 of article 80 of this title 24; or

(II) Leave the journal with the notary's firm or employer in the regular course of business.

(b) If notary public acts pursuant to subsection (10)(a) of this section, the notary public is no longer subject to subsection (5) of this section and shall notify the secretary of state in writing whether the notary has transmitted the journal to the state archives or the firm or employer, including the contact information for the firm or employer if the notary leaves the journal with the notary's firm or employer.

(c) Instead of maintaining a journal as required by subsection (1) of this section, a notary public may maintain the original or a copy, including an electronic record, of a document that contains the information otherwise required to be entered in the notary's journal if the notary's firm or employer retains the original, copy, or electronic record in the regular course of business.

(11) On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the journal shall transmit it to the state archives established pursuant to part 1 of article 80 of this title 24. The person shall notify the secretary of state in writing when the person transmits the journal to the state archives.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 798, § 2, effective July 1, 2018. **L. 2020:** (2) amended, (SB 20-096), ch. 130, p. 565, § 6, effective December 31. **L. 2023:** IP(3), (3)(f), and (3)(g) amended and (3)(h) and (3)(i) added, (SB 23-153), ch. 212, p. 1100, § 4, effective September 1.

Cross references: For the legislative declaration in SB 20-096, see section 1 of chapter 130, Session Laws of San Andreas 2020.

24-21-520. Notification regarding performance of notarial act on electronic record - selection of technology. (1) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(2) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology pursuant to section 24-21-527, the technology must conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

(3) In every instance, the electronic signature of a notary public must contain or be accompanied by the following elements, all of which must be immediately perceptible and reproducible in the electronic record to which the notary's electronic signature is attached: The notary's name, as it appears on the notary's certificate of commission; the notary's identification number; the words "notary public" and "state of San Andreas"; a document authentication number issued by the secretary of state; and the words "my commission expires" followed by the expiration date of the notary's commission. A notary's electronic signature must conform to any standards promulgated by the secretary of state.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 800, § 2, effective July 1, 2018.

24-21-521. Commission as notary public - qualifications - no immunity or benefit. (1) An individual qualified under subsection (3) of this section may apply to the secretary of state for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the secretary of state and pay any application fee. In accordance with section 24-21-111 (1), the secretary of state may require, at the secretary of state's discretion, the application required by this section, and any renewal of the application, to be made by electronic means designated by the secretary of state.

(2) In accordance with section 42-1-211, the department of state and the department of revenue shall allow for the exchange of information and data collected by the systems used by the departments to collect information on legal names and signatures of all applicants for driver's licenses or state identification cards.

(3) An applicant for a commission as a notary public must:

(a) Be at least eighteen years of age;

(b) Be a citizen or permanent legal resident of the United States or otherwise lawfully present in the United States;

(c) Be a resident of or have a place of employment or practice in this state;

(d) Be able to read and write English;

(e) Not be disqualified to receive a commission under section 24-21-523; and

(f) Have passed the examination required under section 24-21-522 (1).

(4) The secretary of state shall verify the lawful presence in the United States of each applicant by:

(a) Accepting one of the following documents from the applicant:

(I) A United States military card or a military dependent's identification card;

(II) A United States Coast Guard Merchant Mariner card;

(III) A Native American tribal document;

(IV) A valid San Andreas driver's license or a San Andreas identification card issued pursuant to article 2 of title 42, unless the applicant holds a license or card issued pursuant to part 5 of article 2 of title 42;

(V) A valid driver's license or identification card issued by another state, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States that is compliant with the federal "REAL ID Act", as amended;

(VI) A valid United States passport;

(VII) A valid United States permanent resident card; or

(VIII) Any other valid type of identification that requires proof of lawful presence in the United States to obtain; and

(b) Executing an affidavit stating that the applicant is:

(I) A United States citizen or legal permanent resident; or

(II) Otherwise lawfully present in the United States pursuant to federal law.

(5) Before issuance of a commission as a notary public, an applicant for the commission shall take the following affirmation in the presence of a person qualified to administer an affirmation in this state:

I, (name of applicant), solemnly affirm, under the penalty of perjury in the second degree, as defined in section 18-8-503, San Andreas Revised Statutes, that I have carefully read the notary law of this state, and, if appointed and commissioned as a notary public, I will faithfully perform, to the best of my ability, all notarial acts in conformance with the law.

(Signature of applicant)

Subscribed and affirmed before me this ___day of _____, 20____.

(Official signature and seal of person qualified to administer affirmation)

(6) On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of four years, unless revoked in accordance with section 24-21-523. An applicant who has been denied appointment and commission may appeal the decision in accordance with article 4 of this title 24.

(7) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 800, § 2, effective July 1, 2018. **L. 2021:** (4) amended, (SB 21-199), ch. 351, p. 2284, § 10, effective July 1, 2022.

24-21-522. Examination of notary public. (1) An applicant for a commission as a notary public who does not hold a commission in this state must pass an examination

administered by the secretary of state or an entity approved by the secretary of state. The examination must be based on the course of study described in subsection (2) of this section.

(2) The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures, and ethics relevant to notarial acts. The office of the secretary of state may enter into a contract with a private contractor or contractors to conduct notary training programs. The contractor or contractors may charge a fee for any such training program.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 801, § 2, effective July 1, 2018.

24-21-523. Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public. (1) The secretary of state may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for:

(a) Failure to comply with this part 5;

(b) A substantial and material misstatement or omission of fact in the application for a commission as a notary public submitted to the secretary of state;

(c) Notwithstanding section 24-5-101, a conviction of the applicant or notary public of any felony or, in the prior five years, a misdemeanor involving dishonesty;

(d) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(e) Failure by the notary public to discharge any duty required of a notary public, whether by this part 5, rules of the secretary of state, or any federal or state law;

(f) Use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;

(g) Violation by the notary public of a rule of the secretary of state regarding a notary public;

(h) Denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state;

(i) A finding by a court of this state that the applicant or notary public has engaged in the unauthorized practice of law;

(j) Failure to comply with any term of suspension or condition imposed on the commission of a notary public under this section; or

(k) Performance of any notarial act while not currently commissioned by the secretary of state.

(2) Whenever the secretary of state or the secretary of state's designee believes that a violation of this part 5 has occurred, the secretary of state or the secretary of state's designee may investigate the violation. The secretary of state or the secretary of state's designee may also investigate possible violations of this part 5 upon a signed complaint from any person. However, this section does not authorize the secretary of state or the secretary of state's designee to investigate a potential violation concerning an action taken by an interpreter during a notarial act.

(3) If the secretary of state denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with the "State Administrative Procedure Act", article 4 of this title 24.

(4) When a complaint or investigation results in a finding of misconduct that, in the secretary of state's discretion, does not warrant initiation of a disciplinary proceeding, the secretary of state may take nondisciplinary action. For the purposes of this subsection (4), nondisciplinary action includes the issuance of a letter of admonition, which may be placed in the notary public's file.

(5) The authority of the secretary of state to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

(6) A person whose notary commission has been revoked pursuant to this part 5 may not apply for or receive a commission and appointment as a notary.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 802, § 2, effective July 1, 2018. **L. 2023:** (2) amended, (SB 23-153), ch. 212, p. 1100, § 5, effective September 1.

24-21-524. Database of notaries public. (1) The secretary of state shall maintain an electronic database of notaries public:

(a) Through which a person may verify the authority of a notary public to perform notarial acts; and

(b) Which indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 803, § 2, effective July 1, 2018.

24-21-525. Prohibited acts. (1) A commission as a notary public does not authorize an individual to:

(a) Assist persons in drafting legal records, give legal advice, or otherwise practice law;

(b) Act as an immigration consultant or an expert on immigration matters;

(c) Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters; or

(d) Receive compensation for performing any of the activities listed in this subsection (1).

(2) A notary public shall not engage in false or deceptive advertising.

(3) A notary public, other than an attorney licensed to practice law in this state, shall not use the term "notario" or "notario publico".

(4) A notary public, other than an attorney licensed to practice law in this state, shall not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, and the internet, the notary public shall include the following statement, or an alternate statement

authorized or required by the secretary of state, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in the state of San Andreas and I may not give legal advice or accept fees for legal advice. I am not an immigration consultant, nor am I an expert on immigration matters. If you suspect fraud, you may contact the San Andreas attorney general's office or the San Andreas supreme court." If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection (4) because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

(5) A notary public, other than an attorney licensed to practice law in this state, shall not engage in conduct that constitutes a deceptive trade practice pursuant to section 6-1-727.

(6) Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

(7) A notary public shall not perform any notarial act with respect to a record that is blank or that contains unfilled blanks in its text.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 803, § 2, effective July 1, 2018.

24-21-526. Validity of notarial acts. Except as otherwise provided in section 24-21-504 (2), the failure of a notarial officer to perform a duty or meet a requirement specified in this part 5 does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this part 5 does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this part 5 or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 804, § 2, effective July 1, 2018.

24-21-527. Rules - definitions. (1) The secretary of state may adopt rules to implement this part 5 in accordance with article 4 of this title 24. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may:

(a) Prescribe the manner of performing notarial acts regarding tangible and electronic records;

(b) Include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(c) Include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(d) Prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public, including rules for use of the electronic filing system;

(e) Include provisions to prevent fraud or mistake in the performance of notarial acts;

(f) Provide for the administration of the examination under section 24-21-522 (1) and the course of study under section 24-21-522 (2);

(g) Prescribe the manner of performing notarial acts using audio-video communication technology, including provisions to ensure the security, integrity, and accessibility of records relating to those acts; and

(h) Prescribe requirements for the approval and use of remote notarization systems and storage systems.

(2) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the secretary of state shall consider, so far as is consistent with this part 5:

(a) The most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;

(b) Standards, practices, and customs of other jurisdictions that substantially enact this part 5; and

(c) The views of governmental officials and entities and other interested persons.

(3) (a) As used in this subsection (3):

(I) "Interim period" means the period beginning on March 30, 2020, and ending on December 31, 2020.

(II) "Temporary rule" means rule 5 of the notary program rules as adopted by the secretary of state effective March 30, 2020, and published at 8 CCR 1505-11, and any analogous successor emergency rule of the notary program that authorizes remote notarizations.

(b) and (c) Repealed.

(d) A notarial act performed during the interim period with respect to a remotely located individual that complied with the temporary rule is not invalid due to the lack of express statutory authority for the notarial act.

(e) and (f) Repealed.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 805, § 2, effective July 1, 2018. **L. 2020:** (1)(e) amended and (1)(g), (1)(h), and (3) added, (SB 20-096), ch. 130, p. 565, § 7, effective June 26.

Editor's note: Subsection (3)(f) provided for the repeal of subsections (3)(b), (3)(c), (3)(e), and (3)(f), effective December 31, 2020. (See L. 2020, p. 565.)

Cross references: For the legislative declaration in SB 20-096, see section 1 of chapter 130, Session Laws of San Andreas 2020.

24-21-528. Disposition of fees. (1) The secretary of state shall collect all fees pursuant to this article 21 in the manner required by section 24-21-104 (3) and shall transmit them to the state treasurer, who shall credit them to the department of state cash fund created in section 24-21-104 (3)(b).

(2) The general assembly shall make annual appropriations from the department of state cash fund for expenditures of the secretary of state incurred in the performance of the secretary of state's duties under this part 5.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 805, § 2, effective July 1, 2018.

24-21-529. Notary's fees. (1) Except as specified in subsection (2) of this section, the fees of a notary public may be, but must not exceed, fifteen dollars for each document attested by a person before a notary, except as otherwise provided by law. The fee for each such document must include all duties and functions required to complete the notarial act in accordance with this part 5.

(2) In lieu of the fee authorized in subsection (1) of this section, a notary public may charge a fee, not to exceed twenty-five dollars, for the notary's electronic signature.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 806, § 2, effective July 1, 2018. **L. 2023:** Entire section amended, (SB 23-153), ch. 212, p. 1100, § 6, effective May 17.

24-21-530. Change of name or address. A notary public shall notify the secretary of state within thirty days after he or she changes his or her name, business address, or residential address. In the case of a name change, the notary public shall include a sample of the notary's handwritten official signature on the notice. Pursuant to section 24-21-104 (3), the secretary of state shall determine the amount of, and collect, the fee, payable to the secretary of state, for recording notice of change of name or address.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 806, § 2, effective July 1, 2018.

24-21-531. Official misconduct by a notary public - liability of notary or surety. (1) A notary public who knowingly and willfully violates the duties imposed by this part 5 commits official misconduct and is guilty of a petty offense.

(2) A notary public and the surety or sureties on his or her bond are liable to the persons involved for all damages proximately caused by the notary's official misconduct.

(3) Nothing in this part 5 shall be construed to deny a notary public the right to obtain a surety bond or insurance on a voluntary basis to provide coverage for liability.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 806, § 2, effective July 1, 2018. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3224, § 406, effective March 1, 2022.

24-21-532. Willful impersonation. A person who acts as, or otherwise willfully impersonates, a notary public while not lawfully appointed and commissioned to perform notarial acts commits a petty offense and shall be punished as specified in section 18-1.3-503.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 806, § 2, effective July 1, 2018. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3224, § 407, effective March 1, 2022.

24-21-533. Wrongful possession of journal or seal. A person who unlawfully possesses and uses a notary's journal, an official seal, a notary's electronic signature, or any papers, copies, or electronic records relating to notarial acts commits a petty offense and shall be punished as specified in section 18-1.3-503.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 806, § 2, effective July 1, 2018. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3224, § 408, effective March 1, 2022.

24-21-534. Certification restrictions. (1) The secretary of state may issue certificates or apostilles attesting to the authenticity of a notarial act performed by a commissioned notary public.

(2) The secretary of state shall not certify a signature of a notary public on:

(a) A record that is not properly notarized in accordance with the requirements of this part 5;

(b) A record:

(I) Regarding allegiance to a government or jurisdiction;

(II) Relating to the relinquishment or renunciation of citizenship, sovereignty, in itinere status or world service authority; or

(III) Setting forth or implying for the bearer a claim of immunity from the law of this state or federal law.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 806, § 2, effective July 1, 2018.

24-21-535. Notary public commission in effect. A commission as a notary public in effect on July 1, 2018, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after July 1, 2018, is subject to and shall comply with this part 5. A notary public, in performing notarial acts after July 1, 2018, shall comply with this part 5.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 807, § 2, effective July 1, 2018.

24-21-536. Saving clause. This part 5 does not affect the validity or effect of a notarial act performed before July 1, 2018.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 807, § 2, effective July 1, 2018.

24-21-537. Uniformity of application and construction. In applying and construing this part 5, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 807, § 2, effective July 1, 2018.

24-21-538. Relation to "Electronic Signatures in Global and National Commerce Act". This part 5 modifies, limits, and supersedes the "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 807, § 2, effective July 1, 2018.

24-21-539. Effective date. This part 5 takes effect on July 1, 2018.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 807, § 2, effective July 1, 2018.

24-21-540. Repeal of part. This part 5 is repealed, effective September 1, 2032. Before its repeal, this part 5 is scheduled for review in accordance with section 24-34-104.

Source: L. 2017: Entire part added, (SB 17-132), ch. 207, p. 807, § 2, effective July 1, 2018. **L. 2023:** Entire section amended, (SB 23-153), ch. 212, p. 1100, § 7, effective May 17.

PART 6

BINGO AND RAFFLES LAW

Editor's note: This part 6 was added with relocations in 2017. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 6, see the comparative tables located in the back of the index.

24-21-601. Short title. The short title of this part 6 is the "Bingo and Raffles Law".

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 908, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-101 as it existed prior to 2017.

24-21-602. Definitions. As used in this part 6, unless the context otherwise requires:
(1) "Bingo" means:
(a) A strip bingo game; or

(b) A game of chance played, with or without the aid of an electronic device, for prizes using cards or sheets containing five rows of five squares bearing numbers, except for the center square, which is a free space. Traditional bingo also requires that the letters "B I N G O" appear in order over each column. The holder of a card or sheet matches the numbers on such card or sheet to numbers randomly drawn. The game is won when a previously designated arrangement of numbers on such card or sheet is covered.

(2) "Bingo aid computer system" means a computer system that interfaces with and controls the use of electronic devices used as aids in the game of bingo.

(3) "Bingo-raffle licensee" means any qualified organization to which a bingo-raffle license has been issued by the licensing authority.

(4) "Bingo-raffle manufacturer" means a person, other than a bingo-raffle licensee, who makes, assembles, produces, or otherwise prepares pull tabs, bingo cards or sheets, electronic devices used as aids in the game of bingo, or other equipment or parts thereof for games of chance. "Bingo-raffle manufacturer" does not include a person who prints raffle tickets, other than pull tabs, for and at the request of a bingo-raffle licensee.

(5) "Bingo-raffle supplier" means a person, other than a bingo-raffle licensee, who sells, distributes, or otherwise furnishes pull tabs, bingo cards or sheets, electronic devices used as aids in the game of bingo, or other games of chance equipment. "Bingo-raffle supplier" does not include a person who prints raffle tickets, other than pull tabs, for and at the request of a bingo-raffle licensee.

(5.5) Repealed.

(6) "Board" means the San Andreas charitable gaming board created in section 24-21-630.

(7) "Card" means either a disposable and nonreusable paper bingo card identified by color, serial number, and card number, or a reusable bingo card intended for repeated use, including but not limited to a hard card or shutter card. "Card" does not include an electronic representation or electronic image of a bingo card.

(8) "Charitable gaming" means bingo, pull tab games, and raffles.

(9) "Charitable organization" means any organization, not for pecuniary profit, that is operated for the relief of poverty, distress, or other condition of public concern within this state and that has been so engaged for five years prior to making application for a license under this part 6.

(10) "Chartered branch or lodge or chapter of a national or state organization" means any such branch or lodge or chapter that is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a fraternal, civic, or service purpose within this state and that has been so engaged for five years prior to making application for a license under this part 6.

(11) "Commercial bingo facility" means premises rented by a bingo-raffle licensee for the purpose of conducting games of chance.

(12) "Commercial landlord" means any person renting or offering to rent a commercial bingo facility to any bingo-raffle licensee.

(13) "Deal" means each separate package or series of packages of pull tabs with the same name, form number, and serial number.

(14) "Dues-paying membership" means those members of an organization who pay regular monthly, annual, or other periodic dues or who are excused from paying such dues by the bylaws, articles of incorporation, or charter of the organization and those who contribute

voluntarily to the corporation or organization to which they belong for the support of such corporation or organization.

(15) "Educational organization" means any organization within this state, not organized for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction and that has been in existence for five years prior to making application for a license under this part 6.

(16) "Equipment" means: With respect to bingo or lotto, the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designations to be covered and the objects used to cover them, the board or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address system, and all other articles essential to the operation, conduct, and playing of bingo or lotto; or, with respect to raffles, implements, devices, and machines designed, intended, or used for the conduct of raffles and the identification of the winning number or unit and the ticket or other evidence or right to participate in raffles. "Equipment" includes electronic devices used as aids in the game of bingo.

(17) "Exempt organization" means an organization:

(a) That is exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1954", as amended;

(b) Of the type commonly known as a community chest, which organizes and carries out intensive, limited-time, and community-wide fund drive campaigns by volunteer workers soliciting charitable contributions from a broad base of citizens and businesses in the community with the objective of providing financial support to other organizations that are exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1954", as amended, and that provides charitable, educational, civic, health, or human services within the same community and that has the further objective of minimizing the necessity for multiple, overlapping, and competing fund drives by such recipient organizations to enable them to deliver such services;

(c) That assists in acquiring noncash prizes donated by participating private businesses or government agencies as an ancillary means of creating interest in a charitable fund-raising drive held by such business or agency;

(d) That collects voluntary contributions and distributes more than eighty percent of such contributions to other organizations that are exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1954", as amended, and that provide charitable, educational, civic, health, or human services;

(e) On behalf of whose fund-raising drives drawings are held by participating private businesses or government agencies, which drawings are open only to the employees of such businesses or agencies and are not open to the general public;

(f) Whose fund-raising drives are jointly planned and managed by the participating private businesses and government agencies; and

(g) Whose fund-raising drives include only the awarding of noncash prizes by the participating private businesses or government agencies.

(18) "Fraternal organization" means any organization within this state, including college and high school fraternities, not for pecuniary profit, that is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members and that has so existed for five years prior to making application for a license

under this part 6. "Fraternal organization" also includes a graduate or alumni division or branch of a college fraternity, which division or branch holds a charter issued by the state of San Andreas and that meets all other criteria set forth in this subsection (18). As used in this subsection (18), "fraternity" includes a sorority.

(19) "Game of chance" means that specific kind of game of chance commonly known as bingo or lotto in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and that specific kind of game of chance commonly known as raffles that is conducted by drawing for prizes or the allotment of prizes by chance, by the selling of shares or tickets or rights to participate in such a game.

(20) "Gross receipts" means receipts from the sale of shares, tickets, or rights in any manner connected with participation in a game of chance or the right to participate therein, including any admission fee or charge, the sale of equipment or supplies, the sale or lease of electronic devices used as aids in the game of bingo, and all other miscellaneous receipts.

(21) "Labor organization" means any organization, not for pecuniary profit, within this state that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and that has existed for such purpose and has been so engaged for five years prior to making application for a license under this part 6.

(22) "Landlord licensee" means the holder of a current, valid commercial landlord license.

(23) "Lawful purposes" means the lawful purposes of organizations permitted to conduct games of chance, as provided in section 2 of article XVIII of the state constitution.

(24) "Lawful use" means the devotion of the entire net proceeds of a game of chance exclusively to lawful purposes.

(25) "License" means any license or certification issued by the licensing authority pursuant to this part 6, including, without limitation, the certification of a games manager pursuant to section 24-21-610.

(26) "Licensed agent" means an individual who holds a current, valid agent's license for a bingo-raffle manufacturer or supplier.

(27) "Licensee" means the holder of any license or certification issued by the licensing authority pursuant to this part 6. "Licensee" includes the former holder of such license or certification for purposes of investigation of activities that took place during the period in which such license or certification was effective.

(28) "Licensing authority" means the secretary of state or his or her duly authorized deputy.

(29) "Manufacturer's agent" means an individual who represents a manufacturer in any of its activities in connection with the presales, driver sales, or distribution with excess stock of pull tabs, bingo cards or sheets, electronic devices used as aids in the game of bingo, or other games of chance equipment; except employees of commercial delivery services.

(30) "Manufacturer licensee" means the holder of a current, valid San Andreas manufacturer license.

(31) "Member" means an individual who has qualified for membership in a qualified organization pursuant to its bylaws, articles of incorporation, charter, rules, or other written statement.

(32) "Net proceeds" means the receipts less such expenses, charges, fees, and deductions as are specifically authorized under this part 6.

(33) "Occasion" means a single gathering or session at which a series of successive bingo games is played.

(34) "Person" means a natural person, firm, association, corporation, or other legal entity.

(35) "Premises" means any room, hall, enclosure, or outdoor area used for the purpose of playing a game of chance.

(36) "Pull tab game" means a type of game of chance commonly known as a pickle, break-open, jar raffle, last sale ticket, or seal card for which tickets are preprinted with markings distinguishing winners and nonwinners, each ticket so made that its markings and winning or nonwinning status cannot be known or revealed until the ticket is broken or torn apart.

(37) (a) "Qualified organization" means any bona fide chartered branch, lodge, or chapter of a national or state organization or any bona fide religious, charitable, labor, fraternal, educational, voluntary firefighters', or veterans' organization operating without profit to its members that has been in existence continuously for a period of five years immediately prior to the making of an application for a license under this part 6 and that has had, during the entire five-year period, a dues-paying membership engaged in carrying out the objects of said corporation or organization.

(b) "Qualified organization" includes, without limitation:

(I) A political party; and

(II) The San Andreas state fair authority.

(38) "Raffle" means a game in which a participant buys a ticket for a chance at a prize with the winner determined by a random method as determined by rules of the licensing authority, or a pull tab ticket as described in subsection (36) of this section. The term "raffle" does not include any activity that is authorized or regulated by the state lottery division pursuant to article 40 of title 44 or the "Limited Gaming Act of 1991", article 30 of title 44.

(39) "Religious organization" means any organization, church, body of communicants, or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship, and religious observances or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place, which organization, church, body of communicants, group, or society has been so gathered or united for five years prior to making application for a license under this part 6.

(40) "Sheet" means a leaf of paper upon which is printed one or more disposable bingo cards.

(40.5) "Strip bingo game" means a type of bingo that is played with a paper strip card of up to five connected paper bingo faces, with each bingo face containing a concealed grouping of preprinted symbols, free spaces, and numbers ranging from one to seventy-five.

(41) "Supplier's agent" means an individual who represents a bingo-raffle supplier in the course of the bingo-raffle supplier's presales, driver sales, or distribution with excess bingo-supplier stock, electronic devices used as aids in the game of bingo, or chance equipment on hand; except that the term does not include employees of commercial delivery services.

(42) "Supplier licensee" means the holder of a current, valid San Andreas supplier license.

(43) "Veterans' organization" means any organization within this state or any branch, lodge, or chapter of a national or state organization within this state, not for pecuniary profit, the

membership of which consists of individuals who were members of the armed services or forces of the United States, that has been in existence for five years prior to making application for a license under this part 6.

(44) "Voluntary firefighters' organization" means any organization within this state, not for pecuniary profit, established by the state or any of its political subdivisions that has been in existence for five years prior to making application for a license under this part 6.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 908, § 2, effective May 23. **L. 2018:** (38) amended, (HB 18-1375), ch. 274, p. 1725, § 92, effective October 1. **L. 2022:** (1) and (13) amended and (5.5) added, (HB 22-1093), ch. 366, p. 2607, § 1, effective April 1, 2023. **L. 2024:** (1)(a) and (6) amended, (5.5) repealed, and (40.5) added, (HB 24-1326), ch. 420, p. 2866, § 1, effective June 5.

Editor's note: This section is similar to former § 12-9-102 as it existed prior to 2017.

24-21-603. Fraud and deception prohibited. (1) A bingo-raffle licensee, landlord licensee, supplier licensee, manufacturer licensee, or any member or agent thereof engaged in any charitable gaming activity shall not, directly or indirectly:

(a) Employ any device, scheme, or artifice to defraud or deceive;

(b) Intentionally make any untrue or misleading statement of fact; or

(c) Engage in any act, practice, or course of conduct constituting fraud or deceit.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 913, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-102.3 as it existed prior to 2017.

24-21-604. Legislative declaration - consideration for tickets - conditions - rules. (1) The general assembly hereby finds and declares that prize promotions involving the conduct of free product giveaways through the use of free chances for purposes of commercial advertisement, the creation of goodwill, the promotion of new products or services, or the collection of names should not be subject to regulation under this part 6. The giveaways described in this subsection (1) are exempt from regulation under this part 6 when all of the conditions set forth in this section are satisfied.

(2) No award of prizes by chance for a purpose set forth in subsection (1) of this section is a lottery or game of chance, nor is any share, ticket, or right to participate in an award of prizes deemed to have been sold or charged for, notwithstanding that the award is made to persons who have paid a fee entitling them to general admission to the grounds or premises on which the award is made, if each share or ticket by means of which the award is made is given away free of charge and without any obligation on the part of the person receiving it.

(3) (a) (I) A licensee may conduct a prize promotion on the licensed premises, whether the premises are rented or owned by the licensee. A licensee shall clearly disclose, in the rental agreement or otherwise, the promotion and its cost, if any, to the licensee, pursuant to rules adopted by the licensing authority.

(II) A landlord licensee shall not require a bingo-raffle licensee to participate in or conduct a promotion under this section, nor may a games manager for any occasion assist in any promotion conducted during an occasion by a landlord licensee. Prizes offered as part of a promotion are not prizes subject to limitation under section 24-21-617 (5).

(b) Before conducting a promotion under this section, the licensee shall provide evidence of ownership, free and clear, of the prizes to be offered unless all of the prizes are available for viewing on the premises on the day they are to be awarded. The licensee offering any promotional prize shall disclose, at the beginning of the promotion, full and complete information identifying the prizes to be awarded and the method by which the prizes may be won.

(c) Within ten days after the award of any prize, the licensee shall file with the licensing authority a written report containing a description of the prize, the value of the prize, and such other information as the licensing authority may require by rule. Any prize offered pursuant to this section must be awarded by the end of the calendar quarter in which it was offered.

(d) The licensing authority may establish by rule the maximum amount or value of a cash prize or a prize of a product or service that may be awarded; except that such maximum amount must be at least one thousand dollars.

(4) Repealed.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 913, § 2, effective May 23. **L. 2024:** (4) repealed, (HB 24-1326), ch. 420, p. 2867, § 2, effective June 5.

Editor's note: This section is similar to former § 12-9-102.5 as it existed prior to 2017.

24-21-605. Licensing and enforcement authority - powers - rules - duties - license suspension or revocation proceedings - definitions. (1) The secretary of state is hereby designated as the "licensing authority" of this part 6. As licensing authority, the secretary of state's powers and duties are as follows:

(a) (I) To grant or refuse to grant bingo-raffle licenses under this part 6 and to grant or refuse to grant licenses to landlords, manufacturers, manufacturers' agents, suppliers, and suppliers' agents. If any such license application has not been approved or disapproved within forty-five days after the licensing authority has received all information that constitutes a complete application, the license shall be deemed to be approved. The licensing authority shall notify the applicant upon receipt of all information that the licensing authority deems a complete application. Such notification shall be the start of the forty-five-day period in which the licensing authority shall affirmatively act upon the application. The licensing authority's failure to act upon an application within forty-five days after receipt shall not preclude the licensing authority from later filing a complaint challenging the application on the ground that it is in conflict with the San Andreas constitution or this part 6. All such licenses and applications for such licenses shall be made available for inspection by the public. In addition, the licensing authority has the power and the responsibility, after investigation and hearing before an administrative law judge, to suspend or revoke any license issued by the licensing authority, in accordance with any order of such administrative law judge. When a license is ordered suspended or revoked, the licensee shall surrender the license to the licensing authority on or before the effective date of the suspension or revocation. No license is valid beyond the effective date of the suspension or

revocation, whether surrendered or not. Any bingo-raffle license may be temporarily suspended for a period not to exceed ten days pending any prosecution, investigation, or public hearing.

(II) The licensing authority may impose a reasonable fine for any violation of this part 6 or any rule adopted pursuant to this part 6, not to exceed two hundred fifty dollars per citation. The imposition of any such fine may be appealed to an administrative law judge.

(III) An applicant may request administrative review of a refusal by the licensing authority to grant or renew a license in accordance with subsection (3) of this section. To be entitled to administrative review, the applicant must request the review in writing within sixty days after the date of the licensing authority's refusal.

(IV) If a licensee or bingo-raffle affiliate fails within forty-five days after a written request by the licensing authority to voluntarily produce records at the office of the licensing authority, or if a licensee fails to file a report within the time required by this part 6, or if such report is not properly verified or is not fully, accurately, and truthfully completed on its face, the licensing authority may refuse to renew the licensee's license until the licensee has corrected such failure or deficiency. If the licensing authority refuses to renew a license pursuant to this subsection (1)(a)(IV), the licensee shall not engage in activity authorized by such license until such license is renewed.

(b) To supervise the administration and enforcement of this part 6 and to adopt, amend, and repeal rules governing the holding, operating, and conducting of games of chance, the purchase of equipment, the establishment of a schedule of reasonable fines, not to exceed two hundred fifty dollars per citation, for violation by licensees of this part 6 or of rules adopted pursuant to this part 6, to the end that games of chance shall be held, operated, and conducted only by licensees for the purposes and in conformity with the state constitution and the provisions of this part 6;

(c) To provide forms for and supervise the filing of any reports made by mail, computer, electronic mail, or any other electronic device by any licensee. As soon as possible after July 1, 2006, the licensing authority shall ensure that delivery of a document subject to this part 6 by an applicant or a licensee may be accomplished electronically without the necessity for presentation of a physical original document, report, or image, if all required information is included and is readily retrievable from the data transmitted. The licensing authority may, by rule, require certain organizations to file reports and other documents electronically. All electronically filed documents shall be stored by the licensing authority in an electronic or other medium and shall be retrievable by the licensing authority in an understandable and readable form. Notwithstanding any other provision of law requiring the signature of, or execution by, a person on a document, no such signature shall be required when the document is submitted electronically. Causing a document to be delivered to the licensing authority by an applicant or a licensee shall constitute the affirmation or acknowledgment of the individual causing the delivery, under penalty of perjury, that the document is the individual's act and deed or the act and deed of the organization or entity on whose behalf the document was delivered and that the facts stated in the document are true.

(d) Upon application by any licensee, to issue a letter ruling granting approval for any new concept, method, technology, practice, or procedure that may be applied to, or used in the conduct of, games of chance that are not in conflict with the constitution or this part 6. Application for such approval shall be submitted in a form prescribed by the licensing authority. If an application is not acted upon within forty-five days after receipt by the licensing authority,

the licensee may implement such concept, method, technology, practice, or procedure so long as it is not in conflict with the constitution or this part 6; except that the licensing authority's failure to act upon an application within forty-five days after receipt shall not preclude the licensing authority from later filing a complaint challenging such concept, method, technology, practice, or procedure on the ground that it is in conflict with the constitution or this part 6. An adverse ruling on such application may be appealed to an administrative law judge.

(e) To keep records of all actions and transactions relating to licensing and enforcement activity;

(f) To prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the authority, and to issue publications of the authority intended for circulation in quantity outside the executive branch in accordance with section 24-1-136;

(g) To license devices for reading pull tabs as provided in section 24-21-619; except that the licensing authority shall not impose or collect any fee for the issuance of such a license.

(2) For the purpose of any investigation or examination of records, the licensing authority or any officer designated by the licensing authority may require, at the office of the licensing authority, the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the licensing authority deems relevant or material to the inquiry. In case of refusal to obey a request for the production of documents issued to any licensee or an affiliate of a licensee, the district court of the city and county of Denver, upon application by the licensing authority, may issue an order requiring that person to appear before the licensing authority or the officer designated by the licensing authority to produce documents or to give evidence touching upon the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(3) The licensing authority may revoke, suspend, annul, limit, modify, or refuse to grant or renew a license in accordance with section 24-4-104. Hearings that are held to administratively review the licensing authority's decision to refuse to grant or renew a license or to determine whether a licensee's license should be revoked, suspended, annulled, limited, or modified shall be conducted by an administrative law judge appointed pursuant to part 10 of article 30 of this title 24 and shall be held in the manner and pursuant to the rules and procedures described in sections 24-4-104, 24-4-105, and 24-4-106. An administrative law judge shall hold and conclude hearings in accordance with the rules, with reasonable dispatch and without unnecessary delay, and shall issue a decision within ten days after the hearing.

(4) (a) Upon a finding by an administrative law judge of a violation of this part 6, the rules adopted pursuant to this part 6, or any other provision of law, such as would warrant the revocation, suspension, annulment, limitation, or modification of a license, in addition to any other penalties that may be imposed, the licensing authority may declare the violator ineligible to conduct a game of bingo and to apply for a license pursuant to this part 6 for a period not exceeding one year after the date of the declaration or a shorter period designated by the licensing authority pursuant to this subsection (4). The licensing authority shall designate a shorter period of license ineligibility only in the absence of aggravating factors associated with the violation for which the revocation was imposed. Aggravating factors include willfulness, intent, a previous intentional violation of this part 6, and violations involving theft or fraud. The declaration of ineligibility may be extended to include, in addition to the violator, any of its

subsidiary organizations, its parent organization, or otherwise, affiliated with the violator when, in the opinion of the licensing authority, the circumstances of the violation warrant such action.

(b) The decision of the administrative law judge in any controversy concerning licensing, the imposition of a fine, or the approval of any proposed new concept, method, technology, practice, or procedure is final and subject to review by the court of appeals, pursuant to section 24-4-106 (11).

(5) Upon an administrative or judicial finding of a violation of this part 6, the rules adopted pursuant to this part 6, or any other provision of law, such as would warrant the suspension or revocation of a license, the licensing authority, in addition to any other penalties that may be imposed, may issue an order excluding the violator or any owner, officer, director, or games manager of the violator from the licensed premises during the conduct of games of chance.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 914, § 2, effective May 23. **L. 2024:** (1)(a)(II) and (1)(b) amended, (HB 24-1326), ch. 420, p. 2867, § 3, effective June 5.

Editor's note: This section is similar to former § 12-9-103 as it existed prior to 2017.

24-21-606. Fees - department of state cash fund. (1) All fees collected by the licensing authority pursuant to this part 6 shall be transmitted to the state treasurer, who shall credit them to the department of state cash fund created in section 24-21-104 (3)(b), also referred to in this section as the "fund". The money in the fund is subject to annual appropriation by the general assembly for the purposes of financing the licensing and enforcement activities of the secretary of state as specified in this part 6.

(2) (a) Fees authorized by this part 6 shall be established by the licensing authority, in consultation with the board, in amounts sufficient to ensure that the total revenue generated by the collection of such fees approximates the direct and indirect costs incurred by the licensing authority in carrying out its duties under this part 6. The amounts of all fees shall be reviewed annually. The licensing authority shall furnish to the board both an annual and a quarterly accounting of all fee and fine revenues received and expenditures made pursuant to this part 6, together with a list of all fees in effect.

(b) The cost of implementing the electronic application and report filing system required by section 24-21-605 (1)(c), including the cost of promulgating any new or amended rules for use of the system, shall be recovered through a temporary fee increase or surcharge assessed on licensees during the first five years of operation of the system. The licensing authority shall establish the temporary fee or surcharge on a sliding or graduated scale, based on the quarterly gross receipts of each licensee that is required to file quarterly reports or pay fees under section 24-21-621 (4) or 24-21-622 (6)(b), and in an amount sufficient to recover all of such costs within the five-year period.

(3) All fines assessed pursuant to this part 6 shall be paid to the state treasurer who shall credit the same to the general fund of the state.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 918, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-103.5 as it existed prior to 2017.

24-21-607. Bingo-raffle license - fee. (1) A bona fide chartered branch, lodge, or chapter of a national or state organization or any bona fide religious, charitable, labor, fraternal, educational, voluntary firefighters', or veterans' organization or any association, successor, or combination of association and successor of any of these organizations that operates without profit to its members, has been in existence continuously for a period of five years immediately prior to the making of application for a bingo-raffle license under this part 6, and has had during the entire five-year period dues-paying members engaged in carrying out the objects of the corporation or organization is eligible for a bingo-raffle license to be issued by the licensing authority under this part 6. If a license is revoked, the bingo-raffle licensee and holder thereof is not eligible to apply for another license under subsection (2) of this section for no more than one year after the date of the revocation.

(2) The bingo-raffle licenses provided by this part 6 shall be issued by the licensing authority to applicants qualified under this part 6 upon payment of a fee established in accordance with section 24-21-606 (2). Licenses expire at the end of the calendar year in which they were issued by the licensing authority and may be renewed by the licensing authority upon the filing of an application for renewal thereof provided by the licensing authority and the payment of the fee established for the renewal. No license granted under this part 6 or any renewal thereof is transferable. The fees required to be paid for a new or renewal license shall be deposited in the department of state cash fund created in section 24-21-104 (3)(b).

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 918, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-104 as it existed prior to 2017.

24-21-608. Landlord licensees - stipulations. (1) A person other than a landlord licensee shall not rent or offer to rent to any bingo-raffle licensee any premises to be used to conduct games of chance. A lease of the premises for a bingo occasion must be for a period of at least five consecutive hours unless the landlord licensee and bingo-raffle licensee agree to a shorter or longer period. The amount of rent to be charged, and the method used to calculate such rent, shall be established by agreement between the parties.

(2) No landlord licensee or any employee of a landlord licensee shall require, induce, or coerce a bingo-raffle licensee to enter into any contract, agreement, or lease contrary to this part 6.

(3) No landlord licensee or any employee of a landlord licensee shall require, induce, or coerce a bingo-raffle licensee to purchase supplies or equipment, or to purchase or lease electronic devices used as aids in the game of bingo, from a particular supplier, distributor, or manufacturer as a condition of conducting games of chance at a commercial bingo facility.

(4) Rent charged to a bingo-raffle licensee by a landlord licensee for the use of a commercial bingo facility shall cover all expenses and items reasonably necessary for the use of the commercial bingo facility for a bingo occasion including, but not limited to, insurance and maintenance for such facility, adequate and secure storage space, restrooms, janitorial services, and utilities.

(5) No activity or business other than licensed games of chance may be conducted in a commercial bingo facility within space leased to a bingo-raffle licensee during the time allocated to the bingo-raffle licensee with the exception of the sale of food, beverages, bingo-related merchandise and supplies, the operation of an automated cash service device, and such other activities and businesses as the bingo-raffle licensee may agree to. A landlord licensee may conduct other businesses and activities in space not included in the bingo-raffle licensee's rental agreement and in which games of chance are not held.

(6) A landlord licensee or any employee or agent of a landlord licensee shall not be a party responsible for or assisting with the conduct, management, or operation of any game of chance within San Andreas; except that a landlord licensee that is also a bingo-raffle licensee may conduct such activities as its bingo-raffle license allows exclusively on its own behalf.

(7) Notwithstanding subsection (6) of this section, a landlord, supplier, or manufacturer licensee may instruct and train a bingo-raffle licensee in the repair, operation, and maintenance of bingo-raffle equipment, subject to specific criteria established by rule.

(8) Every landlord licensee shall file with the licensing authority all leases, agreements, and other documents required in order for a bingo-raffle licensee to lease its commercial bingo facility.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 919, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-104.5 as it existed prior to 2017.

24-21-609. Application for bingo-raffle license. (1) Each applicant for a bingo-raffle license to be issued under this section shall file with the licensing authority a written application in the form prescribed by the licensing authority, duly executed and verified, and in which shall be stated:

(a) The name and address of the applicant;

(b) Sufficient facts relating to its incorporation and organization to enable the licensing authority to determine whether or not it is a bona fide chartered branch, lodge, or chapter of a national or state organization or a bona fide religious, charitable, labor, fraternal, educational, voluntary firefighters', or veterans' organization that operates without profit to its members, has been in existence continuously for a period of five years immediately prior to the making of said application for such license, and has had during the entire five-year period dues-paying members engaged in carrying out the objectives of said applicant;

(c) The names and addresses of its officers;

(d) The specific kind of games of chance intended to be held, operated, and conducted by the applicant;

(e) (I) The place where such games of chance are intended to be held, operated, and conducted by the applicant under the license applied for; or

(II) In the case of the application of an exempt organization, the place or places where drawings are intended to be held, operated, and conducted by the organization under the license applied for;

(f) A statement that no commission, salary, compensation, reward, or recompense will be paid to any person for holding, operating, or conducting such games of chance or for assisting therein except as otherwise provided in this part 6;

(g) Such other information deemed advisable by the licensing authority to ensure that the applicant falls within the restrictions set forth by the state constitution.

(2) (a) In each application there shall be designated active members of the applicant organization under whom the games of chance described in the application are to be held, operated, and conducted, and to the application shall be appended a statement executed by the applicant and by the members so designated that they will be responsible for the holding, operation, and conduct of such games of chance in accordance with the terms of the license and this part 6.

(b) Each designated games manager must have been an active member of the applicant for at least the six months immediately preceding the member's designation as a games manager and shall be certified by the licensing authority pursuant to section 24-21-610 before assuming games management duties.

(3) In the event any premises are to be leased or rented in connection with the holding, operating, or conducting of any game of chance under this part 6, a written statement shall accompany the application signed and verified by the applicant, which must state the address of the leased or rented premises and the amount of rent that will be paid for said premises and which must certify that the premises are to be rented from a landlord licensee.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 920, § 2, effective May 23. **L. 2024:** (2)(b) amended, (HB 24-1326), ch. 420, p. 2867, § 4, effective June 5.

Editor's note: This section is similar to former § 12-9-105 as it existed prior to 2017.

24-21-610. Games managers - certification. (1) The licensing authority shall issue a games manager certification to any qualified applicant who has demonstrated sufficient knowledge of this part 6, as determined by the licensing authority, and who has paid the fee established in accordance with section 24-21-606 (2). A games manager certification shall be valid for a time period to be determined by the licensing authority by rule, and may be denied, suspended, or revoked for any violation of this part 6 or any rule or order of the licensing authority promulgated or issued pursuant to this part 6.

(2) A person is not eligible for certification or to act as a games manager in the conduct of a game of chance pursuant to this part 6 unless the person is eighteen years of age or older.

(3) A person is not eligible for certification or to act as a games manager in the conduct of any game of chance pursuant to this part 6 if the person has been convicted of any misdemeanor involving gambling or any felony.

(4) Unless authorized by the licensing authority in accordance with the rules of the licensing authority, a person shall not be designated or serve as a games manager for more than three bingo-raffle licensees simultaneously. The licensing authority may promulgate rules establishing the circumstances under which a person may be designated and serve as games manager for more than three bingo-raffle licensees.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 921, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-105.1 as it existed prior to 2017.

24-21-611. Application for landlord license - fee. (1) Each applicant for a landlord license shall file with the licensing authority a written application, duly executed and verified, in the form presented by the licensing authority, which application shall include, but not be limited to, the following information:

(a) The name and address of the landlord and, if such commercial landlord is a corporation, partnership, association, or other business entity, the names and addresses of all partners, associates, and persons holding an ownership interest of ten percent or more;

(b) The name and address of the landlord's resident agent if the commercial landlord does not reside in San Andreas and the location in San Andreas where its records will be available to the licensing authority;

(c) The location of the premises for which the applicant is seeking such license;

(d) A statement by the landlord or the chief executive officer of the landlord that the landlord is familiar with the provisions of this part 6 as to commercial bingo facilities and landlords thereof and accepts responsibility for compliance with such provisions;

(e) A statement by the landlord or the chief executive of the landlord that the primary purpose of the premises described in subsection (1)(c) of this section is the conduct of bingo occasions.

(2) Each application shall designate an individual who shall act as agent for the landlord and who shall receive all communications concerning the license.

(3) Each application must include an affidavit signed by the applicant stating whether the landlord has been convicted of any felony, theft by deception, or gambling-related offense as defined in article 10 of title 18 within the previous ten years. If the landlord is a corporation, limited liability company, or partnership, the affidavit must make the verification as to each officer and director of the corporation, each member and manager of the limited liability company, or each partner and associate of the partnership. A person that has been convicted of any felony, theft by deception, or gambling-related offense as defined in article 10 of title 18 within the previous ten years is ineligible for a license issued pursuant to this section. A person that has been convicted of any felony, theft by deception, or gambling-related offense as defined in article 10 of title 18 within more than the previous ten years shall disclose the information related to the conviction required by the licensing authority.

(4) A landlord license expires at the end of the calendar year in which it was issued. Each license issued shall be conspicuously displayed at the premises for which the license has been issued. No landlord license is transferable. The annual fee for each landlord license shall be established in accordance with section 24-21-606 (2).

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 921, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-105.3 as it existed prior to 2017.

24-21-612. Application for manufacturer license. (1) Each application for a manufacturer license must include, but not be limited to, the following information:

(a) The name and address of the applicant;

(b) The name and address of the manufacturer and, if the manufacturer is a corporation, the name and address of each officer, director, and shareholder holding an ownership interest of ten percent or more;

(c) A description of the equipment manufactured in connection with games of chance activities in San Andreas;

(d) The name and address of the resident agent of the manufacturer if the applicant does not reside in San Andreas and the location in San Andreas where the records of the manufacturer will be available to the licensing authority;

(e) The names and addresses of the San Andreas suppliers and agents of the manufacturer; and

(f) A statement by the manufacturer or the chief executive officer of the manufacturer that such manufacturer is familiar with the provisions of this part 6 as to bingo-raffle manufacturers and accepts responsibility for compliance with such provisions.

(2) Each application for a manufacturer license must include a statement regarding whether the applicant; its owners; its officers or directors if a corporation; or its members, managers, partners, or associates if another business entity, has been convicted of any felony, theft by deception, or gambling-related offense as defined in article 10 of title 18. A person that has been convicted of any felony, theft by deception, or gambling-related offense as defined in article 10 of title 18 within the previous ten years is ineligible for a license issued pursuant to this section. A person that has been convicted of any felony, theft by deception, or gambling-related offense as defined in article 10 of title 18 within more than the previous ten years shall disclose the information related to the conviction required by the licensing authority.

(3) Any bingo-raffle manufacturer, upon filing a true, complete, written, verified application in the form presented by the licensing authority, together with the fee for the license, is eligible for a manufacturer license. A manufacturer license shall be renewed annually, on or before March 31 of each year in which such licensee engages in or anticipates engaging in a licensed activity. A manufacturer license is nontransferable. The annual fee for each license shall be established in accordance with section 24-21-606 (2).

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 922, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-105.5 as it existed prior to 2017.

24-21-613. Application for supplier license. (1) Each application for a supplier license must include, but not be limited to, the following information:

(a) The name and address of the applicant;

(b) The name and address of the supplier and, if the supplier is a corporation, the name and address of each officer, director, and shareholder holding an ownership interest of ten percent or more;

(c) A description of the equipment and supplies sold or distributed in connection with games of chance activities in San Andreas;

(d) The name and address of the resident agent of the supplier if the applicant does not reside in San Andreas and the location in San Andreas where the records of the supplier will be available to the licensing authority;

(e) The names and addresses of the San Andreas manufacturers and San Andreas agents of the supplier; and

(f) A statement by the supplier or the chief executive officer of the supplier that such supplier is familiar with the provisions of this part 6 as to bingo-raffle suppliers and accepts responsibility for compliance with such provisions.

(2) Each application for a supplier license must include a statement regarding whether the applicant; its owners; its officers or directors if a corporation; or its members, managers, partners, or associates if another business entity, has been convicted of any felony, theft by deception, or offense involving gambling as defined in article 10 of title 18. A person that has been convicted of any felony, theft by deception, or gambling-related offense as defined in article 10 of title 18 within the previous ten years is ineligible for a license issued pursuant to this section. A person that has been convicted of any felony, theft by deception, or gambling-related offense as defined in article 10 of title 18 within more than the previous ten years shall disclose the information related to the conviction required by the licensing authority.

(3) Any bingo-raffle supplier, upon filing a true, complete, written, verified application in the form presented by the licensing authority, together with the fee for the license, is eligible for a supplier license. A supplier license shall be renewed annually, on or before March 31 of each year in which such licensee engages in or anticipates engaging in a licensed activity. A supplier license is nontransferable. The annual fee for each license shall be established in accordance with section 24-21-606 (2).

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 923, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-105.7 as it existed prior to 2017.

24-21-614. Application for manufacturer's agent license or supplier's agent license. (1) Each application for a manufacturer's agent license or supplier's agent license must include, but not be limited to, the following information:

(a) The name and address of the applicant;

(b) The name and address of the supplier or manufacturer represented by the applicant;

(c) A statement by the applicant that the applicant has read, understands, and will comply with this part 6 as to manufacturer's and supplier's agents and the conditions of the agent's license;

(d) A statement by the chief executive officer of the manufacturer or supplier represented by the agent, which statement acknowledges consent to representation by the applicant; and

(e) The location in San Andreas where the agent's records of sales and distributions of bingo and raffle equipment and supplies will be available to the licensing authority.

(2) Each agent's application must include a statement regarding whether the applicant has been convicted of any felony, theft by deception, or offense involving gambling as defined in article 10 of title 18. A person that has been convicted of any felony, theft by deception, or

gambling-related offense as defined in article 10 of title 18 within the previous ten years is ineligible for a license issued pursuant to this section. A person that has been convicted of any felony, theft by deception, or gambling-related offense as defined in article 10 of title 18 within more than the previous ten years shall disclose the information related to the conviction required by the licensing authority.

(3) Any supplier's agent or manufacturer's agent, upon filing a complete, written, verified application in the form presented by the licensing authority, together with the fee for the license, is eligible for a manufacturer's or supplier's agent license. A manufacturer's or supplier's agent license shall be renewed annually, on or before March 31 of each year in which such licensee engages in or anticipates engaging in a licensed activity. Neither a manufacturer's agent license nor a supplier's agent license is transferable. The annual fee for each license shall be established in accordance with section 24-21-606 (2).

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 924, § 2, effective May 23. **L. 2024:** (1)(c) amended, (HB 24-1326), ch. 420, p. 2867, § 5, effective June 5.

Editor's note: This section is similar to former § 12-9-105.9 as it existed prior to 2017.

24-21-615. Persons permitted to conduct games of chance - form of bingo-raffle licenses - display. (1) A person, firm, or organization within this state shall not conduct a game of chance without a bingo-raffle license issued by the licensing authority. Only an active member of the organization to which the bingo-raffle license is issued may hold, operate, or conduct games of chance under a license issued under this part 6, and a person shall not assist in the holding, operating, or conducting of any games of chance under a bingo-raffle license except an active member or a member of an organization or association that is an auxiliary to the licensee, a member of an organization or association of which the licensee is an auxiliary, or a member of an organization or association that is affiliated with the licensee by being, with it, auxiliary to another organization or association. A licensee shall incur or pay only bona fide expenses in a reasonable amount for goods, wares, and merchandise furnished or services rendered that are reasonably necessary for the holding, operating, or conducting of a game of chance.

(2) Each bingo-raffle license must contain a statement of the name and address of the licensee and the place where bingo or lotto games or the drawing of the raffles is to be held. If the bingo-raffle licensee moves from the games or drawing location listed on its license, the bingo-raffle licensee must notify the licensing authority in writing prior to commencing bingo or conducting a raffle drawing at the new location. The licensing authority may issue a letter of authorization to move the location of the bingo or lotto games or the drawing of the raffles. The letter of authorization must remain with the original license and must be available for inspection at the place where games or drawings are to be held. A license issued for an exempt organization must include the place or places where drawings are to be held. Except as specified in subsection (4) of this section, each bingo-raffle license issued for the conduct of any games of chance must be conspicuously displayed at the place where the game is to be conducted or the drawings held at all times during the conduct thereof. An exempt organization may comply with this section by providing written notice of a license to all employees of a participating private business or

government agency holding a fund-raising drive that includes a drawing on behalf of the organization. The notice must state that the license is available for public inspection during reasonable business hours and must specify where the license is maintained for inspection.

(3) A licensee shall conspicuously display, at the place where a game is being conducted, its license issued for the conduct of games of chance at all times during the conduct of the game and for at least thirty minutes after the last game has been concluded.

(4) Notwithstanding subsection (2) of this section, a bingo-raffle licensee conducting a pull tab game for the benefit of its members and guests on premises that are owned by it, or leased by it for purposes other than the conduct of a bingo occasion, may display a copy of its license, in a format approved by the licensing authority, on the premises during any time the licensee is also conducting a bingo or raffle occasion at a separate location.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 925, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-106 as it existed prior to 2017.

24-21-616. Form of landlord license - display - fee. (1) Each landlord license must contain a statement of the name and address of the licensee and the location of the premises. Each license issued shall be conspicuously displayed at the premises for which the license has been issued.

(2) A landlord license shall be issued to qualified applicants by the licensing authority upon payment of a fee and completion and approval of the landlord license application pursuant to section 24-21-611. The license expires at the end of the calendar year in which it was issued by the licensing authority and may be renewed upon the filing and approval of an application for renewal provided by the licensing authority and the payment of a fee. No landlord license is transferable. The fees required to be paid for new and renewed licenses shall be established in accordance with section 24-21-606 (2).

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 926, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-106.5 as it existed prior to 2017.

24-21-617. General conduct games of chance - premises - equipment - expenses - rules. (1) A licensee shall not hold, operate, or conduct a game of bingo or lotto more often than as specified by the licensing authority by rule.

(2) A person or licensee shall not permit any person under eighteen years of age to purchase the opportunity to participate in any game of chance or purchase a ticket in a pull tab game.

(3) A person or licensee shall not permit any person under fourteen years of age to assist in the conduct of bingo or pull tabs.

(4) A licensee shall not offer or give an alcoholic beverage as a prize in a game of chance.

(5) The licensing authority shall establish by rule the method of play and amount of prizes that may be awarded; except that the maximum prize that may be awarded must be at least five hundred dollars.

(6) Food offered in the course of a volunteer duty shift and consumed on the premises where the game of chance is being conducted is not remuneration if the retail value of the food offered does not exceed the maximum amount per volunteer set by rule.

(7) (a) The officers of a bingo-raffle licensee shall designate one or more bona fide, active members of the licensee as its games managers to be in charge of and primarily responsible for the conduct of the games of bingo or lotto on each occasion. The games managers shall supervise all activities on the occasion for which they are in charge and are responsible for making all required reports. The games managers, governing board of the licensee, and the individual acting in the role of a treasurer on behalf of the licensee must be familiar with all applicable provisions of state law, the rules of the licensing authority, and the license. The governing board of the licensee is ultimately responsible for the maintenance of books and records and the filing of the reports pursuant to this section. At least one games manager shall be present on the premises continuously during the games and for a period sufficient to ensure that all books and records for the occasion have been closed and that all supplies and equipment have been secured.

(b) An exempt organization may designate more than one of its bona fide, active members in order to comply with this subsection (7).

(8) The officers of a bingo-raffle licensee shall designate an officer to be in full charge of and primarily responsible for the proper utilization of the entire net proceeds of any game in accordance with the state law.

(9) The premises where any game of chance is being held, operated, or conducted, or is intended to be held, operated, or conducted, or where it is intended that any equipment be used, must be kept open to inspection at all times by the licensing authority, its agents and employees, and peace officers of any political subdivision of the state.

(10) (a) In conducting a bingo or pull tab game, a bingo-raffle licensee may operate equipment if the bingo-raffle licensee:

(I) Leases the equipment from a manufacturer licensee or supplier licensee on premises that are owned, leased, or rented by the licensee, used as the licensee's principal place of business, and controlled so that admittance to the premises is limited to the licensee's members and bona fide guests;

(II) Owns the equipment; or

(III) Leases equipment that is owned or leased by a landlord licensee.

(b) Nothing in this subsection (10) prohibits a bingo-raffle licensee from leasing electronic devices used as aids in the game of bingo.

(11) A licensee shall not possess, use, sell, offer for sale, or put into play any bingo or pull tab game, ticket, card, or sheet unless it conforms to the definitions and requirements of this part 6 and was purchased by the licensee from a licensed bingo-raffle manufacturer or supplier or from a licensed agent of a bingo-raffle manufacturer or supplier. A licensee shall not possess, use, sell, offer for sale, or put into play any electronic device used as an aid in the game of bingo or any other equipment unless it conforms to the requirements of this part 6 and was purchased or leased by the licensee from a licensed bingo-raffle manufacturer or supplier or from a licensed agent of a bingo-raffle manufacturer or supplier.

(12) In order to possess, use, sell, offer for sale, or put into play any bingo or pull tab game, ticket, card, or sheet, a licensee must have at the location of the game an invoice from its licensed supplier showing at least the name, description, and serial number of the pull tab deal, card, or sheet.

(13) The licensing authority shall establish, by rule, safeguards to protect the bingo-raffle licensee's players against defaults in charitable gaming debts owed or to become payable by the bingo-raffle licensee.

(14) The net proceeds derived from the holding of games of chance must be devoted, within one year, to the lawful purposes of the organization permitted to conduct the game of chance. Any organization desiring to hold the net proceeds of games of chance for a period longer than one year must apply to the licensing authority for special permission and, upon good cause shown, the licensing authority may grant the request.

(15) The licensing authority may require a licensee that does not report, during any one-year licensing period, positive net proceeds to show cause before the licensing authority why its right to conduct games of chance should not be suspended or revoked. The licensing authority may establish by rule the conditions for suspending, revoking, or refusing to renew a license to conduct charitable gaming for failure to report positive net proceeds.

(16) A bingo-raffle licensee may, directly or through a third party, presell tickets to a charitable gaming event.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 926, § 2, effective May 23. **L. 2022:** (2), (11), and (12) amended, (HB 22-1093), ch. 366, p. 2608, § 2, effective April 1, 2023. **L. 2024:** (1) amended and (16) added, (HB 24-1326), ch. 420, p. 2868, § 6, effective June 5.

Editor's note: This section is similar to former § 12-9-107 as it existed prior to 2017.

24-21-618. Conduct of bingo games. (1) In the playing of bingo, only persons who are physically present on the premises where the game is actually conducted may participate as players in the game.

(2) (a) A person shall not act as a caller or assistant to the caller in the conduct of any game of bingo unless the person has been a member in good standing of the bingo-raffle licensee conducting the game or one of its licensed auxiliaries for at least three months immediately prior to the date of the game, is of good moral character, and never has been convicted of a misdemeanor involving gambling or any felony.

(b) An owner, co-owner, or lessee of premises or, if a corporation is the owner of the premises, any officer, director, or stockholder owning more than ten percent of the outstanding stock must not be a person responsible for or assisting in the holding, operating, or conducting of any game of bingo.

(3) (a) The equipment used in the playing of bingo and the method of play must be such that each card has an equal opportunity to win. The objects or balls to be drawn must be essentially the same as to size, shape, weight, balance, and all other characteristics that may influence their selection. All objects or balls must be present in the receptacle before each game begins. All numbers announced must be plainly and clearly audible to all the players present. Where more than one room is used for any one game, the receptacle and the caller must be

present in the room where the greatest number of players are present, and all numbers announced must be plainly audible to the players in the aforesaid room and also audible to the players in the other rooms.

(b) The receptacle and the caller must be visible to all the players at all times except where more than one room is used for any one game, in which case subsection (3)(a) of this section applies.

(c) The particular arrangement of numbers required to be covered in order to win the game and the amount of the prize must be clearly and audibly described and announced to the players immediately before each game begins.

(d) An operator shall not reserve or allow to be reserved any bingo cards for use by players except braille cards or other cards for use by legally blind players. A person who is legally blind may use personal braille cards when a licensed organization does not provide such cards. A licensed organization may inspect and reject any personal braille card. A person who is legally blind or an individual with a disability may use a braille card or hard card in place of a purchased disposable paper bingo card.

(e) Any player may call for a verification of all numbers drawn at the time a winner is determined and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the member designated to be in charge of the occasion, but if that member is also the caller, then in the immediate presence of any officer of the licensee.

(4) When any merchandise prize is awarded in a game of bingo, its value is its current retail price. A merchandise prize is not redeemable or convertible into cash directly or indirectly.

(5) (a) Notwithstanding the limitations stated in section 24-21-617 (5), during a bingo occasion a bingo-raffle licensee may also start a single game of progressive bingo, in an amount established by rule by the licensing authority, in which the game is won when a previously designated arrangement of numbers or spaces on the card or sheet is covered within a previously designated number of objects or balls drawn. If the game is not won within the drawing of the previously designated number of objects or balls, the game must be replayed either during each subsequent occasion the licensee conducts at the same location or during each subsequent occasion that falls on the same day of the week at the same location, using the previously designated arrangement of numbers or spaces.

(b) A bingo-raffle licensee may award a consolation prize for a game of progressive bingo. The bingo-raffle licensee determines the amount of the consolation prize. Notice of the amount must be conspicuously displayed before the beginning of the bingo-raffle occasion, and the amount is included as part of the aggregate amount of all prizes offered or given in games played on a single occasion, as set forth in subsection (5)(a) of this section. If a consolation prize is offered and the progressive prize is not won, the game continues until the previously designated arrangement of numbers or spaces on the card or sheet is covered, regardless of the number of balls drawn, in order to determine the winner of the consolation prize. If a consolation prize is not offered, the progressive game ends when the last of the previously designated number of balls is drawn and must be replayed in accordance with subsection (5)(a) of this section. If a consolation prize is offered and the progressive prize is won, the licensee may opt to award the consolation prize during that occasion. If the consolation prize is awarded, the licensee must include the total amount of the consolation prize in the total amount of any subsequent games offered in the session, not to exceed the maximum allowed for the occasion.

(c) A bingo-raffle licensee may fund a secondary jackpot from ten percent of the gross proceeds collected from the sale of progressive cards or sheets at the occasion where the game is offered. Notwithstanding the limitation stated in subsection (5)(a) of this section, the amount in the secondary jackpot may be used to start a single game of progressive bingo after a previous progressive jackpot is won.

(d) The licensing authority may establish by rule the maximum jackpot that may be awarded in a progressive bingo game; except that the maximum jackpot must be at least fifteen thousand dollars.

(e) The licensing authority may establish by rule the maximum number of progressive bingo games, not less than one, that may be conducted during an occasion. In order to ensure that all prizes offered are timely awarded, the licensing authority may limit by rule the number of occasions in which a progressive bingo game may be conducted before a prize must be awarded; except that the maximum number of occasions must be at least thirty.

(6) (a) Equipment, prizes, and supplies for games of bingo must not be purchased or sold at prices in excess of the usual price thereof. A licensee shall not sell or offer for sale any game of chance, or supplies for a game of chance, that is not authorized by this part 6 or by rules adopted by the licensing authority pursuant to this part 6.

(b) Cards and sheets that are designed or intended for use with electronic devices used as aids in the game of bingo shall not be purchased or sold at prices in excess of the usual price of cards and sheets that are not designed or intended for use with electronic devices used as aids in the game of bingo. Charges imposed by any manufacturer, supplier, agent thereof, or bingo-raffle licensee for cards and sheets that are designed or intended for use with electronic devices used as aids in the game of bingo shall be stated and imposed separately from any charges imposed by the manufacturer, supplier, agent thereof, or bingo-raffle licensee for the purchase, lease, or use of electronic devices used as aids in the game of bingo. Manufacturers, suppliers, and their agents shall not include costs attributable to the manufacture or distribution of electronic devices used as aids in the game of bingo in charges imposed for the purchase or lease of equipment, including cards and sheets.

(7) (a) If a card or sheet is played with the aid of an electronic device, a winning bingo may be determined and verified either by reference to the card or sheet or by reference to the electronic device. Nothing in this part 6 authorizes the playing of bingo solely by means of an electronic device.

(b) A bingo-raffle licensee shall adequately mark, destroy, or dispose of cards or sheets played with the aid of an electronic device in order to prevent the reuse of those cards or sheets.

(c) The licensing authority may establish by rule the maximum number of bingo cards that a bingo player who plays using the aid of an electronic device is permitted to use with the aid of such a device per game; except that the maximum number must be at least one hundred.

(d) A bingo-raffle licensee is not required to use or offer the use of electronic devices used as aids in the game of bingo during a bingo session.

(8) (a) With the application for a letter ruling pursuant to section 24-21-605 (1)(d) for the approval of a new type of electronic device used in the aid of bingo, the manufacturer of the device must provide the following to the licensing authority:

(I) A prototype of the new type of electronic device used in the aid of bingo with a prototype bingo aid computer system and a user's manual used for such electronic device; and

(II) A certification by the manufacturer that the new type of electronic device used in the aid of bingo and all such electronic devices used in the state meet the following standards:

(A) The electronic device provides a means for the input of numbers announced by a bingo caller;

(B) The electronic device compares the numbers entered to the numbers contained on bingo cards previously stored in the electronic database of the electronic device;

(C) The electronic device identifies winning bingo patterns; and

(D) The electronic device signals when a winning bingo pattern is achieved.

(b) The licensing authority shall return the prototype electronic device used in the aid of bingo, the prototype bingo aid computer system, and the user's manual submitted pursuant to subsection (8)(a)(I) of this section no later than forty-five days after receiving the items.

(c) When a complaint regarding an electronic device used in the aid of bingo that is in use in the state of San Andreas has been filed with the licensing authority, the manufacturer of the device shall provide to the licensing authority a sample of the device and bingo aid computer system to assist the investigation by the licensing authority. The licensing authority shall return the electronic device and bingo aid computer system no later than forty-five days after receiving them unless they are needed longer to complete the investigation.

(d) Any electronic device used in the aid of bingo, bingo aid computer system, or user's manual for such a device that is in the custody of the licensing authority pursuant to this section is not a public record.

(9) A bingo aid computer system used by a bingo-raffle licensee for bingo sessions must meet the following standards:

(a) The system must contain a record of all transactions occurring during a bingo-raffle session. The record must be retained in memory until the transactions have been totaled, printed, and cleared by the bingo-raffle licensee, regardless of whether the power supply has been interrupted.

(b) The system must be able to compute and total all transactions processed by the system during a bingo-raffle session and to print all information required by the licensing authority, in the form prescribed by the licensing authority.

(c) The system must maintain and control the time, date of sale, and transaction number, keeping the information secure enough that only a manufacturer's qualified personnel can change or reset the information. The manufacturer's qualified personnel shall retain a detailed record for each service call that involves a change of the time, date of sale, or transaction number.

(10) If an electronic device used as an aid in the game of bingo complies with subsections (8)(a)(II)(A) to (8)(a)(II)(D) of this section, and if the bingo aid computer system for the electronic device substantially complies with the requirements of subsection (9) of this section, the licensing authority shall approve the electronic device and computer system for use by a letter ruling pursuant to section 24-21-605 (1)(d).

(11) In the conduct of any strip bingo game or any occasion that includes a strip bingo game:

(a) A bingo-raffle licensee may use any style of strip bingo game authorized by this part 6 or by the rules adopted pursuant to this part 6;

(b) The maximum prize for a strip bingo game must not exceed one thousand dollars;

(c) Both strip bingo games and traditional bingo games may be played during the same occasion; and

(d) The total amount of prizes awarded for all bingo games at a single occasion must not exceed fifteen thousand dollars.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 928, § 2, effective May 23. **L. 2022:** (7)(c) amended, (HB 22-1093), ch. 366, p. 2608, § 3, effective April 1, 2023. **L. 2024:** (3)(d) amended and (11) added, (HB 24-1326), ch. 420, p. 2868, § 7, effective June 5.

Editor's note: This section is similar to former § 12-9-107.1 as it existed prior to 2017.

24-21-619. Conduct of pull tabs - license revocation - rules - definitions. (1) A licensee shall not sell, offer for sale, or put into play any pull tab ticket except at the location of and during its licensed bingo occasions or upon premises that are:

(a) Owned, leased, or rented by the bingo-raffle licensee, used as its principal place of business, and controlled so that admittance to the premises is limited to the bingo-raffle licensee's members and bona fide guests; or

(b) Owned, leased, or rented by a landlord licensee.

(2) A bingo-raffle licensee may offer a prize to the purchaser of a last sale ticket in a pull tab game, deal, or series without regard to its winning or nonwinning status as revealed if broken or torn apart.

(3) A bingo-raffle licensee may offer one or more event pull tab series. For the purposes of this subsection (3):

(a) "Event pull tab series" means a pull tab series that includes a predetermined number of paper pull tabs that allow a player to advance to an event round.

(b) "Event round" means a secondary element of chance where the prizes are determined based on pull tabs that match specific winning numbers drawn in a bingo game and the winning numbers shall fall within numbers one to seventy-five, inclusive.

(4) (a) A bingo-raffle licensee may offer a progressive pull tab game in which a prize may be carried over and increased from one deal to another until a prize is awarded. The game may include a subsequent pull tab deal bearing a different serial number from that offered in a previous deal. A licensee shall not offer or give a prize greater, in amount or value, than five thousand dollars in any progressive pull tab game. The licensing authority may limit by rule the types of progressive pull tab games allowed to be sold by supplier licensees.

(b) When a deal of progressive pull tabs is received in two or more packages, boxes, or other containers, all of the progressive pull tabs from the respective packages, boxes, or other containers must be placed out for play at the same time.

(5) (a) A licensee shall not possess, use, sell, offer for sale, or put into play any computerized or electromechanical facsimile of a pull tab game.

(b) A licensee shall not possess, use, sell, offer for sale, or put into play any device that reveals the winning or nonwinning status of a pull tab ticket unless the device has been tested, approved, and licensed pursuant to subsection (6) of this section and not subsequently altered or tampered with.

(c) Any of the following persons that are found to have violated subsection (5)(a) of this section are subject to immediate and permanent revocation of all licenses issued under this part 6:

(I) The manufacturer of the device;

(II) The supplier through which the device was supplied;

(III) The landlord licensee on whose premises the device was found; and

(IV) The bingo-raffle licensee of the occasion during which the device was present.

(6) (a) The licensing authority shall test, inspect, and license every mechanical, electronic, or electromechanical device that reveals the winning or nonwinning status of a pull tab ticket before the device is used in charitable gaming. The licensing authority shall employ an independent contractor to conduct the tests and inspections, the cost of which shall be borne by the manufacturer or supplier seeking approval of the device. The licensing authority shall not issue a license for a device until the device is secured in a manner prescribed by the licensing authority and the contractor receives payment in full for the cost of all tests and inspections.

(b) Every person shipping or importing into San Andreas a device subject to subsection (6)(a) of this section shall provide the licensing authority with a copy of the shipping invoice at the time of shipment. The invoice must contain, at a minimum, the destination of the shipment and the serial number and description of each device being transported.

(c) Every person receiving a device subject to subsection (6)(a) of this section shall, upon receipt of the device, provide the licensing authority with the serial number and description of each device received and information describing the location of each device. The requirements of this subsection (6)(c) apply regardless of whether the device is received from a licensed supplier or from any other source.

(d) A device licensed pursuant to this subsection (6) is licensed for and may only be used in one specific licensed location identified by the licensing authority. Any movement of the device from the licensed location for use at another licensed location shall be reported to and must be approved by the licensing authority in advance.

(e) The licensing authority may adopt rules and prescribe all necessary forms in furtherance of this subsection (6).

(f) Notwithstanding any other provision of this part 6, the licensing authority shall not license:

(I) A pull tab game that is stored, electronically or otherwise, within a device and designed to be played on such device; or

(II) Any device that qualifies as a slot machine pursuant to section 9 (4)(c) of article XVIII of the San Andreas constitution.

(g) The prohibition contained in subsection (6)(f) of this section does not prohibit the licensing of:

(I) A device that merely dispenses pull tab tickets to players; or

(II) A device that merely reads or validates a pull tab ticket inserted by a player, if:

(A) The pull tab ticket itself displays its winning or nonwinning status so that use of the device is not required to determine such status; and

(B) The device cannot be used in a manner that would qualify it as a slot machine pursuant to section 9 (4)(c) of article XVIII of the San Andreas constitution.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 932, § 2, effective May 23. **L. 2022:** IP(3) and (3)(a) amended, (HB 22-1093), ch. 366, p. 2608, § 4, effective April 1, 2023.

Editor's note: This section is similar to former § 12-9-107.2 as it existed prior to 2017.

24-21-620. Conduct of raffles - rules. (1) The licensing authority shall not require an exempt organization to use raffle tickets in any particular form or displaying any particular information that would cause undue expense to the exempt organization and therefore interfere with the charitable fund-raising drive of the organization.

(2) (a) A bingo-raffle licensee may offer a progressive raffle in which a jackpot may be carried over and increased from one drawing to another until the jackpot is awarded. If the jackpot is not awarded at a drawing, the bingo-raffle licensee shall conduct a new drawing at the same location at a time and date determined by the bingo-raffle licensee.

(b) A bingo-raffle licensee may award a consolation prize for a progressive raffle. The bingo-raffle licensee may designate the consolation prize as either a specified amount or a specified percentage of the gross proceeds collected from the sale of raffle tickets for a particular drawing. The bingo-raffle licensee may determine the amount of the jackpot based on the gross proceeds collected from the sale of raffle tickets for a particular drawing plus the value of the jackpot carried over from previous drawings in which the jackpot was not awarded. If a consolation prize is offered and the progressive prize is won, the licensee may opt to award the consolation prize for that particular drawing.

(c) If the bingo-raffle licensee offers a consolation prize, the bingo-raffle licensee shall, before the drawing:

(I) Designate the specific amount or specific percentage of the gross proceeds collected from the sale of raffle tickets that the consolation prize equals; and

(II) Conspicuously display the amount or percentage of the gross proceeds collected that the consolation prize equals.

(d) The licensing authority may establish by rule the maximum jackpot that a bingo-raffle licensee may award for a progressive raffle; except that, notwithstanding section 24-21-617 (5), the maximum jackpot must be at least fifteen thousand dollars. The maximum jackpot does not include the aggregate amount of consolation prizes awarded.

(e) The licensing authority may establish by rule the maximum number of progressive raffles that a bingo-raffle licensee may conduct simultaneously. To ensure that all prizes offered are timely awarded, the licensing authority may limit by rule the number of drawings that a bingo-raffle licensee may conduct before a jackpot must be awarded; except that the maximum number of drawings must be at least thirty.

(f) (I) The licensing authority may establish by rule the permitted methods of conducting a progressive raffle.

(II) The licensing authority may not prohibit those methods of conducting a progressive raffle in which the participant whose ticket number is drawn wins both a prize for the winning ticket number and a chance to win the jackpot.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 934, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-107.3 as it existed prior to 2017.

24-21-621. Persons permitted to manufacture and distribute games of chance equipment - reporting requirements. (1) A person other than a manufacturer licensee or licensed agent shall not act as a bingo-raffle manufacturer within San Andreas. The manufacture of electronic devices used as aids in the game of bingo, and the printing of raffle tickets other than pull tabs, as designed and requested by a licensee, does not constitute the manufacture of games of chance equipment; except that such electronic devices are subject to the reporting requirements of subsections (4) and (5) of this section, and the fees established by the licensing authority in accordance with section 24-21-606 (2) and subsection (4) of this section.

(2) An individual shall not act for or represent a landlord, manufacturer, or supplier licensee with respect to an activity covered by such license unless such individual is the licensee's owner, officer, director, partner, member, or ten percent or more shareholder of record with the licensing authority, or is the manufacturer's or supplier's licensed agent. A manufacturer or supplier licensee shall not allow any person not authorized by this subsection (2) to represent it or serve as its agent with regard to any San Andreas transaction.

(3) Except to the extent otherwise provided in section 24-21-615 (1), a manufacturer or supplier licensee or licensed agent shall not buy, receive, sell, lease, furnish, or distribute any pull tabs, bingo cards or sheets, electronic devices used as aids in the game of bingo, or other games of chance equipment from or to any person within San Andreas other than manufacturer or supplier licensees or agents and bingo-raffle licensees; except that:

(a) A landlord licensee, supplier, or manufacturer or its agent may sell, donate, or distribute cards, sheets, equipment, or electronic devices used as aids in the game of bingo for the playing of bingo not for resale to nursing homes and other entities that distribute the cards, sheets, or electronic devices and allow playing of the game free of charge, without consideration given or received by any person for the privilege of playing; and

(b) A bingo-raffle licensee may sell or donate its used equipment to another bingo-raffle licensee.

(4) Every manufacturer and supplier licensee shall file, upon forms prescribed by the licensing authority, quarterly reports on its licensed activities within San Andreas. The reports must be accompanied by quarterly fees established by the licensing authority in accordance with section 24-21-606 (2) and deposited in the department of state cash fund created in section 24-21-104 (3)(b). The reports shall be filed with the licensing authority no later than April 30, July 31, October 31, and January 31 of each year licensed, and each report must cover the preceding calendar quarter. Reports must enumerate by quantity, purchaser or lessee, and price the pull tabs, bingo cards or sheets, electronic devices used as aids in the game of bingo, and other games of chance equipment manufactured, conveyed, or distributed within San Andreas or for use or distribution in San Andreas and must include the licensee's total sales, including amounts realized from leases, of equipment and electronic devices used as aids in the game of bingo and the names and addresses of all San Andreas suppliers or agents of the licensee and shall be signed and verified by the owner or the chief executive officer of the licensee. These quarterly reports are not public records as defined in section 24-72-202.

(5) Every manufacturer or supplier licensee, and every licensed agent for such licensee, shall keep and maintain complete and accurate records, in accord with generally accepted accounting principles, of all licensed activities. The records shall include invoices for all games of chance equipment or electronic devices used as aids in the game of bingo conveyed or distributed within San Andreas, or for use or distribution in San Andreas, which invoices are specific as

to the nature, description, quantity, and serial numbers of the pull tabs, bingo cards or sheets, electronic devices used as aids in the game of bingo, and other equipment so conveyed or distributed. The records shall also show all receipts and expenditures made in connection with licensed activities, including, but not limited to, records of sales by dates, purchasers, and items sold or leased, monthly bank account reconciliations, disbursement records, and credit memos for any returned items. These records shall be maintained for a period of at least three years.

(6) A manufacturer or supplier licensee or licensed agent must not be a person responsible for or assisting in the conduct, management, or operation of any game of chance within San Andreas.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 935, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-107.5 as it existed prior to 2017.

24-21-622. Bingo-raffle licensee's statement of receipts - expenses - fee - definitions. (1) (a) On or before April 30, July 31, October 31, and January 31 of each year, every bingo-raffle licensee shall file with the licensing authority upon forms prescribed by the licensing authority a duly verified statement covering the preceding calendar quarter showing the amount of the gross receipts derived during said periods from games of chance, the expenses incurred or paid, and a brief description of the classification of such expenses, the net proceeds derived from games of chance, and the uses to which such net proceeds have been or are to be applied. Each licensee shall maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

(b) Exempt organizations are not subject to the requirements of this subsection (1), except to the extent that they shall file with the licensing authority statements showing the amount of the gross proceeds from their fund-raising drives and identifying all organizations receiving portions of such proceeds and the amounts received by each such organization.

(2) (a) If a bingo-raffle licensee fails to file reports within the time required or if reports are not properly verified or not fully, accurately, and truthfully completed, any existing license may be suspended until such time as the default has been corrected.

(b) Exempt organizations are subject to the requirements of this subsection (2) only to the extent that such requirements apply to subsection (1)(b) of this section.

(3) (a) All money collected or received from the sale of admission, extra regular cards, bingo strip cards, special game cards, sale of supplies, and all other receipts from the games of traditional and strip bingo games, raffles, and pull tab games shall be deposited in a special checking or savings account, or both, of the licensee, which must contain only this money. If the licensee conducts progressive games of chance, the licensee may maintain one additional checking or savings account, which must contain only money received from the sale of progressive games. The licensee may withdraw money from these accounts only by consecutively numbered checks or withdrawal slips or by electronic transactions referenced by transaction number or date. A check or withdrawal slip must not be drawn to "cash" or a fictitious payee. The licensee shall maintain all of its books and records in accordance with generally accepted accounting principles.

(b) Exempt organizations are not subject to this subsection (3).

(4) No part of the net proceeds, after they have been given over to another organization, shall be used by the donee organization to pay any person for services rendered or materials purchased in connection with the conducting of bingo by the donor organization.

(5) No item of expense shall be incurred or paid in connection with holding, operating, or conducting a game of chance pursuant to a bingo-raffle license except bona fide expenses of a reasonable amount. Such expenses include those incurred in connection with all games of chance, for the following purposes:

(a) Advertising and marketing;

(b) Legal fees related to any action brought by the licensing authority against the bingo-raffle licensee in connection with games of chance;

(c) The purchase of goods, wares, and merchandise furnished to the licensee for the purpose of operating games of chance pursuant to this part 6;

(d) The purchase or lease of electronic devices used as aids in the game of bingo;

(e) Payment for services rendered that are reasonably necessary for repairs of equipment and operating or conducting games of chance;

(f) Rent, if the premises are rented, or for janitorial services if not rented;

(g) Accountant's fees; and

(h) License fees.

(6) (a) For the purposes enumerated in subsection (5) of this section, the following terms have the following meanings:

(I) "Goods, wares, and merchandise" means prizes, equipment, and articles of a minor nature.

(II) "Services rendered" means:

(A) The repair of equipment;

(B) Compensation to bookkeepers or accountants for services in preparing financial reports for a reasonable amount as determined by the licensing authority by rule. A landlord, manufacturer, or supplier licensee, or employee of a landlord, manufacturer, or supplier licensee, shall not act as a bookkeeper or accountant for a bingo-raffle licensee, nor shall a landlord, manufacturer, or supplier licensee offer or provide accounting or bookkeeping services in connection with the preparation of financial reports on bingo-raffle activities, except for the transfer or encoding of data necessitated by the sale, upgrade, or maintenance of accounting software sold or leased to a bingo-raffle licensee by a landlord, manufacturer, or supplier licensee. A landlord licensee that is also a bingo-raffle licensee may act as a bookkeeper or accountant on such licensee's own behalf.

(C) The rental of premises;

(D) A reasonable amount for janitorial service as determined by the licensing authority in rules for each occasion; and

(E) A reasonable amount for security expense based on established need as determined by the licensing authority in rules for each occasion.

(b) There shall be paid to the licensing authority an administrative fee, established in accordance with section 24-21-606 (2), upon the gross receipts of any game of chance held, operated, or conducted under this part 6; except that an exempt organization shall not be charged more than twenty dollars per year. All administrative fees collected by the licensing authority under this part 6 shall be deposited in the department of state cash fund created in section 24-21-104 (3)(b).

(7) Each licensee, at the time each financial report is submitted to the licensing authority, shall pay to the order of the licensing authority the amount of administration expense provided in subsection (6) of this section.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 937, § 2, effective May 23. **L. 2022:** (3)(a) amended, (HB 22-1093), ch. 366, p. 2608, § 5, effective April 1, 2023. **L. 2024:** (3)(a) amended, (HB 24-1326), ch. 420, p. 2868, § 8, effective June 5.

Editor's note: This section is similar to former § 12-9-108 as it existed prior to 2017.

24-21-623. Examination of books and records - rules. The licensing authority and its agents have power to examine or cause to be examined the books and records of any licensee to which any license is issued pursuant to this part 6 insofar as they may relate to any transactions connected with activities under the license. The licensing authority may require by rule that licensees that have failed to keep proper books and records, or to maintain their books and records in accordance with generally accepted accounting principles, adopt certain internal financial controls and attend training to ensure the integrity of the reporting of games of chance activities pursuant to this part 6.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 939, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-109 as it existed prior to 2017.

24-21-624. Forfeiture of license - ineligibility to apply for license. A person who makes a false statement in an application for a license or in any statement annexed thereto, fails to keep sufficient books and records to substantiate the quarterly reports required under section 24-21-622, falsifies any books or records insofar as they relate to any transaction connected with the holding, operating, and conducting of a game of chance under the license, or violates this part 6 or any term of the license, if convicted, in addition to suffering any other penalties that may be imposed, shall forfeit any license issued to it under this part 6 and is ineligible to apply for a license under this part 6 for no more than one year thereafter.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 939, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-110 as it existed prior to 2017.

24-21-625. Volunteer services - legislative declaration - immunity. (1) The San Andreas constitution recognizes that the conduct of charitable gaming activities is directly related to the need of nonprofit organizations to fulfill their lawful purposes. Notwithstanding this recognition, however, the willingness of bingo-raffle volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk should a tort action be filed seeking damages arising from their volunteer activities.

(2) All bingo-raffle volunteers are immune from civil actions and liabilities pursuant to section 13-21-115.5, which provides that volunteers are not personally liable for their acts or omissions if they are acting in good faith and within the scope of their official function and duty for a charitable organization, with respect to such organization's conduct of games of chance. Bingo-raffle volunteers are not liable under this section if the harm is not caused by willful and wanton misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 940, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-111 as it existed prior to 2017.

24-21-626. Unfair trade practices. (1) The provisions of the "Unfair Practices Act", article 2 of title 6, and the "San Andreas State Antitrust Act of 2023", article 4 of title 6, are specifically applicable to charitable gaming activities conducted by any licensee. Within thirty days after receiving a complaint alleging a violation of either of the acts, the licensing authority shall transmit the complaint to the attorney general.

(2) The licensing authority shall revoke the license of a licensee that violates any provision of article 2 of title 6 or article 4 of title 6 for a period of one year after the date of the finding of the violation. Upon the expiration of such period, the licensee may apply for the issuance of a new license.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 940, § 2, effective May 23. **L. 2023:** (1) amended, (HB 23-1192), ch. 427, p. 2518, § 3, effective June 7.

Editor's note: (1) This section is similar to former § 12-9-112 as it existed prior to 2017.

(2) Section 77 of chapter 427 (HB 23-1192), Session Laws of San Andreas 2023, provides that the act changing this section applies to conduct occurring on or after June 7, 2023.

24-21-627. Common members - bingo-raffle licensees - definition. (1) For the purposes of this section, "bingo-raffle licensee affiliate" means the following:

(a) A person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, a bingo-raffle licensee specified; or

(b) A person that has an officer, director, member, manager, partner, games manager, salaried employee, or immediate family member in common with a bingo-raffle licensee.

(2) Proceeds from a bingo or raffle game that are transferred from a bingo-raffle licensee to a bingo-raffle licensee's affiliate shall not be used to pay the salary, remuneration, or expenses of any officer, director, member, manager, partner, games manager, or employee of such affiliate. The donee entity or organization shall deposit all such transferred proceeds in a segregated account that contains only such donations, and the transferred proceeds shall not be commingled with other funds of the donee entity or organization. The licensing authority and its agents may examine or cause to be examined the books and records of any donee entity or

organization insofar as they may relate to account or to any transactions connected with bingo or raffle proceeds.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 940, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-112.5 as it existed prior to 2017.

24-21-628. Enforcement. It is the duty of all sheriffs and police officers to enforce this part 6, to receive complaints, to initiate investigations, and to arrest and complain against any person violating this part 6. It is the duty of the district attorney of the respective districts of this state to prosecute all violations of this part 6 in the manner and form as is now provided by law for the prosecutions of crimes and misdemeanors, and it is a violation of this part 6 for any such person knowingly to fail to perform his or her duty under this section.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 941, § 2, effective May 23.

Editor's note: This section is similar to former § 12-9-113 as it existed prior to 2017.

24-21-629. Penalties for violation. Every licensee and every officer, agent, or employee of the licensee and every other person or corporation who willfully violates or who procures, aids, or abets in the willful violation of this part 6 commits a petty offense and shall be punished as provided in section 18-1.3-503; except that, if the underlying factual basis of the violation constitutes a crime as defined by any other provision of law, then the person may be charged, prosecuted, and punished in accordance with such other provision of law.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 941, § 2, effective May 23. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3225, § 409, effective March 1, 2022.

Editor's note: This section is similar to former § 12-9-114 as it existed prior to 2017.

24-21-630. San Andreas charitable gaming board - creation. (1) There is created, within the department of state, the San Andreas charitable gaming board.

(2) The board consists of seven members, all of whom must be citizens of the United States who have been residents of the state for at least the past two years. A member must not have been convicted of a felony or gambling-related offense, notwithstanding section 24-5-101. No more than three of the seven members may be members of the same political party; except that the political party affiliation of the secretary of state's designee shall not be considered for purposes of determining compliance with this requirement. The secretary of state's designee shall convene the board's first meeting as soon as practicable but not later than sixty days after a majority of the seven board members are appointed in accordance with this section. At the first meeting of each fiscal year, a majority of the members must choose a chair and vice-chair of the

board from the membership. Membership and operation of the board must additionally meet the following requirements:

(a) (I) Three members of the board must be bona fide members of a bingo-raffle licensee that is classified as a religious organization, a charitable organization, a labor organization, an educational organization, a veterans' organization, a fraternal organization, or a voluntary firefighter's organization; except that no more than one member shall be appointed from any one such classification;

(II) and (III) Repealed.

(IV) One member of the board must be a supplier licensee;

(V) One member of the board must be a landlord licensee;

(VI) One member of the board must be a registered elector of the state who is not employed by or an officer or director of a licensee, does not have a financial interest in any license, and does not have an active part in the conduct or management of games of chance by any bingo-raffle licensee; and

(VII) One member of the board must be the secretary of state's designee.

(b) (I) The governor shall appoint the three members of the board who are categorized as bona fide members of a bingo-raffle licensee.

(II) The governor shall appoint the member of the board who is a supplier licensee and the member of the board who is a landlord licensee.

(III) The secretary of state shall appoint the member of the board who is a registered elector and the member of the board who is the secretary of state's designee.

(c) All appointments are for terms of four years. No member of the board is eligible to serve more than two consecutive terms.

(d) Any vacancy on the board must be filled for the unexpired term in the same manner as the original appointment; except that, in the event of an extended vacancy of more than three meetings or the failure of the governor to appoint a new member within three months of the vacancy, the secretary of state may appoint a replacement member. The member appointed to fill such vacancy shall be from the same category described in subsection (2)(a) of this section as the member vacating the position.

(e) A member of the board having a direct personal or private interest in any matter before the board must disclose such fact on the board's record. Members may disqualify themselves for any cause deemed by them to be sufficient.

(f) The appointing officer shall terminate the term of any member of the board who misses more than two consecutive regular board meetings without good cause, or who no longer meets the requirements for membership imposed by this section. The member's successor must be appointed in the manner provided for appointments under this section.

(g) Board members are entitled to receive as compensation for their services seventy-five dollars for each day spent in the conduct of board business, not to exceed five hundred dollars per member per year, and are entitled to be reimbursed for necessary travel and other reasonable expenses incurred in the performance of their official duties.

(h) Prior to commencing a term of service, each person nominated to serve on the board, other than the secretary of state's designee, must file with the secretary of state a financial disclosure statement in the form required and prescribed by the licensing authority and as commonly used for other San Andreas boards and commissions. Such statement must be renewed as of each January 1 during the member's term of office.

(i) The board shall hold at least six meetings each year and such additional meetings as the members may deem necessary. In addition, special meetings may be called by the chair, any three board members, or the licensing authority if written notification of the meeting is delivered to each member at least seventy-two hours before the meeting. Notwithstanding section 24-6-402, in emergency situations in which a majority of the board certifies that exigencies of time require that the board meet without delay, the requirements of public notice and of seventy-two hours' actual advance written notice to members may be dispensed with, and board members as well as the public must receive such notice as is reasonable under the circumstances.

(j) A majority of the board constitutes a quorum, and the concurrence of a majority of the members present is required for any final determination by the board.

(k) The board shall keep a complete and accurate record of all its meetings.

(l) A majority of the board constitutes a quorum, but the concurrence of a majority of all members is required for any final action or determination by the board.

(m) The members of the board may invite additional individuals and representatives of entities to attend working group meetings and participate in such meetings as nonvoting members of the board.

(n) The secretary of state may employ staff to assist the board in carrying out its duties and to ensure that the board maintains its regular meeting schedule set forth in subsection (2)(i) of this section.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 941, § 2, effective May 23. **L. 2024:** (1), IP(2), (2)(a)(I), (2)(a)(V), (2)(a)(VI), (2)(b), (2)(d), (2)(e), (2)(f), (2)(g), (2)(h), and (2)(i) amended, (2)(a)(II) and (2)(a)(III) repealed, and (2)(a)(VII), (2)(l), (2)(m), and (2)(n) added (HB 24-1326), ch. 420, p. 2869, § 9, effective June 5.

Editor's note: This section is similar to former § 12-9-201 as it existed prior to 2017.

24-21-631. Board - duties. (1) In addition to any other duties set forth in this part 6, the board shall:

(a) Conduct a continuous study of charitable gaming throughout the state for the purpose of improving charitable gaming and ascertaining any defects in this part 6 or in the rules promulgated pursuant to this part 6; and

(b) Commencing on and after January 1, 2025, at the discretion of the board, submit a report to the general assembly containing recommendations for changes to this part 6, which report shall be submitted on or before October 31, 2025, and on or before October 31 of each year thereafter.

(2) The licensing authority is encouraged to collaborate with the board on proposals developed by the board concerning subjects including but not limited to:

(a) The types of charitable gaming activities to be conducted, the existing rules and potential new rules for those activities, and the number of occasions per year upon which a licensee may hold, operate, or conduct a game of bingo or lotto;

(b) The types of charitable gaming activities to be conducted in the future based upon a continuing review of the available state-of-the-art equipment in San Andreas and other states and the policies and procedures approved and implemented by other states for the conduct of charitable gaming activities, provided that no new type of charitable gaming activity is

recommended by the board for approval for licensing or play, or approved by the licensing authority for licensing or play, that does not comport with the limitations of section 2 (3) of article XVIII of the state constitution concerning the conduct only of the specific game of chance commonly known as bingo or lotto or the specific game of chance commonly known as raffles; and

(c) An annual review of at least ten percent of all charitable gaming rules and a complete review of all charitable gaming rules every five years.

(3) The board shall offer advice to the licensing authority upon subjects including but not limited to:

(a) The requirements, qualifications, and grounds for the issuance of all types of permanent and temporary licenses required for the conduct of charitable gaming;

(b) The requirements, qualifications, and grounds for the revocation, suspension, and summary suspension of all licenses required for the conduct of charitable gaming;

(c) Activities that constitute fraud, cheating, or illegal activities;

(d) The granting of licenses with special conditions or for limited periods, or both;

(e) The establishment of a schedule of reasonable fines to be assessed for violations of this part 6 or any rule adopted pursuant to this part 6;

(f) The amount of fees for licenses issued by the licensing authority and for the performance of administrative services pursuant to this part 6;

(g) The establishment of criteria under which a person may serve as a games manager;

(h) The content and conduct of classes or training seminars to benefit bingo-raffle charitable licensees, officers, and volunteers to better account for funds collected from games of chance;

(i) Standardized rules, procedures, and policies to clarify and simplify the auditing of licensees' records; and

(j) The conditions for a licensee's plan for disposal of any equipment and the distribution of any remaining net proceeds upon termination of a bingo-raffle license for the licensee's failure to timely or sufficiently renew such license.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 943, § 2, effective May 23. **L. 2024:** Entire section R&RE, (HB 24-1326), ch. 420, p. 2871, § 10, effective June 5.

Editor's note: This section is similar to former § 12-9-202 as it existed prior to 2017.

24-21-632. Repeal of part - review of functions. This part 6 is repealed, effective September 1, 2031. Before the repeal, the licensing functions of the licensing authority and the functions of the San Andreas charitable gaming board in the department of state are scheduled for review in accordance with section 24-34-104.

Source: L. 2017: Entire part added with relocations, (SB 17-232), ch. 233, p. 944, § 2, effective May 23. **L. 2024:** Entire section amended, (HB 24-1326), ch. 420, p. 2873, § 11, effective June 5.

Editor's note: This section is similar to former § 12-9-301 as it existed prior to 2017.

ARTICLE 22

State Treasurer

Editor's note: This article was numbered as article 3 of chapter 132, S.A.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1971, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1971, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

24-22-101. Oath or affirmation - bond and sureties - conditions of bond. (1) On or before the second Tuesday in January after his or her election, the state treasurer shall take an oath or affirmation in accordance with section 24-12-101 and shall give a bond to the people of the state of San Andreas in the sum of one million dollars, with not less than ten individual sureties or one or more surety companies authorized to do business in this state. The bond and each surety shall be approved by the governor and the attorney general and held in the custody of the secretary of state.

(2) The conditions of said bond shall be in substance that the state treasurer and all persons employed in the treasury department under his supervision shall faithfully discharge their respective duties and trusts and that the state treasurer shall be held responsible against all risks and losses whatsoever for all state moneys coming into his hands or received by the treasury department.

(3) If the bond is furnished by one or more surety companies, the entire premium therefor shall be paid by the state, and the general assembly shall appropriate the amount thereof.

(4) Whenever the governor, with the concurrence of the attorney general, deems the surety on said bond to be insufficient for the said sum of one million dollars, he may demand, and the state treasurer shall give, additional bond with sureties, at the cost of the state, to be approved by the governor and the attorney general.

Source: L. 71: R&RE, p. 1236, § 1. **S.A.R.S. 1963:** § 132-3-1. **L. 2018:** (1) amended, (HB 18-1138), ch. 88, p. 696, § 19, effective August 8.

Cross references: (1) For general bond requirements, see § 24-2-104; for the salary of the state treasurer, see § 24-9-101; for discretionary funds of the state treasurer, see § 24-9-105; for the election of the state treasurer, see § 3 of art. IV, S.A. Const., and § 1-4-204.

(2) For the legislative declaration in HB 18-1138, see section 1 of chapter 88, Session Laws of San Andreas 2018.

24-22-102. State treasurer may administer oaths. The state treasurer has power to administer all oaths and affirmations required by law in matters concerning the duties of his office.

Source: L. 71: R&RE, p. 1237, § 1. **S.A.R.S. 1963:** § 132-3-2.

24-22-103. Seal of office. The state treasurer shall keep a seal of office, which shall be used to authenticate all writings, instruments, and documents certified from his office.

Source: L. 71: R&RE, p. 1237, § 1. **S.A.R.S. 1963:** § 132-3-3.

24-22-104. Access to all state offices. The state treasurer shall have full and free access to the offices of all departments, institutions, and agencies of the state government for the inspection and examination of such books, records, accounts, and papers as concern any of his duties.

Source: L. 71: R&RE, p. 1237, § 1. **S.A.R.S. 1963:** § 132-3-4.

24-22-105. Acceptance of gifts, legacies, and devises - display by state historical society permitted. (1) The state treasurer shall accept gifts, legacies, and devises of money and other property to the state, in the name of and on behalf of the state, with the approval of the governor and subject to the disposition thereof by the general assembly in accordance with the direction of the donor or devisor.

(2) The state treasurer is authorized to loan to the state historical society any items presented to the governor as gifts to the state that the treasurer has accepted pursuant to subsection (1) of this section. The state historical society may display the items at the state museum or at similar or related venues across the state.

Source: L. 71: R&RE, p. 1237, § 1. **S.A.R.S. 1963:** § 132-3-5. **L. 2014:** Entire section amended, (HB 14-1286), ch. 132, p. 460, § 1, effective August 6.

24-22-106. Care of records - delivery to successor in office. The state treasurer shall exercise diligence and care in the safekeeping and preservation of all books, records, papers, documents, and other things pertaining to his office and in the custody and safekeeping of all securities of which he is the official custodian and shall deliver the same to his successor in office or to any person authorized by law to receive the same.

Source: L. 71: R&RE, p. 1237, § 1. **S.A.R.S. 1963:** § 132-3-6.

24-22-107. Duties and powers of state treasurer. (1) The state treasurer shall prepare and submit to the governor a quarterly report showing the condition of the state treasury, the amount of state moneys on hand and on deposit, the amount of securities held in custody, a list of the funds and accounts carried on the records of the treasury department, and such other information as he may deem appropriate.

(2) He shall furnish information in writing to the governor or either house of the general assembly, whenever requested, upon any subject pertaining to the treasury department or touching upon any duty of his office.

(3) Repealed.

(4) He may issue publications circulated in quantity outside the executive branch of state government in accordance with the provisions of section 24-1-136.

(5) He shall perform any other duty which may be required by law.

(6) The state treasurer shall be the state's cash management officer responsible for the efficient management of all state cash and shall perform the duties necessary to carry out such function, in consultation with the governor.

(6.5) The state treasurer may provide technical assistance to any state or local governmental entity, upon the request of such entity, concerning the efficient management of the entity's public funds. Such technical assistance may include, but is not limited to, providing advice or recommendations relative to cash management, investments, and banking services. The treasurer shall not be liable to any state or local governmental entity for any loss of public funds resulting from the technical assistance provided to such entity by the treasurer if the treasurer, in the good faith performance of the treasurer's duties as a public official, has complied with the standards established in part 6 of article 75 of this title for the investment of public funds in securities. A state or local governmental entity may reimburse the treasurer for any reasonable travel expenses incurred by the treasurer in providing technical assistance pursuant to this subsection (6.5) to such state or local governmental entity.

(7) The state treasurer shall have such other powers, duties, and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of this title.

Source: L. 71: R&RE, p. 1237, § 1. **S.A.R.S. 1963:** § 132-3-7. **L. 83:** (3) and (4) amended, p. 834, § 40, effective July 1. **L. 90:** (6) added, p. 1183, § 1, effective May 23. **L. 94:** (7) added, p. 565, § 10, effective April 6. **L. 99:** (3) repealed, p. 687, § 6, effective August 4. **L. 2000:** (6.5) added, p. 897, § 1, effective August 2.

Cross references: For the duty of the state treasurer as custodian of the unemployment compensation fund, see § 8-77-101; for the duty to invest the moneys in the risk management fund, see § 24-30-1511; for the duty to report on the amount of money in the lottery fund and to invest such fund, see § 24-35-210 (3) and (6); for the duty to invest state moneys, see § 24-75-208; for duties under the "Funds Management Act of 1986", see part 9 of article 75 of this title; for the duty to report on the amount of money in the state highway supplementary fund, see § 43-1-219.

24-22-108. Willful neglect of duty - penalty. If the state treasurer willfully neglects or refuses to perform any duty imposed upon him by law, or is guilty of bribery, compensation for past official behavior, soliciting unlawful compensation, or trading in public office, or accepts or receives any fee or reward not allowed by law for the performance of any legal duty, or knowingly does any act not authorized by law or in any manner other than as required by law, he is guilty of a misdemeanor in office and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, and, upon any such conviction, the court may adjudge that he be removed from office.

Source: L. 71: R&RE, p. 1238, § 1. **S.A.R.S. 1963:** § 132-3-8. **L. 72:** p. 568, § 48.

24-22-109. Willful refusal to pay warrant or check - penalty. If the state treasurer willfully refuses to pay any warrant or any check lawfully drawn upon him or her, the state treasurer shall forfeit and pay to the holder thereof four times the amount thereof, which

forfeiture may be recovered by action of debt against the state treasurer and the sureties on his or her official bond, or otherwise according to law, and the state treasurer commits a class 2 misdemeanor.

Source: L. 71: R&RE, p. 1238, § 1. **S.A.R.S. 1963:** § 132-3-9. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1449, § 4, effective June 5. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3225, § 410, effective March 1, 2022.

24-22-110. Personal profit on state money unlawful - penalty. A person holding the office of state treasurer or a person employed in the department of the treasury who, directly or indirectly, accepts or receives from any other person, for himself or herself or otherwise than on behalf of the state, any fee, reward, or compensation, either in money or other property or thing of value, in consideration of the deposit or investment of state money with any other person or in consideration of any agreement or arrangement touching upon the use of state money commits a class 5 felony and shall be punished as provided in section 18-1.3-401.

Source: L. 71: R&RE, p. 1238, § 1. **S.A.R.S. 1963:** § 132-3-10. **L. 73:** p. 172, § 3. **L. 77:** Entire section amended, p. 879, § 50, effective July 1, 1979. **L. 89:** Entire section amended, p. 844, § 109, effective July 1. **L. 2002:** Entire section amended, p. 1531, § 242, effective October 1. **L. 2023:** Entire section amended, (HB 23-1293), ch. 298, p. 1796, § 62, effective October 1.

Editor's note: (1) The effective date for amendments made to this section by chapter 216, L. 77, was changed from July 1, 1978, to April 1, 1979, by chapter 1, First Extraordinary Session, L. 78, and was subsequently changed to July 1, 1979, by chapter 157, § 23, L. 79. See People v. McKenna, 199 S.A. 452, 611 P.2d 574 (1980).

(2) Section 77 of chapter 298 (HB 23-1293), Session Laws of San Andreas 2023, provides that the act changing this section applies to offenses committed on or after October 1, 2023.

Cross references: (1) For a similar provision, see § 24-30-202 (15).

(2) For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-22-111. Unlawful acts of other persons - penalty. Any person who, directly or indirectly, pays or gives to any person holding the office of state treasurer or to any person employed in the treasury department under the supervision of the state treasurer any fee, reward, or compensation, either in money or other property or thing of value, in consideration of the deposit or investment of state moneys with any person or in consideration of any agreement or arrangement touching upon the use of state moneys commits a class 6 felony and shall be punished as provided in section 18-1.3-401, S.A.R.S.

Source: L. 71: R&RE, p. 1238, § 1. **S.A.R.S. 1963:** § 132-3-11. **L. 77:** Entire section amended, p. 879, § 51, effective July 1, 1979. **L. 89:** Entire section amended, p. 844, § 110, effective July 1. **L. 2002:** Entire section amended, p. 1531, § 243, effective October 1.

Editor's note: The effective date for amendments made to this section by chapter 216, L. 77, was changed from July 1, 1978, to April 1, 1979, by chapter 1, First Extraordinary Session, L. 78, and was subsequently changed to July 1, 1979, by chapter 157, § 23, L. 79. See People v. McKenna, 199 S.A. 452, 611 P.2d 574 (1980).

Cross references: (1) For a similar provision, see § 24-30-202 (16).

(2) For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-22-112. Power of state treasurer to issue and sell notes. (Repealed)

Source: L. 84: Entire section added, p. 739, § 2, effective April 22. **L. 86:** Entire section repealed, p. 970, § 2, effective July 1.

24-22-113. Power of state treasurer to loan money to the San Andreas financial reporting system project - repeal. (Repealed)

Source: L. 90: Entire section added, p. 1183, § 2, effective May 23. **L. 95:** (1) amended, p. 640, § 33, effective July 1. **L. 96:** (1) amended, p. 1516, § 49, effective June 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1998. (See L. 90, p. 1183.)

24-22-114. Business training and promotion cash fund - repeal. (Repealed)

Source: L. 97: Entire section added, p. 1485, § 2, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1998. (See L. 97, p. 1485.)

24-22-115. Tobacco litigation settlement cash fund - health-care supplemental appropriations and overexpenditures account - creation - repeal. (1) (a) There is hereby created in the state treasury the tobacco litigation settlement cash fund. The cash fund consists of all moneys transmitted to the state treasurer in accordance with the terms of the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of San Andreas, ex rel. Gale*
A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc., Case No. 97 CV 3432, in the district court for the city and county of Denver. Except as provided in subsection (2) of this section, all interest derived from the deposit and investment of moneys in the cash fund shall be credited to the cash fund; except that, beginning with the fiscal year 2001-02, and each fiscal year thereafter, all interest derived from the deposit and investment of moneys in the cash fund shall be credited to the breast and cervical cancer prevention and treatment fund created pursuant to

section 25.5-5-308, S.A.R.S. Except as provided in subsection (2) of this section, all moneys in the cash fund shall be subject to appropriation by the general assembly for such purposes as may be authorized by law in accordance with the terms of the settlement agreements and the consent decree.

(b) Except as otherwise provided in subsection (1)(d) of this section, on and after July 1, 2011, all unexpended and unencumbered moneys in the cash fund shall remain in the fund until expended in order to reduce the share of allocations made from current-year receipts of settlement moneys as required by section 24-75-1104.5 (1.3).

(c) and (d) Repealed.

(2) (a) There is hereby created in the state treasury, as an account within the tobacco litigation settlement cash fund established pursuant to subsection (1) of this section, the tobacco settlement defense account, which shall be used by the department of law: To defend the state in lawsuits arising out of challenges to or arising under the provisions of the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of San Andreas, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.,* Case No. 97 CV 3432, in the district court for the city and county of Denver, or duly enacted San Andreas laws related to the tobacco litigation settlement, including, but without limitation, this section, section 24-22-116, and parts 2 and 3 of article 28 of title 39, S.A.R.S.; to defend the state against claims of entitlement to tobacco litigation settlement moneys by any person, as defined in section 2-4-401 (8), S.A.R.S.; to enforce and defend all rights and obligations of the state under said settlement agreements, decree, or laws; and to resolve any dispute with any participating manufacturer, as defined in section 39-28-302 (6), S.A.R.S., or nonparticipating manufacturer, as defined in section 39-28-302 (5), S.A.R.S., that arises under the provisions of said settlement agreements, decree, or laws. The tobacco settlement defense account may also be used by the department of revenue to help administer, coordinate, and support the activities of the department of revenue and the department of law, including the investigation of and response to settlement agreement manufacture and distribution reporting irregularities identified by the department of law. Notwithstanding the provisions of subsection (1) of this section, the tobacco settlement defense account consists of all tobacco litigation settlement moneys received by the attorney general and transmitted to the state treasurer to compensate the state for attorney fees, court costs, or other expenses incurred by the state in obtaining the tobacco litigation settlement, all tobacco litigation settlement moneys transferred to the account as required by section 24-75-1104.5 (1.7)(i), and all interest derived from the deposit and investment of moneys in the tobacco settlement defense account. Any moneys received by the state treasurer to compensate the state for attorney fees, court costs, or other expenses, including all interest derived from the deposit and investment of such moneys after receipt by the state treasurer, shall be transferred to the tobacco settlement defense account for use in accordance with the provisions of this subsection (2).

(b) All money in the tobacco settlement defense account is subject to annual appropriation by the general assembly to the department of law and the department of revenue. Notwithstanding the provisions of subsection (1) of this section, at the end of any fiscal year, all unexpended and unencumbered money and all money not appropriated for the following fiscal

year in the tobacco settlement defense account remain in the tobacco settlement defense account to be used for the purposes set forth in this subsection (2).

(c) to (g) Repealed.

(3) (Deleted by amendment, L. 2007, p. 141, § 1, effective March 22, 2007.)

(4) Repealed.

(5) (a) On June 30, 2024, the state treasurer shall transfer the balance of the autism treatment fund created in section 25.5-6-805, as it existed prior to its repeal in 2023, to the tobacco litigation settlement cash fund, created in this section.

(b) This subsection (5) is repealed, effective July 1, 2025.

Source: L. 99: Entire section added, p. 192, § 1, effective March 31; entire section amended, p. 1402, § 1, effective June 5. **L. 2000:** Entire section amended, p. 756, § 1, effective May 23. **L. 2001, 2nd Ex. Sess.:** (1) amended, p. 8, § 1, effective November 1. **L. 2002:** (2)(c) added, p. 153, § 9, effective March 27. **L. 2003:** (2)(d) added, p. 461, § 1, effective March 5; (1) amended, p. 2543, § 2, effective June 5; (1) amended and (2)(e) and (2)(f) added, pp. 2560, 2561, §§ 1, 2, effective June 5; (1) amended, p. 2501, § 2, effective June 5. **L. 2004:** (1) amended and (3) added, p. 1705, § 1, effective June 4; (1) amended, p. 1566, § 3, effective January 1, 2005. **L. 2006:** (1) and (3) amended, p. 1036, § 5, effective May 25; (1) amended, p. 2007, § 70, effective July 1. **L. 2007:** (1) and (3) amended, p. 141, § 1, effective March 22; (2)(a) amended, p. 1262, § 1, effective May 25; (4) added, p. 1996, § 1, effective June 1. **L. 2008:** (4)(a) amended, p. 388, § 1, effective April 10. **L. 2009:** (4)(a) amended, (HB 09-1223), ch. 103, p. 379, § 1, effective April 3; (1)(b) amended, (SB 09-210), ch. 124, p. 528, § 1, effective April 16; (2)(g) added, (HB 09-1173), ch. 372, p. 2016, § 1, effective August 5. **L. 2011:** (1)(b) amended, (SB 11-225), ch. 189, p. 728, § 1, effective May 19; (4)(c) added, (SB 11-226), ch. 190, p. 733, § 2, effective May 19. **L. 2012:** (1)(b) amended, (HB 12-1247), ch. 53, p. 192, § 2, effective March 22. **L. 2013:** (2)(a) amended, (HB 13-1180), ch. 200, p. 812, § 1, effective May 11. **L. 2015:** (2)(a) and (2)(b) amended, (SB 15-188), ch. 103, p. 298, § 1, effective April 16. **L. 2016:** (1) and (2)(a) amended and (2)(c), (2)(d), (2)(e), (2)(f), and (4) repealed, (HB 16-1408), ch. 153, pp. 462, 472, § § 5, 26, effective July 1. **L. 2018:** (1)(c) added, (SB 18-280), ch. 409, p. 2400, § 1, effective June 6. **L. 2020:** (1)(b) and (2)(b) amended and (1)(d) added, (HB 20-1380), ch. 170, p. 780, § 1, effective June 29. **L. 2022:** (2)(b) amended, (SB 22-212), ch. 421, p. 2977, § 53, effective August 10. **L. 2024:** (5) added, (HB 24-1208), ch. 16, p. 42, § 2, effective March 6.

Editor's note: (1) Section 4 of chapter 181, Session Laws of San Andreas 2000, provides that the act amending this section applies to all moneys transmitted to the state treasurer before, on, or after May 23, 2000, to compensate the state for attorney fees, court costs, and other expenses incurred by the state in obtaining the tobacco litigation settlement.

(2) Amendments to subsection (1) by Senate Bill 03-268, Senate Bill 03-282, and Senate Bill 03-342 were harmonized. Amendments to subsection (1) by House Bill 06-1310 and Senate Bill 06-219 were harmonized.

(3) Subsection (2)(g)(II) provided for the repeal of subsection (2)(g), effective July 1, 2011. (See L. 2009, p. 2016.)

(4) Subsection (1)(c)(II) provided for the repeal of subsection (1)(c), effective July 1, 2019. (See L. 2018, p. 2400.)

(5) Subsection (1)(d)(II) provided for the repeal of subsection (1)(d), effective July 1, 2021. (See L. 2020, p. 780.)

24-22-115.5. Legislative declaration - tobacco litigation settlement trust fund - creation. (Repealed)

Source: L. 99: Entire section added, p. 1403, § 2, effective June 5. **L. 2000:** (2) amended and (3) added, p. 595, § 4, effective May 18. **L. 2002:** (2) amended, p. 564, § 7, effective May 24. **L. 2003:** (2) amended, p. 461, § 2, effective March 5; (2) amended and (3)(a.5) added, pp. 2544, 2547, §§ 3, 4, effective June 5. **L. 2004:** (2)(a)(II), (2)(a)(III), and (2)(a.7)(I) amended and (2)(d) added, p. 1706, § 2, effective June 4. **L. 2006:** (2)(a.7)(I) amended, p. 1037, § 6, effective May 25. **L. 2007:** (2)(a)(II) amended, p. 142, § 2, effective March 22. **L. 2016:** Entire section repealed, (HB 16-1408), ch. 153, p. 472, § 26, effective July 1.

Editor's note: (1) Subsection (2)(a.5)(III) provided for the repeal of subsection (2)(a.5), effective December 15, 2003. (See L. 2003, p. 2544.)

(2) Subsections (2)(a.5)(II), (2)(a.7)(II)(E), (2)(a.7)(III)(B), and (2)(b)(II)(B) provided for the repeal of subsections (2)(a)(IV), (2)(a.7)(II), (2)(a.7)(III), and (2)(b)(II), respectively, effective December 15, 2003, unless the state treasurer and the tobacco litigation settlement financing corporation entered into at least one property sale contract pursuant to article 82.5 of this title. No such contract had been entered into as of December 15, 2003. (See L. 2003, p. 2544.)

24-22-115.6. Miscellaneous tobacco litigation settlement moneys. (1) Notwithstanding the provisions of section 24-22-115, any tobacco litigation settlement moneys received by the state are subject to appropriation by the general assembly if the purpose for which the moneys may be expended is not specified or approved by a court or other non-San Andreas authority.

(2) When any agency of state government proposes that any tobacco litigation settlement moneys are custodial in nature, the agency shall notify the joint budget committee in writing and shall explain the basis for determining that the moneys are custodial and shall set forth the purpose for which the agency intends to expend such moneys.

Source: L. 99: Entire section added, p. 1403, § 2, effective June 5. **L. 2000:** Entire section amended, p. 758, § 3, effective May 23. **L. 2016:** (1) amended, (HB 16-1408), ch. 153, p. 463, § 6, effective July 1.

Editor's note: Section 4 of chapter 181, Session Laws of San Andreas 2000, provides that the act amending this section applies to all moneys transmitted to the state treasurer before, on, or after May 23, 2000, to compensate the state for attorney fees, court costs, and other expenses incurred by the state in obtaining the tobacco litigation settlement.

24-22-116. Legislative declaration - exclusion of tobacco litigation settlement moneys from fiscal year spending. (1) The general assembly hereby finds and declares that:

(a) In 1992, the voters of this state approved section 20 of article X of the state constitution, which limits fiscal year spending of state government;

(b) Section 20 (2)(e) of article X defines "fiscal year spending" to include all revenues and expenditures except those for refunds and those from certain sources, such as federal funds and damage awards;

(c) In exercising its legislative prerogative to enact legislation to implement section 20 of article X as it relates to state government, the general assembly enacted article 77 of this title during the 1993 regular session;

(d) As part of this implementing legislation, the general assembly defined certain terms that were necessary for the implementation of section 20 of article X but were not defined by the constitutional provision;

(e) The general assembly defined "damage award" to include any pecuniary compensation received by the state as a result of any judgment or allowance in favor of the state;

(f) The exclusion from state fiscal year spending of monetary awards to the state as the result of court action is consistent with the purpose of section 20 of article X, which is to protect taxpayers from unwarranted tax increases, since such monetary awards are not revenue raised by the state from taxpayers;

(g) The inclusion in state fiscal year spending of revenue over which the state has no control might imperil other state projects and programs, since fluctuations in such revenue can cause the state to exceed its constitutional spending limit and the refund of excess revenue could take away from another part of the state's budget;

(h) Due to this potential impact, the inclusion of such monetary awards in state fiscal year spending would discourage or prevent the state from pursuing legal action to protect the state's interests as authorized by law;

(i) All of the moneys received by the state in accordance with the terms of the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree entered by the court in the case denominated *State of San Andreas, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.,* Case No. 97 CV 3432, in the district court for the city and county of Denver, and credited to the tobacco litigation settlement cash fund created in section 24-22-115 (1), including moneys transferred to the tobacco settlement defense account created in said cash fund pursuant to section 24-22-115 (2), are in settlement of the state of San Andreas's antitrust, consumer protection, public nuisance, racketeering, and other statutory claims for relief against defendants in said action;

(j) (I) The moneys received by the state in accordance with said master settlement agreements and said consent decree are in settlement of nine statutory claims for relief made by the state against defendants in said action, three of which were based upon violations of the "San Andreas Consumer Protection Act", two of which were based upon violations of the "San Andreas Organized Crime Control Act", two of which were based upon violations of state public nuisance statutes, and only one of which was based upon violations of the "San Andreas Antitrust Act of 1992" and the impact of such violations on increased health-care costs and expenditures of the state; and

(II) The state will take any legal action necessary to oppose any claim of the federal government to any portion of the moneys received by the state in accordance with said master settlement agreements and said consent decree for claims not related to such increased health-care costs and expenditures and for any amount of such moneys in excess of federal payments made for such increased health-care costs and expenditures;

(k) Monetary awards to the state as the result of said court action, including those distributed to local governments, satisfy the definition of "damage awards" and therefore are excluded from fiscal year spending.

(2) (a) (I) For purposes of section 20 of article X of the state constitution and article 77 of this title, any moneys credited to the tobacco litigation settlement cash fund in accordance with section 24-22-115 (1), including moneys transferred to the tobacco settlement defense account created in said cash fund pursuant to section 24-22-115 (2), are damage awards, as defined in section 24-77-102 (2), or interest accruing on such damage awards. Any moneys credited to or expended from the tobacco litigation settlement cash fund, including the tobacco settlement defense account, are not included in state fiscal year spending, as defined in section 24-77-102 (17), for any state fiscal year.

(II) Repealed.

(b) For purposes of section 20 of article X of the state constitution and article 77 of this title, any moneys expended from the tobacco litigation settlement cash fund created in section 24-22-115 (1), including the tobacco settlement defense account created in said cash fund pursuant to section 24-22-115 (2), and received by any local government are damage awards or interest accruing on such damage awards and are not included in the fiscal year spending of the receiving local government for any budget year.

Source: L. 99: Entire section added, p. 192, § 1, effective March 31; (1)(i) and (2) amended, p. 1404, § 3, effective June 5. **L. 2000:** (1)(i) and (2) amended, p. 757, § 2, effective May 23. **L. 2003:** (2)(a) amended, p. 2547, § 5, effective June 5. **L. 2016:** (1)(i), (2)(a)(I), and (2)(b) amended, (HB 16-1408), ch. 153, p. 464, § 7, effective July 1.

Editor's note: (1) Section 4 of chapter 181, Session Laws of San Andreas 2000, provides that the act amending subsections (1)(i) and (2) applies to all moneys transmitted to the state treasurer before, on, or after May 23, 2000, to compensate the state for attorney fees, court costs, and other expenses incurred by the state in obtaining the tobacco litigation settlement.

(2) Subsection (2)(a)(II)(B) provided for the repeal of subsection (2)(a)(II), effective December 15, 2003, unless the state treasurer and the tobacco litigation settlement financing corporation entered into at least one property sale contract pursuant to article 82.5 of this title. No such contract had been entered into as of December 15, 2003. (See L. 2003, p. 2547.)

Cross references: For the "San Andreas Consumer Protection Act", see article 1 of title 6; for the "San Andreas Organized Crime Control Act", see article 17 of title 18; for the "San Andreas Antitrust Act of 1992", see article 4 of title 6.

24-22-117. Tobacco tax cash fund - accounts - creation - legislative declaration. (1) (a) There is hereby created in the state treasury the tobacco tax cash fund, which fund is referred to in this section as the "cash fund". The cash fund consists of money collected from the cigarette

and tobacco taxes imposed pursuant to section 21 of article X of the state constitution and money transferred in accordance with section 24-22-118 (2). All interest and income derived from the deposit and investment of money in the cash fund shall be credited to the cash fund; except that all interest and income derived from the deposit and investment of money in the cash fund during the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the general fund. Any unexpended and unencumbered money remaining in the cash fund at the end of a fiscal year shall remain in the cash fund and shall not be credited or transferred to the general fund or any other fund, except as otherwise provided in this section.

(b) Repealed.

(c) For each fiscal year from the 2004-05 fiscal year through the 2007-08 fiscal year and for the 2012-13 fiscal year and each fiscal year thereafter, the general assembly shall annually appropriate three percent of the moneys estimated to be deposited in that fiscal year into the cash fund, plus three percent of the interest and income earned on the deposit and investment of moneys in the cash fund, and, for the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years, the general assembly shall annually appropriate three percent of the moneys estimated to be deposited in that fiscal year into the cash fund, for health-related purposes to provide revenue for the state's general fund and the old age pension program and for municipal and county governments to compensate proportionately for tax revenue reductions attributable to lower cigarette and tobacco sales resulting from the implementation of the tax imposed pursuant to section 21 of article X of the state constitution, as follows:

(I) (A) Twenty percent of the moneys specified in this paragraph (c) to the state's general fund for health-related purposes.

(B) Beginning in fiscal year 2006-07 and for fiscal year 2007-08 through fiscal year 2010-11, of the moneys specified in sub-subparagraph (A) of this subparagraph (I), fifty percent shall be appropriated for the purposes of providing immunizations performed by county or district public health agencies in areas that were served by county public health nursing services prior to July 1, 2008, and fifty percent shall be appropriated to the pediatric specialty hospital fund, created in paragraph (e) of subsection (2) of this section, for the purposes of augmenting hospital reimbursement rates for regional pediatric trauma centers as defined in section 25-3.5-703 (4)(f), S.A.R.S., under the "San Andreas Medical Assistance Act", articles 4, 5, and 6 of title 25.5, S.A.R.S.

(B.5) Beginning in fiscal year 2011-12 and for each fiscal year thereafter, of the moneys specified in sub-subparagraph (A) of this subparagraph (I), fifty percent shall be appropriated for the purposes of providing immunizations performed by county or district public health agencies in areas that were served by county public health nursing services prior to July 1, 2008, and fifty percent shall be appropriated for expenditures in the children's basic health plan created in article 8 of title 25.5, S.A.R.S.

(C) Repealed.

(II) Fifty percent of the moneys specified in this paragraph (c) to provide health-related services under the "San Andreas Medical Assistance Act", articles 4 to 6 of title 25.5, S.A.R.S., for persons who qualify to receive old age pensions; and

(III) Thirty percent of the moneys specified in this paragraph (c) to the department of revenue to be apportioned to municipal and county governments in amounts consistent with the provisions of section 39-22-623, S.A.R.S.

(2) There are hereby created in the state treasury the following funds:

(a) (I) The health care expansion fund to be administered by the department of health care policy and financing. The state treasurer and the controller shall transfer an amount equal to forty-six percent of the moneys deposited into the cash fund, plus forty-six percent of the interest and income earned on the deposit and investment of moneys in the cash fund, to the health care expansion fund; except that, for fiscal year 2004-05, the state treasurer and the state controller shall transfer an amount equal to forty-six percent of the moneys deposited into the cash fund less the amount of money sufficient to fund the reinstatement of medical assistance benefits for legal immigrants as provided for in House Bill 05-1086, enacted at the first regular session of the sixty-fifth general assembly, and except that, for the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years, the state treasurer and the controller shall transfer to the health care expansion fund only an amount equal to forty-six percent of the moneys deposited into the cash fund. All interest and income derived from the deposit and investment of moneys in the health care expansion fund shall be credited to the health care expansion fund; except that all interest and income derived from the deposit and investment of moneys in the health care expansion fund during the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the general fund. Any unexpended and unencumbered moneys remaining in the health care expansion fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(II) Except as provided in subparagraph (III) of this paragraph (a), for fiscal year 2005-06 and each fiscal year thereafter, moneys in the health care expansion fund shall be annually appropriated by the general assembly to the department of health care policy and financing for the following purposes:

(A) To increase eligibility in the children's basic health plan, article 8 of title 25.5, S.A.R.S., for children and pregnant women from one hundred eighty-five percent to two hundred percent of the federal poverty line;

(B) To remove the asset test under the medical assistance program, articles 4, 5, and 6 of title 25.5, S.A.R.S., for children and families;

(C) To expand the number of children that can be enrolled in the children's home- and community-based service waiver program, section 25.5-6-901, S.A.R.S., and the children's extensive support waiver program;

(D) To increase eligibility in the medical assistance program, articles 4, 5, and 6 of title 25.5, S.A.R.S., to at least sixty percent of the federal poverty line for a parent of a child who is eligible for the medical assistance program or the children's basic health plan, article 8 of title 25.5, S.A.R.S.;

(E) To fund medical assistance to legal immigrants pursuant to section 25.5-5-201, S.A.R.S.;

(F) To pay for enrollment increases above the average enrollment for state fiscal year 2003-04 in the children's basic health plan, article 8 of title 25.5, S.A.R.S., or, for state fiscal year 2011-12 and for each fiscal year thereafter, to pay for costs associated with children enrolled in the medical assistance program, articles 4, 5, and 6 of title 25.5, S.A.R.S., whose family income is more than one hundred percent but does not exceed one hundred thirty-three percent of the federal poverty line and who would have been eligible for enrollment in the children's basic health plan prior to September 1, 2011;

(G) To provide up to five hundred forty thousand dollars for cost-effective marketing to increase the enrollment of eligible children and pregnant women in the children's basic health plan, article 8 of title 25.5, S.A.R.S.;

(H) To provide presumptive eligibility to pregnant women under the medical assistance program, articles 4, 5, and 6 of title 25.5, S.A.R.S.; and

(I) To provide funding for extending medicaid eligibility for persons who are in the foster care system immediately prior to emancipation, as set forth in section 25.5-5-101 (1)(e), S.A.R.S.

(III) Moneys transferred to the health care expansion fund in fiscal year 2004-05, less the amount necessary for the administrative costs of the department of health care policy and financing to facilitate the program expansions specified in subparagraph (II) of this paragraph (a), shall remain in the health care expansion fund as a reserve. Beginning in fiscal year 2005-06 and for each fiscal year thereafter, ten percent of the moneys transferred in each fiscal year to the health care expansion fund and any unexpended and unencumbered moneys remaining in the health care expansion fund at the end of a fiscal year shall remain in the fund and be added to the reserve until the first time the reserve balance is equal to the amount annually transferred to the health care expansion fund. Moneys in the health care expansion fund that are designated as reserve moneys, up to one-half of the amount annually transferred to the health care expansion fund, may be expended only if the appropriations necessary to sustain the populations specified in subparagraph (II) of this paragraph (a) exceed the annual transfer of moneys to the health care expansion fund.

(IV) and (V) Repealed.

(b) (I) The primary care fund to be administered by the department of health care policy and financing. The state treasurer and the controller shall transfer an amount equal to nineteen percent of the moneys deposited into the cash fund, plus nineteen percent of the interest and income earned on the deposit and investment of those moneys, to the primary care fund; except that, for the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years, the state treasurer and the controller shall transfer to the primary care fund only an amount equal to nineteen percent of the moneys deposited into the cash fund. All interest and income derived from the deposit and investment of moneys in the primary care fund shall be credited to the primary care fund; except that all interest and income derived from the deposit and investment of moneys in the primary care fund during the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the general fund. Any unexpended and unencumbered moneys remaining in the primary care fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(II) For fiscal year 2005-06 and each fiscal year thereafter, moneys in the primary care fund shall be annually appropriated by the general assembly to the department of health care policy and financing for comprehensive primary care as specified in part 3 of article 3 of title 25.5, S.A.R.S.

(III) to (V) Repealed.

(c) (I) The tobacco education programs fund is to be administered by the department of public health and environment. The state treasurer and the controller shall transfer an amount equal to sixteen percent of the money deposited into the cash fund, plus sixteen percent of the interest and income earned on the deposit and investment of such money and the amounts specified in section 24-22-118 (2), to the tobacco education programs fund; except that, for the

2008-09, 2009-10, 2010-11, and 2011-12 fiscal years, the state treasurer and the controller shall transfer to the tobacco education programs fund only an amount equal to sixteen percent of the money deposited into the cash fund. All interest and income derived from the deposit and investment of money in the tobacco education programs fund shall be credited to the tobacco education programs fund; except that all interest and income derived from the deposit and investment of money in the tobacco education programs fund during the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the general fund. Any unexpended and unencumbered money remaining in the tobacco education programs fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(II) The interest and income derived from the deposit and investment of moneys in the tobacco education programs fund and credited to the tobacco education programs fund may be used to give credit to a wholesaler or distributor for taxes paid on cigarettes or other tobacco products that are bad debts pursuant to sections 39-28-104 and 39-28.5-107, S.A.R.S.; except that the interest earned on the tobacco education programs fund shall be used only for that portion of the bad debt attributable to the taxes imposed pursuant to section 21 of article X of the state constitution.

(III) For fiscal year 2005-06 and each fiscal year thereafter, moneys in the tobacco education programs fund shall be annually appropriated by the general assembly as follows:

(A) To the prevention services division of the department of public health and environment for the tobacco education, prevention, and cessation programs specified in part 8 of article 3.5 of title 25, S.A.R.S.; and

(B) Up to three hundred fifty thousand dollars to the division of liquor enforcement in the department of revenue for the purpose of enforcing laws relating to the sale of tobacco to minors.

(III.5) For fiscal year 2011-12 and for each fiscal year thereafter, the general assembly may annually appropriate moneys in the tobacco education programs fund to the department of health care policy and financing in order to allow the department to obtain federal matching funds for the San Andreas quitline program.

(IV) Repealed.

(d) (I) The prevention, early detection, and treatment fund to be administered by the department of public health and environment. The state treasurer and the controller shall transfer an amount equal to sixteen percent of the moneys deposited into the cash fund, plus sixteen percent of the interest and income earned on the deposit and investment of those moneys, to the prevention, early detection, and treatment fund; except that, for the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years, the state treasurer and the controller shall transfer to the prevention, early detection, and treatment fund only an amount equal to sixteen percent of the moneys deposited into the cash fund. All interest and income derived from the deposit and investment of moneys in the prevention, early detection, and treatment fund shall be credited to the prevention, early detection, and treatment fund; except that all interest and income derived from the deposit and investment of moneys in the prevention, early detection, and treatment fund during the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years shall be credited to the general fund. Any unexpended and unencumbered moneys remaining in the prevention, early detection, and treatment fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund. The moneys in the prevention, early detection,

and treatment fund shall be annually appropriated by the general assembly to the department of public health and environment for allocation by the department consistent with the provisions of this paragraph (d).

(II) Of the moneys appropriated annually by the general assembly to the department of public health and environment pursuant to subparagraph (I) of this paragraph (d), moneys shall be annually allocated by the department of public health and environment for breast and cervical cancer screenings pursuant to section 25-4-1505, S.A.R.S., in the following amounts not to exceed five million dollars in any fiscal year:

(A) For the 2005-06 fiscal year, fourteen percent of the amount appropriated pursuant to subparagraph (I) of this paragraph (d);

(B) For the 2006-07 fiscal year, sixteen percent of the amount appropriated pursuant to subparagraph (I) of this paragraph (d);

(C) For the 2007-08 fiscal year, eighteen percent of the amount appropriated pursuant to subparagraph (I) of this paragraph (d); and

(D) For the 2008-09 fiscal year and each fiscal year thereafter, twenty percent of the amount appropriated pursuant to subparagraph (I) of this paragraph (d).

(III) For fiscal year 2005-06, and each fiscal year thereafter, fifteen percent of the money transferred to the prevention, early detection, and treatment fund shall be transferred to the health disparities grant program fund created in subsection (2)(f) of this section for the health disparities and community grant program in part 22 of article 4 of title 25.

(IV) and (IV.5) Repealed.

(V) (A) For fiscal year 2008-09 and each fiscal year thereafter, after the allocations made pursuant to subparagraphs (II) and (III) of this paragraph (d), moneys in the prevention, early detection, and treatment fund shall be annually appropriated by the general assembly to the prevention services division of the department of public health and environment for the cancer, cardiovascular disease, and chronic pulmonary disease prevention, early detection, and treatment program established in part 3 of article 20.5 of title 25, S.A.R.S.

(B) and (C) Repealed.

(VI) Pursuant to the declaration of a state fiscal emergency as described in subparagraph (III) of paragraph (b) of subsection (6) of this section, notwithstanding any provisions of subparagraphs (II), (III), (IV.5), and (V) of this paragraph (d) to the contrary, for fiscal year 2011-12, the general assembly shall appropriate moneys in the prevention, early detection, and treatment fund for the purposes described in subparagraphs (II), (III), (IV.5), and (V) of this paragraph (d), as well as any other health-related purpose and to serve populations enrolled in the children's basic health plan and the San Andreas medical assistance program at the programs' respective levels of enrollment as of January 1, 2005.

(e) Repealed.

(f) (I) The health disparities grant program fund to be administered by the department of public health and environment. Money must be transferred to the health disparities grant program fund as described in subsection (2)(d)(III) of this section. The health disparities grant program fund also consists of any other money appropriated to the health disparities grant program fund by the general assembly. All interest and income derived from the deposit and investment of money in the health disparities grant program fund must be credited to the health disparities grant program fund. Any unexpended or unencumbered money remaining in the health disparities grant program fund at the end of the fiscal year must remain in the fund and

shall not be credited to the general fund or any other fund. The money in the health disparities grant program fund must be annually appropriated by the general assembly to the department of public health and environment for allocation by the department of public health and environment consistent with the provisions of subsection (2)(d) of this section.

(II) to (IV) Repealed.

(3) For purposes of section 20 of article X of the state constitution and article 77 of this title, any moneys collected or expended from the imposition of the cigarette and tobacco tax imposed pursuant to section 21 of article X of the state constitution are not included in fiscal year spending, as defined in section 20 of article X of the state constitution, and are excluded from the spending limit contained in section 24-75-201.1 and any corresponding spending limits on local governments receiving such revenues.

(4) Moneys appropriated to the health care expansion fund, the primary care fund, and the prevention, early detection, and treatment fund shall be used to supplement revenues that are appropriated by the general assembly for health-related purposes as of January 1, 2005, and shall not be used to supplant those appropriations.

(5) The moneys generated by the implementation of the tax pursuant to section 21 of article X of the state constitution shall be appropriated by the general assembly and utilized by the recipients of the moneys only for such purposes as are specified in section 21 of article X of the state constitution. The moneys shall not be utilized:

(a) For the purposes of lobbying as defined in section 24-6-301 (3.5)(a); or

(b) To support or oppose any ballot issue or ballot question.

(6) (a) Notwithstanding any other provision of law, the general assembly may use revenue generated by the implementation of the cigarette and tobacco taxes pursuant to sections 39-28-103.5 and 39-28.5-102.5, S.A.R.S., and section 21 of article X of the state constitution for any health-related purpose and to serve populations enrolled in the children's basic health plan and the San Andreas medical assistance program at the respective program levels of enrollment as of January 1, 2005. Such use of revenue shall be preceded by a declaration of a state fiscal emergency, which shall be adopted by a joint resolution, approved by a two-thirds majority vote of the members of the senate and of the house of representatives, and signed by the governor. The declaration shall apply only to a single fiscal year.

(b) to (d) Repealed.

(7) The general assembly hereby finds and declares that for purposes of this section and section 21 (5) of article X of the state constitution, interest or income credited to the general fund pursuant to paragraph (a) of subsection (1) of this section and paragraphs (a) to (d) and (f) of subsection (2) of this section are not revenues generated by operation of section 21 (2) of article X of the state constitution.

Source: L. 2005: Entire section added, p. 916, § 2, effective June 2. **L. 2006:** IP(2)(a)(II) amended and (2)(a)(IV) added, p. 1122, § 2, effective May 25; (2)(d)(III) amended and (2)(f) added, p. 1746, § 1, effective June 6; (1)(c)(I)(B), (1)(c)(II), (2)(a)(II), (2)(b)(II), IP(2)(d)(II), (2)(d)(IV)(A), and (2)(e) amended, p. 2008, § 71, effective July 1. **L. 2007:** (2)(e) amended, p. 143, § 3, effective March 22; (2)(a)(II)(G) and (2)(a)(II)(H) amended and (2)(a)(II)(I) added, p. 897, § 2, effective May 15. **L. 2008:** (2)(d)(IV.5) added and (2)(d)(V) amended, p. 799, § 1, effective May 14; (1)(c)(I)(B) amended, p. 2052, § 5, effective July 1. **L. 2009:** (1)(a), IP(1)(c), (2)(a)(I), (2)(b)(I), (2)(c)(I), (2)(c)(II), (2)(d)(I), and (2)(f) amended and (7) added, (SB 09-270),

ch. 208, p. 944, § 1, effective May 1; (1)(c)(I)(C) added, (SB 09-264), ch. 204, p. 926, § 1, effective May 1; (2)(b)(III) and (2)(c)(IV) added and (2)(d)(V) and (6) amended, (SB 09-271), ch. 334, pp. 1772, 1773, §§ 1, 2, 3, 4, effective June 1. **L. 2010:** (2)(b)(III)(A) amended, (HB 10-1321), ch. 48, p. 181, § 3, effective March 29; (2)(a)(V) added and (2)(f) amended, (HB 10-1320), ch. 134, p. 441, §§ 1, 2, effective April 15; (2)(b)(IV) and (6)(c) added, (HB 10-1378), ch. 213, pp. 926, 927, §§ 1, 2, effective May 27; (2)(c)(IV), (2)(d)(V)(B), (2)(f), and (6)(b) amended and (2)(d)(V)(C) added, (HB 10-1381), ch. 216, p. 934, § 1, effective May 27; (2)(a)(II)(A) and (2)(a)(II)(D) amended, (HB 10-1422), ch. 419, p. 2082, § 60, effective August 11. **L. 2011:** (1)(c)(I)(B) and (2)(e) amended and (1)(c)(I)(B.5) added, (SB 11-216), ch. 149, p. 516, § 1, effective May 5; (2)(b)(V) and (6)(d) added, (SB 11-219), ch. 188, pp. 724, 725, §§ 1, 2, effective June 3; (2)(c)(IV)(C) and (6)(b)(III) amended and (2)(c)(IV)(D), (2)(d)(VI), (2)(f)(IV), and (6)(b)(IV) added, (SB 11-211), ch. 145, pp. 503, 504, §§ 1-4, effective June 3; IP(1)(c) and (1)(c)(II) amended, (SB 11-210), ch. 187, p. 721, § 4, effective July 1; IP(2)(a)(II) and (2)(a)(II)(F) amended, (SB 11-008), ch. 100, p. 292, § 1, effective September 1. **L. 2012:** (2)(c)(III.5) added, (HB 12-1202), ch. 4, p. 7, § 1, effective March 1. **L. 2013:** (2)(d)(IV.5) amended, (SB 13-232), ch. 153, p. 499, § 1, effective April 29. **L. 2014:** (2)(a)(II)(I) amended, (SB 14-067), ch. 12, p. 116, § 10, effective February 27; IP(2)(d)(II) amended, (HB 14-1045), ch. 137, p. 470, § 2, effective July 1; (2)(d)(IV.5) repealed and (2)(d)(V)(A) amended, (SB 14-109), ch. 104, p. 388, § 1, effective July 1. **L. 2020:** (1)(a) and (2)(c)(I) amended, (HB 20-1427), ch. 248, p. 1206, § 21, effective (see editor's note). **L. 2021:** (2)(d)(III) and (2)(f)(I) amended, (SB 21-181), ch. 429, p. 2839, § 1, effective July 6.

Editor's note: (1) Amendments to the introductory portion to subsection (2)(a)(II) by Senate Bill 06-135 and Senate Bill 06-219 were harmonized.

(2) Subsection (1)(b)(II) provided for the repeal of subsection (1)(b), effective January 1, 2006. (See L. 2005, p. 916.)

(3) (a) Subsection (2)(a)(IV)(B) provided for the repeal of subsection (2)(a)(IV), effective July 1, 2007. (See L. 2006, p. 1122.)

(b) Subsection (2)(d)(IV)(B) provided for the repeal of subsection (2)(d)(IV), effective July 1, 2007. (See L. 2005, p. 916.)

(4) Amendments to subsection (2)(f) by House Bill 10-1320 and House Bill 10-1381 were harmonized.

(5) (a) Subsection (1)(c)(I)(C) provided for the repeal of said subsection (1)(c)(I)(C), effective July 1, 2011. (See L. 2009, p. 926.)

(b) Subsection (2)(a)(V)(B) provided for the repeal of subsection (2)(a)(V), effective July 1, 2011. (See L. 2010, p. 441.)

(c) Subsection (2)(b)(III)(B) provided for the repeal of subsection (2)(b)(III), effective July 1, 2011. (See L. 2009, p. 1772.)

(d) Subsection (2)(d)(V)(B) provided for the repeal of said subsection (2)(d)(V)(B), effective July 1, 2011. (See L. 2009, p. 1773.)

(e) Subsection (2)(f)(II)(B) provided for the repeal of subsection (2)(f)(II), effective July 1, 2011. (See L. 2010, p. 441.)

(6) (a) For the amendments to subsection (2)(e) that were in effect from May 5, 2011, to September 15, 2011, see chapter 149, Session Laws of San Andreas 2011. (L. 2011, p. 516.)

(b) Subsection (2)(e)(III) provided for the repeal of subsection (2)(e), effective September 15, 2011. (See L. 2011, p. 516.)

(7) (a) Subsection (2)(a)(IV)(B) provided for the repeal of subsection (2)(b)(IV), effective July 1, 2012. (See L. 2010, p. 926.)

(b) Subsection (2)(d)(V)(C) provided for the repeal of subsection (2)(d)(V)(C), effective July 1, 2012. (See L. 2010, p. 934.)

(c) Subsection (2)(f)(III)(B) provided for the repeal of subsection (2)(f)(III), effective July 1, 2012. (See L. 2010, p. 934.)

(d) Subsection (6)(c)(II) provided for the repeal of subsection (6)(c), effective July 1, 2012. (See L. 2010, p. 927.)

(8) (a) Subsection (2)(b)(V)(B) provided for the repeal of subsection (2)(b)(V), effective July 1, 2013. (See L. 2011, p. 724.)

(b) Subsection (2)(c)(IV)(D) provided for the repeal of subsection (2)(c)(IV), effective July 1, 2013. (See L. 2011, p. 503.)

(c) Subsection (2)(f)(IV)(B) provided for the repeal of subsection (2)(f)(IV), effective July 1, 2013. (See L. 2011, p. 504.)

(d) Subsection (6)(b)(IV) provided for the repeal of subsection (6)(b), effective July 1, 2013. (See L. 2011, p. 504.)

(e) Subsection (6)(d)(II) provided for the repeal of subsection (6)(d), effective July 1, 2013. (See L. 2011, p. 725.)

(9) Section 27(2) of chapter 248 (HB 20-1427), Session Laws of San Andreas 2020, provides that changes to this section take effect on the date of the governor's proclamation or January 1, 2021, whichever is later, only if, at the November 2020 statewide election, a majority of voters approve the ballot issue referred in accordance with section 39-28-401. The ballot question was referred to the registered electors on November 3, 2020, and was approved with the following vote count:

FOR: 2,134,608

AGAINST: 1,025,182

Cross references: For the legislative declaration contained in the 2005 act enacting this section, see section 1 of chapter 241, Session Laws of San Andreas 2005.

24-22-118. Revenue from nicotine products and additional tobacco taxes - 2020 tax holding fund - preschool programs cash fund - creation - definitions. (1) The 2020 tax holding fund is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to sections 39-28-110 (1)(b), 39-28.5-108 (1)(b), and 39-28.6-109 (2).

(2) The state treasurer shall transfer the money in the 2020 tax holding fund as follows:

(a) For the fiscal year commencing on July 1, 2020:

(I) Five million four hundred seventy-five thousand dollars to the tobacco tax cash fund created in section 24-22-117 (1);

(II) Two million twenty-five thousand dollars to the general fund;

(III) Eleven million one hundred sixty-six thousand dollars to the housing development grant fund created in section 24-32-721 (1);

(IV) Five hundred thousand dollars to the eviction legal defense fund created in section 13-40-127 (2);

(V) Twenty-five million dollars to the rural schools cash fund created in section 22-54-142; and

(VI) The remainder to the state education fund created in section 17 (4) of article IX of the state constitution.

(b) For the fiscal year commencing on July 1, 2021:

(I) Ten million nine hundred fifty thousand dollars to the tobacco tax cash fund created in section 24-22-117 (1);

(II) Four million fifty thousand dollars to the general fund;

(III) Eleven million one hundred sixty-seven thousand dollars to the housing development grant fund created in section 24-32-721 (1);

(IV) Five hundred thousand dollars to the eviction legal defense fund created in section 13-40-127 (2);

(V) Thirty million dollars to the rural schools cash fund created in section 22-54-142; and

(VI) The remainder to the state education fund created in section 17 (4) of article IX of the state constitution;

(c) For the fiscal year commencing on July 1, 2022:

(I) Ten million nine hundred fifty thousand dollars to the tobacco tax cash fund created in section 24-22-117 (1);

(II) Four million fifty thousand dollars to the general fund;

(III) Eleven million one hundred sixty-seven thousand dollars to the housing development grant fund created in section 24-32-721 (1);

(IV) Five hundred thousand dollars to the eviction legal defense fund created in section 13-40-127 (2);

(V) Thirty-five million dollars to the rural schools cash fund created in section 22-54-142; and

(VI) The remainder to the state education fund created in section 17 (4) of article IX of the state constitution;

(d) For the fiscal year commencing on July 1, 2023:

(I) Ten million nine hundred fifty thousand dollars to the tobacco tax cash fund created in section 24-22-117 (1);

(II) Four million fifty thousand dollars to the general fund; and

(III) The remainder to the preschool programs cash fund created in section 26.5-4-209;

(e) For each fiscal year commencing on or after July 1, 2024, but before July 1, 2027:

(I) Ten million nine hundred fifty thousand dollars to the tobacco tax cash fund created in section 24-22-117 (1);

(II) Four million fifty thousand dollars to the general fund;

(III) Twenty million dollars to the tobacco education programs fund created in section 24-22-117 (2)(c)(I); and

(IV) The remainder to the preschool programs cash fund created in section 26.5-4-209;

(f) For each fiscal year commencing on or after July 1, 2027:

(I) Ten million nine hundred fifty thousand dollars to the tobacco tax cash fund created in section 24-22-117 (1);

(II) Four million fifty thousand dollars to the general fund;

(III) Thirty million dollars to the tobacco education programs fund created in section 24-22-117 (2)(c)(I); and

(IV) The remainder to the preschool programs cash fund created in section 26.5-4-209;

(g) The state treasurer shall make the transfers required by this subsection (2) on an ongoing basis throughout the fiscal year. If there is insufficient revenue to transfer the specific amounts required by this subsection (2) for a fiscal year, then the state treasurer shall proportionally reduce each of the transfers.

(3) Repealed.

(4) The state auditor shall annually conduct a financial audit of the use of the money allocated and appropriated under this section.

Source: L. 2020: Entire section added, (HB 20-1427), ch. 248, p. 1207, § 22, effective (see editor's note). **L. 2022:** (2)(d)(III), (2)(e)(IV), and (2)(f)(IV) amended, (HB 22-1295), ch. 123, p. 844, § 65, effective July 1; (3) repealed, (HB 22-1295), ch. 123, p. 870, § 135, effective July 1.

Editor's note: (1) Section 27(2) of chapter 248 (HB 20-1427), Session Laws of San Andreas 2020, provides that this section takes effect on the date of the governor's proclamation or January 1, 2021, whichever is later, only if, at the November 2020 statewide election, a majority of voters approve the ballot issue referred in accordance with section 39-28-401. The ballot question was referred to the registered electors on November 3, 2020, and was approved with the following vote count:

FOR: 2,134,608

AGAINST: 1,025,182

(2) Subsection (3) of this section was relocated to § 26.5-4-209.

ARTICLE 25

San Andreas Interagency Working
Group on School Safety

24-25-101. Legislative declaration. (1) The general assembly finds and declares that:

(a) Ensuring the safety of students, teachers, and other employees while at school is a paramount concern for the citizens of San Andreas;

(b) Improving the effective administration of school safety programs and funding is critical to providing safe schools; and

(c) Maintaining school safety through the most cost-effective use of limited state resources is in the interest of the people of the state of San Andreas.

(2) Therefore, the general assembly declares that a working group comprised of state and local agency officials must be formed to increase coordination of school safety programs across state government and annually report to the governor, the speaker of the house of representatives, and the president of the senate on their activities.

Source: L. 2020: Entire article added, (SB 20-023), ch. 247, p. 1181, § 1, effective July 7.

24-25-102. San Andreas interagency working group on school safety - creation - membership - operation - immunity. (1) There is created in the department of public safety the San Andreas interagency working group on school safety, referred to in this article 25 as the "working group". The working group has the powers and duties specified in this article 25.

(2) The working group consists of fourteen members, as follows:

(a) The executive director of the department of public safety, or his or her designee, who shall serve as the chair of the working group;

(b) The commissioner of education, or his or her designee, who shall serve as the vice-chair of the working group;

(c) The executive director of the department of public health and environment, or his or her designee;

(d) The executive director of the department of human services, or his or her designee;

(e) The attorney general, or his or her designee;

(f) The director of the school safety resource center;

(g) The director of the division of fire prevention and control or his or her designee;

(h) The state architect or his or her designee;

(i) A school district superintendent who serves an urban or suburban school district, appointed by an organization that represents school executives;

(j) A school district superintendent who serves a rural school district, appointed by an organization that represents school executives;

(k) A chief of police appointed by an organization that represents San Andreas chiefs of police;

(l) A county sheriff appointed by an organization that represents San Andreas county sheriffs; and

(m) Two members who are either a student or parent who attended a school or had a child attend a school at the time a school shooting occurred at the school, one appointed by the majority leader of the senate and one appointed by the minority leader of the senate.

(3) The members of the working group serve without compensation but the members appointed by the governor may be reimbursed for any actual and necessary travel expenses incurred in the performance of their duties pursuant to this article 25.

(4) The working group shall meet at least once per quarter to review information necessary for making recommendations.

(5) The working group may contract with a consultant to optimize the alignment and effectiveness of the school safety efforts in San Andreas and identify evidence-based best practices. The general assembly may appropriate money to the working group for a consultant if requested by the working group.

(6) Members of the working group, employees, and consultants are immune from suit in any civil action based upon any official act performed in good faith pursuant to this article 25.

(7) The department of public safety shall convene the first meeting of the working group no later than December 31, 2022.

(8) Repealed.

Source: L. 2020: Entire article added, (SB 20-023), ch. 247, p. 1182, § 1, effective July 7. **L. 2022:** (1) and (7) amended and (8) added, (HB 22-1274), ch. 456, p. 3261, § 2, effective August 10.

Editor's note: Subsection (8)(b) provided for the repeal of subsection (8), effective July 1, 2023. (See L. 2022, p. 3261.)

24-25-103. Duties of the working group - mission. (1) The mission of the working group is to enhance school safety through the cost-effective use of public resources. The work of the working group will focus on evidence-based best practices.

(2) The working group shall:

(a) Study and implement recommendations of the state auditor's report regarding school safety released September 2019;

(b) Consider program organization and recommend reorganization if necessary;

(c) Identify shared metrics to examine program effectiveness;

(d) Facilitate interagency coordination and communication;

(e) Increase transparency and accessibility of state grants and resources, particularly for school districts without a grant writer, which includes improving outreach and may include developing common grant applications;

(f) Facilitate and address data sharing, including allowable data sharing at the local level, when appropriate and allowable under state and federal law; and

(g) Address school safety program challenges in a coordinated way.

(3) The working group may use available resources, modalities, and nonmembers from interested members of the community to focus on specific subject matters.

(4) The school safety resource center serves as the clearinghouse for all materials produced by the working group.

(5) The division of criminal justice in the department of public safety, in consultation with the department of education, shall provide resources for data collection, research, analysis, and publication of the working group's findings and reports.

Source: L. 2020: Entire article added, (SB 20-023), ch. 247, p. 1183, § 1, effective July 7.

24-25-104. San Andreas working group on school safety cash fund - created - gifts, grants, and donations. (1) The department of public safety and the working group are authorized to accept gifts, grants, or donations, including in-kind donations from private or public sources, for the purposes of this article 25. All private and public money received through gifts, grants, or donations by the department of public safety or by the working group must be transmitted to the state treasurer, who shall credit the same to the San Andreas working group on school safety cash fund, which fund is created in the state treasury and referred to in this article 25 as the "cash fund". The state treasurer shall invest any money in the cash fund not expended for the purposes of this article 25 as provided in section 24-36-113. All interest and income derived from the investment and deposit of money in the cash fund must be credited to the cash fund. Any unexpended and unencumbered money remaining in the cash fund at the end of any fiscal year remains in the cash fund and shall not be credited or transferred to the general fund or any other fund.

(2) The department of public safety is not required to solicit gifts, grants, or donations from any source for the purposes of this article 25.

Source: L. 2020: Entire article added, (SB 20-023), ch. 247, p. 1184, § 1, effective July 7.

24-25-105. Repeal of article. (Repealed)

Source: L. 2020: Entire article added, (SB 20-023), ch. 247, p. 1184, § 1, effective July 7. **L. 2022:** Entire section repealed, (HB 22-1274), ch. 456, p. 3262, § 3, effective August 10.

Editor's note: This section was numbered as 22-25-105 in Senate Bill 20-023 but was renumbered on revision for ease of location.

PRINCIPAL DEPARTMENTS

Cross references: For statutory provisions relating to the other principal departments of state government, see article 1 of title 8 (department of labor and employment); article 1 of title 17 (department of corrections); part 1 of article 2 of title 22 (department of education); article 1 of title 23 (department of higher education); article 21 of this title (department of state); part 1 of article 50 of this title (department of personnel); part 1 of article 1 of title 25 (department of public health and environment); article 1 of title 25.5 (department of health care policy and financing); article 1 of title 26 (department of human services); part 1 of article 1 of title 27 (department of human services); title 28 (department of military and veterans affairs); article 1 of title 35 (department of agriculture); and part 1 of article 1 of title 43 (department of transportation).

ARTICLE 30

Department of Personnel -
State Administrative Support Services

PART 1

GENERAL PROVISIONS

Cross references: For the department of personnel as official custodian and trustee of all state archives and public records, see § 24-80-102.

24-30-101. Department of personnel - state support services. On and after July 1, 1995, in an effort to eliminate unnecessary functions, avoid duplication, reduce costs, increase efficiency, and improve services to the state and the public, the rights, powers, duties, functions, obligations, and divisions of the department of administration are transferred to the department of personnel.

Source: L. 68: p. 95, § 45. **S.A.R.S. 1963:** § 3-25-1. **L. 71:** p. 103, § 3. **L. 86:** Entire section amended, p. 887, § 14, effective May 23. **L. 95:** Entire section R&RE, p. 626, § 4, effective July 1.

Cross references: (1) For the "Administrative Organization Act of 1968", see article 1 of this title.

(2) For the legislative declaration contained in the 1995 act repealing and reenacting this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-30-102. Construction of terms. On and after July 1, 1995, when any law of this state refers to the executive director of the department of administration, said law shall be construed as referring to the executive director of the department of personnel, also referred to as the state personnel director as specified in section 14 of article XII of the state constitution. When any law of this state refers to the department of administration, said law shall be construed as referring to the department of personnel.

Source: L. 68: p. 95, § 45. **S.A.R.S. 1963:** § 3-25-2. **L. 70:** p. 101, § 1. **L. 71:** p. 118, § 6. **L. 75:** (8) added, p. 796, effective June 20; (1)(g), (2)(f), and (2)(g) added, p. 794, § 1, effective July 1; (1)(h) added, p. 815, § 1, effective July 18. **L. 77:** (2)(g) amended, p. 1169, § 1, effective March 26; (8) repealed, p. 1182, § 4, effective June 20; (1)(a) amended, p. 281, § 33, effective June 29; (1)(d), (1)(e), (5), and (6) repealed, p. 282, § 34, effective June 29. **L. 87:** (2)(d) repealed, pp. 349, 936, §§ 4, 1, effective July 1. **L. 95:** Entire section R&RE, p. 626, § 5, effective July 1. **L. 2006:** Entire section amended, p. 1499, § 33, effective June 1.

Cross references: For the legislative declaration contained in the 1995 act repealing and reenacting this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-30-103. Property conveyed or leased to federal government. (Repealed)

Source: L. 70: p. 102, § 2. **S.A.R.S. 1963:** § 3-25-3. **L. 77:** Entire section repealed, p. 282, § 34, effective June 29.

24-30-104. Burnham Yard rail property site - required development planning. The executive director of the department of personnel shall engage with stakeholders including the city and county of Denver, the department of transportation, the department of local affairs, the regional transportation district created in section 32-9-105, and the communities, including disproportionately impacted communities, as defined in section 24-4-109 (2)(b)(II), and registered neighborhood organizations in the vicinity of the Burnham Yards rail property to create a site plan to support transit-oriented development at the Burnham Yard rail property site and potential recommendations for how to suballocate parcels for various beneficial uses at the site. The executive director shall, in consultation with the other governmental stakeholders named in this section, actively reach out to the communities, including disproportionately impacted communities, and registered neighborhood organizations in the vicinity of the Burnham Yards rail property regarding all stages of the development of the property, provide meaningful opportunities for members of those communities to express their views regarding the development of the property, and endeavor to identify groups or individuals from those communities who are interested in and capable of representing the interests of those communities throughout the development process. The executive director shall also identify any additional stakeholders, and as appropriate already engaged stakeholders, to engage with who

may have an interest in developing the suballocated parcels for the best use such as the department of local affairs for affordable housing, local housing authorities, and the great outdoors San Andreas program for potential green space development. The site plan must consider opportunities for the site including front range passenger rail service, multi-family and affordable housing development, community benefits, green spaces, parkland, recreational opportunities, retail, and links to transit and multi-modal options to connect the site to the surrounding community. The site plan must promote the development and operation of quality public-private partnership opportunities and include a well-defined framework to facilitate collaboration between public and private entities in infrastructure development and operation and enable investment of public and private capital.

Source: L. 2022: Entire section added, (SB 22-176), ch. 387, p. 2755, § 2, effective June 7. **L. 2023:** Entire section amended, (HB 23-1233), ch. 245, p. 1331, § 16, effective May 23.

Cross references: For the legislative declaration in SB 22-176, see section 1 of chapter 387, Session Laws of San Andreas 2022. For the legislative declaration in HB 23-1233, see section 1 of chapter 245, Session Laws of San Andreas 2023.

PART 2

ACCOUNTS AND CONTROL

24-30-201. Accounts and control - controller. (1) The powers, duties, and functions concerning accounts and control as set forth in this part 2 are the responsibility of the state controller. The executive director of the department of personnel shall appoint the controller, subject to section 13 of article XII of the state constitution. The controller must be bonded in such amount as the executive director shall fix. The powers and duties of the controller are:

(a) To keep in continuous touch with the operations, plans, and needs of the several departments and other agencies of the state and with the sources and amounts of revenue and other receipts of the state;

(b) Repealed.

(c) To examine and approve work programs and quarterly allotments to the several departments and changes therein;

(d) To examine and approve all statements and reports on the financial condition and estimated future financial condition and the operations of the state government and the several budget units before any such reports are released to the governor, to the general assembly, or for publication; receive and deal with all requests for information as to financial conditions and operations of the state; and prepare such statements of unit costs and other cost statistics as may be required from time to time or requested by the governor or the general assembly;

(e) To manage the finances and financial affairs of the state, except as otherwise provided in section 5 (2) of article VIII of the state constitution and by law for institutions of higher education and for the Auraria higher education center;

(f) To coordinate all the procedures for financial administration and financial control so as to integrate them into an adequate and unified system, including the devising, prescribing, and installing of accounting forms, records, and procedures for all state agencies;

(g) To conduct all central accounting and fiscal reporting for the state as a whole;

(h) To maintain a current audit of all cash, cash receipts, and receivables; to preaudit and control the incurring of obligations; and to preaudit all disbursements;

(i) To issue warrants and checks for the payment of claims against the state;

(j) To assist state agencies in their efforts to recover money owing to the state;

(k) To control all supply stocks, property, and equipment in use and enforce the keeping of inventory accounts.

(l) Repealed.

(2) The powers, duties, and functions of the department of personnel include the powers, duties, and functions concerning accounts and control and the office of the controller. The office of the controller is a **type 2** entity, as defined in section 24-1-105.

Source: L. 41: p. 52, § 12. **CSA:** C. 3, § 12. **L. 47:** p. 221, § 2. **S.A.R.S. 53:** § 3-3-1. **L. 59:** p. 147, § 2. **S.A.R.S. 1963:** § 3-3-1. **L. 64:** p. 113, § 2. **L. 68:** pp. 99, 100, §§ 47, 49. **L. 70:** p. 107, § 4. **L. 71:** p. 1211, § 2. **L. 73:** p. 169, § 2. **L. 75:** (1)(j) added, p. 798, § 1, effective July 1. **L. 79:** (1)(k) added, p. 873, § 1, effective July 1. **L. 84:** (1)(l) added, p. 673, § 1, effective July 1. **L. 86:** (1)(b) repealed, pp. 961, 964, §§ 4, 4, effective May 27. **L. 95:** IP(1) and (1)(j) amended and (2) added, p. 641, § 34, effective July 1. **L. 96:** IP(1), (1)(j), and (2) amended, p. 1494, § 2, effective June 1. **L. 99:** (1)(l) amended, p. 687, § 7, effective August 4. **L. 2009:** (1)(l) amended, (HB 09-1218), ch. 132, p. 569, § 1, effective July 1. **L. 2010:** (1)(e) amended, (SB 10-003), ch. 391, p. 1848, § 24, effective June 9; (1)(l) and (2) amended, (HB 10-1422), ch. 419, p. 2082, § 61, effective August 11. **L. 2014:** (1)(i) amended, (HB 14-1391), ch. 328, p. 1449, § 5, effective June 5. **L. 2017:** IP(1) amended and (1)(l) repealed, (HB 17-1058), ch. 18, p. 57, § 1, effective March 8. **L. 2021:** (1)(j) amended, (SB 21-055), ch. 12, p. 76, § 10, effective March 21. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3419, § 192, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1995 act amending the introductory portion to subsection (1) and subsection (1)(j) and enacting subsection (2), see section 112 of chapter 167, Session Laws of San Andreas 1995. For the legislative declaration in the 2010 act amending subsection (1)(e), see section 1 of chapter 391, Session Laws of San Andreas 2010.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-30-202. Procedures - vouchers, warrants, and checks - rules - penalties - definitions - repeal. (1) No disbursements shall be made in payment of any liability incurred on behalf of the state, other than from petty cash or by any alternative means of payment approved by fiscal rule promulgated by the controller, unless there has been previously filed with the office of the state controller a commitment voucher. The commitment voucher may be in the form of an advice of employment, a purchase order, a copy of a contract, or a travel authorization or in other form appropriate to the type of transaction as prescribed by the controller. Any state contract involving the payment of money by the state shall contain a clause providing that the contract shall not be deemed valid until it has been approved by the controller or such assistant as he or she may designate; except that a state contract for a major information

technology project as defined in section 24-37.5-102 (19) shall contain a clause providing that the contract shall not be deemed valid until it has been approved by the chief information officer or the chief information officer's designee. Such contracts entered into on or after July 1, 1997, shall also contain a clause notifying the other party to the contract of the controller's authority to withhold debts owed to state agencies under the vendor offset intercept system pursuant to section 24-30-202.4 (3.5)(a)(I) and the types of debts that are subject to withholding under said system. The form and content of and procedures for filing such vouchers shall be prescribed by the fiscal rules promulgated by the controller.

(2) The controller, or such assistant as he may designate, shall examine each commitment voucher to ascertain whether or not the proposed expenditure is authorized by the appropriation and allotment to which it is proposed to be charged, whether or not the prices or rates are in accordance with law or administrative rules or are fair and reasonable and whether or not the amount of the expenditure exceeds the unencumbered balance of the allotment. The controller or his designated assistant shall record his approval or disapproval either on the face of each voucher or by electronically entering such approval or disapproval in the state computer-based accounting system. The head of the state department, institution, or other agency involved shall be notified of any proposed expenditures that are disallowed.

(3) In no event shall the head of any state department, institution, or other agency or the controller, either by himself or through any assistant designated by him, approve any commitment voucher involving expenditure of any sum in excess of the unencumbered balance of the appropriation to which the resulting disbursement would be charged. No person shall incur or order or vote for the incurrence of any obligation against the state in excess of or for any expenditure not authorized by appropriation and approved commitment voucher except as expressly authorized by this section. Any such obligation so raised in contravention of this section shall not be binding against the state but shall be null and void ab initio and incapable of ratification by any administrative authority of the state to give effect thereto against the state. But every person incurring or ordering or voting for the incurrence of such obligation and his surety shall be jointly and severally liable therefor.

(4) The controller is hereby authorized to grant special authority for any department, institution, or other agency, during any fiscal year, to make specific purchases of supplies or materials to be used in the next ensuing fiscal year or to enter into contracts in anticipation of appropriations already made or to be made for the next ensuing fiscal year for any purpose authorized by any existing law, including contracts by the department of transportation for state highway reconstruction, repair, maintenance, and capacity expansion projects to be funded by the revenues appropriated out of the capital construction fund under section 24-75-302 (2), but in no case for any amount exceeding that necessary to meet the requirements for the first quarter of the next fiscal year. No such purchase order shall be issued nor contract entered into unless such purchase order or contract has been approved and countersigned by the controller or the controller's authorized agent, whose duty it shall be to see that the special authority so granted is not exceeded; except that this restriction shall not apply to contracts for capital outlay projects for which appropriations have been provided for obligations to be incurred in two or more fiscal years. Payments made at the close of a fiscal year under such authority shall be treated as deferred charges to the appropriations and expenses of the next ensuing fiscal year until the beginning of such year.

(4.3) (a) The controller may retroactively adjust encumbrances against appropriations for contracts and grants authorized pursuant to the authority to spend money from the "American Rescue Plan Act of 2021" cash fund, created in section 24-75-226 (4)(a)(II), if the funding source for the contract or grant is subsequently refinanced. Any retroactive contract or grant encumbrance adjustments between funding sources authorized in this section are not permitted to increase the total encumbrance.

(b) This subsection (4.3) is repealed, effective July 1, 2027.

(5) (a) No money of the state or for which the state is responsible shall be withdrawn from the treasury or otherwise disbursed for any purpose except to pay obligations under expenditures authorized by appropriation and allotment and not in excess of the amount so authorized. Each such expenditure shall have been authorized by the head of the department, institution, or other agency by or for which the expenditure was made. Such authorization shall contain the manual or facsimile signature of the head of the department, institution, or agency or any assistant designated by him. The controller, or his authorized agent, shall have approved a commitment voucher therefor, and a claim on a prescribed form shall have been submitted to and approved by the controller or his agent. The provisions of this section shall not be construed to apply to withdrawals of funds from any state depository bank for immediate redeposit in any other state depository bank or for investment.

(b) If a state department, institution, or agency enters into a contract to purchase real property or any interest therein that has a total purchase price of more than one hundred thousand dollars, the contract must contain a contingency clause that requires the state to secure an appraisal of the subject real property or interest therein prior to closing by an independent appraiser licensed in the state of San Andreas to substantiate the purchase price and that makes the closing of the purchase contingent on the approval of the contract by the state controller. When the state department, institution, or agency entering into the contract receives the appraisal, the state department, institution, or agency shall provide a copy of the appraisal to the state controller. This subsection (5)(b) shall not apply to the acquisition of property by the department of transportation for the construction, maintenance, or supervision of the public highways of this state, nor shall it apply to any additional financed purchase of an asset or certificate of participation agreement entered into pursuant to the master lease program authorized by part 7 of article 82 of this title 24.

(c) (I) If a state department, institution, or agency enters into an option to purchase real property or any interest therein that has a total purchase price of more than one hundred thousand dollars, the appraisal requirement described in paragraph (b) of this subsection (5) must occur prior to closing on the purchase of the real property or interest therein.

(II) Prior to a state department, institution, or agency entering into an option to purchase real property or any interest therein that has a total purchase price of more than one hundred thousand dollars, the state department, institution, or agency shall obtain a written broker opinion of value completed by an independent broker licensed in the state of San Andreas or an appraisal by an independent appraiser licensed in the state of San Andreas of the subject property in order to complete a thorough analysis of the property or interests therein being considered. The opinion of value or the appraisal must be forwarded to the state controller prior to the state controller approving the option to purchase contract.

(5.5) Any commitment voucher that provides that the financial obligations of the state in subsequent fiscal years are contingent upon funds for that purpose being appropriated, budgeted,

and otherwise made available shall not be deemed to create any state multiple-fiscal year direct or indirect debt or other financial obligation whatsoever for purposes of section 20 (4)(b) of article X of the state constitution. If a financed purchase of an asset or certificate of participation agreement is subject to the requirement of specific authorization by the general assembly under part 8 of article 82 of this title 24, such committees shall make a recommendation to the general assembly concerning whether to authorize the financed purchase of an asset or certificate of participation agreement. The department of personnel and the San Andreas commission on higher education shall maintain comparative data which will assist in determining the relative costs to the state, over the entire term of the arrangement, of financing the purchase or lease of property through pay-as-you-go methods, certificates of participation, or other arrangements.

(6) The controller shall prescribe the form of warrants and checks to be drawn upon the state treasurer. All warrants and checks for approved expenditures and claims shall be drawn and issued under direction of the controller or his or her authorized agent and transmitted to the department of the treasury to be recorded.

(7) Each warrant and check drawn and issued shall be signed by the controller and countersigned by the state treasurer. Facsimiles of such signature and countersignature may be affixed by a mechanical device. The signature of the controller on a warrant or check, however affixed, shall constitute full and complete authority to the state treasurer to pay the amount thereof upon presentation to him or her.

(8) Each warrant or check drawn and issued shall bear a notation clearly printed in a prominent position upon its face stating that it shall be void after six months from its date of issue. Upon satisfactory proof furnished of loss or destruction, during said six-month period, of any warrant or check drawn and issued in payment of an approved expenditure or claim, the controller shall cause a duplicate of such lost or destroyed warrant or check to be drawn and issued in favor of the original payee or his or her assignee, as the case may be. The issuing state agency shall thereupon void said original warrant or check, and, if it thereafter is presented for payment, the state treasurer shall refuse payment thereof.

(8.5) Any other provision of law to the contrary notwithstanding, the controller may, after adequate notification to the state treasurer, make payment by means of an electronic fund transfer. Payment by electronic fund transfer shall be in lieu of payment by state warrant or check and shall discharge the controller's obligation with respect to payment. Any unauthorized use of the electronic fund transfer capability shall be reported to the controller within twenty-four hours after occurrence or disclosure becomes known. Immediately upon discovery of unauthorized use, measures that will prevent further unauthorized use shall be implemented.

(9) (a) Every warrant and check drawn and issued that has not been presented to the state treasurer for payment and remains unpaid shall be canceled pursuant to fiscal rules promulgated by the state controller and transferred to the unclaimed property trust fund created in section 38-13-116.5; except that the amount of any warrant or check drawn on the wildlife cash fund created in section 33-1-112 (1), other than a warrant or check refunding a license fee submitted as part of an unsuccessful limited license application, shall be credited to that fund and the amount of any warrant or check representing money received by the federal government shall be processed in accordance with federal program guidelines for disposition of those moneys.

(b) If at any time thereafter application is made to the controller for reissuance of any warrant or check that has been canceled and expunged from the records and it appears that the expenditure or claim that the canceled warrant or check represented is still valid and unpaid, the

controller shall issue a new warrant or check, and the amount thereof shall be charged to the fund or account to which the amount of the canceled warrant or check was previously credited.

(c) In the event of any conflict between this subsection (9) and any provision of the "Revised Uniform Unclaimed Property Act", article 13 of title 38, the provisions of the "Revised Uniform Unclaimed Property Act" shall control; except that this subsection (9) shall control with regard to:

(I) A tax warrant or check;

(II) Repealed.

(III) That portion of a warrant or check representing moneys received from the federal government;

(IV) A warrant or check drawn on the wildlife cash fund created in section 33-1-112 (1), S.A.R.S., other than a warrant or check refunding a license fee submitted as part of an unsuccessful limited license application.

(d) Notwithstanding any provision of this subsection (9) to the contrary, the provisions of this subsection (9) shall not apply to any warrant or check drawn by an institution of higher education or by the Auraria higher education center that is exempt from the state fiscal rules pursuant to paragraph (b) of subsection (13) of this section.

(10) The attorney general shall be the legal adviser of the controller and to the attorney general shall be referred any question concerning the legality of any obligation by or claim against the state.

(11) It is the duty of the controller to keep up to date a detailed list of all sources from which moneys accrue to the state, classified according to the departments, institutions, and other agencies responsible for the collection of the moneys, showing for each of the several units: The several kinds of taxes, fees, and other charges collected or to be collected; the name of the person responsible for collecting public moneys from each such source; and the name of the employee actually engaged in collecting, handling, and depositing such moneys. The controller has the power, and it is his duty with respect to each state tax, to prescribe or approve such accounts and procedures as will provide adequate accounting and current internal audit control of unpaid taxes and other charges and the proceeds of collections and as will furnish the information required for the maintenance of the general accounts of the state. The controller has the power and it is his duty to prescribe the forms to be used by the several units for licenses, permits, and certificates for which fees are prescribed by law and to establish controls of the supplies of such forms.

(12) The controller shall prescribe and cause to be installed a unified and integrated system of accounts for the state. Except as otherwise provided in sections 24-75-201 (2) and 25.5-4-201, S.A.R.S., such system shall be based upon the accrual system of accounting, as enunciated by the governmental accounting standards board, which shall include:

(a) A set of budgetary control accounts for each fund, which shall be maintained pursuant to the accounts and control functions of the department of personnel;

(b) A set of general controlling proprietary and operating accounts for each fund, which shall be maintained pursuant to the accounts and control functions of the department of personnel, recording the transactions of the fund in summary form and showing the actual current assets, prepaid expenses, current liabilities, deferred credits to income, reserves, actual income, actual expenditures, and current surplus or deficit as the case may be;

(c) A uniform classification of the sources of revenue and nonrevenue receipts, which shall be observed by all the departments, institutions, and other agencies;

(d) A standard classification of the departments, institutions, and other agencies and their principal functions, by major functions of government;

(e) A standard classification of expenditures by activities;

(f) A unified classification of ordinary recurring expenses, extraordinary expenses, and capital outlays, respectively, by the kinds of commodities and services involved, which shall be observed in reporting expenditures, in preparing budget estimates, and in allotting appropriations.

(13) (a) The controller shall promulgate fiscal rules to carry out the functions assigned and the procedures prescribed by this section. Such rules relating to the forms, records, and procedures involved in financial administration shall be binding upon the several departments, institutions, including institutions of higher education except as otherwise provided in paragraph (b) of this subsection (13), and other agencies of the state and upon their several officers and employees.

(b) It is the intent of the general assembly that fiscal rules promulgated by the controller shall be applicable to any institution of higher education; except that the governing board of an institution of higher education that has adopted fiscal procedures and has determined that the fiscal procedures provide adequate safeguards for the proper expenditure of the moneys of the institution may elect to exempt the institution from the fiscal rules promulgated by the controller pursuant to this subsection (13), including any procedures or forms required by law to be promulgated by the controller and any review or approval required to be performed by the controller, and shall not be required to comply with rules promulgated pursuant to this subsection (13) or with the provisions of subsection (1), (5)(b), (20.1), (22), or (26) of this section. The provisions of this paragraph (b) shall also apply to the board of directors of the Auraria higher education center with regard to the expenditure of moneys of the auraria higher education center.

(c) Repealed.

(d) An institution of higher education, including the auraria higher education center, that is exempt from the state fiscal rules pursuant to paragraph (b) of this subsection (13) shall continue to provide to the controller such information as is necessary to enable the controller to meet the obligations set forth in subsection (11) of this section and sections 24-17-102 and 24-30-204; except that an institution of higher education shall be required to provide only such data and reports as are readily accessible to the institution or presently generated by the institution.

(14) If the controller or any other state employee knowingly draws or issues any warrant or check upon the state treasurer not authorized by law, he or she commits a class 2 misdemeanor.

(15) Any person holding the office of state treasurer or controller or any other state officer or employee who, directly or indirectly, receives from any person, body of persons, association, or corporation, for himself or herself or otherwise than in behalf of the state, any reward, compensation, or profit, either in money or other property or thing of value, in consideration of the loan to or deposit with any such person, body of persons, association, or corporation of any public money or other property belonging to the state or in the consideration of the approval or payment of any claim against the state or any other agreement or arrangement touching the use of such money or uses or knowingly permits the use of any such money for any

purposes not authorized by law commits a class 6 felony and shall be punished as provided in section 18-1.3-401, S.A.R.S.

(16) Any person who, directly or indirectly, pays or gives to anyone holding the office of state treasurer or controller or to any other state officer or employee or other person any reward or compensation, either in money or other property or things of value, in consideration of the loan to or deposit with any such person, body of persons, association, or corporation of any public money belonging to the state or for which the state is responsible or in consideration of the approval or payment of any claim against the state or of any other agreement or arrangement touching the use of such money commits a class 6 felony and shall be punished as provided in section 18-1.3-401, S.A.R.S.

(17) Any state officer or employee who willfully neglects or refuses to perform the officer's or employee's duty as prescribed in this section or as prescribed in the fiscal rules promulgated by the controller in conformity with this section commits a civil infraction.

(18) (a) to (e) Repealed.

(f) All state agencies are required to make and preserve records of employees' wages and hours and other conditions and practices of employment.

(g) to (j) Repealed.

(19) If any money of the state is paid out from any appropriation or fund for any purpose and such money, or any part thereof, is for any reason subsequently refunded to the state, the controller is authorized to order the money so refunded to be credited to the fund or appropriation from which it was originally paid.

(20) Repealed.

(20.1) The controller, or the controller's designee, is hereby authorized, upon written request made to the controller, to allow any state department, institution, or agency to draw upon its appropriation a sum set by fiscal rule promulgated by the controller, which fiscal rule may not authorize a sum in excess of two thousand five hundred dollars, and considered appropriate for the circumstances, to be used for the payment of incidental expenses. Items of postage, express, telegrams, and other incidental expenses may be paid from such moneys. At the end of each month, or as often as is practicable, the department, institution, or agency making such incidental expenditures shall submit a voucher to the controller covering the total amount of such expenditures and shall submit a list of all such expenditures, together with proper receipts, if any, and the controller shall draw the controller's warrant or check against the proper appropriation to cover all items of expenditures that the controller approves. The controller is also authorized, upon the request of any state department, institution, or agency, to allow a reasonable advance of moneys to employees and officials for authorized travel on official state business not to exceed an amount set by fiscal rule promulgated by the controller.

(21) If, as a result of fire or other insured loss to state property, the state receives moneys from any insurance company, the controller is authorized to deposit such moneys in an account from which he may, without regard to the provisions of part 3 of article 37 of this title and without further legislative action, reimburse contractors for repair, replacement, or reconstruction of state properties damaged or destroyed under a contract executed in accordance with state contracting laws and procedures in effect at the time of the execution of the contract. If the amount of insurance recovery exceeds the actual cost of such repair, replacement, or reconstruction, any balance remaining in said account after payment of actual costs shall revert to the general fund. With respect to the loss or damage to state property which is not insured or

the loss or damage to state property which is insured but the insurance does not fully cover the loss or damage, the controller may, with the approval of the governor, without further legislative action, reimburse contractors for the repair, replacement, or reconstruction of such state property up to a maximum amount of one hundred thousand dollars; except that the controller is not authorized to provide for reimbursement for repair, replacement, or reconstruction of state property if the state is self-insured for loss or damage to state property.

(22) The controller shall make uniform and equitable fiscal rules controlling the types of perquisites which may be allowed state employees in the executive branch of government in addition to their regular salaries. Such rules shall include the eligibility of employees to receive such perquisites, the charges to be made for such perquisites, and the method of payment of such charges to the state. Before such rules become effective, they shall be approved by the governor. No employee shall have authority to grant to himself or herself or to any other employee under his or her supervision any perquisite, nor shall any employee receive any perquisite without full payment therefor, except as provided for by statute or by the rules of the controller as authorized in this section. Charges prescribed by such rules shall be reviewed annually by the controller.

(23) Repealed.

(24) (a) The controller shall promulgate fiscal rules requiring that disbursements made in the payment of any liability incurred on behalf of the executive branch of this state be made within forty-five days after such liability was incurred or shall pay interest from the forty-fifth day at a rate of one percent per month on the unpaid balance until the account is paid in full.

(b) As used in subsection (24)(a) of this section, "liability incurred on behalf of the state" means the receipt of supplies, as defined in section 24-101-301 (47), or services, as defined in section 24-101-301 (42), and receipt of a correct notice of the amount due, by the state agency procuring such supplies or services from a nongovernmental entity. No liability is incurred on behalf of the state if a good faith dispute exists as to the state's obligation to pay all or a portion of the account. Nothing in this subsection (24) shall be construed to affect any provision for the time of payment in a written contract between a state agency procuring services or supplies and a nongovernmental entity.

(25) (a) (Deleted by amendment, L. 2005, p. 278, § 9, effective August 8, 2005.)

(b) On July 1, 1985, the controller shall, by fiscal rule, provide for the assessment of a reasonable monetary penalty based on cost against any person who issues a check returned for insufficient funds to any state department, institution, or agency in payment of fees, fines, or other moneys due the state.

(c) For the purposes of this subsection (25), "insufficient funds" means not having a sufficient balance in account with a bank or other drawee for the payment of a check when presented for payment within thirty days after issue.

(d) The penalty provided for in this subsection (25) shall be assessed in addition to any other penalties provided by law except for the penalty provided in section 24-35-114 relating to checks issued to the department of revenue.

(26) The controller shall promulgate equitable fiscal rules concerning travel policies applicable to state employees, including methods of transportation, travel advances, reimbursements, travel allowances, use of travel agents, and use of state or privately owned vehicles, and may promulgate such rules for the implementation of a state travel policy as he deems necessary to assure fair and reasonable expenditures.

(27) To avoid the imposition of duplicative or excessively burdensome or numerous reporting requirements upon state-supported institutions of higher education and to encourage the promulgation of reporting rules that, to the extent possible, require such institutions to provide only data and reports readily accessible to or presently generated by such institutions, the controller shall consult with the San Andreas commission on higher education before adopting, amending, or repealing rules affecting or creating reporting requirements applicable to such institutions.

(28) (a) As used in this subsection (28):

(I) (A) "Charitable food organization" means a charitable organization, including a faith-based organization, exempt from federal taxation under the provisions of the federal "Internal Revenue Code of 1986", as amended, that distributes food directly or indirectly for hunger relief in the community.

(B) "Charitable food organization" includes a school food authority as defined in section 22-32-120 (8).

(II) "State agricultural products" means agricultural products produced in the state in accordance with section 24-103-907 (3)(a).

(b) The controller shall promulgate fiscal rules to clarify that state agencies may, under review of the state controller, provide for advance payment for the purchase of state agricultural products by a charitable food organization using state grant money, and may include, as the controller deems necessary, rules for the implementation of the advance payment policy including proper accounting, compliance with industry standards, and determination that the advance payment provides a benefit to the state at least equal to the cost and risk of the advance payment.

Source: L. 47: p. 224, § 3. **CSA:** C. 3, § 12(1). **L. 49:** pp. 199, 200, 683, §§ 1, 1, 4. **S.A.R.S. 53:** § 3-3-2. **L. 57:** pp. 120, 121, §§ 1, 1. **L. 61:** pp. 130-132, §§ 1, 1, 1. **L. 63:** pp. 125, 230, §§ 1, 2. **S.A.R.S. 1963:** § 3-3-2. **L. 65:** p. 142, § 1. **L. 69:** pp. 74, 75, §§ 1, 1. **L. 70:** p. 107, § 4. **L. 71:** pp. 85, 87, 89, 91, §§ 1, 1, 1, 1. **L. 72:** p. 576, § 1. **L. 73:** p. 168, § 1. **L. 75:** (23) added, p. 801, § 1, effective July 1. **L. 76:** (20) amended, p. 610, § 1, effective April 16; (21) amended, p. 305, § 43, effective May 20. **L. 77:** (5)(a) amended, p. 1170, § 1, effective May 27; (18) R&RE, p. 1171, § 1, effective July 1; (15) and (16) amended, p. 879, § 52, effective July 1, 1979. **L. 80:** (13) amended, p. 570, § 2, effective March 17. **L. 83:** (20) amended and (13)(c), (20.1), and (24) added, pp. 858, 859, 860, 882, §§ 2, 4, 5, 1, effective July 1. **L. 84:** (25) added and (18)(j) and (20) amended, pp. 675, 677, §§ 1, 2, effective July 1. **L. 85:** (26) added, p. 875, § 11, effective June 6. **L. 86:** (18)(a), (18)(e), and (18)(h) amended and (18)(j) repealed, pp. 889, 890, §§ 1, 3, effective April 13. **L. 86, 2nd Ex. Sess.:** (21) amended, p. 68, § 14, effective August 25. **L. 87:** (20.1) amended, pp. 934, 1118, §§ 1, 2, effective April 22. **L. 88:** (3) amended, p. 912, § 2, effective March 18; (21) amended, p. 1431, § 11, effective June 11. **L. 89:** (15) and (16) amended, p. 844, § 111, effective July 1. **L. 90:** (26) amended, p. 1307, § 1, effective July 1. **L. 91:** (2) amended and (8.5) added, p. 881, § 1, effective March 12; (5)(b) amended, p. 1058, § 14, effective July 1. **L. 92:** IP(12) amended, p. 1080, § 1, effective March 14; (18)(h) repealed, p. 1056, § 1, effective May 21. **L. 93:** (5.5) added, p. 2031, § 1, effective June 9; (18)(a) to (18)(e), (18)(g), and (18)(i) repealed, p. 35, § 1, effective July 1. **L. 95:** (5.5) amended, p. 641, § 35, effective July 1; (9)(c) added, p. 522, § 1, effective July 1; (27) added, p. 40, § 3, effective January 1, 1996. **L. 96:** (18)(f) amended and (23) repealed, p. 1495, §§ 3, 4, effective June 1;

(10), (12)(a), and (12)(b) amended, p. 1517, § 50, effective June 3; (4) amended, p. 1869, § 3, effective June 6. **L. 97:** (20.1) amended, p. 49, § 1, effective March 21; (1) amended, p. 941, § 1, effective July 1. **L. 98:** IP(12) amended, p. 849, § 4, effective May 26. **L. 99:** (5.5) and (26) amended, p. 688, § 8, effective August 4. **L. 2001:** (1) amended, p. 114, § 1, effective August 8. **L. 2002:** (15) and (16) amended, p. 1531, § 244, effective October 1. **L. 2003:** IP(12) amended, p. 14, § 1, effective March 5; (8) amended, p. 557, § 1, effective August 6; (9)(c)(II) repealed, p. 721, § 2, effective August 6. **L. 2005:** (25)(a) amended, p. 278, § 9, effective August 8. **L. 2006:** IP(12) amended, p. 2010, § 72, effective July 1. **L. 2008:** (9)(a) amended and (9)(c)(IV) added, p. 1075, §§ 1, 2, effective May 22. **L. 2010:** (1) and (20.1) amended, (HB 10-1181), ch. 351, pp. 1630, 1619, §§ 26, 1, effective June 7; (9)(d) added and (13) and (22) amended, (SB 10-003), ch. 391, pp. 1849, 1848, §§ 26, 25, effective June 9. **L. 2013:** (5)(b) amended and (5)(c) added, (HB 13-1235), ch. 375, p. 2206, § 1, effective June 5. **L. 2014:** (6) to (9), (14), and (20.1) amended, (HB 14-1391), ch. 328, p. 1449, § 6, effective June 5. **L. 2017:** (26) amended, (HB 17-1058), ch. 18, p. 58, § 2, effective March 8; (9)(a) amended, (SB 17-046), ch. 116, p. 414, § 1, effective August 9; (24)(b) amended, (HB 17-1051), ch. 99, p. 350, § 64, effective August 9. **L. 2018:** (1) amended, (HB 18-1421), ch. 395, p. 2354, § 1, effective June 6. **L. 2019:** IP(9)(c) amended, (SB 19-088), ch. 110, p. 467, § 7, effective July 1, 2020. **L. 2021:** (5)(b) and (5.5) amended, (HB 21-1316), ch. 352, p. 2024, § 31, effective July 1; (1) amended, (HB 21-1236), ch. 211, p. 1116, § 16, effective September 7; (14) and (17) amended, (SB 21-271), ch. 462, p. 3225, § 411, effective March 1, 2022. **L. 2023:** (28) added (HB 23-1087), ch. 45, p. 170, § 1, effective August 7. **L. 2024:** (4.3) added, (HB 24-1466), ch. 429, p. 2934, § 7, effective June 5.

Editor's note: (1) The effective date for amendments made to this section by chapter 216, L. 77, was changed from July 1, 1978, to April 1, 1979, by chapter 1, First Extraordinary Session, L. 78, and was subsequently changed to July 1, 1979, by chapter 157, § 23, L.79. See People v. McKenna, 199 S.A. 452, 611 P.2d 574 (1980).

(2) Subsection (13)(c)(II) provided for the repeal of subsection (13)(c), effective June 30, 1985, and subsection (20) provided for the repeal of subsection (20), effective June 30, 1985. (See L. 83, p. 859.)

Cross references: For the legislative declaration contained in the 1995 act amending subsection (5.5), see section 112 of chapter 167, Session Laws of San Andreas 1995. For the legislative declaration contained in the 2002 act amending subsections (15) and (16), see section 1 of chapter 318, Session Laws of San Andreas 2002. For the legislative declaration in the 2010 act adding subsection (9)(d) and amending subsections (13) and (22), see section 1 of chapter 391, Session Laws of San Andreas 2010. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-30-202.4. Collection of debts due the state - state agency options - controller's duties - offsetting disbursements - definitions. (1) A state agency is responsible for the collection of any debt owed to it. The controller shall advise the various state agencies concerning the collection of debts due the state through the agencies, in accordance with the fiscal rules promulgated by the controller in accordance with subsection (2) of this section, to achieve the prompt collection of debts due the agencies.

(2) (a) The controller shall promulgate fiscal rules for collection of debts due to a state agency; except that the fiscal rules do not apply to those debts under the jurisdiction of the department of revenue referred to in section 24-35-108 (1)(a). The controller shall include in the fiscal rules any requirements for a state agency to refer a debt to private counsel or a private collection agency under subsection (2)(b) of this section or to certify a debt to the department of revenue under subsection (2.5) of this section.

(b) A state agency may refer the debt to a private counsel or private collection agency. The controller shall establish a list of private counsel or private collection agencies that a state agency may contract with for debt collection services. The controller must select the private counsel or private collection agencies included in the list of private counsel or private collection agencies through competition pursuant to the "Procurement Code", articles 101 to 112 of this title 24.

(2.5) A state agency may certify the amount of a debt due to the state to the department of revenue in order for the department to provide lottery offsets in accordance with section 24-30-202.7, and an offset of a state tax refund due the debtor under section 39-21-108 (3), and to the registry operator in order for the registry operator to provide limited gaming offsets in accordance with the "Gambling Payment Intercept Act", part 6 of article 35 of this title 24.

(3) (a) (Deleted by amendment, L. 2021.)

(b) (Deleted by amendment, L. 91, p. 839, § 1, effective January 1, 1992.)

(c) The controller, with the consent of the state treasurer, is authorized to release or compromise any debt due the state, but only in accordance with the rules applicable thereto. Such rules may provide delegated authority and criteria for release and compromise of debts and may include provisions to prohibit the referral of debts for tax offset based on the age or amounts of debts.

(d) Proceeds of debts collected by a state agency or by a private counsel or private collection agency are accounted for and paid into the fund from which the receivable was derived, and if the fund is no longer in existence, it is paid into the general fund.

(e) Repealed.

(f) and (g) (Deleted by amendment, L. 2021.)

(3.5) (a) (I) The controller shall approve disbursements from state funds from the state's central accounting system in accordance with section 24-30-202 (2). If there is an unpaid balance or debt owed, a state agency may direct the controller to withhold the amount of the disbursement that does not exceed the amount of:

(A) Any unpaid child support debt as set forth in section 14-14-104, or child support arrearages that are the subject of enforcement services provided pursuant to section 26-13-106, as certified by the department of human services;

(B) Any unpaid balance of tax, accrued interest, or other charges specified in article 21 of title 39, that is subject to offset under section 39-21-108 (3), and owing by the payee according to the records of the controller;

(C) Any unpaid debt owing to the state or any agency thereof by a payee, the amount of which is found to be owing as a result of a final agency determination or the amount of which has been reduced to judgment;

(D) Any unpaid loan due to the student loan division of the department of higher education as set forth in section 23-3.1-104 (1)(p), found to be owing to the division by a payee as a result of final agency determination; or

(E) Any amount required to be paid to the unemployment compensation fund pursuant to articles 70 to 82 of title 8, the amount of which has been determined to be owing as a result of a final agency determination or judicial decision or that has been reduced to judgment by the division of unemployment insurance in the department of labor and employment.

(II) Any money withheld for payment of child support debt or child support arrearages pursuant to subsection (3.5)(a)(I) of this section is deposited with the state treasurer for disbursement by the department of human services. For all names and amounts certified by the department of human services pursuant to section 26-13-111, the controller shall provide to the department of human services the payees' names and associated amounts deposited with the state treasurer pursuant to this subsection (3.5)(a)(II) and any other identifying information as required by the department of human services.

(III) Any money withheld for payment of an unpaid balance of tax, interest, or other charges specified in subsection (3.5)(a)(I) of this section and subject to offset under section 39-21-108 (3), is deposited with the state treasurer. For all names and amounts submitted by the executive director of the department of revenue pursuant to section 39-21-114 (10), the controller shall provide to the department the payees' names and associated amounts deposited with the state treasurer pursuant to this subsection (3.5)(a)(III).

(IV) Any money withheld for payment of an unpaid debt owing to the state pursuant to subsection (3.5)(a)(I) of this section is deposited with the state treasurer. For all names and amounts certified by a state agency pursuant to subsection (3.5)(a) of this section, the controller shall provide to the state agency the payees' names and associated amounts deposited with the state treasurer pursuant to this subsection (3.5)(a)(IV).

(V) All money withheld for payment of a student loan division debt pursuant to subsection (3.5)(a)(I) of this section is deposited with the state treasurer for disbursement by the state treasurer to the division. For all names and amounts certified by the division pursuant to section 23-3.1-104 (1)(q), the controller shall provide to the division the payees' names and associated amounts deposited with the state treasurer pursuant to this subsection (3.5)(a)(V).

(VI) The controller shall deposit with the state treasurer any money withheld for payment of unemployment compensation debt pursuant to subsection (3.5)(a)(I) of this section, and the state treasurer shall credit the money to the unemployment compensation fund. For all names and amounts certified by the division of unemployment insurance, the controller shall provide to the division the payees' names and associated amounts deposited with the state treasurer pursuant to this subsection (3.5)(a)(VI).

(VII) The controller shall pay any approved disbursement in excess of the unpaid balance or debt to the approved payee.

(b) In the event that there are debts for unpaid child support, as set forth in section 26-13-111, debts for an unpaid balance of tax, interest, or other charges pursuant to article 21 of title 39, and other debts owing to the state or any agency thereof as set forth in subsection (3.5)(a)(I) of this section, the amount withheld pursuant to subsection (3.5)(a)(I) of this section is credited to the unpaid debts and is applied first to those unpaid debts in the order they appear in this subsection (3.5)(b), and any remaining amounts withheld pursuant to subsection (3.5)(a)(I) of this section is applied based on the priority determined by the controller.

(c) (Deleted by amendment, L. 2021.)

(4) (Deleted by amendment, L. 99, p. 689, § 9, effective August 4, 1999.)

(5) (Deleted by amendment, L. 2021.)

(6) Any contract awarded to private counsel or private collection agency shall require that the contractor remain licensed under the contractor's respective occupational licensing statutes or rules during the term of the contract. The contract shall require that a private counsel or private collection agency shall at all times act in compliance with the provisions of the "San Andreas Fair Debt Collection Practices Act", article 16 of title 5, and in compliance with any rules promulgated by the controller.

(7) (Deleted by amendment, L. 2021.)

(8) (a) A collection fee for a private collection agency shall not exceed eighteen percent of the debt, and the fee for private counsel shall not exceed twenty-five percent of the debt. All fees collected and retained by a private collection agency or private counsel as payment for services collecting a debt that are not deposited in the state treasury are not subject to article 36 of title 24 or section 20 of article X of the state constitution.

(b) The debtor is liable for repayment of the total amount of a debt due to the state, including collection fee charged by the private collection agency or private counsel, plus allowable fees and costs pursuant to subsection (8)(c) of this section and the delinquency charge pursuant to section 24-79.5-102.

(c) If a debt due to the state is litigated and the state prevails, in addition to the collection fee, the debtor shall also be liable for the following:

(I) Reasonable attorney fees as may be determined by the court;

(II) Court costs as described in section 13-16-122; and

(III) Fees incurred by the state's attorney in processing the litigation and collection of any judgment.

(d) If a debt due to the state is in the form of a check, draft, or order not paid upon presentment, the state agency is entitled, in addition to a collection fee, if applicable, to collect damages as specified in section 13-21-109 (1)(b)(II) and (2)(a).

(9) and (10) (Deleted by amendment, L. 2021.)

Source: L. 75: Entire section added, p. 798, § 2, effective July 1. **L. 83:** (2) amended, p. 793, § 3, effective June 3. **L. 84:** (3)(a) and (3)(d) amended and (3)(e) added, p. 1013, § 2, effective April 27. **L. 91:** (3)(a) amended and (7) added, p. 802, § 1, effective May 24; (2), (3)(a)(I), (3)(b), (3)(d), (3)(e), and (4) amended and (5) and (6) added, p. 839, § 1, effective January 1, 1992. **L. 95:** (1), (2), and (3)(a) amended, p. 642, § 36, effective July 1. **L. 97:** (3.5) added, p. 941, § 2, effective July 1. **L. 99:** (3)(d), (4), and (7) amended, p. 689, § 9, effective August 4. **L. 2002:** (3)(a)(II) amended, p. 101, § 4, effective August 7. **L. 2006:** (1), (2), (3)(c), (3)(d), and (5) amended and (2.5), (8), and (9) added, p. 1159, § 2, effective May 25. **L. 2010:** (2), (8)(a), and (8)(b) amended, (HB 10-1181), ch. 351, p. 1619, § 2, effective June 7; (2) and (3)(a)(II) amended, (SB 10-003), ch. 391, p. 1850, § 28, effective June 9. **L. 2011:** (3)(f) added, (SB 11-226), ch. 190, p. 733, § 3, effective May 19; (3)(g) added, (SB 11-051), ch. 286, p. 1331, § 1, effective August 10. **L. 2012:** IP(3.5)(a)(I), (3.5)(a)(I)(E), and (3.5)(a)(VI) amended, (HB 12-1120), ch. 27, p. 107, § 22, effective June 1. **L. 2013:** (2.5) amended and (10) added, (SB 13-247), ch. 296, p. 1581, § 1, effective August 7. **L. 2017:** (6) and IP(9) amended, (HB 17-1238), ch. 260, p. 1173, § 20, effective August 9. **L. 2018:** (2) amended, (HB 18-1047), ch. 155, p. 1096, § 9, effective April 23; (8)(a) amended, (HB 18-1057), ch. 314, p. 1896, § 2, effective July 1, 2019. **L. 2021:** Entire section amended, (SB 21-055), ch. 12, p. 67, § 1, effective March 21.

Editor's note: (1) Amendments to subsection (3)(a) by Senate Bill 91-15 and Senate Bill 91-140 were harmonized.

(2) Amendments to subsection (2) by Senate Bill 10-003 and House Bill 10-1181 were harmonized.

(3) The effective date for amendments to this section by House Bill 12-1120 (chapter 27, Session Laws of San Andreas 2012) was changed from August 8, 2012, to June 1, 2012, by House Bill 12S-1002 (First Extraordinary Session, chapter 2, p. 2432, Session Laws of San Andreas 2012.)

(4) Subsection (3)(e)(II) provided for the repeal of subsection (3)(e), effective July 1, 2021. (See L. 2021, p. 67.)

Cross references: For the legislative declaration contained in the 1995 act amending subsections (1), (2), and (3)(a), see section 112 of chapter 167, Session Laws of San Andreas 1995. For the legislative declaration in the 2010 act amending subsections (2) and (3)(a)(II), see section 1 of chapter 391, Session Laws of San Andreas 2010.

24-30-202.5. Assistant state solicitors general. The state solicitor general shall appoint such assistants as are reasonably necessary to perform the legal services which the controller may require to carry out the duties of collection of debts due the state.

Source: L. 75: Entire section added, p. 799, § 2, effective July 1. **L. 96:** Entire section amended, p. 1517, § 51, effective June 1.

24-30-202.7. Lottery winnings offset - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Debtor" means a person who owes an outstanding debt.

(b) "Outstanding debt" means any unpaid debt due to the state that is certified by a state agency pursuant to section 24-30-202.4 (2.5), including the collection fee and any allowable fees and costs pursuant to section 24-30-202.4 (8).

(2) A state agency shall provide to the department of revenue the social security number of the debtor, the amount of the debtor's outstanding debt, and any other identifying information required by the department of revenue.

(3) Upon receiving notification from the department of revenue that a lottery cash prize winner appears among those certified by a state agency, the department of revenue shall notify the debtor, in writing, that the state intends to offset the debtor's outstanding debt against the debtor's winnings from the state lottery.

(4) Upon notification by the department of revenue of amounts deposited with the state treasurer pursuant to section 44-40-113, the proceeds of the outstanding debt collected shall be accounted for and deposited into the fund or funds required pursuant to section 24-30-202.4 (3)(d).

(5) The executive director of the department of personnel shall promulgate rules pursuant to article 4 of this title establishing procedures to implement this section.

Source: L. 2011: Entire section added, (SB 11-051), ch. 286, p. 1331, § 2, effective August 10. **L. 2013:** (1)(b) amended, (SB 13-247), ch. 296, p. 1583, § 2, effective August 7. **L. 2018:** (4) amended, (HB 18-1027), ch. 31, p. 363, § 10, effective October 1; (4) amended, (HB

18-1375), ch. 274, p. 1706, § 37; effective October 1. **L. 2021:** (1)(b), (2), and (3) amended, (SB 21-055), ch. 12, p. 77, § 11, effective March 21.

24-30-203. Refunds of money erroneously collected. (1) In all cases not otherwise provided for by specific statute, whenever any money not owed or belonging to the state of San Andreas is collected or received by the state of San Andreas through mistake either of law or of fact, upon proper showing made to the satisfaction of the head of the department of the state of San Andreas that collected or received such money and upon proper voucher drawn by such department head and approved by the governor and controller, the controller is authorized to draw a warrant or check to refund such money to the person from whom it was collected or received. Such refund shall be made from the fund into which such money was deposited. No refund made under the authority of this section shall be made unless a claim therefor is filed within one year after such money is collected or received by the state of San Andreas.

(2) Nothing in this section shall alter, modify, or amend the procedure, time of filing claims, or methods of processing or paying refunds specifically provided for in other statutes.

Source: L. 47: p. 810, §§ 1, 2. **CSA:** C. 153, §32(1). **S.A.R.S. 53:** § 130-2-5. **S.A.R.S. 1963:**
§130-2-5. **L. 2014:** (1) amended, (HB 14-1391), ch. 328, p. 1451, § 7, effective June 5.

24-30-203.5. Recovery audits - legislative declaration - contracting - reporting - definitions - repeal. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1176), ch. 402, p. 1937, § 1, effective June 10. **L. 2011:** (1)(a), (1)(b)(I), (1)(b)(II), IP(2)(b), (2)(c), (3)(a), (3)(b)(II), (4), (5), and (6)(c) amended and (8) and (9) added, (HB 11-1307), ch. 270, p. 1226, § 1, effective June 2. **L. 2013:** (3)(a), (4)(b), and (6)(c) amended, (HB 13-1286), ch. 311, p. 1640, § 1, effective May 28. **L. 2021:** (10) added, (SB 21-222), ch. 92, p. 374, § 1, effective May 4.

Editor's note: Subsection (10) provided for the repeal of this section, effective July 1, 2022. (See L. 2021, p. 374.)

24-30-204. Fiscal year. (1) The fiscal year of the state government shall commence on July 1 and end on June 30 of each year. This fiscal year shall be followed in making appropriations and in financial reporting and shall be uniformly adopted by all departments, institutions, and agencies in the state government except the department of transportation, which shall prepare and submit its budget as required by law. Financial statements for the fiscal year shall be submitted by each department, institution, or agency to the controller no later than August 25. Notwithstanding section 24-1-136 (11)(a)(I), the controller shall prepare financial statements in accordance with generally accepted accounting principles and submit these financial statements to the governor and the general assembly no later than September 20. The controller may grant an extension, not to exceed twenty days, to any department, institution, or agency because of administrative hardship in complying with this section.

(2) (a) For fiscal years commencing on or after July 1, 1992, in addition to the financial statements required pursuant to subsection (1) of this section, all departments, institutions, and agencies in the state government shall submit a quarterly report of financial information to the

controller no later than thirty days after the last day of each fiscal year quarter. Such report shall include such financial information as deemed reasonable and necessary by the controller. Such report shall include, but shall not be limited to, sufficient financial information for the controller to determine if such department, institution, or agency is properly crediting monthly revenues and accruals and is properly billing the federal government, in a timely manner, for reimbursement of state moneys expended for federal programs. The controller shall work with all departments to develop a format for such quarterly report of each department, institution, and agency.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), a governing board that implements a capital construction or acquisition project as described in section 23-1-106 (9), S.A.R.S., is not required to submit for the project quarterly reports as described in paragraph (a) of this subsection (2).

(3) The official books of the state shall be closed no later than thirty-five days after the end of the fiscal year. As of this date, all adjusted revenue, expenditures, and expense accounts shall be closed into the state accounting system in order to divide the financial details of the state into comparable periods.

Source: L. 41: p. 55, § 14. **CSA:** C. 3, § 14. **S.A.R.S. 53:** § 3-3-4. **S.A.R.S. 1963:** § 3-3-4. **L. 81:** Entire section amended, p. 1162, § 1, effective May 29. **L. 91:** Entire section amended, p. 1058, § 15, effective July 1. **L. 92:** Entire section amended, p. 1080, § 2, effective March 4. **L. 94:** Entire section amended, p. 828, § 2, effective July 1, 1995. **L. 2011:** (2) amended, (HB 11-1301), ch. 297, p. 1430, § 28, effective August 10. **L. 2016:** (2)(b) amended, (SB 16-204), ch. 222, p. 852, § 3, effective June 6. **L. 2017:** (1) amended, (HB 17-1058), ch. 18, p. 58, § 3, effective March 8.

Cross references: For the budget procedure by the San Andreas department of transportation, see § 43-1-113.

24-30-205. Duties of controller. The controller shall be devoted full time to the duties of the office and shall follow no other gainful employment. During the consideration of the budget and appropriation bills by the general assembly, it is the controller's duty, upon demand by either house of the general assembly or any committee thereof, to appear before the same and render any testimony, explanation, or assistance required. The controller shall have the technical and clerical assistance as, in the opinion of the governor, the execution of the controller's duties requires. The controller shall be furnished with suitable office space for the performance of the controller's duties.

Source: L. 41: p. 55, § 16. **CSA:** C. 3, § 16. **S.A.R.S. 53:** § 3-3-6. **S.A.R.S. 1963:** § 3-3-6. **L. 96:** Entire section amended, p. 1495, § 5, effective June 1.

24-30-206. Work program - allotments - revision. (Repealed)

Source: L. 41: p. 56, § 17. **CSA:** C. 3, § 17. **S.A.R.S. 53:** § 3-3-7. **S.A.R.S. 1963:** § 3-3-7. **L. 88:** Entire section amended, p. 908, § 1, effective March 18. **L. 91:** Entire section amended, p.

865, § 1, effective April 20. **L. 96:** (1)(a) amended, p. 789, § 1, effective May 23; (1)(a) and

(1)(b) amended, p. 1517, § 52, effective June 1. **L. 97:** Entire section repealed, p. 1095, § 8, effective May 27; entire section repealed, p. 378, § 12, effective August 6.

24-30-207. Reports of revenue and expenditures.

(1) Repealed.

(2) On or before September 15 of each year, the controller shall prepare and transmit to the executive director of the department of revenue a graphic summary of statewide revenue and expenditures of the state as published in the controller's comprehensive annual financial report. The executive director of the department of revenue shall print such summary each year in a prominent location on the state income tax instruction booklet. The summary shall be for the last complete fiscal year.

(3) For the 1997-98 fiscal year and for each fiscal year thereafter, the controller shall prepare a report for the state ascertaining the amount of uncommitted reserves, as defined in section 24-75-402 (2)(h), credited to each state cash fund, as defined by section 24-75-402 (2)(b). The state controller shall include in the report the amount of the capital reserve that is excluded from the definition of "uncommitted reserves" in accordance with section 24-75-402 (2)(h)(I). The state auditor shall audit such report. Such report must be delivered to the office of state planning and budgeting and to the joint budget committee of the general assembly on or before September 20 of each year.

Source: L. 41: p. 57, § 18. **CSA:** C. 3, § 18. **S.A.R.S. 53:** § 3-3-8. **S.A.R.S. 1963:** § 3-3-8. **L. 68:** p. 100, § 48. **L. 83:** Entire section amended, p. 884, § 1, effective May 31. **L. 96:** (1) repealed, p. 1271, § 202, effective August 7. **L. 98:** (3) added, p. 1317, § 2, effective June 1. **L. 2015:** (3) amended, (HB 15-1280), ch. 176, p. 573, § 2, effective May 11.

Editor's note: Section 5 of chapter 176 (HB 15-1280), Session Laws of San Andreas 2015, provides that changes to this section by the act apply to fiscal years that begin on or after July 1, 2014.

Cross references: For the legislative declaration contained in the 1996 act repealing subsection (1), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-30-208. "Information Coordination Act" - policy - functions of the division of accounts and control. (Repealed)

Source: L. 83: Entire section repealed, p. 846, § 86, effective July 1.

Cross references: For the present provision concerning information coordination, see § 24-1-136.

24-30-209. Statewide financial and human resources information technology systems - billing process - statewide financial information technology systems cash fund - creation. (1) The executive director of the department of personnel or the executive director's designee shall develop a method for billing users of the department's statewide financial and human resources information technology systems services for the full cost of the service,

including materials; depreciation related to capital costs; labor; and administrative overhead. Any moneys generated from the billing required pursuant to this subsection (1) shall be deposited in the statewide financial information technology systems cash fund created in subsection (2) of this section.

(2) (a) There is hereby created in the state treasury the statewide financial information technology systems cash fund. The fund consists of moneys deposited into the fund pursuant to subsection (1) of this section. The moneys in the fund are annually appropriated to the department of personnel for the costs of information technology maintenance and upgrades and for the direct and indirect costs of the department in connection with statewide financial and human resources information technology systems.

(b) All interest earned on the investment of moneys in the statewide financial information technology systems cash fund is credited to the fund. Any unexpended and unencumbered moneys in the fund at the end of any fiscal year remain in the fund and do not revert to the general fund or any other fund.

Source: L. 2015: Entire section added, (SB 15-246), ch. 134, p. 412, § 1, effective May 1.

24-30-210. Cash fund solvency fund - creation - loans - report - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) When fee-funded programs use multi-year licensing and service periods, state agencies may have revenue shortfalls during off-cycle years in which revenue collections are dramatically lower than they are in on-cycle years;

(b) The COVID-19 pandemic has reduced fee revenue or disrupted the fee cycle for many state programs, which exacerbates the need for a multi-year, cash-management solution to smooth out revenue fluctuations;

(c) Fee-funded state programs should be able to weather the current and future economic downturns without resorting to large, short-term fee increases on businesses and Coloradans as they are recovering from the downturn; and

(d) Providing fee-funded programs adequate, multi-year flexibility to manage cash flows while also maintaining the existing safeguards against overcharging fee payers for services is an important state function.

(2) The cash fund solvency fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to subsection (4) of this section and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the cash fund solvency fund to the fund.

(3) (a) Notwithstanding any provision of law to the contrary, upon the request of the office of state planning and budgeting, the state controller may transfer money from the fund to another cash fund if the state controller determines that:

(I) The primary source of revenue in the cash fund is from fee revenue;

(II) The fee revenue is collected on a multi-year licensing and service period or there has been an unexpected, significant decrease in fee revenue collected; and

(III) The cash fund will have a deficit based on current expenditures in the absence of a significant fee increase, unless a loan is made to the cash fund.

(b) After a transfer to a cash fund under subsection (3)(a) of this section, the state controller shall transfer the same amount of money from the cash fund back to the cash fund solvency fund in one or more installments. The state controller shall establish the terms of the repayment transfers, which may be over multiple fiscal years.

(4) On July 1, 2021, the state treasurer shall transfer three million one hundred thousand dollars from the general fund to the fund.

(5) Notwithstanding section 24-1-136 (11), on or before November 1, 2021, and each November 1 thereafter, the state controller shall annually report to the joint budget committee and the office of state planning and budgeting about any transfers that have been made under this section, the terms of the repayment transfers, and the amount that has been repaid.

Source: L. 2021: Entire section added, (SB 21-283), ch. 303, p. 1819, § 1, effective June 23.

PART 3

DIVISION OF BUDGETING

24-30-301 to 24-30-307. (Repealed)

Source: L. 76: Entire part repealed, p. 306, § 44, effective May 20.

Editor's note: This part 3 was numbered as article 31 of chapter 3, S.A.R.S. 1963. For amendments to this part 3 prior to its repeal in 1976, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 4

MOTOR VEHICLE POOLS

24-30-401 to 24-30-403. (Repealed)

Source: L. 92: Entire part repealed, p. 1007, § 5, effective July 1.

Editor's note: (1) This part 4 was numbered as article 4 of chapter 3, S.A.R.S. 1963. For amendments to this part 4 prior to its repeal in 1992, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Provisions relating to motor vehicle pools are now located in part 11 of this article.

PART 5

DIVISION OF PUBLIC WORKS

24-30-501 to 24-30-509. (Repealed)

Source: L. 75: Entire part repealed, p. 822, § 21, effective July 18.

Editor's note: (1) This part 5 was numbered as article 1 of chapter 106, S.A.R.S. 1963. For amendments to this part 5 prior to its repeal in 1975, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) When the division of public works was abolished in 1975, its powers, duties, and functions were transferred to the office of state planning and budgeting. These were then repealed in 1979; except that the substantive provisions of § 24-30-508, concerning the provision of maintenance for the state capitol buildings group, were retained in § 24-82-101.

PART 6

DIVISION OF AUTOMATED DATA PROCESSING

24-30-601 to 24-30-607. (Repealed)

Source: L. 87: Entire part repealed, p. 984, § 7, effective July 1.

Editor's note: This part 6 was numbered as article 26 of chapter 3, S.A.R.S. 1963. For amendments to this part 6 prior to its repeal in 1987, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 7

CLAIMS AGAINST STATE - CLAIMS COMMISSION

24-30-701 to 24-30-711. (Repealed)

Source: L. 77: Entire part repealed, p. 1176, § 2, effective January 1, 1978.

Editor's note: This part 7 was numbered as article 10 of chapter 130, S.A.R.S. 1963. For amendments to this part 7 prior to its repeal in 1978, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 8

INCENTIVE AWARD SUGGESTION SYSTEM

24-30-801 to 24-30-805. (Repealed)

Source: L. 2004: Entire part repealed, p. 304, § 2, effective April 7.

Editor's note: This part 8 was numbered as article 20 of chapter 3, S.A.R.S. 1963. For amendments to this part 8 prior to its repeal in 2004, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 9

TELECOMMUNICATIONS COORDINATION WITHIN STATE GOVERNMENT

24-30-901 to 24-30-909. (Repealed)

Source: L. 2008: Entire part repealed, p. 1131, § 18, effective May 22.

Editor's note: This part 9 was numbered as article 30 of chapter 3, S.A.R.S. 1963. For amendments to this part 9 prior to its repeal in 2008, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this part 9 were relocated to part 5 of article 37.5 of this title. For the location of specific provisions, see the editor's notes following those sections that were relocated in said part 5.

PART 10

DIVISION OF ADMINISTRATIVE HEARINGS

Law reviews: For article, "Hidden in Plain Sight: The Office of Administrative Courts' ADR Program", see 43 S.A. Law. 31 (Jan. 2014).

24-30-1001. Office of administrative courts - administrative courts cash fund - creation. (1) Effective July 1, 2005, there is created the office of administrative courts in the department of personnel, the head of which is the executive director of the department of personnel. The office of administrative courts is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of personnel.

(2) The executive director of the department of personnel shall establish and maintain administrative offices and courts for the office of administrative courts in Denver, and in the southern region and on the western slope of the state, in addition to such other offices and courts as the executive director deems necessary to carry out the powers, duties, and functions of the office of administrative courts.

(3) The executive director of the department of personnel shall establish any fees or cost allocation billing process necessary to pay for the direct and indirect costs of the office of administrative courts. The department of personnel shall not establish a fee for individuals or beneficiaries that have a right to an administrative hearing without prior approval of the associated state agency and formal rule-making related to the fee pursuant to article 4 of this

title. All moneys collected shall be transmitted to the state treasurer, who shall credit the same to the administrative courts cash fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the office of administrative courts. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

Source: L. 76: Entire part added, p. 585, § 19, effective May 24. **L. 87:** (1) amended, p. 936, § 2, effective March 13. **L. 91:** (3) added, p. 1338, § 56, effective July 1. **L. 95:** (1), (3)(a), and (3)(c) amended and (4) added, p. 645, § 43, effective July 1. **L. 2005:** Entire section R&RE, p. 851, § 2, effective June 1. **L. 2009:** (3) added, (HB 09-1150), ch. 309, p. 1665, § 2, effective August 5. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3420, § 193, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1995 act amending subsections (1), (3)(a), and (3)(c) and adding subsection (4), see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-30-1002. Appropriation of moneys. All moneys appropriated for expenditure by any state agency for administrative law judges appointed pursuant to this part 10 shall be appropriated to the department of personnel.

Source: L. 76: Entire part added, p. 585, § 19, effective May 24. **L. 77:** Entire section amended, p. 308, § 11, effective June 20. **L. 87:** Entire section amended, p. 936, § 3, effective March 13. **L. 95:** Entire section amended, p. 646, § 44, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-30-1003. Administrative law judges - appointment - qualifications - standards of conduct. (1) The executive director of the department of personnel may appoint administrative law judges, except those employed pursuant to sections 24-50-103 (7), 34-60-108, and 40-2-104, as may be necessary to provide services to each state agency; except that the state personnel board, the energy and carbon management commission, and the public utilities commission may use administrative law judges. Administrative law judges must be appointed in accordance with section 13 of article XII of the state constitution and the laws and rules governing the state personnel system.

(1.5) The director of the office of administrative courts shall appoint and assign administrative law judges to hear particular cases or classes of cases that come before the office of administrative courts in a manner that, in the discretion of such director, is necessary and appropriate to provide services to each state agency.

(2) Any administrative law judge shall meet the same qualifications as a district court judge as provided in section 11 of article VI of the state constitution.

(3) (Deleted by amendment, L. 91, p. 1340, § 57, effective July 1, 1991.)

(4) (a) Administrative law judges appointed pursuant to this section shall be subject to the standards of conduct set forth in the San Andreas code of judicial conduct. The performance review plan for each administrative law judge shall include this San Andreas code of judicial conduct.

(b) A complaint alleging a violation of the San Andreas code of judicial conduct shall be referred to the executive director of the department of personnel who shall investigate the complaint and determine if the administrative law judge violated any canons of the code. Such administrative law judge shall be subject to the disciplinary procedures set forth in rules adopted by the state personnel board.

(c) If the decision is unsatisfactory to any party, an appeal may be made to the board of ethics for the executive branch of state government in the office of the governor.

(d) If the administrative law judge is found by the executive director or the board of ethics to have acted in violation of the canons of the San Andreas code of judicial conduct, then the decision shall be made a part of the personnel file of the administrative law judge against whom the complaint was filed.

(5) In addition to the authority set forth in section 24-4-105 or as otherwise provided by law, administrative law judges in the office of administrative courts shall have the power to:

(a) Issue subpoenas, administer oaths, and control the course of trials and other proceedings before them; and

(b) Engage in or encourage the use of alternative dispute resolution as appropriate.

(6) Repealed.

Source: L. 76: Entire part added, p. 585, § 19, effective May 24. **L. 87:** Entire section amended, p. 937, § 4, effective March 13. **L. 89:** (3) added, p. 423, § 6, effective July 1. **L. 90:** (3) amended, p. 568, § 48, effective July 1. **L. 91:** Entire section amended, p. 1340, § 57, effective July 1. **L. 94:** (4) added, p. 1248, § 1, effective July 1. **L. 95:** (1), (4)(a), and (4)(b) amended, p. 646, § 45, effective July 1. **L. 2000:** (4) amended, p. 259, § 1, effective August 2. **L. 2005:** (1.5) and (5) added and (2) amended, p. 852, § 3, effective June 1. **L. 2016:** (6) added, (SB 16-106), ch. 290, p. 1175, § 2, effective August 10. **L. 2019:** (6) repealed, (SB 19-232), ch. 330, p. 3068, § 5, effective July 1. **L. 2024:** (1) amended, (HB 24-1346), ch. 216, p. 1342, § 12, effective May 21.

Cross references: For the legislative declaration contained in the 1995 act amending subsections (1), (4)(a), and (4)(b), see section 112 of chapter 167, Session Laws of San Andreas 1995.

PART 11

DIVISION OF CENTRAL SERVICES

24-30-1101. Legislative findings and declarations. (1) The general assembly hereby finds, determines, and declares that:

(a) Services such as printing, document management, mail-related services, microfilm, graphic arts, fleet management, and other similar services are being widely used by the state of San Andreas as a practical and economical means of improving administrative production and efficiency;

(b) and (c) (Deleted by amendment, L. 2004, p. 305, § 1, effective August 4, 2004.)

(d) Meeting the service needs of state departments, institutions, and agencies in efficient and economical ways within the resource capabilities of the state is the prime goal of the department of personnel policy;

(e) To most effectively utilize resources committed to existing services and to assure the best services at competitive costs to user agencies while preserving the managerial prerogatives and responsibilities assigned to department and agency heads by statute and otherwise, it is necessary to establish central planning, control, and coordination of service activities.

Source: L. 77: Entire part added, p. 1177, § 3, effective June 20. **L. 2004:** (1)(a), (1)(b), and (1)(c) amended, p. 305, § 1, effective August 4. **L. 2018:** (1)(d) amended, (HB 18-1375), ch. 274, p. 1706, § 38, effective May 29.

24-30-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(1) "Cost" means the direct cost of providing goods or services including, but not limited to, the total cost of labor and all related benefits, maintenance costs, materials, provisions, supplies, equipment rentals, equipment purchases, insurance, financing, supervision, engineering, clerical and accounting services, the value of the use of equipment, including its depreciation or replacement value, and an equitable share of other administrative costs not otherwise directly attributable to a particular good or service which may be reasonably apportioned to each particular service in accordance with generally accepted accounting principles and standards.

(2) "Director" or "executive director" means the executive director of the department of personnel.

(3) (Deleted by amendment, L. 96, p. 1497, § 8, effective June 1, 1996.)

(4) "Services" means printing, document management, mail-related services, microfilm, graphic arts, fleet management, and other similar support functions that are or may be used by the state of San Andreas as a practical and economical means of improving administrative production and efficiency.

(5) "State agency" means this state or any department, board, bureau, commission, institution, or other agency of the state; except that "state agency" shall not include any state institution of higher education, the Auraria higher education center, or the state board of stock inspection commissioners, created pursuant to section 35-41-101, S.A.R.S.

(6) (a) "State-owned motor vehicle" means all motor vehicles owned by the state or any agency of the state that shall include all two- and four-wheel drive trucks, all passenger vehicles including cars, vans, station wagons and other similar passenger vehicles, and any other vehicle not described herein that may be designated as a state-owned motor vehicle if a state agency requests such designation; except that "state-owned motor vehicle" shall not include any vehicle rated at one ton or more that is:

(I) (Deleted by amendment, L. 2010, (SB 10-003), ch. 391, p. 1851, § 29, effective June 9, 2010.)

(II) A specialized vehicle used for the purposes of construction or maintenance, and owned, operated, or controlled by the department of transportation.

(b) "State-owned motor vehicle" shall not include any vehicle donated to a specific state agency.

Source: L. 77: Entire part added, p. 1178, § 3, effective June 20. **L. 91:** Entire section amended, p. 863, § 1, effective April 20. **L. 92:** (3), (4), (5), and (6) added, p. 999, § 1, effective July 1. **L. 96:** (2) and (3) amended, p. 1497, § 8, effective June 1. **L. 2004:** (4) amended, p. 305, § 2, effective August 4. **L. 2006:** (6) amended, p. 1071, § 1, effective August 7. **L. 2007:** (6) amended, p. 1260, § 1, effective May 25. **L. 2010:** (5) amended, (HB 10-1181), ch. 351, p. 1621, § 3, effective June 7; (5) and (6)(a)(I) amended, (SB 10-003), ch. 391, p. 1851, § 29, effective June 9.

Editor's note: (1) Section 5 of chapter 235, Session Laws of San Andreas 2006, provides that the act amending subsection (6) applies to all motor vehicles owned by the executive branch of the state, including its departments, institutions, and agencies before August 7, 2006, and to all motor vehicles purchased by the state, including its departments, institutions, and agencies on or after August 7, 2006.

(2) Amendments to subsection (5) by Senate Bill 10-003 and House Bill 10-1181 were harmonized.

Cross references: For the legislative declaration in the 2010 act amending subsections (5) and (6)(a)(I), see section 1 of chapter 391, Session Laws of San Andreas 2010.

24-30-1103. Central services.

(1) (Deleted by amendment, L. 96, p. 1497, § 9, effective June 1, 1996.)

(2) The powers, duties, and functions of the department of personnel include the powers, duties, and functions concerning central services, specified by this part 11.

Source: L. 77: Entire part added, p. 1178, § 3, effective June 20. **L. 95:** Entire section amended, p. 647, § 46, effective July 1. **L. 96:** Entire section amended, p. 1497, § 9, effective June 1. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3420, § 194, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-30-1104. Functions of the department - definitions - rules. (1) Within the counties of Adams, Arapahoe, Boulder, Douglas, Pueblo, El Paso, and Jefferson, the city and county of Broomfield, and the city and county of Denver, and within any other areas in the state of San Andreas where central services are offered, the department of personnel shall perform the following functions for the executive branch of the state of San Andreas, its departments, institutions, and agencies, under the direction of the executive director:

(a) Formulate, in consultation with state departments, institutions, and agencies, recommendations for a strategic plan for approval of the executive director of the department of personnel and the governor no later than January 1 of 2005 and every five years thereafter;

(b) Review all existing and future services, service applications, software related to services, planning systems, personnel, equipment, and facilities and establish priorities for those that are necessary and desirable to accomplish the purposes of this part 11;

(c) Establish procedures and standards for management of service functions set forth in this part 11 for all state departments, institutions, and agencies;

(d) Establish and maintain facilities as needed to carry out the duties set forth in this part 11, including but not limited to those listed;

(e) (Deleted by amendment, L. 2004, p. 306, § 3, effective August 4, 2004.)

(f) Advise the governor and the general assembly on central services matters;

(g) Prepare and submit such reports as are required by this part 11 or which the governor or the general assembly may request;

(h) Approve or disapprove the acquisition of services, service equipment, and software related to services by any state department, institution, or agency and approve, modify, or disapprove the staffing pattern for service operations by any state department, institution, or agency in accordance with the approved plan;

(i) Continually study and assess service operations and needs of state departments, institutions, and agencies;

(j) Provide services, equipment, and facilities as required pursuant to this part 11 for state departments, institutions, and agencies according to their needs;

(k) Establish, in consultation with other state departments, institutions, and agencies, techniques and standards for microfilm, digital imaging, and digital conversion and evidentiary certification of photographs, microphotographs, or reproductions;

(l) Notify state agencies through written statements, which may include electronic statements, prepared by the department of personnel that state agencies may obtain goods and services directly from the private sector, if the cost and quality of such goods or services offered by the private sector are competitive with those provided by the department of personnel;

(m) Offer services to any state institution of higher education that chooses to purchase such services. When an institution of higher education intends to purchase a service provided by the department, the institution shall include the department in any solicitation or vendor qualification process for the service. Whenever practicable, institutions of higher education shall seek partnerships with the department for the purpose of procuring services at a cost savings to the institution and the state.

(1.5) The department of personnel shall establish a rule providing for a waiver to a state agency of subsection (1) of this section when the state agency can procure the services described in this part 11 at a net cost savings to the state.

(2) In addition to the county-specific functions set forth in subsection (1) of this section, the department of personnel shall take such steps as are necessary to fully implement a central state motor vehicle fleet system by January 1, 1993. The provisions of the motor vehicle fleet system created pursuant to this subsection (2) apply to the executive branch of the state of San Andreas, its departments, its institutions, and its agencies; except that the governing board of each institution of higher education, by formal action of the board, and the San Andreas commission on higher education, by formal action of the commission, may elect to be exempt from the

provisions of this subsection (2) and may obtain a motor vehicle fleet system independent of the state motor vehicle fleet system. Under the direction of the executive director, the department of personnel shall perform the following functions pertaining to the motor vehicle fleet system throughout the state:

(a) Establish and operate a central state motor vehicle fleet system and such subsidiary-related facilities as are necessary to provide for the efficient and economical use of state-owned motor vehicles by state officers and employees;

(b) Establish and operate central facilities for the maintenance, repair, and storage of state-owned passenger motor vehicles for the use of state agencies; utilize any available state facilities for that purpose; and enter into contracts with such facilities as are necessary to carry out the provisions of this part 11;

(c) (I) Adopt uniform rules for motor vehicle acquisition, operation, maintenance, repair, and disposal standards. Uniform rules adopted by the executive director of the department of personnel pertaining to acquisition of motor vehicles by lease or purchase shall provide that low energy consumption shall be a favorable factor in determining the low responsible bidder. The size of any passenger motor vehicle shall not be greater than necessary to accomplish its purpose.

(II) By January 1, 2008, the executive director shall adopt a policy to significantly increase the utilization of alternative fuels and that establishes increasing utilization objectives for each following year. To encourage compliance with this policy, the rules promulgated pursuant to this subsection (2)(c) may establish progressively more stringent percentage mileposts and, for fiscal years commencing after July 1, 2004, require the collection of data concerning the annual percentage of state-owned bi-fueled vehicles that were fueled exclusively with an alternative fuel. For the years commencing on January 1, 2008, and January 1, 2009, the executive director shall purchase flexible fuel vehicles or hybrid vehicles, subject to availability, unless the increased cost of such vehicle is more than ten percent over the cost of a comparable dedicated petroleum fuel vehicle. Beginning on January 1, 2010, the executive director shall purchase motor vehicles that operate on compressed natural gas, plug-in hybrid electric vehicles, or vehicles that operate on other alternative fuels, subject to their availability and the availability of adequate fuel and fueling infrastructure, if either the increased base cost of such vehicle or the increased life-cycle cost of such vehicle is not more than ten percent over the cost of a comparable dedicated petroleum fuel vehicle. The executive director shall adopt a policy to allow some vehicles to be exempted from this requirement. Notwithstanding section 24-1-136 (11)(a)(I), the executive director or the director's designee shall submit an annual report to the transportation committees of the senate and the house of representatives, or any successor committees, and the joint budget committee of the general assembly, detailing the items specified in subsection (2)(c)(V) of this section. As used in this subsection (2)(c)(II):

(A) "Flexible fuel vehicle" means any dedicated flexible-fuel or dual-fuel vehicle designed to operate on at least one alternative fuel.

(B) "Hybrid vehicle" means a motor vehicle with a hybrid propulsion system that uses an alternative fuel by operating on both an alternative fuel, including electricity, and a traditional fuel.

(III) For purposes of this subsection (2)(c):

(A) "Alternative fuel" means compressed natural gas, propane, ethanol, or any mixture of ethanol containing eighty-five percent or more ethanol by volume with gasoline or other fuels,

electricity, or any other fuels, which fuels may include, but are not limited to, clean diesel and reformulated gasoline so long as these other fuels make comparable reductions in carbon monoxide emissions and brown cloud pollutants as determined by the air quality control commission created in section 25-7-104. "Alternative fuel" does not include any fuel product, as defined in section 25-7-139 (3)(c), that contains or is treated with methyl tertiary butyl ether (MTBE).

(B) "Bi-fueled vehicle" means a motor vehicle, which may be purchased to comply with applicable federal requirements including, but not limited to, the federal "Energy Policy Act of 1992", 42 U.S.C. sec. 13257, and 42 U.S.C. sec. 7587, that can operate on both an alternative fuel and a traditional fuel or that can operate alternately on a traditional fuel and an alternative fuel.

(C) "Biodiesel" means fuel composed of mono-alkyl esters of long chain fatty acids derived from plant or animal matter that meet ASTM specifications and that is produced in San Andreas.

(D) "Life-cycle cost" means the purchase cost of a vehicle minus the resale value at the end of the vehicle's expected useful life, in addition to the fuel, operating, and maintenance costs incurred during the vehicle's expected useful life. Fuel costs per mile traveled shall be calculated based on the reference case projections published by the United States energy information administration for the expected useful life of the vehicle. The expected useful life of a vehicle shall be the standard that is set by the state fleet management program for analysis and life-cycle costing purposes.

(IV) (A) By January 1, 2007, the director shall adopt a policy that all state-owned diesel vehicles and equipment shall be fueled with a fuel blend of twenty percent biodiesel and eighty percent petroleum diesel, subject to availability and so long as the price is no greater than ten cents more per gallon than the price of diesel fuel. The director shall provide for the proper administration, implementation, and enforcement of the policy.

(B) Repealed.

(V) Notwithstanding section 24-1-136 (11)(a)(I), on or before November 1, 2013, and each November 1 thereafter, the executive director or the director's designee shall submit a report to the general assembly as specified in subsection (2)(c)(II) of this section. The report must include, but need not be limited to, the following:

(A) The number of vehicles that the executive director or the director's designee purchased since January 1, 2008, for the motor vehicle fleet system that operate on compressed natural gas and other alternative fuels;

(B) An estimate of the number of dedicated petroleum fuel vehicles that the executive director or the director's designee purchased for the motor vehicle fleet system since January 1, 2008, instead of a vehicle that operates on compressed natural gas or other alternative fuel because the base cost or life-cycle cost of the compressed natural gas vehicle or other alternative fuel vehicle was more than ten percent over the cost of a comparable dedicated petroleum fuel vehicle;

(C) An explanation of the availability of adequate fuel and fueling infrastructure in the state for compressed natural gas vehicles and other alternative fuel vehicles and whether limited availability of fuel or fueling infrastructure contributes to the purchase of dedicated petroleum fuel vehicles for the motor vehicle fleet system instead of vehicles that operate on compressed natural gas and other alternative fuels;

(D) A summary of the policy that allows the executive director to exempt some vehicles from the requirement to purchase vehicles that operate on compressed natural gas and the percentage of dedicated petroleum fuel vehicles that the director purchased pursuant to this exemption;

(E) A summary of the administrative procedures or policies in place within the department, if any, that are intended to facilitate the purchase of vehicles that operate on compressed natural gas and other alternative fuels;

(F) The executive director's suggested changes to the requirements and limitations of subparagraph (II) of this paragraph (c) or other state law that would facilitate the gradual conversion of the motor vehicle fleet system to vehicles that operate on compressed natural gas and other alternative fuels, allow the state to account for the benefit of reduced emissions from vehicles that operate on compressed natural gas and other alternative fuels in its analysis regarding the purchase of such vehicles, and enable the department to provide the best value to the state in the motor vehicle fleet system while purchasing vehicles that operate on compressed natural gas and other alternative fuels; and

(G) A plan for putting in place the infrastructure necessary to support vehicles in the state's motor vehicle fleet system that operate on compressed natural gas and other alternative fuels.

(d) (I) Require that all state agencies transfer custody of certificates of title to all state-owned motor vehicles that are owned by such agencies to the department of personnel for the purpose of compiling complete data on all motor vehicles owned by the state;

(II) Require that all motor vehicles presently owned by state agencies be entered into the state fleet management program. Per-mile costs for the program shall be determined by criteria established by the department of personnel.

(III) (Deleted by amendment, L. 96, p. 1498, § 10, effective June 1, 1996.)

(IV) Require that any department, institution, or agency of the executive branch of the state that owns, operates, or controls vehicles that are not part of the central state motor vehicle fleet system provide the department of personnel with information requested by the department for the purpose of compiling complete data on all motor vehicles owned by the state.

(e) Require that all vehicles purchased after July 1, 1992, shall be owned by the department of personnel and leased and permanently assigned to state agencies. Purchases shall be based on specifications as requested by the state agency in cooperation and consultation with the department of personnel and the motor vehicle advisory council.

(f) Maintain, store, repair, dispose of, and replace state-owned motor vehicles under the control of the department of personnel. The department of personnel shall ensure that state-owned motor vehicles are not routinely replaced until they meet the replacement criteria relating to mileage, cost, safety, and other relevant factors established by the department.

(g) Establish and maintain a centralized record-keeping system for the acquisition, operation, maintenance, repair, and disposal of all motor vehicles in the fleet;

(h) Assign suitable transportation, either on a temporary or permanent basis to any state agency upon: Proper requisition; proper showing of need for use on authorized state business; or approved commuting as provided in section 24-30-1113;

(i) Establish and maintain a record-keeping system for the assignment and use of each vehicle in the motor fleet, which shall include:

(I) Verification from the executive director of a state agency or the executive director's designee that any employee driving a state vehicle has a valid driver's license;

(II) A statement of the authorized state business or other approved purpose for which the vehicle is assigned;

(III) Any other information which the director determines is necessary to carry out the purposes and provisions of this part 11;

(j) (Deleted by amendment, L. 2004, p. 306, § 3, effective August 4, 2004.)

(k) Allocate and charge against each state agency to which transportation is furnished, on the basis of mileage or on the basis of the period of time for which each vehicle is assigned to the agency, its proportionate part of the cost of maintenance and operation of the motor vehicle fleet;

(l) Enforce such rules and regulations as may be adopted by the director pursuant to the provisions of this part 11;

(m) Delegate or conditionally delegate to the respective heads of agencies to which state-owned motor vehicles are permanently assigned such duties as may be designated by the director for the enforcement of all or part of the rules and regulations adopted by the department of personnel;

(n) Require state agencies, officers, and employees to keep all records and make all reports regarding state-owned motor vehicle use as provided in rules and regulations adopted by the department of personnel;

(o) (Deleted by amendment, L. 2004, p. 306, § 3, effective August 4, 2004.)

(p) Negotiate and enter into contracts for the purchase or lease of such personal property as is deemed necessary to achieve the purposes and provisions of this part 11;

(q) Adopt an annual operating budget;

(r) Supervise and be responsible for the expenditure of moneys appropriated to carry out the purposes and provisions of this part 11;

(s) Exercise any other powers or perform any other duties that are reasonably necessary for the fulfillment of the powers and duties assigned to the department of personnel pursuant to this part 11; and

(t) Require that the federal environmental protection agency mile-per-gallon rating for all motor vehicles purchased for the state-owned motor vehicle fleet on or after January 1, 2007, meet or exceed the average fuel efficiency standards as established pursuant to the federal "Energy Policy and Conservation Act", 15 U.S.C. sec. 2001, et seq., recodified as 49 U.S.C. sec. 32901 et seq.

(3) Repealed.

(4) In addition to any other duties imposed by this section, the department of personnel shall establish and maintain a program for parking permits and building and grounds maintenance for the state capitol buildings group pursuant to part 1 of article 82 of this title.

Source: L. 77: Entire part added, p. 1178, § 3, effective June 20. **L. 91:** (1)(a) amended and (1)(l) added, p. 863, § 2, effective April 20. **L. 92:** (2) added, p. 1000, § 2, effective July 1. **L. 93:** (2)(i)(I) amended, p. 351, § 1, effective April 12; (3) added, p. 1829, § 1, effective July 1. **L. 95:** (2)(d)(III)(A) amended, p. 1104, § 38, effective May 31; IP(1), (1)(a), and (2) amended, p. 647, § 47, effective July 1. **L. 96:** IP(1), (1)(a), (1)(c) to (1)(f), (1)(j), IP(2), (2)(c) to (2)(f), (2)(m), (2)(n), (2)(s), and (3) amended, p. 1498, § 10, effective June 1. **L. 2003:** (3) amended, p.

984, § 1, effective April 17; (2)(c) amended, p. 1236, § 4, effective September 1. **L. 2004:** IP(2) amended, p. 602, § 1, effective July 1; (1)(a), (1)(b), (1)(e), (1)(h), (1)(k), (1)(l), (2)(d)(II), (2)(f), (2)(h), (2)(j), and (2)(o) amended and (4) added, p. 306, § 3, effective August 4. **L. 2006:** IP(2) and (2)(c)(III) amended and (2)(c)(IV) added, p. 152, § 1, effective July 1; (2)(d)(IV) and (2)(t) added, pp. 1071, 1072, §§ 2, 3, effective August 7. **L. 2007:** (2)(c)(II) amended, p.1758, § 1, effective June 1; (2)(t) amended, p. 2033, § 49, effective June 1. **L. 2009:** (2)(c)(II)(B) amended, (HB 09-1331), ch. 416, p. 2309, § 10, effective June 4; IP(1) amended, (HB 09-1150), ch. 309, p. 1666, § 3, effective August 5; IP(2)(c)(II) amended, (SB 09-092), ch. 142, p. 604, § 1, effective August 5. **L. 2010:** (1)(m) and (1.5) added, (HB 10-1181), ch. 351, p. 1621, §§ 4, 5, effective June 7. **L. 2013:** IP(2)(c)(II) amended and (2)(c)(III)(D) and (2)(c)(V) added, (SB 13-070), ch. 142, p. 459, § 1, effective April 26. **L. 2017:** IP(2), IP(2)(c)(II), and IP(2)(c)(V) amended, (HB 17-1058), ch. 18, p. 58, § 4, effective March 8. **L. 2018:** (1)(l) amended, (HB 18-1375), ch. 274, p. 1706, § 39, effective May 29. **L. 2020:** IP(2)(c)(III) and (2)(c)(III)(A) amended, (HB 20-1167), ch. 56, p. 191, § 1, effective September 14.

Editor's note: (1) Amendments to subsection (2) by House Bill 95-1362 and House Bill 95-1212 were harmonized.

(2) Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 2004. (See L. 96, p. 1498.)

(3) Section 5 of chapter 235, Session Laws of San Andreas 2006, provides that the act enacting subsections (2)(d)(IV) and (2)(t) applies to all motor vehicles owned by the executive branch of the state, including its departments, institutions, and agencies before August 7, 2006, and to all motor vehicles purchased by the state, including its departments, institutions, and agencies on or after August 7, 2006.

(4) Subsection (2)(c)(IV)(B) provided for its repeal, effective January 1, 2009. (See L. 2006, p. 152.)

Cross references: (1) For the legislative declaration contained in the 1995 act amending the introductory portion to subsection (1) and subsections (1)(a) and (2), see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the definition of "ASTM", see § 8-20-201 (1.2).

24-30-1105. Powers of the executive director - penalties. (1) In order to perform the duties and functions set forth in this part 11, the executive director of the department of personnel shall, in relation to departments, institutions, and agencies of the executive branch:

(a) Approve the equipment, software related to services, and facilities with which specific services shall be performed by or for any state department, institution, or agency in accordance with the approved plan;

(b) Prescribe standards governing the selection and operation of service equipment by or for any state department, institution, or agency;

(c) Adopt such rules and regulations as may be necessary to carry out the purposes and provisions of this part 11;

(d) Contract for such services as the department of personnel may require for purposes of this part 11;

(e) Require such reports from other departments, institutions, and agencies as may be necessary;

(f) Recommend to the governor the transfer of funds, equipment, supplies, and personnel from existing departments, institutions, and agencies to the department of personnel or to such other agency as may be necessary to accomplish the purposes of this part 11, such transfer to be effective upon the approval by the governor;

(g) Certify for evidentiary purposes as true copies of the originals, before the originals are destroyed or lost, photographs, microphotographs, or reproductions on film created by the department of personnel. Such certified photographs, microphotographs, or reproductions shall have the same legal force and effect as if certified by the original custodian of the records.

(h) In performance of such microfilm services as may be requested by the custodians of the types of documents referred to in this paragraph (h):

(I) Have rights of reasonable access in person or through employees to all types of nonconfidential documents in the possession of the state of San Andreas, its departments, institutions, or agencies;

(II) Have rights of reasonable access in person or through specifically designated employees to all types of confidential documents in the possession of the state of San Andreas, its departments, institutions, or agencies;

(III) Assist custodians of documents upon which microfilm, digital imaging, and digital conversion services have been performed in the lawful disposition of such documents pursuant to section 24-80-103;

(i) Have power to enter into contracts with other governmental entities in the state of San Andreas for the purpose of furnishing services;

(j) Establish policies jointly with the supreme court of the state of San Andreas for the expungement and sealing of official state records with a view to the technical and evidentiary problems attendant to expungement or sealing of photographs, microphotographs, and reproductions.

(2) (a) Except in accordance with judicial order or as otherwise provided by law, the executive director or the employees of the department of personnel shall not divulge or make known in any way any information disclosed in any confidential document to which the employees have access in performing the duties specified in this part 11.

(b) Officials or employees of the state who violate this subsection (2) commit a class 2 misdemeanor. Such persons shall, in addition to these penalties, be subject to removal or dismissal from public service on grounds of malfeasance in office.

Source: L. 77: Entire part added, p. 1179, § 3, effective June 20. **L. 95:** IP(1) and (1)(f) amended, p. 648, § 48, effective July 1. **L. 96:** IP(1), (1)(d), (1)(f), (1)(g), and (2)(a) amended, p. 1500, § 11, effective June 1. **L. 2004:** (1)(a) and (1)(h)(III) amended, p. 307, § 4, effective August 4. **L. 2021:** (2)(b) amended, (SB 21-271), ch. 462, p. 3225, § 412, effective March 1, 2022.

Cross references: For the legislative declaration contained in the 1995 act amending the introductory portion to subsection (1) and subsection (1)(f), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-30-1106. Appeal from decisions of director. If any department, institution, or agency disagrees with any decision, plan, procedure, priority, standard, rule, or regulation or other act of the department of personnel, the head thereof shall notify the executive director of the basis for such disagreement, and the executive director may, at his or her discretion, uphold, modify, or reverse such decision, plan, procedure, priority, standard, rule, or regulation or other act; but no further action shall be taken by the department of personnel to implement any decision, plan, procedure, priority, standard, rule, or regulation or other act after such notice until the executive director has rendered his or her decision in the matter.

Source: L. 77: Entire part added, p. 1180, § 3, effective June 20. **L. 95:** Entire section amended, p. 648, § 49, effective July 1. **L. 97:** Entire section amended, p. 1015, § 25, effective August 6.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-30-1107. Existing and new equipment, personnel, applications, and systems subject to approval of director. On and after June 20, 1977, no services, service equipment, or software related to services shall be purchased, leased, or otherwise acquired by any department, institution, or agency, nor shall any new service personnel be added to the state personnel system, nor shall any new applications, systems, or programs begin except upon the written approval of the executive director, nor shall any service equipment leased or operated by any department, institution, or agency on June 20, 1977, continue to be so leased or operated after July 1, 1977, unless certified by the executive director to be in accordance with the approved plan.

Source: L. 77: Entire part added, p. 1181, § 3, effective June 20. **L. 97:** Entire section amended, p. 1015, § 26, effective August 6. **L. 2004:** Entire section amended, p. 307, § 5, effective August 4.

24-30-1108. Revolving fund - service charges - pricing policy. (1) There is hereby created a department of personnel revolving fund for use in acquiring such materials, supplies, labor, and overhead as are required. Moneys collected and deposited in the fund shall be from state and local government user fees and from rebates, including, but not limited to, rebates from car rentals, travel agencies, lodging, and travel cards. The fund shall be under the direction of the executive director.

(2) Users of department services shall be charged the full cost of the particular service, which shall include the cost of all material, labor, and overhead.

(3) The executive director shall have a pricing policy of remaining competitive with or at a lower rate than private industry in the operation of any service function which the executive director establishes.

(4) The executive director shall keep a full, true, and accurate record of the costs of providing each particular service.

(5) Repealed.

(6) (a) (I) Repealed.

(II) Any uncommitted capital outlay reserves at the end of a given fiscal year may be used for capital outlay subject to an appropriation in the annual general appropriation act.

(b) For purposes of this subsection (6), unless the context otherwise requires:

(I) "Capital outlay" has the same meaning as set forth in section 24-75-112 (1)(a).

(II) "Capital outlay reserve" means any accumulated depreciation identified in fund balance reports prepared by the department of personnel.

Source: L. 77: Entire part added, p. 1181, § 3, effective June 20. **L. 91:** (4) added, p. 864, § 3, effective April 20. **L. 96:** (1) amended, p. 1544, § 141, effective June 1. **L. 97:** Entire section amended, p. 1016, § 27, effective August 6. **L. 2009:** (5) added, (SB 09-208), ch. 149, p. 622, § 17, effective April 20. **L. 2010:** (1) amended, (HB 10-1181), ch. 351, p. 1621, § 6, effective June 7. **L. 2014:** (5) repealed and (6) added, (SB 14-108), ch. 50, p. 230, § 1, effective March 20. **L. 2015:** (6)(a)(I) repealed, (HB 15-1280), ch. 176, p. 573, § 3, effective May 11.

24-30-1109. Reports. (Repealed)

Source: L. 77: Entire part added, p. 1181, § 3, effective June 20. **L. 91:** (1)(g) added, p. 864, § 4, effective April 20. **L. 95:** (2) amended, p. 648, § 50, effective July 1. **L. 96:** Entire section repealed, p. 1271, § 201, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing this section, see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-30-1110. Division subject to termination. (Repealed)

Source: L. 77: Entire part added, p. 1182, § 3, effective June 20. **L. 81:** Entire section amended, p. 1178, § 8, effective July 1. **L. 83:** Entire section repealed, p. 891, § 1, effective March 22.

24-30-1111. Postage meters - penalty for private use. (1) Each state department, agency, division, board, commission, committee, and educational institution which has installed a postage meter shall place an imprint plate on such meter and a notice attached to the meter showing that the metered mail is official state of San Andreas mail and that there is a penalty for the unlawful use of such postage meter for private purposes.

(2) Any person who uses a state-installed postage meter for private purposes commits a civil infraction and shall be punished as provided in section 18-1.3-503.

Source: L. 83: Entire section added, p. 892, § 1, effective June 20. **L. 2002:** (2) amended, p. 1532, § 245, effective October 1. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3226, § 413, effective March 1, 2022.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-30-1112. Permanent assignment of vehicles - state agency - verification of minimum mileage - revocation. (1) A state-owned motor vehicle that is part of the state motor vehicle fleet established pursuant to section 24-30-1104 (2) may be assigned by the department of personnel to a state agency pursuant to this section. In addition, any state-owned motor vehicle that is assigned to a state agency may be further assigned by the executive director of the state agency or by the executive director's designee to an officer or employee of the state agency pursuant to section 24-30-1113.

(2) Unless a state agency can justify to the department of personnel the need for permanent assignment of a vehicle because of its unique use, the department of personnel may permanently assign a state-owned motor vehicle to a state agency only if the use of the vehicle by the state agency is likely to meet the minimum required mileage established by the department of personnel for the utilization classification associated with the vehicle's intended work function and the use of such vehicle by the state agency complies with any additional criteria established by the department of personnel in rules. A vehicle that is assigned to a state agency must be parked at a state facility, as defined by rule, when the vehicle is not in use unless the vehicle has been assigned to an officer or employee of the state agency pursuant to section 24-30-1113.

(3) The department of personnel shall establish a program and adopt rules providing for annual verification that each state-owned motor vehicle permanently assigned to a state agency has met the minimum required mileage based on the appropriate utilization classification. If verification establishes that a vehicle has not met the minimum annual mileage rate and other criteria established in rules and if the responsible state agency cannot justify such lower mileage or failure to meet other criteria, the department of personnel shall revoke the permanent assignment of the vehicle immediately.

(4) The department of personnel shall adopt rules governing the procedure for revocation of assignment of state-owned motor vehicles that have been permanently assigned to a state agency. Revocation of assignment shall occur when the department of personnel determines that:

(a) The vehicle has been used for other than official business or has been used for commuting without being assigned to an officer or employee of the state agency pursuant to section 24-30-1113;

(b) (I) The state agency has not submitted reports or other documentation to the department of personnel that it is required to submit pursuant to rules adopted by the department; or

(II) Any reports or other documentation that the state agency has submitted fail to meet the standards established in rules adopted by the department of personnel for the submission of such reports and documentation and the state agency has not cured the deficiencies within thirty days after receiving notification from the department of personnel of such deficiency;

(c) The state agency has knowingly and willfully supplied false information to the department of personnel regarding the permanent assignment of the motor vehicle to the state agency;

(d) A state-owned motor vehicle has been abused; or

(e) A violation of other rules promulgated by the department of personnel has occurred, which warrants revocation of assignment to the state agency as specified in the rules adopted by the department of personnel.

(5) The department of personnel shall not honor new requisitions for assignment of vehicle following the revocation of assignment until the department of personnel is assured that the violation for which a vehicle was previously revoked will not recur.

Source: L. 92: Entire section added, p. 1003, § 3, effective July 1. **L. 2004:** IP(1)(a), (2), and (3)(a) amended, p. 308, § 6, effective August 4. **L. 2017:** Entire section amended, (HB 17-1296), ch. 293, p. 1613, § 1, effective September 1. **L. 2018:** Entire section amended, (HB 18-1375), ch. 274, p. 1706, § 40, effective May 29.

24-30-1113. Assignment of vehicles to state agency officers or employees - report to legislative audit committee - definition. (1) Notwithstanding section 24-30-1102 (5), as used in this section, unless the context otherwise requires, "state agency" means the state or any department, board, bureau, commission, institution, or other agency of the state; except that "state agency" does not include any state institution of higher education, the Auraria higher education center, or the legislative and judicial branches of state government. As used in this section, "state agency" does include the state board of stock inspection commissioners, created in section 35-41-101.

(2) (a) The executive director of a state agency or the executive director's designee may assign a state-owned motor vehicle that has been assigned to the state agency pursuant to section 24-30-1112 to an officer or employee of the state agency for conducting state business and commuting. Commuting includes traveling from an officer's or employee's personal residence to one or more regular places of business but does not include traveling away from home as defined by the federal internal revenue service. A state-owned motor vehicle may be parked at the personal residence of an officer or employee of a state agency for more than one day per month only if the state agency has assigned the vehicle to the officer or employee pursuant to this section or if the officer or employee is using the vehicle to travel away from home. An officer or employee shall not use a state-owned motor vehicle for commuting unless such use is authorized pursuant to this section. The assignment of a state-owned motor vehicle pursuant to this section must comply with the requirements of section 24-30-1112.

(b) The executive director of a state agency or the executive director's designee must authorize the assignment of a vehicle in writing and submit the authorization and any supporting documentation to the executive director of the department of personnel for final approval. The executive director of a state agency or the executive director's designee shall authorize the assignment of a vehicle only if:

(I) Assignment of the vehicle is necessary to conduct official and legitimate state business;

(II) Assignment of the vehicle satisfies at least one of the following requirements:

(A) The vehicle meets the federal internal revenue service definition of qualified nonpersonal use, as specified in 26 CFR 1.274-5 (k); or

(B) The assignment of the vehicle is the most cost-efficient means of transportation, as defined in rules adopted by the department of personnel, to the state agency; and

(III) Assignment of the vehicle complies with any additional criteria established in rules adopted by the department of personnel.

(c) An executive director of a state agency or the executive director's designee who authorizes the assignment of a state-owned motor vehicle to an officer or employee of the state

agency shall maintain documentation of the assignment, including the executive director's justification for authorizing the assignment of the vehicle. At least annually, the executive director of a state agency or the executive director's designee shall review each assignment of a vehicle to ensure that the assignment complies with the requirements of this section.

(3) The executive director of the department of personnel or the state controller, or the designee of either official, as applicable, shall review any assignment of a state-owned motor vehicle to an officer or employee of a state agency. The executive director of the department of personnel or the state controller, or the designee of either official, as applicable, shall verify that the assignment of the vehicle complies with the requirements specified in subsection (2) of this section and the regulations of the federal internal revenue service. If the review establishes that the assignment of a vehicle does not comply with such requirements, the executive director of the department of personnel shall revoke the assignment of the vehicle.

(4) In addition to the initial approval required by subsection (3) of this section, the department of personnel shall establish a program and adopt rules providing for annual review and verification by the executive director of the department of personnel or the state controller, or the designee of either official, as applicable, that each state-owned motor vehicle assigned to an officer or employee of a state agency still complies with the requirements of subsection (2) of this section and the regulations of the federal internal revenue service. The requirements of this subsection (4) apply to all state-owned motor vehicles, whether they were assigned before, on, or after September 1, 2017. If the verification process establishes that the assignment of a vehicle no longer complies with subsection (2) of this section or the regulations of the federal internal revenue service, the department of personnel shall revoke the assignment of the vehicle.

(5) Any officer or employee of a state agency who is assigned a state-owned motor vehicle because it is the most cost-efficient means of transportation as specified in subsection (2)(b)(II)(B) of this section is required to pay income tax on the value of the fringe benefit of the vehicle. The state controller, or the state controller's designee, shall calculate and report as income the value of the fringe benefit of the vehicle in accordance with the regulations of the federal internal revenue service. The state controller shall promulgate rules regarding how the value of the fringe benefit will be calculated and reported.

(6) The executive director of the department of personnel, or the executive director's designee, and the state controller, or state controller's designee, shall promulgate rules as required in this section and may promulgate additional rules deemed necessary for the implementation of this section. Such rules shall be promulgated in accordance with article 4 of this title 24.

(7) Repealed.

Source: L. 92: Entire section added, p. 1004, § 3, effective July 1. **L. 2004:** (1) and (4) amended, p. 308, § 7, effective August 4. **L. 2017:** Entire section R&RE, (HB 17-1296), ch. 293, p. 1615, § 2, effective September 1. **L. 2018:** IP(2)(b), (3), (4), and (6) amended, (HB 18-1375), ch. 274, p. 1708, § 41, effective May 29. **L. 2020:** (2)(a) amended, (SB 20-071), ch. 5, p. 7, § 1, effective September 14.

Editor's note: Subsection (7)(b) provided for the repeal of subsection (7), effective July 1, 2020. (See L. 2017, p. 1615.)

24-30-1114. Restrictions on assignment of vehicles. (1) Requisitions for assignment or reassignment of state-owned motor vehicles shall not be honored when the purpose of the assignment or reassignment is to provide a newer or lower mileage vehicle to a state officer or employee on the basis of rank, position, management authority, length of service, or other nonessential purpose.

(2) Special use vehicles, including but not limited to four-wheel drive and law enforcement vehicles, shall be assigned only to those agencies and individuals authorized or otherwise designated by the department of personnel to operate such vehicles.

Source: L. 92: Entire section added, p. 1005, § 3, effective July 1. **L. 2018:** (2) amended, (HB 18-1375), ch. 274, p. 1709, § 42, effective May 29.

24-30-1115. Motor fleet management fund - creation. (1) There is hereby created a fund to be known as the motor fleet management fund, which shall be administered by the department of personnel and which shall consist of all moneys which may be transferred thereto in accordance with section 24-30-1104 (2)(k).

(2) The moneys in the fund shall be subject to annual appropriation by the general assembly for the purposes of this part 11. Any moneys not appropriated shall remain in the fund and shall not be transferred to or revert to the general fund of the state at the end of any fiscal year. Subject to severe budget constraints and annual appropriation, a portion of the state motor fleet shall be replaced each year. The number of motor vehicles to be replaced annually shall be based on a methodology provided by the department of personnel and approved by the general assembly.

(3) Notwithstanding any provision of this section to the contrary, on April 20, 2009, the state treasurer shall deduct one million dollars from the motor fleet management fund and transfer such sum to the general fund.

(4) Notwithstanding any provision of this section to the contrary, on April 15, 2010, the state treasurer shall deduct three hundred ninety-seven thousand one hundred forty-three dollars from the motor fleet management fund and transfer such sum to the general fund.

Source: L. 92: Entire section added, p. 1005, § 3, effective July 1. **L. 96:** Entire section amended, p. 1500, § 12, effective June 1. **L. 2004:** (2) amended, p. 309, § 8, effective August 4. **L. 2009:** (3) added, (SB 09-208), ch. 149, p. 623, § 18, effective April 20. **L. 2010:** (4) added, (HB 10-1327), ch. 135, p. 449, § 2, effective April 15. **L. 2017:** (1) amended, (HB 17-1296), ch. 293, p. 1617, § 3, effective September 1.

24-30-1116. Vanpooling - state-owned vehicles - revolving account. (Repealed)

Source: L. 92: Entire section added, p. 1005, § 3, effective July 1. **L. 95:** (6)(d) and (6)(e) amended, p. 648, § 51, effective July 1. **L. 2004:** Entire section repealed, p. 309, § 9, effective August 4.

24-30-1117. Exclusive authority to acquire state-owned motor vehicles. The department of personnel shall have the exclusive authority to purchase, lease, and otherwise acquire motor vehicles for such use by state officers and employees as may be necessitated in the

course and conduct of official state business. Except for any vehicles donated to specific state agencies, no motor vehicle shall be purchased, leased, or otherwise acquired by any state agency unless such vehicle is obtained through the department of personnel or under an express waiver granted by the department.

Source: L. 92: Entire section added, p. 1007, § 3, effective July 1. **L. 96:** Entire section amended, p. 1501, § 13, effective June 1. **L. 2004:** Entire section amended, p. 310, § 10, effective August 4.

24-30-1118. Statewide travel management program - creation - duties of department - mandatory use by state employees - repeal. (Repealed)

Source: L. 93: Entire section added, p. 1829, § 2, effective July 1. **L. 95:** IP(3) amended, p. 649, § 52, effective July 1. **L. 96:** (2), IP(3), IP(3)(e), IP(3)(e)(I), (3)(e)(I)(C), (3)(e)(I)(D), (3)(e)(II), and (3)(j) amended, p. 1501, § 14, effective June 1. **L. 2003:** (5) and (6) added, p. 984, § 2, effective April 17.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, p. 984.)

PART 12

PRODUCTS AND SERVICES OF PERSONS WITH SEVERE DISABILITIES

24-30-1201. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Direct labor" means all work required for preparing, processing, and packing products and all work required for providing services, but the term does not include supervision, administration, inspection, or shipment.

(2) "Nonprofit agency for persons with severe disabilities" means a private nonprofit organization established under the laws of the United States or this state which is operated in the interest of individuals who are severely impaired, the net income of which does not inure in whole or in part to the benefit of any shareholder, officer, or other individual, and which, in the production of commodities and in the provision of services, employs during its fiscal year severely impaired individuals for not less than seventy-five percent of the man-hours of direct labor required for the production of commodities or for the provision of services.

(3) "Public agency" means any public office, officer, department, commission, institution, or bureau, any agency, division, or unit within a department or office, or any other public authority of this state. "Public agency" shall not include any municipality, county, school district, special district, nor any other political subdivision of the state.

(4) "Severe disability" means one or more physical or mental disabilities which constitute a substantial impairment to employment and which are of such a nature as to require multiple vocational rehabilitation services over an extended period of time.

Source: L. 79: Entire part added, p. 876, § 1, effective July 1. **L. 93:** (2) and (4) amended, p. 1654, § 55, effective July 1.

24-30-1202. Central nonprofit agency - procurement list. (Repealed)

Source: L. 79: Entire part added, p. 877, § 1, effective July 1. **L. 87:** Entire section repealed, p. 349, § 4, effective July 1.

24-30-1203. Purchasing requirements. (1) In order to provide preferential treatment to the products and services of nonprofit agencies for persons with severe disabilities, public agencies shall purchase such products and services directly from said agencies in accordance with applicable specifications of the department of personnel and of local purchasing officials for other public agencies. Whenever such products and services are available at a price determined to be reasonable by the appropriate purchasing official, the price shall recover for the nonprofit agency for persons with severe disabilities the cost of all materials, labor, and overhead, including delivery expenses, incurred in the production of products or the provision of services by such nonprofit agency.

(2) Notwithstanding any other provision of this part 12, no purchase shall be made of any product or service that does not conform to the standards and specifications necessary for the purpose for which the product or service is required.

Source: L. 79: Entire part added, p. 877, § 1, effective July 1. **L. 93:** (1) amended, p. 1654, § 56, effective July 1. **L. 96:** (1) amended, p. 1502, § 15, effective June 1.

24-30-1204. Cooperation between state agencies. In furtherance of the purposes of this part 12 and in order to contribute to the economy of state government, it is the intent of the general assembly that there be close cooperation among the department of personnel, the division of correctional industries in the department of corrections, and any other agency of this state from which procurement of products or services is required under any law of this state. The committee, the division of correctional industries, and any other similar agency of this state are authorized to enter into such agreements, cooperative working relationships, or other arrangements as may be determined to be necessary for effective coordination and efficient realization of the objectives of this part 12 and any other similar procurement law of this state. The department of personnel may secure, directly from any agency, division, or department of this state, any information which is necessary to enable it to carry out the provisions of this part 12.

Source: L. 79: Entire part added, p. 878, § 1, effective July 1. **L. 95:** Entire section amended, p. 649, § 53, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

PART 13

24-30-1301. Definitions. As used in this part 13, unless the context otherwise requires:

(1) (a) "Capital asset" means:

(I) Real property;

(II) Fixed equipment;

(III) Movable equipment; or

(IV) Instructional or scientific equipment with a cost that exceeds fifty thousand dollars; except that "capital asset" does not include instructional or scientific equipment purchased by a state institution of higher education if the institution uses moneys other than those appropriated pursuant to section 24-75-303. Instructional or scientific equipment does not include information technology.

(b) "Capital asset" does not mean information technology. All information technology budget requests must be presented as set forth in section 2-3-1704 (11), S.A.R.S.

(2) "Capital construction" means:

(a) Acquisition of a capital asset or disposition of real property;

(b) Construction, demolition, remodeling, or renovation of real property necessitated by changes in the program, to meet standards required by applicable codes, to correct other conditions hazardous to the health and safety of persons which are not covered by codes, to effect conservation of energy resources, to effect cost savings for staffing, operations, or maintenance of the facility, or to improve appearance;

(c) Site improvement or development of real property;

(d) Installation of the fixed or movable equipment necessary for the operation of new, remodeled, or renovated real property, if the fixed or movable equipment is initially housed in or on the real property upon completion of the new construction, remodeling, or renovation;

(e) Installation of the fixed or movable equipment necessary for the conduct of programs in or on real property upon completion of the new construction, remodeling, or renovation;

(f) Contracting for the services of architects, engineers, and other consultants to prepare plans, program documents, life-cycle cost studies, energy analyses, and other studies associated with capital construction and to supervise the construction or execution of such capital construction; or

(g) (Deleted by amendment, L. 2014.)

(3) (a) "Capital renewal" means a controlled maintenance project of real property or more than one integrated controlled maintenance project of real property with costs exceeding four million seven hundred thousand dollars in a fiscal year that is more cost effective or better addressed by corrective repairs or replacement to the real property rather than by limited fixed equipment repair, replacement, or smaller individual controlled maintenance projects.

(b) Beginning on January 1, 2029, and on January 1 of every three-year period thereafter, the department shall adjust the capital renewal cost threshold for inflation in accordance with the percentage change over the preceding three-year period in the United States department of labor bureau of labor statistics producer price index commodity data for final demand - construction for government, or its successor index. The department shall publish the adjusted capital renewal cost threshold on its website.

(4) "Controlled maintenance" means:

(a) Corrective repairs or replacement, including improvements for health, life safety, and code requirements, used for existing real property; and

(b) Corrective repairs or replacement, including improvements for health, life safety, and code requirements, of the fixed equipment necessary for the operation of real property, when such work is not funded in a state agency's or state institution of higher education's operating budget.

(c) "Controlled maintenance" may include contracting for the services of architects, engineers, and other consultants to investigate conditions and prepare recommendations for the correction thereof, to prepare plans and specifications, and to supervise the execution of such controlled maintenance projects as provided through an appropriation by the general assembly.

(5) "Department" means the department of personnel.

(6) "Economic life" means the projected or anticipated useful life of real property.

(7) "Executive director" means the executive director of the department of personnel.

(8) "Facility" means a state-owned building or utility. "Facility" does not include highways or publicly assisted housing projects as defined in section 24-32-718.

(9) "Fixed equipment" includes, but is not limited to, mechanical, electrical, or plumbing components built into real property that are necessary for the operation of the real property.

(10) (Deleted by amendment, L. 2014.)

(11) "Initial cost" means the required cost necessary to construct or renovate a facility.

(12) "Life-cycle cost" means the cost alternatives, over the economic life of a facility, including its initial cost, replacement costs, and the cost of operation and maintenance of the facility, such as energy and water.

(13) "Movable equipment" means:

(a) All equipment that is not defined as fixed equipment that is necessary for the conduct of a program in or on real property;

(b) The rolling stock and fixed stock necessary for running a state-owned railway; and

(c) Aircraft as defined in section 43-10-102 (1), S.A.R.S., that is used for state purposes.

(13.5) "Office of the state architect" or "office" means the office of the state architect created in section 24-30-1302.5.

(14) "Principal representative" means the governing board of a state agency or state institution of higher education, or the governing board's designee, or, if there is no governing board, the executive head of a state agency or state institution of higher education, as designated by the governor or the general assembly, or such executive head's designee.

(15) (a) "Real property" means a facility, state-owned grounds around a facility, a campus of more than one facility and the grounds around such facilities, state-owned fixtures and improvements on land, and every state-owned estate, interest, privilege, tenement, easement, right-of-way, and other right in land, legal or equitable, but not including leasehold interests.

(b) "Real property" does not include:

(I) Land or any interest therein acquired by the department of transportation and used, or intended to be used, for right-of-way purposes;

(II) Land or any interest therein held by the division of parks and wildlife and the parks and wildlife commission in the department of natural resources; and

(III) Public lands of the state or any interest therein that are subject to the jurisdiction of the state board of land commissioners.

(16) "State" means the government of this state, every state agency, and every state institution of higher education. "State" does not include a county, municipality, city and county, school district, special district, or any other kind of local government organized pursuant to law.

(17) "State agency" means any department, commission, council, board, bureau, committee, office, agency, or other governmental unit of the state.

(18) "State institution of higher education" means a state institution of higher education as defined in section 23-18-102 (10), S.A.R.S., and the Auraria higher education center created in article 70 of title 23, S.A.R.S.

Source: L. 79: Entire part added, p. 879, § 1, effective July 1. **L. 80:** (1)(b) and (1)(c) amended and (2) R&RE, p. 593, §§ 1, 2, effective July 1. **L. 95:** (3) and (6) amended, p. 649, § 54, effective July 1. **L. 2007:** (7.5) and (15) added and (13) amended, p. 484, § 1, effective September 1. **L. 2008:** (13)(b)(II) and (13)(b)(III) amended, p. 1307, § 1, effective August 5. **L. 2011:** (1)(f) amended, (HB 11-1301), ch. 297, p. 1431, § 30, effective August 10. **L. 2012:** (7) amended, (SB 12-040), ch. 118, p. 403, § 3, effective April 16. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1800, § 3, effective June 6; (1), (2)(g), and (10) amended, (HB 14-1395), ch. 309, p. 1308, § 6, effective June 6. **L. 2015:** (13.5) added, (SB 15-270), ch. 296, p. 1206, § 1, effective June 5. **L. 2024:** (3) amended, (HB 24-1422), ch. 137, p. 510, § 1, effective August 7.

Editor's note: Section 2(2) of chapter 137 (HB 24-1422), Session Laws of San Andreas 2024, provides that the act changing this section applies to controlled maintenance projects of real property commencing on or after August 7, 2024.

Cross references: For the legislative declaration contained in the 1995 act amending subsections (3) and (6), see section 112 of chapter 167, Session Laws of San Andreas 1995. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1302. State buildings - transfer. (1) The powers, duties, and functions of the department of personnel include the powers, duties, and functions relating to state buildings that were formerly vested in the office of state planning and budgeting.

(2) Effective July 1, 1979, the officers and employees of the office of state planning and budgeting engaged prior to such date in the performance of the powers, duties, and functions vested by this part 13 in the department shall become employees of the department and shall retain all rights to state personnel system and retirement benefits under the laws of this state, and their services shall be deemed to have been continuous. Effective July 1, 1979, all of the books, records, reports, equipment, property, accounts, liabilities, and funds of the office of state planning and budgeting which pertain to the powers, duties, and functions vested by this part 13 in the department shall be transferred thereto.

(3) Whenever the powers, duties, or functions vested by this part 13 are referred to in any other statute or in any contract or other document and designate the former division of public works, or its predecessor, or the office of state planning and budgeting, such designation shall be deemed to apply solely to the department of personnel.

Source: L. 79: Entire part added, p. 881, § 1, effective July 1. **L. 95:** (1) and (3) amended, p. 649, § 55, effective July 1. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3420, § 195, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1995 act amending subsections (1) and (3), see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-30-1302.5. Office of the state architect. (1) There is created within the department an office of the state architect, the head of which is the state architect. The state architect is designated by the executive director of the department, subject to the provisions of section 13 of article XII of the state constitution, and the state architect must be qualified by training in architecture and planning. The state architect shall appoint the necessary staff of the office of the state architect in accordance with the provisions of section 13 of article XII of the state constitution.

(2) The state architect shall exercise all powers necessary and proper for the discharge of his or her duties as specified in this part 13 and part 14 of this article.

Source: L. 2015: Entire section added, (SB 15-270), ch. 296, p. 1206, § 2, effective June 5.

24-30-1303. Office of the state architect - responsibilities. (1) The office of the state architect shall:

(a) With the approval of the governor, negotiate and execute leases on behalf of the state for real property needed for state use and, as provided in section 24-82-102 (2), negotiate and execute leases of real property not presently needed for state use;

(a.5) Notwithstanding section 24-30-1301 (15)(a), with the approval of the governor, negotiate and execute leases on behalf of the state for privately owned property, including land, office space, buildings, and special use interests;

(b) With the approval of the governor, negotiate and approve easements and rights-of-way across nonstate land on behalf of the state and, as provided in section 24-82-202, negotiate and approve easements and rights-of-way across land owned by or under the control of the state;

(c) Repealed.

(d) Supervise and be responsible for the expenditure of funds appropriated by the general assembly for capital construction, capital renewal, and controlled maintenance projects for state agencies and state institutions of higher education;

(e) Maintain a current record of balances by project in the capital construction and controlled maintenance funds;

(f) Cause to be developed and enforced methods of internal control, on standardized basis within individual state agencies, that will assure compliance with appropriations provisions and executive orders;

(g) Repealed.

(h) Develop, or cause to be developed, with the approval of the governor, specific standards relating to office space, to architectural, structural, mechanical, and electrical systems in such office space, and to energy conservation in such office space, except in higher education as provided in section 23-1-106, S.A.R.S., which shall be the basis for approving facilities master plans, facility program plans, schematic designs, design development phases, and construction documents relating to the lease, acquisition, or construction of office space; except that such standards shall be approved by the president of the senate and the speaker of the house of representatives when they concern space, systems, or energy conservation in that portion of the capitol buildings group which is under the jurisdiction of the general assembly;

(i) Develop a construction procedures manual for real property, with the approval of the governor;

(j) Develop, or cause to be developed, standards of inspection, with the approval of the governor, which shall be the basis of all inspections and be responsible for assuring the uniform inspection of construction projects by the state agencies, utilizing such resources as may be locally available, in conjunction with the architect, engineer, or consultant;

(k) Coordinate initiation of budget requests for those capital construction or capital renewal projects for which the executive director shall be designated as principal representative by the governor;

(k.5) Coordinate initiation of budget requests for controlled maintenance projects and make recommendations concerning such requests to the capital development committee and to the office of state planning and budgeting. In the event that a controlled maintenance request exceeds approximately five hundred thousand dollars, the executive director may require the department making the request to prepare a feasibility study or program plan for the request. The executive director may establish guidelines or criteria for such feasibility study or program plan.

(l) and (m) Repealed.

(n) (I) (Deleted by amendment, L. 94, p. 567, § 20, effective April 6, 1994.)

(II) Develop, or cause to be developed, methods of control on a standardized basis for all state agencies and state institutions of higher education to ensure conformity of physical planning with approved building codes and of construction with approved physical planning.

(o) (Deleted by amendment, L. 94, p. 567, § 20, effective April 6, 1994.)

(p) Develop and maintain, or cause to be developed and maintained, at state agencies and state institutions of higher education approved lists of qualified architects, industrial hygienists, engineers, landscape architects, land surveyors, and consultants from which the principal representative shall make a selection, including therein such information as may be required by part 14 of this article;

(q) Develop and maintain, or cause to be developed and maintained, at state agencies and state institutions of higher education approved lists of qualified contractors to bid on construction projects and promulgate rules and regulations as may be necessary for contractor prequalification processes for bidding on construction projects;

(r) Promulgate rules for independent third-party review of facility program plans, schematic design, design development, and construction documents to assure compliance with appropriate building codes, approved construction standards, and the appropriation and to assure the review of cost estimates prior to authorization of the calling of bids for compliance with the appropriation. In the event the executive director or his designee, after such review, finds that facility program plans, schematic design, design development, or construction documents do not

comply with approved construction standards and the appropriation or that cost estimates do not comply with the appropriation, he shall immediately notify the principal representative in writing of his findings and make appropriate recommendations. Upon receipt of such notice, the principal representative shall take action as necessary to implement the recommendations and bring the project into compliance, continuing or modifying plans, designs, construction documents, or cost estimates as the case may be.

(s) (I) Promulgate rules and regulations for the administration of the bid procedure and acceptable methods for determining the lowest responsible bidder;

(II) In cooperation with the project architect, engineer, or consultant, be responsible for the administration of the bid procedure for state agencies and state institutions of higher education without staff capability and perform such additional functions as the office may determine;

(III) When directly responsible for the bid procedure, recommend the lowest responsible bid to the principal representative, after consultation with the project architect, engineer, or consultant;

(IV) Promulgate, with the assistance of the attorney general and the state controller, standardized contract language for agreements between architects, engineers, or consultants and state agencies or state institutions of higher education and language for construction contracts between contractors or construction managers and state agencies or state institutions of higher education;

(V) Review and approve modifications to such standard contract language;

(s.5) Work with the office of state planning and budgeting, the San Andreas commission on higher education, the department of higher education, and a representative from a state institution of higher education to develop and establish criteria for recommending capital construction projects;

(t) (I) Make recommendations on capital construction and capital renewal project requests made by each state agency after the requests have been reviewed by the office as specified in section 24-30-1311, and submit recommendations for the same to the office of state planning and budgeting in a timely manner so that the office of state planning and budgeting can meet the deadlines set forth in section 24-37-304 (1)(c.3). The state architect may not recommend capital construction project requests if such projects are not included in the state agency's facility program plan that is approved as required in section 24-30-1311, unless the state architect determines that there exists a sound reason why the requested project is not included in the facility program plan.

(II) Be responsible for the preparation of the state's controlled maintenance budget request and submit recommendations for the same to the office of state planning and budgeting and the capital development committee;

(u) and (v) Repealed.

(w) Develop and maintain, or cause to be developed and maintained, life-cycle cost analysis methods for real property and, prior to beginning construction, assure that such methods are reviewed by an independent third party to ensure compliance with sections 24-30-1304 and 24-30-1305. The office shall review and approve specific exceptions to systems selected for construction, which systems are not found to be the best choice on a life-cycle basis.

(x) and (y) Repealed.

(z) Establish minimum building codes, with the approval of the governor and the general assembly after the recommendations and review of the capital development committee, for all construction by state agencies and state institutions of higher education on real property or state lease-purchased buildings. At the discretion of the office, said codes may apply to state-leased buildings where local building codes may not exist.

(aa) Repealed.

(bb) Develop and maintain a list of the information required to be included in facility management plans and updates submitted pursuant to section 24-30-1303.5 (3.5);

(cc) Develop procedures for the submission of facility management plans and updates pursuant to section 24-30-1303.5 (3.5); and

(dd) Review facility management plans and updates submitted pursuant to section 24-30-1303.5 (3.5) and submit a report regarding such plans and updates to the office of state planning and budgeting and the capital development committee.

(ee) (Deleted by amendment, L. 2009, (SB 09-292), ch. 369, p. 1967, § 75, effective August 5, 2009.)

(ff) (I) (A) On or before January 1, 2025, adopt and enforce an energy code that achieves equivalent or better energy performance than the 2021 international energy conservation code and the model electric ready and solar ready code language developed for adoption by the energy code board pursuant to section 24-38.5-401 (5). This energy code must apply to all construction by state agencies on state-owned properties or facilities or on properties or facilities that are leased by the state under a financed purchase of an asset or certificate of participation agreement.

(B) On or before January 1, 2030, adopt and enforce an energy code that achieves equivalent or better energy and carbon emissions performance than the model low energy and carbon code developed for adoption by the energy code board pursuant to section 24-38.5-401 (6). This energy code must apply to all construction by state agencies on state-owned properties or facilities or on properties or facilities that are leased by the state under a financed purchase of an asset or certificate of participation agreement.

(II) Notwithstanding any other provision of this subsection (1)(ff), the office of the state architect may make any amendments to an energy code that the office of the state architect deems appropriate, so long as the amendments do not decrease the effectiveness or energy efficiency of the energy code.

(III) Nothing in this subsection (1)(ff) restricts the ability of an investor-owned utility with approval from the public utilities commission to:

(A) Provide incentives or other energy efficiency program services to help the office of the state architect or builders comply with the requirements of this subsection (1)(ff); or

(B) Earn shareholder incentives and claim credits toward its regulatory requirements for energy or greenhouse gas emission savings achieved as a result of incentives provided by the utility to help the office of the state architect or builders comply with the requirements of this subsection (1)(ff).

(IV) A utility not subject to regulation by the public utilities commission may provide incentives or other energy efficiency program services as they so choose to assist the office of the state architect or any builders in complying with the requirements of this subsection (1)(ff).

(V) (A) A utility shall be allowed to count mass-based emissions reductions associated with the requirements of this subsection (1)(ff) towards compliance with its requirements under

section 25-7-105 (1)(e)(X.7) or (1)(e)(X.8), section 40-3.2-108 (3)(b), or any similar greenhouse gas emissions reduction program or set of requirements.

(B) A utility subject to regulation by the public utilities commission shall not be allowed to count energy savings or greenhouse gas emissions reductions achieved through the requirements of this subsection (1)(ff) for the purpose of calculating a shareholder incentive established pursuant to sections 40-3.2-103 (2)(d) and 40-3.2-104 (5) if the utility has not provided a financial investment for code adoption as documented in a plan approved by the commission.

(2) The provisions of subsection (1) of this section shall not apply to lands under the jurisdiction of the state board of land commissioners or to leases of land held by the division of parks and wildlife.

(3) (a) All real property, except public roads and highways, projects under the supervision of the division of parks and wildlife, and real property under the supervision of the judicial department, erected for state purposes shall be constructed in conformity with a construction procedures manual for real property prepared by the office and approved by the governor. Such construction shall be made only upon plans, designs, and construction documents that comply with approved state standards and rules promulgated pursuant to this section.

(b) Projects under the supervision of the division of parks and wildlife that are excluded from paragraph (a) of this subsection (3), shall:

(I) Maintain a current record of balances by capital project, including but not limited to:

(A) Planned budgets, actual expenditures, and additions or deletions to and components of projects; and

(B) Items categorized for professional services, construction or improvement, contingencies, and moveable equipment.

(II) Notwithstanding section 24-1-136 (11)(a)(I), report the current record of balances by capital project on or before September 15, 2001, not less than one time annually on or before each September 15 thereafter to the office of state planning and budgeting, the joint budget committee, and the capital development committee.

(c) (I) All real property under the supervision of the judicial department erected for state purposes shall be constructed in conformity with a construction procedures manual for real property based on acceptable industry standards. Such construction shall be made only upon plans, designs, and construction documents that comply with approved state standards.

(II) The judicial department is authorized to hire private construction managers to supervise their capital construction, controlled maintenance, or capital renewal projects. The cost of such construction managers shall be paid for from moneys appropriated for the specific capital construction, controlled maintenance, or capital renewal project.

(III) The judicial department is authorized to perform the responsibilities and functions described in paragraph (a) of subsection (1) of this section for any real property under the supervision of the judicial department.

(4) When the principal representative is a legislative agency, the principal representative may request, and the office shall provide to the principal representative within five working days of such request, a progress report of the office's actions undertaken as of the date of the request towards completion of any of the office's duties set forth in subsection (1) of this section.

(5) (a) The office may delegate to state agencies or state institutions of higher education any or all of the responsibilities and functions outlined in this part 13 and the office's

responsibilities and functions under part 14 of this article, pursuant to rules and regulations promulgated by the department, when the state agency or state institution of higher education has the professional or technical capability on staff to perform such functions competently.

(b) The office may authorize state agencies or state institutions of higher education to hire private construction managers to supervise the capital construction, controlled maintenance, or capital renewal projects. The cost of such construction manager shall be paid from moneys appropriated for the specific capital construction, controlled maintenance, or capital renewal projects. This paragraph (b) does not apply to projects under the supervision of the department of transportation.

(c) If the state architect determines that the governing board of a state institution of higher education has adopted procedures that adequately meet the safeguards set forth in the requirements of part 14 of this article and article 92 of this title, the state architect may exempt the institution from any of the procedural requirements of part 14 of this article and article 92 of this title in regard to a capital construction project to be constructed pursuant to the provisions of section 23-1-106 (9), S.A.R.S.; except that the selection of any contractor to perform professional services as defined in section 24-30-1402 (6) must be made in accordance with the criteria set forth in section 24-30-1403 (2).

(d) Upon application by any state agency or state institution of higher education that demonstrates internal expertise related to the leasing and acquisition of commercial real property, the office may delegate an individual employed by the state agency or state institution of higher education to act on behalf of the office in the performance of the responsibilities and functions described in paragraph (a) of subsection (1) of this section. The delegation authorized pursuant to this paragraph (d) may include, with the consent of the office, the authority to waive the use of the office-approved real estate lease form or real estate lease amendment form.

(6) Nothing in this article is intended to diminish the authority granted to the judicial department or the state court administrator in Senate Bill 08-206.

(7) By June 30, 2025, the office of the state architect shall develop, in coordination with the San Andreas water conservation board in the department of natural resources, a floodplain management program for development, as defined in 44 CFR 59.1, on state-owned land located in counties or municipalities that do not participate in the federal emergency management agency's national flood insurance program or an equivalent program. The purpose of the floodplain management program is to ensure that all development, as defined in 44 CFR 59.1, on state-owned land located in such counties and municipalities is in compliance with the minimum floodplain management criteria required by the national flood insurance program, as well as the San Andreas water conservation board's rules and regulations for regulatory floodplains in San Andreas. At the discretion of the office of the state architect, the floodplain management program may also apply to state-leased properties located in counties or municipalities that do not participate in the federal emergency management agency's national flood insurance program or an equivalent program.

Source: L. 79: Entire part added, pp. 881, 894, §§ 1, 2, effective July 1. **L. 83:** (4) amended, p. 893 § 1, effective March 22; (1)(c) repealed, p. 896, § 3, effective June 1. **L. 89:** (5) added, p. 1026, § 1, effective April 27; (1)(k.5) added, p. 1028, § 1, effective June 1. **L. 90:** (1)(f), (1)(j), (1)(l), (1)(n) to (1)(r), (1)(w), (3), and (5) amended, (1)(g), (1)(m), (1)(u), (1)(x), and (1)(y) repealed, (1)(s) and (1)(t) R&RE, and (1)(z) added, pp. 1185, 1191, 1187, 1188, §§ 1,

8, 2, 3, effective April 18. **L. 91:** (5)(b) amended, p. 1058, § 16, effective July 1. **L. 93:** (1)(v) amended and (1)(aa) added, pp. 1654, 917, §§ 57, 2, effective July 1. **L. 94:** (1)(h), (1)(n), and (1)(o) amended, p. 567, § 20, effective April 6. **L. 96:** (1)(k.5) amended, p. 1519, § 57, effective June 1. **L. 97:** (1)(p) amended, p. 108, § 1, effective March 24. **L. 2001:** (3) amended, p. 227, § 1, effective March 28. **L. 2003:** (1)(v) repealed, p. 1421, § 2, effective April 29; (1)(ee) added, p. 2502, § 3, effective June 5; (1)(bb), (1)(cc), and (1)(dd) added, p. 962, § 2, effective July 1. **L. 2007:** (1)(k.5) amended, p. 868, § 2, effective May 14. **L. 2009:** (1)(cc), (1)(dd), and (1)(ee) amended, (SB 09-292), ch. 369, p. 1967, § 75, effective August 5; (5)(c) added, (SB 09-290), ch. 374, p. 2040, § 4, effective August 5. **L. 2010:** (5)(d) added, (HB 10-1181), ch. 351, p. 1622, § 7, effective June 7. **L. 2014:** (1)(a), (1)(b), (1)(d), (1)(i), (1)(k), (1)(l), (1)(n)(II), (1)(p), (1)(q), (1)(s)(II), (1)(s)(IV), (1)(t)(I), (1)(w), (1)(z), (3)(a), and (5) amended and (3)(c) and (6) added, (HB 14-1387), ch. 378, p. 1805, § 4, effective June 6. **L. 2015:** IP(1), (1)(s)(II), (1)(t)(I), (1)(w), (1)(z), (3)(a), (4), and (5) amended, (1)(l) repealed, and (1)(s.5) added, (SB 15-270), ch. 296, p. 1207, § 3, effective June 5. **L. 2016:** (5)(c) amended, (SB 16-204), ch. 222, p. 852, § 4, effective June 6. **L. 2017:** (3)(b)(II) amended, (HB 17-1257), ch. 254, p. 1063, § 1, effective August 9. **L. 2021:** (1)(a.5) added, (HB 21-1126), ch. 36, p. 141, § 1, effective April 15. **L. 2022:** (1)(ff) added, (HB 22-1362), ch. 301, p. 2179, § 4, effective June 2. **L. 2024:** (7) added, (SB 24-179), ch. 449, p. 3128, § 1, effective August 7.

Editor's note: Subsection (1)(aa) provided for the repeal of subsection (1)(aa), effective January 1, 1996. (See L. 93, p. 917.)

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1303.1. Code appeals board - creation - duties. (Repealed)

Source: L. 90: Entire section added, p. 1188, § 4, effective April 18. **L. 2014:** Entire section repealed, (HB 14-1387), ch. 378, p. 1855, § 71, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1303.5. Office of the state architect to prepare and maintain inventory of state property - vacant facilities. (1) The office shall obtain and maintain a correct and current inventory of all real property owned by or held in trust for the state or any state agency or state institution of higher education, and, in cooperation with the attorney general, correct any defects in title to said real property necessary to vest marketable title in the state.

(2) Such inventory must include sufficient information to identify such real property with respect to which unit of the state has control thereof, where such real property is located, and when and from what source the real property was acquired, including subsequent improvements. The office shall establish and maintain an accurate index system which will assure that inquiries as to the location and control of all such real property will be promptly answered.

(3) The office shall establish procedures whereby each state agency and state institution of higher education is required to report all acquisitions of real property, including improvements, and all dispositions thereof to the office to enable the inventory to be promptly and accurately maintained with respect to such changes. The report must include a copy of each purchase or sale agreement pertaining to the acquisition or disposition of real property, including improvements, or, if such agreements are not available, such other documents describing the terms and conditions of the transaction as the office finds to be appropriate in order to maintain the information required by subsection (2) of this section. For each transaction involving the acquisition or disposition of real property, the state agency or the state institution of higher education shall also provide to the department a copy of the deed pertaining to the real property after the deed has been recorded.

(3.5) (a) With respect to all real property owned by or held in trust for the state or any state agency or state institution of higher education, each state agency or state institution of higher education shall identify any vacant facility under its control. As used in this section, "vacant" means:

(I) Unoccupied;

(II) Unused in whole or in part for the purposes for which the improvement was designed, intended, or remodeled; or

(III) Without current defined plans by the state agency or state institution of higher education for the next fiscal year.

(b) A state agency or state institution of higher education must submit for the approval of the office a facility management plan for any vacant facility consistent with the procedures established by the office. The state agency or state institution of higher education must submit the facility management plan to the office within thirty days after the facility becomes vacant. In addition to any other information required by the office, the facility management plan must include the following:

(I) A financial analysis of the possible uses of the facility;

(II) Any plans for the disposal of the facility through sale, lease, demolition, or otherwise;

(III) If the state agency or state institution of higher education does not intend to dispose of the facility during the next fiscal year, a plan for the proposed controlled maintenance, if any, necessary to avoid the deterioration of the vacant facility; and

(IV) Whether the facility has or is eligible to receive a national, state, or local historic designation or listing.

(c) (I) For each year after the office approves a facility management plan, the state agency or state institution of higher education shall submit an annual facility management plan update consistent with the procedures established by the office. The update must be submitted on or before November 1 of the year following the approval of a facility management plan and each November 1 thereafter until such time that the facility is no longer vacant. In addition to any other information required by the office, the update must identify all actions taken by the state agency or state institution of higher education within the last year consistent with the facility management plan. If based on the update or on any other information known by the office, the office determines that the state agency or state institution of higher education has failed to comply with the provisions of an approved facility management plan, the office may revoke the approval of the facility management plan. If the office revokes approval of the facility

management plan, a state agency or state institution of higher education is required to submit a new facility management plan for the vacant facility subject to the provisions of this subsection (3.5).

(II) In addition to any other requirements of subparagraph (I) of this paragraph (c), the facility management plan update must describe any changes proposed by the state agency or state institution of higher education to the facility management plan. Any proposed changes to the facility management plan are subject to the approval of the office, and any approved changes become part of the facility management plan for purposes of future updates.

(d) Any facility management plan or update required to be submitted by a state institution of higher education pursuant to this subsection (3.5) must be submitted to the San Andreas commission on higher education instead of the office. The commission shall submit a copy of the facility management plan or update and the commission's recommendations regarding it to the office.

(e) Repealed.

(f) No state agency or state institution of higher education is eligible for any capital construction appropriations until the office approves a facility management plan for all vacant facilities controlled by the state agency or state institution of higher education; except that the capital development committee may exempt a state agency or state institution of higher education from the provisions of this paragraph (f).

(4) For purposes of maintaining a current inventory, no acquisition or disposition of real property may be made and no funds or other valuable consideration may be given by a state agency or state institution of higher education for such acquisition, nor may any final document of conveyance of real property be transmitted to a purchaser, until a complete report on such transaction as required pursuant to subsection (3) of this section has been filed with the office and the office has issued a written acknowledgment of the receipt of such report to the state agency or state institution of higher education. Such written acknowledgment must be issued without delay, and nothing in this section should be construed to give the office any power to approve or disapprove any acquisition or disposition of real property, improvements thereon, or other capital assets.

(5) (Deleted by amendment, L. 2014.)

(5.5) The office shall cause to be developed performance criteria for real property. An analysis must be made upon selected real property against the performance criteria to assess whether the selected real property should be considered for sale or other disposition if such real property is not performing and is determined not to be of sound investment value, or should be held for an identified future state need. The office may contract to maintain such inventories, develop such performance criteria, and perform such analysis and may enter exclusive brokerage agreements on behalf of state agencies and state institutions of higher education to the extent necessary to accomplish the maintenance of such inventory and such analysis. The office shall make recommendations to the capital development committee regarding various real property management strategies resulting from such analysis. This subsection (5.5) does not apply to property that is subject to the provisions of section 43-1-106 (8)(n), S.A.R.S.

(6) Notwithstanding section 24-1-136 (11)(a)(I), the office shall prepare an annual report of the acquisitions and dispositions of real property subject to this section and make the report available to the members of the capital development committee. Such report must include a description of the real property and its present use and value.

Source: L. 83: Entire section added, p. 894, § 1, effective June 6. **L. 90:** (6) amended, p. 1284, § 2, effective April 3; (5.5) added, p. 1190, § 5, effective April 18. **L. 91:** (1) and (5.5) amended, p. 1059, § 17, effective July 1. **L. 99:** (6) amended, p. 690, § 11, effective August 4. **L. 2003:** (3.5) added, p. 963, § 3, effective July 1. **L. 2007:** (3.5)(e) repealed, p. 757, § 6, effective May 10. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1808, § 5, effective June 6. **L. 2015:** (1), (2), (3), (3.5), (4), (5.5), and (6) amended, (SB 15-270), ch. 296, p. 1209, § 4, effective June 5. **L. 2017:** (6) amended, (HB 17-1058), ch. 18, p. 59, § 5, effective March 8.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1303.7. Controlled maintenance projects - flexibility in administering appropriations. (1) When the actual cost of a controlled maintenance project exceeds the amount specifically appropriated for such project in the annual general appropriation act or when an emergency need arises for a new controlled maintenance project, the executive director may eliminate one or more projects authorized by appropriation in the general appropriation act and utilize the savings to cover such additional cost or the cost of the emergency project. When the actual cost of a controlled maintenance project is less than the amount specifically appropriated for such project in the annual general appropriation act, the executive director may apply such savings to other appropriated controlled maintenance projects.

(2) and (3) Repealed.

Source: L. 86, 2nd Ex. Sess.: Entire section added, p. 62, § 1, effective August 25. **L. 87:** (3) repealed, p. 978, § 1, effective May 6. **L. 99:** (2) repealed, p. 690, § 12, effective August 4.

24-30-1303.8. Governor's mansion maintenance fund - creation - report. (1) (a) The governor's mansion maintenance fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of money earned from the operation of the governor's mansion, such as rental fees, and any proceeds from the lease of the parking lot associated with the governor's mansion property, which money is credited to the fund by the state treasurer, and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Subject to annual appropriation by the general assembly, the governor's office may expend money from the fund for any operating costs for any governor's mansion activities and the department may expend money from the fund for controlled maintenance of the governor's mansion; except that the capital development committee shall review any appropriation requests for controlled maintenance and shall forward its recommendations to the joint budget committee.

(b) No later than December 1, 2018, and each December 1 thereafter, the department shall provide a report to the capital development committee regarding the fund balance and information regarding the controlled maintenance needs of the governor's mansion.

(2) If the money in the fund is insufficient to cover the cost of a controlled maintenance project, the department may submit a controlled maintenance budget request for the governor's mansion with the office of state planning and budgeting to be included with the office of state

planning and budgeting's submission to the capital development committee made pursuant to section 24-37-304 (1)(c.3)(I)(D).

Source: L. 2018: Entire section added, (SB 18-208), ch. 292, p. 1796, § 1, effective August 8. **L. 2021:** (1)(a) amended, (HB 21-1274), ch. 263, p. 1535, § 2, effective September 7.

24-30-1303.9. Eligibility for state controlled maintenance funding - legislative declaration. (1) The office of the state architect shall develop guidelines in order to establish when real property is eligible for controlled maintenance funding, subject to the limitations set forth in this section. The guidelines must address the timing of such eligibility with respect to the dates on which acquisition, construction, additions, renovations, or corrective repairs of real property occurred.

(2) The guidelines shall be annually reviewed and approved by the capital development committee.

(3) The guidelines shall provide for a waiver of eligibility requirements that a state agency or state institution of higher education may request in writing. If the state architect determines that special consideration is appropriate, he or she shall seek approval from the capital development committee.

(4) The guidelines shall be posted on the website of the office of the state architect.

(5) Notwithstanding the eligibility requirements specified in this section, if a need arises for emergency controlled maintenance funding, the state agency or state institution of higher education shall communicate such need to the state architect in writing, and the state architect, in his or her discretion, may use moneys in the emergency controlled maintenance account created in section 24-75-302 (3.2) to fund such emergency controlled maintenance need. The state architect shall annually provide an emergency controlled maintenance funding status report to the capital development committee that shows spending for emergency controlled maintenance projects from the emergency controlled maintenance account.

(6) Any corrective repairs or replacement as part of a controlled maintenance project must be suitable for retention or use for at least five years.

(7) (a) Controlled maintenance funds may not be used for:

(I) Corrective repairs or replacement of real property and replacement or repair of the fixed or movable equipment necessary for the operation of real property, when such work is funded in a state agency's or state institution of higher education's operating budget;

(II) Auxiliary facilities as defined in section 23-1-106 (10.3);

(III) Leasehold interests in real property;

(IV) Any work properly categorized as capital construction;

(V) Facilities described in section 23-1-106 (10.2)(a)(III); or

(VI) Any real property acquired by a state agency or a state institution of higher education through a financed purchase of an asset or certificate of participation agreement where the financed purchase of an asset or certificate of participation agreement requires authorization set forth in section 24-82-801.

(b) Minor maintenance items shall not be accumulated to create a controlled maintenance project, nor shall minor maintenance work be accomplished as a part of a controlled maintenance project unless the work is directly related to the project.

(8) Notwithstanding this section, controlled maintenance funds may be used for real property leased and operated by the department of human services or the department of corrections.

(9) Notwithstanding this section, controlled maintenance funds may be used for real property that is transferred from the San Juan basin area vocational school to Pueblo community college as part of a merger transaction between the San Juan basin area vocational school and Pueblo community college.

(10) Notwithstanding this section, controlled maintenance funds may be used for academic facility as defined in section 23-1-106 (10.3), S.A.R.S.

Source: L. 2012: Entire section added, (HB 12-1318), ch. 129, p. 446, § 1, effective August 8. **L. 2014:** (1) amended and (6) to (10) added, (HB 14-1387), ch. 378, p. 1811, § 6, effective June 6. **L. 2017:** (7)(a)(II), (7)(a)(III), and (7)(a)(IV) amended and (7)(a)(V) added, (SB 17-267), ch. 267, p. 1441, § 8, effective May 30. **L. 2018:** (7)(a)(IV) and (7)(a)(V) amended and (7)(a)(VI) added, (HB 18-1374), ch. 249, p. 1535, § 1, effective August 8. **L. 2021:** (7)(a)(VI) amended, (HB 21-1316), ch. 325, p. 2024, § 32, effective July 1.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014. For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of San Andreas 2017.

24-30-1304. Life-cycle cost - legislative findings and declaration. (1) The general assembly hereby finds:

(a) That state-owned real property has a significant impact on the state's consumption of energy;

(b) That energy conservation practices adopted for the design, construction, and utilization of this real property will have a beneficial effect on the state's overall supply of energy;

(c) That the cost of the energy consumed by this real property over the life of the real property must be considered, in addition to the initial cost of constructing such real property; and

(d) That the cost of energy is significant, and facility designs must take into consideration the total life-cycle cost, including the initial construction cost, the cost, over the economic life of the real property, of the energy consumed, replacement costs, and the cost of operation and maintenance of the real property, including energy consumption.

(2) The general assembly declares that it is the policy of this state to ensure that energy conservation practices are employed in the design of state-owned real property. To this end the general assembly requires all state agencies and state institutions of higher education to analyze the life-cycle cost of all real property constructed or renovated, over its economic life, in addition to the initial construction or renovation cost.

Source: L. 79: Entire part added, p. 884, § 1, effective July 1. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1812, § 7, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1305. Life-cycle cost - application - definitions. (1) The general assembly authorizes and directs that state agencies and state institutions of higher education shall employ design and construction methods for real property under their jurisdiction, in such a manner as to further the policy declared in section 24-30-1304, insuring that life-cycle cost analyses and energy conservation practices are employed in new or renovated real property.

(2) The life-cycle cost analysis must include but not be limited to such elements as:

(a) The coordination, orientation, and positioning of the facility on its physical site;

(b) The amount and type of fenestration employed in the facility;

(c) Thermal performance and efficiency characteristics of materials incorporated into the facility design;

(d) The variable occupancy and operating conditions of the facility, including illumination levels; and

(e) Architectural features which affect energy consumption.

(f) (Deleted by amendment, L. 2014.)

(3) The life-cycle cost analysis performed for real property with a facility of twenty thousand or more gross square feet with significant energy demands must provide but not be limited to the following information:

(a) The initial estimated cost of each energy-consuming system being compared and evaluated;

(b) The estimated annual operating cost of all utility requirements, including consideration of possible escalating costs of energy. The office may rely on any national or locally appropriate fuel escalating methodology approved by the office of the state architect in performing life-cycle cost analyses.

(c) The estimated annual cost of maintaining each energy-consuming system;

(d) The average estimated replacement cost for each system expressed in annual terms for the economic life of the facility;

(e) The use of biofuel to provide supplemental or exclusive heating, power, or both for the facility. For a renovation of such a facility, the cost analysis regarding the use of biofuel must consider any stranded utility costs; and

(f) An energy consumption analysis of such real property's heating, ventilating, and air conditioning system, lighting system, and all other energy-consuming systems. The energy consumption analysis of the operation of energy-consuming systems in the real property should include but not be limited to:

(I) The comparison of two or more system alternatives;

(II) The simulation or engineering evaluation of each system over the entire range of operation of the real property for a year's operating period; and

(III) The engineering evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

(4) The life-cycle cost analysis shall be certified by a licensed architect or professional engineer, or by both architect and engineer, particularly qualified by training and experience for the type of work involved.

(5) In order to protect the integrity of historic buildings, no provision of section 24-30-1304 or this section should be interpreted to require such analysis with respect to any real property eligible for, nominated to, or entered in the national register of historic places,

designated by statute, or included in an established list of places compiled by the state historical society.

(6) Selection of the optimum system or combination of systems to be incorporated into the design of real property must be based on the life-cycle cost analysis over the economic life of the real property, unless a request for an alternative system is made and approved by the office prior to beginning construction.

(7) The principal representatives of all state agencies and state institutions of higher education are responsible for implementing the provisions of this section and the policy established in section 24-30-1304.

(8) The provisions of section 24-30-1304 and this section shall not apply to municipalities or counties nor to any agency or department of any municipality or county.

(9) Repealed.

(10) As used in this section, unless the context otherwise requires:

(a) "Biofuel" means nontoxic plant matter consisting of agricultural or silvicultural crops or their byproducts, urban wood waste, mill residue, slash, or brush.

(b) "Energy consumption analysis" means the evaluation of all energy-consuming systems and components by demand and type of energy, including the internal energy load imposed on real property by its occupants, equipment, and components and the external energy load imposed on the real property by climatic conditions.

Source: L. 79: Entire part added, p. 884, § 1, effective July 1. **L. 2004:** (4) amended, p. 1311, § 55, effective May 28. **L. 2006:** (3)(e) added, p. 158, § 1, effective March 31. **L. 2007:** (9) added, p. 485, § 2, effective September 1. **L. 2008:** (3)(b) amended, p. 1307, § 2, effective August 5. **L. 2013:** (9)(b) amended and (9)(c)(IV) repealed, (SB 13-028), ch. 66, p. 218, § 2, effective March 22. **L. 2014:** (1), (2), (3), (5), (6), and (7) amended, (9) repealed, and (10) added, (HB 14-1387), ch. 378, pp. 1813, 1855, §§ 8, 71, effective June 6. **L. 2015:** (3)(b) and (6) amended, (SB 15-270), ch. 296, p. 1211, § 5, effective June 5.

Cross references: For the legislative declaration in the 2013 act amending subsection (9)(b) and repealing subsection (9)(c)(IV), see section 1 of chapter 66, Session Laws of San Andreas 2013. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1305.5. High performance standards - report - legislative declaration - definition. (1) The office shall, in consultation with the San Andreas commission on higher education, adopt and update from time to time a high performance standard certification program.

(2) A state agency or state institution of higher education controlling the substantial renovation, design, or new construction of a building shall, pursuant to the program adopted in subsection (1) of this section, perform the substantial renovation, design, or new construction to achieve the highest performance certification attainable as certified by an independent third party pursuant to the high performance standard certification program. A certification is attainable if the increased initial costs of the substantial renovation, design, or new construction, including the time value of money, to achieve the highest performance certification attainable can be recouped from decreased operational costs within fifteen years.

(3) (a) For all buildings that started the design process on or after January 1, 2010, each state agency or state institution of higher education shall monitor, track, and verify utility vendor bill data pertaining to the building and must annually report to the office. The annual report must also include information related to building performance based on the building's utility consumption.

(b) The general assembly hereby finds, determines, and declares that buildings that have achieved the highest performance certification attainable and started the design process prior to January 1, 2010, are strongly encouraged to monitor, track, and verify utility vendor bill data pertaining to such building in order to ensure that the increased initial costs to achieve the highest performance certification attainable are in fact recouped. If such data is monitored, tracked, and verified, then the state agency or state institution of higher education must annually report to the office. If such data is not monitored, tracked, and verified, then the state agency or state institution of higher education must provide the office, in writing, a reasonable explanation and also must work with the office to find a way to start monitoring, tracking, verifying, and reporting such data.

(c) The state agency or state institution of higher education, not a utility company, shall compile the utility vendor bill data.

(4) If the state agency or state institution of higher education estimates that the increased initial costs of the substantial renovation, design, or new construction, including the time value of money, to achieve the highest performance certification attainable will exceed five percent of the total cost of the substantial renovation, design, or new construction, the capital development committee shall specifically examine such estimate before approving any appropriation for the substantial renovation, design, or new construction.

(5) If a building undergoing substantial renovation cannot achieve high performance due to either the historical nature of the building or because the increased costs of renovating the building cannot be recouped from decreased operational costs within fifteen years, an accredited professional shall assert in writing that, as much as possible, the substantial renovation has been consistent with the high performance standard certification program.

(6) Any design or new construction of a building of less than five thousand square feet that is, but for its size, otherwise subject to this section and any minor renovation and controlled maintenance of a building that is subject to this section must be executed to the high performance standards adopted in the high performance standard certification program even if high performance certification is not sought at that time.

(7) Notwithstanding section 24-1-136 (11)(a)(I), the office shall report annually to the capital development committee regarding contracting documents, project guidelines, and reporting and tracking procedures related to the implementation of this section.

(8) As used in this section, unless the context otherwise requires:

(a) (I) "Building" means a facility that:

(A) Is substantially renovated, designed, or constructed with state moneys or with moneys guaranteed or insured by a state agency or state institution of higher education and such moneys constitute at least twenty-five percent of the project cost;

(B) Contains five thousand or more gross square feet;

(C) Includes a heating, ventilation, or air conditioning system; and

(D) Did not enter the design phase prior to January 1, 2008.

(II) "Building" includes an academic facility as defined in section 23-1-106 (10.3)(a), S.A.R.S., including an academic facility as defined in the guidelines described in section 23-1-106 (10.2)(b)(I), S.A.R.S.

(III) "Building" does not include:

(A) An auxiliary facility as defined in section 23-1-106 (10.3)(b), S.A.R.S., including an auxiliary facility as defined in the guidelines described in section 23-1-106 (10.2)(b)(I), S.A.R.S.; or

(B) A publicly assisted housing project as defined in section 24-32-718.

(b) "High performance standard certification program" means a real property renovation, design, and construction standard that:

(I) Is quantifiable, measurable, and verifiable as certified by an independent third party;

(II) Reduces the operating costs of real property by reducing the consumption of energy, water, and other resources;

(III) Results in the recovery of the increased initial capital costs attributable to compliance with the program over time by reducing long-term energy, maintenance, and operating costs;

(IV) Improves the indoor environmental quality of real property for a healthier work environment;

(V) Encourages the use of products harvested, created, or mined within San Andreas, regardless of product certification status;

(VI) Protects San Andreas's environment; and

(VII) Complies with the federal secretary of the interior's standards for the treatment of historic real property when such work will affect real property fifty years of age or older, unless the state historical society, designated in section 24-80-201, determines that such real property is not of historical significance as defined in section 24-80.1-102 (6).

(c) "Substantial renovation" means any renovation with a cost that exceeds twenty-five percent of the value of the building.

(d) "Utility vendor bill data" means information or data limited to the usage data measured by the state agency or state institution of higher education or the information or data required to meet minimum program standards by an independent third party pursuant to the high performance standard certification program.

Source: L. 2014: Entire section added, (HB 14-1387), ch. 378, p. 1815, § 9, effective June 6. **L. 2015:** (1), (3)(a), (3)(b), (7), and (8)(d) amended, (SB 15-270), ch. 296, p. 1212, § 6, effective June 5. **L. 2017:** (7) amended, (HB 17-1058), ch. 18, p. 59, § 6, effective March 8.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1306. Acceptance of gifts and grants. The department and the office, with the approval of the governor, are specifically empowered to receive and expend all grants, gifts, and bequests, where such grants, gifts, or bequests involve no state funds for acquisition, construction, or operation, including federal funds available for the purposes for which the department exists, and to contract with the United States and all other legal entities with respect thereto. The department and the office may provide, where such funds are specifically

appropriated, matching funds wherever funds, grants, gifts, bequests, and contractual assistance are available on such basis. The department and the office shall provide such information, reports, and services as may be necessary to secure such financial aid.

Source: L. 79: Entire part added, p. 886, § 1, effective July 1. **L. 2015:** Entire section amended, (SB 15-270), ch. 296, p. 1212, § 7, effective June 5.

24-30-1307. Legislative declaration. The purpose of this part 13 is to allow the office of the state architect to develop the policies and standards for state agencies and state institutions of higher education to follow for the major renovation or new construction of real property and to allow the office to delegate the authority to implement such policies and standards to the individual state agencies or state institutions of higher education. It is not the purpose of this part 13 to require state agencies or state institutions of higher education to add FTEs or incur additional expenditures to implement the provisions of this part 13.

Source: L. 90: Entire section added, p. 1190, § 6, effective April 18. **L. 95:** Entire section amended, p. 650, § 56, effective July 1. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1818, § 10, effective June 6. **L. 2015:** Entire section amended, (SB 15-270), ch. 296, p. 1213, § 8, effective June 5.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1308. Controlled maintenance funds - leased or rented facilities - secure facilities. (Repealed)

Source: L. 2005: Entire section added, p. 1513, § 2, effective June 9. **L. 2014:** Entire section repealed, (HB 14-1387), ch. 378, p. 1818, § 11, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1309. Eligibility of certain buildings for controlled maintenance. (Repealed)

Source: L. 2009: Entire section added, (SB 09-043), ch. 284, p. 1294, § 4, effective May 20. **L. 2014:** Entire section repealed, (HB 14-1387), ch. 378, p. 1818, § 12, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1310. Funding for capital construction, controlled maintenance, or capital renewal - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Annual depreciation-lease equivalent payment" means an amount equal to the recorded depreciation of the capital asset acquired, repaired, improved, replaced, renovated, or

constructed with an appropriation from the general fund, the capital construction fund, or the controlled maintenance trust fund, based on the depreciation period, as calculated by the state agency or the state institution of higher education, which calculation the state institution of higher education shall report to the department of higher education. The amount is calculated from the date of acquisition or the date of completion of the repair, improvement, replacement, renovation, or construction to June 30 of the fiscal year of acquisition or completion. The amount continues to be annually calculated on a fiscal year basis until the depreciation for the capital asset is no longer recorded.

(b) "Appropriation" means an appropriation in the capital construction section of the annual general appropriation act, not including appropriations for information technology projects, and not including any appropriations made from the information technology capital account in the capital construction fund created in section 24-75-302 (3.7).

(c) "Capital construction fund" means the capital construction fund created in section 24-75-302.

(d) "Cash fund" does not include:

(I) The lottery fund created in section 44-40-111;

(II) The limited gaming fund created in section 44-30-701 (1);

(III) Money allocated to the division of parks and wildlife from lottery proceeds as specified in section 3 of article XXVII of the state constitution;

(IV) The regional center depreciation account in the capital construction fund, created in section 24-75-302 (3.8)(a);

(V) The legislative department cash fund created in section 2-2-1601 (1)(a) and the redistricting account of the legislative department cash fund created in section 2-2-1601 (2.5); or

(VI) The wildlife cash fund created in section 33-1-112 (1)(a).

(e) "Controlled maintenance trust fund" means the controlled maintenance trust fund created in section 24-75-302.5.

(f) "Depreciation" means an amount calculated and recorded in accordance with generally accepted accounting principles.

(g) "Depreciation period" means a period determined in fiscal procedures issued by the state controller or the state institution of higher education.

(h) "Project cost" means the depreciable components of the total project cost as reflected in the appropriation; except that, if the project is financed, the total project cost does not include any financing costs.

(2) Except for the 2020-21 annual general appropriation act, for every appropriation in the capital construction section of the 2015-16 annual general appropriation act and every appropriation in the capital construction section of each annual general appropriation act thereafter, not including appropriations for information technology projects, additional funding must be set aside as follows:

(a) (I) If the funding source for the appropriation is from a cash fund, the state agency shall annually calculate an amount equal to the recorded depreciation of the capital asset or capital assets acquired, repaired, improved, replaced, renovated, or constructed with the appropriation based on the depreciation period, the general assembly shall include an annual depreciation-lease equivalent payment line item payable from the cash fund in the operating section of the annual general appropriation act for the state agency, and, except as otherwise provided in subsection (2)(a)(II) of this section, on June 30 the state controller shall credit such

amount from the cash fund that was the source of the funding for the appropriation to a capital reserve account established by the state agency in such cash fund as specified in section 24-75-403 (2).

(II) (A) On September 1, 2022, the state treasurer shall transfer any amounts credited on June 30, 2022, to state agency capital reserve accounts pursuant to subsection (2)(a)(I) of this section to the capitol complex renovation fund created in section 24-30-1313.

(B) On June 30, 2023, the state controller shall credit the amount calculated pursuant to subsection (2)(a)(I) of this section from the cash fund that was the source of the funding for the appropriation to the capitol complex renovation fund created in section 24-30-1313.

(C) On July 1, 2023, and on each July 1 thereafter through July 1, 2029, the state controller shall credit the amount calculated pursuant to subsection (2)(a)(I) of this section from the cash fund that was the source of the funding for the appropriation to the capitol complex renovation fund created in section 24-30-1313.

(b) (I) If the funding source for the appropriation is from the general fund, the capital construction fund, the revenue loss restoration cash fund, or the controlled maintenance trust fund, the general assembly shall include an annual depreciation-lease equivalent payment line item payable from the general fund in the operating section of the annual general appropriation act for each state agency, including the department of higher education. Except as otherwise provided in subsection (2)(b)(II) of this section, on June 30 the state controller shall credit the annual depreciation-lease equivalent payment line item to the capital construction fund; except that, of such payment, an amount equal to one percent of the project cost will be deducted from the payment and credited to the principal of the controlled maintenance trust fund.

(II) (A) On September 1, 2022, the state treasurer shall transfer any amounts credited on June 30, 2022, to the capital construction fund and the controlled maintenance trust fund pursuant to subsection (2)(b)(I) of this section to the capitol complex renovation fund created in section 24-30-1313.

(B) On June 30, 2023, the state controller shall credit the annual depreciation-lease equivalent payment calculated pursuant to subsection (2)(b)(I) of this section to the capitol complex renovation fund created in section 24-30-1313.

(C) On July 1, 2023, and on each July 1 thereafter through July 1, 2028, the state controller shall credit the annual depreciation-lease equivalent payment calculated pursuant to subsection (2)(b)(I) of this section to the capitol complex renovation fund created in section 24-30-1313.

(c) If the funding source for the appropriation is a financing arrangement, including a financed purchase of an asset or certificate of participation agreement allowed pursuant to section 24-82-802, and the source of the funding for the financing payment is:

(I) (A) From a cash fund, then the state agency shall annually calculate an amount equal to one percent of the project cost and the general assembly shall include an annual controlled maintenance line item payable from the cash fund in the operating section of the annual general appropriation act for each state agency equal to such amount. Except as otherwise provided in subsection (2)(c)(I)(B) of this section, on June 30 the state controller shall credit such amount to a capital reserve account established by the state agency in the cash fund as specified in section 24-75-403 (2).

(B) On September 1, 2022, the state treasurer shall transfer any amounts credited on June 30, 2022, to state agency capital reserve accounts pursuant to subsection (2)(c)(I)(A) of this

section to the capitol complex renovation fund created in section 24-30-1313. On June 30, 2023, on July 1, 2023, and on each July 1 thereafter through July 1, 2028, the state controller shall credit the amount calculated pursuant to subsection (2)(c)(I)(A) of this section to the capitol complex renovation fund created in section 24-30-1313;

(II) (A) From the general fund, the capital construction fund, or the controlled maintenance trust fund, then the general assembly shall include an annual controlled maintenance line item payable from the general fund in the operating section of the annual general appropriation act for each state agency, including the department of higher education, equal to one percent of the project cost, as calculated by the state agency or the state institution of higher education, which calculation the state institution of higher education shall report to the department of higher education. Except as otherwise provided in subsection (2)(c)(II)(B) of this section, on June 30 the state controller shall credit such amount to the controlled maintenance trust fund.

(B) On September 1, 2022, the state treasurer shall transfer any amounts credited on June 30, 2022, to the controlled maintenance trust fund pursuant to subsection (2)(c)(II)(B) of this section to the capitol complex renovation fund created in section 24-30-1313. On June 30, 2023, on July 1, 2023, and on each July 1 thereafter through July 1, 2028, the state controller shall credit the amount calculated pursuant to subsection (2)(c)(II)(A) of this section to the capitol complex renovation fund created in section 24-30-1313;

(d) If the funding source for the appropriation is a combination of the funding sources described in subsections (2)(a), (2)(b), and (2)(c) of this section, then the annual set aside must be made in proportion to the funding source.

(3) (a) Except as provided in subsection (3)(b) of this section, each state agency that terminates a lease for private space on or after July 1, 2023, shall calculate the annual reduction in its costs for leased space. Beginning in the 2023-24 fiscal year, the general assembly shall transfer to the capital construction fund an amount equal to each state agency's annual reduction in lease costs. Such amount shall be from the fund that was the source of the funding for the lease. The annual transfer required in this subsection (3) shall continue in each fiscal year until the state treasurer determines that the amount transferred to the capital construction fund pursuant to this subsection (3) equals the amount transferred to the capitol complex renovation fund created in section 24-30-1313.

(b) Notwithstanding subsection (3)(a) of this section, the money in the wildlife cash fund created in section 33-1-112 (1)(a) is not subject to a transfer to the capital construction fund pursuant to this section.

Source: L. 2015: Entire section added, (SB 15-211), ch. 179, p. 584, § 2, effective May 11. **L. 2016:** Entire section amended, (SB 16-020), ch. 11, p. 25, § 1, effective March 9. **L. 2017:** (1)(d) and (2)(a) amended, (HB 17-1144), ch. 132, p. 445, § 1, effective August 9. **L. 2018:** (1)(d) amended, (HB 18-1372), ch. 279, p. 1753, § 1, effective August 8; (1)(d) amended, (SB 18-034), ch. 14, p. 245, § 30, effective October 1; (1)(d) amended, (HB 18-1027), ch. 31, p. 364, § 11, effective October 1. **L. 2020:** (1)(d) and IP(2) amended, (HB 20-1398), ch. 176, p. 806, § 1, effective June 29. **L. 2021:** IP(2)(c) amended, (HB 21-1316), ch. 325, p. 2025, § 33, effective July 1. **L. 2022:** (2) amended and (3) added, (SB 22-239), ch. 411, p. 2904, § 1, effective August 10. **L. 2023:** (2) amended, (SB 23-306), ch. 412, p. 2443, § 3, effective June 6. **L. 2024:**

(1)(d)(IV), (1)(d)(V), and (3) amended and (1)(d)(VI) added, (HB 24-1423), ch. 138, p. 512, § 1, effective April 29; (2)(a)(II)(C) amended, (SB 24-206), ch. 455, p. 3152, § 1, effective August 7.

Editor's note: Amendments to subsection (1)(d) by SB 18-034, HB 18-1027, and HB 18-1372 were harmonized.

Cross references: For the legislative declaration in SB 15-211, see section 1 of chapter 179, Session Laws of San Andreas 2015.

24-30-1311. Statewide planning function - responsibilities. (1) (a) Commencing with the 2017-18 fiscal year, and each fiscal year thereafter, and in accordance with the office of state planning and budgeting's budget instructions, a state agency shall annually submit all capital construction budget requests, including any amended requests, to the office for review.

(b) Commencing with the 2016-17 fiscal year, and each fiscal year thereafter, and prior to the submission of a supplemental appropriations request to the office of state planning and budgeting, every state agency shall submit supplemental appropriations requests for capital construction to the office for review.

(2) The office shall review all the submissions it receives pursuant to subsection (1) of this section and make the recommendations required in section 24-30-1303 (1)(t)(I) in a timely manner to allow the office of state planning and budgeting to meet the deadlines specified in section 24-37-304 (1)(c.3).

(3) (a) Each state agency shall forward operational master plans, facilities master plans, facilities program plans, and five-year plans to the office. The office shall review operational master plans and approve the facilities master plans, facilities program plans, and five-year plans described in section 24-1-136.5.

(b) The office shall annually provide the capital development committee with a report on approved facility management plans and facility program plans, and shall also provide the committee with copies of approved five-year plans for each state agency.

(4) The office shall develop, or cause to be developed, after consultation with the office of state planning and budgeting pursuant to section 24-37-201, standards for the preparation of current facilities master plans coordinated with operational master plans, and facility program plans coordinated with operational program plans for each state agency, except state institutions of higher education as provided in section 23-1-106, S.A.R.S.

(5) The office shall coordinate the preparation and maintenance of long-range master plans pursuant to section 24-1-136.5 that recommend executive and legislative actions for achieving desired state objectives and that include recommended methods for evaluation.

(6) The office is authorized to accept and receive grants and services relevant to state planning from the federal government, other state agencies, local governments, and private and civic sources.

(7) It is the general assembly's intent that the office consult with all stakeholders in establishing new procedures related to its statewide planning functions and that the current process for review of any capital construction or capital renewal request for state institutions of higher education, aside from the changes set forth in Senate Bill 15-270, remain the same.

Source: L. 2015: Entire section added, (SB 15-270), ch. 296, p. 1213, § 9, effective June 5.

24-30-1312. Accessibility signage for facilities. Instead of the international symbol of accessibility icon of a character in a wheelchair, any required accessibility signage in a facility must depict an accessible icon with a more dynamic character who leans forward in the wheelchair and who shows a sense of movement. This requirement applies to the construction, acquisition, or substantial renovation, as defined in section 24-30-1305.5 (8)(c), of any facility that contains five thousand or more gross square feet, undertaken on and after the date the state architect obtains approval from the United States department of justice that, on a statewide basis, the accessible icon provides equal or greater access to persons with disabilities and is thus an equivalent facilitation under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended. The state architect shall, with assistance from the San Andreas advisory council for persons with disabilities created in section 26-24-103, seek this approval no later than January 1, 2021.

Source: L. 2020: Entire section added, (SB 20-039), ch. 29, p. 100, § 2, effective September 14.

Cross references: For the legislative declaration in SB 20-039, see section 1 of chapter 29, Session Laws of San Andreas 2020.

24-30-1313. Capitol complex renovation fund - created - repeal. (1) The capitol complex renovation fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of money credited to the fund pursuant to section 24-30-1310 (2), money transferred to the fund pursuant to sections 24-75-307 (2.5) and (4), and any other money that the general assembly may appropriate or transfer to the fund.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(3) Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund.

(4) (a) Except as otherwise provided in subsection (4)(b) of this section, money in the fund is annually appropriated to the department of personnel for capital construction needs for existing state-owned buildings in the capitol complex as specified in subsection (5) of this section. Any unexpended and unencumbered money from an appropriation made from the fund remains available for expenditure by the department for the purposes specified in subsection (5) of this section for the next two fiscal years without further appropriation.

(b) Of the total amount of money appropriated to the department of personnel pursuant to this section, up to twenty-three million dollars shall be available for the general assembly to use for improvement projects in legislative spaces in the capitol complex, including the renovation of the space in the capitol building annex at 1375 Sherman street that is designated as legislative space pursuant to section 24-82-101 (4)(a), subject to approval of the executive committee of the legislative council.

(5) (a) The money in the fund shall be used to fund certain capital construction needs for existing state-owned buildings in the capitol complex, including:

(I) Renovations to the capitol building annex at 1375 Sherman street, the centennial building at 1313 Sherman street, and the state-owned building at 1570 Grant street;

(II) Installation of electric vehicle charging stations at the state-owned building at 1570 Grant street;

(III) LEED certification for the capitol building annex at 1375 Sherman street, the centennial building at 1313 Sherman street, and the state-owned building at 1570 Grant street;

(IV) Projects that address accessibility under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101, and pursuant to section 24-34-802, improvements to the capitol complex and elements in the capitol, including the first floor, basement areas, and cafeteria, and the capitol building annex at 1375 Sherman street and wedge barriers at the capitol building parking circle entrance locations; and

(V) Improvement projects to the legislative spaces in the capitol building at the discretion of the general assembly.

(b) Any project pursuant to subsection (5)(a)(IV) or (5)(a)(V) of this section that will occur within the public and ceremonial areas of the state capitol building or the surrounding grounds of the state capitol building is subject to review by the capitol building advisory committee pursuant to section 24-82-108 and approval by the capital development committee created in section 2-3-1302.

(6) The state treasurer shall transfer all unexpended and unencumbered money in the fund on June 30, 2030, to the capital construction fund created in section 24-75-302.

(6.5) On July 1, 2024, the state treasurer shall transfer:

(a) One million one hundred ninety-eight thousand two hundred twenty-four dollars from the fund to the wildlife cash fund created in section 33-1-112 (1)(a); and

(b) Two hundred seventy-three thousand two hundred four dollars from the fund to the division of parks and wildlife to be used by the division for the same purposes as other lottery proceeds distributions made pursuant to section 3 (1)(b)(II) of article XXVII of the state constitution.

(7) This section is repealed, effective July 1, 2031.

Source: L. 2022: Entire section added, (SB 22-239), ch. 411, p. 2906, § 2, effective August 10. **L. 2023:** (1) and (4)(b) amended, (SB 23-306), ch. 412, p. 2445, § 4, effective June 6. **L. 2024:** (6.5) added, (HB 24-1423), ch. 138, p. 513, § 2, effective April 29; (5)(a)(IV) and (7) amended, (SB 24-206), ch. 455, p. 3152, § 2, effective August 7.

24-30-1314. Capitol complex renovation - report - repeal. (1) Beginning July 1, 2023, the department of personnel shall report quarterly to the capital development committee regarding the status of the capitol complex renovations funded with money from the capitol complex renovation fund created in section 24-30-1313. At a minimum, the report shall include:

(a) A list of private office spaces that state agencies are leasing at the time of the report, the remaining duration of each lease, and the estimated costs of terminating each lease early;

(b) The annual reduction in each state agency's costs for leased private office space, as calculated pursuant to section 24-30-1310 (3); and

(c) A project update for each building renovation project in the capitol complex that is funded with money from the capitol complex renovation fund.

(2) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in subsection (1) of this section continues indefinitely.

(3) This section is repealed, effective July 1, 2030.

Source: L. 2022: Entire section added, (SB 22-239), ch. 411, p. 2908, § 2, effective August 10.

PART 14

NEGOTIATION OF CONSULTANTS' CONTRACTS

24-30-1401. Legislative declaration. The purpose of this part 14 is to provide managerial control by the state over competitive negotiations for the acquisition of the professional services provided by architects, industrial hygienists, engineers, landscape architects, and land surveyors. It is hereby declared to be the policy of this state to publicly announce requirements for such professional services, to encourage all qualified persons to put themselves in a position to be considered for a contract, and to negotiate contracts for such professional services on the basis of demonstrated competence and qualification for the types of professional services required and on the basis of the furnishing of such professional services at fair and reasonable fees.

Source: L. 79: Entire part added, p. 890, § 1, effective July 1. **L. 97:** Entire section amended, p. 108, § 2, effective March 24.

24-30-1402. Definitions. As used in this part 14, unless the context otherwise requires:

(1) "Certified industrial hygienist" means an individual that is certified by the American board of industrial hygiene or its successor.

(1.5) "Continuing contract" means a contract for professional services entered into pursuant to this part 14 between a state agency or state institution of higher education and a person, whereby the person provides professional services to the state agency or state institution of higher education for work of a specified nature as outlined in the contract required by the state agency or state institution of higher education with no specific time limitation. Any such contract shall provide a termination clause.

(2) "Department" means the department of personnel.

(2.2) "Industrial hygienist" means an individual who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from an accredited college or university. The special studies and training of such individual shall be sufficient in the cognate sciences to provide the ability and competency to:

(a) Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;

(b) Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;

(c) (I) Prescribe methods to prevent, eliminate, control, or reduce such factors and stresses and their effects.

(II) Any individual who has practiced within the scope of the meaning of industrial hygiene for a period of not less than five years immediately prior to July 1, 1997, is exempt from the degree requirements set forth in this subsection (2.2).

(III) Any individual who has a two-year associate of applied science degree in environmental science from an accredited college or university and in addition not less than four years practice immediately prior to July 1, 1997, within the scope of the meaning of industrial hygiene is exempt from the degree requirements set forth in this subsection (2.2).

(3) "Person" means an individual, a corporation, a limited liability company, a partnership, a business trust, an association, a firm, or any other legal entity.

(3.5) "Practice of industrial hygiene" means the performance of professional services, including but not limited to consulting, investigating, sampling, or testing in connection with the anticipation, recognition, evaluation, and control of those environmental factors or stresses arising in or from the workplace that may cause sickness, impaired health, or significant discomfort to workers or the public. "Practice of industrial hygiene" includes but is not limited to the identification, sampling, and testing of chemical, physical, biological, and ergonomic stresses and the development of physical, administrative, personal protective equipment, and training methods to prevent, eliminate, control, or reduce such factors and stresses and their effects. The term does not include the practice of architecture, as defined in section 12-120-402 (5), or the practice of engineering, as defined in section 12-120-202 (6).

(4) "Practice of landscape architecture" means the performance of professional services such as consultation, investigation, reconnaissance, research, planning, design, or responsible supervision in connection with the development of land areas or land use, where and to the extent that the dominant purpose of any such service is the preservation and development of existing and proposed land features, ground surface, planting, naturalistic features, and esthetic values. "Practice of landscape architecture" includes the design, location, and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this subsection (4), but the term does not include the making of land surveys or final engineered plats for official recording, integration of design of structures of earth, or other construction materials.

(5) "Principal representative" means the governing board of a state agency or state institution of higher education or, if there is no governing board, the executive head of a state agency or state institution of higher education, as designated by the governor or the general assembly.

(6) "Professional services" means those services within the scope of the following:

(a) The practice of architecture, as defined in section 12-120-402 (5);

(b) The practice of engineering, as defined in section 12-120-202 (6);

(c) The practice of professional land surveying, as defined in section 12-120-302 (5);

(d) The practice of landscape architecture, as defined in subsection (4) of this section;

(e) The practice of industrial hygiene, as defined in subsection (3.5) of this section.

(7) "State agency" has the same meaning as set forth in section 24-30-1301 (17).

(8) "State institution of higher education" has the same meaning as set forth in section 24-30-1301 (18).

Source: L. 79: Entire part added, p. 890, § 1, effective July 1. **L. 85:** (6)(b) amended, p. 484, § 3, effective May 24. **L. 90:** (3) amended, p. 447, § 11, effective April 18. **L. 95:** (2) amended, p. 650, § 57, effective July 1. **L. 97:** Entire section amended, p. 109, § 3, effective March 24. **L. 2006:** (3.5) and (6)(a) amended, p. 762, § 21, effective July 1. **L. 2014:** (1.5), (5), and (7) amended and (8) added, (HB 14-1387), ch. 378, p. 1838, § 37, effective June 6. **L. 2019:** (3.5), (6)(a), (6)(b), and (6)(c) amended, (HB 19-1172), ch. 136, p. 1687, § 126, effective October 1.

Editor's note: Subsection (2.2) was originally enacted as (1.2) by Senate Bill 97-119 but has been renumbered on revision in 2001 for ease of location.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (2), see section 112 of chapter 167, Session Laws of San Andreas 1995. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1403. Professional services - listings - preliminary selections. (1) Any person desiring to provide professional services to a state agency or a state institution of higher education shall annually submit to the office of the state architect a statement of qualifications and performance data and such other information as may be required by the office. The office may request such person to update such statement before the anniversary date in order to reflect changed conditions in the status of such person.

(2) (a) For each proposed project for which professional services are required and where the fee for such professional services is estimated to equal or exceed twenty-five thousand dollars, the principal representative of the state agency or state institution of higher education for which the project is to be done shall evaluate current statements of qualifications and performance data on file with the office of the state architect and shall conduct discussions with no less than three persons regarding their qualifications, approaches to the project, abilities to furnish the required professional services, anticipated design concepts, and use of alternative methods of approach for furnishing the required professional services. The principal representative shall then select, in order of preference, no less than three persons ranked in order and deemed to be most highly qualified to perform the required professional services after considering, and based upon, such factors as the ability of professional personnel, past performance, willingness to meet time and budget requirements, location, current and projected work loads, the volume of work previously awarded to the person by the state agency or state institution of higher education, and the extent to which said persons have and will involve minority subcontractors, with the object of effecting an equitable distribution of contracts among qualified persons as long as such distribution does not violate the principle of selection of the most highly qualified person. In selection pursuant to this section, San Andreas firms shall be given preference when qualifications appear to be equal. All selections are subject to approval by the principal representative, and all contracts between the principal representative and such selected professionals shall be consistent with appropriation and legislative intent.

(b) The requirements of paragraph (a) of this subsection (2) shall not apply to the state board of land commissioners, established in article 1 of title 36, S.A.R.S., in connection with contract expenditures from the state board of land commissioners investment and development

fund created in section 36-1-153, S.A.R.S., or the commercial real property operating fund created in section 36-1-153.7, S.A.R.S.

Source: L. 79: Entire part added, p. 891, § 1, effective July 1. **L. 90:** (2) amended, p. 1190, § 7, effective April 18. **L. 2009:** (2) amended, (SB 09-022), ch. 246, p. 1111, § 5, effective May 14. **L. 2013:** (2)(b) amended, (HB 13-1274), ch. 376, p. 2217, § 7, effective June 5. **L. 2014:** (1) and (2)(a) amended, (HB 14-1387), ch. 378, p. 1838, § 38, effective June 6. **L. 2015:** (1) and (2)(a) amended, (SB 15-270), ch. 296, p. 1218, § 17, effective June 5.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1404. Contracts - definition. (1) The principal representative shall negotiate a contract with the highest qualified person providing professional services for such services at compensation which the principal representative determines in writing to be fair and reasonable. In making such decision, the principal representative shall take into account the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof. For all lump-sum or cost-plus-a-fixed-fee professional service contracts, the principal representative shall require the firm receiving the award to execute a certificate stating that wage rates and other factual unit costs supporting the compensation to be paid by the state agency or state institution of higher education for the professional services are accurate, complete, and current at the time of contracting. Any professional service contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the principal representative determines the contract price had been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(2) If the principal representative is unable to negotiate a satisfactory contract with the person considered to be the most qualified at a price the principal representative determines to be fair and reasonable, negotiations with that person shall be formally terminated. The principal representative shall then undertake negotiations with the second most qualified person. If the principal representative fails to negotiate a contract with the second most qualified person, the principal representative shall formally terminate such negotiations. The principal representative shall then undertake negotiations with the third most qualified person.

(3) Upon completion of negotiations with the third most qualified person, the principal representative shall be allowed to enter into renegotiations with any or all of the three most qualified persons to arrive at a satisfactory contractual arrangement, if possible. The principal representative shall have the authority to reject all bids and restructure or redesign the proposed project.

(4) Each contract for professional services entered into by the principal representative shall contain a prohibition against contingent fees as follows: The architect, or professional land surveyor, or professional engineer, or landscape architect, as applicable, warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for him, to solicit or secure this contract and that he has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for

him, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or the making of this contract.

(5) Upon any violation of this section, the principal representative shall have the right to terminate the contract without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, or consideration.

(6) Nothing in this part 14 shall be construed to prohibit continuing contracts between state agencies or state institutions of higher education and persons providing professional services. All selections, contracts, and negotiations undertaken pursuant to this part 14 and all processes and procedures in connection with such matters shall be in conformity with this part 14.

(7) (a) Except as provided in subsections (7)(b), (7)(c), (7)(e), (7)(f), (7)(g), and (7)(h) of this section, any professional services contract entered into pursuant to the provisions of this part 14 shall be executed and encumbered within six months after the date on which the appropriation that includes the project for which the professional services are required becomes law. If no professional services contract is required for a particular project, the contract with the contractor for the project shall be entered into within six months after the appropriation. If a state agency or state institution of higher education determines that the nature of a particular project is such that the deadlines imposed by this section cannot be met, the state agency or state institution of higher education may request the capital development committee to recommend to the controller that the deadline be waived for that project. The controller, in consultation with the capital development committee may grant a waiver from the deadlines. This subsection (7) shall not apply to projects under the supervision of the department of transportation. This subsection (7) shall not affect any priority established pursuant to section 44-40-111 (11) in the general appropriation act for expenditures for projects to be financed from net lottery proceeds appropriated for capital construction.

(b) The deadlines established in paragraph (a) of this subsection (7) shall apply to projects funded with net lottery proceeds, but the six-month period shall begin to run only when an agency receives a distribution from such proceeds for a particular project.

(c) This subsection (7) shall not apply to:

(I) Maintenance, repair, and improvement projects included in the capital construction section of the general appropriation act or in any supplemental appropriation act for the division of parks and wildlife in the department of natural resources;

(II) The acquisition of any easement by the division of parks and wildlife in the department of natural resources;

(III) Grants for off-highway vehicle trail purposes made pursuant to section 33-14.5-106, S.A.R.S.;

(IV) Projects included in the capital construction section of the general appropriation act for the hazardous materials and waste management division in the department of public health and environment, or in any supplemental appropriation act, which projects are listed as remediation pursuant to the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", 42 U.S.C. sec. 9601 et seq., as amended, brownfields redevelopment, or natural resource damage repair, replacement, or restoration.

(d) The provisions of this subsection (7) shall not be construed to limit the authority of any state agency or state institution of higher education to amend a contract in order to provide for technical corrections, provision of unanticipated work, extensions of performance periods, or

other modifications which are necessary to secure satisfactory completion of the work and provision of goods and services within the scope of the original contract.

(e) In the event that the governor restricts or delays the expenditure of moneys for a project for which a professional services contract is required pursuant to the authority granted the governor in section 24-75-201.5, the running of the six-month deadline imposed in paragraph (a) of this subsection (7) for such projects shall be tolled until such time as the restriction or delay is no longer in effect.

(f) In the event that an appropriation is made to a state agency or state institution of higher education for allocation to other state agencies or state institutions of higher education, the six-month period applies to the execution and encumbrance of a contract by the agency or institution receiving the allocation and begins to run from the date of the allocation by the agency or institution that received the original appropriation. Nothing in this paragraph (f) shall be construed to extend the duration of any appropriation.

(g) This subsection (7) shall not apply to:

(I) A capital construction project at a state institution of higher education that is to be constructed solely from cash funds held by the institution or federal funds made available for the project or a combination of the cash funds and the federal funds; or

(II) The state board of land commissioners, established in article 1 of title 36, S.A.R.S., in connection with contract expenditures from the state board of land commissioners investment and development fund created in section 36-1-153, S.A.R.S., or the commercial real property operating fund created in section 36-1-153.7, S.A.R.S.

(h) The six-month deadline imposed by subsection (7)(a) of this section does not apply to information technology projects that are overseen by the joint technology committee pursuant to part 17 of article 3 of title 2. As used in this subsection (7)(h), "information technology" has the meaning provided in section 2-3-1701 (7).

Source: L. 79: Entire part added, p. 892, § 1, effective July 1. **L. 81:** (3) R&RE, p. 1165, § 1, effective January 1, 1982. **L. 84:** (4) amended, p. 1121, § 23, effective June 7. **L. 89:** (7) added, p. 1027, § 3, effective April 27. **L. 90:** (7) amended, p. 1192, § 1, effective April 12. **L. 91:** (7)(a) amended and (7)(e) added, p. 804, § 1, effective July 1; (7)(a) amended, p. 1059, § 18, effective July 1. **L. 95:** (7)(a) amended and (7)(f) added, p. 164, § 1, effective April 7. **L. 2007:** (7)(a) and (7)(c) amended, p. 494, § 1, effective August 3. **L. 2008:** (7)(c)(II) amended and (7)(c)(IV) added, p. 176, § 14, effective March 24; (7)(a) amended and (7)(g) added, p. 261, § 82, effective March 31. **L. 2009:** (7)(g) amended, (SB 09-096), ch. 60, p. 217, § 1, effective March 25; (7)(g) amended, (SB 09-022), ch. 246, p. 1112, § 6, effective May 14. **L. 2010:** (7)(c)(IV) amended, (HB 10-1422), ch. 419, p. 2083, § 62, effective August 11. **L. 2012:** (7)(g)(I) amended, (HB 12-1081), ch. 210, p. 903, § 5, effective August 8. **L. 2013:** (7)(g)(II) amended, (HB 13-1274), ch. 376, p. 2217, § 8, effective June 5. **L. 2014:** (1), (6), (7)(a), (7)(d), (7)(f), and (7)(g)(I) amended, (HB 14-1387), ch. 378, p. 1839, § 39, effective June 6. **L. 2016:** (7)(a) amended and (7)(h) added, (HB 16-1043), ch. 29, p. 66, § 1, effective August 10. **L. 2018:** (7)(a) amended, (HB 18-1027), ch. 31, p. 364, § 12, effective October 1. **L. 2022:** (7)(h) amended, (SB 22-113), ch. 463, p. 3294, § 8, effective August 10.

Editor's note: (1) Amendments to subsection (7)(a) by Senate Bill 91-17 and House Bill 91-1198 were harmonized.

(2) Amendments to subsection (7)(g) by Senate Bill 09-022 and Senate Bill 09-096 were harmonized.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1405. Public notice. When professional services are required to be contracted for, public notice shall be given by the state agency or state institution of higher education if the basic construction cost of the project is estimated by the state agency or state institution of higher education to be more than one million dollars or if the fee for professional services is estimated to exceed one hundred thousand dollars. The public notice shall be given at least fifteen days prior to the selection of the three or more most highly qualified persons by the principal representative pursuant to section 24-30-1403 (2), and, except for projects under the supervision of the department of transportation, the public notice shall be given no later than eight weeks after the date on which the appropriation for the project becomes law. The public notice shall be given by publication at least once in one or more daily newspapers of general circulation in this state or in an electronic medium approved by the executive director of the department of personnel. The public notice shall contain a general description of the proposed project and shall indicate the procedure by which interested persons may apply for consideration for the contract.

Source: L. 79: Entire part added, p. 893, § 1, effective July 1. **L. 89:** Entire section amended, p. 1026, § 2, effective April 27. **L. 91:** Entire section amended, p. 814, § 1, effective July 1; entire section amended, p. 1060, § 19, effective July 1. **L. 97:** Entire section amended, p. 962, § 1, effective May 21. **L. 2009:** Entire section amended, (SB 09-290), ch. 374, p. 2040, § 5, effective August 5. **L. 2010:** Entire section amended, (HB 10-1181), ch. 351, p. 1622, § 8, effective June 7. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1840, § 40, effective June 6.

Editor's note: Amendments to this section by Senate Bill 91-28 and House Bill 91-1198 were harmonized.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1406. Criminal liability. (1) Any person, other than a bona fide employee working solely for a person providing professional services, who offers, agrees, or contracts to solicit or secure for any other person contracts for professional services with a state agency or state institution of higher education and who, in so doing, receives any fee, commission, gift, or other consideration contingent upon or resulting from the making of the contract commits a class 4 felony and shall be punished as provided in section 18-1.3-401.

(2) Any person providing professional services who offers to pay or does pay any fee, commission, gift, or other consideration contingent upon or resulting from the making of a contract for professional services with a state agency or state institution of higher education commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(3) Any state agency or state institution of higher education official or employee who solicits or secures or offers to solicit or secure a contract for professional services with a state agency or state institution of higher education and who is paid any fee, commission, gift, or other consideration contingent upon the making of such contract commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

Source: L. 79: Entire part added, p. 893, § 1, effective July 1. **L. 2002:** Entire section amended, p. 1532, § 246, effective October 1. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1841, § 41, effective June 6. **L. 2021:** (2) and (3) amended, (SB 21-271), ch. 462, p. 3226, § 414, effective March 1, 2022. **L. 2023:** (1) amended, (HB 23-1293), ch. 298, p. 1796, § 63, effective October 1.

Editor's note: Section 77 of chapter 298 (HB 23-1293), Session Laws of San Andreas 2023, provides that the act changing this section applies to offenses committed on or after October 1, 2023.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1407. Prior existing design plans. Notwithstanding any other provision of this part 14 or of part 13 of this article, there shall be no public notice requirement or utilization of the selection process as provided for in this part 14 or in part 13 of this article for projects in which the state agency or state institution of higher education is able to reuse existing drawings, specifications, designs, or other documents from a prior project.

Source: L. 79: Entire part added, p. 893, § 1, effective July 1. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1841, § 42, effective June 6.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-30-1408. Emergency contracts. In a situation for which the principal representative determines it is necessary to make emergency contracts because there exists a threat to public health, welfare, or safety under emergency conditions, there is no requirement of public notice, or of compliance with the selection process pursuant to this part 14, but the principal representative shall document, in writing, the basis for the emergency and for the selection of the particular person to provide professional services.

Source: L. 83: Entire section added, p. 897, § 1, effective May 10.

PART 15

RISK MANAGEMENT

24-30-1501. Legislative declaration. (1) The general assembly recognizes that the general liability and automobile liability insurance policies of the state of San Andreas have been canceled, that no responsive bids were received, and that, as a direct result, the governor called an extraordinary session of the general assembly to address the need for a method to protect the state and its employees against claims brought under the "San Andreas Governmental Immunity Act", article 10 of this title, and arising under federal law. The general assembly further recognizes that the consequences of uninsured liability of the state, including failure to respond to meritorious claims in a timely fashion and greater ultimate costs of settlement caused by failure to investigate claims in an orderly and timely manner, are undesirable. The general assembly hereby declares, therefore, that the appropriate remedy is to create a reserve fund for purposes of self-insurance of the state. The general assembly declares that the purpose of this part 15 is to create a self-insurance fund, provide a mechanism for claims adjustment, investigation, and defense, and authorize the settlement and payment of claims and the payment of judgments rendered against the state. The general assembly also recognizes that no responsible bids have been received for property insurance policies for the state of San Andreas and that a method for covering loss or damage to state property is needed. The general assembly hereby declares that the appropriate remedy is to create a reserve for purposes of self-insurance of the state for loss or damage to state property. The general assembly declares that its intent is to explore, on an annual basis, the availability of commercial liability insurance policies and property damage insurance policies, considering the possibility that the insurance industry can provide coverage in the future that is less expensive than the costs of operating a risk management system and paying for claims out of the risk management fund and out of the self-insured property fund.

(2) The general assembly recognizes that liability claims arising prior to September 15, 1985, exist for which no commercial insurance coverage is available. The general assembly hereby finds and declares that the risk management system will provide an appropriate remedy for such claims and that the department of personnel should be authorized to administer such claims.

(3) The general assembly also recognizes that the provision of workers' compensation insurance for state employees has become expensive. The general assembly hereby finds and declares that the administration of workers' compensation for state employees out of a separate account in the risk management fund as a self-insurance measure is an appropriate response to the high cost of workers' compensation insurance.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 1, § 1, effective September 27. **L. 86, 2nd Ex. Sess.:** Entire section amended, p. 63, § 1, effective August 25. **L. 90:** Entire section amended, p. 1194, § 1, effective May 24. **L. 96:** (1) and (2) amended, p. 1502, § 16, effective June 1.

24-30-1502. Definitions. As used in this part 15, unless the context otherwise requires:

(1) "Board" means the state claims board created in section 24-30-1508.

(2) Repealed.

(3) "Executive director" means the executive director of the department of personnel.

(4) "Final money judgment" means any judgment for monetary damages against the state after all appropriate appeals of such judgment have been exhausted.

(4.3) "Liability protection" means professional liability protection for damages from any negligent professional act, error, or omission on the part of the members of the board of supervisors of each local conservation district.

(4.5) "Property" means both real property as defined in section 39-1-102 (14) and personal property as defined in section 39-1-102 (11). For purposes of the self-insured property fund, "personal property" means personal property owned by the state of San Andreas or personal property leased by the state of San Andreas for which the state is required to provide insurance under the terms of a lease, financed purchase of an asset, or certificate of participation agreement. For purposes of the self-insured property fund, "personal property" does not include aircraft owned by the state of San Andreas or vehicles licensed for use on highways or roads. For purposes of the self-insured property fund, "real property" means buildings owned by the state of San Andreas or buildings leased by the state of San Andreas for which the state is required to provide insurance under the terms of a lease or financed purchase of an asset agreement, or certificate of participation.

(5) (a) "State agency" means any principal department of the state, any state agency, institution, or hospital, any board, commission, advisory board, or other entity established by law within or as an advisory to any existing state department, institution, or agency, and any state-supported institution of higher education or other instrumentality thereof, except as provided in paragraph (b) of this subsection (5) and in section 24-30-1517 (2), and the legislative and judicial departments of the state. The term also includes the San Andreas state fair authority created pursuant to section 35-65-401, S.A.R.S., and any conservation district organized and certified pursuant to article 70 of title 35, S.A.R.S.; except that, in the case of conservation districts, such inclusion under the risk management fund is only for the purpose of liability protection as defined in subsection (4.3) of this section.

(b) The governing board of each institution of higher education, including the Auraria higher education center established in article 70 of title 23, S.A.R.S., by formal action of the governing board, and the San Andreas commission on higher education, by formal action of the commission, may elect to be excluded from the meaning of "state agency" pursuant to this subsection (5) and may obtain a risk management program independent of the program created pursuant to this part 15. Nothing in this paragraph (b) shall be construed to affect the exempt status of any institution in the university of San Andreas system, including the university of San Andreas at Boulder, Denver, and San Andreas Springs, and the university of San Andreas health sciences center, from the state risk management system pursuant to section 24-30-1517 (2), or to require the governing board of any such institution in the university of San Andreas system to take formal action in order to be exempt from the definition of "state agency".

(6) "Workers' compensation" means protection afforded to a state employee pursuant to articles 40 to 47 of title 8, S.A.R.S.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 4, § 1, effective September 27. **L. 86:** (5) amended, p. 895, § 1, effective February 27; (4.5) added, p. 891, § 1, effective April 17; (5) amended, p. 536, § 40, effective July 1, 1987. **L. 86, 2nd Ex. Sess.:** (4.5) amended, p. 64, § 2, effective August 25. **L. 87:** (5) amended, p. 979, § 2, effective July 1; (4.3) added, p. 979, § 1, effective July 10. **L. 90:** (6) added, p. 1195, § 2, effective May 24. **L. 91:** (5) amended, p. 1913, § 25, effective June 1. **L. 95:** (3) amended, p. 650, § 58, effective July 1. **L. 96:** (2) repealed, p. 1503, § 17, effective June 1. **L. 2000:** (5) amended, p. 284, § 2, effective July 1. **L. 2002:** (4.3)

and (5) amended, p. 516, § 10, effective July 1. **L. 2004:** (5) amended, p. 602, § 2, effective July 1. **L. 2012:** (5)(b) amended, (HB 12-1081), ch. 210, p. 903, § 6, effective August 8. **L. 2021:** (4.5) amended, (HB 21-1316), ch. 325, p. 2025, § 34, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (3), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-30-1503. Risk management system. (1) Pursuant to section 13 of article XII of the state constitution, the executive director of the department of personnel shall appoint such personnel as may be necessary for the efficient operation of the risk management system.

(2) The powers, duties, and functions of the department of personnel include the powers, duties, and functions concerning risk management, specified by this part 15.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 4, § 1, effective September 27. **L. 95:** Entire section amended, p. 650, § 59, effective July 1. **L. 96:** Entire section amended, p. 1503, § 18, effective June 1. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3420, § 196, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-30-1503.5. Risk management system - independent program. (1) If an institution of higher education, the Auraria higher education center established in article 70 of title 23, S.A.R.S., or the San Andreas commission on higher education elects to be excluded from the meaning of "state agency" and to obtain an independent risk management program pursuant to section 24-30-1502 (5)(b), such institution, center, or commission shall conduct an analysis of the institution's, center's, or commission's ability to provide workers' compensation and the estimated property and liability losses, insurance costs, and administrative costs of risk management that the institution, center, or commission will incur by implementing an independent program.

(2) Before any institution of higher education, the Auraria higher education center established in article 70 of title 23, S.A.R.S., or the San Andreas commission on higher education implements an independent risk management program, the institution, center, or commission, as applicable, shall submit a written report detailing the findings of the analysis conducted pursuant to subsection (1) of this section to the president of the senate, the speaker of the house of representatives, the majority and minority leaders of the senate and the house of representatives, the members of the joint budget committee, the members of the business affairs and labor committee in the house of representatives, or any successor committee, and the members of the business, labor, and technology committee in the senate, or any successor committee.

(3) In the event that an institution of higher education, the Auraria higher education center established in article 70 of title 23, S.A.R.S., or the San Andreas commission on higher education implements an independent risk management program, the institution, center, or

commission shall conduct the analysis and submit the report required pursuant to this section within the existing resources of the institution, center, or commission, as applicable.

Source: L. 2004: Entire section added, p. 603, § 3, effective July 1. **L. 2007:** (2) amended, p. 2034, § 50, effective June 1. **L. 2012:** Entire section amended, (HB 12-1081), ch. 210, p. 904, § 7, effective August 8.

24-30-1504. Powers and duties of the department. (1) The department of personnel shall have the following powers and duties:

(a) To coordinate and administer a comprehensive risk management program that serves all state agencies;

(b) To administer, supervise, and manage the investigation and adjustment of claims brought against the state;

(c) To administer, supervise, and manage the legal defense of claims brought against the state;

(d) To recommend to the executive director those persons or parties who may contract with the state to provide claims investigation, claims adjustment, support services, or legal services;

(e) To assist and supervise any parties who have contracted with the state to provide claims investigation, claims adjustment, support services, or legal services pursuant to this part 15;

(f) To develop and administer a system that identifies the property and liability losses, insurance costs, and administrative costs of risk management incurred by each state agency;

(g) To establish and administer a program to reduce property and liability losses incurred by each state agency;

(h) To establish and administer a program of inspection of state property;

(i) To investigate and to direct or deny payment for claims for loss or damage to state property;

(j) To establish and administer a program for the payment or denial of liability claims arising prior to September 15, 1985, for which no commercial liability insurance exists;

(k) To establish and administer a workers' compensation self-insurance program for state employees or to procure commercial workers' compensation insurance therefor;

(l) To establish and administer a pilot program beginning July 1, 1999, for the purpose of developing a statewide database and uniform reporting system to track employment claims brought against state agencies and the losses incurred as a result of such claims. The pilot program shall include:

(I) A minimum of three agencies selected by the department of personnel, including at least one institution of higher education and one department of the executive branch other than the department of higher education; and

(II) Repealed.

(m) On and after July 1, 2001, to establish and administer a statewide database and uniform reporting system to track employment claims brought against state agencies and the losses incurred as a result of such claims, except as excluded pursuant to sections 24-30-1502 (5)(b) and 24-30-1517 (2).

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 4, § 1, effective September 27. **L. 86:** (1)(d) amended, p. 891, § 2, effective April 17. **L. 86, 2nd Ex. Sess.:** (1)(i) amended, p. 64, § 3, effective August 25. **L. 90:** (1)(j) and (1)(k) added, p. 1195, § 3, effective May 24. **L. 96:** IP(1) amended, p. 1504, § 19, effective June 1. **L. 99:** (1)(l) and (1)(m) added, p. 29, § 1, effective March 10. **L. 2002:** (1)(l)(II) repealed, p. 882, § 21, effective August 7. **L. 2004:** (1)(m) amended, p. 604, § 4, effective July 1.

24-30-1505. Powers of the executive director. (1) In order to perform the powers and duties set forth in this part 15, the executive director shall exercise the following powers:

(a) Supervise the development and administration of the following risk management programs:

(I) A comprehensive risk management program;

(II) A program identifying property and liability losses, insurance costs, and administrative costs of risk management incurred by each state agency;

(III) A program to reduce property and liability losses incurred by each state agency;

(IV) A program of inspection of state property;

(V) The pilot program described in section 24-30-1504 (1)(l) and the statewide database and uniform tracking system described in section 24-30-1504 (1)(m) for the purpose of tracking employment claims brought against state agencies and the losses incurred as a result of such claims, except as excluded pursuant to sections 24-30-1502 (5)(b) and 24-30-1517 (2). In developing and administering such programs, the executive director may:

(A) Adopt rules that define relevant terms including, but not limited to, "claims" and "losses"; and

(B) Require state agencies, including institutions of higher education, to submit such information as is necessary to implement the programs.

(b) Manage the investigation and adjustment of claims brought against the state;

(c) Manage the legal defense of claims brought against the state;

(d) Supervise any parties who have contracted with the state to provide claims investigation, claims adjustment, support services, or legal services pursuant to this part 15;

(e) Identify and evaluate the exposure of state agencies to claims for property and liability losses;

(f) Repealed.

(g) Assist state agencies to develop and use proper insurance and indemnity clauses in state contracts;

(h) Manage the investigation and adjustment of claims for loss or damage to state property;

(i) Investigate and direct or deny payment of liability claims arising prior to September 15, 1985, for which no commercial liability insurance exists;

(j) Manage the workers' compensation self-insurance program for state employees or the procurement of commercial workers' compensation insurance therefor.

(2) The executive director shall determine the need, if any, for procuring commercial insurance to protect the state against liability and the specifications for such insurance. The acquisition of any insurance shall be pursuant to the state "Procurement Code", articles 101 to 112 of this title 24. In the event that no responsible responses to an invitation for bids are received, the executive director may negotiate with any agent, broker, or insurance company to

secure the required coverage or necessary coverage. Such negotiated policy or policies shall be subject to the approval of the board.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 5, § 1, effective September 27. **L. 86:** (1)(f) repealed and (2) added, pp. 894, 891, §§ 10, 3, effective April 17. **L. 86, 2nd Ex. Sess.:** (1)(h) added, p. 64, § 4, effective August 25. **L. 90:** (1)(i) and (1)(j) added, p. 1195, § 4, effective May 24. **L. 96:** IP(1), (1)(a), and (2) amended, pp. 1504, 1520, §§ 20, 58, effective June 1. **L. 99:** (1)(a)(V) added, p. 30, § 2, effective March 10. **L. 2004:** IP(1)(a)(V) amended, p. 604, § 5, effective July 1. **L. 2017:** (2) amended, (HB 17-1051), ch. 99, p. 350, § 65, effective August 9.

24-30-1506. Claims investigation, claims adjustment, and support services. The executive director shall provide services for the investigation and adjustment of claims brought against the state or of any incident or occurrence likely to result in a claim against the state or of claims of state agencies for loss or damage to state property and for support services necessary for the processing of such claims. The executive director may purchase services for the investigation of claims, incidents, or occurrences, claims adjustment, and support services from any private agency, organization, or company recommended by the division.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 5, § 1, effective September 27. **L. 86:** Entire section amended, p. 892, § 4, effective April 17. **L. 86, 2nd Ex. Sess.:** Entire section amended, p. 64, § 5, effective August 25.

24-30-1507. Legal services. The executive director shall provide legal services for the defense of claims brought against the state and may in his or her discretion employ legal counsel to coordinate, direct, supervise, or otherwise aid in the investigation of any incident or occurrence likely to result in a claim against the state. The executive director may provide for those legal services through the state attorney general's office or, with the concurrence of the state attorney general, may purchase such legal services from any private law firm or attorney.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 5, § 1, effective September 27. **L. 86:** Entire section amended, p. 892, § 5, effective April 17. **L. 96:** Entire section amended, p. 1520, § 59, effective June 1.

24-30-1508. State claims board - creation. (1) There is hereby created the state claims board which shall consist of the executive director, the state treasurer, and the attorney general. The board may request the assistance of the commissioner of insurance on such occasions as it deems necessary.

(2) The state claims board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of personnel.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 5, § 1, effective September 27. **L. 95:** (2) amended, p. 651, § 60, effective July 1. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3420, § 197, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1995 act amending subsection (2), see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-30-1509. Powers and duties of the board. (1) The board shall have the following powers and duties:

(a) To oversee the management of the risk management fund created in section 24-30-1510;

(b) To compromise or settle claims on behalf of the state in the amounts authorized in section 24-30-1515 (2)(a)(V) and pursuant to the procedures set forth in section 24-30-1515;

(c) To adopt rules to govern its own organization and proceedings;

(d) To determine whether to recommend to the general assembly that the general assembly, by bill, authorize all or any portion of an additional payment to a claimant in accordance with the provisions of section 24-10-114 (5)(b).

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 6, § 1, effective September 27. **L. 92:** (1)(b) amended, p. 1083, § 2, effective July 1. **L. 2012:** (1)(d) added, (HB 12-1361), ch. 242, p. 1146, § 4, effective June 4.

24-30-1510. Risk management fund - creation - authorized and unauthorized payments. (1) (a) There is hereby created in the state treasury a fund to be known as the risk management fund, which shall consist of all moneys that may be appropriated thereto by the general assembly or that may be otherwise made available to it by the general assembly. Moneys "otherwise made available" shall be deemed to include transfers of moneys to the fund authorized in the general appropriation act. All interest earned from the investment of moneys in the risk management fund shall be credited to the risk management fund and become a part thereof. The moneys in the fund are hereby continuously appropriated for the purposes of the risk management fund other than the direct and indirect administrative costs of operating the risk management system. The general assembly shall make annual appropriations from the fund for the direct and indirect administrative costs of operating the risk management system that are attributable to the operation of the risk management fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(b) Notwithstanding any provision of this section to the contrary, on June 1, 2009, the state treasurer shall deduct ten million ten thousand five hundred ninety-nine dollars from the risk management fund and transfer such sum to the general fund.

(2) The risk management fund shall maintain reserves for incurred but unpaid claims, including general liability and automobile liability claims. The risk management fund shall maintain reserves to provide for the contingency that the reserves set aside in the fund to meet estimated expenses are inadequate to cover the actual expenses realized. The board after consultation with the executive director shall recommend the amount of money that is required to maintain adequate reserves. Adequate reserves shall be maintained in the risk management fund subject to available appropriations made by the general assembly in its discretion.

(3) Expenditures out of the risk management fund must be made in accordance with subsection (1) of this section and only for the following purposes:

(a) To pay liability claims and expenses related thereto, brought against the state, its officials, or its employees pursuant to the "San Andreas Governmental Immunity Act", article 10 of this title; claims against the state, its officials, or its employees arising under federal law, which the state is legally obligated to pay and which are compromised or settled pursuant to section 24-30-1515 or in which a final money judgment against the state has been entered; or claims for compensatory damages against the state, its officials, or its employees pursuant to section 24-34-405;

(b) To pay the administrative costs of operating the risk management system and the costs of purchasing services pursuant to sections 24-30-1506, 24-30-1507, and 24-30-1513;

(c) To procure and pay premiums for one or more policies of insurance purchased pursuant to this part 15 to protect against all or any portion of the potential liabilities of the state of San Andreas or of any state agency or its officers and employees;

(d) To pay any deductible or self-insured retention contained in any insurance policy purchased by or at the direction of the executive director;

(e) To pay liability claims and expenses related thereto when a state agency has contracted to defend and hold harmless the owner of property leased to the state agency for a state purpose if such contract limits the state's obligation to claims arising from alleged negligent acts or omissions of the state agency and of its public employees which occurred or are alleged to have occurred during the performance of their duties and within the scope of their employment, except where such acts or omissions are willful and wanton. Such claims shall be subject to the limitations of the "San Andreas Governmental Immunity Act", article 10 of this title. No such contract shall be valid unless approved in writing by the executive director and meets the requirements of this paragraph (e).

(f) To make payments in accordance with section 24-30-1510.7;

(g) To fund an employee assistance program established and operated by the executive director pursuant to section 24-50-604 (1)(k);

(h) To pay the defense of liability claims and expenses related thereto, brought against an expert witness or consultant who has statutory immunity from civil suit and who has been retained by a board or commission within the department of regulatory agencies, to render expert testimony or expert opinion or provide consultative advice, in connection with a prospective or pending disciplinary action, and who does render expert testimony or expert opinion, or provide consultative advice, to a board or commission within the department of regulatory agencies in good faith and within the scope of his or her expertise;

(i) To pay liability claims and expenses incurred pursuant to section 24-82-1005 (2).

(4) Moneys in the risk management fund shall not be used to pay any of the following:

(a) Claims brought pursuant to the "San Andreas Governmental Immunity Act", article 10 of this title, for which governmental immunity has not been waived pursuant to section 24-10-106;

(b) Claims which are actionable in contract except for claims relating to employment contracts and except for claims arising pursuant to paragraph (e) of subsection (3) of this section;

(c) Claims for liabilities or losses which are covered under commercial insurance policies purchased by the state;

(d) Expenses for complying with successful claims for injunctive relief;

(e) Any other claim or expense not set forth in subsection (3) of this section.

(5) As of July 1, 2000, Pinnacol Assurance created pursuant to section 8-45-101, S.A.R.S., is no longer included within, or part of, the risk management fund created pursuant to this section and the department of personnel assumes no responsibility and bears no financial obligation for the defense of, or liability for, any claims or lawsuits asserted against Pinnacol Assurance.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 6, § 1, effective September 27. **L. 86:** (2), (3)(a), and (3)(b) amended and (3)(c) and (3)(d) added, p. 892, § 6, effective April 17. **L. 86, 2nd Ex. Sess.:** (1) and (3)(c) amended, p. 65, § 6, effective August 25. **L. 88:** (3)(e) added and (4)(b) amended, p. 914, §§ 1, 2, effective April 20. **L. 90:** (3)(f) added, p. 1196, § 5, effective May 24. **L. 96:** (1), (2), (3)(b), (3)(d), and (3)(e) amended, pp. 1504, 1520, §§ 21, 60, effective June 1. **L. 2000:** (5) added, p. 285, § 3, effective July 1. **L. 2002:** (3)(g) added, p. 765, § 2, effective May 30; (5) amended, p. 1892, § 54, effective July 1. **L. 2004:** (3)(i) added, p. 1056, § 2, effective May 21; (3)(h) added, p. 620, § 1, effective July 1. **L. 2009:** (1) amended, (SB 09-279), ch. 367, p. 1927, § 8, effective June 1. **L. 2013:** (3)(a) amended, (HB 13-1136), ch. 168, p. 554, § 2, effective August 7. **L. 2020:** IP(3) and (3)(f) amended, (SB 20-136), ch. 70, p. 293, § 39, effective September 14.

Cross references: For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020.

24-30-1510.3. Risk management fund - state employee workers' compensation account - assessment of risks to institutions of higher education. In determining the amount of risk assessed to institutions of higher education for purposes of making recommendations to the joint budget committee on the amount of appropriations necessary to reflect the risks attributable to institutions of higher education for the risk management fund and for the state employee workers' compensation account in the risk management fund, the executive director shall base such assessments and recommendations on actuarially sound analyses that appropriately and fairly reflect the accurate risks and claim experience attributable to institutions of higher education.

Source: L. 95: Entire section added, p. 108, § 1, effective March 30. **L. 96:** Entire section amended, p. 1521, § 61, effective June 1.

24-30-1510.5. Self-insured property fund - creation - authorized and unauthorized payments - executive director authorized to make payments. (1) (a) There is hereby created in the state treasury a fund to be known as the self-insured property fund, which shall consist of all moneys that may be appropriated thereto by the general assembly or which may be otherwise made available to it by the general assembly. Moneys "otherwise made available" shall be deemed to include transfers of moneys to the fund authorized in the general appropriation act. All interest earned from the investment of moneys in the self-insured property fund shall be credited to the self-insured property fund and become a part thereof. The moneys in the fund are hereby continuously appropriated for the purposes of the self-insured property fund other than the direct and indirect administrative costs of operating the risk management system. The

general assembly shall make annual appropriations from the fund for the direct and indirect administrative costs of operating the risk management system that are attributable to the operation of the self-insured property fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(b) Notwithstanding any provision of this section to the contrary, on June 1, 2009, the state treasurer shall deduct one million two hundred ninety-five thousand fifty-five dollars from the self-insured property fund and transfer such sum to the general fund.

(2) The self-insured property fund shall maintain reserves for incurred but unpaid loss or damage claims to state property. The self-insured property fund shall maintain reserves to provide for the contingency that the reserves set aside in the fund to meet estimated expenses are inadequate to cover the actual expenses realized. The executive director shall recommend the amount of money that is required to maintain adequate reserves. Adequate reserves shall be maintained in the self-insured property fund subject to available appropriations made by the general assembly in its discretion.

(3) Expenditures shall be made out of the self-insured property fund in accordance with subsection (1) of this section only for the following purposes:

(a) To pay claims for loss or damage to state property subject to the following conditions:

(I) Claims for loss or damage to real property shall be based on replacement cost;

(II) Claims for loss or damage to personal property shall be based on actual cash value;

(III) The loss or damage to property on which the claim is based shall have been caused by one or more of the hazards covered under the self-insured property fund as set forth in subsection (5) of this section;

(IV) The principal state department shall pay a five-thousand-dollar deductible for each occurrence;

(b) To procure and pay premiums for one or more policies of insurance purchased pursuant to this part 15 to protect against loss or damage to state property;

(c) To pay the administrative costs of operating the risk management system.

(4) Moneys in the self-insured property fund shall not be used to pay the following:

(a) Claims for loss or damage to state property which are specifically insured by a commercial insurance policy;

(b) Claims for extra expense and normal wear and tear.

(5) The self-insured property fund shall provide self-insurance for loss or damage to state property due to the following hazards:

(a) Fire and lightning; except that coverage shall not be provided if the state agency does not report such incident or occurrence to the appropriate fire department;

(b) Windstorm and hail;

(c) Debris removal in connection with a hazard that is covered under the self-insured property fund;

(d) Explosion;

(e) Sudden and accidental damage from smoke;

(f) Vandalism and malicious mischief;

(g) Theft of state-owned property; except that coverage shall not be provided if the state agency does not report such theft to the appropriate law enforcement agency;

(h) Damage from the weight of ice or snow; except that outdoor equipment, awnings, fences, pavements, patios, swimming pools, wharves, and docks are not covered;

(i) Flood;

(j) Earthquake;

(k) Business interruption if the state is obligated under the terms of a lease or bond issue to continue making payments on the state property after the loss or damage has occurred and if the business interruption is caused by a hazard that is covered under the self-insured property fund;

(l) Any other hazard that the executive director determines pursuant to rule and regulation is appropriate for inclusion under the self-insured property fund.

(6) The executive director or a designee of the executive director is authorized to pay property claims of a state agency subject to available funds in the self-insured property fund and subject to the limitations in this section. The executive director or a designee of the executive director is authorized to provide for the repair and replacement of property consistent with the provisions of this part 15 and is authorized to provide for the payment of the costs of such repair and replacement out of the self-insured property fund. Disbursements from the self-insured property fund for claims of state agencies for loss or damage to property shall be paid by the state treasurer upon warrants drawn in accordance with the law upon vouchers issued by the department of personnel.

(7) Repealed.

Source: L. 86, 2nd Ex. Sess.: Entire section added, p. 65, § 7, effective August 25. **L. 88:** (7) repealed, p. 914, § 3, effective April 20. **L. 96:** (1), (2), (3)(c), (5)(l), and (6) amended, pp. 1505, 1521, §§ 22, 62, effective June 1. **L. 2009:** (1) amended, (SB 09-279), ch. 367, p. 1927, § 9, effective June 1. **L. 2010:** (3)(a)(IV) amended, (HB 10-1181), ch. 351, p. 1622, § 9, effective June 7.

24-30-1510.6. Claims arising prior to September 15, 1985. (Repealed)

Source: L. 90: Entire section added, p. 1196, § 6, effective May 24.

Editor's note: Subsection (3)(b) provided for the repeal of this section, effective January 1, 1995. (See L. 90, p. 1196.)

24-30-1510.7. Workers' compensation for state employees - state employees' workers' compensation settlement agreements - definition. (1) (a) There is hereby created, as a separate account in the risk management fund, the state employee workers' compensation account, which consists of all moneys that may be appropriated thereto by the general assembly and that may be otherwise made available to it by the general assembly for the purpose of establishing a workers' compensation self-insurance program for state employees or for the procurement of commercial workers' compensation insurance in accordance with subsection (2) of this section. Moneys "otherwise made available" include transfers of moneys to the account authorized in the general appropriation act. The moneys in the account are continuously appropriated for the purposes of the state employee workers' compensation account other than the direct and indirect administrative costs of operating the risk management system, including

legal services, litigation expenses, and third-party administrator expenses. The general assembly shall make annual appropriations from the account for the direct and indirect administrative costs of operating the risk management system, including legal services, litigation expenses, and third-party administrator expenses, that are attributable to the operation of the state employee workers' compensation account. At the end of any fiscal year, all unexpended and unencumbered moneys in the account must remain in the account and may not be credited or transferred to the general fund or any other fund. All interest earned from the investment of moneys in the account pursuant to this section must be credited to and become part of the account.

(b) (Deleted by amendment, L. 2014.)

(2) Expenditures shall be made out of the state employee workers' compensation account in the risk management fund in accordance with subsection (1) of this section only for the following purposes:

(a) To pay workers' compensation benefits to state employees in accordance with articles 40 to 47 of title 8, S.A.R.S., and to pay the administrative costs of operating the department of personnel in relation to the workers' compensation self-insurance program for state employees;

(b) To pay the premium for commercial workers' compensation insurance, if the state elects not to be self-insured for workers' compensation purposes.

(3) Prior to July 1, 1990, nothing in this section shall apply to the department of institutions; but this section shall apply to the department of human services beginning on July 1, 1990.

(4) Amounts which are recorded in the state employee workers' compensation account as claims, including reserves, but which are not required to be paid in the current fiscal year shall not be considered as expenditures in excess of the amount authorized by an item of appropriation for purposes of section 24-75-109.

(5) (a) (I) Notwithstanding section 8-44-105, S.A.R.S., if the state elects to self-insure workers' compensation claims as authorized in this section or to insure for such claims through an entity other than Pinnacol Assurance, created in section 8-45-101, S.A.R.S., on and after the effective date of such election, the state shall be directly and primarily liable for all liabilities due on all workers' compensation claims after such election that arise on and after the beginning date of the initial policy period in the annually renewable memorandum of agreement containing a premium payment plan in effect between the state and Pinnacol Assurance.

(II) In no event shall the department of personnel elect to self-insure for workers' compensation claims prior to the beginning of a fiscal year in which the general assembly appropriates sufficient funds for such self-insurance.

(b) (I) Funding of the liability obligations assumed by the state from Pinnacol Assurance pursuant to paragraph (a) of this subsection (5) beyond a current fiscal year is contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

(II) Nothing in this paragraph (b) shall be construed to relieve the state of any liability obligation if the state elects to self-insure or insure through an entity other than Pinnacol Assurance pursuant to paragraph (a) of this subsection (5).

(c) Notwithstanding the provisions of section 8-44-201 (1), S.A.R.S., if the state elects to self-insure workers' compensation claims as authorized in this section, the executive director of the department of labor and employment shall not prescribe or apply security requirements in granting or continuing permission for such state self-insurance program.

(6) When communicating with or reaching an agreement with a state employee about a workers' compensation claim, the state shall neither suggest nor require:

(a) That the state employee resign from state employment;

(b) That the state employee refrain from seeking or obtaining employment with the state in the future; or

(c) That any other restrictions be placed on the state employee's ability to work for the state.

(7) A provision of an agreement, contract, or arrangement that violates subsection (6) of this section is void and unenforceable, but all other provisions of such an agreement, contract, or arrangement remain enforceable unless otherwise prohibited by law.

(8) As used in this section, "state employee" means an individual who currently is or was in the past employed by the state, whether or not the individual is under the state personnel system or exempt from the state personnel system.

(9) Pursuant to the legislative intent to explore the availability of insurance policies as declared in section 24-30-1501 (1), if the state elects to self-insure workers' compensation claims, the department of personnel shall send or cause to be sent a request for interest to Pinnacol Assurance and at least five other insurance companies that provide workers' compensation insurance in San Andreas; except that the department of personnel shall not send a request for interest to Pinnacol Assurance more than once every three years. The department shall send the requests for interest in accordance with this section in 2026 and at least once every three years thereafter. Each request for interest must request the following information from each responding insurance company for the following calendar year:

(a) An estimate of the total cost to the state to purchase workers' compensation insurance;

(b) The company's ability to provide workers' compensation insurance that would cover all state employees; and

(c) A detailed description of the workers' compensation coverage that the company would provide.

(10) For each request for interest obtained pursuant to subsection (9) of this section, the department of personnel shall prepare and submit a report to the general assembly no later than December 10 of each year. Each report must specify:

(a) The name of the responding insurance company, unless the department received only one response in which case the name of the sole responding insurance company will be redacted from the report;

(b) The total cost estimated by the responding insurance company to provide workers' compensation insurance coverage to the state;

(c) Whether purchasing workers' compensation insurance from the responding insurance company would require the state to contract with a third-party administrator, and what the additional cost to the state would be, if any;

(d) A detailed description of the workers' compensation coverage that the responding insurance company would provide;

(e) The costs associated with the self-insurance selected by the state for the current calendar year, including a breakdown of that cost which must include, but is not limited to, indemnity benefits, medical benefits, costs paid to third party administrators and an identification of those third party administrators, actuarial costs, premiums paid for out of state

insurance, each state department's costs, actual or estimated costs of litigation, and other permits, fees, payments and expenditures related to the state's self-insurance of workers' compensation claims; and

(f) Whether the state's costs related to self-insurance of workers' compensation claims increased or decreased compared to the previous calendar year.

(11) In addition to the report requirements specified in subsection (10) of this section, the first report must specify, over the previous three years, to which insurance companies the state sent requests of interest, the total number of insurance companies that responded to the requests, and the estimated cost reported in each received response, if any.

Source: L. 90: Entire section added, p. 1196, § 6, effective May 24. **L. 93:** (5) added, p. 1684, § 1, effective June 6. **L. 94:** (3) amended, p. 2694, § 231, effective July 1. **L. 96:** (2)(a) and (5)(a)(II) amended, p. 1521, § 63, effective June 1. **L. 97:** (5)(c) added, p. 51, § 2, effective July 1. **L. 2002:** (5)(a)(I) and (5)(b) amended, p. 1892, § 55, effective July 1. **L. 2009:** (1) amended, (SB 09-279), ch. 367, p. 1928, § 10, effective June 1. **L. 2014:** (1) amended, (SB 14-120), ch. 90, p. 338, § 1, effective March 27. **L. 2024:** (6), (7), (8), (9), (10), and (11) added, (SB 24-149), ch. 482, p. 3378, § 1, effective June 7.

24-30-1511. State treasurer to invest funds. The state treasurer shall invest any portion of the risk management fund, including its reserves, which the executive director and the board determine is not needed for immediate use. The state treasurer shall invest any portion of the self-insured property fund, including its reserves, which the executive director determines is not needed for immediate use. The state treasurer shall invest any portion of the state employee workers' compensation account in the risk management fund, including its reserves, which the executive director determines is not needed for immediate use. Such moneys may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 7, § 1, effective September 27. **L. 86, 2nd Ex. Sess.:** Entire section amended, p. 67, § 8, effective August 25. **L. 90:** Entire section amended, p. 1197, § 7, effective May 24. **L. 96:** Entire section amended, p. 1522, § 64, effective June 1. **L. 97:** Entire section amended, p. 1016, § 28, effective August 6.

24-30-1511.5. State self-insurance funds - transfers - definition. (1) As used in this section, "state self-insurance fund" means the risk management fund created in section 24-30-1510 (1) excluding the state employee workers' compensation account; the self-insured property fund created in section 24-30-1510.5; or the state employee workers' compensation account in the risk management fund created in section 24-30-1510.7.

(2) If there is an insufficient cash balance in a state self-insurance fund for any allowable expenditure other than the direct and indirect administrative costs of operating the risk management system, then the executive director may request the state treasurer to transfer money from another state self-insurance fund's reserve balance to the fund with the deficiency. The amount of the requested transfer shall not exceed the amount of the deficiency. The state treasurer shall transfer the money between the state self-insurance funds as requested. In the next annual general appropriations act that is enacted after the transfer is made, the general assembly

shall appropriate an amount equal to the transfer to the state self-insurance fund from which the money was deducted, in addition to any other amounts appropriated to the fund.

(3) The department of personnel may expend the money transferred in accordance with subsection (2) of this section for any purpose for which money in the state self-insurance fund is continuously appropriated but shall not expend any of the money for the direct and indirect administrative costs of operating the risk management system.

Source: L. 2017: Entire section added, (SB 17-175), ch. 11, p. 34, § 1, effective March 1.

24-30-1512. Risk management fund and self-insured property fund not subject to insurance laws. The setting aside of reserves for self-insurance purposes in the risk management fund created in section 24-30-1510, in the self-insured property fund created in section 24-30-1510.5, and in the state employee workers' compensation account in the risk management fund created in section 24-30-1510.7, shall not be construed to be creating an insurance company, nor shall the risk management fund or the self-insured property fund otherwise be subject to the provisions of the laws of this state regulating insurance or insurance companies. The requirements of section 10-4-624, S.A.R.S., concerning motor vehicle self-insurance are not applicable to this part 15.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 7, § 1, effective September 27. **L. 86, 2nd Ex. Sess.:** Entire section amended, p. 67, § 9, effective August 25. **L. 90:** Entire section amended, p. 1197, § 8, effective May 24. **L. 97:** Entire section amended, p. 1016, § 29, effective August 6. **L. 2003:** Entire section amended, p. 1572, § 9, effective July 1.

24-30-1513. State auditor - examination - report. (1) The state auditor or any person authorized by the state auditor shall conduct an examination in accordance with section 2-3-103 to determine that proper underwriting techniques, sound funding procedures, loss reserves, claims procedures, and accounting practices are being followed in the management and operation of the risk management fund, the self-insured property fund, and the state employee workers' compensation account in the risk management fund.

(2) The state auditor shall present a report of his or her findings concerning:

(a) The risk management fund to the board and to the general assembly; and

(b) The self-insured property fund and the state employee workers' compensation account to the general assembly.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 7, § 1, effective September 27. **L. 86, 2nd Ex. Sess.:** Entire section amended, p. 67, § 10, effective August 25. **L. 90:** Entire section amended, p. 1198, § 9, effective May 24. **L. 2017:** Entire section amended, (SB 17-294), ch. 264, p. 1401, § 69, effective May 25.

24-30-1514. Report. (Repealed)

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 7, § 1, effective September 27. **L. 86, 2nd Ex. Sess.:** Entire section amended, p. 68, § 11, effective August 25. **L. 96:** Entire section repealed, p. 1270, § 200, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing this section, see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-30-1515. Compromise or settlement of claims - authority. (1) A claim against the state or against a state official or employee whose defense has been assumed by the state may be compromised or settled on behalf of the state according to the requirements set forth in subsection (2) of this section. Prior to settling a claim of more than fifty thousand dollars, the board or the person authorized to settle the claim shall consult with the head of the affected state agency to assess the appropriateness of the proposed compromise or settlement amount. In settling a claim, the board or the person authorized to settle the claim may require the execution and presentation of those documents required by rule and regulation including those documents which discharge or hold harmless the state of all liability under the claim.

(2) (a) The following parties are authorized to make compromises or settlements on behalf of the state in the following amounts:

(I) A claims adjuster employed by the department of personnel or under contract with the department of personnel is authorized to settle claims for an amount not to exceed five thousand dollars;

(II) The claims manager of the department of personnel is authorized to settle and direct payment in settlement of claims for an amount not to exceed twenty-five thousand dollars;

(III) The state risk manager is authorized to settle and direct payment in settlement of claims for an amount not to exceed fifty thousand dollars;

(IV) The executive director is authorized to settle and direct payment in settlement of claims for an amount not to exceed one hundred thousand dollars;

(V) The board is authorized to settle and direct payment in settlement of claims for an amount of one hundred thousand dollars or more but not to exceed the maximum liability limits under the "San Andreas Governmental Immunity Act", as set forth in section 24-10-114.

(b) The board is authorized to settle and direct payments in settlement of claims brought under federal law.

(3) Disbursements from the risk management fund for claims compromised or settled in accordance with this part 15 shall be paid by the state treasurer upon warrants drawn in accordance with law upon vouchers issued by the department of personnel upon order of the board or person authorized in subsection (2) of this section to make such compromise or settlement.

(4) The provisions of the "State Administrative Procedure Act", article 4 of this title, shall not be applicable to the payment or settlement of claims pursuant to this part 15. Any person or party adversely affected or aggrieved in compromising or settling a claim shall pursue such remedy in a district court of this state pursuant to the San Andreas rules of civil procedure.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 7, § 1, effective September 27. **L. 86:** (1) and (2)(b) to (2)(e) amended, p. 893, § 7, effective April 17. **L. 92:** (2) amended, p. 1082, § 1, effective July 1. **L. 96:** (2)(a)(I), (2)(a)(II), and (3) amended, p. 1522, § 65, effective June 1.

24-30-1516. Rules and regulations. (1) In order to carry out the purposes of this part 15, the executive director may promulgate reasonable rules and regulations governing the following:

(a) The administration of the programs authorized in this part 15;

(b) The management and administration of the investigation and adjustment of claims brought against the state, its officials, and its employees and of claims of state agencies for loss or damage to state property;

(c) The management and administration of legal defense of claims brought against the state, its officials, and its employees;

(d) The general supervision of parties who have contracted with the state to provide claims investigation, claims adjustment, support services, or legal services;

(e) Specifications on documents required to present a claim for compromise or settlement;

(f) Specifications on documents required to discharge or hold harmless the state from liability under a claim;

(g) Standards for compromising and settling claims brought against the state or against a state official or employee whose defense has been assumed by the state.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 8, § 1, effective September 27. **L. 86:** (1)(d) amended, p. 893, § 8, effective April 17. **L. 86, 2nd Ex. Sess.:** (1)(b) amended, p. 68, § 12, effective August 25. **L. 96:** (1) amended, p. 1522, § 66, effective June 1.

24-30-1517. Applicability. (1) With respect to claims covered under the risk management fund, until January 1, 1995, section 24-30-1510 shall apply to claims arising on or after September 15, 1985, and on and after January 1, 1995, section 24-30-1510 shall apply to claims whenever arising. With respect to claims for loss or damage to state property covered under the self-insured property fund, this part 15 shall apply to claims arising on or after July 1, 1986. With respect to claims for workers' compensation made by state employees, other than employees of the department of human services, this part 15 shall apply to claims arising on or after May 24, 1990. With respect to claims for workers' compensation made by employees of the department of human services, this part 15 shall apply to claims arising on or after July 1, 1990.

(2) Nothing in this part 15 shall apply to the university of San Andreas system, including the university of San Andreas at Boulder, Denver, and San Andreas Springs and the university of San Andreas health sciences center.

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 8, § 1, effective September 27. **L. 86, 2nd Ex. Sess.:** (1) amended, p. 68, § 13, effective August 25. **L. 90:** (1) amended, p. 1198, § 10, effective May 24. **L. 94:** (1) amended, p. 2694, § 232, effective July 1. **L. 2004:** (2) amended, p. 604, § 6, effective July 1.

24-30-1518. Repeal of part. (Repealed)

Source: L. 85, 1st Ex. Sess.: Entire part added, p. 9, § 1, effective September 27. **L. 86:** Entire section repealed, p. 894, § 10, effective April 17.

24-30-1519. Insurance policies. The procurement of any property or liability insurance policy by any state agency shall be coordinated through and approved by the department of personnel. State agencies are encouraged to submit any other insurance policy to the department of personnel for review and evaluation.

Source: L. 86: Entire section added, p. 893, § 9, effective April 17. **L. 96:** Entire section amended, p. 1523, § 67, effective June 1.

24-30-1520. Authorization by law to settle claims or to pay judgments. This part 15 is an authorization by law pursuant to section 33 of article V of the San Andreas constitution to settle claims brought against the state, its officials, or its employees or to pay judgments against the state, its officials, or its employees. No moneys in the state treasury shall be disbursed therefrom for the settlement of a claim brought against the state, its officials, or its employees or for the payment of judgments against the state, its officials, or its employees except as provided in this part 15.

Source: L. 86: Entire section added, p. 894, § 9, effective April 17.

PART 16

GENERAL GOVERNMENT COMPUTER CENTER (GGCC)

24-30-1601 to 24-30-1608. (Repealed)

Source: L. 2008: Entire part repealed, p. 1131, § 18, effective May 22.

Editor's note: This part 16 was added in 1986. For amendments to this part 16 prior to its repeal in 2008, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. Provisions of this part 16 were relocated to part 6 of article 37.5 of this title. For the location of specific provisions, see the editor's notes following those sections that were relocated in said part 6.

PART 17

COMMISSION ON INFORMATION MANAGEMENT

24-30-1701 to 24-30-1704. (Repealed)

Source: L. 99: Entire part repealed, p. 873, § 4, effective July 1.

Editor's note: This part 17 was added in 1987. For amendments to this part 17 prior to its repeal in 1999, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 18

STATEWIDE TELECOMMUNICATIONS NETWORK

24-30-1801. Legislative declaration. (1) The general assembly hereby finds and declares that there is a lack of coordination among the various state agencies regarding the utilization of telecommunications facilities and services. The general assembly further finds that better coordination of such facilities and services, particularly among the governing boards of the institutions of higher education, the department of higher education, the department of education, and the school districts across the state, would result in improved education programs and a more cost-effective telecommunications system. The use of telecommunications services and facilities to expand educational opportunity, however, does not mean that the role of the teacher in the classroom should be diminished.

(2) The general assembly hereby finds that the development and use of a statewide telecommunications network will accelerate economic development within the state. The general assembly further finds that cooperation and participation by medical and health facilities, public and private economic development organizations, the judicial system, and local governments in developing a statewide telecommunications network will facilitate expansion of such network to its full potential and encourage economic growth and development within San Andreas.

Source: L. 89: Entire part added, p. 1029, § 1 effective April 15. **L. 90:** Entire section amended, p. 1136, § 3, effective May 23. **L. 93:** Entire section amended, p. 1700, § 1, effective June 6. **L. 97:** Entire part amended, p. 1017, § 30, effective August 6.

24-30-1801.5. Definitions. (Deleted by amendment)

Source: L. 93: Entire section added, p. 1701, § 3, effective June 6. **L. 97:** Entire part amended, p. 1017, § 30, effective August 6.

Editor's note: This section was deleted by amendment in 1997. (See L. 97, p. 1017.)

24-30-1802. Advisory commission on telecommunications. (Repealed)

Source: L. 89: Entire part added, p. 1029, § 1, effective April 15. **L. 90:** (1) amended, p. 1136, § 4, effective May 23. **L. 91:** (3)(a) amended, p. 696, § 12, effective April 20. **L. 93:** (3)(a) amended, p. 1701, § 2, effective June 6. **L. 95:** (1) amended, p. 653, § 67, effective July 1. **L. 97:** Entire part amended, p. 1017, § 30, effective August 6.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 1995. (See L. 93, p. 1701.) Although the section was repealed in 1995, it was contained in a 1997 act that amended the entire part.

24-30-1803. Telecommunications plan - staff. (Deleted by amendment)

Source: L. 89: Entire part added, p. 1030, § 1, effective April 15. **L. 90:** (1) amended and (3) and (4) added, p. 1136, § 5, effective May 23. **L. 96:** (1) amended, p. 1270, § 198, effective August 7. **L. 97:** Entire part amended, p. 1017, § 30, effective August 6.

Editor's note: This section was deleted by amendment in 1997. (See L. 97, p. 1017.)

24-30-1804. Institutions of higher education - statewide telecommunications network. All institutions of higher education in this state which utilize telecommunications programs or operations shall cooperate in the establishment of a statewide telecommunications network. The San Andreas commission on higher education shall facilitate the establishment of the statewide telecommunications network and, in the event that such a network is not established by July 1, 1992, the commission shall promulgate rules and regulations requiring such a network.

Source: L. 89: Entire part added, p. 1030, §1, effective April 15. **L. 96:** Entire section amended, p. 1270, § 199, effective August 7. **L. 97:** Entire part amended, p. 1018, § 30, effective August 6.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-30-1805. Demonstration project. (Deleted by amendment)

Source: L. 93: Entire section added, p. 1701, § 3, effective June 6. **L. 97:** Entire part amended, p. 1019, § 30, effective August 6.

Editor's note: This section was deleted by amendment in 1997. (See L. 97, p. 1019.)

24-30-1806. Policy recommendations. (Deleted by amendment)

Source: L. 93: Entire section added, p. 1701, § 3, effective June 6. **L. 97:** Entire part amended, p. 1019, § 30, effective August 6.

Editor's note: This section was deleted by amendment in 1997. (See L. 97, p. 1019.)

PART 19

STATE BUILDING ENERGY MANAGEMENT PLANS

24-30-1901 to 24-30-1907. (Repealed)

Editor's note: (1) This part 19 was added in 1993. For amendments to this part 19 prior to its repeal in 1996, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-30-1907 provided for the repeal of this part 19, effective January 1, 1996. (See L. 93, p. 917.)

PART 20

UTILITY COST-SAVINGS MEASURES

24-30-2001. Definitions. As used in this part 20, unless the context otherwise requires:

(1) "Energy cost-savings contract" means a utility cost-savings contract or a vehicle fleet operational and fuel cost-savings contract.

(1.3) "Energy cost-savings measure" means a utility cost-savings measure or a vehicle fleet operational and fuel cost-savings measure.

(1.5) "Energy performance contract" means a contract for evaluations, recommendations, or implementation of one or more energy cost-savings measures designed to produce utility cost savings, operation and maintenance cost savings, or vehicle fleet operational and fuel cost savings, which contract:

(a) Sets forth savings attributable to the calculated energy cost savings or operation and maintenance cost savings for each year during the contract period;

(b) Provides that the amount of actual savings for each year during the contract period shall exceed annual contract payments, including maintenance costs, to be made during such year by the state agency contracting for the energy cost-savings measures; except that, for the purposes of this part 20 only, the term "annual contract payments" does not include moneys received by the state from rebates, gifts, grants, or donations specifically designated by the gifting, granting, or donating party for the design or implementation of an energy cost-savings measure or state moneys that have been specifically appropriated in a distinct line item, or, in the case of the department of transportation, otherwise set aside in the department's budget, for the design or implementation of an energy cost-savings measure that is wholly addressed within the scope of the energy cost-savings contract;

(c) Requires the party entering into the energy performance contract with the state agency to provide a written guarantee that the sum of energy cost savings and operation and maintenance cost savings for each year during the first three years of the contract period shall not be less than the calculated savings for that year described in paragraph (a) of this subsection (1.5); and

(d) Requires payments by a state agency to be made within twelve years after the date of the execution of the contract; except that the maximum term of the payments shall be less than the cost-weighted average useful life of energy cost-savings equipment for which the contract is made, not to exceed twenty-five years.

(2) "Operation and maintenance cost savings" means a measurable decrease in operation and maintenance costs that is a direct result of the implementation of one or more utility cost-savings measures or one or more vehicle fleet operational and fuel cost-savings measures. Such savings shall be calculated in comparison with an established baseline of operation and maintenance costs.

(3) "Shared-savings contract" means a contract for one or more energy cost-savings measures that do not involve capital equipment projects, which contract:

(a) Provides that all payments to be made by the state agency contracting for the energy cost-savings measures shall be a stated percentage of calculated savings of energy costs attributable to such measures over a defined period of time and that such payments shall be made only to the extent that such savings occur; except that this paragraph (a) shall not apply to payments for maintenance and repairs and obligations on termination of the contract prior to its expiration;

(b) Provides for an initial contract period of no longer than ten years; and

(c) Requires no additional capital investment or contribution of funds.

(4) "State agency" means a department or institution of this state, including institutions of higher education.

(5) "Utility cost savings" means:

(a) A cost savings caused by a reduction in metered or measured physical quantities of a bulk fuel or utility resulting from the implementation of one or more energy conservation measures when compared with an established baseline of usage; or

(b) A decrease in utility costs as a result of changes in applicable utility rates or utility service suppliers. The savings shall be calculated in comparison with an established baseline of utility costs.

(6) "Utility cost-savings contract" means an energy performance contract or a shared-savings contract or any other agreement in which utility cost savings are used to pay for services or equipment.

(7) "Utility cost-savings measure" means any installation, modification, or service that is designed to reduce energy consumption and related operating costs in buildings and other facilities and includes, but is not limited to, the following:

(a) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;

(b) Heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants;

(c) Automatic energy control systems;

(d) Replacement or modification of lighting fixtures;

(e) Energy recovery systems;

(f) Renewable energy and alternate energy systems;

(g) Cogeneration systems that produce steam or forms of energy, such as heat or electricity, for use primarily within a building or complex of buildings;

(h) Devices that reduce water consumption or sewer charges;

(i) Changes in operation and maintenance practices;

(j) Procurement of low-cost energy supplies of all types, including electricity, natural gas, and other fuel sources, and water;

(k) Indoor air quality improvements that conform to applicable building code requirements;

(l) Daylighting systems;

(m) Building operation programs that reduce utility and operating costs including, but not limited to, computerized energy management and consumption tracking programs, staff and occupant training, and other similar activities;

(n) Services to reduce utility costs by identifying utility errors and optimizing existing rate schedules under which service is provided; and

(o) Any other location, orientation, or design choice related to, or installation, modification of installation, or remodeling of, building infrastructure improvements that produce utility or operational cost savings for their appointed functions in compliance with applicable state and local building codes.

(8) "Vehicle fleet operational and fuel cost savings" means a measurable decrease in the operation and maintenance costs of state vehicles that is associated with fuel or maintenance based on higher efficiency ratings or alternative fueling methods, including but not limited to savings from the reduction in maintenance requirements and a reduction in or the elimination of projected fuel purchase expenses as a direct result of investment in higher efficiency or alternative fuel vehicles or vehicle or charging infrastructure.

(9) "Vehicle fleet operational and fuel cost-savings contract" means an energy performance contract or shared-savings contract or any other agreement in which vehicle fleet operational and fuel cost savings are used to pay for the cost of the vehicle or associated capital investments.

(10) "Vehicle fleet operational and fuel cost-savings measure" means any installation, modification, or service that is designed to reduce energy consumption and related operating costs in vehicles and includes, but is not limited to, the following:

(a) Vehicle purchase or lease costs either in full or in part;

(b) Charging or fueling infrastructure to appropriately charge or fuel alternative fuel vehicles included in an energy cost-savings contract.

Source: L. 2001: Entire part added, p. 1088, § 1, effective August 8. **L. 2010:** (1)(b) and (7)(o) amended, (SB 10-207), ch. 410, p. 2027, § 2, effective June 10. **L. 2013:** (1), (2), IP(3), and (3)(a) amended and (1.3), (1.5), (8), (9), and (10) added, (SB 13-254), ch. 403, p. 2358, § 1, effective June 5.

24-30-2002. Contracts for energy analysis and recommendations. (1) Subject to subsection (2) of this section, and in accordance with section 24-30-1104 (2), where applicable, a state agency may contract with any entity or person experienced in the design and implementation of energy conservation for an energy analysis and recommendations pertaining to measures that would significantly increase:

(a) Utility cost savings and operation and maintenance cost savings in buildings or other facilities owned or rented by the state agency; or

(b) Vehicle fleet operational and fuel cost savings in state fleet vehicles.

(2) The state personnel director or the state personnel director's designee may authorize a state agency to enter into such a contract. The contract shall be negotiated by the state agency pursuant to the negotiation requirements described in part 14 of this article; except that direct, indirect, overhead, and other costs and rates may be solicited and considered in the evaluation of qualifications and included in any resulting contract. The contract may include provisions that define the rate, amount, and nature of costs that may be proposed in any subsequent energy cost-savings contract, that describe the content of the analysis, and that reserve the option of the state agency to negotiate a suitable energy cost-savings contract.

(3) Such energy analysis and recommendations shall include the following, as applicable:

(a) Estimates of the amounts by which utility cost savings and operation and maintenance cost savings would increase and estimates of all costs of such utility cost-savings measures or energy-savings measures, including, but not limited to, itemized costs of design, engineering, equipment, materials, installation, maintenance, repairs, and debt service; or

(b) Estimates of the amounts by which vehicle fleet operational and fuel cost savings would increase and estimates of all costs of such vehicle fleet operational and fuel cost-savings measures.

(4) Payment by a state agency for an energy analysis and recommendations contract may be made from moneys appropriated to the state agency for operating expenses or utilities, as applicable, or payments may be deferred and incorporated into a subsequent energy cost-savings contract.

Source: L. 2001: Entire part added, p. 1090, § 1, effective August 8. **L. 2013:** Entire section amended, (SB 13-254), ch. 403, p. 2360, § 2, effective June 5.

24-30-2003. Energy cost-savings contracts. (1) A state agency may enter into an energy cost-savings contract with any person or entity experienced in the design and implementation of utility cost-savings measures for buildings or other facilities, with any person or entity experienced in the calculation and analysis of vehicle fleet operational and fuel cost savings, or with the entity or person who performed the energy analysis and recommendations pursuant to section 24-30-2002 if:

(a) (I) In the case of a utility cost-savings contract, the energy analysis and recommendations made pursuant to section 24-30-2002 indicate that the expected annual contract payments required under the utility cost-savings contract and any additional maintenance costs for one or more utility cost-savings measures are expected to be equal to or less than the sum of the utility cost savings and operation and maintenance cost savings achieved by the implementation of such measures on an annual basis; or

(II) In the case of a vehicle fleet operational and fuel cost-savings contract, the energy analysis and recommendations made pursuant to section 24-30-2002 indicate that the expected annual contract payments required under the vehicle fleet operational and fuel cost-savings contract for one or more vehicle fleet operational and fuel cost-savings measures are expected to be equal to or less than the sum of the vehicle fleet cost savings achieved by the implementation of such measures on an annual basis; and

(b) The state personnel director or the director's designee, with input from the director of the state energy office, pursuant to criteria contained in procedures established by the state personnel director, approves the energy analysis and recommendations made pursuant to section 24-30-2002.

(2) (a) Except as provided in paragraph (b) of this subsection (2), an energy cost-savings contract shall be negotiated by the state agency pursuant to the negotiation requirements described in part 14 of this article.

(b) The negotiation requirements described in part 14 of this article and any other state competitive bidding or procurement provision shall not apply to a state agency that enters into an energy cost-savings contract with the entity or person who performed the energy analysis for and made recommendations to the state agency pursuant to section 24-30-2002.

(3) An energy cost-savings contract may include appropriate financed purchase of an asset or certificate of participation or other authorized financing agreements.

(4) The legislative authorization required by section 24-82-801 (1) shall not apply to a financed purchase of an asset or certificate of participation agreement in an energy cost-savings contract and no subsequent legislative authorization shall be required for any payment made pursuant to such an agreement.

(5) Payments by a state agency required under an energy cost-savings contract may be made from moneys appropriated to the state agency for operating expenses or utilities appropriations available to the state agency at the time the contract payments are due.

(6) The provisions of articles 91 and 92 of this title shall not apply to utility cost-savings contracts.

(7) Utility cost-savings contracts shall be subject only to the supervisory provisions of part 13 of this article.

(8) All savings realized as a result of an energy cost-savings contract that are in excess of the annual calculated savings by such contract may be utilized as provided in section 24-75-108 (3).

(9) The energy cost-savings contracts authorized by this section shall provide that all of the obligations of the state under such contracts shall be subject to the action of the general assembly in annually making moneys available for all payments thereunder and that the obligations shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the constitution.

(10) The state personnel director may establish procedures containing criteria for authorization of energy cost-savings contracts.

Source: L. 2001: Entire part added, p. 1091, § 1, effective August 8. **L. 2009:** (4) amended, (HB 09-1218), ch. 132, p. 574, § 10, effective July 1. **L. 2010:** (1)(a) amended, (SB 10-207), ch. 410, p. 2028, § 3, effective June 10. **L. 2013:** (1), (2), (3), (4), (5), (8), (9), and (10) amended, (SB 13-254), ch. 403, p. 2361, § 3, effective June 5. **L. 2021:** (3) and (4) amended, (HB 21-1316), ch. 325, p. 2025, § 35, effective July 1.

PART 21

ADDRESS CONFIDENTIALITY PROGRAM

Editor's note: This part 21 was added with relocations in 2011. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

24-30-2101. Short title. This part 21 shall be known and may be cited as the "Address Confidentiality Program Act".

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1108, § 2, effective June 2.

Editor's note: This section is similar to former § 24-21-201 as it existed prior to 2011.

24-30-2102. Legislative declaration. (1) The general assembly finds and declares that a person attempting to escape from actual or threatened domestic violence, a sexual offense, human trafficking, or stalking frequently moves to a new address in order to prevent an assailant or potential assailant from finding the victim. This new address, however, is only useful if an assailant or potential assailant does not discover it. Additionally, people involved in the provision of reproductive health care are at a heightened risk of actual or threatened violence, stalking, or other social harms.

(1.5) Therefore, in order to help victims of domestic violence, a sexual offense, human trafficking, or stalking, and to assist and protect individuals involved in the provision of reproductive health care, it is the intent of the general assembly to establish an address confidentiality program, whereby the confidentiality of a victim's or an individual involved in the provision of reproductive health care's address may be maintained through, among other things, the use of a substitute address for purposes of public records and confidential mail forwarding.

(2) The general assembly further finds and declares that the desired result of the "Address Confidentiality Program Act" for the purpose of post-enactment review is to establish a substitute address for a program participant that is used by state and local government agencies whenever possible; to permit agencies to have access to the participant's actual address when appropriate; to establish a mail forwarding system for program participants; and to ensure that there is adequate funding to pay the program costs for all persons who apply to the program.

(3) The general assembly further declares that private entities, including but not limited to private businesses, can help protect program participants by seeking to prevent the disclosure of unique identifying information that could jeopardize the safety of program participants. The general assembly recognizes that a legitimate need for private entities to request and have access to an individual's actual address often exists and that the opportunity exists for private entities to partner with state and local governmental agencies in the effort to protect the safety of program participants.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1108, § 2, effective June 2. **L. 2015:** (3) added, (HB 15-1174), ch. 42, p. 104, § 2, effective March 20. **L. 2023:** (1) amended and (1.5) added, (SB 23-188), ch. 68, p. 248, § 17, effective April 14. **L. 2024:** (1) and (1.5) amended, (HB 24-1345), ch. 317, p. 2123, § 4, effective May 31.

Editor's note: This section is similar to former § 24-21-202 as it existed prior to 2011.

Cross references: For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023.

24-30-2103. Definitions. As used in this part 21, unless the context otherwise requires:

(1) "Actual address" means a residential, work, or school address as specified on the individual's application to be a program participant under this part 21, and includes the county, voting precinct number, and any unique identifying information related to the individual's residential, work, or school address.

(2) "Address confidentiality program" or "program" means the program created under this part 21 in the department to protect the confidentiality of the actual address of a relocated protected health-care worker or a relocated victim of domestic violence, a sexual offense, human trafficking, or stalking.

(3) "Applicant" means an individual identified as such in an application received by the executive director or his or her designee pursuant to section 24-30-2105.

(4) "Application assistant" means a person designated by the executive director or his or her designee to assist an applicant in the preparation of an application to participate in the address confidentiality program.

(5) "Department" means the department of personnel created in section 24-1-128.

(6) "Domestic violence" means an act described in section 18-6-800.3 (1), S.A.R.S.

(7) "Executive director" means the executive director of the department.

(7.5) "Human trafficking" means an act described in section 18-3-503 or 18-3-504.

(8) "Person" means any individual, corporation, limited liability company, partnership, trust, estate, or other association or any state, the United States, or any subdivision thereof.

(9) "Program participant" or "participant" means an individual accepted into the address confidentiality program in accordance with this part 21.

(9.5) "Protected health-care worker" means a reproductive health-care provider, or an employee, volunteer, patient, or immediate family member of a reproductive health-care provider, engaged in the provision, facilitation, or promotion of a legally protected health-care activity, as defined in section 12-30-121 (1)(d).

(10) "Public record" means all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, digital data, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by a state or local government agency.

(11) "Sexual offense" means an act described in part 4 of article 3, or article 6 or 7 of title 18, S.A.R.S.

(12) "Stalking" means an act of harassment as described in section 18-9-111, S.A.R.S., or stalking as described in section 18-3-602, S.A.R.S.

(13) "State or local government agency" or "agency" means every elected or appointed state or local public office, public officer, or official; board, commission, bureau, committee, council, department, authority, agency, institution of higher education, or other unit of the executive, legislative, or judicial branch of the state; or any city, county, city and county, town, special district, school district, local improvement district, or any other kind of municipal, quasi-municipal, or public corporation.

(14) "Substitute address" means an address designated by the executive director or his or her designee under the address confidentiality program that is used instead of an actual address as set forth in this part 21.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1109, § 2, effective June 2. **L. 2015:** (1) amended, (HB 15-1174), ch. 42, p. 104, § 3, effective March 20. **L. 2023:** (2) amended and (9.5) added, (SB 23-188), ch. 68, p. 248, § 18, effective April 14. **L. 2024:** (2) amended and (7.5) added, (HB 24-1345), ch. 317, p. 2123, § 5, effective May 31.

Editor's note: (1) This section is similar to former § 24-21-203 as it existed prior to 2011.

(2) Subsections (12) and (13) were numbered as subsections (13) and (12), respectively, in House Bill 11-1080 but were renumbered on revision to place defined terms in alphabetical order.

Cross references: For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023.

24-30-2104. Address confidentiality program - creation - substitute address - uses - service by mail - application assistance centers. (1) There is created the address confidentiality program in the department to protect the confidentiality of the actual address of a relocated protected health-care worker or a relocated victim of domestic violence, a sexual offense, human trafficking, or stalking and to prevent the victim's assailants or potential assailants from finding the victim through public records. Under the program, the executive director or the executive director's designee shall:

(a) Designate a substitute address for a program participant that shall be used by state and local government agencies as set forth in this part 21; and

(b) Receive mail sent to a program participant at a substitute address and forward the mail to the participant as set forth in subsection (2) of this section.

(2) The executive director or his or her designee shall receive first-class, certified, or registered mail on behalf of a program participant and forward the mail to the participant for no charge. The executive director or his or her designee may arrange to receive and forward other classes or kinds of mail at the participant's expense. Neither the executive director nor his or her designee shall be required to track or otherwise maintain records of any mail received on behalf of a participant unless the mail is certified or registered mail.

(3) (a) Notwithstanding any provision of law to the contrary, a program participant may be served by registered mail or by certified mail, return receipt requested, addressed to the participant at his or her substitute address with any process, notice, or demand required or permitted by law to be served on the program participant. Service is perfected under this subsection (3) at the earliest of:

(I) The date the program participant receives the process, notice, or demand; or

(II) Five days after the date shown on the return receipt if signed on behalf of the program participant.

(b) This subsection (3) does not prescribe the only means, or necessarily the required means, of serving a program participant in the state.

(c) Whenever the laws of the state provide a program participant a legal right to act within a prescribed period of ten days or less after the service of a notice or other paper upon the participant and the notice or paper is served upon the participant by mail pursuant to this subsection (3) or by first-class mail as otherwise authorized by law, five days shall be added to the prescribed period.

(4) The executive director or the executive director's designee may designate as an application assistant any person who:

(a) Provides counseling, referral, or other services to victims of domestic violence, a sexual offense, human trafficking, or stalking, if applicable;

(b) Completes any training and registration process required by the executive director or the executive director's designee, if applicable; and

(c) Provides counseling, referrals, or other services to individuals accessing a legally protected health-care activity, as defined in section 12-30-121 (1)(d), if applicable.

(5) Any assistance and counseling rendered by the executive director or his or her designee or an application assistant to an applicant related to this part 21 shall in no way be construed as legal advice.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1110, § 2, effective June 2. **L. 2023:** IP(1) and (4) amended, (SB 23-188), ch. 68, p. 248, § 19, effective April 14. **L. 2024:** IP(1) and (4)(a) amended, (HB 24-1345), ch. 317, p. 2124, § 6, effective May 31.

Editor's note: This section is similar to former § 24-21-204 as it existed prior to 2011.

Cross references: For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023.

24-30-2105. Filing and certification of applications - authorization card. (1) On and after July 1, 2008, upon the recommendation of an application assistant, an individual may apply to the executive director or his or her designee to participate in the address confidentiality program. The following individuals may apply to the executive director or his or her designee to have an address designated by the executive director or his or her designee to serve as the substitute address of the individual and any individuals designated in paragraph (j) of subsection (3) of this section:

(a) An adult individual;

(b) A parent or guardian acting on behalf of a minor when the minor resides with the individual; or

(c) A guardian acting on behalf of an incapacitated individual.

(2) An application assistant shall assist the individual in the preparation of the application. The application shall be dated, signed, and verified by the applicant and shall be signed and dated by the application assistant who assisted in the preparation of the application. The signature of the application assistant shall serve as the recommendation by such person that the applicant have an address designated by the executive director or his or her designee to serve as the substitute address of the applicant. A minor or incapacitated individual on whose behalf a parent or guardian completes an application pursuant to the authority set forth in paragraph (b) or (c) of subsection (1) of this section shall be considered the applicant, but any statements that are required to be made by the applicant shall be made by the parent or guardian acting on behalf of the minor or incapacitated individual.

(3) The application must be on a form prescribed by the executive director or the executive director's designee and must contain the following:

(a) The applicant's name;

(b) A statement by the applicant that the applicant is a victim of domestic violence, a sexual offense, human trafficking, or stalking and that the applicant fears for the applicant's safety, if applicable;

(c) Evidence that the applicant is a victim of domestic violence, a sexual offense, human trafficking, or stalking, if applicable. This evidence may include any of the following:

(I) Law enforcement, court, or other state or local government agency or federal agency records or files;

(II) Documentation from a domestic violence program or facility, including but not limited to a battered women's shelter or safe house, if the applicant is alleged to be a victim of domestic violence;

(III) Documentation from a sexual assault program if the applicant is alleged to be a victim of a sexual offense; or

(IV) Documentation from a religious, medical, or other professional from whom the applicant has sought assistance in dealing with the alleged domestic violence, sexual offense, human trafficking, or stalking.

(d) A statement by the applicant that disclosure of the applicant's actual address would endanger the applicant's safety;

(e) A statement by the applicant that the applicant has confidentially relocated in the past ninety days or will confidentially relocate in the state;

(f) A designation of the executive director or his or her designee as an agent for the applicant for purposes of receiving certain mail;

(g) The mailing address and telephone number where the applicant can be contacted by the executive director or his or her designee;

(h) The actual address that the applicant requests not to be disclosed by the executive director or the executive director's designee that directly relates to the increased risk of domestic violence, a sexual offense, human trafficking, or stalking, or increased risk of actual or threatened violence, stalking, human trafficking, or other social harms due to the provision of a legally protected health-care activity, as defined in section 12-30-121 (1)(d);

(i) A statement as to whether there is any existing court order or court action involving the applicant or an individual identified in paragraph (j) of this subsection (3) related to dissolution of marriage proceedings, child support, or the allocation of parental responsibilities or parenting time and the court that issued the order or has jurisdiction over the action;

(j) The name of any person who resides with the applicant who also needs to be a program participant in order to ensure the safety of the applicant and, if the person named in the application is eighteen years of age or older, the consent of such person to be a program participant;

(k) A statement by the applicant, under penalty of perjury, that to the best of the applicant's knowledge, the information contained in the application is true; and

(l) A statement by the applicant, under penalty of perjury, that the applicant is a protected health-care worker or provides, refers, or assists patients in accessing a legally protected health-care activity, as defined in section 12-30-121 (1)(d), if applicable.

(4) Upon determining that an application has been properly completed, the executive director or his or her designee shall certify the applicant and any individual who is identified in paragraph (j) of subsection (3) of this section as a program participant. Upon certification, the executive director or his or her designee shall issue to the participant an address confidentiality program authorization card, which shall include the participant's substitute address. The card shall remain valid for so long as the participant remains certified under the program.

(5) Applicants and individuals identified in paragraph (j) of subsection (3) of this section shall be certified for four years following the date of filing unless the certification is withdrawn or canceled prior to the end of the four-year period. A program participant may withdraw the certification by filing a request for withdrawal acknowledged before a notary public. A certification may be renewed by filing a renewal application with the executive director or his or her designee at least thirty days prior to expiration of the current certification. The renewal application shall be dated, signed, and verified by the applicant. The renewal application shall contain:

(a) Any statement or information that is required by subsection (3) of this section that has changed from the original application or a prior renewal application; and

(b) A statement by the applicant, under penalty of perjury, that to the best of the applicant's knowledge, the information contained in the renewal application and a prior application is true.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1111, § 2, effective June 2. **L. 2023:** IP(3), (3)(b), IP(3)(c), (3)(h), and (3)(k) amended and (3)(l) added, (SB 23-188), ch. 68, p. 249, § 20, effective April 14. **L. 2024:** (3)(b), IP(3)(c), (3)(c)(IV), and (3)(h) amended, (HB 24-1345), ch. 317, p. 2124, § 7, effective May 31.

Editor's note: This section is similar to former § 24-21-205 as it existed prior to 2011.

Cross references: For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023.

24-30-2106. Change of name, address, or telephone number. (1) A program participant shall notify the executive director or his or her designee within thirty days after the participant has obtained a legal name change by providing the executive director or his or her designee a certified copy of any judgment or order evidencing the change or any other documentation the executive director or his or her designee deems to be sufficient evidence of the name change.

(2) A program participant shall notify the executive director or his or her designee of a change in address or telephone number from the address or telephone number listed for the participant on the application pursuant to the requirements set forth in section 24-30-2105 (3)(g) and (3)(h) no later than seven days after the change occurs.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1113, § 2, effective June 2.

Editor's note: This section is similar to former § 24-21-206 as it existed prior to 2011.

24-30-2107. Certification cancellation - records. (1) The certification of a program participant shall be canceled under any of the following circumstances:

(a) The program participant files a request for withdrawal of the certification pursuant to section 24-30-2105 (5).

(b) The program participant fails to notify the executive director or his or her designee of a change in the participant's name, address, or telephone number listed on the application pursuant to section 24-30-2106.

(c) The program participant or parent or guardian who completes an application on behalf of an applicant knowingly submitted false information in the program application.

(d) Mail forwarded to the program participant by the executive director or his or her designee is returned as undeliverable.

(2) If the executive director or his or her designee determines that there is one or more grounds for canceling certification of a program participant pursuant to subsection (1) of this section, the executive director or his or her designee shall send notice of cancellation to the program participant. Notice of cancellation shall set out the reasons for cancellation. The participant shall have thirty days to appeal the cancellation decision under procedures developed by the executive director or his or her designee.

(3) An individual who ceases to be a program participant is responsible for notifying persons who use the substitute address that the designated substitute address is no longer valid.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1114, § 2, effective June 2.

Editor's note: This section is similar to former § 24-21-207 as it existed prior to 2011.

24-30-2108. Address use by state or local government agencies. (1) The program participant, and not the executive director or his or her designee, is responsible for requesting that a state or local government agency use the participant's substitute address as the participant's residential, work, or school address for all purposes for which the agency requires or requests such residential, work, or school address.

(2) Except as otherwise provided in this section or unless the executive director or his or her designee grants a state or local government agency's request for a disclosure pursuant to section 24-30-2110, when a program participant submits a current and valid address confidentiality program authorization card to the agency, the agency shall accept the substitute address designation by the executive director or his or her designee on the card as the participant's address to be used as the participant's residential, work, or school address when creating a new public record. The substitute address given to the agency shall be the last-known address for the participant used by the agency until such time that the agency receives notification pursuant to section 24-30-2107 (3). The agency may make a photocopy of the card for the records of the agency and thereafter shall immediately return the card to the program participant.

(3) (a) A designated election official as defined in section 1-1-104 (8), S.A.R.S., shall use the actual address of a program participant for precinct designation and all official election-related purposes and shall keep the participant's actual address confidential from the public. The election official shall use the substitute address for all correspondence and mailings placed in the United States mail. The substitute address shall not be used as an address for voter registration.

(b) A state or local government agency's access to a program participant's voter registration shall be governed by the disclosure process set forth in section 24-30-2110.

(c) The provisions of this subsection (3) shall apply only to a program participant who submits a current and valid address confidentiality program authorization card when registering to vote.

(d) The provisions of this subsection (3) shall not apply to a program participant who registers to vote pursuant to section 1-2-213, S.A.R.S.

(4) Repealed.

(5) The substitute address shall not be used for purposes of listing, appraising, or assessing property taxes and collecting property taxes under the provisions of title 39, S.A.R.S.

(6) Whenever a program participant is required by law to swear or affirm to the participant's address, the participant may use his or her substitute address.

(7) The substitute address shall not be used for purposes of assessing any taxes or fees on a motor vehicle or for titling or registering a motor vehicle. Notwithstanding any provision of section 24-72-204 (7) to the contrary, any record that includes a program participant's actual address pursuant to this subsection (7) shall be confidential and not available for inspection by anyone other than the program participant.

(8) The substitute address shall not be used on any document related to real property recorded with a county clerk and recorder.

(9) A school district shall accept the substitute address as the address of record and shall verify student enrollment eligibility through the executive director or his or her designee. The executive director or his or her designee shall facilitate the transfer of student records from one school to another.

(10) Except as otherwise provided in this section, a program participant's actual address and telephone number maintained by a state or local government agency or disclosed by the executive director or his or her designee is not a public record that is subject to inspection pursuant to the provisions of part 2 of article 72 of this title. This subsection (10) shall not apply to the following:

(a) To any public record created more than ninety days prior to the date that the program participant applied to be certified in the program; or

(b) If a program participant voluntarily requests that a state or local government agency use the participant's actual address or voluntarily gives the actual address to the state or local government agency.

(11) For any public record created within ninety days prior to the date that a program participant applied to be certified in the program, a state or local government agency shall redact the actual address from a public record or change the actual address to the substitute address in the public record, if a program participant who presents a current and valid program authorization card requests the agency that maintains the public record to use the substitute address instead of the actual address on the public record.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1114, § 2, effective June 2. **L. 2019:** (4) repealed, (SB 19-235), ch. 329, p. 3056, § 8, effective August 2.

Editor's note: This section is similar to former § 24-21-208 as it existed prior to 2011.

24-30-2109. Disclosure of actual address prohibited. (1) The executive director or his or her designee is prohibited from disclosing any address or telephone number of a program

participant other than the substitute address designated by the executive director or his or her designee, except under any of the following circumstances:

(a) The information is required by direction of a court order pursuant to section 24-30-2111. However, any person to whom a program participant's address or telephone number has been disclosed shall not disclose the address or telephone number to any other person unless permitted to do so by order of the court.

(b) The executive director or his or her designee grants a request by an agency pursuant to section 24-30-2110.

(c) The program participant is required to disclose the participant's actual address as part of a registration required by the "San Andreas Sex Offender Registration Act", article 22 of title 16, S.A.R.S.

(2) The executive director or his or her designee shall provide immediate notification of disclosure to a program participant when disclosure is made pursuant to paragraph (a) or (b) of subsection (1) of this section.

(3) If, at the time of application, an applicant or an individual designated in section 24-30-2105 (3)(j) is subject to a court order related to dissolution of marriage proceedings, child support, or the allocation of parental responsibilities or parenting time, the executive director or his or her designee shall notify the court that issued the order of the certification of the program participant in the address confidentiality program and the substitute address designated by the executive director or his or her designee. If, at the time of application, an applicant or an individual designated in section 24-30-2105 (3)(j) is involved in a court action related to dissolution of marriage proceedings, child support, or the allocation of parental responsibilities or parenting time, the executive director or his or her designee shall notify the court having jurisdiction over the action of the certification of the applicant in the address confidentiality program and the substitute address designated by the executive director or his or her designee.

(4) No person shall knowingly and intentionally obtain a program participant's actual address or telephone number from the executive director or his or her designee or an agency knowing that the person is not authorized to obtain the address information.

(5) No employee of the executive director or his or her designee or of an agency shall knowingly and intentionally disclose a program participant's actual address or telephone number unless the disclosure is permissible by law. This subsection (5) only applies when an employee obtains a participant's actual address or telephone number during the course of the employee's official duties and, at the time of disclosure, the employee has specific knowledge that the actual address or telephone number disclosed belongs to a participant.

(6) Any person who knowingly and intentionally obtains or discloses information in violation of this part 21 shall be guilty of a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, S.A.R.S.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1116, § 2, effective June 2. **L. 2015:** (1)(a) amended, (HB 15-1174), ch. 42, p. 104, § 4, effective March 20.

Editor's note: This section is similar to former § 24-21-209 as it existed prior to 2011.

24-30-2110. Request for disclosure. (1) A state or local government agency requesting disclosure of a program participant's actual address pursuant to this section shall make such a

request in writing on agency letterhead and shall provide the executive director or his or her designee with the following information:

(a) The name of the program participant for whom the agency seeks disclosure of the actual address;

(b) A statement, with explanation, setting forth the reason or reasons that the agency needs the program participant's actual address and a statement that the agency cannot meet its statutory or administrative obligations without disclosure of the participant's actual address;

(c) A particular statement of facts showing that other methods to locate the program participant or the participant's actual address have been tried and have failed or that the methods reasonably appear to be unlikely to succeed;

(d) A statement that the agency has adopted a procedure setting forth the steps the agency will take to protect the confidentiality of the program participant's actual address; and

(e) Any other information as the executive director or his or her designee may reasonably request in order to identify the program participant in the records of the executive director or his or her designee.

(2) (a) The executive director or his or her designee shall provide the program participant with notice of a request for disclosure received pursuant to subsection (1) of this section, and, to the extent possible, the participant shall be afforded an opportunity to be heard regarding the request.

(b) Except as otherwise provided in paragraph (c) of this subsection (2), the executive director or his or her designee shall provide the program participant with written notification whenever a request for a disclosure has been granted or denied pursuant to this section.

(c) No notice or opportunity to be heard shall be given to the program participant when the request for disclosure is made by a state or local law enforcement agency conducting a criminal investigation involving alleged criminal conduct by the participant or when providing notice to the participant would jeopardize an ongoing criminal investigation or the safety of law enforcement personnel.

(3) The executive director or his or her designee shall promptly conduct a review of all requests received pursuant to this section. In conducting a review, the executive director or his or her designee shall consider all information received pursuant to subsections (1) and (2) of this section and any other appropriate information that the executive director or his or her designee may require.

(4) The executive director or his or her designee shall grant a state or local government agency's request for disclosure and disclose a program participant's actual address pursuant to this section if:

(a) The agency has a bona fide statutory or administrative need for the actual address.

(b) The actual address will only be used for the purpose stated in the request.

(c) Other methods to locate the program participant or the participant's actual address have been tried and have failed or such methods reasonably appear to be unlikely to succeed.

(d) The agency has adopted a procedure for protecting the confidentiality of the actual address of the program participant.

(5) Upon granting a request for disclosure pursuant to this section, the executive director or his or her designee shall provide the state or local government agency with the disclosure that contains:

(a) The program participant's actual address;

(b) A statement setting forth the permitted use of the actual address and the names or classes of persons permitted to have access to and use of the actual address;

(c) A statement that the agency is required to limit access to and use of the actual address to the permitted use and persons set forth in the disclosure; and

(d) The date on which the permitted use expires, if expiration is appropriate, after which the agency may no longer maintain, use, or have access to the actual address.

(6) A state or local government agency whose request is granted by the executive director or his or her designee pursuant to this section shall:

(a) Limit the use of the program participant's actual address to the purposes set forth in the disclosure;

(b) Limit the access to the program participant's actual address to the persons or classes of persons set forth in the disclosure;

(c) Cease to use and dispose of the program participant's actual address upon the expiration of the permitted use, if applicable; and

(d) Except as otherwise set forth in the disclosure, maintain the confidentiality of a program participant's actual address.

(7) Upon denial of a state or local government agency's request for disclosure, the executive director or his or her designee shall provide prompt written notification to the agency stating that the agency's request has been denied and setting forth the specific reasons for the denial.

(8) A state or local government agency may file written exceptions with the executive director or his or her designee no more than fifteen days after written notification is provided pursuant to subsection (7) of this section. The exceptions shall restate the information contained in the request for disclosure, state the grounds upon which the agency asserts that the request for disclosure should be granted and specifically respond to the executive director's or his or her designee's specific reasons for denial.

(9) Unless the state or local government agency filing exceptions agrees otherwise, the executive director or his or her designee shall make a final determination regarding the exceptions within thirty days after the filing of exceptions pursuant to subsection (8) of this section. Prior to making a final determination regarding the exceptions, the executive director or his or her designee may request additional information from the agency or the program participant and conduct a hearing. If the final determination of the executive director or his or her designee is that the denial of the agency's request for disclosure was properly denied, the executive director or his or her designee shall provide the agency with written notification of this final determination stating that the agency's request has again been denied and setting forth the specific reasons for the denial. If the final determination of the executive director or his or her designee is that the denial of the agency's request for disclosure has been improperly denied, the executive director or his or her designee shall grant the agency's request for disclosure in accordance with this section. The final determination of the executive director or his or her designee shall constitute final agency action.

(10) The record before any judicial review of a final agency action pursuant to subsection (9) of this section shall consist of the state or local government agency's request for disclosure, the executive director's or his or her designee's written response, the agency's exceptions, the hearing transcript, if any, and the executive director's or his or her designee's final determination.

(11) During any period of review, evaluation, or appeal, the agency shall, to the extent possible, accept and use the program participant's substitute address.

(12) Notwithstanding any other provision of this section, the executive director or his or her designee shall establish an expedited process for disclosure to be used by a criminal justice official or agency for situations where disclosure is required pursuant to a criminal justice trial, hearing, proceeding, or investigation involving a program participant. An official or agency receiving information pursuant to this subsection (12) shall certify to the executive director or his or her designee that the official or agency has a system in place to protect the confidentiality of a participant's actual address from the public and from personnel who are not involved in the trial, hearing, proceeding, or investigation.

(13) Nothing in this section shall be construed to prevent the executive director or his or her designee from granting a request for disclosure to a state or local government agency pursuant to this section upon receipt of a program participant's written consent to do so.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1117, § 2, effective June 2.

Editor's note: This section is similar to former § 24-21-210 as it existed prior to 2011.

24-30-2111. Disclosure of address or unique identifying information in criminal and civil proceedings. A person shall not be compelled to disclose a program participant's actual address or any unique identifying information related to the participant's residence, work, or school during the discovery phase of or during a proceeding before a court of competent jurisdiction or administrative tribunal unless the court or administrative tribunal finds, based upon a preponderance of the evidence, that the disclosure is required in the interests of justice and that the potential harm to the program participant is substantially outweighed by the public interest in the disclosure and that no other alternative would satisfy that necessity. A court or administrative tribunal may seal the portion of any record that contains a program participant's actual address. Nothing in this section prevents a state or local government agency, in its discretion, from using a program participant's actual address in any document or record filed with a court or administrative tribunal if, at the time of filing, the document or record is not a public record.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1120, § 2, effective June 2. **L. 2015:** Entire section amended, (HB 15-1174), ch. 42, p. 104, § 5, effective March 20.

Editor's note: This section is similar to former § 24-21-211 as it existed prior to 2011.

24-30-2112. Participation in the program - orders relating to allocation of parental responsibilities or parenting time. (1) Nothing in this part 21, nor participation in the program, shall affect an order relating to the allocation of parental responsibilities or parenting time in effect prior to or during program participation.

(2) Program participation does not constitute evidence of domestic violence, a sexual offense, human trafficking, or stalking and shall not be considered for purposes of making an

order allocating parental responsibilities or parenting time; except that a court may consider practical measures to keep a program participant's actual address confidential when making an order allocating parental responsibilities or parenting time.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1120, § 2, effective June 2. **L. 2024:** (2) amended, (HB 24-1345), ch. 317, p. 2124, § 8, effective May 31.

Editor's note: This section is similar to former § 24-21-212 as it existed prior to 2011.

24-30-2113. Rule-making authority. The executive director or his or her designee is authorized to adopt any rules in accordance with article 4 of this title deemed necessary to carry out the provisions of this part 21, excluding section 24-30-2114.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1121, § 2, effective June 2.

Editor's note: This section is similar to former § 24-21-213 as it existed prior to 2011.

24-30-2114. Surcharge - collection and distribution - address confidentiality program surcharge fund - creation - definitions. (1) On and after July 1, 2007, each person who is convicted of the crimes set forth in subsection (2) of this section shall be required to pay a surcharge of twenty-eight dollars to the clerk of the court for the judicial district in which the conviction occurs.

(2) The following crimes shall be subject to the surcharge set forth in subsection (1) of this section:

(a) Stalking;

(a.5) Human trafficking for involuntary servitude or human trafficking of a minor for involuntary servitude in violation of section 18-3-503;

(a.6) Human trafficking for sexual servitude or human trafficking of a minor for sexual servitude in violation of section 18-3-504;

(b) A crime, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence; or

(c) Criminal attempt, conspiracy, or solicitation to commit the crimes set forth in subsections (2)(a), (2)(a.5), (2)(a.6), and (2)(b) of this section.

(3) The clerk of the court shall allocate the surcharge required by this section as follows:

(a) Five percent shall be retained by the clerk of the court for administrative costs incurred pursuant to this section. Such amount retained shall be transmitted to the state treasurer for deposit in the judicial stabilization cash fund created in section 13-32-101 (6), S.A.R.S.

(b) Ninety-five percent shall be transferred to the state treasurer, who shall credit the same to the address confidentiality program surcharge fund created pursuant to subsection (4) of this section.

(4) (a) There is hereby created in the state treasury the address confidentiality program surcharge fund, which shall consist of moneys received by the state treasurer pursuant to this section. The moneys in the fund shall be subject to annual appropriation by the general assembly to the department for the purpose of paying for the costs incurred by the executive director or his

or her designee in the administration of the program. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any moneys not appropriated by the general assembly shall remain in the fund and shall not be transferred or revert to the general fund at the end of any fiscal year.

(b) (Deleted by amendment, L. 2011, (HB 11-1080), ch. 256, p. 1121, § 2, effective June 2, 2011.)

(c) Repealed.

(5) The court may waive all or any portion of the surcharge required by this section if the court finds that a person subject to the surcharge is indigent or financially unable to pay all or any portion of the surcharge. The court may waive only that portion of the surcharge that the court finds that the person is financially unable to pay.

(6) As used in this section, "convicted" and "conviction" mean a plea of guilty accepted by the court, including a plea of guilty entered pursuant to a deferred sentence under section 18-1.3-102, S.A.R.S., a verdict of guilty by a judge or jury, or a plea of no contest accepted by the court.

Source: L. 2011: Entire part added with relocations, (HB 11-1080), ch. 256, p. 1121, § 2, effective June 2. **L. 2013:** (4)(c) repealed, (SB 13-271), ch. 299, p. 1590, § 1, effective May 28; (4)(a) amended, (HB 13-1300), ch. 316, p. 1682, § 52, effective August 7. **L. 2024:** (2)(a.5) and (2)(a.6) added and (2)(c) amended, (HB 24-1345), ch. 317, p. 2125, § 9, effective May 31.

Editor's note: This section is similar to former § 24-21-214 as it existed prior to 2011.

24-30-2115. Address confidentiality program fund - creation - appropriations. (1) There is created in the state treasury the address confidentiality program fund, referred to in this section as the "fund". The fund consists of any gifts, grants, donations, or appropriations received by the department for the fund pursuant to subsection (2) of this section. The money in the fund shall be continuously appropriated by the general assembly to the department for the purpose of paying for the costs incurred by the executive director or the executive director's designee in the administration of the program. All interest derived from the deposit and investment of money in the fund shall be credited to the fund. Any money not appropriated by the general assembly shall remain in the fund and shall not be transferred or revert to the general fund at the end of any fiscal year.

(2) (a) The department is authorized to seek, accept, and expend gifts, grants, and donations from private or public sources for the implementation of the program. All private and public funds received through gifts, grants, and donations shall be transmitted to the state treasurer, who shall credit the same to the fund.

(b) The general assembly shall appropriate money from the economic recovery and relief cash fund, created in section 24-75-228, as enacted by Senate Bill 21-291, enacted in 2021, to the department to be used for the program, so long as the expenses such money is used for are for purposes or programs that also conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended. The department may use up to five percent of any money appropriated by the general assembly pursuant to this subsection (2)(b) for development and administrative costs incurred by the department pursuant to this subsection (2)(b).

Source: L. 2011: Entire section added, (HB 11-1080), ch. 256, p. 1122, § 3, effective June 2. **L. 2021:** Entire section amended, (SB 21-292), ch. 291, p. 1723, § 7, effective June 22.

Cross references: For the legislative declaration in SB 21-292, see section 1 of chapter 291, Session Laws of San Andreas 2021.

PART 22

LAURA HERSHEY DISABILITY SUPPORT ACT

Editor's note: (1) This part 22 was added in 2011. It was amended with relocations in 2016, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 22 prior to 2016, consult the 2015 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

(2) (a) This part 22 was added in 2011. For amendments to this part 22 prior to its repeal in 2024, consult the 2023 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(b) This part 22 was relocated to article 88 of title 8. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 22, see the comparative tables located in the back of the index.

(3) Amendments to § 24-30-2205.5 (1) by SB 24-086 were harmonized with HB 24-1360 and relocated to § 8-88-205 (1).

Cross references: For the legislative declaration in HB 24-1360, see section 1 of chapter 324, Session Laws of San Andreas 2024.

24-30-2201 to 24-30-2213. (Repealed)

Source: L. 2024: Entire part repealed, (HB 24-1360), ch. 324, p. 2166, § 3, effective July 1.

PART 23

OFFICE OF SUSTAINABILITY

24-30-2301. Legislative declaration. The general assembly hereby finds and declares that:

(1) The state should be a leader in sustainability and should offer sustainable practices to state agencies as a core administrative service;

(2) Reducing the state's operating and energy costs supports a vibrant and diverse economy and saves taxpayers money;

(3) Ensuring state compliance with environmental mandates is critical to the future of our state and our nation;

(4) Sustainable state agency operations conserve water and offset the estimated future water needs of up to seven hundred forty thousand additional acre feet as outlined in the 2023 San Andreas water plan adopted by the San Andreas water conservation board; and

(5) Coordinating sustainable practices is best accomplished through the creation of an office focused on the state's operations, capital construction projects, and procurement.

Source: L. 2024: Entire part added, (SB 24-214), ch. 191, p. 1085, § 1, effective May 17.

24-30-2302. Definitions. As used in this part 23, unless the context otherwise requires:

(1) "Department" means the department of personnel.

(2) "Elective pay application" means any application for elective pay funding available under the federal "Inflation Reduction Act of 2022", Pub.L. 117-169, 136 Stat. 1818 (2022).

(3) "Environmentally preferable products or services" means products or services that create fewer or less severe negative impacts on the natural environment when compared to similar products or services.

(4) "Office" means the office of sustainability created in section 24-30-2303 (1).

(5) "State agency" means a principal department as defined in section 24-1-110 and any division, office, board, commission, or enterprise within a principal department; except that "state agency" does not include an institution of higher education as defined in section 23-18-102 (7).

(6) "Sustainability" means the minimization of negative impacts on the natural environment, which include but are not limited to emissions of greenhouse gases, climate change, increased water consumption or water waste, pollution, nonrenewable energy usage, and over-consumption or waste of resources.

(7) "Sustainable practice" means a practice that increases sustainability by reducing one or more negative impacts on the natural environment.

Source: L. 2024: Entire part added, (SB 24-214), ch. 191, p. 1086, § 1, effective May 17.

24-30-2303. Office of sustainability - creation - duties. (1) The office of sustainability is hereby created in the department. The office is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department. The office shall work with state agencies to implement sustainable practices.

(2) The powers, duties, and functions of the office include:

(a) Providing leadership to and requiring accountability from state agencies regarding ongoing sustainability initiatives;

(b) Developing baseline metrics and goals for the reduction of negative environmental impacts and tracking state agencies' performance toward achieving those goals;

(c) Tracking the amount of money the state saves as a result of implementing sustainable practices;

(d) Seeking and applying for federal funding and other grant opportunities that would support state agencies' sustainable practices;

(e) Assisting state agencies in implementing sustainable procurement methods and introducing options for environmentally preferable products or services to state agencies;

(f) Assisting state agencies in installing energy-efficient equipment and fixtures;

(g) Assisting state agencies in meeting building performance standards such as those administered by the San Andreas energy office;

(h) Coordinating and assisting in planning and constructing state agencies' electric vehicle charging infrastructure and ensuring utilization of such infrastructure;

(i) Instituting water reduction initiatives for state agencies, including but not limited to:

(I) The installation of water-conserving fixtures and water-wise plants on state property;

(II) The conversion of nonnative grasses to xeriscape in accordance with the principles of water-wise landscaping, with an emphasis on native plants, set forth in section 37-60-135 (2)(l); and

(III) The reduction of nonfunctional turf and encouragement of water-efficient sustainable landscaping practices at state facilities;

(j) Assisting state agencies in transitioning from gas-powered to electric equipment;

(k) Implementing statewide waste diversion practices to increase state agencies' recycling rates;

(l) Developing commuting opportunities for state employees that reduce greenhouse gas emissions and other pollution;

(m) Assisting state agencies in developing training programs to educate state employees on sustainable practices; and

(n) Conducting other activities as directed by the general assembly or the governor.

Source: L. 2024: Entire part added, (SB 24-214), ch. 191, p. 1086, § 1, effective May 17.

24-30-2304. Revolving fund - definition. (1) The state agency sustainability revolving fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (2) of this section and any other money that the general assembly may appropriate or transfer to the fund.

(2) On July 1, 2024, and on July 1 each year thereafter, the state treasurer shall transfer four hundred thousand dollars from the general fund to the fund. The office shall allocate the money in the fund to assist in replacing the state's gas and diesel-powered equipment that is located in ozone nonattainment areas as designated by the U.S. environmental protection agency with equivalent electric equipment, and to operate the office in accordance with this part 23.

(3) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund.

(4) Money in the fund is continuously appropriated to the department to be used for the purposes specified in subsection (2) of this section.

(5) The department may solicit, accept, and expend gifts, grants, and donations for the purposes of this part 23. The department shall credit any gifts, grants, and donations to the fund.

Source: L. 2024: Entire part added, (SB 24-214), ch. 191, p. 1087, § 1, effective May 17.

24-30-2305. Inflation reduction act elective pay - central submission of applications - cash fund - definition. (1) In addition to the powers, duties, and functions of the office specified in section 24-30-2303, the office shall review and coordinate state agencies' elective pay applications and work with the office of the state controller to coordinate central

submissions of elective pay applications. The office shall advise and provide technical assistance to state agencies on all aspects of elective pay to the extent feasible. State agencies shall submit elective pay applications directly to the office of the state controller.

(2) (a) The inflation reduction act elective pay cash fund, referred to in this section as the "cash fund", is created in the state treasury. The cash fund consists of money received by the state or state agencies pursuant to the elective pay provisions of the federal "Inflation Reduction Act of 2022", Pub.L. 117-169, 136 Stat. 1818 (2022), all of which must be deposited into the cash fund, and any other money that the general assembly may appropriate or transfer to the cash fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the cash fund to the cash fund. Any unexpended and unencumbered money remaining in the cash fund at the end of a fiscal year shall remain in the cash fund.

(c) Money in the cash fund is continuously appropriated to the department to be used for the purposes specified in this part 23.

(3) The department may solicit, accept, and expend gifts, grants, and donations for the purposes specified in this part 23. The department shall credit any gifts, grants, and donations to the cash fund.

Source: L. 2024: Entire part added, (SB 24-214), ch. 191, p. 1088, § 1, effective May 17.

ARTICLE 31

Department of Law

PART 1

ATTORNEY GENERAL

24-31-101. Powers and duties of attorney general. (1) The attorney general:

(a) Shall act as the chief legal representative of the state and be the legal counsel and advisor of each department, division, office, board, commission, bureau, and agency of state government but shall not provide legal counsel to the legislative branch except for the state auditor in accordance with section 2-3-104.5;

(b) Shall appear for the state and prosecute and defend all actions and proceedings, civil and criminal, in which the state is a party or is interested when required to do so by the governor;

(c) Shall prosecute and defend for the state all causes in the appellate courts in which the state is a party or is interested;

(d) Shall give his or her opinion in writing upon all questions of law submitted to the attorney general by the:

(I) General assembly, or either the house of representatives or the senate;

(II) Governor;

(III) Lieutenant governor;

(IV) Secretary of state;

(V) State treasurer;

(VI) Executive director of the department of revenue; or

(VII) Commissioner of education.

(e) Shall have concurrent jurisdiction with the relevant district attorney over part 4 of article 120 of title 12;

(f) May appoint deputy attorneys general and assistant attorneys general for the efficient administration and supervision of department divisions and offices specified in section 24-31-102;

(g) May, at his or her sole discretion, appoint special assistant attorneys general to provide legal services to state agencies except as otherwise provided in section 24-31-111 (5);

(h) Shall, at the request of the governor, secretary of state, state treasurer, executive director of the department of revenue, or commissioner of education, prosecute and defend all suits relating to matters connected with their departments;

(i) May independently initiate and bring civil and criminal actions to enforce state laws, including actions brought pursuant to:

(I) The "San Andreas Antitrust Act of 1992" or the "San Andreas State Antitrust Act of 2023", article 4 of title 6;

(II) The "San Andreas Consumer Protection Act", article 1 of title 6;

(III) The "Unfair Practices Act", article 2 of title 6;

(IV) Article 12 of title 6;

(V) Section 6-1-110;

(VI) Section 11-51-603.5;

(VII) Section 11-61-102;

(VIII) Section 24-34-505.5;

(IX) Section 25.5-4-306;

(X) Article 4 of title 8, subject to section 24-31-1303 (2);

(XI) The "San Andreas Employment Security Act", articles 70 to 82 of title 8, subject to section 24-31-1303 (1);

(XII) The "Immigrant Tenant Protection Act" in part 12 of article 12 of title 38;

(XIII) The "Mobile Home Park Act" in part 2 of article 12 of title 38;

(XIV) The "Mobile Home Park Act Dispute Resolution and Enforcement Program" in part 11 of article 12 of title 38;

(XV) Part 1 of article 12 of title 38;

(XVI) Part 7 of article 12 of title 38;

(XVII) The "Rental Application Fairness Act", part 9 of article 12 of title 38;

(XVIII) The "Reproductive Health Equity Act", part 4 of article 6 of title 25;

(XIX) Part 15 of article 5 of title 25;

(XX) Part 5 of article 12 of title 38;

(XXI) Part 12 of article 4 of title 29;

(XXII) Part 14 of article 12 of title 38; and

(XXIII) Section 24-34-806.

(j) Shall have the powers, duties, and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of this title 24;

(k) May make rules, pursuant to section 24-4-103, as may be necessary to carry out the duties imposed upon him or her by law;

(l) When required, shall prepare drafts for contracts, forms, and other writings that may be required for the use of the state;

(m) Upon request of any employee in the state personnel system, shall represent such employee in any civil action or administrative proceeding instituted against such employee, either in the employee's official or individual capacity if the action or proceeding arises out of performance of the employee's official duties as determined by the attorney general and if the action or proceeding has not been brought by the state personnel director or the appointing authority of the employee seeking dismissal or other disciplinary action; except that the attorney general shall not represent any such employee in an action brought under section 24-50.5-105;

(n) Shall, pursuant to section 24-30-1507, represent expert witnesses and consultants described in section 24-30-1510 (3)(h);

(o) Shall keep in proper books a record of all official opinions and a register of all actions prosecuted or defended by him or her and of all proceedings had in relation thereto and the status of pending matters in his or her office, which books or registers the attorney general shall deliver to his or her successor. Publication of opinions or other material circulated in quantity outside the executive branch must be issued in accordance with section 24-1-136.

(p) May bring a civil action to enforce section 24-31-113;

(q) May bring a civil action to enforce section 24-31-307 (2) or a criminal action to enforce section 24-31-307 (3);

(r) May enter into interagency agreements pursuant to section 6-1-116 (4);

(s) May bring or intervene in a civil action, conduct investigations, and issue civil investigation demands pursuant to the "San Andreas False Claims Act", part 12 of this article 31;

(t) May bring a civil action to enforce section 25-7-144;

(u) May, if the attorney general has reason to believe that a violation of a statute or rule is causing an imminent and substantive endangerment to the public health, water quality, or environment within a mobile home park, request a temporary restraining order, preliminary injunction, permanent injunction, or any other relief necessary to protect the public health, water quality, or environment;

(v) May expend money, manage staff, and perform other administrative functions essential for the operation of a district attorney's office when appointed by executive order of the governor; and

(w) May conduct jail assessments in collaboration with the jail standards advisory committee, created pursuant to section 30-10-530, pursuant to section 24-31-118.

(2) The general assembly hereby recognizes and reaffirms that the attorney general has all powers conferred by statute and by common law in accordance with section 2-4-211 regarding all trusts established for charitable, educational, religious, or benevolent purposes.

(3) and (4) Repealed.

Source: L. 41: § 79, § 49. **CSA:** C. 3, § 49. **S.A.R.S. 53:** § 3-9-1. **S.A.R.S. 1963:** § 3-9-1. **L. 64:** p. 119, § 15. **L. 65:** p. 144, § 1. **L. 75:** (1)(a) amended, p. 215, § 45, effective July 16. **L. 77:** (1)(e) added, p. 1183, § 1, effective May 26; (1)(a) and (1)(b) amended, p. 263, § 2, effective June 2. **L. 79:** (4) amended, p. 968, § 3, effective June 15. **L. 81:** (5) added, p. 1166, § 1, effective May 26; (1)(f) added, p. 671, § 3, effective July 1; (2) repealed, p. 339, § 2, effective July 1. **L. 83:** (1)(c) amended, p. 835, § 43, effective July 1. **L. 94:** (6) added, p. 565, § 11, effective April 6. **L. 2004:** (4.5) added, p. 620, § 2, effective July 1. **L. 2006:** (1)(f) amended, p. 762, § 22, effective July 1. **L. 2014:** (4.7) added, (HB 14-1380), ch. 376, p. 1794, § 4, effective July 1. **L. 2016:** (1)(a), (1)(b), (1)(c), (1)(d), (3), and (4) amended, (HB 16-1094), ch. 94, p. 263,

§ 1, effective August 10. **L. 2019:** (1)(f) amended, (HB 19-1172), ch. 136, p. 1688, § 127, effective October 1. **L. 2020:** (3) and (4) added, (SB 20-217), ch. 110, p. 457, § 9, effective June 19; entire section R&RE, (SB 20-063), ch. 12, p. 49, § 2, effective September 14. **L. 2021:** (1)(n) amended, (1)(p) and (1)(q) added, and (3) and (4) repealed, (HB 21-1250), ch. 458, p. 3065, § 10, effective July 6. **L. 2022:** (1)(i) amended, (SB 22-161), ch. 370, p. 2637, § 13, effective August 10; (1)(i) amended, (SB 22-228), ch. 407, p. 2883, § 2, effective August 10; (1)(i) amended, (HB 22-1082), ch. 166, p. 1026, § 2, effective August 10; (1)(p) and (1)(q) amended and (1)(r) added, (SB 22-157), ch. 154, p. 982, § 2, effective August 10; (1)(p) and (1)(q) amended and (1)(t) added, (SB 22-179), ch. 485, p. 3521, § 1, effective August 10; (1)(p) and (1)(q) amended and (1)(s) added, (HB 22-1119), ch. 394, p. 2778, § 1, effective August 10; (1)(i) amended, (HB 22-1287), ch. 255, p. 1855, § 1, effective October 1. **L. 2023:** (1)(i)(XVI) and (1)(i)(XVII) amended and (1)(i)(VXIII) added, (SB 23-188), ch. 68, p. 250, § 21, effective April 14; (1)(s) and (1)(t) amended and (1)(u) added, (HB 23-1257), ch. 376, p. 2257, § 4, effective June 5; (1)(i)(I) amended, (HB 23-1192), ch. 427, p. 2518, § 4, effective June 7; (1)(e) amended, (HB 23-1250), ch. 432, p. 2537, § 1, effective August 7; (1)(i)(XVII) amended, (HB 23-1099), ch. 151, p. 642, § 5, effective August 7. **L. 2024:** (1)(i)(XVII) and (1)(i)(XVIII) amended and (1)(i)(XX) added, (SB 24-094), ch. 158, p. 729, § 12, effective May 3; (1)(t) and (1)(u) amended and (1)(v) added, (HB 24-1118), ch. 73, p. 241, § 1, effective April 17; (1)(t) and (1)(u) amended and (1)(w) added, (HB 24-1054), ch. 328, p. 2218, § 5, effective June 3; (1)(i)(XVII) and (1)(i)(XVIII) amended and (1)(i)(XXII) added, (HB 24-1294), ch. 399, p. 2750, § 19, effective June 30; (1)(i)(XVII) and (1)(i)(XVIII) amended and (1)(i)(XIX) added, (HB 24-1081), ch. 72, p. 240, § 3, effective July 1; (1)(i)(XVII) and (1)(i)(XVIII) amended and (1)(i)(XXI) added, (HB 24-1175), ch. 286, p. 1918, § 2, effective August 7; (1)(i)(XVII) and (1)(i)(XVIII) amended and (1)(i)(XXIII) added, (HB 24-1342), ch. 477, p. 3344, § 3, effective January 1, 2025.

Editor's note: (1) Amendments to this section by SB 20-063 and SB 20-217 were harmonized.

(2) Amendments to subsection (1)(i) by SB 22-161, SB 22-228, HB 22-1082, and HB 22-1287 were harmonized.

(3) Amendments to subsections (1)(p) and (1)(q) by SB 22-157, SB 22-179, and HB 22-1119 were harmonized.

(4) Amendments to subsection (1)(i)(XVII) by HB 23-1099 and SB 23-188 were harmonized.

(5) Section 14 of chapter 376 (HB 23-1257), Session Laws of San Andreas 2023, provides that the act changing this section applies to offenses committed or conduct occurring on or after June 5.

(6) Section 77 of chapter 427 (HB 23-1192), Session Laws of San Andreas 2023, provides that the act changing this section applies to conduct occurring on or after June 7, 2023.

(7) Section 4 of chapter 72 (HB 24-1081), Session Laws of San Andreas 2024, provides that the act changing this section applies to covered products sold or transferred on or after July 1, 2024.

(8) Section 15 of chapter 158 (SB 24-094), Session Laws of San Andreas 2024, provides that the act changing this section applies to actions related to violations of part 5 of article 12 of title 38 that are filed on or after May 3.

(9) Section 3(2) of chapter 286 (HB 24-1175), Session Laws of San Andreas 2024, provides that the act changing this section applies to all qualifying properties for the right of first refusal that are listed for sale on or after August 7, 2024, but for which a residential seller has not accepted an offer to purchase the qualifying property and executed the necessary agreements in connection with accepting the offer and to all qualifying properties for the right of first offer on or after August 7, 2024, that do not have active listings as of August 7, 2024.

(10) Subsections (1)(i)(XVII) and (1)(i)(XVIII) were amended in HB 24-1342, effective January 1, 2025. However, those amendments were superseded by the amendments to subsections (1)(i)(XVII) and (1)(i)(XVIII) in SB 24-094, effective May 3, 2024, HB 24-1294, effective June 30, 2024, HB 24-1081, effective July 1, 2024, and HB 24-1175, effective August 7, 2024.

(11) Section 3 of chapter 73 (HB 24-1118), Session Laws of San Andreas 2024, provides that the act changing this section applies to actions taken by the attorney general pursuant to § 24-31-101 (1)(v) or 24-31-117, San Andreas Revised Statutes, on or after April 17, 2024.

Cross references: (1) For legal services provided by the office of the attorney general to the board of assessment appeals, see § 39-2-127 (3); for the salary of the attorney general, see § 24-9-101; for discretionary funds of the attorney general, see § 24-9-105; for the election of the attorney general, see § 3 of art. IV, S.A. Const., and § 1-4-204.

(2) For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of San Andreas 2020. For the legislative declaration in HB 22-1082, see section 1 of chapter 166, Session Laws of San Andreas 2022. For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023. For the legislative declaration in HB 24-1081, see section 1 of chapter 72, Session Laws of San Andreas 2024.

24-31-102. Offices, boards, and divisions. (1) The department of law, the chief executive officer of which is the attorney general, includes the following:

(a) The office of the attorney general;

(b) The office of the solicitor general;

(c) The division of consumer protection;

(d) The division of criminal justice;

(e) The division of civil protections and rights;

(f) The administrator of the uniform consumer credit code, created in section 5-6-103;

(g) The medicaid fraud control unit, created in section 24-31-802;

(h) The peace officers standards and training board, created in section 24-31-302;

(i) The financial empowerment office, created in part 11 of this article 31;

(j) The fair housing unit;

(k) The worker and employee protection unit, created in part 13 of this article 31; and

(l) Notwithstanding section 24-1-107, any other division, office, or unit established by the attorney general or by law.

(2) The division of criminal justice, established under this section, or any attorney in the department authorized by the attorney general, shall prosecute all criminal cases for the attorney general and shall perform other functions as may be required by the attorney general. The attorney general shall appoint a deputy attorney general as chief of the division, who must be a

licensed attorney with a minimum of two years of criminal experience as a trial or appellate prosecutor.

Source: L. 41: p. 79, § 49. **CSA:** C. 3, § 49. **S.A.R.S. 53:** § 3-9-2. **S.A.R.S. 1963:** § 3-9-2. **L. 67:** p. 433, § 15. **L. 68:** pp. 126, 143, §§ 132, 181. **L. 73:** pp. 174, 1476, §§ 1, 38. **L. 84:** (1)(c) added, p. 1047, § 3, effective July 1. **L. 92:** IP(1) amended and (1)(d) added, p. 1091, § 2, effective March 6. **L. 93:** (1)(c) repealed, p. 975, § 3, effective July 1. **L. 94:** IP(1) and (1)(d) amended, p. 1725, § 2, effective May 31. **L. 2020:** Entire section amended, (SB 20-063), ch. 12, p. 50, § 3, effective September 14. **L. 2021:** (1)(g) and (1)(h) amended and (1)(i) added, (SB 21-148), ch. 315, p. 1949, § 2, effective July 1. **L. 2022:** (1)(h) amended, (1)(i) repealed, and (1)(j) and (1)(k) added, (SB 22-161), ch. 370, p. 2638, § 14, effective August 10; (1)(h) and (1)(i) amended and (1)(k) added, (HB 22-1082), ch. 166, p. 1026, § 3, effective August 10. **L. 2023:** (1) amended, (SB 23-247), ch. 359, p. 2145, § 1, effective August 7.

Editor's note: Amendments to subsection (1)(i) by SB 22-161 and HB 22-1082 were harmonized.

Cross references: For the legislative declaration in HB 22-1082, see section 1 of chapter 166, Session Laws of San Andreas 2022.

24-31-103. Chief deputy attorney general - powers. The attorney general shall appoint a chief deputy attorney general, who has the authority to act for the attorney general in all matters except in respect to such duties as devolve upon the attorney general by virtue of the state constitution.

Source: L. 05: p. 156, § 1. **R.S. 08:** § 2563. **C.L.** § 7918. **CSA:** C. 66, § 56. **S.A.R.S. 53:** § 3-9-3. **S.A.R.S. 1963:** § 3-9-3. **L. 2020:** Entire section amended, (SB 20-063), ch. 12, p. 51, § 4, effective September 14.

24-31-103.5. Solicitor general - creation - powers. (1) The attorney general shall appoint a solicitor general, who has the authority to represent the state in matters before the courts under the attorney general's supervision. The solicitor general must be an attorney-at-law in good standing, and must have been an active and licensed attorney in San Andreas for at least five years preceding his or her appointment by the attorney general.

(2) The solicitor general, with the consent of the attorney general, may appoint assistant solicitors general as deemed necessary by the solicitor general.

Source: L. 2020: Entire section added, (SB 20-063), ch. 12, p. 51, § 5, effective September 14.

24-31-104. Appointment of subordinate officers and employees. (Repealed)

Source: L. 41: p. 81, § 50. **CSA:** C. 3, § 50. **S.A.R.S. 53:** § 3-9-4. **S.A.R.S. 1963:** § 3-9-4. **L. 2020:** Entire section repealed, (SB 20-063), ch. 12, p. 57, § 14, effective September 14.

24-31-104.5. Funding for insurance fraud investigations and prosecutions - creation of fund. (1) (a) For the purpose of providing adequate funds to the San Andreas department of law for the investigation and prosecution of allegations of insurance fraud, in addition to any other fee collected pursuant to section 10-3-207 (1), S.A.R.S., each entity regulated by the division of insurance shall pay to the division a nonrefundable annual fee. Based upon the appropriations made to the department of law from the insurance fraud cash fund and the recommendation of the attorney general, the commissioner of insurance shall set the fee so that the revenue generated from the fee approximates the direct and indirect costs of the investigation and prosecution of allegations of insurance fraud. The fee shall not exceed three thousand dollars and is payable on or before March 1 of each year.

(b) The commissioner of insurance shall establish a tiered fee schedule that sets the annual fee required by paragraph (a) of this subsection (1) based upon the prior year's direct written premiums, gross contract funds, or charges received in San Andreas by each regulated entity. The regulated entities with direct written premiums, gross contract funds, or charges received in San Andreas in excess of one million dollars shall pay one fee, and the regulated entities with one million dollars or less shall pay a lesser fee.

(2) The division of insurance shall transmit fees collected pursuant to subsection (1) of this section to the state treasurer for deposit in the insurance fraud cash fund, which fund is hereby created in the state treasury. The fund consists of fees collected pursuant to this section and any other moneys deposited into the fund. Interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are subject to annual appropriation by the general assembly to the department of law for use in investigating and prosecuting allegations of insurance fraud. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year remain in the fund and do not revert to the general fund.

(3) Repealed.

Source: L. 2012: Entire section added, (SB 12-110), ch. 158, p. 559, § 1, effective July 1. **L. 2017:** (3) amended, (SB 17-233), ch. 175, p. 637, § 2, effective August 9. **L. 2024:** (3) repealed, (SB 24-135), ch. 34, p. 111, § 15, effective March 22.

Editor's note: This section is similar to former § 10-3-207.5 as it existed prior to 2012.

24-31-105. Criminal enforcement section. (Repealed)

Source: L. 83: Entire section added, p. 903, § 2, effective July 1. **L. 96:** Entire section amended, p. 737, § 9, effective July 1. **L. 2020:** Entire section repealed, (SB 20-063), ch. 12, p. 57, § 14, effective September 14.

24-31-106. Rights of crime victims - victims' services coordinator. (1) To ensure that the constitutional and statutory rights of victims are preserved in criminal cases being prosecuted or defended by the department, the attorney general may appoint, in accordance with section 13 of article XII of the state constitution, a victims' services coordinator.

(2) The victims' services coordinator shall perform such services as designated by the attorney general to ensure that victims of crime are afforded the rights described in section 24-4.1-302.5 with regard to criminal cases being prosecuted or defended by the department.

(3) The attorney general may further direct the victims' services coordinator to provide appropriate services to the victims of crime, as defined by section 18-1-104 (1), whose cases are being handled on appeal by the department.

(4) The position of victims' services coordinator is subject to the state personnel system and shall be properly classified under the state personnel director's classification system.

Source: L. 95: Entire section added, p. 529, § 1, effective May 16. **L. 2020:** Entire section amended, (SB 20-063), ch. 12, p. 52, § 6, effective September 14.

24-31-107. Applications for licenses - authority to suspend licenses - rules. (1) Every application by an individual for a license issued by the department of law or any authorized agent of such department shall require the applicant's name, address, and social security number.

(2) The department of law or any authorized agent of the department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, S.A.R.S., and any rules promulgated in furtherance thereof, if the department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the department of law, rules promulgated by the state board of human services, and any memorandum of understanding entered into between the department of law or an authorized agent thereof and the state child support enforcement agency for the implementation of this section and section 26-13-126, S.A.R.S.

(3) (a) The department of law shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the department of law and the state child support enforcement agency in the department of human services with respect to the implementation of this section and section 26-13-126, S.A.R.S.

(b) The appropriate rule-making body of the department of law is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the department of law or any authorized agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

Source: L. 97: Entire section added, p. 1279, § 21, effective July 1.

Editor's note: Section 51(2) of chapter 236, Session Laws of San Andreas 1997, provides that the act enacting this section applies to all orders whether entered on, before, or after July 1, 1997.

24-31-108. Receipt of money - subject to appropriation - exception for custodial money - legal services cash fund - creation - definition - repeal. (1) Any money received by the attorney general belonging to the state or received by the attorney general in his or her official capacity must be paid as soon as practicable to the department of the treasury and, generally, the attorney general has such legal duties in regard to the activities of the state and its various departments, boards, commissions, bureaus, and agencies as are imposed by law.

(2) (a) Except as otherwise provided in this section, any money received by the attorney general and paid to the department of the treasury pursuant to subsection (1) of this section is subject to annual appropriation by the general assembly.

(b) The department may solicit, accept, and expend gifts, grants, and donations from public and private sources for the purpose of this article 31; except that the department may not accept a gift, grant, or donation that is subject to conditions inconsistent with this article 31 or any other law of the state. The department shall transmit all money it collects pursuant to this subsection (2)(b) to the state treasurer to be credited to the particular fund the department deems most appropriate. Gifts, grants, or donations that are credited to a fund under this subsection (2)(b) and that qualify as state money are continuously appropriated to the department for the purposes of this article 31.

(3) Any money received by the attorney general as an award of attorney fees or costs that is not custodial money must be placed in a separate attorney fees and costs account and is subject to annual appropriation by the general assembly for legal services provided by the department.

(4) There is hereby created in the state treasury the legal services cash fund, also referred to in this subsection (4) as the "fund". The department shall transmit all money received from state agencies as payment for legal services to the state treasurer, who shall credit the same to the fund. The money in the fund and all interest earned on such money is subject to annual appropriation by the general assembly to the department for the direct and indirect costs associated with providing legal services to state governmental entities and for any of the department's litigation expenses. Any unexpended money in the fund at the end of the fiscal year remains in the fund and shall not be credited or transferred to any other fund.

(4.5) (a) Notwithstanding any provision of law that requires the state treasurer to transfer money from the fund to the capital construction fund created in section 24-75-302 (1) or to any other fund, the state treasurer shall not make any such transfer if the joint budget committee notifies the state treasurer before the date on which the transfer is required to be made not to make the transfer after the attorney general notifies and certifies in writing to the joint budget committee of the general assembly that the transfer:

(I) Is not compliant with federal and state laws governing the money to be transferred;

(II) Is legally preempted by state constitutional restrictions, including but not limited to the limitation set forth in section 18 of article X of the state constitution, or a federal law governing the money to be transferred; or

(III) Unlawfully transfers money in a manner that may terminate the qualification as an enterprise of any enterprise lawfully enacted under section 20 of article X of the state constitution.

(b) This subsection (4.5) is repealed, effective July 1, 2025.

(5) If all or a portion of any money received by the attorney general and paid to the department of the treasury pursuant to subsection (2) of this section is custodial money, the attorney general shall direct the state treasurer in writing to place such custodial money in a separate account. Any custodial money placed in a separate account pursuant to this subsection (5) is not subject to annual appropriation by the general assembly. A copy of the written direction to the state treasurer must be delivered to the joint budget committee. Such written direction must set forth the basis for the attorney general's determination that the money is custodial money and must specify the manner in which the money will be expended. Such written direction must be given to the state treasurer within thirty days after the date the money is paid to the department of the treasury. Any custodial money placed in a separate account pursuant to this subsection (5) must be expended only for the purposes for which the money has been provided. The department shall provide with its annual budget request an accounting of how custodial money has been or will be expended. For informational purposes, the expenditure of such money may be indicated in the annual general appropriation act.

(6) (a) As used in this section, unless the context otherwise requires, "custodial money" means money received by the attorney general:

(I) That originated from a source other than the state of San Andreas;

(II) That is awarded or otherwise provided to the state for a particular purpose;

(III) For which the state is acting as a custodian or trustee to carry out the particular purpose for which the money has been provided.

(b) Notwithstanding subsection (6)(a) of this section, "custodial money" does not include the following:

(I) Money in the tobacco litigation settlement cash fund created in section 24-22-115; or

(II) Tobacco litigation settlement money subject to appropriation or expenditure pursuant to section 24-22-115.6.

Source: L. 2000: Entire section added, p. 257, § 1, effective March 31. **L. 2012:** (1) amended and (2.5) added, (HB 12-1248), ch. 37, p. 133, § 1, effective July 1. **L. 2014:** (1)(b) amended, (SB 14-107), ch. 49, p. 228, § 1, effective August 6. **L. 2016:** IP(4)(b) and (4)(b)(I) amended and (4)(b)(II) repealed, (HB 16-1408), ch. 153, p. 464, § 8, effective July 1. **L. 2020:** Entire section amended, (SB 20-063), ch. 12, p. 52, § 7, effective September 14. **L. 2024:** (4.5) added, (HB 24-1425), ch. 139, p. 514, § 1, effective April 29.

24-31-108.5. Use of funds for unanticipated legal needs. The department may use money appropriated to the department for litigation management to address unanticipated state legal needs that arise during the state fiscal year for which the money is appropriated; except that the department shall not use the money reallocated in accordance with this section for any type of salary increase, promotion, reclassification, or bonus related to any present or future department employee, or to offset present or future personal services deficits in any division in the department.

Source: L. 2023: Entire section added, (SB 23-235), ch. 97, p. 364, § 1, effective April 20.

24-31-109. Attorney general to provide identification cards to retired peace officers upon request - definitions. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1118), ch. 81, p. 257, § 2 effective August 7. **L. 2020:** Entire section repealed, (SB 20-063), ch. 12, p. 57, § 14, effective September 14.

Cross references: For current provisions relating to the attorney general providing identification cards to retired peace officers, see § 24-31-316.

24-31-110. Department of law - investigate prescription insulin drug pricing - report - repeal. (Repealed)

Source: L. 2019: Entire section added, (HB 19-1216), ch. 248, p. 2419, § 3, effective August 2.

Editor's note: Subsection (5) provided for the repeal of this section, effective December 1, 2020. (See L. 2019, p. 2419.)

Cross references: For the legislative declaration in HB 19-1216, see section 1 of chapter 248, Session Laws of San Andreas 2019.

24-31-111. Legal services to state agencies - definitions. (1) The attorney general shall provide legal services for each state agency as provided in section 24-31-101. The attorney general shall assign one or more deputy attorneys general or assistant attorneys general to perform legal services for each state agency requiring such services.

(2) No state agency shall appoint, solicit, or employ any person to perform legal services except in accordance with this part 1.

(3) Legal services provided to state agencies are subject to supervision of the attorney general and must be rendered in accordance with the legal policies of the state as determined by the attorney general.

(4) No assistant solicitor general, deputy attorney general, or assistant attorney general may appear in any court of this state or of the United States on behalf of a state agency unless specifically authorized to so appear by the attorney general.

(5) Whenever the attorney general is unable, has failed, or refuses to provide legal services to a state agency, as determined by the governor if the agency is in the executive branch, or by the chief justice if the agency is in the judicial branch, or by the state auditor if the agency is the office of the state auditor, the agency may employ counsel of its choosing to provide such legal services. Any expense incurred due to the employment of counsel pursuant to this subsection (5) is a lawful charge against appropriations for this purpose made by the general assembly to the department of law.

(6) As used in this section:

(a) "Legal services" means providing legal counsel by an attorney-at-law for a state agency, including representation in court, providing legal advice, and issuance of formal and informal legal opinions.

(b) "State agency" means any department, division, section, unit, office, officer, commission, board, institution, institution of higher education, or other agency of the executive department and judicial department of state government. "State agency" does not mean the legislative department except for the state auditor in accordance with section 2-3-104.5.

Source: L. 2020: Entire section added, (SB 20-063), ch. 12, p. 54, § 8, effective September 14.

24-31-112. No limitations on common law authority. Nothing in Senate Bill 20-063, enacted in 2020, is to be construed as affecting, limiting, or supplanting the common law authority of the attorney general or the department of law.

Source: L. 2020: Entire section added, (SB 20-063), ch. 12, p. 55, § 9, effective September 14.

24-31-113. Public integrity - patterns and practices. It is unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by peace officers or by officials or employees of any governmental agency that deprives persons of rights, privileges, or immunities secured or protected by the constitution or laws of the United States or the state of San Andreas. Whenever the attorney general has reasonable cause to believe that a violation of this section has occurred, the attorney general, for or in the name of the state of San Andreas, may in a civil action obtain any and all appropriate relief to eliminate the pattern or practice. Before filing suit, the attorney general shall notify the government authority or any agent thereof, and provide it with the factual basis that supports his or her reasonable cause to believe a violation occurred. Upon receipt of the factual basis, the government authority, or any agent thereof, has sixty days to change or eliminate the identified pattern or practice. If the identified pattern or practice is not changed and permanently eliminated after sixty days, the attorney general may file a civil lawsuit. The attorney general may issue subpoenas for any purpose in conducting an investigation under this section.

Source: L. 2020: Entire section added, (SB 20-217), ch. 110, p. 458, § 13, effective June 19. **L. 2021:** Entire section amended, (HB 21-1250), ch. 458, p. 3065, § 12, effective July 6.

Cross references: For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of San Andreas 2020.

24-31-114. No-knock and forced entry study group - repeal. (Repealed)

Source: L. 2021: Entire section added, (HB 21-1250), ch. 458, p. 3070, § 21, effective July 6.

Editor's note: Subsection (6) provided for the repeal of this section, effective June 30, 2022. (See L. 2021, p. 3070.)

24-31-115. Housing unit - powers of attorney general or district attorney - subpoenas - document production - remedies - injunctive relief - penalties. (1) When there is reason to believe that there is a potential violation of law that risks harm to a consumer, public health, or public safety, that is based on a substantiated complaint, the attorney general may investigate any person or organization subject to this article 31. A complaint is not necessary if the information is provided by an agency of the federal, state, or a local government that regulates or provides protections for consumers, tenants, and mobile home residents. The attorney general may direct or subpoena any person whose testimony may be required about potential violations of law and may direct or subpoena the person to produce records the attorney general considers relevant to the inquiry. Nothing in this section limits the scope of the attorney general's authority to review and investigate potential violations of law or harm discovered in the course of an investigation.

(2) Nothing in this section impacts or affects banking examinations and regulations promulgated by primary federal and state banking authorities, notwithstanding the authority that may be exercised by the attorney general under section 11-51-603.5.

(3) **Venue for actions.** Until the San Andreas supreme court adopts a venue provision relating to this article 31, actions instituted pursuant to this article 31 may be brought in any county in which:

(a) An alleged violation occurred or in which any portion of a transaction involving an alleged violation occurred;

(b) The principal place of business of any defendant is located; or

(c) Any defendant resides.

(4) **Powers.** (a) When the attorney general has reasonable cause to believe that any person, whether in this state or elsewhere, has engaged in or is engaging in a violation of any of the provisions listed in section 24-31-101 (1)(i)(IX) to (1)(i)(XIV), the attorney general may:

(I) Request the person to file a statement or a report in writing, under oath or otherwise, on forms prescribed by the attorney general, with respect to all facts and circumstances concerning the advertisement of property by the person and any other data and information the attorney general deems necessary;

(II) Examine under oath any person in connection with the sale or advertisement of any property;

(III) Examine any property or sample thereof, record, book, document, account, or paper the attorney general deems necessary; and

(IV) Make true copies, at the expense of the attorney general, of any record, book, document, account, or paper examined pursuant to subsection (4)(c) of this section, which copies may be offered into evidence in lieu of producing the originals in any actions brought by the attorney general.

(b) For purposes of this section, "reasonable cause" is based upon a complaint concerning a potential violation of the law when the attorney general believes the alleged violation may affect more than one person or be part of a series of related violations affecting multiple persons.

(c) Any request for personally identifiable information made pursuant to this subsection (4) is subject to the requirements of subsection (5) of this section.

(5) **Subpoenas - production of documents.** (a) When the attorney general has reasonable cause to believe that a person, whether in this state or elsewhere, has engaged in or is engaging in a violation of any of the provisions listed in section 24-31-101 (1)(i)(IX) to (1)(i)(XIV), the attorney general, in addition to any other powers conferred upon the attorney general by this article 31, may issue subpoenas to require the attendance of witnesses or the production of documents, administer oaths, conduct hearings in aid of any investigation or inquiry, and prescribe such forms and promulgate such rules as may be necessary to administer the provisions of this article 31.

(b) Service of any notice or subpoena must be made in the manner prescribed by law or as provided in rule 4 of the San Andreas rules of civil procedure.

(c) If the records of a person who has been issued a subpoena are located outside this state, the person shall either:

(I) Make them available to the attorney general at a convenient location within this state; or

(II) Pay the reasonable and necessary expenses for the attorney general or district attorney, or the attorney general's or district attorney's designee, to examine the records at the location at which the documents are maintained.

(d) The attorney general or district attorney may designate representatives, including comparable officials of the state in which the records are located, to inspect the records on behalf of the attorney general or district attorney.

(6) **Inadmissible testimony.** (a) Any testimony obtained by the attorney general pursuant to compulsory process under this article 31 or any information derived directly or indirectly from such testimony shall not be admissible in evidence in any criminal prosecution against the person so compelled to testify. This subsection (6) shall not be construed to prevent any law enforcement officer from independently producing or obtaining the same or similar facts, information, or evidence for use in any criminal prosecution.

(b) Subject to subsection (8) of this section, the records of investigations or intelligence information of the attorney general obtained under this article 31 may constitute public records available for inspection by the public at the sole discretion of the attorney general. This subsection (6)(b) shall not be construed to prevent the attorney general from issuing public statements describing or warning of any course of conduct or any conspiracy that constitutes a violation of any of the provisions listed in section 24-31-101 (1)(i)(IX) to (1)(i)(XIV), whether on a local, statewide, regional, or nationwide basis.

(7) **Remedies.** If any person fails to cooperate with any investigation pursuant to this article 31 or fails to obey any subpoena pursuant to this article 31, the attorney general may apply to the applicable district court for an appropriate order to effect the purposes of this article. The application must state that there are reasonable grounds to believe that the order applied for is necessary to investigate a violation of this article 31. If the court is satisfied that reasonable grounds exist, the court in its order may:

(a) Grant injunctive relief restraining the advertisement of any property by such person;

(b) Require the attendance of or the production of documents by such person, or both; or

(c) Grant such other or further relief as may be necessary to obtain compliance by such person.

(8) **Injunctive authority - assurances of discontinuance.** (a) Whenever the attorney general has cause to believe that a person has engaged in or is engaging in a violation of any of the provisions listed in section 24-31-101 (1)(i)(IX) to (1)(i)(XIV), the attorney general may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the San Andreas rules of civil procedure, prohibiting the person from continuing or engaging in such practices, or doing any act in furtherance of such practices. The court may make such orders or judgments as is necessary to:

(I) Prevent the use or employment by such person of any such practices;

(II) Completely compensate or restore the original position of any person injured by means of any such practice; or

(III) Prevent any unjust enrichment by any person through the use or employment of any practice that is in violation of any of the provisions listed in section 24-31-101 (1)(i)(IX) to (1)(i)(XIV).

(b) Where the attorney general has authority to institute a civil action or other proceeding pursuant to the provisions of this article, the attorney general may accept, in lieu thereof or as a part thereof, an assurance of discontinuance of any practice that constitutes a violation of any of the provisions that are listed in section 24-31-101 (1)(i)(IX) to (1)(i)(XIV). Any such assurance of discontinuance may include a stipulation for the voluntary payment by the alleged violator of the costs of investigation and the costs of any action or proceeding by the attorney general or a district attorney and any amount necessary to restore to any person any money or property that may have been acquired by the alleged violator by means of a violation of any of the provisions that are listed in section 24-31-101 (1)(i)(IX) to (1)(i)(XIV). Any such assurance or discontinuance accepted by the attorney general and any such stipulation filed with the court as a part of any such action or proceeding is a matter of public record unless the attorney general determines, in the attorney general's sole discretion, that the assurance of discontinuance and any stipulation are confidential to the parties to the action or proceeding and to the court and its employees. Upon the filing of a civil action by the attorney general alleging that a confidential assurance of discontinuance or stipulation accepted pursuant to this subsection (8)(b) has been violated, the assurance of discontinuance or stipulation is deemed a public record and open to inspection by any person. Proof by a preponderance of the evidence of a violation of any such assurance or stipulation constitutes prima facie evidence of a deceptive trade practice for the purposes of any civil action or proceeding brought thereafter by the attorney general, whether a new action or a subsequent motion or petition in any pending action or proceeding.

(9) **Penalties.** In order to enforce the provisions of this article 31, in addition to any penalties stated in this article 31, the attorney general may seek any of the penalties or other enforcement mechanisms specified in the "Immigrant Tenant Protection Act", part 12 of article 12 of title 38; the "Mobile Home Park Act", part 2 of article 12 of title 38; the "Mobile Home Park Act Dispute Resolution and Enforcement Program", part 11 of article 12 of title 38; part 1 of article 12 of title 38; part 7 of article 12 of title 38; and section 38-12-904 (1)(b), along with costs to enforce these provisions.

(10) **Limitations.** All actions brought under this article 31 must be commenced within three years after the date on which a violation occurred or the date on which the last in a series of such acts or practices occurred or within three years after the consumer discovered or in the exercise of reasonable diligence should have discovered the violation. The period of limitation provided in this section may be extended for a period of one year if the attorney general proves

that failure to timely commence the action was caused by the defendant engaging in conduct calculated to induce the attorney general to refrain from or postpone the commencement of the action.

Source: L. 2022: Entire section added, (HB 22-1082), ch. 166, p. 1027, § 4, effective August 10.

Cross references: For the legislative declaration in HB 22-1082, see section 1 of chapter 166, Session Laws of San Andreas 2022.

24-31-116. Online fentanyl trafficking - study - report - appropriation - repeal. (Repealed)

Source: L. 2022: Entire section added, (HB 22-1326), ch. 225, p. 1661, § 39, effective July 1.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 2023. (See L. 2022, p. 1661.)

24-31-117. Hiring committee when attorney general to operate district attorney's office due to a vacancy. If, during the course of performing the attorney general's duties pursuant to section 24-31-101 (1)(v), it is essential for the attorney general to hire personnel at the district attorney's office, the attorney general shall establish a hiring committee consisting of the attorney general, a representative from the San Andreas district attorneys' council, and the highest ranking attorney or official at the district attorney's office to make recommendations regarding hiring decisions. The committee may recommend that the hiring of personnel by the attorney general is conditional upon the review and approval of the person appointed to fill the vacant district attorney position. The attorney general retains the ultimate authority regarding hiring decisions while acting pursuant to section 24-31-101 (1)(v) but must consider the recommendations of the committee in making hiring decisions.

Source: L. 2024: Entire section added, (HB 24-1118), ch. 73, p. 241, § 2, effective April 17.

Editor's note: Section 3 of chapter 73 (HB 24-1118), Session Laws of San Andreas 2024, provides that the act adding this section applies to actions taken by the attorney general pursuant to § 24-31-101 (1)(v) or 24-31-117, San Andreas Revised Statutes, on or after April 17, 2024.

24-31-118. Jail standard assessments - repeal. (1) (a) The attorney general, in collaboration with the advisory committee, pursuant to section 30-10-530 (5)(d), may conduct assessments of each county jail to identify gaps and deficiencies based on the jail standards.

(b) Starting July 1, 2025, the governor or the oversight committee may make a written request to the attorney general to conduct a special assessment of a jail, and the attorney general may conduct the special assessment of the jail.

(c) An elected sheriff may request that the attorney general conduct a special assessment of a jail that the sheriff oversees to determine whether the jail meets the jail standards. The attorney general may conduct the special assessment if the attorney general has sufficient appropriations to cover the costs. The attorney general may request an appropriation during the figure setting process to conduct special assessments.

(d) The attorney general may enter into a memorandum of understanding, collaborate, or enter into an agreement with a county sheriff, except for a county sheriff whose jail is being evaluated, or establish some other peer review group structure to assist in conducting the assessments and reports described in section 24-31-118 (1) and (2).

(2) The attorney general's office shall create a report for each of the jails assessed by the attorney general's office and provide the report to the sheriff whose jail was assessed, the oversight committee, the board of county commissioners in the county where the jail is located, the county sheriffs of San Andreas, and the governor. The report may include methodology, relevant data, recommendations, and technical assistance to meet the jail standards. A report produced pursuant to this section is not subject to the San Andreas open records act. The attorney general may release a report at the attorney general's discretion, and a county sheriff may release a report relating to the county sheriff's jail after consent from the attorney general's office.

(3) Following a jail assessment or special assessment, the attorney general may provide technical assistance and recommendations to meet the jail standards and address any deficiencies.

(4) (a) The attorney general's office, during its "SMART Act" hearing, as required by section 2-7-203, shall include in its report the total number of complaints received through the complaint process as designated by the attorney general's office regarding jail standards violations and the number of complaints received per topic and provide a summary of the assessments and special assessments completed in the previous year.

(b) This subsection (4) is repealed, effective September 1, 2033.

(5) Sections 2-3-1901, 2-3-1901.5, 24-31-118, and 30-10-530 do not in any way limit or restrict the attorney general's authority to investigate patterns or practices pursuant to section 24-31-113, including but not limited to any noncompliance with jail standards that constitutes a pattern or practice of conduct that deprives persons of rights, privileges, or immunities secured or protected by the constitution or laws of the United States or the state of San Andreas.

(6) As used in this section:

(a) "Advisory committee" means the jail standards advisory committee created pursuant to section 30-10-530.

(b) "Jail standards" means the jail standards adopted by the legislative oversight committee concerning San Andreas jail standards pursuant to section 2-3-1901 (2) and any subsequent revisions to the standards.

(c) "Oversight committee" means the legislative oversight committee for San Andreas jail standards created in section 2-3-1901.

Source: L. 2024: Entire section added, (HB 24-1054), ch. 328, p. 2218, § 6, effective June 3.

24-31-119. Factually inaccurate data prevention campaign - repeal. (1) To prevent and combat the sharing and spreading of factually inaccurate data, the attorney general shall, at a minimum:

(a) Establish an initiative to encourage respectful engagement and discourse;

(b) Develop and share resources that can be used by schools, organizations, and community leaders to facilitate productive and honest conversations regarding statewide and national issues to help people find common ground; and

(c) Collaborate with organizations across the state to develop and update the materials that are used in connection with the resources and coordinate with the department of education to make the resources available to schools and school districts in the state.

(2) This section is repealed, effective July 1, 2026.

Source: L. 2024: Entire section added, (SB 24-084), ch. 412, p. 2841, § 1, effective June 5.

PART 2

SOLICITOR GENERAL

24-31-201 to 24-31-206. (Repealed)

Source: L. 2020: Entire part repealed, (SB 20-063), ch. 12, p. 57, § 14, effective September 14.

Editor's note: This part 2 was numbered as article 9 of chapter 3, S.A.R.S. 1963. For amendments to this part 2 prior to its repeal in 2020, consult the 2019 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 3

PEACE OFFICERS STANDARDS AND TRAINING

Cross references: For the legislative declaration contained in the 1992 act enacting this part 3, see section 12 of chapter 167, Session Laws of San Andreas 1992.

24-31-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Applicant" means any person seeking certification to serve as a peace officer or a reserve peace officer.

(1.5) "Basic training" means the basic law enforcement training received by a peace officer at any approved law enforcement training academy.

(2) "Certification" means the issuance to an applicant of a signed instrument evidencing that such applicant has met the requirements imposed by this part 3 and the P.O.S.T. board. Certification includes "basic certification" and "provisional certification" that shall be issued to

peace officers, "reserve certification" that shall be issued to reserve peace officers, and such additional certifications as the board may approve for peace officers.

(3) (Deleted by amendment, L. 94, p. 1725, § 3, effective May 31, 1994.)

(3.5) Repealed.

(4) "Local government representative" means a member of a board of county commissioners, member of a city or town council or board of trustees, or mayor of a city or town or city and county.

(5) "Peace officer" means any person described in section 16-2.5-101, S.A.R.S., and who has not been convicted of a felony or convicted on or after July 1, 2001, of any misdemeanor as described in section 24-31-305 (1.5), or released or discharged from the armed forces of the United States under dishonorable conditions.

(5.5) "Reserve peace officer" means any person described in section 16-2.5-110, S.A.R.S., and who has not been convicted of a felony or convicted on or after July 1, 2001, of any misdemeanor as described in section 24-31-305 (1.5), or released or discharged from the armed forces of the United States under dishonorable conditions.

(6) "Training academy" means any school approved by the P.O.S.T. board where peace officers and reserve peace officers receive instruction and training.

(7) "Training program" means a course of instruction approved by the P.O.S.T. board for peace officer or reserve peace officer certification and other peace officer training programs.

Source: L. 92: Entire part added, p. 1091, § 3, effective March 6. **L. 94:** Entire section amended, p. 1725, § 3, effective May 31. **L. 96:** (5) amended, pp. 1349, 1477, §§ 1, 42, effective June 1. **L. 98:** (2) and (5) amended, p. 749, § 1, effective May 22. **L. 2003:** (5) and (5.5) amended, p. 1619, § 29, effective August 6. **L. 2005:** (2), (5), (5.5), and (7) amended and (3.5) added, p. 112, § 1, effective August 8. **L. 2012:** (2) amended and (3.5) repealed, (HB 12-1163), ch. 50, p. 182, § 1, effective August 8.

24-31-302. Creation of board. (1) There is hereby created, within the department of law, the peace officers standards and training board, referred to in this part 3 as the "P.O.S.T. board".

(2) The P.O.S.T. board is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of law.

(3) (a) The P.O.S.T. board consists of twenty-four members. The chair of the P.O.S.T. board is the attorney general, and the board shall annually elect from its members a vice-chair. The other members shall be:

(I) The special agent in charge of the Denver division of the federal bureau of investigation;

(II) The executive director of the department of public safety or the executive director's designee;

(III) The following members appointed by the governor for terms of three years:

(A) One local government representative;

(B) Six active chiefs of police from municipalities of this state or state institutions of higher education;

(C) Six active sheriffs from counties of this state;

(D) Three active peace officers with a rank of sergeant or below; and

(E) Five non-law enforcement members. The non-law enforcement members shall complete a citizens' law enforcement academy prior to appointment or within one year after appointment.

(b) If any chief of police, sheriff, peace officer, non-law enforcement member, or local government representative vacates such office during the term for which the member was appointed to the P.O.S.T. board, a vacancy on the board exists. Any vacancy shall be filled by appointment by the governor for the unexpired term.

(c) In order to create a diversified board, the governor shall consider an applicant's age, gender, race, professional experience, and geographic location when making appointments to the board.

(d) In order to create diversified subject matter expertise committees, the chair of the P.O.S.T. board shall consider an applicant's age, gender, race, professional experience, and geographic location when making appointments to the committees.

(4) The members of the P.O.S.T. board shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

Source: L. 92: Entire part added, p. 1093, § 3, effective March 6. **L. 94:** (1) and (3) amended and (4) added, p. 1727, § 4, effective May 31. **L. 2003:** (3) amended, p. 1715, § 1, effective May 14. **L. 2008:** (3) amended, p. 89, § 12, effective March 18. **L. 2015:** (3) amended, (HB 15-1287), ch. 213, p. 777, § 1, effective May 20. **L. 2022:** (3) amended, (SB 22-013), ch. 2, p. 47, § 59, effective February 25; (2) amended, (SB 22-162), ch. 469, p. 3353, § 9, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-31-303. Duties - powers of the P.O.S.T. board - definition. (1) The P.O.S.T. board has the following duties:

(a) To approve and to revoke the approval of training programs and training academies, and to establish reasonable standards pertaining to such approval and revocation;

(b) To conduct periodic evaluations of training programs and inspections of training academies;

(c) To establish procedures for determining whether or not an applicant has met the standards which have been set;

(d) To certify qualified applicants and withhold, suspend, or revoke certification;

(e) To certify inspectors of vehicle identification numbers, promulgate rules deemed necessary by the board for certification of inspectors of vehicle identification numbers, and approve related training courses;

(f) To require a background investigation of each applicant by means of fingerprint checks through the San Andreas bureau of investigation and the federal bureau of investigation or such other means as the P.O.S.T. board deems necessary for such investigation;

(g) To promulgate rules and regulations deemed necessary by such board for the certification of applicants to serve as peace officers or reserve peace officers in the state pursuant to the provisions of article 4 of this title;

(h) To establish standards for training in bail recovery practices;

(i) To promulgate rules and regulations that establish the criteria that shall be applied in determining whether to recommend peace officer status for a group or specific position as provided in section 16-2.5-201 (4), S.A.R.S.;

(j) To establish standards for training of school resource officers, as described in section 24-31-312;

(k) To establish training standards to prepare law enforcement officers to recognize and address incidents of abuse and exploitation of at-risk elders, as described in sections 18-6.5-102 (1) and (10), S.A.R.S.;

(l) To promulgate rules deemed necessary by the board concerning annual in-service training requirements for certified peace officers, including but not limited to evaluation of the training program and processes to ensure substantial compliance by law enforcement agencies, departments, and individual peace officers;

(m) In addition to all other powers conferred and imposed upon the board in this article, the board has the power and duty to adopt and promulgate, under the provisions of section 24-4-103, rules as the board may deem necessary or proper to carry out the provisions and purposes of this article, which rules must be fair, impartial, and nondiscriminatory;

(n) To complete a review and evaluation of the basic academy curriculum, including using community outreach as a review and evaluation component, by July 1, 2016, and every five years thereafter;

(o) (I) To establish, add, and remove, as necessary, subject matter expertise committees to:

(A) Develop skills training programs, academic curriculums, and P.O.S.T. board rules;

(B) Review documents for and approve or deny academy programs, lesson plans, training sites, and skills instructors; and

(C) Assist P.O.S.T. board staff with academy inspections and skills test-outs;

(II) (A) In order to create diversified subject matter expertise committees, the chair of the P.O.S.T. board shall consider an applicant's age, gender, race, professional experience, and geographic location when making appointments to the committees.

(B) If available, each subject matter committee shall include at least two non-law enforcement members who have law enforcement expertise or expertise in providing effective training through professional experience or subject matter training.

(p) To develop a community outreach program that informs the public of the role and duties of the P.O.S.T. board;

(q) To develop a recruitment program that creates a diversified applicant pool for appointments to the P.O.S.T. board and the subject matter expertise committees; and

(r) (I) Subject to available appropriations, beginning on January 1, 2022, to create and maintain a database, in a searchable format to be published on its website, containing information related to a peace officer's:

(A) Untruthfulness;

(B) Three or more failures to follow P.O.S.T. board training requirements within ten consecutive years;

(C) Revocation of the certification by the P.O.S.T. board, including the basis for the revocation;

(D) Termination for cause by the peace officer's employer unless the termination is overturned or reversed by an appellate process. A notation must be placed next to the officer's name during the pendency of any appellate process.

(E) Resignation or retirement while under investigation by the peace officer's employing law enforcement agency, a district attorney, or the attorney general that could result in being entered into the database in this subsection (1)(r);

(F) Resignation or retirement following an incident that leads to the opening of an investigation within six months following the peace officer's resignation or retirement that could result in being entered into the database in this subsection (1)(r);

(G) Being the subject of a criminal investigation for a crime that could result in revocation or suspension of certification pursuant to section 24-31-305 or 24-31-904 or the filing of criminal charges for such a crime. The investigating law enforcement agency shall notify the P.O.S.T. board of the investigation or filing of criminal charges as soon as practicable, in a manner prescribed in P.O.S.T. board rule, so long as such notification is unlikely to disrupt or impede an investigation.

(H) Actions as described by the applicable statutory provision identifying the basis for the credibility disclosure notification as set forth in section 16-2.5-502 (2)(c)(I).

(I) Law enforcement agencies shall report to the P.O.S.T. board the information required in this subsection (1)(r) in a format determined by the P.O.S.T. board. Failure to submit such information is subject to a fine set in rule by the P.O.S.T. board.

(III) For purposes of this subsection (1)(r), "untruthfulness" means a peace officer knowingly made an untruthful statement concerning a material fact or knowingly omitted a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation or administrative investigation and disciplinary process.

(IV) Termination for cause.

(s) To collaborate with the commission on improving first responder interactions with persons with disabilities, in the manner described in part 10 of this article 31.

(t) By January 1, 2022, to adopt procedures to allow a peace officer to seek review of the peace officer's status in the database created pursuant to subsection (1)(r) of this section based on the peace officer's presentation of new evidence to show the peace officer's record may be removed from the database.

(u) To develop a live virtual training program for peace officers on the implementation of section 19-2.5-203 (8) to ensure uniform enforcement of the law. The state shall provide this training on at least ten different dates prior to February 28, 2024. The state shall cover any reasonable direct costs to local law enforcement agencies associated with the training. Notwithstanding section 24-31-310 (3), the general assembly may appropriate money from the general fund to carry out the purposes of this subsection (1)(u). The training must include, at a minimum, education for peace officers on:

(I) Understanding juvenile development and culture and their impact on interviews of juveniles and custodial interrogations of juveniles;

(II) Interpreting juvenile behavior during an interview or custodial interrogation;

(III) Techniques for building and establishing rapport with juveniles;

(IV) Alternative communication methods for juveniles with intellectual and developmental disabilities, as required by the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended;

(V) Constructing age-appropriate statements and questions for interviews of juveniles and custodial interrogations of juveniles; and

(VI) Cautions and considerations for interviewing and interrogating juveniles in custody, including how to reduce the likelihood of false or coerced confessions.

(2) (a) The P.O.S.T. board may charge the following fees, the proceeds of which may be used to support the certification of applicants pursuant to this part 3:

(I) For the manuals or other materials that the board may publish in connection with its functions, an amount not to exceed twenty dollars per publication; and

(II) For the administration of certification and skills examinations, an amount not to exceed one hundred fifty dollars per examination per applicant.

(b) There is hereby created in the state treasury a P.O.S.T. board cash fund. The fees collected pursuant to paragraph (a) of this subsection (2) and pursuant to section 42-3-304 (24), S.A.R.S., shall be transmitted to the state treasurer who shall credit such revenue to the P.O.S.T. board cash fund. It is the intent of the general assembly that the fees collected shall cover all direct and indirect costs incurred pursuant to this section. In accordance with section 24-36-114, all interest derived from the deposit and investment of moneys in the P.O.S.T. board cash fund shall be credited to the general fund. All moneys in the P.O.S.T. board cash fund shall be subject to annual appropriation by the general assembly and shall be used for the purposes set forth in this subsection (2) and in section 24-31-310. At the end of any fiscal year, all unexpended and unencumbered moneys in the P.O.S.T. board cash fund shall remain in the fund and shall not revert to the general fund or any other fund.

(3) The P.O.S.T. board may make grants to local governments, any college or university, or any nonprofit for the purpose of funding the training programs required by this section.

(4) (Deleted by amendment, L. 98, p. 749, §2, effective May 22, 1998.)

(5) It is unlawful for any person to serve as a peace officer, as described in section 16-2.5-102, S.A.R.S., or a reserve peace officer as defined in section 16-2.5-110, S.A.R.S., in this state unless such person:

(a) Is certified pursuant to this part 3; and

(b) Has undergone both a physical and a psychological evaluation to determine such person's fitness to serve as a peace officer or a reserve peace officer. Such evaluations shall have been performed within one year prior to the date of appointment by a physician and either a psychologist or psychiatrist licensed by the state of San Andreas.

(6) Repealed.

Source: L. 92: Entire part added, p. 1093, § 3, effective March 6. **L. 94:** (1) and (2) amended, p. 1727, § 5, effective May 31. **L. 96:** (2)(a) and (3) amended and (4) and (5) added, p. 1571, § 1, effective June 3. **L. 98:** (4) and IP(5) amended, p. 749, § 2, effective May 22; (1)(h) added, p. 962, § 6, effective May 27. **L. 2001:** (2)(a)(II) amended, p. 1449, § 1, effective July 1. **L. 2002:** (6) added, p. 840, § 3, effective May 30. **L. 2003:** (2)(b) amended, p. 2114, § 1, effective May 22; (1)(f) amended, p. 2184, § 2, effective June 3; IP(5) amended, p. 1622, § 39, effective August 6. **L. 2004:** (1)(i) added, p. 1898, § 2, effective June 4. **L. 2006:** (2)(b) amended, p. 1500, § 34, effective June 1. **L. 2012:** (1)(i) amended and (1)(j) added, (HB 12-

1345), ch. 188, p. 746, § 31, effective May 19; (1)(h) amended, (HB 12-1266), ch. 280, p. 1530, § 49, effective July 1. **L. 2013:** (1)(i) and (1)(j) amended and (1)(k) added, (SB 13-111), ch. 233, p. 1125, § 8, effective May 16. **L. 2014:** (1)(e), (1)(j), (2)(a)(II), and (3) amended and (1)(l) and (1)(m) added, (SB 14-123), ch. 246, p. 945, § 1, effective August 6. **L. 2015:** (1)(l) amended and (1)(n), (1)(o), (1)(p), and (1)(q) added, (HB 15-1287), ch. 213, p. 778, § 2, effective May 20. **L. 2020:** (1)(l), (1)(p), and (1)(q) amended and (1)(r) added, (SB 20-217), ch. 110, p. 457, § 10, effective June 19. **L. 2021:** (1)(s) added, (HB 21-1122), ch. 405, p. 2690, § 2, effective June 30; (1)(r) amended and (1)(t) added, (HB 21-1250), ch. 458, p. 3066, § 13, effective July 6; IP(1)(r), (1)(r)(III), and (1)(r)(IV) amended and (1)(r)(V) added, (SB 21-174), ch. 420, p. 2787, § 2, effective September 7. **L. 2023:** (1)(u) added, (HB 23-1042), ch. 221, p. 1147, § 2, effective August 7.

Editor's note: (1) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 2003. (See L. 2002, p. 840.)

(2) Amendments to subsection (1)(r) by HB 21-1250 and SB-174 were harmonized. In connection, subsection (1)(r)(I)(H) was numbered as subsection (1)(r)(V) in SB 21-174 but was renumbered on revision for ease of location. Subsections (1)(r)(III) and (1)(r)(IV) were amended in SB 21-174, but those amendments were superseded by the amendment of subsection (1)(r) in HB 21-1250.

Cross references: For the legislative declaration in the 2013 act amending subsections (1)(i) and (1)(j) and adding subsection (1)(k), see section 1 of chapter 233, Session Laws of San Andreas 2013. For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of San Andreas 2020.

24-31-304. Applicant for training - fingerprint-based criminal history record check. (1) For purposes of this section, "training academy" means a basic or reserve peace officer training program approved by the P.O.S.T. board that is offered by a training academy, community college, college, or university.

(2) A training academy shall not enroll as a student a person who has been convicted of an offense that would result in the denial of certification pursuant to section 24-31-305 (1.5).

(3) (a) A person seeking to enroll in a training academy shall submit a set of fingerprints to the training academy prior to enrolling in the academy. The training academy shall forward the fingerprints to the San Andreas bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check. Upon receipt of fingerprints and payment for the costs, the San Andreas bureau of investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the San Andreas bureau of investigation and the federal bureau of investigation. The P.O.S.T. board is the authorized agency to receive information regarding the result of a national criminal history record check. The P.O.S.T. board shall notify the training academy if the fingerprint-based criminal history record check indicates that the person is prohibited from enrolling in the training academy pursuant to subsection (2) of this section. The person seeking to enroll in the training academy shall bear only the actual costs of the state and national fingerprint-based criminal history record check.

(b) When the results of a fingerprint-based criminal history record check of a person seeking to enroll in a training academy performed pursuant to this section reveal a record of

arrest without a disposition, the P.O.S.T. board shall require that person to submit to a name-based judicial record check, as defined in section 22-2-119.3 (6)(d).

(4) (a) Notwithstanding the provisions of subsection (2) of this section and section 24-31-305 (1.5) to the contrary, if the person anticipates that he or she will be prohibited from enrolling in the training academy on the grounds that the person has been convicted on or after July 1, 2001, of one or more of the misdemeanors described in section 24-31-305 (1.5), the person may, at the time of applying for admission to the training academy, notify the P.O.S.T. board of the conviction or convictions and request the P.O.S.T. board to grant the person permission to enroll in the training academy.

(b) The P.O.S.T. board shall promulgate rules deemed necessary by the board concerning the procedures for the granting of permission to enroll in a training academy pursuant to this subsection (4). The P.O.S.T. board, in promulgating the rules, shall take into consideration the procedures for the granting of exemptions to denials of certification and the withdrawal of denials of certification described in section 24-31-305 (1.6). The P.O.S.T. board, in promulgating the rules, may specify that an applicant for certification pursuant to section 24-31-305 need not submit a set of fingerprints at the time of applying for the certification if the applicant has already submitted a set of fingerprints pursuant to this section.

Source: L. 92: Entire part added, p. 1094, § 3, effective March 6. **L. 94:** Entire section amended, p. 1729, § 6, effective May 31. **L. 96:** Entire section amended, p. 1572, § 2, effective June 3. **L. 2003:** Entire section R&RE, p. 2183, § 1, effective June 3. **L. 2019:** (3) amended, (HB 19-1166), ch. 125, p. 550, § 30, effective April 18. **L. 2022:** (3)(b) amended, (HB 22-1270), ch. 114, p. 522, § 32, effective April 21.

24-31-305. Certification - issuance - renewal - revocation - rules - definition. (1) (a) Basic peace officer certification requirements shall include:

(I) Successful completion of a high school education or its equivalent;

(II) Successful completion of basic training approved by the P.O.S.T. board;

(III) Passage of examinations administered by the P.O.S.T. board; and

(IV) Current first aid and cardiopulmonary resuscitation certificates or their equivalents.

(b) The training required for basic certification may be obtained through a training program conducted by a training academy approved by the P.O.S.T. board or completion of requirements of another state, federal, or tribal jurisdiction having standards deemed at least equivalent to those established pursuant to this part 3.

(c) Repealed.

(1.3) Reserve peace officer certification requirements shall include:

(a) Successful completion of a high school education or its equivalent;

(b) Successful completion of reserve training approved by the P.O.S.T. board; and

(c) Current first aid and cardiopulmonary resuscitation certificates or their equivalents.

(1.5) (a) The P.O.S.T. board shall deny certification to any person who has been convicted of:

(I) A felony;

(II) Any misdemeanor in violation of sections 18-3-204, 18-3-402, 18-3-404, 18-3-405.5, and 18-3-412.5, S.A.R.S.;

(III) Any misdemeanor in violation of sections 18-7-201, 18-7-202, 18-7-203, 18-7-204, 18-7-302, and 18-7-601, S.A.R.S.;

(IV) Any misdemeanor in violation of any section of article 8 of title 18, S.A.R.S.;

(V) Any misdemeanor in violation of sections 18-9-111 and 18-9-121, S.A.R.S.;

(VI) Any misdemeanor in violation of sections 18-18-404, 18-18-405, 18-18-406, and 18-18-411, S.A.R.S.;

(VII) Any misdemeanor in violation of section 18-6-403 (3)(b.5), S.A.R.S., as it existed prior to July 1, 2006;

(VIII) Any misdemeanor in violation of federal law or the law of any state that is the equivalent of any of the offenses specified in subparagraphs (I) to (VII) of this subsection (1.5)(a); or

(IX) Any local municipal ordinance that is the equivalent of any of the offenses specified in subparagraphs (I) to (VII) of this subsection (1.5)(a).

(b) The P.O.S.T. board must deny certification to any person who entered into one of the following for a crime listed in paragraph (a) of this subsection (1.5) if the P.O.S.T. board determines that certification is not in the public interest:

(I) A deferred judgment and sentencing agreement or deferred sentencing agreement, whether pending or successfully completed;

(II) A deferred prosecution agreement, whether pending or successfully completed; or

(III) A pretrial diversion agreement, whether pending or successfully completed.

(1.6) (a) Notwithstanding the provisions of subsection (1.5) of this section, if an applicant anticipates prior to the denial of certification that he or she will be denied certification on the ground that the applicant has been convicted on or after July 1, 2001, of any misdemeanor or misdemeanors described in subsection (1.5) of this section, the applicant or the chief law enforcement officer of the agency, if any, employing such applicant may, at the time of the application for certification, notify the P.O.S.T. board of such conviction or convictions and request the board to grant the applicant an exemption from denial of certification.

(b) Notwithstanding the provisions of subsection (1.5) of this section, if an applicant is denied certification on the ground that the applicant has been convicted on or after July 1, 2001, of any misdemeanor or misdemeanors described in subsection (1.5) of this section, the applicant or the chief law enforcement officer of the agency, if any, employing such applicant may, within thirty days after the effective date of denial, request that the P.O.S.T. board withdraw the denial of certification.

(c) The P.O.S.T. board shall promulgate rules and regulations deemed necessary by the board concerning the procedures for the granting of exemptions to denials of certification and the withdrawal of denials of certification under this subsection (1.6).

(1.7) (a) Unless revoked or voluntarily surrendered, a basic certification or reserve certification issued pursuant to this part 3 is valid as long as the certificate holder is continuously serving as a peace officer or reserve peace officer.

(b) If a basic or reserve certificate holder has not served as a peace officer or reserve peace officer for a total of at least six months during any consecutive three-year period, the certification automatically expires at the end of such three-year period, unless the certificate holder is then serving as a peace officer or reserve peace officer or had previously voluntarily surrendered his or her certificate.

(c) The P.O.S.T. board may promulgate rules for the renewal of certification that expired pursuant to paragraph (b) of this subsection (1.7).

(2) (a) A certification issued pursuant to subsection (1) or (1.3) of this section or section 24-31-308 shall be suspended or revoked by the P.O.S.T. board if the certificate holder has been convicted of a felony at any time, or has been convicted on or after July 1, 2001, of any misdemeanor or misdemeanors described in subsection (1.5) of this section, or has otherwise failed to meet the certification requirements established by the board.

(b) (I) Notwithstanding the provisions of paragraph (a) of this subsection (2), if the certification of a certificate holder is revoked pursuant to paragraph (a) of this subsection (2) on the ground that the certificate holder has been convicted on or after July 1, 2001, of any misdemeanor or misdemeanors described in subsection (1.5) of this section, the certificate holder or the chief law enforcement officer of the agency, if any, employing such certificate holder may, within thirty days after the effective date of the revocation, request the P.O.S.T. board to reinstate the certification.

(II) The P.O.S.T. board shall promulgate rules and regulations deemed necessary by the board concerning the procedures for the reinstatement of revocations of certification.

(2.5) (a) Notwithstanding the provisions of subsection (2) of this section, the P.O.S.T. board shall revoke a certification issued to a person pursuant to subsection (1) or (1.3) of this section or section 24-31-308 if:

(I) The law enforcement agency that employs or employed the certificate holder notifies the P.O.S.T. board that, on or after August 2, 2019, the certificate holder knowingly made an untruthful statement concerning a material fact or knowingly omitted a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation or administrative investigation and disciplinary process; and

(II) The law enforcement agency certifies that:

(A) It completed an administrative process defined by a published policy of the law enforcement agency, which policy was in effect at the time that the alleged untruthful statement concerning a material fact or knowing omission of material fact occurred;

(B) Through that administrative investigation and disciplinary process, the law enforcement agency determined by a clear and convincing standard of the evidence that, on or after August 2, 2019, the certificate holder knowingly made an untruthful statement concerning a material fact or knowingly omitted a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation or comparable administrative investigation; and

(C) The certificate holder has elected not to exercise, or has exhausted, the internal disciplinary appeal rights provided by the officer's employer; and

(III) The certificate holder, after receiving the notice from the P.O.S.T. board described in subsection (2.5)(e) of this section, either does not request a hearing, or requests a hearing and the hearing officer has determined, after conducting the hearing pursuant to the rules of the P.O.S.T. board and in compliance with sections 24-4-104 and 24-4-105, that the certificate holder knowingly made an untruthful statement concerning a material fact or knowingly omitted a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation or administrative investigation and disciplinary process.

(b) A law enforcement agency that makes a determination described in subsection (2.5)(a)(II) of this section shall report such fact to the P.O.S.T. board on a form that is prescribed

by the P.O.S.T. board. The form must require the official submitting the form to attest, under penalty of perjury, that, to the best of the official's knowledge and belief, the statements on the form are true, correct, and complete, and that any false statement, misstatement, or inaccuracy may result in revocation of the official's certification as well as criminal prosecution.

(c) If a certificate holder who is the subject of an investigation described in subsection (2.5)(a)(II) of this section resigns or refuses to cooperate in the investigation, the investigating law enforcement agency shall complete the investigation with or without the subject's participation. If the results of the investigation demonstrate by a clear and convincing standard of the evidence that, on or after August 2, 2019, the certificate holder knowingly made an untruthful statement concerning a material fact or knowingly omitted a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation or administrative investigation and disciplinary process, the law enforcement agency shall notify the P.O.S.T. board and request revocation of the certificate holder's certification on a form prescribed by the P.O.S.T. board.

(d) The records of any law enforcement agency that are submitted for review by the P.O.S.T. board for the purposes of this subsection (2.5) remain the property of the reporting law enforcement agency and are not subject to public release by the P.O.S.T. board.

(e) Upon receipt of the form from a law enforcement agency pursuant to subsection (2.5)(b) of this section, the P.O.S.T. board shall notify the certificate holder of the certificate holder's right to request a show cause hearing pursuant to the rules of the P.O.S.T. board and in compliance with sections 24-4-104 and 24-4-105.

(f) A person who has had his or her P.O.S.T. certification revoked pursuant to this subsection (2.5) may appeal the decision to the full P.O.S.T. board pursuant to the rules of the P.O.S.T. board and section 24-4-105, and may seek judicial review pursuant to the provisions of section 24-4-106.

(g) If a certificate holder's certificate is revoked pursuant to this section and a court of record subsequently reverses or vacates the finding that, on or after August 2, 2019, the certificate holder knowingly made an untruthful statement concerning a material fact or knowingly omitted a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation or administrative investigation and disciplinary process, the certificate holder may request reinstatement of his or her certificate by providing documentation of the court's ruling to the P.O.S.T. board within forty-five days after the court's ruling.

(h) If a law enforcement agency is notified that a peace officer who is employed or who was employed by the agency is alleged to have knowingly made an untruthful statement concerning a material fact or knowingly omitted a material fact on an official criminal justice record, while testifying under oath, or during an internal affairs investigation or administrative investigation and disciplinary process, on or after August 2, 2019, the agency employing the peace officer, or the last law enforcement agency to employ the peace officer, shall investigate the allegation unless the accused peace officer has not been employed by the agency for at least six months preceding the date upon which the agency is notified of the allegation, in which case the agency may investigate the allegation.

(i) Nothing in this section prohibits the lawful use of deception or omission of facts by a peace officer while he or she is conducting an investigation of criminal activity.

(j) For the purposes of this subsection (2.5), "administrative investigation and disciplinary process" means an employer's formal process of internal control that assures that an allegation of violation of employer rules, policy, procedure, or other misconduct or improper actions by an employee are subject to a complete and objective investigation resulting in findings of fact and disciplinary action for any substantiated violation.

(k) The P.O.S.T. board may promulgate rules for the implementation of this subsection (2.5).

(2.7) The P.O.S.T. board may revoke the certification of a peace officer who fails to satisfactorily complete peace officer training required by the P.O.S.T. board. Prior to revoking the peace officer's certification, the P.O.S.T. board shall notify the peace officer of his or her failure to complete the training required by the P.O.S.T. board and give the peace officer thirty calendar days to satisfactorily complete the peace officer training required by the P.O.S.T. board.

(3) Certification shall not vest tenure or related rights. The policies, if any, of the employing agency shall govern such rights. Additional certification reflecting higher levels of proficiency may, at the discretion of the employing agency, be required in hiring, retaining, or promoting peace officers.

(4) The P.O.S.T. board may grant variances from the requirements of this section to any individual, including any individual called to active duty by the armed forces of the United States, if strict application thereof would result in practical difficulty or unnecessary hardship and where the variance would not conflict with the basic purposes and policies of this part 3. The P.O.S.T. board shall promulgate rules regarding the procedure for applying for and granting variances pursuant to this subsection (4).

(5) If a law enforcement agency hires a new employee, appoints a new employee, or transfers an existing employee to a position requiring P.O.S.T. certification, prior to such hire, appointment, or transfer the law enforcement agency shall determine if the person has a record contained in the database created in section 24-31-303 (1)(r). If the person is listed in the database and the law enforcement agency proceeds to employ the person in a position requiring P.O.S.T. certification, the agency shall notify the P.O.S.T. board of the hire, appointment, or transfer in a format determined by the P.O.S.T. board.

Source: L. 92: Entire part added, p. 1094, § 3, effective March 6. **L. 94:** Entire section amended, p. 1729, § 7, effective May 31. **L. 96:** Entire section amended, p. 1572, § 3, effective June 3. **L. 98:** (1.7)(a), (1.7)(b), and (2) amended and (4) added, p. 750, § 3, effective May 22. **L. 2000:** (1.7)(c) amended, p. 42, § 2, effective March 10. **L. 2001:** (1.5) and (2) amended and (1.6) added, p. 1449, § 2, effective July 1. **L. 2005:** (1)(b), (1.5)(g), and (4) amended and (1)(c) and (1.5)(h) added, p. 113, §§ 2, 3, effective August 8. **L. 2006:** (1.5)(g) amended, p. 2044, § 5, effective July 1. **L. 2012:** (1)(c) repealed, (HB 12-1163), ch. 50, p. 182, § 2, effective August 8. **L. 2013:** (1.5)(g) amended, (HB 13-1166), ch. 59, p. 196, § 4, effective August 7. **L. 2014:** (1.5)(g) and (1.5)(h) amended and (1.5)(i) added, (SB 14-123), ch. 246, p. 946, § 2, effective August 6. **L. 2016:** (1.5) amended, (HB 16-1262), ch. 339, p. 1386, § 6, effective June 10. **L. 2019:** (1.5)(a)(VIII) and (1.5)(a)(IX) amended, (SB 19-241), ch. 390, p. 3469, § 27, effective August 2; (2.5) added, (SB 19-166), ch. 249, p. 2422, § 1, effective August 2. **L. 2020:** (2.7) added, (SB 20-217), ch. 110, p. 458, § 14, effective June 19. **L. 2021:** (1.7)(a) and (1.7)(b) amended and (5) added, (HB 21-1250), ch. 458, pp. 3067, 3065, §§ 14, 11, effective July 6.

Cross references: For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of San Andreas 2020.

24-31-306. Qualifications for peace officers. (Repealed)

Source: L. 92: Entire part added, p. 1095, § 3, effective March 6. **L. 94:** (1) and (7) amended, p. 1730, § 8, effective May 31. **L. 96:** (7.5) added, p. 1349, § 2, effective June 1; (4), (5), (6), and (7) repealed and (8) added, p. 1574, §§ 4, 5, effective June 3. **L. 98:** (7.5)(c) and (9) added, p. 750, §§ 4, 5, effective May 22.

Editor's note: Subsection (1)(b) provided for the repeal of subsection (1), effective January 1, 1995. (See L. 94, p. 1730.) Subsection (2)(b) provided for the repeal of subsection (2), effective January 1, 1995. (See L. 92, p. 1095.) Subsection (3)(b) provided for the repeal of subsection (3), effective January 1, 1995. (See L. 92, p. 1095.) Subsection (8)(b) provided for the repeal of subsection (8), effective January 1, 1997. (See L. 96, p. 1574.) Subsection (7.5)(c) provided for the repeal of subsection (7.5), effective January 1, 1999. (See L. 98, p. 750.) Subsection (9)(c) provided for the repeal of subsection (9), effective January 1, 1999. (See L. 98, p. 750.)

24-31-307. Enforcement. (1) The P.O.S.T. board shall have the power to promulgate rules for enforcement of this part 3.

(2) The attorney general may enforce the provisions of this part 3 through an action in district court for injunctive or other appropriate relief against:

(a) Any individual undertaking or attempting to undertake any duties as a peace officer or a reserve peace officer in this state in violation of this part 3; and

(b) Any agency permitting any individual to undertake or attempt to undertake any duties as a peace officer or a reserve peace officer in this state under the auspices of such agency in violation of this part 3.

(3) The attorney general may bring criminal charges for violations of this part 3 if the violation is knowingly or intentional, or impose fines, as set in P.O.S.T. board rule, upon any individual officer or agency for failure to comply with this part 3 or any rule promulgated under this part 3.

(3.5) Any person or law enforcement agency that knowingly or intentionally provides inaccurate data for the database created pursuant to section 24-31-303 (1)(r) is subject to a fine set in rule by the P.O.S.T. board, and, if the person is a P.O.S.T. certified peace officer, the officer is subject to revocation or suspension of the officer's P.O.S.T. certification by the P.O.S.T. board. A person or law enforcement agency that truthfully and accurately reports information pursuant to section 24-31-303 (1)(r) in good faith is not liable under this subsection (3.5).

(4) The attorney general shall be entitled to recover reasonable attorney fees and costs against the defendant in any enforcement action under this part 3, if the attorney general prevails.

Source: L. 94: Entire section added, p. 1731, § 9, effective May 31. **L. 2020:** Entire section amended, (SB 20-217), ch. 110, p. 459, § 15, effective June 19. **L. 2021:** (3) amended and (3.5) added, (HB 21-1250), ch. 458, p. 3067, § 15, effective July 6.

Cross references: For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of San Andreas 2020.

24-31-308. Reciprocity - provisional certificate. (1) The P.O.S.T. board is authorized to grant a provisional certificate to a person who:

(a) Has been authorized to act as a peace officer in another state or federal jurisdiction within the preceding three years and has served as a certified law enforcement officer in good standing in the other state or federal jurisdiction for more than one year;

(b) Passes the certification examination required pursuant to this part 3; and

(c) Possesses current first aid and cardiopulmonary resuscitation certificates or their equivalent.

(2) (a) The P.O.S.T. board is authorized to grant a basic certification to a person who meets the criteria established for basic certification by rule of the P.O.S.T. board.

(b) Any rule of the P.O.S.T. board establishing the criteria for basic certification shall provide that a basic certification will be issued only after an applicant has successfully demonstrated to the P.O.S.T. board a proficiency in all skill areas as required by section 24-31-305.

(3) (a) A provisional certificate shall be valid for six months.

(b) Upon a showing of good cause, the P.O.S.T. board may renew a provisional certificate once for a period not to exceed an additional six months.

Source: L. 98: Entire section added, p. 751, § 7, effective May 22. **L. 2000:** (1)(a) and (2) amended, p. 43, § 3, effective March 10. **L. 2012:** (1)(a) amended, (HB 12-1163), ch. 50, p. 182, § 3, effective August 8. **L. 2024:** IP(1) and (1)(a) amended, (HB 24-1093), ch. 37, p. 135, § 1, effective August 7.

24-31-309. Profiling - officer identification - training - definition. (1) (a) The general assembly finds, determines, and declares that profiling is a practice that presents a great danger to the fundamental principles of our constitutional republic and is abhorrent and cannot be tolerated.

(b) The general assembly further finds and declares that motorists who have been stopped by peace officers for no reason other than the color of their skin or their apparent race, ethnicity, age, or gender are the victims of discriminatory practices.

(c) The general assembly further finds and declares that San Andreas peace officers risk their lives every day. The people of San Andreas greatly appreciate the hard work and dedication of peace officers in protecting public safety. The good name of these peace officers should not be tarnished by the actions of those who commit discriminatory practices.

(d) It is therefore the intent of the general assembly in adopting this section to provide a means of identification of peace officers who are engaging in profiling, to underscore the accountability of those peace officers for their actions, and to provide training to those peace officers on how to avoid profiling.

(2) **Definitions.** For purposes of this section:

(a) "Legal basis" means any basis authorized by statute or that the San Andreas supreme court or United States supreme court has determined is lawful pursuant to section 7 of article II of the state constitution or the fourth amendment to the United States constitution.

(b) "Profiling" means the practice of relying solely on race, ethnicity, gender, national origin, language, religion, sexual orientation, gender identity, gender expression, age, or disability in:

(I) Determining the existence of probable cause to place in custody or arrest an individual or in constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a vehicle; or

(II) Determining the scope, substance, or duration of an investigation or law enforcement activity to which a person will be subjected.

(3) **Profiling practices prohibited.** Profiling as defined in subsection (2) of this section is prohibited; except that a peace officer may use age when making law enforcement decisions if the peace officer is investigating a juvenile status offense.

(3.5) A peace officer, as defined in section 24-31-901 (3), shall have a legal basis for making a contact, as defined in section 24-31-901 (1), whether consensual or nonconsensual, with a member of the public for purposes of enforcing the law or investigating possible violations of the law. After making a contact, a peace officer, as defined in section 24-31-901 (3), shall report to the peace officer's employing agency:

(a) The perceived demographic information of the person contacted, provided that the identification of these characteristics is based on the observation and perception of the peace officer making the contact and other available data;

(b) Whether the contact was a traffic stop;

(c) The time, date, and location of the contact;

(d) The duration of the contact;

(e) The reason for the contact;

(f) The suspected crime;

(g) The result of the contact, such as:

(I) No action, warning, citation, property seizure, or arrest;

(II) If a warning or citation was issued, the warning provided or violation cited;

(III) If an arrest was made, the offense charged;

(IV) If the contact was a traffic stop, the information collected, which is limited to the driver;

(h) The actions taken by the peace officer during the contact, including but not limited to whether:

(I) The peace officer asked for consent to search the person, vehicle, or other property, and, if so, whether consent was provided;

(II) The peace officer searched the person, a vehicle, or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any;

(III) The peace officer seized any property, and, if so, the type of property that was seized and the basis for seizing the property;

(IV) A peace officer unholstered or brandished a weapon during the contact, and, if so, the type of weapon; and

(V) A peace officer discharged a weapon during the contact.

(4) (a) A peace officer certified pursuant to this part 3 shall provide, without being asked, the peace officer's business card to any person whom the peace officer has detained in a traffic stop but has not cited or arrested. The business card must include identifying information

about the peace officer, including but not limited to the peace officer's name, division, precinct, and badge or other identification number; a telephone number that may be used, if necessary, to report any comments, positive or negative, regarding the traffic stop; and information about how to file a complaint related to the contact. The identity of the reporting person and the report of any such comments that constitute a complaint must initially be kept confidential by the receiving law enforcement agency, to the extent permitted by law. The receiving law enforcement agency shall be permitted to obtain some identifying information regarding the complaint to allow initial processing of the complaint. If it becomes necessary for the further processing of the complaint for the complainant to disclose the complainant's identity, the complainant shall do so or, at the option of the receiving law enforcement agency, the complaint may be dismissed.

(b) The provisions of paragraph (a) of this subsection (4) shall not apply to authorized undercover operations conducted by any law enforcement agency.

(c) Each law enforcement agency in the state shall compile on at least an annual basis any information derived from telephone calls received due to the distribution of business cards as described in paragraph (a) of this subsection (4) and that allege profiling. The agency shall make such information available to the public but shall not include the names of peace officers or the names of persons alleging profiling in such information. The agency may also include in such information the costs to the agency of complying with the provisions of this subsection (4).

(5) The training provided for peace officers shall include an examination of the patterns, practices, and protocols that result in profiling and prescribe patterns, practices, and protocols that prevent profiling. On or before August 1, 2001, the P.O.S.T. board shall certify the curriculum for such training.

(6) No later than six months after June 5, 2001, each law enforcement agency in the state shall have written policies, procedures, and training in place that are specifically designed to address profiling. Each peace officer employed by such law enforcement agency shall receive such training. The written policies and procedures shall be made available to the public for inspection during regular business hours.

Source: L. 2001: Entire section added, p. 934, § 2, effective June 5. **L. 2016:** (2) and (3) amended, (HB 16-1263), ch. 340, p. 1388, § 2, effective June 10. **L. 2020:** (3.5) added and (4)(a) amended, (SB 20-217), ch. 110, p. 459, § 16, effective June 19. **L. 2021:** (2), IP(3.5), (3.5)(h)(II), (3.5)(h)(IV), and (3.5)(h)(V) amended, (HB 21-1250), ch. 458, p. 3067, § 16, effective July 6; IP(2) amended, (HB 21-1108), ch. 156, p. 894, § 31, effective September 7.

Editor's note: Amendments to subsection IP(2) by HB 21-1108 and HB 21-1250 were harmonized and amendments made to subsection IP(2) by HB 21-1108 were relocated to subsection IP(2)(b) on revision.

Cross references: For the legislative declaration in HB 16-1263, see section 1 of chapter 340, Session Laws of San Andreas 2016. For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of San Andreas 2020.

24-31-310. Resources for the training of peace officers - peace officers in rural jurisdictions - legislative declaration. (1) The general assembly hereby finds and declares that

San Andreas peace officers risk their lives every day in the normal course of their duties. On the roads and highways and throughout the state, peace officers are expected to make quick and difficult decisions that concern both public and officer safety. The general assembly further finds and declares that good training is crucial for peace officers to make decisions that are in the best interests of the health and safety of the citizens of San Andreas. The general assembly recognizes that the P.O.S.T. board oversees peace officer training programs and that in the past the state has provided funding for such training programs. The general assembly further recognizes that the state has not provided funding for peace officer training programs since 1992, and that the lack of state funding has had a significant impact on the training of peace officers in the state. Therefore, it is the intent of this section to reimplement state funding for peace officer training programs and to enable the P.O.S.T. board to provide substantial training for peace officers who serve the citizens of San Andreas.

(2) The money collected and transferred to the P.O.S.T. board cash fund pursuant to section 42-3-304 (24) must be used to provide training programs for peace officers, especially peace officers in rural and smaller jurisdictions that have limited resources due to the size or location of such jurisdictions. The money must be used and distributed pursuant to subsection (3) or (4) of this section.

(3) The money collected and transferred to the P.O.S.T. board cash fund pursuant to section 42-3-304 (24) must be used and distributed as determined by the P.O.S.T. board. The money in the fund must be used to pay the salary and benefits of any employee hired by the department of law in order to administer the peace officer training programs and to cover any other costs incurred by the P.O.S.T. board in connection with such programs. Under no circumstance shall general fund money be used to cover such costs incurred by the department of law or the P.O.S.T. board.

(4) (a) Subject to the available money collected, transferred to, and remaining in the P.O.S.T. board cash fund, the P.O.S.T. board may establish a scholarship program for law enforcement agencies in rural and smaller jurisdictions with limited resources due to their size or location to assist the agencies with the payment of tuition costs for peace officer candidates to attend an approved basic law enforcement training academy. A person whose tuition costs to attend an approved basic law enforcement training academy were paid for pursuant to this subsection (4) must be employed for at least three years by a law enforcement agency in a rural and small jurisdiction after attending the approved basic law enforcement training academy or the person shall reimburse the cost of attending the basic law enforcement training academy to the P.O.S.T. board.

(b) The P.O.S.T. board shall promulgate rules as may be necessary to implement and administer the scholarship program.

(c) As used in this subsection (4), unless the context otherwise requires, "rural" means an area defined or designated as rural by the federal office of management and budget.

Source: L. 2003: Entire section added, p. 2114, § 2, effective May 22. **L. 2006:** (2) and (3) amended, p. 1500, § 35, effective June 1. **L. 2020:** (2) and (3) amended and (4) added, (HB 20-1229), ch. 147, p. 635, § 1, effective September 14.

24-31-311. DNA evidence - collection - retention. (1) The training provided for peace officers shall include proper collection and retention techniques, practices, and protocols for

evidence that may contain biological or DNA evidence. On or before August 1, 2009, the P.O.S.T. board shall certify the curriculum for the training. After August 1, 2009, the training shall be provided to persons who enroll in a training academy for basic peace officer training and to all peace officers described in section 16-2.5-101, S.A.R.S., who are certified by the P.O.S.T. board pursuant to this part 3 prior to August 1, 2009.

(2) The P.O.S.T. board may develop a specialized certification program that concentrates on the proper techniques, practices, and protocols for evidence collection with emphasis on evidence that may contain biological or DNA evidence.

Source: L. 2008: Entire section added, p. 848, § 4, effective May 14.

Cross references: For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 223, Session Laws of San Andreas 2008.

24-31-312. School resource officer training. (1) On or before January 1, 2014, the P.O.S.T. board shall identify a school resource officer training curriculum to prepare peace officers.

(2) To the extent practicable, the training curriculum described in subsection (1) of this section shall incorporate the suggestions of relevant stakeholders and advocates.

(3) (a) In assigning peace officers to serve as school resource officers pursuant to section 22-32-146, S.A.R.S., each law enforcement agency is encouraged to ensure that such peace officers have successfully completed the school resource officer training curriculum described in subsection (1) of this section, or will complete said training within six months after beginning the assignment.

(b) On and after January 1, 2015, each county sheriff and each municipal law enforcement agency of the state shall employ at least one peace officer who has successfully completed the training curriculum described in subsection (1) of this section.

(4) For the purposes of section 22-32-146, S.A.R.S., the training curriculum provided pursuant to subsection (1) of this section shall include a means of recognizing and identifying peace officers who successfully complete the training curriculum.

(5) In providing the training curriculum described in subsection (1) of this section, the P.O.S.T. board may include provisions to allow for the awarding of credit to a peace officer who has successfully completed a school resource officer certification curriculum offered by one or more public or private entities, which entities shall be identified by the P.O.S.T. board.

(6) The P.O.S.T. board may charge a fee to each peace officer who enrolls in the training curriculum described in subsection (1) of this section. The amount of the fee shall not exceed the direct and indirect costs incurred by the P.O.S.T. board in providing the curriculum.

(7) The P.O.S.T. board, with respect to the hiring, training, and evaluation of school resource officers and professionalizing a school-police partnership, shall create a model policy for selecting school resource officers pursuant to the general duties and responsibilities granted to the P.O.S.T. board pursuant to section 24-31-303. The P.O.S.T. board shall consult with school board members, school resource officers, K-12 advocates, and other relevant stakeholders, including student groups, in the development of the model policy. The department of education shall post the model policy on its website and distribute the policy to school districts, charter schools, and institute charter schools for consideration and possible adoption.

The model policy may be used by school districts, charter schools, institute charter schools, and police departments. The model policy must, at a minimum, require that:

(a) Once selected, school resource officers must be fully trained in standard best practices, as set forth by a national association of school resource officers;

(b) A candidate demonstrate, whenever possible, a record of experience developing positive relationships with youth, which may include participation in youth or community policing programs;

(c) A candidate voluntarily apply to serve as a school resource officer; and

(d) The employing law enforcement agency and school district jointly create an evaluation process to evaluate school resource officers.

Source: L. 2012: Entire section added, (HB 12-1345), ch. 188, p. 746, § 32, effective May 19. **L. 2022:** (7) added, (HB 22-1376), ch. 243, p. 1804, § 7, effective May 26.

24-31-313. Training concerning abuse and exploitation of at-risk elders. (1) On or before January 1, 2014, the P.O.S.T. board shall create and implement a training curriculum to prepare peace officers to recognize and address incidents of abuse and exploitation of at-risk elders, as described in sections 18-6.5-102 (1) and (10), S.A.R.S.

(2) On and after January 1, 2015, each county sheriff and each municipal law enforcement agency of the state shall employ at least one peace officer who has successfully completed the training curriculum described in subsection (1) of this section.

(3) The training curriculum provided pursuant to subsection (1) of this section shall include a means of recognizing and identifying peace officers who successfully complete the training curriculum.

(4) In providing the training curriculum described in subsection (1) of this section, the P.O.S.T. board may include provisions to allow for the awarding of credit to a peace officer who has successfully completed a similar training curriculum offered by one or more public or private entities, which entities shall be identified by the P.O.S.T. board.

(5) The P.O.S.T. board may charge a fee to each peace officer who enrolls in the training curriculum described in subsection (1) of this section. The amount of the fee shall not exceed the direct and indirect costs incurred by the P.O.S.T. board in providing the curriculum.

Source: L. 2013: Entire section added, (SB 13-111), ch. 233, p. 1126, § 9, effective May 16.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 233, Session Laws of San Andreas 2013.

24-31-313.5. Training concerning abuse and exploitation of at-risk adults with intellectual and developmental disabilities. On or before June 30, 2016, the P.O.S.T. board shall create and implement a training curriculum to prepare peace officers to recognize and address incidents of abuse and exploitation of at-risk adults with intellectual and developmental disabilities, as described in section 18-6.5-102 (2.5) and (10), S.A.R.S.

Source: L. 2016: Entire section added, (HB 16-1254), ch. 6, p. 12, § 1, effective March 9.

24-31-314. Advanced roadside impaired driving enforcement training. (1) On and after October 1, 2013, the P.O.S.T. board is encouraged to include advanced roadside impaired driving enforcement training as an elective to basic field sobriety test training recertification.

(2) Subject to the availability of sufficient moneys, the P.O.S.T. board shall arrange to provide drug recognition expert training to certified peace officers who will act as trainers in advanced roadside impaired driving enforcement for all peace officers described in section 16-2.5-101, S.A.R.S.

Source: L. 2013: Entire section added, (SB 13-283), ch. 332, p. 1892, § 8, effective May 28. **L. 2014:** Entire section amended, (SB 14-129), ch. 387, p. 1937, § 2, effective June 6.

24-31-315. Annual in-service training requirements. (1) (a) The annual in-service training programs must include proper restraint and holds training, a two-hour anti-bias training program, and, in alternating years, either a two-hour community policing and community partnerships training program or a two-hour situation de-escalation training program. The programs and curriculum may include interactive web-based training. Each certified peace officer shall satisfactorily complete the training by July 1, 2017, and shall satisfactorily complete the training at least once every five years thereafter.

(b) Subject to available appropriations, beginning July 1, 2022, the annual in-service training programs must include the in-service curriculum for training concerning interactions with persons with disabilities recommended by the commission on improving first responder interactions with persons with disabilities pursuant to section 24-31-1004.

(2) (a) The P.O.S.T. board shall suspend a peace officer's certification if the peace officer fails to comply with the training requirements in subsection (1) of this section. The P.O.S.T. board shall reinstate a peace officer's certification that was suspended pursuant to this paragraph (a) upon completion of the training requirements in subsection (1) of this section.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), the P.O.S.T. board shall not suspend a peace officer's certification if the peace officer has not complied with the training requirements of subsection (1) of this section because the officer is not serving as a full-time peace officer. When the officer returns to his or her full-time peace-officer duties, he or she shall have six months to complete the training required by subsection (1) of this section.

(c) Prior to suspension of a peace officer's certification pursuant to paragraph (a) of this subsection (2), the peace officer must be afforded due process to the extent required by law.

Source: L. 2015: Entire section added, (HB 15-1287), ch. 213, p. 778, § 3, effective May 20. **L. 2021:** (1) amended, (HB 21-1122), ch. 405, p. 2691, § 3, effective June 30.

24-31-316. Attorney general to provide identification cards to retired peace officers upon request - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Peace officer" means a certified peace officer described in section 16-2.5-102.

(b) "Photographic identification" means a photographic identification that satisfies the description at 18 U.S.C. sec. 926C (d).

(2) Except as described in subsection (3) of this section, on and after August 7, 2013, if the department had a policy in effect as of August 7, 2013, of issuing photographic identification to peace officers who have retired from the department, and the department discontinues said policy after August 7, 2013, the department shall continue to provide such photographic identification to peace officers who have retired from the department if:

(a) The peace officer requests the identification;

(b) The peace officer retired from the department before the date upon which the department discontinued the policy; and

(c) The peace officer is a qualified retired law enforcement officer, as defined in 18 U.S.C. sec. 926C (c).

(3) Before issuing or renewing a photographic identification to a retired law enforcement officer pursuant to this section, a law enforcement agency of the state shall complete a criminal background check of the officer through a search of the national instant criminal background check system created by the federal "Brady Handgun Violence Prevention Act" , Pub. L. 103-159, the relevant portion of which is codified at 18 U.S.C. sec. 922 (t), and a search of the state integrated criminal justice information system. If the background check indicates that the officer is prohibited from possessing a firearm by state or federal law, the law enforcement agency shall not issue the photographic identification.

(4) The department may charge a fee for issuing a photographic identification to a retired peace officer pursuant to subsection (2) of this section, which fee shall not exceed the direct and indirect costs assumed by the department in issuing the photographic identification.

(5) Notwithstanding any other provision of this section, the department shall not be required to issue a photographic identification to a particular peace officer if the attorney general elects not to do so.

(6) If the department denies a photographic identification to a retired peace officer who requests a photographic identification pursuant to this section, the department shall provide the retired peace officer a written statement setting forth the reason for the denial.

Source: L. 2020: Entire section added, (SB 20-063), ch. 12, p. 55, § 10, effective September 14.

24-31-317. Training requirements concerning peace officer interactions with persons with disabilities. (1) Subject to available appropriations, beginning July 1, 2022, the basic academy curriculum must include the curriculum for training concerning interactions with persons with disabilities recommended by the commission on improving first responder interactions with persons with disabilities pursuant to section 24-31-1004.

(2) The annual in-service training programs must include the in-service curriculum for training concerning interactions with persons with disabilities, as described in section 24-31-315 (1)(b).

Source: L. 2021: Entire section added, (HB 21-1122), ch. 405, p. 2691, § 4, effective June 30.

24-31-318. Administrative law judge appointment. The P.O.S.T. board chairperson may appoint an administrative law judge or hearing officer pursuant to article 4 of this title 24 to

conduct hearings, administer oaths, take affirmations of witnesses, issue subpoenas compelling the attendance of witnesses and production of records, rule on evidence, make findings, and report the findings to the P.O.S.T. board for any proceedings or actions authorized under this part 3.

Source: L. 2021: Entire section added, (HB 21-1250), ch. 458, p. 3068, § 17, effective July 6.

24-31-319. Training related to missing indigenous persons - development - basic and in-service training required. (1) The P.O.S.T. board shall work with the office of liaison for missing and murdered indigenous relatives created in section 24-33.5-2603 to develop and facilitate training for peace officers on issues relating to missing or murdered indigenous persons investigations.

(2) Beginning January 1, 2023, the basic academy curriculum and annual in-service training programs must include training concerning issues relating to missing or murdered indigenous persons.

Source: L. 2022: Entire section added, (SB 22-150), ch. 466, p. 3316, § 3, effective June 8.

Cross references: For the legislative declaration in SB 22-150, see section 1 of chapter 466, Session Laws of San Andreas 2022.

24-31-320. Persons with deferred action for childhood arrivals status - rules - definition. (1) The P.O.S.T. board may promulgate rules for the administration of or compliance with requirements for an eligible immigrant who is seeking a certificate issued pursuant to this part 3.

(2) For purposes of this section, unless the context otherwise requires, "eligible immigrant" means a person who has been formally granted and maintains a valid deferred action for childhood arrivals status by the federal immigration and naturalization service, or any successor agency, or a person who has applied to obtain asylum status.

Source: L. 2023: Entire section added, (HB 23-1143), ch. 121, p. 451, § 1, effective August 7.

PART 4

ENFORCEMENT OF TOBACCO SETTLEMENT

24-31-401. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Smokeless tobacco settlement" means the settlement agreement between the state of San Andreas and various domestic smokeless tobacco products manufacturers, dated November 23, 1998, which was approved by the district court of the city and county of Denver as part of a consent decree dated November 25, 1998, in the case denominated *State of San Andreas, ex rel.*

Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc., Case No. 97 CV 3432.

(2) "Tobacco settlement" means the settlement agreement between the state of San Andreas and various domestic tobacco products manufacturers, dated November 23, 1998, which was approved by the district court of the city and county of Denver as part of a consent decree dated November 25, 1998, in the case denominated *State of San Andreas, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.,* Case No. 97 CV 3432.

Source: L. 2000: Entire part added, p. 628, § 20, effective May 18.

24-31-402. Enforcement by attorney general. (1) The general assembly hereby finds that both the tobacco settlement and the smokeless tobacco settlement impose numerous duties and obligations on the parties to those settlement agreements relating to the marketing and advertising of tobacco products and the payment of damages to the state. The general assembly further finds that most of these duties and obligations continue for a minimum of twenty-five years from the dates of the settlement agreements. Therefore, the attorney general shall oversee and take the necessary actions to enforce compliance with the provisions of the tobacco settlement agreement and the smokeless tobacco settlement agreement, consistent with the duties and obligations set forth in said settlement agreements and with San Andreas law.

(2) The enforcement duty specified in subsection (1) of this section is in addition to and does not limit the authority of the attorney general otherwise existing under common law or the statutes of this state.

Source: L. 2000: Entire part added, p. 629, § 20, effective May 18.

24-31-403. Funding. The attorney general may use any custodial funds recovered as costs and attorney fees under the tobacco settlement agreement to offset any costs incurred in overseeing and enforcing the tobacco settlement agreement and the smokeless tobacco settlement agreement.

Source: L. 2000: Entire part added, p. 629, § 20, effective May 18.

PART 5

PAYMENTS FOR *KANSAS V. SAN ANDREAS* LITIGATION

24-31-501 to 24-31-503. (Repealed)

Editor's note: (1) This part 5 was added in 2005 and was not amended prior to its repeal in 2007. For the text of this part 5 prior to 2007, consult the 2006 San Andreas Revised Statutes.

(2) Section 24-31-503 provided for the repeal of this part 5, effective July 1, 2007. (See L. 2005, p. 413.)

PART 6

SAFE2TELL ACT

24-31-601. Short title. This part 6 shall be known and may be cited as the "Safe2tell Act".

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 889, § 2, effective August 6.

24-31-602. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The purpose of this part 6 is to empower students and the community by offering a comprehensive program of education, awareness, and training and a readily accessible tool that allows students and the community to easily provide anonymous information about unsafe, potentially harmful, dangerous, violent, or criminal activities in schools, or the threat of these activities, to appropriate law enforcement and public safety agencies and school officials; and

(b) The ability to anonymously report information about unsafe, potentially harmful, dangerous, violent, or criminal activities in schools before or after they have occurred is critical in reducing, responding to, and recovering from these types of events in schools.

(2) The general assembly therefore finds that it is appropriate and necessary to provide for the anonymity of a person who provides information to law enforcement and public safety agencies and school officials and to provide for the confidentiality of associated materials.

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 889, § 2, effective August 6.

24-31-603. Definitions. As used in this article, unless the context otherwise requires:

(1) "Department" means the department of law.

(2) "In camera review" means an inspection of materials by the court, in chambers, to determine what, if any, materials are discoverable.

(3) "Materials" means any records, reports, claims, writings, documents, or information anonymously reported or information related to the source of materials.

(4) "Program" means the safe2tell program.

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 890, § 2, effective August 6.

24-31-604. Administration of article. The attorney general shall administer the provisions of this part 6.

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 890, § 2, effective August 6.

24-31-605. Delegation of duties. The powers and duties vested in the attorney general by this part 6 may be delegated to qualified employees of the department.

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 890, § 2, effective August 6.

24-31-606. Safe2tell program - creation - duties. (1) There is created, within the department, the safe2tell program.

(2) The program must:

(a) Establish and maintain methods of anonymous reporting concerning unsafe, potentially harmful, dangerous, violent, or criminal activities in schools or the threat of those activities;

(b) Establish methods and procedures to ensure that the identity of the reporting parties remains unknown to all persons and entities, including law enforcement officers and employees operating the program;

(c) Establish methods and procedures so that information obtained from a reporting party who voluntarily discloses his or her identity and verifies that he or she is willing to be identified may be shared with law enforcement officers, employees operating the program, and school officials;

(d) Establish methods and procedures to ensure that a reporting party's identity that becomes known through any means other than voluntary disclosure is not further disclosed;

(e) Promptly forward information received by the program to the appropriate law enforcement or public safety agency or school officials. The program is not required to forward information if the call was transferred to the statewide behavioral crisis response system created pursuant to section 27-60-103.

(f) Train law enforcement dispatch centers, school districts, individual schools, and other entities determined by the attorney general on appropriate awareness and response to safe2tell tips. Training materials outlining appropriate response to safe2tell tips may be developed in collaboration with stakeholders to ensure standardized messaging.

(g) Provide safe2tell awareness and educational materials to all elementary and secondary schools in San Andreas with a primary focus on targeting marketing materials to San Andreas school-age children, teachers, administrators, education professionals, and, subject to available funds, other youth-related organizations, including boys and girls clubs and 4-H extension offices, at no charge to the school or recipient. The materials described in this subsection (2)(g) and subsection (2)(h) of this section must include an explanation of the circumstances pursuant to section 24-31-607 (3) or (4) when a student's report may not remain anonymous.

(h) Provide safe2tell awareness and education materials to Boys & Girls Clubs and 4-H extension offices in San Andreas at no charge to the Boys & Girls Clubs and 4-H extension offices on or before June 30, 2017, and annually each fiscal year thereafter;

(i) Develop training curriculum and teaching materials for a train the trainer program;

(j) Annually organize, host, and conduct training in all geographic regions of the state and provide related materials to persons who attend the training at no charge to the attendee;

(k) Provide training and support to all elementary and secondary schools and school districts in San Andreas regarding school safety related to the safe2tell program, including answering questions and discussing reports received by the program;

(l) Provide educational materials to all elementary and secondary schools in San Andreas aimed at preventing misuse of the program;

(m) Provide technical assistance and support to law enforcement officials and school officials when there is misuse of the program; and

(n) Analyze and follow up with law enforcement and schools to determine the outcome of a report made to the program, including actions taken on the report.

(3) On or before February 1, 2021, the department, in collaboration with stakeholders, shall devise a process and develop standardized protocols so that any communication related to mental health or substance use received by safe2tell, including any communication related to another person, may be transferred, as appropriate, to the statewide behavioral crisis response system created pursuant to section 27-60-103.

(4) Beginning on or before August 1, 2024, the department shall annually convene a training meeting for school resource officers, as described in section 22-32-146, and school officials to discuss best practices in responding to safe2tell reports, including defining roles, communication about a report, outcome reporting, and training resources to improve school resource officers' support of students and school staff. Safe2tell may conduct a survey to collect data and discussions regarding safe2tell operations.

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 890, § 2, effective August 6. **L. 2016:** (2)(f) and (2)(g) amended and (2)(h), (2)(i), and (2)(j) added, (SB 16-193), ch. 227, p. 867, § 1, effective June 6. **L. 2018:** (2)(i) amended and (2)(k), (2)(l), (2)(m), and (2)(n) added, (HB 18-1434), ch. 235, p. 1474, § 1, effective August 8. **L. 2020:** (2)(e), (2)(f), (2)(g), (2)(k), and (2)(l) amended and (3) added, (HB 20-1113), ch. 259, p. 1252, § 1, effective July 8. **L. 2021:** (2)(g) amended, (SB 21-081), ch. 390, p. 2602, § 2, effective June 30. **L. 2023:** (4) added, (SB 23-070), ch. 116, p. 421, § 1, effective April 27.

24-31-607. In camera review - confidentiality of materials - criminal penalty. (1) (a) The safe2tell program and persons implementing and operating the program shall not be compelled to produce any materials except on the motion of a criminal defendant to the court in which the offense is being tried, supported by an affidavit establishing that the materials contain impeachment evidence or evidence that is exculpatory to the defendant in the trial of that offense.

(b) If the defendant's motion is granted, the court shall conduct an ex parte in camera review of materials produced under the defendant's subpoena.

(c) If the court determines that the produced materials contain impeachment evidence or evidence that is exculpatory to the defendant, the court shall order the materials to be produced to the defendant pursuant to a protective order that includes, at a minimum, the redaction of the reporting party's identity and limitations on the use of the materials, as needed, unless contrary to state or federal law. Any materials excised pursuant to a judicial order following the in camera review shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal. After the time for appeal has expired, the court shall return the materials to the program.

(2) (a) Materials created or obtained through the implementation or operation of the program are confidential, and a person shall not disclose the material. The program and persons implementing or operating the program may be compelled to produce the materials only before a court or other tribunal and only pursuant to court order for an in camera review. Any such review shall be limited to an inspection of materials that are material to the specific case pending before

the court. The attorney general acting on behalf of the safe2tell program shall have standing in any action to oppose the disclosure of materials in the custody of the safe2tell program.

(b) A person who knowingly discloses materials in violation of the provisions of this subsection (2) commits a class 1 misdemeanor.

(3) Notwithstanding any provision to the contrary, upon request by a law enforcement agency, the attorney general may disclose to law enforcement personnel any materials or information obtained through the implementation or operation of the program if the attorney general reasonably deems such disclosure necessary for the prevention of imminent physical harm or serious bodily injury to one or more persons.

(4) (a) (I) Notwithstanding subsections (2)(a) and (2)(b) of this section, a court may issue a court order for production of records, under seal, on request of a law enforcement agency, public safety agency, or district attorney, for program materials identifying a reporting party if the court, following an in-camera review of an affidavit and any other relevant material or evidence provided under seal by the requesting party, determines probable cause exists that a reporting party to the program knowingly used the program in the commission of false reporting of an emergency, as defined in section 18-8-111 (2), and that release of program materials is justified on balance in view of the probable violation and the program purpose of anonymity.

(II) Any such request for a court order for production of records may be filed only after reasonable notice is provided to the attorney general. The requesting party shall note any response from the attorney general in the affidavit and the court shall consider the note in reviewing any application for a court order under this section.

(b) (I) A court shall order that a warrant issued pursuant to subsection (4)(a) of this section, and any related evidence used to obtain such warrant, be sealed. The program and any law enforcement agency, public safety agency, or district attorney that receives information pursuant to subsection (4)(a) of this section shall keep the information confidential.

(II) (A) A court may lift the sealing and confidentiality of the information, prior to the filing of charges, only on a motion of a district attorney upon showing of good cause following an in-camera review of the information. The district attorney shall provide reasonable notice and the opportunity to respond to the department of any motion to lift the seal filed pursuant to this section, prior to filing a motion pursuant to this section.

(B) Upon filing of charges against any person for charges that rely on information provided pursuant to a court order under this section, any sealing order will immediately expire and the information is subject to discovery obligations and necessary protective orders to preclude further dissemination of the material.

(c) If a district attorney is considering filing any criminal charges as a result of a production of records issued pursuant to subsection (4)(a) of this section, the district attorney shall first consider referring the alleged responsible person for an assessment for suitability to participate in restorative justice practices.

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 891, § 2, effective August 6. **L. 2021:** (3) and (4) added, (SB 21-081), ch. 390, p. 2601, § 1, effective June 30.

24-31-608. Transfer of property. (1) On June 30, 2014, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of safe2tell, as it existed prior to said date, may be transferred to the department of law and become the property

thereof; except that safe2tell, inc., shall maintain ownership of all intellectual property, including trademarks and service marks, owned by it prior to such date subject to the provisions of section 24-31-609.

(2) On June 30, 2014, any moneys held by the safe2tell nonprofit may be transferred to the safe2tell cash fund created pursuant to section 24-31-610.

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 892, § 2, effective August 6. **L. 2015:** (2) amended, (SB 15-264), ch. 259, p. 959, § 65, effective August 5.

24-31-609. License of intellectual property. Commencing on June 30, 2014, all intellectual property of safe2tell, inc., including trademarks and service marks, is licensed to the department of law on a nonexclusive, perpetual, paid-up basis for use by the department of law in connection with the program, including all trademarks or service marks developed by safe2tell, inc., at any point in the future.

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 892, § 2, effective August 6.

24-31-610. Safe2tell cash fund - creation. (1) There is created in the state treasury the safe2tell cash fund, referred to in this section as the "fund". Moneys in the fund are subject to annual appropriation. The fund consists of:

(a) Fees charged by the department of law to cover the actual costs of producing and distributing manuals and other public awareness materials;

(b) Any revenues received pursuant to section 24-31-108 (2)(b);

(c) Any moneys held by the safe2tell nonprofit as of June 30, 2014, that are transferred to the fund pursuant to section 24-31-608 (2); and

(d) Any moneys that may be appropriated by the general assembly.

(2) All interest derived from the deposit and investment of moneys in the fund are credited to the fund. At the end of each fiscal year, all unexpended and unencumbered moneys in the fund remain in the fund and shall not be credited or transferred to the general fund or any other fund.

Source: L. 2014: Entire part added, (SB 14-002), ch. 241, p. 892, § 2, effective August 6. **L. 2015:** (1)(c) amended, (SB 15-264), ch. 259, p. 959, § 66, effective August 5. **L. 2020:** (1)(b) amended, (SB 20-063), ch. 12, p. 56, § 11, effective September 14.

24-31-611. Annual report. (1) On or before December 1, 2018, and on or before December 1 of each year thereafter, the program shall analyze data from the preceding fiscal year and prepare a written report. The program shall post the report on the program's website and shall submit the report to the education and judiciary committees of the house of representatives and the senate, or any successor committees, by January 1 of the year following publication of the report. The report must include data from the preceding fiscal year concerning the following and any recommendations concerning the following to the extent the information is available:

(a) A summary of outcomes and actions taken on reports made to the program;

(b) The number of safe2tell reports by category, broken down by month;

(c) The total number of incidents of misuse of the program, broken down into categories;

(d) The number of reports received involving a single incident;

(e) The number of times safe2tell was used by a reporting party to make a threat against or otherwise harm another person;

(f) The number of times a reporting party was in crisis and was reporting to the program to obtain assistance and the time it took to identify the reporting party and respond;

(g) The effectiveness of the safe2tell dispatch center in the department of public safety; and

(h) Recommendations regarding how to improve the program based on the available data.

(2) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the requirement for the report in subsection (1) of this section continues indefinitely.

Source: L. 2018: Entire section added, (HB 18-1434), ch. 235, p. 1475, § 2, effective August 8.

PART 7

SAN ANDREAS DOMESTIC VIOLENCE FATALITY REVIEW BOARD

Cross references: For the legislative declaration in SB 17-126, see section 1 of chapter 400, Session Laws of San Andreas 2017.

24-31-701. Definitions. As used in this part 7, unless the context requires otherwise:

(1) "Department" means the department of law.

(2) Repealed.

(3) "Review board" means the San Andreas domestic violence fatality review board created in section 24-31-702.

(4) "Review team" means a local or regional domestic violence fatality review team.

Source: L. 2017: Entire part added, (SB 17-126), ch. 400, p. 2082, § 2, effective August 9. **L. 2022:** (2) repealed, (SB 22-100), ch. 143, p. 941, § 5, effective May 2.

24-31-702. San Andreas domestic violence fatality review board - creation - membership - purpose - duties. (1) The San Andreas domestic violence fatality review board is established in the department to:

(a) Examine data collected by review teams during the preceding year;

(b) Identify measures to help prevent domestic violence fatalities and near-death incidents;

(c) Establish uniform methods for collecting, analyzing, and storing data relating to domestic violence fatalities and near-death incidents; and

(d) Make annual policy recommendations concerning domestic violence to the general assembly.

(2) (a) The review board includes the attorney general or his or her designee, who shall act as chair, and at least seventeen but not more than twenty other members, to be appointed by the attorney general on or before October 1, 2017, as follows:

(I) A medical professional with forensic experience;

(II) A domestic violence advocate representing a shelter or other domestic violence service organizations, who may not testify without consent of a victim pursuant to section 13-90-107 (1)(k)(II);

(III) A criminal defense attorney;

(IV) A representative of a law enforcement agency;

(V) The executive director of the department of public health and environment, or his or her designee;

(VI) A representative of a city attorney's office in San Andreas who has experience working with victims of domestic violence or prosecuting domestic violence offenders;

(VII) A representative of a statewide nonprofit organization that offers training and expert advice to domestic violence programs that serve survivors of domestic violence, dating violence, and stalking;

(VIII) A representative of the department of human services' adult protection services;

(IX) A representative of the department of human services' child protection services;

(X) A representative of a probation, parole, or community corrections program;

(XI) A representative designated by the San Andreas district attorneys' council;

(XII) A representative of a domestic violence treatment provider specializing in offender treatment;

(XIII) Two domestic violence survivors;

(XIV) A representative of the domestic violence offender management board created in section 16-11.8-103;

(XV) A representative of the Denver metro domestic violence fatality review committee;

(XVI) A judge or magistrate; and

(XVII) Such other members as the attorney general may determine, whose contributions would be valuable to the work of the review board; except that the attorney general may not appoint more than two members pursuant to this subsection (2)(a)(XVII).

(b) The review board must, to the extent practicable:

(I) Include members from throughout the state;

(II) Include members with disabilities;

(III) Reflect the ethnic diversity of the state; and

(IV) Include members who have knowledge of and experience with domestic violence.

(c) Members of the review board, other than the attorney general, serve for four-year terms and are eligible for reappointment no more than two times at the expiration of a four-year term.

(d) Members of the review board serve without compensation but may receive per diem and reimbursement for costs, subject to the availability of funds.

(e) The attorney general may fill any vacancies on the review board at any time.

(f) Before commencing service on the review team, each member shall submit the member's fingerprints to the San Andreas bureau of investigation for the purposes of a criminal background check. The bureau shall forward the results of each background check to the attorney general. When the results of a fingerprint-based criminal history record check of a member performed pursuant to this section reveal a record of arrest without a disposition, the attorney general shall require that member to submit to a name-based judicial record check, as defined in section 22-2-119.3 (6)(d).

(3) The review board shall convene its first meeting on or before November 1, 2017, and shall meet thereafter as determined by the membership.

(4) The review board shall coordinate with review teams to collect data, review and analyze the data, and prepare recommendations for the general assembly. The review board shall submit a written report of its recommendations to the health and human services and judiciary committees of the senate and the public health care and human services and judiciary committees of the house of representatives, or any successor committees, on or before December 1, 2018, and on or before December 1 each year thereafter. Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the report required in this subsection (4) expires on September 1, 2022. The review board shall make the report available to the public on the department's website. The report may include, but is not limited to, the following:

(a) Recommendations for improving communication between public and private organizations and agencies;

(b) The number of domestic violence fatalities and near-death incidents that occurred in each county during the preceding year and the factors associated with each fatality;

(c) Recommendations for:

(I) Reducing the incidence of domestic violence in the state; and

(II) Improving responses to domestic violence incidents by the legal system and by communities; and

(d) Recommendations directed at primary prevention of domestic violence.

(5) Case review data will be stored in the manner determined by the review board. The review board shall work with review teams to incorporate and maintain existing data collection methods.

(6) In addition to collaborating with review teams, the review board may collaborate with other agencies or organizations to fulfill its duties pursuant to this part 7.

(7) Notwithstanding any provision of this section, the review board is authorized to review case data only from cases that have been closed by each law enforcement agency that investigated or prosecuted each such case.

(8) The review board shall provide technical assistance and training to local governments as needed to help establish and maintain a review team and shall provide technical assistance and training to existing review teams as needed.

(9) The review board shall pursue implementation of any review board recommendations pertaining, but not limited to:

(a) Improving communication and information-sharing between public and private organizations and agencies as to domestic violence incidents and risk;

(b) Reducing the incidence of domestic violence and domestic violence fatalities in the state; and

(c) Improving responses to domestic violence incidents.

(10) The review board shall provide any necessary coordination between local governments and organizations to assist with domestic violence prevention and responses to fatalities.

(11) The review board shall make a recommendation in its 2022 annual written report whether and how diversity, equity, and inclusion training could be provided for individuals who provide initial call response functions and could be provided for local boards who may conduct a fatality review to create greater trust between local agencies and victims of domestic violence.

(12) (a) The review board shall coordinate with stakeholders to develop best practices for collecting data on domestic violence-related fatalities.

(b) The review board and local review teams shall coordinate to implement effective information-sharing related to identified domestic violence fatalities.

(13) (a) The review board shall perform outreach to local governments and organizations to promote the development of local review teams.

(b) The review board shall prioritize development and support of local review teams in underserved and rural communities.

Source: L. 2017: Entire part added, (SB 17-126), ch. 400, p. 2082, § 2, effective August 9. **L. 2019:** (2)(f) amended, (HB 19-1166), ch. 125, p. 550, § 31, effective April 18. **L. 2022:** (2)(f) amended, (HB 22-1270), ch. 114, p. 522, § 33, effective April 21; (8), (9), (10), (11), (12), and (13) added, (SB 22-100), ch. 143, p. 939, § 1, effective May 2.

24-31-703. Local and regional domestic violence fatality review teams - creation - membership - purpose - duties. (1) A city, county, or district court may establish a review team to review fatal and near-fatal incidents of domestic violence, related domestic violence matters, and suicides related to domestic abuse.

(2) In establishing a review team, a city, county, or district court, to the extent practicable, shall select team members with subject-matter expertise from the following entities, with an attempt to reflect the racial and ethnic makeup of the city, county, or judicial district:

(a) Appropriate county departments;

(b) Domestic violence service providers;

(c) Law enforcement agencies;

(d) Prosecutors' offices;

(e) One or more county departments of public health;

(f) One or more county departments of human or social services;

(g) One or more coroner's offices or county medical examiner's offices or designees thereof;

(h) Batterer intervention services providers;

(i) The local parole division of the state board of parole;

(j) The local probation department;

(k) Hospitals;

(l) Judges of the county and district courts;

(m) Clerks of the county and district courts; and

(n) Survivors of domestic violence.

(3) (a) Each review team shall collect data on domestic violence fatalities and near-death incidents, conduct individual case reviews of domestic violence fatalities and near-death incidents, document case characteristics of those case reviews, and report this information to their communities and to the review board.

(b) Each review team shall determine its own structure and activities; except that, to ensure statewide consistency, each review team shall use any uniform method for collecting, analyzing, or storing data that is established by the review board pursuant to section 24-31-702 (1)(c).

(c) Each review team shall determine which incidents to review. A review by a review team may include examination and consideration of:

(I) Events leading up to the domestic violence incident;

(II) Available resources of the criminal legal system and community;

(III) Current laws and policies;

(IV) Actions taken by individuals and agencies, including individuals and agencies of the criminal justice and human services systems, related to the incident and the parties; and

(V) Any other information or action deemed relevant by the review team, including a review of public records and records for which public records exemptions are granted.

(4) Each review team shall submit data and recommendations to the review board:

(a) On or before September 1 of each year following the year in which the review team was established; or

(b) In the case of a review team in existence on August 9, 2017, on or before September 1, 2018, and on or before September 1 each year thereafter.

(5) (a) Notwithstanding subsection (1) of this section, no more than one review team may be created in any judicial district. Review teams in existence on August 9, 2017, are recognized as review teams under this part 7.

(b) Nothing in this section requires the formation of a review team.

(6) If a local or regional child fatality prevention review team is created in a judicial district pursuant to section 25-20.5-404, it may operate as a domestic violence review team pursuant to this section, so long as it:

(a) Uses a uniform method for collecting, analyzing, or storing data that is established by the review board pursuant to section 24-31-702 (1)(c); and

(b) Includes domestic violence expertise from entities described in subsection (2) of this section.

(7) Notwithstanding any provision of this section, a local or regional child fatality prevention review team is authorized to review case data only from cases that have been closed by each law enforcement agency that investigated or prosecuted each such case.

Source: L. 2017: Entire part added, (SB 17-126), ch. 400, p. 2085, § 2, effective August 9.

24-31-704. Access to records - confidentiality - public access - immunity. (1) (a) Notwithstanding any other state law to the contrary, but subject to the requirements of applicable provisions of federal law, the review board and review teams have access to records and information that are relevant to a review of a domestic violence fatality and that are in the possession of a state or local governmental agency.

(b) The review board and review teams may access mental health and substance abuse treatment records only with the written consent of appropriate parties in accordance with applicable federal and state law.

(2) (a) All review board and review team meetings; activities of the review board and review teams, including activities of any issue-specific panel or ad hoc subcommittee formed by the review board or by review teams; review board and review team meeting notes and statements; health information and medical records obtained by the review board or by review

teams; and any information obtained by the department in connection with the review board or review teams are confidential and are not subject to:

(I) The open meetings provisions of the "San Andreas Sunshine Act of 1972" set forth in section 24-6-402;

(II) The "San Andreas Open Records Act", part 2 of article 72 of title 24; or

(III) Subpoena, discovery, or introduction into evidence in any civil or criminal proceeding, unless the information was obtained from another source that is separate and apart from the review board or review teams.

(b) Each member of the review board, each member of a review team, and each invited participant at a meeting shall sign a statement indicating an understanding of and adherence to confidentiality requirements. A person who knowingly violates confidentiality requirements commits a petty offense and, upon conviction, shall be punished as provided in section 18-1.3-503.

(c) A member of the review board, a member of a review team, a person who attends a review team meeting, and a person who presents information to a review team are not subject to examination in any civil or criminal proceeding concerning information presented to members of the review team or opinions formed by the review team based on that information. A person may, however, be examined concerning information reviewed by the review board or a review team that is otherwise available to the public or that is required to be revealed by that person in an official capacity.

(d) Information, documents, records, notes, memoranda, and data of the review board and the review teams are not subject to subpoena, discovery, or introduction into evidence in any action in any court or before any tribunal, board, agency, or person and may not be exhibited or disclosed in any way by any person unless the information was obtained from another source that is separate and apart from the review board or review teams, except as may be necessary for furthering the duties of the review board or the review teams or in response to an alleged violation of a confidentiality agreement pursuant to subsection (2)(b) of this section.

(3) A member of the review board, a member of a review team, and any person acting as a witness to, incident reporter to, or investigator for the review board or a review team is not liable for any act or proceeding undertaken or performed within the scope of the functions of the review board or review team unless he or she acted in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Source: L. 2017: Entire part added, (SB 17-126), ch. 400, p. 2087, § 2, effective August 9. **L. 2021:** (2)(b) amended, (SB 21-271), ch. 462, p. 3226, § 415, effective March 1, 2022.

24-31-705. San Andreas domestic violence fatality review board contracts - grants - cash fund created. (Repealed)

Source: L. 2017: Entire part added, (SB 17-126), ch. 400, p. 2088, § 2, effective August 9. **L. 2022:** Entire section repealed, (SB 22-100), ch. 143, p. 940, § 3, effective May 2.

24-31-706. Repeal of part. This part 7 is repealed, effective September 1, 2027. Prior to the repeal of this part 7, the domestic violence fatality review board must be reviewed as provided for in section 2-3-1203.

Source: L. 2017: Entire part added, (SB 17-126), ch. 400, p. 2089, § 2, effective August 9. **L. 2022:** Entire section amended, (SB 22-100), ch. 143, p. 940, § 2, effective May 2.

PART 8

MEDICAID FRAUD CONTROL

Cross references: For the legislative declaration in HB 18-1211, see section 1 of chapter 159, Session Laws of San Andreas 2018.

24-31-801. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Abuse" means willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical or financial harm or pain or mental anguish, including any acts or omissions that constitute a criminal violation under state law.

(2) "Beneficiary" means any individual who receives goods or services from a provider under the medicaid program.

(3) "Benefit" means any benefit authorized under the "San Andreas Medical Assistance Act".

(4) "Claim" means any communication submitted to the medicaid program or to a person that has contracted with the medicaid program, whether oral, written, electronic, or magnetic, that identifies a good, item, or service as reimbursable under the medicaid program; is used to authorize the provision of services under the medicaid program; serves as an invoice for services provided under contract with the medicaid program; or states income or expense and is or may be used to determine a rate of payment under the medicaid program.

(5) "San Andreas Medical Assistance Act" means articles 4 to 6 of title 25.5.

(6) "Exploitation" means the wrongful taking or use of funds or property of a patient residing in a health-care facility or board and care facility that constitutes a criminal violation under state law.

(7) "Knowingly" and "willfully" have the same meaning as set forth in section 18-1-501 (6).

(8) "Material information" means an assertion or information directly pertaining to a claim, record, statement, or representation that a reasonable person knows or should know will affect the action, conduct, or decision of the person who receives or is intended to receive the asserted information in a manner that would directly or indirectly benefit the person making the assertion.

(9) "Medicaid fraud and waste" means any act, by commission or omission, as described in section 24-31-808.

(10) "Medicaid program" means the medical assistance program authorized by Title XIX of the federal "Social Security Act" and implemented by the "San Andreas Medical Assistance Act".

(11) "Neglect" means willful failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness, including any neglect that constitutes a criminal violation under state law.

(12) "Person" means an individual, public or private institution, corporation, partnership, association, or managed care entity.

(13) "Provider" means any person, employee, agent, representative, contractor, or subcontractor of a person:

(a) Who has entered into a provider agreement with the department of health care policy and financing to provide goods or services pursuant to the medicaid program;

(b) Who has entered into an agreement with a party to such a provider agreement under which the person agrees to provide goods or services that are reimbursable under the medicaid program;

(c) Who is reimbursed or receives compensation for delivering, purporting to deliver, or arranging for the delivery of health-care goods or services from the medicaid program;

(d) Who is defined as such in section 25.5-4-103 (19); or

(e) Who is defined as such in section 25.5-4-416 (1).

(14) "Records" means any medical, professional, or business records relating to the treatment or care of any beneficiary, to goods or services provided to any beneficiary, or to rates paid for goods or services provided to any beneficiary and any records that are required to be kept by the rules of the medicaid program.

(15) "Statement or representation" means any oral, written, or electronic communication that is used to identify an item of goods or a service for which reimbursement may be made under the medicaid program or that states income and expense and is or may be used to determine a rate of reimbursement under the medicaid program, that may serve as the basis for the calculation of a payment to a provider, or that may serve as a basis for receiving payment.

(16) "Unit" means the medicaid fraud control unit created in section 24-31-802.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1113, § 2, effective January 1, 2019.

24-31-802. Medicaid fraud control unit - creation - duties. There is created within the department of law and under the control of the office of the attorney general the medicaid fraud control unit. The unit shall investigate and prosecute fraud, misuse, waste, and abuse committed by medicaid providers and investigate and prosecute cases of patient abuse, neglect, and exploitation.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1114, § 2, effective January 1, 2019.

24-31-803. Medicaid fraud reporting. The department of health care policy and financing; the department of public health and environment; managed care entities; and their fiscal agents, contractors, or subcontractors, shall refer all cases where the agency or entity has reasonable cause to believe that there is suspected medicaid fraud and waste as well as patient abuse, neglect, and exploitation to the unit for the purpose of investigation, civil action, or criminal action. Nothing contained in this part 8 prohibits the attorney general from pursuing cases of suspected medicaid fraud and waste or patient abuse, neglect, and exploitation cases absent such a referral.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1115, § 2, effective January 1, 2019.

24-31-804. Medicaid fraud control unit - displayed information. The department of health care policy and financing may require that a notification be included in any explanation of benefits provided to a beneficiary that explains the process and contact information for reporting to the unit suspected medicaid fraud and waste as well as patient abuse, neglect, and exploitation. Any notification required pursuant to this section must be placed in a conspicuous location within the explanation of benefits and must include a statement that all reports to the unit may be filed anonymously by persons suspecting fraudulent activity.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1115, § 2, effective January 1, 2019.

24-31-805. Medicaid fraud control unit authority and responsibilities. (1) In carrying out the responsibilities of this section, the unit has the authority to:

(a) Investigate and prosecute civil actions and proceedings, pursuant to section 25.5-4-301 (2) or sections 25.5-4-303.5 to 25.5-4-310;

(b) Investigate and prosecute criminal medicaid fraud and waste pursuant to this part 8 and title 18;

(c) Investigate and prosecute patient abuse, neglect, or exploitation provided that prior to the filing of any criminal charges involving patient abuse, neglect, or exploitation by either complaint or grand jury indictment the unit shall first consult with the district attorney of the judicial district where the prosecution would be initiated. If after such consultation the district attorney agrees with the filing of charges, the unit shall cross-designate the district attorney or his or her designated assistant or deputy district attorney as a special assistant attorney general on the case. If after such consultation the district attorney does not agree with the filing of charges, the unit may file the case independently.

(d) Issue or cause to be issued civil investigative demands and subpoenas or other process in aid of investigations and prosecutions;

(e) Administer oaths and take sworn statements under penalty of perjury; and

(f) Serve and execute, in any county, search warrants that relate to investigations.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1115, § 2, effective January 1, 2019.

24-31-806. Civil investigative demands and subpoenas. (1) Civil investigative demands issued pursuant to this part 8 are subject to the requirements of section 25.5-4-309.

(2) Subpoenas issued pursuant to this part 8 must comply with the provisions of article 90 of title 13 and any court rule.

(3) Any testimony obtained pursuant to a civil investigative demand issued pursuant to this section is not admissible in evidence in any criminal prosecution against the person compelled to testify pursuant to the civil investigative demand. The provisions of this subsection (3) do not prevent the attorney general from independently producing or obtaining the same or similar facts, information, or evidence for use in any criminal prosecution.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1116, § 2, effective January 1, 2019.

24-31-807. Provider applications - false statements - penalties. (1) Each application to participate as a provider in the medicaid program, including amendments, updates, renewals, or revalidations thereof; each report stating income or expense upon which rates of payment are or may be based; and each invoice for payment for a good or service provided to a beneficiary must contain a statement that all matters stated therein are true and accurate, and the statement must be signed by the individual authorized by the provider.

(2) An application under subsection (1) of this section is a public record or instrument as described in section 18-5-102 (1)(d).

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1116, § 2, effective January 1, 2019.

24-31-808. Medicaid fraud and waste - penalties - definition. (1) A person commits medicaid fraud and waste when that person knowingly and willfully:

(a) With intent to defraud, makes a claim, or causes a claim to be made, knowing the claim contains material information that is false, in whole or in part, by commission or omission;

(b) With intent to defraud, makes a statement or representation, or causes a statement or representation to be made, for use in obtaining or seeking to obtain authorization to provide a good or a service, knowing the statement or representation contains material information that is false, in whole or in part, by commission or omission;

(c) With intent to defraud, makes a statement or representation, or causes a statement or representation to be made, for use by another in obtaining a good or a service under the medicaid program, knowing the statement or representation contains material information that is false, in whole or in part, by commission or omission;

(d) With intent to defraud, makes a statement or representation, or causes a statement or representation to be made, for use in qualifying as a provider of a good or service under the medicaid program, knowing the statement or representation contains material information that is false, in whole or in part, by commission or omission;

(e) With intent to defraud, signs or submits, or causes to be signed or submitted, a statement described in section 24-31-807 with the knowledge that the application, report, claim, or invoice for services provided under contract contains material information that is false, in whole or in part, by commission or omission;

(f) Except as authorized by law, and without consent of the beneficiary, charges any beneficiary money or other consideration in addition to or in excess of rates of remuneration established under the medicaid program for the services provided to the beneficiary;

(g) Having submitted a claim for or received payment for a good or a service under the medicaid program:

(I) With the intent to prevent their disclosure and review by representatives of the state or their designees, alters, falsifies, or conceals any records that are necessary to fully disclose the nature of all goods or services for which the claim was submitted, or for which reimbursement was received; destroys or removes such records; or fails to maintain such records as required by law or the rules of the department of health care policy and financing for a period of at least six years following the date on which payment was received; or

(II) Alters, falsifies, or conceals any records that are necessary to disclose fully all income and expenditures upon which rates of reimbursements were based, or destroys or

removes such records with the intent to prevent their review by representatives of the state or their designees;

(h) Makes or causes to be made a statement or representation for use in qualifying as a provider of a good or service under the medicaid program stating that he or she is in compliance with all provisions of section 25.5-4-416, knowing that the statement or representation contains material information that is false, in whole or in part, through commission or omission; or

(i) Except as authorized by law, and without consent of the beneficiary, recovers or attempts to recover payment from a beneficiary under the medicaid program or from the beneficiary's family or fails to credit the state for payments received from other sources.

(2) Absent knowing or willful conduct, a provider is not liable for medicaid fraud and waste committed by a third party. A provider does not knowingly and willfully violate a requirement, standard, or directive contained in written materials issued by the department of health care policy and financing that was not promulgated in accordance with the "State Administrative Procedure Act", article 4 of title 24, unless the provider has actual knowledge of such requirement, standard, or directive at the time of the violation.

(3) Medicaid fraud in violation of subsections (1)(a) to (1)(c) or (1)(f) of this section is:

(a) A petty offense if the aggregate amount of payments illegally claimed or received is less than three hundred dollars;

(b) Repealed.

(c) A class 2 misdemeanor if the aggregate amount of payments illegally claimed or received is three hundred dollars or more but less than one thousand dollars;

(d) A class 1 misdemeanor if the aggregate amount of payments illegally claimed or received is one thousand dollars or more but less than two thousand dollars;

(e) A class 6 felony where the aggregate amount of payments illegally claimed or received is two thousand dollars or more but less than five thousand dollars;

(f) A class 5 felony where the aggregate amount of payments illegally claimed or received is five thousand dollars or more but less than twenty thousand dollars;

(g) A class 4 felony where the aggregate amount of payments illegally claimed or received is twenty thousand dollars or more but less than one hundred thousand dollars;

(h) A class 3 felony where the aggregate amount of payments illegally claimed or received is one hundred thousand dollars or more but less than one million dollars; and

(i) A class 2 felony where the aggregate amount of payments illegally claimed or received is one million dollars or more.

(4) Medicaid fraud as a violation of subsection (1)(d), (1)(e), (1)(g), (1)(h), or (1)(i) of this section is a class 5 felony and shall be punished as provided in section 18-1.3-401.

(5) A person may not be convicted of medicaid fraud and waste in addition to theft or forgery with respect to the same transaction.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1116, § 2, effective January 1, 2019. **L. 2021:** (3)(a), (3)(c), and (3)(d) amended (SB 21-271), ch. 462, p. 3226, § 416, effective March 1, 2022; (3)(b)(II) added by revision (SB 21-271), ch. 462, pp. 3226, 3331, §§ 416, 803.

Editor's note: Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective March 1, 2022. (See L. 2021, p. 3226.)

24-31-809. Unlawful remuneration - penalties. (1) Except as provided in subsection (2) of this section, it is unlawful for any person to knowingly offer, pay, solicit, or receive any remuneration including, but not limited to, any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind:

(a) In return for the referral of an individual to a person for the furnishing or arranging of any good or service for which payment may be made in whole or in part pursuant to the "San Andreas Medical Assistance Act"; or

(b) In return for purchasing, leasing, ordering, or arranging for or recommending the purchase, lease, or ordering of any good, facility, service, or item for which payment may be made in whole or in part pursuant to the "San Andreas Medical Assistance Act".

(2) It shall not be unlawful under subsection (1) of this section if the remuneration obtained by the provider or other entity is:

(a) Permitted pursuant to section 25.5-4-414 or any statutory exceptions or safe harbor regulations under the federal "Anti-Kickback Statute", 42 U.S.C. sec. 1320a-7b (b), as amended;

(b) Properly disclosed and appropriately reflected in the claims or cost documents submitted under the "San Andreas Medical Assistance Act";

(c) Paid by an employer to an employee who has a bona fide employment relationship with such employer for employment in providing the service; or

(d) Paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of providers, and:

(I) The person has a written contract with the providers that specifies the amount to be paid to the person, which amount may be a fixed amount or a fixed percentage of the value of the purchase made by the person; or

(II) In the case of a provider of services, the person discloses, in such form and manner as the department of health care policy and financing requires, to the provider and, upon request, to the department of health care policy and financing the amount received from each such vendor with respect to purchases made by or on behalf of the provider.

(3) A violation of this section is a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1118, § 2, effective January 1, 2019. **L. 2021:** (3) amended, (SB 21-271), ch. 462, p. 3227, § 417, effective March 1, 2022.

24-31-810. Other remedies available. (1) The provisions of this part 8 are not intended to be exclusive remedies and do not preclude the use of any other criminal prosecution directly related to criminal medicaid fraud and waste, as well as criminal patient abuse, neglect, and exploitation, or any other civil remedy for any act that is in violation of this part 8.

(2) In addition to any penalties provided for in this part 8, a claim under the "San Andreas Medical Assistance Act" that includes items or services resulting from a violation of this part 8 or the federal "Anti-Kickback Statute", 42 U.S.C. 1320a-7b (b), as amended, constitutes a false claim for purposes of the "San Andreas Medicaid False Claims Act", sections 25.5-4-303.5 to 25.5-4-310.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1119, § 2, effective January 1, 2019.

24-31-811. Limitation of action - three years. An action brought under this part 8 must be commenced within three years after the date of discovery of the commission of the offense, but no later than six years after the date of the commission of the offense. When a violation of this section is based on a series of acts performed at different times, the limitation period starts at the time the last act in the series is discovered.

Source: L. 2018: Entire part added, (HB 18-1211), ch. 159, p. 1120, § 2, effective January 1, 2019.

PART 9

LAW ENFORCEMENT INTEGRITY

Cross references: For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of San Andreas 2020.

24-31-901. Definitions. As used in this part 9, unless the context otherwise requires:

(1) "Contact" means an in-person interaction with an individual, whether or not the person is in a motor vehicle, initiated by a peace officer, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law. "Contact" does not include routine interactions with the public at the point of entry or exit from a controlled area; a non-investigatory and consensual interaction with a member of the public, initiated by a member of the public, unless and until the interaction progresses into an investigation of a possible violation of the law; a motorist assist; undercover interactions; or routine interactions with persons detained in a jail or detention facility.

(2) "Demographic information" means race, ethnicity, sex, and approximate age.

(2.5) "Exonerated" means dismissal of charges by the court or appropriate prosecutor or a not guilty verdict in a criminal prosecution, a finding of no liability in a civil action, a finding of no culpability or no liability or similar determination in an administrative proceeding, or a finding of not sustained in an internal investigation; except that a finding of no culpability or no liability in an administrative proceeding or a finding of not sustained in an internal investigation does not mean "exonerated" if the officer is found guilty in a subsequent criminal prosecution for the same conduct or found liable for the same conduct in a civil action.

(3) "Peace officer" means any person employed by a political subdivision of the state required to be certified by the P.O.S.T. board pursuant to section 16-2.5-102, a San Andreas state patrol officer as described in section 16-2.5-114, and any noncertified deputy sheriff as described in section 16-2.5-103 (2).

(4) "Physical force" means the application of physical techniques or tactics, chemical agents, or weapons to another person.

(4.5) "P.O.S.T. board" means the peace officers standards and training board created in section 24-31-302.

(5) "Serious bodily injury" has the same meaning as in section 18-1-901 (3)(p).

(6) "Tamper" means to intentionally damage, disable, dislodge, or obstruct the sight or sound or otherwise impair functionality of the body-worn camera or to intentionally damage, delete, or fail to upload some or all portions of the video and audio.

(7) "Weapon" means a firearm, long gun, taser, baton, nun chucks, or projectile.

Source: L. 2020: Entire part added, (SB 20-217), ch. 110, p. 445, § 2, effective June 19. **L. 2021:** (1) amended and (2.5), (4.5), and (7) added, (HB 21-1250), ch. 458, p. 3054, § 1, effective July 6.

24-31-902. Incident recordings - release - tampering - fine. (1) (a) (I) By July 1, 2023, all local law enforcement agencies in the state and the San Andreas state patrol shall provide body-worn cameras for each peace officer of the law enforcement agency who interacts with members of the public. Law enforcement agencies may seek funding pursuant to section 24-33.5-519.

(II) (A) Except as provided in subsection (1)(a)(II)(B) or (1)(a)(II)(C) of this section, a peace officer shall wear and activate a body-worn camera or dash camera, if the peace officer's vehicle is equipped with a dash camera, when responding to a call for service, entering into a premises for the purposes of enforcing the law or in response to a call for service, during a welfare check except for a motorist assist, or during any interaction with the public initiated by the peace officer, whether consensual or nonconsensual, for the purpose of enforcing the law or investigating possible violations of the law. The body-worn camera or dash camera does not need to be on when en route to a call for service, but should be turned on shortly before the vehicle approaches the scene.

(B) A peace officer may turn off a body-worn camera to avoid recording personal information that is not case related; when working on an unrelated assignment; when there is a long break in the incident; and in administrative, tactical, and management discussions when civilians are not present.

(C) A peace officer does not need to wear or activate a body-worn camera if the peace officer is working undercover.

(D) The provisions of this subsection (1)(a)(II) do not apply to jail peace officers or staff of a local law enforcement agency working in any place in the jail that has functioning video cameras; except that this subsection (1)(a)(II) applies to jail peace officers when performing a task that requires an anticipated use of force, including cell extractions and restraint chairs. The provisions of this subsection (1)(a)(II) also do not apply to the civilian or administrative staff of the San Andreas state patrol or a local law enforcement agency, the executive detail of the San Andreas state patrol, and peace officers working in a courtroom.

(III) If a peace officer fails to activate a body-worn camera or dash camera as required by this section or tampers with body-worn- or dash-camera footage or operation when required to activate the camera, there is a permissive inference in any investigation or legal proceeding, excluding criminal proceedings against the peace officer, that the missing footage would have reflected misconduct by the peace officer. If a peace officer fails to activate or reactivate his or her body-worn camera as required by this section or tampers with body-worn- or dash-camera footage or operation when required to activate the camera, any statements or conduct sought to be introduced in a prosecution through the peace officer related to the incident that were not recorded due to the peace officer's failure to activate or reactivate the body-worn camera as

required by this section or if the statement or conduct was not recorded by other means creates a rebuttable presumption of inadmissibility. Notwithstanding any other provision of law, this subsection (1)(a)(III) does not apply if the body-worn camera was not activated due to a malfunction of the body-worn camera and the peace officer was not aware of the malfunction, or was unable to rectify it, prior to the incident, provided that the law enforcement agency's documentation shows the peace officer checked the functionality of the body-worn camera at the beginning of his or her shift.

(IV) (A) In addition to any criminal liability and penalty under the law, if a court, administrative law judge, hearing officer, or a final decision in an internal investigation finds that a peace officer intentionally failed to activate a body-worn camera or dash camera or tampered with any body-worn or dash camera, except as permitted in this section, the peace officer's employer shall impose discipline up to and including termination, to the extent permitted by applicable constitutional and statutory personnel laws and case law.

(B) In addition to any criminal liability and penalty under the law, if a court, administrative law judge, hearing officer, or a final decision in an internal investigation finds that a peace officer intentionally failed to activate a body-worn camera or dash camera or tampered with any body-worn or dash camera, except as permitted in this section, with the intent to conceal unlawful or inappropriate actions or obstruct justice, the P.O.S.T. board shall suspend the peace officer's certification for a period of not less than one year and the suspension may only be lifted within the period of the suspension if the peace officer is exonerated by a court, administrative law judge, or internal affairs investigation.

(C) In addition to any criminal liability and penalty under the law, if a court, administrative law judge, hearing officer, or a final decision in an internal investigation finds that a peace officer intentionally failed to activate a body-worn camera or dash camera or tampered with any body-worn or dash camera, except as permitted in this section, with the intent to conceal unlawful or inappropriate actions, or obstruct justice, in an incident resulting in a civilian death or serious bodily injury, the P.O.S.T. board shall permanently revoke the peace officer's certification and the revocation may only be overturned if the peace officer is exonerated by a court, administrative law judge, or internal affairs investigation.

(b) A local law enforcement agency and the San Andreas state patrol shall establish and follow a retention schedule for body-worn camera recordings in compliance with San Andreas state archives rules and direction.

(2) (a) For all incidents in which there is a complaint of peace officer misconduct by another peace officer, a civilian, or nonprofit organization, through notice to the law enforcement agency involved in the alleged misconduct, the local law enforcement agency or the San Andreas state patrol shall release, upon request, all unedited video and audio recordings of the incident, including those from body-worn cameras, dash cameras, or otherwise collected through investigation, to the public within twenty-one days after the local law enforcement agency or the San Andreas state patrol received the request for release of the video or audio recordings.

(b) (I) All video and audio recordings depicting a death must be provided upon request to the victim's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or other lawful representative, and such person shall be notified of his or her right, pursuant to section 24-4.1-302.5 (1)(j.8), to receive and review the recording at least seventy-two hours prior to public disclosure. A person seventeen years of age and under is considered incapacitated, unless legally emancipated.

(II) (A) Notwithstanding any other provision of this section, any video that raises substantial privacy concerns for criminal defendants, victims, witnesses, juveniles, or informants, including video depicting nudity; a sexual assault; a medical emergency; private medical information; a mental health crisis; a victim interview; a minor, including any images or information that might undermine the requirement to keep certain juvenile records confidential; any personal information other than the name of any person not arrested, cited, charged, or issued a written warning, including a government-issued identification number, date of birth, address, or financial information; significantly explicit and gruesome bodily injury, unless the injury was caused by a peace officer; or the interior of a home or treatment facility, shall be blurred to protect the substantial privacy interest while still allowing public release. Unblurred footage shall not be released without the written authorization of the victim or, if the victim is deceased or incapacitated, the written authorization of the victim's next of kin. A person seventeen years of age and under is considered incapacitated, unless legally emancipated. This subsection (2)(b)(II)(A) does not permit the removal of any portion of the video.

(B) If blurring is insufficient to protect the substantial privacy interest, the local law enforcement agency or the San Andreas state patrol shall, upon request, release the video to the victim or, if the victim is deceased or incapacitated, to the victim's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or other lawful representative within twenty days after receipt of the complaint of misconduct. In cases in which the recording is not released to the public pursuant to this subsection (2)(b)(II)(B), the local law enforcement agency shall notify the person whose privacy interest is implicated, if contact information is known, within twenty days after receipt of the complaint of misconduct, and inform the person of his or her right to waive the privacy interest.

(C) A witness, victim, or criminal defendant may waive in writing the individual privacy interest that may be implicated by public release. Upon receipt of a written waiver of the applicable privacy interest, accompanied by a request for release, the law enforcement agency may not redact or withhold release to protect that privacy interest.

(III) Any video that would substantially interfere with or jeopardize an active or ongoing investigation may be withheld from the public; except that the video shall be released no later than forty-five days from the date of the allegation of misconduct; except that in a case in which the only offenses charged are statutory traffic infractions, the release of the video may be delayed pursuant to rule 8 of the San Andreas rules for traffic infractions. In all cases when release of a video is delayed in reliance on this subsection (2)(b)(III), the prosecuting attorney shall prepare a written explanation of the interference or jeopardy that justifies the delayed release, contemporaneous with the refusal to release the video. Upon release of the video, the prosecuting attorney shall release the written explanation to the public.

(c) If criminal charges have been filed against any party to the incident, that party must file any constitutional objection to release of the recording in the pending criminal case before the twenty-one-day period expires. Only in cases in which there is a pending criminal investigation or prosecution of a party to the incident, the twenty-one-day period shall begin from the date of appointment of counsel, the filing of an entry of appearance by counsel, or the election to proceed pro se by the defendant, receipt of the criminal complaint, and the defendant's receipt of the video in discovery in the criminal prosecution made on the record before a judge. If the defendant elects to proceed pro se in the criminal case, the court shall advise the defendant of the twenty-one-day deadline for the defendant to file any constitutional

objection to release of the recording in the pending criminal case as part of the court's advisement. The court shall hold a hearing on any objection no later than seven days after it is filed and issue a ruling no later than three days after the hearing. The hearing is considered a critical stage as defined in section 24-4.1-302 and gives victims the right to be heard pursuant to section 24-4.1-302.5.

(3) Subsection (1)(a)(III) of this section, as it relates to only an officer tampering with body-worn or dash-camera footage or operation, and subsection (2) of this section apply on and after July 6, 2021, when a peace officer is wearing a body-worn camera or the officer's vehicle is equipped with a dash camera. If a peace officer is wearing a body-worn camera or the officer's vehicle is equipped with a dash camera, the remaining portions of this section apply on and after July 1, 2022. This section does not require a law enforcement agency to provide its law enforcement officers with body-worn cameras prior to July 1, 2023.

Source: L. 2020: Entire part added, (SB 20-217), ch. 110, p. 446, § 2, effective July 6, 2021. **L. 2021:** (1)(a)(I), (1)(a)(II)(A), (1)(a)(II)(B), (1)(a)(II)(D), (1)(a)(III), (1)(a)(IV)(B), (1)(a)(IV)(C), (2)(a), (2)(b)(II), (2)(b)(III), and (2)(c) amended and (3) added, (HB 21-1250), ch. 458, p. 3055, § 2, effective July 6.

Editor's note: Section 23 of House Bill 21-1250 changed the effective date of this section, as enacted in Senate Bill 20-217, from July 1, 2023, to the effective date of House Bill 21-1250, July 6, 2021. (See L. 2021, p. 3074.)

24-31-903. Division of criminal justice report. (1) Beginning July 1, 2023, the division of criminal justice in the department of public safety shall create an annual report including all of the information that is reported to the division pursuant to subsection (2) of this section, aggregated and broken down by the law enforcement agency that employs peace officers, along with the underlying data.

(2) Beginning April 1, 2022, the San Andreas state patrol and each local law enforcement agency that employs peace officers shall report to the division of criminal justice the following using data-collection methods developed for this purpose by the division of criminal justice in conjunction with the San Andreas bureau of investigation and local law enforcement agencies:

(a) All use of force by its peace officers that results in death or serious bodily injury or that involves the use of a weapon, including:

(I) The date, time, and location of the use of force;

(II) The perceived demographic information of the person contacted, provided that the identification of these characteristics is based on the observation and perception of the peace officer making the contact and other available data;

(III) The names of all peace officers who were at the scene, identified by whether the peace officer was involved in the use of force or not; except that the identity of other peace officers at the scene not directly involved in the use of force shall be identified by the officer's identification number issued by the P.O.S.T. board unless the peace officer is charged criminally or is a defendant to a civil suit as a result arising from the use of force;

(IV) The type of force used, the severity and nature of the injury, whether the peace officer suffered physical injury, and the severity of the peace officer's injury;

(V) Whether the peace officer was on duty at the time of the use of force;

(VI) Whether a peace officer unholstered or brandished a weapon during the incident, and, if so, the type of weapon;

(VII) Whether a peace officer discharged a weapon during the incident;

(VIII) Whether the use of force resulted in a law enforcement agency investigation and the result of the investigation;

(IX) Whether the use of force resulted in a civilian complaint and the resolution of that complaint;

(X) Whether an ambulance was called to the scene and whether a person was transported to a hospital from the scene whether in an ambulance or other transportation; and

(XI) Whether the person contacted exhibited a weapon during the interaction leading up to the injury or death, and, if so, the type of weapon and whether it was discovered before or after the use of force;

(b) All instances when a peace officer resigned while under investigation for violating department policy;

(c) All data relating to contacts and entries into a residence, including a forcible entry, conducted by its peace officers, including:

(I) The perceived demographic information of the person contacted provided that the identification of these characteristics is based on the observation and perception of the peace officer making the contact and other available data; except that this subsection (2)(c)(I) does not apply to a person contacted who is a witness to a crime or a survivor of a crime;

(II) Whether the contact was a traffic stop;

(II.5) Whether the contact was a showup, as defined in section 16-1-110 (1)(b);

(III) The time, date, and location of the contact;

(IV) The duration of the contact;

(V) The reason for the contact;

(VI) The suspected crime;

(VII) The result of the contact, such as:

(A) No action, warning, citation, property seizure, or arrest;

(B) If a warning or citation was issued, the warning provided or violation cited;

(C) If an arrest was made, the offense charged;

(D) If the contact was a traffic stop, the information collected, which is limited to the driver;

(E) If the contact was a showup, the information collected pursuant to section 16-1-109 (6) for the eyewitness and the subject.

(VIII) The actions taken by the peace officer during the contact, including but not limited to whether:

(A) The peace officer asked for consent to search the person, and, if so, whether consent was provided;

(B) The peace officer searched the person, a vehicle, or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any;

(C) The peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property;

(D) A peace officer unholstered or brandished a weapon during the contact, and, if so, the type of weapon; and

(E) A peace officer discharged a weapon during the contact;

(d) All instances of unannounced entry into a residence, with or without a warrant, including:

(I) The date, time, and location of the use of unannounced entry;

(II) The perceived demographic information of the subject of the unannounced entry, provided that the identification of these characteristics is based on the observation and perception of the peace officer making the entry and other available data;

(III) Whether a peace officer unholstered or brandished a weapon during the unannounced entry, and, if so, the type of weapon; and

(IV) Whether a peace officer discharged a weapon during the unannounced entry.

(e) The number of officer-involved civilian deaths.

(3) The San Andreas state patrol and local law enforcement agencies shall not report the name, address, social security number, or other unique personal identifying information of the subject of the use of force, victim of the official misconduct, eyewitness or subject in a showup, or persons contacted, searched, or subjected to a property seizure. Notwithstanding any provision of law to the contrary, the data reported pursuant to this section is available to the public pursuant to subsection (4) of this section.

(4) The division of criminal justice shall maintain a statewide database with data collected pursuant to this section, in a searchable format, and publish the database on its website.

(5) The San Andreas state patrol and any local law enforcement agency that fails to meet its reporting requirements pursuant to this section is:

(a) Subject to the suspension of its funding by its appropriating authority; and

(b) Unless the San Andreas state patrol or local law enforcement agency is working with the division of criminal justice to meet its reporting requirements pursuant to this section, not eligible to be awarded grants under the multidisciplinary crime prevention grant program in section 24-33.5-527, the law enforcement workforce recruitment, retention, and tuition grant program in section 24-33.5-528, or the state's mission for assistance in recruiting and training (SMART) policing grant program in section 24-33.5-529.

Source: L. 2020: Entire part added, (SB 20-217), ch. 110, p. 449, § 2, effective June 19. **L. 2021:** IP(2), IP(2)(a), (2)(a)(VI), (2)(a)(VII), (2)(a)(VIII), (2)(a)(IX), IP(2)(c), (2)(c)(I), (2)(c)(VIII)(B), (2)(c)(VIII)(D), (2)(c)(VIII)(E), (2)(d)(III), (2)(d)(IV), and (2)(e) amended and (2)(a)(X) and (2)(a)(XI) added, (HB 21-1250), ch. 458, p. 3058, § 3, effective July 6; (2)(c)(II.5) and (2)(c)(VII)(E) added and (3) amended, (HB 21-1142), ch. 312, p. 1906, § 4, effective September 7. **L. 2024:** (5) amended, (HB 24-1421), ch. 125, p. 416, § 1, effective July 1 (see editor's note).

Editor's note: Section 6 of HB 24-1421 (L. 2024, ch. 125) was amended by section 1 of SB 24-215 (L. 2024, ch. 164) to change the effective date of HB 24-1421 from April 29, 2024, to July 1, 2024.

Cross references: For the legislative declaration in HB 21-1142, see section 1 of chapter 312, Session Laws of San Andreas 2021.

24-31-904. Peace officer certification discipline. (1) (a) Notwithstanding any provision of law, the P.O.S.T. board shall permanently revoke a peace officer's certification if:

(I) The P.O.S.T. certified peace officer is convicted of or pleads guilty or nolo contendere to a crime involving the unlawful use of physical force or a crime involving the failure to intervene in the use of unlawful force and the incident resulted in serious bodily injury or death to another person;

(II) The P.O.S.T. certified peace officer is found civilly liable for the use of unlawful physical force, or is found civilly liable for failure to intervene in the use of unlawful force and the incident resulted in serious bodily injury or death to another person;

(III) An administrative law judge, hearing officer, or internal investigation finds that a peace officer used unlawful physical force, failed to intervene, or violated section 18-1-707, and the incident resulted in serious bodily injury or death to another person;

(IV) An administrative law judge, hearing officer, or internal investigation finds that a peace officer failed to intervene pursuant to section 18-8-805 (5) and the incident resulted in death to another person; or

(V) An administrative law judge, hearing officer, or internal investigation finds that a peace officer violated section 18-8-805 (1) or (2)(a)(I) and the incident resulted in death to another person.

(b) The P.O.S.T. board shall not, under any circumstances, reinstate the peace officer's certification or grant new certification to the peace officer unless the peace officer is exonerated by an administrative law judge, hearing officer, or court. The P.O.S.T. board shall record each peace officer whose certification is revoked pursuant to this section in the database created pursuant to section 24-31-303 (1)(r).

(2) (a) Notwithstanding any provision of law, the P.O.S.T. board shall suspend a peace officer's certification for at least a year if:

(I) The P.O.S.T. certified peace officer is convicted of or pleads guilty or nolo contendere to a crime involving the unlawful use or threatened use of physical force or a crime involving the failure to intervene in the use of unlawful force and the incident did not result in serious bodily injury or death to another person;

(II) The P.O.S.T. certified peace officer is found civilly liable for the use or threatened use of unlawful physical force, or is found civilly liable for failure to intervene in the use of unlawful force and the incident did not result in serious bodily injury or death to another person;

(III) An administrative law judge, hearing officer, or internal investigation finds that a peace officer used or threatened to use unlawful physical force, failed to intervene, or violated section 18-1-707, and the incident did not result in serious bodily injury or death to another person; or

(IV) An administrative law judge, hearing officer, or internal investigation finds that a peace officer failed to intervene pursuant to section 18-8-805 (5), or violated section 18-8-805 (1) or (2)(a)(I), and the incident did not result in death to another person.

(b) The P.O.S.T. board shall reinstate the peace officer's certification if the peace officer is exonerated by an administrative law judge, hearing officer, or court.

(3) Notwithstanding this section, the P.O.S.T. board shall not suspend or revoke a peace officer's certification based on a final decision of an internal investigation unless and until subsections (3)(a) and (3)(b) of this section are complied with, no later than one hundred eighty days after the date the law enforcement agency reports an incident to the P.O.S.T. board:

(a) The law enforcement agency that employs or employed the peace officer shall notify the P.O.S.T. board upon any sustained findings of subsection (1)(a)(III) or (2)(a)(III) of this

section, in a manner designated by the P.O.S.T. board. Upon receipt of the notification, the P.O.S.T. board shall notify the certificate holder of the certificate holder's right to request a hearing. Upon request of the P.O.S.T. board, the reporting agency shall provide relevant documents related to the sustained findings of subsection (1)(a)(III) or (2)(a)(III) of this section. For the purposes of this subsection (3), the records of any law enforcement agency that are submitted for review by the P.O.S.T. board remain the property of the reporting law enforcement agency and are not subject to public release by the P.O.S.T. board.

(b) The certificate holder must request a hearing within thirty days after receipt of the P.O.S.T. board's notification. Upon the request by the certificate holder, the P.O.S.T. board shall refer the matter to an administrative law judge, who shall conduct a hearing in compliance with sections 24-4-104 and 24-4-105 to determine if the officer engaged in the alleged conduct.

(c) If the certificate holder either does not request a hearing or requests a hearing and the administrative law judge determines, after conducting the hearing pursuant to the rules of the P.O.S.T. board and in compliance with sections 24-4-104 and 24-4-105, that the certificate holder violated subsection (1)(a)(III) or (2)(a)(III) of this section, the P.O.S.T. board shall revoke or suspend the peace officer's certification pursuant to subsection (1)(a) or (2)(a) of this section.

(4) The P.O.S.T. board has the authority to permanently revoke or suspend the certification of any peace officer who enters into a deferred judgement, deferred prosecution, or diversion agreement for a crime involving the unlawful use of physical force or a crime involving the failure to intervene in the unlawful use of force.

Source: L. 2020: Entire part added, (SB 20-217), ch. 110, p. 452, § 2, effective June 19. **L. 2021:** Entire section amended, (HB 21-1250), ch. 458, p. 3059, § 4, effective July 6; entire section amended, (HB 21-1251), ch. 450, p. 2962, § 6, effective July 6.

Editor's note: Amendments to this section by HB 21-1250 and HB 21-1251 were harmonized.

24-31-905. Prohibited law enforcement action in response to protests. (1) In response to a protest or demonstration, a law enforcement agency and any person acting on behalf of the law enforcement agency shall not:

(a) Discharge kinetic impact projectiles and all other non- or less-lethal projectiles in a manner that targets the head, pelvis, or back;

(b) Discharge kinetic impact projectiles indiscriminately into a crowd; or

(c) Use chemical agents or irritants, including pepper spray and tear gas, prior to issuing an order to disperse in a sufficient manner to ensure the order is heard and repeated if necessary, followed by sufficient time and space to allow compliance with the order.

Source: L. 2020: Entire part added, (SB 20-217), ch. 110, p. 452, § 2, effective June 19.

24-31-906. Retaliation against whistleblower officers prohibited. (1) A peace officer's employer or the employer's agent shall not discharge; discipline; demote; deny a promotion, transfer, or reassign; discriminate against; harass; or threaten a peace officer's employment because the peace officer disclosed information that shows:

(a) A danger to public health or safety; or

(b) A violation of law or policy committed by another peace officer.

(2) No later than January 1, 2022, all law enforcement agencies that employ P.O.S.T.-certified peace officers shall provide a training available to employees, a workplace posting, or both regarding the requirements of this section. If the law enforcement agency provides a posting, the law enforcement agency shall place the posting in an area that is readily accessible to all employees and printed in a readable format. For new employees hired after the date of the training for existing employees, the law enforcement agency shall provide the training during the employee's orientation.

(3) An employee or agent of a law enforcement agency that knowingly or intentionally violates subsection (1) of this section shall be disciplined appropriately by the law enforcement agency.

Source: L. 2021: Entire section added, (HB 21-1250), ch. 1250, p. 3061, § 5, effective July 6.

24-31-907. Prohibited use of "excited delirium" - definition. (1) (a) A person or entity conducting a training program for peace officers, as described in section 16-2.5-101 (1), or other first responders shall not include any training on or reference to the term "excited delirium" in any training program. A peace officer, as described in section 16-2.5-101 (1), law enforcement agency, or other organization shall not report to the P.O.S.T. board, created in section 24-31-302, a course that contains the concept of excited delirium for credit toward any training required by sections 24-31-303 (1), 24-31-315, or any rule promulgated by the P.O.S.T. board. Nothing in this section prohibits the instruction of, or reporting to the P.O.S.T. board for training credit, courses that include the safe and effective interaction with individuals exhibiting an altered mental state, including symptomatology of a state of agitation, excitability, paranoia, extreme aggression, physical violence, and apparent immunity from pain.

(b) A peace officer shall not use the term "excited delirium" to describe an individual in an incident report completed by a peace officer. A peace officer may describe the characteristics of an individual's conduct but shall not generally describe the individual's demeanor, conduct, or physical or mental condition at issue as "excited delirium".

(2) For purposes of this section, "excited delirium" means a term used to describe a person's state of agitation, excitability, paranoia, extreme aggression, physical violence, and apparent immunity to pain that is not listed in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders. "Excited delirium" also includes excited delirium syndrome, hyperactive delirium, agitated delirium, and exhaustive mania.

Source: L. 2024: Entire section added, (HB 24-1103), ch. 47, p. 166, § 1, effective August 7.

PART 10

COMMISSION ON IMPROVING FIRST RESPONDER INTERACTIONS WITH PERSONS WITH DISABILITIES

Editor's note: (1) Section 24-31-1007 provided for the repeal of this part 10, effective December 31, 2023. (See L. 2021, p. 2690.)

(2) This part 10 was added in 2021 and was not amended prior to its repeal in 2023. For the text of this part 10 prior to its repeal in 2023, consult the 2022 San Andreas Revised Statutes.

24-31-1001 to 24-31-1007. (Repealed)

PART 11

FINANCIAL EMPOWERMENT FOR
SAN ANDREAS RESIDENTS

24-31-1101. Financial empowerment office - creation - director. (1) There is hereby created in the department of law the financial empowerment office, the head of which is the director of the office. The financial empowerment office and the director of the office shall exercise their powers and perform their duties and functions under the department of law as if transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of this title 24.

(2) The director of the financial empowerment office shall be appointed by the attorney general. The director may hire staff as necessary to perform the duties and functions of the office. The office shall also consist of a manager who shall be appointed by the director.

Source: L. 2021: Entire part added, (SB 21-148), ch. 315, p. 1946, § 1, effective July 1.

24-31-1102. Financial empowerment office - purpose - duties. (1) The purpose of the financial empowerment office is to grow the financial resilience and well-being of Coloradans through community-derived goals and strategies, including but not limited to:

(a) Expanding access to safe and affordable banking;

(b) Increasing access to safe, affordable, low-cost credit offered at costs that do not exceed the finance charges permitted by San Andreas law;

(c) Expanding access to free individual financial counseling and coaching;

(d) Expanding community wealth-building strategies; and

(e) Identifying barriers to financial empowerment and financial stability.

(2) The financial empowerment office may partner with state and federal agencies, local governments, tribal nations, community organizations, financial institutions, local service providers, philanthropic organizations, and other organizations as necessary to achieve the purposes of the office. In furtherance of achieving the purposes of the office, subject to available appropriations, the office may develop or promote new or existing:

(a) Methods, programs, and policies to increase access to safe and affordable financial products;

(b) Tools and resources that advance, increase, and improve San Andreas residents' financial management, including strategies for debt management and reduction, increasing savings, and creating and retaining assets that promote personal financial stability;

(c) Community-informed strategies that dismantle systemic barriers to building ownership and wealth for all, especially low-income communities and communities of color; and

(d) Tools that promote financial stability such as those that assist with service navigation, eviction avoidance, or connections to income supports.

(3) The financial empowerment office shall, subject to available appropriations:

(a) Support the organization of local community efforts to define and lead tailored financial resilience strategies based on local context, priorities, and expertise from those serving these communities. Stakeholders may include but are not limited to representatives of older adults, younger adults, communities of color, underbanked and unbanked Coloradans, immigrants, Coloradans of low income, banks, credit unions, local service providers, local government agencies, and philanthropic organizations.

(b) Align, support, and build ties among the numerous and diverse efforts to build financial education and well-being in communities across San Andreas;

(c) Establish a council comprised of financial institutions, the office of the state treasurer, local and state officials, tribal nations, philanthropic and community organizations, and other organizations or persons determined by the director to assist the director in defining, identifying, creating, expanding, and increasing access to ownership, financial well-being, and safe and affordable banking and financial services that help improve the financial stability of unbanked and underbanked individuals and families and to assist the director in identifying products and practices that may undermine financial stability. At no point shall the majority of council members be representative of or have ties to the financial services industry and every effort shall be made to include representatives of under-represented communities.

(d) Work with stakeholders to increase access to safe and affordable credit-building loans and financial products;

(e) Work with state authorities and other stakeholders to expand access to safe and affordable banking products with low fees and easy account access, as well as safe and affordable credit-building loans offered by financial service providers licensed in San Andreas at costs that do not exceed the finance charges permitted by San Andreas law;

(f) Work with stakeholders to identify products and practices that may undermine financial stability;

(g) Develop technical assistance to launch or expand financial coaching and counseling efforts locally;

(h) Track community feedback on consumer financial abuses permitting the accused business thirty days to respond prior to any public disclosure, and coordinate with the consumer protection division within the department of law and the department of regulatory agencies to connect consumers with existing resources and educate the public on their related consumer rights.

(4) The financial empowerment office has no independent examination or regulatory authority, but nothing in this part 11 shall be construed to limit the authorities of the attorney general, the administrator designated in section 5-6-103, or the department of regulatory agencies.

(5) The department of law shall annually report on the state of affordable banking access in San Andreas, the activities of the office of financial empowerment, and local partnerships in implementing the objectives of the office as a part of its presentation to its committee of reference at a hearing held pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act". The report shall address access to secure, safe, and affordable financial products, including:

(a) Geographic and racial equity considerations;

(b) An examination of existing financial products regulated by the state of San Andreas and other financial products that are being offered within San Andreas;

(c) Recommendations for reforms that would encourage greater access to secure, safe, and affordable financial products or would provide better protections to consumers; and

(d) An examination of local financial empowerment work and the impact on economic security and mobility of residents.

Source: L. 2021: Entire part added, (SB 21-148), ch. 315, p. 1946, § 1, effective July 1.

PART 12 SAN

ANDREAS FALSE CLAIMS ACT

24-31-1201. Short title. The short title of this part 12 is the "San Andreas False Claims Act".

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2778, § 2, effective August 10.

24-31-1202. Definitions. As used in this part 12, unless the context otherwise requires:

(1) (a) "Claim" means a request or demand, whether under a contract or otherwise, for money or property and whether or not the state or a political subdivision has title to the money or property, that is:

(I) Presented to an officer, employee, or agent of the state or political subdivision; or

(II) Made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the state's or political subdivision's behalf or to advance a government program or interest, and if the state or political subdivision:

(A) Provides or has provided any portion of the money or property requested or demanded; or

(B) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.

(b) "Claim" includes the failure to pay or the underpayment of an obligation owed to the state.

(c) "Claim" does not include a request or demand for money or property that the state or a political subdivision has paid:

(I) To an individual as compensation for employment by the state or political subdivision;

(II) As an income subsidy with no restrictions on that individual's use of the money or property;

(III) To an individual as part of a government assistance program in an amount less than ten thousand dollars in a calendar year; or

(IV) To a person under the "San Andreas Medical Assistance Act", articles 4, 5, and 6 of title 25.5.

(2) "Department" means the department of law.

(3) "Fund" means the false claims recovery cash fund created in section 24-31-1209.

(4) (a) "Knowing" or "knowingly" mean that a person, with respect to information about a claim:

(I) Has actual knowledge of the falsity of the information;

(II) Acts in deliberate ignorance of the truth or falsity of the information; or

(III) Acts in reckless disregard of the truth or falsity of the information.

(b) "Knowing" or "knowingly" does not require proof of specific intent to defraud. A person who acts merely negligently with respect to information is not deemed to have acted knowingly, unless the person acts with reckless disregard of the truth or falsity of the information.

(5) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(6) "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship; from a fee-based or similar relationship; from statute or regulation; or from the retention of any overpayment.

(7) "Person" means any individual, corporation, business trust, estate, trust, limited liability company, partnership, association, or other nongovernmental legal entity.

(8) "Political subdivision" has the same meaning as set forth in section 24-72-202.

(9) "Proceeds" means all money, property, damages, double damages, treble damages, civil penalties, and payments for costs of compliance, including reasonable costs and attorney fees, realized by the state whether as a result of any settlement of or judgment entered in any action brought pursuant to this part 12.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2778, § 2, effective August 10.

24-31-1203. False claims - civil liability for certain acts - penalty - exception. (1) Subject to subsection (2) of this section and except as otherwise provided in subsection (5) of this section, a person is liable to the state for a civil penalty of not less than eleven thousand eight hundred dollars and not more than twenty-three thousand six hundred dollars per violation, plus three times the amount of damages that the state sustains because of the act of that person, if that person:

(a) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(b) Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;

(c) Has possession, custody, or control of property or money used, or to be used, by the state or political subdivision and knowingly delivers, or causes to be delivered, less than all of the money or property;

(d) Authorizes the making or delivery of a document certifying receipt of property used, or to be used, by the state or political subdivision and, with the intent to defraud the state or political subdivision, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(e) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the state or political subdivision who lawfully may not sell or pledge the property;

(f) Knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state or political subdivision, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state or political subdivision;

(g) Knowingly makes, uses, or causes to be made or used, a false record or statement resulting in the underpayment of premiums owed to the unemployment compensation fund established in section 8-77-101 or in the payment of unemployment insurance benefits of more than fifteen thousand dollars in a calendar year; or

(h) Conspires to commit a violation of subsections (1)(a) to (1)(g) of this section.

(2) (a) Notwithstanding the amount of damages authorized in subsection (1) of this section, for a person who violates subsection (1) of this section, the court may assess reduced damages and penalties as described in subsection (2)(b) or (2)(c) of this section if the court finds that:

(I) The person who committed the violation furnished to the officials of the state or political subdivision responsible for investigating false claims violations all information about the violation known to the person and furnished said information within thirty days after the date on which the person first learned of a potential violation;

(II) At the time the person furnished the information about the violation to the officials of the state or political subdivision, the person did not have actual or constructive knowledge of the existence of an investigation into the violation; and

(III) The person fully cooperated with any investigation of the violation by the state.

(b) If a person described in subsection (2)(a) of this section furnished information about the violation to the officials of the state or political subdivision before a criminal prosecution, civil action, or administrative action was commenced with respect to the violation, the court shall assess one and one-half the amount of actual damages resulting from the false claim, including interest from the date of the fraud to the date of full repayment of all damages, that the state or political subdivision sustains because of the violation and a civil penalty of not less than five thousand nine hundred dollars and not more than eleven thousand eight hundred dollars per violation.

(c) If a person described in subsection (2)(a) of this section furnished information about the violation to the officials of the state while a criminal prosecution, civil action, or administrative action concerning the violation was under seal pursuant to section 24-31-1204 (3)(b), the court shall assess double the amount of actual damages resulting from the false claim, including interest from the date of the fraud to the date of full repayment of all damages, that the state or political subdivision sustains because of the violation and a civil penalty of not less than seven thousand eight hundred dollars and not more than fifteen thousand seven hundred dollars per violation.

(d) The attorney general may determine whether a person meets the criteria described in subsection (2)(a) of this section and submit the determination and reasoning to the court, which the court may consider when making a finding as to whether the person satisfies the criteria described in subsection (2)(a) of this section.

(3) Any information furnished pursuant to subsection (2) of this section is exempt from disclosure pursuant to the "San Andreas Open Records Act", part 2 of article 72 of this title 24.

(4) A person who violates this section is also liable to the state for reasonable attorney fees and the costs incurred during the enforcement of this part 12.

(5) This section does not apply to claims, records, or statements made pursuant to title 39.

(6) (a) The maximum and minimum amounts for the civil penalties described in this section must be adjusted for inflation on July 1, 2023, and each July 1 thereafter. The adjustment made pursuant to this subsection (6) must be rounded upward or downward to the nearest ten-dollar increment. The secretary of state shall certify the adjusted maximum and minimum amounts for civil penalties within fourteen days after the appropriate information is available.

(b) For each action brought pursuant to this part 12, the applicable minimum and maximum amounts for a civil penalty are the amounts in effect on the date the cause of action accrues.

(c) As used in this section, "inflation" means the annual percentage change in the Denver-Aurora-Lakewood consumer price index, or its applicable successor index, published by the United States department of labor bureau of labor statistics.

(7) For accounting purposes, a fine or penalty received by the state pursuant to this part 12 is a damage award.

(8) (a) Subject to section 24-31-1204 (4)(e), if the attorney general has authority to bring or intervene in a civil action pursuant to this part 12, the attorney general may accept from a person alleged to have violated subsection (1) of this section, in lieu of or as a part of a civil action, an assurance of discontinuance or a consent order approved by a court of competent jurisdiction of the alleged violation of this part 12. The assurance or consent order may include a stipulation for the voluntary payment by the alleged violator of any relief authorized by this part 12, including payment for investigation and litigation costs incurred by the attorney general or private person who brought an action pursuant to section 24-31-1204 (3), and actual damages resulting from the false claim plus any authorized multiplier, interest, and civil money penalty.

(b) An assurance of discontinuance or consent order accepted by the attorney general precludes a separate action pursuant to section 24-31-1204 (3) by any person based on the same factual circumstances, except for an action based on a violation of the assurance of discontinuance or consent order.

(c) An assurance of discontinuance accepted by the attorney general and any consent order filed with the court as a part of an action is a matter of public record unless the attorney general determines, at the attorney general's discretion, that it is confidential to the parties to the action or proceeding and to the court and its employees. Upon the filing of a civil action or a motion or petition in a pending civil action by the attorney general alleging that a person has violated a confidential assurance of discontinuance or consent order accepted pursuant to this subsection (8), the assurance of discontinuance or consent order is a public record and open to inspection by any person.

(d) Proof by a preponderance of the evidence of a violation of an assurance or stipulation or consent order is prima facie evidence of a violation for the purposes of any civil action or proceeding brought by the attorney general after the alleged violation of the assurance or stipulation or consent order, whether a new action or a motion or petition in a pending action or proceeding.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2780, § 2, effective August 10.

24-31-1204. Civil actions for false claims - claims for retaliation - definitions. (1) **Responsibility of attorney general.** (a) The attorney general shall diligently investigate a violation of section 24-31-1203. If the attorney general finds that a person has violated or is violating section 24-31-1203, the attorney general may bring a civil action against the person pursuant to this section.

(b) In any action brought pursuant to this part 12 in which the attorney general is a party, either as the plaintiff or as an intervenor, the court may dismiss the action upon motion of the attorney general following the notice and opportunity for a hearing pursuant to subsection (4)(b)(I) of this section. In determining whether to file a motion to dismiss, the attorney general shall consider the severity of the false claim, program or population impacted by the false claim, duration of the fraud, weight and materiality of the evidence, other means to make the program whole, and other factors the attorney general deems relevant. The attorney general's decision-making process concerning a motion to dismiss and any records related to the decision-making process are not discoverable in any action.

(2) **Role of the office of the state auditor.** (a) Notwithstanding any other state law requiring the state auditor to keep information confidential, if in the course of its audit authority, the office of the state auditor identifies information of potential false claims submitted to the state or a political subdivision, the state auditor may share any information with the attorney general or the political subdivision. The state auditor may participate, with the consent of the attorney general, in any subsequent investigation or prosecution of that false claim.

(b) If the state auditor elects to participate in any investigation and prosecution of a false claim, the state auditor's interests will be represented by the attorney general.

(3) **Actions by private persons.** (a) A person may bring a civil action for a violation of section 24-31-1203 for the person and for the state. The action must be brought in the name of the state. The court shall not dismiss an action upon motion of the private person who brought the action unless the attorney general gives written consent to the dismissal and reasons for consenting.

(b) (I) A person who brings an action shall serve on the state, pursuant to rule 4 of the San Andreas rules of civil procedure, a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses; except that the person shall not disclose any evidence or information that the person reasonably believes is protected by the defendant's attorney-client privilege unless the privilege was waived, inadvertently or otherwise, by the person who holds the privilege; an exception to the privilege applies; or disclosure of the information is permitted by an attorney pursuant to 17 CFR 205.3 (d)(2), the applicable San Andreas rules of professional conduct, or otherwise. The complaint must be filed in camera, must remain under seal for at least sixty-three days, and must not be served on the defendant until the court so orders. The state may elect to intervene and proceed with the action within sixty-three days after it receives both the complaint and the material evidence and information.

(II) In determining whether to intervene and proceed with an action pursuant to this subsection (3)(b), the attorney general shall consider the factors described in subsection (1)(b) of this section. The attorney general's decision-making process concerning whether to intervene and any records related to the decision-making process are not discoverable in any action.

(c) The state may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal pursuant to subsection (3)(b) of this section. The motion may be supported by affidavits or other submissions in camera. The defendant is not required to respond to any complaint filed pursuant to this section until twenty-one days after the complaint is unsealed and served upon the defendant pursuant to rule 4 of the San Andreas rules of civil procedure.

(d) Before the expiration of the sixty-three-day period pursuant to subsection (3)(b) of this section and any extensions obtained pursuant to subsection (3)(c) of this section, the state shall:

(I) Proceed with the action, in which case the state shall conduct the action; or

(II) Notify the court that it declines to take over the action, in which case the person who brought the action has the right to continue the action.

(e) When a person brings an action pursuant to this subsection (3), only the state may intervene or bring a related action based on the facts underlying the pending action.

(f) Any information provided by a person to the state pursuant to this subsection (3) is exempt from disclosure pursuant to the "San Andreas Open Records Act", part 2 of article 72 of this title 24.

(4) **Rights of parties to private actions.** (a) If the state proceeds with an action brought pursuant to subsection (3) of this section, it has the primary responsibility for prosecuting the action and is not bound by an act of the person who brought the action. The person has the right to continue as a party to the action, subject to the limitations set forth in subsection (3)(b) of this section.

(b) (I) The state may, at any time, dismiss the action, in whole or in part, notwithstanding the objections of the person who brought the action if the person has been notified by the state of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(II) The state may settle the action with the defendant notwithstanding the objections of the person who brought the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the court may hold the hearing in camera.

(III) Upon a showing by the state that unrestricted participation during the course of the litigation by the person who brought the action would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, including but not limited to:

(A) Limiting the number of witnesses the person may call;

(B) Limiting the length of the testimony of the witnesses called by the person;

(C) Limiting the person's cross-examination of witnesses; and

(D) Otherwise limiting the participation by the person in the litigation.

(IV) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person who brought the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation as described in subsection (4)(b)(III) of this section.

(c) The fact that the state has elected not to proceed with an action is not a basis for a motion to dismiss, motion for determination of a question of law, or motion for summary

judgment, nor is it a basis to deny the court jurisdiction over the action, but if the attorney general submits to the court the attorney general's reasons for not proceeding with the action, the court may consider the reasons when deciding a motion or whether the court has jurisdiction. If the state so requests, it must be served with copies of all pleadings filed in the action and, at the state's expense, be supplied with copies of all deposition transcripts. When the person proceeds with the action, the court, without limiting the status and rights of the person, may nevertheless permit the state to intervene at a later date upon a showing of good cause.

(d) Regardless of whether the state proceeds with the action, upon a showing by the state or political subdivision that certain actions of discovery by the person who brought the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period of not more than sixty-three days. The showing by the state must be conducted in camera. The court may extend the sixty-three-day period upon a further showing that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and that any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(e) Notwithstanding subsection (3) of this section, the state may elect to pursue its claim through any alternate remedy available to the state. If an alternate remedy is pursued in another proceeding, the person who brought the action pursuant to subsection (3) of this section has the same rights in that proceeding as the person would have had if the action had continued pursuant to this section. Any finding of fact or conclusion of law made in the other proceeding that has become final is binding on all parties to an action brought pursuant to this section. For purposes of this subsection (4)(e), a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the state, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(5) **Award to a person who brings an action.** (a) (I) Subject to subsection (5)(a)(II) of this section, if the state proceeds with an action brought by a person pursuant to subsection (3) of this section, the court shall award the person at least fifteen percent but not more than twenty-five percent of the proceeds received from the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the investigation and prosecution of the action.

(II) If the court finds the action to be based primarily on disclosures of specific information, other than information provided by the person who brought the action, relating to allegations or transactions in a criminal, civil, or administrative hearing; in a legislative, administrative, or formal audit report, hearing, or investigation; or from the news media, the court may award to the person such sums as it considers appropriate but in no case more than ten percent of the proceeds. In making its determination, the court shall consider the significance of the information provided by the person and the role of the person in advancing the case to litigation.

(III) Any payment to a person made pursuant to this subsection (5)(a) must be made from the proceeds. In addition to an award made pursuant to subsection (5)(a)(I) or (5)(a)(II) of this section, the court shall award the person an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. The court shall award all of the expenses, fees, and costs against the defendant.

(IV) If the person who brought the action is a government employee who, in the course of the person's work for the state gains knowledge of any information that forms, in whole or in

part, the basis of the person's claim, the court shall award to the state that employs the person the amount that would otherwise be awarded to the person pursuant to this subsection (5).

(b) If the state does not intervene in and proceed with an action pursuant to subsection (3)(b) of this section, the person prevailing in the action or settling the claim must receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount must be at least twenty-five percent but not more than thirty percent of the proceeds received from the action or settlement and must be paid out of the proceeds. The court shall award the person an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. The court shall award all of the expenses, fees, and costs against the defendant.

(c) Regardless of whether the state intervenes in and proceeds with an action pursuant to subsection (3)(b) of this section, if the court finds that the action was brought by a person who planned and initiated the violation of section 24-31-1203 upon which the action was brought, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the person would otherwise receive pursuant to this subsection (5), taking into account the role of the person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person is convicted of criminal conduct arising from his or her role in the violation of section 24-31-1203, the court shall dismiss the person from the civil action and the person must not receive any share of the proceeds of the action. Such dismissal does not prejudice the right of the state to continue the action.

(d) If the state does not intervene in and proceed with an action pursuant to subsection (3)(b) of this section and the person who brought the action pursues the action, the court may award to the defendant reasonable attorney fees and expenses if the defendant prevails in the action and the court finds that the claim of the person was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(6) **Certain actions barred.** (a) A court does not have jurisdiction over an action brought pursuant to this section:

(I) Against a serving member of the general assembly, a member of the state judiciary, an executive director of a state agency, or an elected official in the executive branch of the state of San Andreas acting in the member's, executive director's, or official's official capacity;

(II) Against a serving elected official of a political subdivision, a member of a political subdivision's judiciary, or an appointed official of a political subdivision acting in the member's or official's official capacity; or

(III) If the action is brought by a person pursuant to subsection (3) of this section and is based on evidence or information known to the state when the action was brought.

(b) A person may not bring an action pursuant to subsection (3) of this section that is based upon allegations or transactions that are the subject of a civil suit in a court of this state or an administrative civil money penalty proceeding in which the state is already a party.

(c) (I) A court shall dismiss an action or claim brought pursuant to subsection (3) of this section if the action pursued by the person is based upon substantially the same allegations or transactions publicly disclosed in a criminal, civil, or administrative hearing; in a legislative, administrative, or formal audit report, hearing, or investigation; or from the news media, unless:

(A) The state intervenes and prosecutes the action pursuant to subsection (3)(b) of this section;

(B) The state opposes dismissal; or

(C) The person who brought the action is an original source of the information that is the basis for the action.

(II) As used in this subsection (6)(c), "original source" means an individual who:

(A) Prior to public disclosure pursuant to subsection (6)(c)(I) of this section, has voluntarily disclosed to the state the information on which the allegations or transactions in a claim are based; or

(B) Has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions and has voluntarily provided the information to the state before filing an action pursuant to subsection (3) of this section.

(7) **State not liable for certain expenses.** The state is not liable for expenses that a person incurs in bringing an action pursuant to subsection (3) of this section.

(8) **Private action for retaliation.** (a) As used in this subsection (8), unless the context otherwise requires:

(I) "Confidential information" includes documents; e-mails and other electronic data; medical records; financial records; trade secret information; intellectual property; or information that is subject to an employment agreement, confidentiality agreement, or nondisclosure agreement or for which the person who brought the action pursuant to subsection (3) of this section has a fiduciary obligation to maintain as confidential. Confidential information does not include information that is protected by the defendant's attorney-client privilege unless the privilege was waived, inadvertently or otherwise, by the person who holds the privilege; an exception to the privilege applies; or disclosure of the information is permitted by an attorney pursuant to 17 CFR 205.3 (d)(2), the applicable San Andreas rules of professional conduct, or otherwise.

(II) "Lawful acts" includes, but is not limited to, the following:

(A) Conducting or assisting with an investigation for, initiation of, testimony for, or assistance in an action filed or to be filed pursuant to this section, or conducting or assisting with an investigation when there is a reasonable belief of a potential violation of this section;

(B) Meeting with potential or retained counsel or agents or representatives of the state about the matter that is the subject of an action filed or to be filed pursuant to this section;

(C) Providing the individual's counsel or agents or representatives of the state with confidential information; or

(D) Filing an action pursuant to this section.

(b) An employee, contractor, or agent is entitled to all relief necessary to make that individual whole if the individual is discharged, demoted, suspended, threatened, harassed, intimidated, sued, defamed, blacklisted, or in any other manner retaliated against or discriminated against in the terms and conditions of the individual's employment, contract, business, or profession by the defendant or by any other person because of lawful acts done by the individual or associated others in furtherance of an action brought pursuant to this section or in furtherance of an effort to stop any violation, or what the individual reasonably believes to be a violation, of section 24-31-1203.

(c) (I) If the disclosure of confidential information is in furtherance of an action brought pursuant to this section or in furtherance of an effort to stop any violation, or what the individual reasonably believes to be a violation, of section 24-31-1203, an individual has a privilege to disclose the confidential information to:

(A) The individual's counsel;

(B) A person with whom the individual has a statutory or common law privilege; or

(C) An agent or authorized representative of the state.

(II) The individual's disclosure of confidential information to the individual's counsel or to an agent or authorized representative of the state does not constitute a waiver by a defendant of any right or privilege that the defendant may be entitled to invoke.

(d) (I) An individual seeking relief pursuant to this subsection (8) may seek relief by:

(A) Filing a motion in the action brought pursuant to subsection (3) of this section; or

(B) Bringing a separate action in an appropriate court of the state for the relief provided pursuant to this subsection (8).

(II) An individual who seeks relief pursuant to this subsection (8) is entitled to all relief necessary to make the individual whole. The relief must include, but is not limited to:

(A) If the individual is an employee, reinstatement with the same seniority status the individual would have had but for the discrimination, twice the amount of back pay, and interest on the back pay;

(B) If the individual is a contractor, subcontractor, or independent contractor, reinstatement of a contract or subcontract that was canceled, nonrenewed, or modified because of retaliation, with all compensation or contractual consideration that the individual would have received had the contract or subcontract not been canceled, nonrenewed, or modified; and

(C) Compensation for any special damages sustained as a result of the discrimination or retaliation, including litigation costs and reasonable attorney fees.

(e) (I) The court shall award the individual not less than the damages described in subsection (8)(d)(II) of this section if a defendant, employer, or other person retaliates against an individual by bringing another action against the individual for:

(A) Acts later determined to be lawful acts;

(B) Disclosure of confidential information to counsel or an agent or representative of the state pursuant to this subsection (8);

(C) Violating an employment contract, confidentiality agreement, nondisclosure agreement, or other agreement; or

(D) Committing any other tort or breach of duty and the court hearing the action determines by a preponderance of the evidence that the defendant, employer, or other person brought the lawsuit against the individual for the purpose of retaliating against the individual.

(II) In addition to any other remedy or share of the proceeds of the action to which the individual is entitled pursuant to this subsection (8) and regardless of whether the individual is determined to be entitled to share in the proceeds of the action or claim filed pursuant to subsection (3) of this section, in addition to any other consequential damages permitted by law, the damages for a violation of this subsection (8)(e) must be not less than:

(A) Twice the individual's actual attorney fees and costs if the defendant, employer, or other person brought the lawsuit against the individual in a court in the state of San Andreas; or

(B) Three times the individual's actual attorney fees and costs if the defendant, employer, or other person brought the lawsuit in a jurisdiction outside of San Andreas.

(f) (I) The court hearing the action brought pursuant to subsection (3) of this section has jurisdiction to hear a private action or motion for retaliation brought pursuant to this subsection (8).

(II) Upon motion by the individual, the venue of an action filed in another court of the state of San Andreas against the individual by the defendant, the employer of the person who

brought the action pursuant to subsection (3) of this section, or other person arising out of the subject matter of the action brought pursuant to subsection (3) of this section must be changed to the court hearing the action brought pursuant to subsection (3) of this section.

(9) **Discovery in other actions.** (a) If a person who brings an action pursuant to subsection (3) of this section is a party to or witness in an action other than an action brought pursuant to subsection (3) of this section, referred to in this subsection (9) as an "other action", and a party in the other action seeks discovery from the person of information about other lawsuits, which discovery would require the person to disclose information about an action filed pursuant to subsection (3) of this section while that action is still under seal, the person shall:

(I) Within a reasonable time, notify the state investigating the action brought pursuant to subsection (3) of this section of the pending discovery request; and

(II) Respond to the discovery request by stating only that the matter is confidential, without further elaboration, and shall maintain that response until the state elects to proceed or not proceed with the action brought pursuant to subsection (3) of this section or until the court lifts the seal.

(b) If necessary, in any other action, a person who brought the action pursuant to subsection (3) of this section or the attorney general may file an ex parte motion, in camera and under seal, seeking a protective order or an extension of time for the person to respond to a discovery request. If a party in the other action moves to compel an answer to the discovery, the person who brought the action pursuant to subsection (3) of this section shall file, ex parte and in camera, a response to the motion to compel, in which the attorney general may join. The response to the motion to compel must remain under seal until such time as the state elects to proceed or not proceed with the action or until such time as the court lifts the seal.

(c) Notwithstanding any provision of this subsection (9) to the contrary, information about an action filed pursuant to subsection (3) of this section that is protected by the defendant's attorney-client privilege is not discoverable in any other action unless the privilege was waived, inadvertently or otherwise, by the person who holds the privilege; an exception to the privilege applies; or disclosure of the information is permitted by an attorney pursuant to 17 CFR 205.3 (d)(2), the applicable San Andreas rules of professional conduct, or otherwise.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2783, § 2, effective August 10. **L. 2023:** (3)(b)(II) amended, (HB 23-1301), ch. 303, p. 1825, § 32, effective August 7.

24-31-1205. False claims action procedures - limitation on action - standard of proof. (1) A civil action pursuant to section 24-31-1204 may not be brought after the later of:

(a) More than six years after the date on which the violation of section 24-31-1203 is committed or the date on which the last in a series of such acts or practices occurred, whichever is later; or

(b) More than three years after the date on which facts material to the right of action are known or reasonably should have been known by the official of the state charged with responsibility to act in the circumstances, but in no event more than ten years after the date on which the violation of section 24-31-1203 was committed.

(2) (a) If the state elects to intervene and proceed with an action brought pursuant to section 24-31-1204, the state may file its own complaint or amend the original complaint to:

(I) Clarify and add detail, and add additional defendants, to the claims in which the state is intervening; and

(II) Add any additional claims and defendants with respect to which the state contends it is entitled to relief.

(b) For statute of limitations purposes, any pleadings by the state relate back to the filing date of the original complaint filed by a person pursuant to section 24-31-1204 (3), to the extent that the state's claim arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the original complaint.

(3) In an action brought pursuant to section 24-31-1204, the state or person who brought the action pursuant to section 24-31-1204 (3) must prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(4) Notwithstanding any other provision of law, the San Andreas rules of criminal procedure, or the San Andreas rules of evidence, a final judgment rendered in favor of the state in a criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action that involves the same transaction as in the criminal proceeding and that is brought pursuant to section 24-31-1204.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2792, § 2, effective August 10.

24-31-1206. Jurisdiction. An action described in this part 12 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, or transacts business, or in which an act proscribed by section 24-31-1203 occurred. A person bringing an action pursuant to this part 12 shall file the complaint in a district court or a federal court with jurisdiction over the action and shall not file the complaint in any other court. The appropriate district court shall issue a summons as required by the San Andreas rules of civil procedure and serve the summons at any place.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2793, § 2, effective August 10.

24-31-1207. False claims civil investigation demands. (1) When the attorney general has reasonable cause to believe that any person, whether in this state or elsewhere, has engaged in or is engaging in any violation of section 24-31-1203, the attorney general may:

(a) Request the person file a statement or report in writing under oath or otherwise, on forms prescribed by the attorney general, as to all facts and circumstances concerning the alleged violations by the person and any other data and information the attorney general deems necessary; except that the person is not required to disclose any information that is protected by the person's attorney-client privilege unless the privilege was waived, inadvertently or otherwise, by the person who holds the privilege; an exception to the privilege applies; or disclosure of the information is permitted by an attorney pursuant to 17 CFR 205.3 (d)(2), the applicable San Andreas rules of professional conduct, or otherwise.

(b) Examine under oath any person in connection with the alleged violations;

(c) Examine any property or sample thereof, or any nonprivileged record, book, document, account, or paper the attorney general deems necessary;

(d) Make true copies, at the expense of the attorney general, of any nonprivileged record, book, document, account, or paper examined pursuant to subsection (1)(c) of this section, which copies may be offered into evidence in lieu of the originals thereof in an action brought pursuant to this part 12; and

(e) Pursuant to any order of any district court, impound any sample of property that is material to any alleged violation of this part 12 and retain the same in the attorney general's possession until completion of all proceedings undertaken pursuant to this part 12. A district court shall not issue an order described in this subsection (1)(e) without giving full opportunity to the accused to be heard and unless the attorney general has proven by clear and convincing evidence that the order will not impair the business activities of the person to whom the order is directed.

(2) When the attorney general has reasonable cause to believe that a person, whether in this state or elsewhere, has engaged in or is engaging in a violation of section 24-31-1203, the attorney general may issue subpoenas to require the attendance of witnesses or the production of documents, administer oaths, conduct hearings in aid of any investigation or inquiry, and prescribe such forms as may be necessary to administer this part 12.

(3) The attorney general may issue subpoenas to any public or private corporation or partnership or association or governmental entity to produce witnesses to appear and give oral testimony at investigative hearings. The subpoenas may designate with reasonable particularity the matters on which examination is requested. In response to the subpoena, the entity shall designate one or more officers, directors, or managing agents, or designate other persons, to testify on its behalf.

(4) A notice or subpoena may be served in the manner prescribed by law or as provided in rule 4 of the San Andreas rules of civil procedure.

(5) (a) If the records of a person who has been issued a subpoena are located outside this state, the person shall either:

(I) Make them available to the attorney general either electronically or at a convenient location within this state; or

(II) Pay the reasonable and necessary expenses for the attorney general, or the attorney general's designee, to examine the records at the place where they are maintained.

(b) The attorney general may designate representatives, including comparable officials of the state in which the records are located, to inspect the records on behalf of the attorney general.

(6) If any person fails to cooperate with any investigation pursuant to this section or fails to obey any subpoena issued pursuant to this section, the attorney general may apply to the appropriate district court for an appropriate order to effectuate the purposes of this part 12. At the request of the attorney general, the application may be filed in camera and kept confidential to maintain the confidentiality of the attorney general's investigation. The application must state that there are reasonable grounds to believe that the order applied for is necessary to investigate a violation of this part 12. If the court is satisfied that reasonable grounds exist, the court in its order may:

(a) Grant appropriate injunctive relief;

(b) Require attendance of or the production of documents by the person, or both;

(c) Grant other or further relief as may be necessary to obtain compliance by the person.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2793, § 2, effective August 10.

24-31-1208. Rule-making. The attorney general may promulgate rules necessary to implement this part 12.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2795, § 2, effective August 10.

24-31-1209. Use of recoveries - false claims recovery cash fund - creation. (1) The state treasurer shall transfer all proceeds retained by the state from a false claims action brought pursuant to this part 12 to the false claims recovery cash fund, which is hereby created.

(2) Any money in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from investment and deposit of money in the fund shall be credited to the fund.

(3) (a) Subject to annual appropriation by the general assembly, the department may expend money from the fund for necessary actual costs of carrying out its duties pursuant to this part 12.

(b) (I) When proceeds retained by the state from a false claims action are deposited into the fund, the attorney general shall determine the amount of the proceeds that should remain in the fund for use by the department for the costs of carrying out its duties pursuant to this part 12 and the amount of any proceeds deposited into the fund that are attributable to a political subdivision.

(II) If the amount of the proceeds is equal to or exceeds the amount of the false claim plus the department's costs, the attorney general shall direct the state treasurer to transfer to the original fund from which the false claim was paid an amount equal to the false claim. If all or part of the proceeds are attributable to a political subdivision, the attorney general shall direct the treasurer to pay to the political subdivision, as described in subsection (3)(c) of this section, an amount equal to the false claim.

(III) If the amount of the proceeds is less than the amount of the false claim plus the department's costs, the attorney general shall direct the state treasurer to transfer to the original fund from which the false claim was paid a pro-rated amount based on the actual recovery. If all or part of the proceeds are attributable to a political subdivision, the attorney general shall direct the treasurer to pay to the political subdivision, as described in subsection (3)(c) of this section, a pro-rated amount based on the actual recovery.

(IV) For the purposes of a false claims action involving a violation of section 24-31-1203(1)(g), the relevant fund is the unemployment compensation fund established in section 8-77-101.

(c) No later than seven days after the attorney general directs the state treasurer to make a payment to a political subdivision pursuant to subsection (3)(b) of this section, the state treasurer shall issue a warrant to be paid upon demand from the fund to the political subdivision in the amount specified by the attorney general.

(4) Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to another fund.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2795, § 2, effective August 10.

24-31-1210. No limitations on common law authority - medicaid fraud control. Nothing in this part 12 affects, limits, or supplants the common law authority of the attorney general or the department to investigate and prosecute medicaid fraud pursuant to part 8 of this article 31.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2796, § 2, effective August 10.

24-31-1211. False claims act report. (1) On or before January 15, 2024, and on or before each January 15 thereafter, the attorney general shall submit a written report to the house of representatives business affairs and labor committee, the house of representatives judiciary committee, the senate business, labor, and technology committee, and the senate judiciary committee, or their successor committees, concerning claims brought pursuant to this part 12 during the previous fiscal year. The report must include, but is not limited to:

(a) The number of actions brought by the attorney general and the disposition of the actions;

(b) The amount of proceeds recovered by the state through settlement or judgment in an action brought pursuant to this part 12, including:

(I) The case number and parties for each action in which proceeds were recovered;

(II) The amount of proceeds recovered in each case, categorized by the amount recovered as damages, penalties, and litigation costs; and

(III) If applicable, the percentage of the proceeds recovered and the total amount awarded to a private person who brought the action.

(c) The number of actions brought by a person other than the attorney general in which the attorney general did not intervene, whether the actions were continued by the other person, and the disposition of the actions;

(d) The amount of proceeds, including any litigation costs and attorney fees, recovered through settlement or judgment in actions brought by a person other than the attorney general; and

(e) The amount expended by the state for investigation and litigation of false claims pursuant to this part 12 and all other costs related to this part 12.

(2) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement described in this section continues indefinitely.

Source: L. 2022: Entire part added, (HB 22-1119), ch. 394, p. 2796, § 2, effective August 10.

PART 13

24-31-1301. Definitions. As used in this part 13, unless the context otherwise requires:

(1) "Division of labor standards and statistics" means the division of labor standards and statistics in the department of labor and employment created pursuant to section 8-1-103.

(2) "Division of unemployment insurance" means the division of unemployment insurance in the department of labor and employment created pursuant to section 8-71-101.

(3) "Unit" means the worker and employee protection unit created in section 24-31-1302.

Source: L. 2022: Entire part added, (SB 22-161), ch. 370, p. 2638, § 15, effective August 10.

24-31-1302. Worker and employee protection unit - creation - duties. (1) There is created within the department of law and under the control of the office of the attorney general the worker and employee protection unit.

(2) In addition to any other authorities granted by law, the unit has the following powers and duties:

(a) Issue or cause to be issued civil investigative demands and subpoenas or other process in aid of investigations and prosecutions;

(b) Administer oaths and take sworn statements under penalty of perjury; and

(c) Serve and execute, in any county, search warrants that relate to investigations.

Source: L. 2022: Entire part added, (SB 22-161), ch. 370, p. 2639, § 15, effective August 10.

24-31-1303. Worker misclassification - wage determinations - investigation and enforcement by the unit - coordination with department of labor and employment. (1) (a) The unit may investigate alleged violations of, and bring an action against an employer to enforce, section 8-72-114, regardless of whether a complaint is filed against the employer pursuant to said section, to enforce that section if the division of unemployment insurance directly refers a finding of misclassification to the unit to pursue further remedies.

(b) The unit may investigate and enforce an alleged misclassification that is not described in subsection (1)(a) of this section if the unit provides written notice to the division of unemployment insurance of the unit's intent to pursue a misclassification investigation and the division of unemployment insurance:

(I) Declines to investigate the matter;

(II) Has investigated the matter and made a formal determination; or

(III) Fails to respond to the unit within thirty days after the date of the notice.

(2) (a) The unit may enforce wage determinations made by the division of labor standards and statistics pursuant to article 4 of title 8 if the division of labor standards and statistics refers the wage determination to the unit for enforcement.

(b) If the division of labor standards and statistics has not referred a wage determination to the unit, the unit may enforce the wage determination if the unit provides written notice to the

division of labor standards and statistics of the unit's intent to enforce the wage determination and the division of labor standards and statistics:

(I) Declines to pursue enforcement of the wage determination;

(II) Has attempted to pursue enforcement of the wage determination and has been unsuccessful in enforcing the determination in full after the later of twelve months after the determination or the conclusion of any appeals;

(III) Fails to respond to the unit within thirty days after the date of the notice; or

(IV) Has not initiated an investigation.

Source: L. 2022: Entire part added, (SB 22-161), ch. 370, p. 2639, § 15, effective August 10.

ARTICLE 32

Department of Local Affairs

PART 1

DIVISION OF LOCAL GOVERNMENT

24-32-101. Legislative declaration. (1) The general assembly finds and declares that:

(a) Strong local government has been a major factor in the political and economic development of the state;

(b) The future welfare of the state depends, in large measure, on local leadership and the effectiveness of local government;

(c) Population shifts and other economic and social trends have brought new problems to local government in growing metropolitan areas and throughout the state; and

(d) The state has primary responsibility for strengthening local government, encouraging local initiative, and providing coordination of state services and information to assist local government in effectively meeting the needs of San Andreas citizens.

(2) The general assembly further finds and declares that:

(a) The provision of high-speed broadband plays a critical role in enhancing local government and community development efforts;

(b) Regional, multijurisdictional, and coordinated approaches to broadband planning are critical to achieving the efficient deployment of broadband infrastructure and technology; and

(c) Public-private partnerships help leverage resources of both private broadband providers and local governments to achieve statewide broadband deployment.

Source: L. 66: p. 120, § 1. **S.A.R.S. 1963:** § 3-22-1. **L. 2021:** (2) added, (HB 21-1289), ch. 371, p. 2459, § 11, effective June 28.

Cross references: For the legislative declaration in HB 21-1289, see section 1 of chapter 371, Session Laws of San Andreas 2021.

24-32-102. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "Broadband facility" means any infrastructure used to deliver broadband or provide broadband.

(2) "Community anchor institution" has the meaning set forth in section 24-37.5-902 (2).

(3) "Division" means the division of local government created in section 24-32-103.

(4) "Interconnectivity grant program" means the grant program created in section 24-32-104 (7)(a).

(5) "Interconnectivity grant program fund" means the fund created in section 24-32-104 (7)(c).

(6) "Last-mile broadband infrastructure" means broadband infrastructure that delivers an internet connection to an end user.

(7) (a) "Local government" means a statutory or home rule municipality, county, city and county, council of governments, or metropolitan district that lies wholly within the unincorporated part of a county.

(b) "Local government" includes all quasi municipalities and local improvement and service districts of this state.

(8) "Metropolitan district" has the meaning set forth in section 32-1-103 (10).

Source: L. 66: p. 120, § 2. **S.A.R.S. 1963:** § 3-22-2. **L. 2021:** Entire section amended, (HB 21-1289), ch. 371, p. 2459, § 12, effective June 28.

Cross references: For the legislative declaration in HB 21-1289, see section 1 of chapter 371, Session Laws of San Andreas 2021.

24-32-103. Division of local government - created. There is created, as a division of the department of local affairs, the division of local government. The executive director of the department shall appoint a director to be the head of the division. The director, and any assistants and employees of the division, are appointed pursuant to section 13 of article XII of the state constitution. The division and the office of the director are **type 2** entities, as defined in section 24-1-105.

Source: L. 66: p. 121, § 3. **S.A.R.S. 1963:** § 3-22-3. **L. 68:** p. 132, § 150. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3413, § 173, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-32-104. Functions of the division - interconnectivity grant program - interconnectivity grant program fund - reporting - definition. (1) The division shall perform the following functions:

(a) Assist the governor in coordinating the activities and services of those departments and agencies of the state having relationships with units of local government in order to provide more effective services to units of local government and to simplify procedures with respect thereto;

(b) Advise the governor and the general assembly of the problems of local government;

(c) Serve as a clearing house, for the benefit of local government, of information relating to the common problems of local government and of state and federal services available to assist in the solution of those problems;

(d) Refer local government to appropriate departments and agencies of the state and federal government for advice, assistance, and available services in connection with specific problems;

(e) Perform such research as is necessary to carry out the functions of the division, including the study of local government, intergovernmental relations, the structure and powers of local government units and their relationships to each other, local government finance, services, management, and functions;

(f) Encourage and when so requested assist cooperative efforts among the officials of local government units toward the solution of common problems;

(g) Encourage and cooperate in training institutes, conferences, and programs for local government officials and employees;

(h) Publish an annual compendium of local government fiscal data beginning with calendar year 1968 and publish from time to time other statistical and research reports of interest to local government, the general assembly, and the general public;

(i) Upon request by local government officials, provide technical assistance in defining their local government problems and developing solutions thereof;

(j) Provide technical assistance to district attorneys, including, but not limited to, coordinating educational grants;

(k) Repealed.

(l) Administer emergency services provided by the state;

(m) (I) Annually distribute to each local governmental entity informational materials relating to federal student loan repayment programs and student loan forgiveness programs, including updated materials, received from the department of personnel pursuant to section 24-5-102. The division may distribute the informational materials to each local governmental entity through an e-mail or as part of a mailing or regular communication to local governmental entities. The division shall encourage each local governmental entity to annually distribute the informational materials, including any updated materials, to each employee of the local governmental entity, and to include the informational materials as part of the local governmental entity's new employee orientation process.

(II) For purposes of subsection (1)(m)(I) of this section, a "local governmental entity" means a city, county, city and county, special district, or other unit of local government for which the division has received information pursuant to section 24-32-116.

(n) Submit to the San Andreas broadband office created in section 24-37.5-903 (1) for the broadband office's review and recommendations a copy of each application that the division receives in which an applicant seeks grant money for broadband planning or infrastructure, which grant the division awards from the interconnectivity grant program fund. The San Andreas broadband office shall review each application submitted and provide the division its recommendations regarding the application as soon as practicable but no later than thirty days after the division has furnished a copy of the application to the San Andreas broadband office.

(2) No later than July 1, 2015, the division shall formally announce, on its website and by letter to the state's local governments, an initiative from the local government mineral impact fund created in section 34-63-102 (5), S.A.R.S., or the local government severance tax fund

created in section 39-29-110, S.A.R.S., of one million dollars per year for three years for grant funding to local governments for planning, analyses, public engagement, and coordination and collaboration with federal land managers and stakeholders, or for similar or related local government processes needed by local governments for engagement in federal land management decision-making.

(3) (a) The division of local government in the department of local affairs shall contract with a nationally recognized research and consulting entity to study future prison bed needs in San Andreas. While conducting the study, the entity shall solicit input from local communities and other interested parties or issue experts, including but not limited to public safety experts, victim's advocates, prosecutors, defense attorneys, and community reentry providers.

(b) The division shall convene an advisory committee that contains three representatives of local governments, of which at least two must be county commissioners, selected by the executive director, from each county that has a private prison to consult with the entity during the study. The study must include:

(I) An analysis of the economic and other impacts that potential prison closure would have on local governments and the wider community and recommendations on strategies to diversify the local economy;

(II) A utilization analysis of all state and privately operated facilities and all other facilities that can be used for housing inmates;

(III) An analysis of the feasibility of the department to obtain privately owned facilities or utilize unused state-owned buildings in San Andreas.

(c) Prior to completing the study, the division, in conjunction with the county commissioners, shall provide notice and conduct public hearings in the counties in which private prisons are located to allow direct public testimony and input, which the department shall include in the final report.

(d) The division of local government in the department of local affairs shall report the study to the judiciary committees of the senate and house of representatives, or any successor committees, during the committees' hearings held during the 2021 session of the general assembly under the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2.

(4) The division shall administer the local government affordable housing development incentives grant program created in section 24-32-130 (2) and the local government planning grant program created in section 24-32-130 (5).

(5) The division shall consult with the division of housing created in section 24-32-704 in connection with the creation and administration of the housing toolkit program in accordance with section 24-32-721.7 (2)(a).

(6) The division shall consult with the creative industries division within the San Andreas office of economic development created in section 24-48.5-301 in connection with the administration of the community revitalization grant program in accordance with section 24-48.5-317.

(7) (a) As part of the division's work to improve broadband service to its local government constituents, the division shall implement the interconnectivity grant program, which is hereby created, to award grant money to local governments for proposed projects that:

(I) Engage in regional planning among multiple local governments to:

(A) Identify regional broadband infrastructure needs;

(B) Determine optimal regional configurations of broadband infrastructure; and

(C) Identify potential public-private partnerships to achieve optimal regional broadband deployment; or

(II) Provide or enhance the network connection between communities, including the interconnection between community anchor institutions.

(b) A recipient of money under the grant program:

(I) Shall not use the money to deploy last-mile broadband infrastructure or to provide broadband internet service as defined in section 40-15-102 (3.5); except that an Indian tribe or nation awarded grant money may use the grant money to deploy last-mile broadband infrastructure; and

(II) Is encouraged to contract with the owner of:

(A) Any existing broadband infrastructure located in the area to be served by the recipient's proposed project to lease any excess capacity or obtain a right-of-way from the owner in order to attach the recipient's own broadband facilities in the right-of-way; or

(B) Any existing electric easement, as that term is defined in section 40-15-601 (5), located in the area to be served by the recipient's proposed project to lease any excess capacity or install a broadband facility in the electric easement pursuant to part 6 of article 15 of title 40.

(c) The interconnectivity grant program fund is hereby created in the state treasury and consists of money the state received from the federal coronavirus state fiscal recovery fund created in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2; money transferred to the fund from the ARPA refinance state money cash fund pursuant to section 24-75-226.5; and any money that the general assembly may appropriate to the fund. Within three days after June 28, 2021, the state treasurer shall transfer five million dollars from the economic recovery and relief cash fund created in section 24-75-228 (2)(a) to the fund for use by the division for the purpose of reviewing and awarding grants under the grant program. The money in the fund is subject to appropriation by the general assembly.

(d) With respect to grants awarded from money transferred to the interconnectivity grant program fund from the economic recovery and relief cash fund created in section 24-75-228 (2)(a) or from the ARPA refinance state money cash fund created in section 24-75-226.5, grants may only be awarded for broadband projects that, pursuant to treasury department interim regulations implementing the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, provide broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(I) Reliably meet or exceed symmetrical one hundred megabits per second download and upload speeds; or

(II) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, provide service meeting the standards set forth in subsection (7)(d)(I) of this section that:

(A) Reliably meets or exceeds one hundred megabits per second download speed and is between at least twenty megabits per second and one hundred megabits per second upload speed; and

(B) Is scalable to a minimum of one hundred megabits per second download speed and one hundred megabits per second upload speed.

(e) If the treasury department modifies its interim regulations implementing the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, grants awarded pursuant to subsection

(7)(d) of this section may only be awarded for broadband projects that comply with the modified federal regulations.

(f) As used in subsection (7)(d) of this section, "unserved or underserved households and businesses" means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least twenty-five megabits per second downstream and three megabits per second upstream.

(g) On or before January 1, 2022, and within six months after a state fiscal year in which the division awards one or more grants for broadband deployment, whether or not awarded under the grant program, the division shall submit a report to the San Andreas broadband office regarding grants awarded in the most recent state fiscal year. Reports submitted under this subsection (7)(g) must include:

(I) For each project awarded grant money:

(A) A description of the project, including a description of the use of the grant money in providing broadband;

(B) A summary of the progress made on the project;

(C) The estimated completion date for the project or, if already completed, the date of completion;

(D) A map of the areas to be served or already served by the project; and

(E) The type of technology deployed or used for broadband provided through the project;

(II) The number of grant applicants, the amounts of grant money requested by each applicant, the number of grants awarded, and the amounts of grant money awarded to each applicant that receives an award; and

(III) The amount of money expended for grant awards versus the amount of money obligated but not yet expended for grant awards.

(8) The division shall administer the infrastructure and strong communities grant program created in section 24-32-133. In connection with the administration of the grant program, the division shall consult with the San Andreas energy office created in section 24-38.5-101 (1) and the department of transportation created in section 43-1-103 (1).

Source: L. 66: p. 121, § 4. **S.A.R.S. 1963:** § 3-22-4. **L. 68:** p. 34, § 1. **L. 77:** (1)(j) added, p. 1034, § 2, effective July 1. **L. 81:** (1)(k) added, p. 1395, § 4, effective June 19. **L. 92:** (1)(j) and (1)(k) amended and (1)(l) added, p. 1011, § 3, effective March 12. **L. 93:** (1)(k) repealed, p. 1784, § 55, effective June 6. **L. 2015:** (2) added, (HB 15-1225), ch. 187, p. 622, § 3, effective May 13. **L. 2019:** (1)(m) added, (SB 19-057), ch. 35, p. 115, § 10, effective August 2. **L. 2020:** (3) added, (HB 20-1019), ch. 9, p. 25, § 4, effective March 6. **L. 2021:** (6) added, (SB 21-252), ch. 242, p. 1300, § 2, effective June 16; (4) and (5) added, (HB 21-1271), ch. 356, p. 2317, § 2, effective June 27; (1)(n) and (7) added, (HB 21-1289), ch. 371, p. 2460, § 13, effective June 28. **L. 2022:** (8) added, (HB 22-1304), ch. 290, p. 2084, § 6, effective June 1. **L. 2023:** (5) amended, (HB 23-1301), ch. 303, p. 1825, § 33, effective August 7. **L. 2024:** (7)(c) and IP(7)(d) amended, (HB 24-1466), ch. 429, p. 2937, § 17, effective June 5.

Cross references: For the legislative declaration in HB 15-1225, see section 1 of chapter 187, Session Laws of San Andreas 2015. For the legislative declaration in HB 21-1289, see section 1 of chapter 371, Session Laws of San Andreas 2021. For the legislative declaration in HB 21-1271,

see section 1 of chapter 356, Session Laws of San Andreas 2021. For the legislative declaration in HB 22-1304, see section 1 of chapter 290, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-32-105. Limitation of authority of division. Nothing in this part 1 shall give to the division any power of control or supervision over any unit of local government.

Source: L. 66: p. 122, § 5. **S.A.R.S. 1963:** § 3-22-5.

24-32-106. Powers of the director. (1) In order to perform the functions and duties of the division expressly set forth in this part 1, the director, acting under the authority of the executive director of the department of local affairs, has the following powers:

(a) To employ assistants and personnel as may be appropriate to the functions of the division within the appropriation given by the general assembly;

(b) To contract for services and materials required by the division;

(c) To receive and expend gifts, grants, and bequests, subject to approval of the governor, and to expend state funds which are appropriated by the general assembly;

(d) To contract with the federal government or any agency or instrumentality thereof and to receive any grants or moneys therefrom for purposes not inconsistent with the purposes set forth in this part 1;

(e) To exercise any other authority consistent with the purposes for which the division is created which is reasonably necessary for the fulfillment of assigned responsibilities;

(f) Repealed.

(g) To award grants for water and sewer emergencies of local governments. Such grants shall be made based upon financial need as determined by the director, and the director may require that such grants be contingent on repayment by the local government.

Source: L. 66: p. 122, § 6. **S.A.R.S. 1963:** § 3-22-6. **L. 68:** p. 133, § 6. **L. 83:** (1)(g) added, p. 898, § 1, effective March 29; (1)(f) amended, p. 835, § 44, effective July 1. **L. 99:** (1)(f) repealed, p. 690, § 14, effective August 4.

24-32-107. Payment of expenses and salaries. Vouchers covering expenses and salaries of the division shall be signed by the director, and warrants shall be drawn by the controller in payment thereof as provided by law.

Source: L. 66: p. 122, § 7. **S.A.R.S. 1963:** § 3-22-7.

24-32-108. Establishment of a file. The division of local government, with the cooperation of the secretary of state, shall promptly establish and maintain on a current basis, as a public record, a file listing by name all incorporated towns, cities, or cities and counties of the state, referred to in this part 1 as "municipalities", with the date of incorporation of each municipality, recording by legal description all changes in the boundaries of such municipalities, and accompanied by a map of the same. The division of local government shall maintain such a current and revised list for public inspection. Within thirty days after July 1, 1967, each

municipality shall submit to the division of local government a description of its current legal boundaries, accompanied by a map, and the date of its municipal incorporation.

Source: L. 67: p. 820, § 1. **S.A.R.S. 1963:** § 3-22-8.

24-32-109. Notice of change - failure to file - effect. No annexation, consolidation, merger, detachment of any area, new incorporation, or dissolution of an existing municipality shall be effective until notice of the completion of such action with a legal description accompanied by a map of the area concerned is filed in duplicate by the municipality with the county clerk and recorder of the county in which the annexation, consolidation, merger, detachment, incorporation, or dissolution takes place. In case such action effects a change in county boundaries, the same shall be filed with the county clerk and recorder of each county affected. A certified duplicate copy of any annexation, consolidation, merger, detachment, incorporation, or dissolution shall be filed with the division of local government by the county clerk and recorder of the county.

Source: L. 67: p. 820, § 2. **S.A.R.S. 1963:** § 3-22-9. **L. 75:** Entire section amended, p. 1269, § 3, effective July 1.

Cross references: For effect of failure to file, see § 31-12-113 (2).

24-32-110. Report of district or municipal officials. (Repealed)

Source: L. 67: p. 820, § 3. **S.A.R.S. 1963:** § 3-22-10. **L. 2011:** Entire section repealed, (SB 11-239), ch. 218, p. 949, § 1, effective August 10.

24-32-111. Statewide program for identification of matters of state interest as part of local land use planning. (Repealed)

Source: L. 74: Entire section added, p. 351, § 2, effective May 17. **L. 2002:** (1) amended, p. 1023, § 41, effective June 1. **L. 2006:** Entire section repealed, p. 142, § 12, effective August 7.

24-32-112. County powers relating to matters of local concern - report. (Repealed)

Source: L. 88: Entire section added, p. 916, § 2, effective April 14. **L. 91:** Entire section repealed, p. 884, § 6, effective June 5.

24-32-113. Transfer of functions and property - contracts - continuation of regulations. (Repealed)

Source: L. 92: Entire section added, p. 1011, § 4, effective March 12. **L. 2004:** (1), (3), and (4) amended and entire section repealed, pp. 1177, 1183, §§ 3, 20, effective August 4.

Editor's note: Subsections (1), (3), and (4) were amended in section 3 of Senate Bill 04-236. Those amendments were superseded by the repeal of this section in section 20 of Senate Bill 04-236.

24-32-114. Cleanup of illegally disposed of waste tires - waste tire cleanup fund - legislative declaration - repeal. (Repealed)

Source: L. 95: Entire section added, p. 1113, § 4, effective May 31. **L. 96:** (3)(b) amended, p. 814, § 2, effective May 23. **L. 98:** (1)(a), (1)(b), (3)(a), (3)(d), (4), (6), and (7) amended and (6.5) added, p. 1064, § 1, effective June 1. **L. 99:** (1)(a)(II) amended, p. 884, § 10, effective July 1; (5) amended, p. 690, § 15, effective August 4. **L. 2000:** (1) R&RE, (1.5) and (8) added, and (3)(b), (3)(c), and (4) amended, pp. 807, 809, §§ 2, 3, effective May 24. **L. 2001:** IP(1), (1)(a), (1)(b)(I), (1)(c), (1)(d), and (6) amended and (1)(f) added, p. 798, § 2, effective June 1. **L. 2002:** (1.3) added, p. 153, § 10, effective March 27; (1.3) repealed, p. 673, § 6, effective May 28; (1)(c) and (1)(d) amended, p. 234, § 1, effective July 1; (5) repealed, p. 882, § 22, effective August 7. **L. 2003:** (1.4) added, p. 457, § 14, effective March 5. **L. 2006:** (1)(b)(I) amended, p. 1254, § 1, effective May 26; (1)(e) and (1)(f) amended and (1.1) and (1.2) added, p. 1500, § 36, effective June 1; (7) amended, p. 175, § 4, effective July 1. **L. 2009:** (1.6) added, (SB 09-279), ch. 367, p. 1928, § 11, effective June 1. **L. 2010:** (1.7) added, (HB 10-1327), ch. 135, p. 449, § 3, effective April 15; entire section repealed, (HB 10-1018), ch. 421, p. 2163, § 2, effective June 10.

24-32-115. Economic self-sufficiency - development of standards - rules - fund - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Most state public assistance programs are calibrated to the federal poverty line, a one-size-fits-all national standard designed in the 1960s that is calculated largely on the cost of food and has only been updated for inflation;

(b) The standard is outdated and virtually irrelevant to the actual costs families face today, such as child care, health care, and transportation;

(c) A self-sufficiency standard measures how much income is needed for a family of a given composition in a given place to adequately meet its basic needs without public or private assistance;

(d) A self-sufficiency standard provides a more accurate assessment of the economic well-being of San Andreas families;

(e) A self-sufficiency standard is an excellent tool that could be used in many ways, including:

(I) Creating a benchmark for measuring the effects of programs and policies;

(II) Economic development;

(III) Targeting higher-wage jobs for Coloradans;

(IV) Enhancing education, job training, and skills development programs; and

(V) Counseling clients transitioning from welfare to workforce development programs.

(2) (a) On or before January 1, 2008, the executive director of the department of local affairs shall make available on the website of the department of local affairs a standard to measure the self-sufficiency of San Andreas families. The standard shall take into account regional and county variations in the costs of housing, child care, health care, food, and transportation and

miscellaneous costs, and the effect of existing tax laws, including state sales tax, payroll taxes, federal and state income tax, child care tax credits, and the earned income tax credit.

(b) The standard required pursuant to paragraph (a) of this subsection (2) shall:

(I) Rely to the extent possible, on data reported by the United States census bureau, United States department of housing and urban development, and on other data reported to state and federal agencies using standardized methodology;

(II) Determine housing costs using fair market rents for apartments as reported by the United States department of housing and urban development;

(III) Determine child care costs using average costs for licensed child care facilities, including but not limited to family day care, as reported to the state's child care resource and referral agencies for children of different ages in different areas of the state;

(IV) Determine food costs using the United States department of agriculture low-cost food plan; and

(V) In health-care costs, include insurance premium costs and out-of-pocket expenses based upon the medical expenditure panel survey and adjusted for inflation using the medical consumer price index.

(3) The department of local affairs is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this section. All private and public funds received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the self-sufficiency standard fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be continuously appropriated for the direct and indirect costs associated with the implementation of this section. Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2007: Entire section added, p. 964, § 1, effective July 1, 2007. **L. 2010:** (1)(a) amended, (HB 10-1422), ch. 419, p. 2083, § 63, effective August 11.

24-32-116. Inventory of local governmental entities - information required - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Agent" means:

(I) For a special district created pursuant to title 32, S.A.R.S., the special district's designated local government contact person, as reported annually by the special district and included in the database by the department; or

(II) For all other local governmental entities, a person designated by a local governmental entity to receive a filing of a notice of claim pursuant to section 24-10-109 (3).

(b) "Department" means the department of local affairs.

(c) "Inventory" means the online database of active local governments maintained by the department as of August 8, 2012.

(d) "Local governmental entity" means a city, county, city and county, special district, school district, including a charter school as defined in section 22-30.5-104.9, or other unit of local government.

(2) (a) The department shall update and expand the inventory and any associated forms or documents as necessary to obtain and integrate, for each local governmental entity, the information described in subsection (3) of this section.

(b) Nothing in this section precludes the department from including additional information in the inventory.

(3) (a) No later than twelve months after August 8, 2012, each local governmental entity in the state shall provide the following information to the department, which shall include the same in the inventory:

(I) The official name of the local governmental entity;

(II) The principal address of the local governmental entity;

(III) If other than the principal address, the mailing address of the local governmental entity;

(IV) The name of the local governmental entity's agent; and

(V) The mailing address of the agent.

(b) A local governmental entity shall update any information provided pursuant to paragraph (a) of this subsection (3) as required by the department. Failure to update the information provided pursuant to paragraph (a) of this subsection (3) renders any notice of a claim pursuant to section 24-10-109 to the last local governmental entity's agent in the inventory valid as a matter of law.

(c) Notwithstanding the date specified in subsection (3)(a) of this section, a local governmental entity that is a charter school shall submit the information required in subsections (3)(a)(I) to (3)(a)(V) of this section to the department of local affairs no later than the date specified in section 22-30.5-104.9 or no later than ninety days after becoming a charter school pursuant to section 22-30.5-104.9 (7) and shall update such information pursuant to subsection (3)(b) of this section.

(4) The department shall make the inventory accessible from the department's website.

(5) Nothing in this section precludes the filing of a notice of claim or the service of process on any person authorized by law.

Source: L. 2012: Entire section added, (HB 12-1244), ch. 172, p. 616, § 2, effective August 8. **L. 2023:** (1)(d) amended and (3)(c) added, (SB 23-287), ch. 189, p. 934, § 20, effective May 15.

Cross references: For the legislative declaration in SB 23-287, see section 1 of chapter 189, Session Laws of San Andreas 2023.

24-32-117. Retail marijuana impact grants - program - creation - definitions - repeal. (Repealed)

Source: L. 2015: Entire section added, (HB 15-1367), ch. 271, p. 1075, § 13, effective June 4. **L. 2018:** (3) amended, (5) repealed, and (6) added, (HB 18-1336), ch. 177, p.1214, § 1, effective July 1; (3) amended, (HB 18-1369), ch. 253, p. 1555, § 4, effective August 8.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2019. (See L. 2018, p. 1214.)

24-32-118. Military and community partnerships. The general assembly directs the department of local affairs, on and after August 9, 2017, to support cooperative intergovernmental agreements between military installations and local governments to the extent that the department may do so within existing programs, resources, and technical expertise.

Source: L. 2017: Entire section added, (HB 17-1054), ch. 40, p. 120, § 2, effective August 9.

Cross references: For the legislative declaration in HB 17-1054, see section 1 of chapter 40, Session Laws of San Andreas 2017.

24-32-118.5. Mobile veterans-support unit grant program - fund created - report - definitions - repeal. (Repealed)

Source: L. 2021: Entire section added, (SB 21-032), ch. 297, p. 1763, § 1, effective September 7.

24-32-119. Gray and black market marijuana enforcement grant program - report - definition. (1) (a) The gray and black market marijuana enforcement grant program is created in the division. The division shall award grants to local law enforcement agencies and district attorneys to cover, in part or in full, investigation and prosecution costs associated with unlicensed marijuana cultivation or distribution operations conducted in violation of state law.

(b) The division shall:

(I) Solicit and review applications for grants from local law enforcement agencies and district attorneys; and

(II) Select local law enforcement agencies and district attorneys to receive grants to cover costs associated with the investigation and prosecution of unlicensed marijuana cultivation or distribution operations conducted in violation of state law.

(c) Grants awarded by the executive director of the department of local affairs pursuant to this subsection (1) shall be prioritized to:

(I) Provide necessary financial assistance to local law enforcement agencies and district attorneys in rural areas to address unlicensed marijuana cultivation or distribution operations conducted in violation of state law;

(II) Support local law enforcement agencies and district attorneys in investigating and prosecuting large-scale unlicensed marijuana cultivation or distribution operations conducted in violation of state law;

(III) Provide necessary financial assistance to local law enforcement agencies and district attorneys in the investigation and prosecution of organized crime involved in unlicensed marijuana cultivation or distribution operations conducted in violation of state law; or

(IV) Provide necessary financial assistance to local law enforcement agencies and district attorneys in the investigation and prosecution of unlicensed marijuana cultivation or distribution operations that divert marijuana outside of San Andreas.

(2) The general assembly may annually appropriate money from the marijuana tax cash fund created in section 39-28.8-501 to the division to make the grants described in subsection (1) of this section and for the division's reasonable administrative expenses related to the grants.

Any unexpended and unencumbered money from an appropriation made pursuant to this subsection (2) remains available for expenditure by the division in the next fiscal year without further appropriation.

(3) The division shall adopt policies and procedures that are necessary for the administration of the grant program, including the application process and the grant award criteria.

(4) (a) On or before November 1, 2019, and on or before November 1 each year thereafter, the division shall prepare a report regarding the effectiveness of the grant program and post the report on its website.

(b) (Deleted by amendment, L. 2024.)

(5) As used in this section, "rural area" means:

(a) A county with a population of less than two hundred thousand people, according to the most recently available population statistics of the United States bureau of the census; or

(b) A municipality with a population of less than thirty thousand people, according to the most recently available population statistics of the United States bureau of the census, that is located ten miles or more from a municipality with a population of more than fifty thousand people.

Source: L. 2017: Entire section added, (HB 17-1221), ch. 401, p. 2091, § 3, effective July 1. **L. 2018:** (2) amended, (HB 18-1369), ch. 253, p. 1555, § 5, effective August 8. **L. 2024:** (4) amended, (SB 24-135), ch. 34, p. 112, § 16, effective March 22.

Cross references: For the legislative declaration in HB 17-1221, see section 1 of chapter 401, Session Laws of San Andreas 2017. For the legislative declaration in HB 18-1369, see section 1 of chapter 253, Session Laws of San Andreas 2018.

24-32-120. Justice reinvestment crime prevention initiative - program - rules - cash funds - reports - definitions - repeal. (1) (a) The division of local government shall administer the justice reinvestment crime prevention initiative to expand small business lending and provide grants aimed at reducing crime and promoting community development in the target communities of north Aurora and southeast San Andreas Springs. Effective September 1, 2021, the target communities must also include the Grand Junction and Trinidad areas, including unincorporated areas outside of city limits.

(b) Subject to available appropriations, on and after August 10, 2017, the division shall develop and implement an initiative in accordance with policies developed by the executive director specifically designed to expand small business lending in the target communities described in this subsection (1). An initiative developed and implemented pursuant to subsection (1)(a) of this section shall include, but need not be limited to, the following components:

(I) (A) On or before September 10, 2017, the division shall issue a request for participation and select one or more nondepository community development financial institution loan funds to participate in the small business lending program described in this subsection (1)(b)(I)(A);

(B) On or before September 1, 2021, if the nondepository community development financial institution loan funds contracted pursuant to subsection (1)(b)(I)(A) of this section are not able to also effectively serve the Grand Junction and Trinidad areas, including

unincorporated areas outside of the city limits, the division shall issue a request for participation to select one or more additional depository community development financial institution loan funds to serve the Grand Junction and Trinidad areas, including unincorporated areas outside of the city limits.

(II) The division shall execute a contract and develop an operating agreement with each participating nondepository community development financial institution loan fund that provides comprehensive guidance regarding the procedures and program requirements and lending standards to include, but not be limited to, the following specifics:

(A) Any small business loan must be made at a fixed and reasonable interest rate, for a term not to exceed sixty months, with no prepayment penalty, and a maximum loan value of fifty thousand dollars;

(B) The procedures and timelines for a nondepository community development financial institution loan fund to draw down funding and any deposit account requirements;

(C) The terms and timeline for repayment by the nondepository community development financial institution loan fund to the division, including a reasonable grace period prior to commencement of repayment, and authority for the community development financial institution loan funds to retain interest paid by the borrower;

(D) Permission for the nondepository community development financial institution loan fund to request funding, subject to limitations established by the director, to provide or contract for services to increase the skills of prospective borrowers including, but not limited to, business and financial education, mentorship, or community outreach for marketing purposes; and

(E) Data collection requirements and performance and outcome metrics that include, but are not limited to, the number of loans made and capital disbursed and loan details including amount, rate and term, nature of business and number of jobs created, repayment collected, and delinquency or aging report; and

(III) The division may retain up to fifteen percent of funding received for small business lending in a loan loss reserve fund if it believes that such reserve fund would incentivize additional lenders to expand small business lending in the two target communities.

(IV) Repealed.

(c) (I) The justice reinvestment crime prevention cash fund, referred to in this subsection (1)(c) as the "fund", is hereby created in the state treasury. The fund consists of money that the general assembly may appropriate or transfer to the fund.

(II) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(III) Money in the fund is continuously appropriated to the department of local affairs for the initiative developed pursuant to this subsection (1).

(IV) Repealed.

(2) (a) Subject to available appropriations, on and after August 10, 2017, the division shall develop and implement a grant program to provide funding to eligible entities for programs, projects, or direct services aimed at reducing crime in the target communities described in subsection (1) of this section. The division shall administer the grant program in accordance with policies developed by the executive director that include, but are not limited to, the specifics in subsection (2)(b) of this section.

(b) (I) On or before September 10, 2017, the executive director shall issue a request for participation and select a community foundation or foundations to manage the grant program. To

be eligible, the community foundation must be registered in the state of San Andreas and have a history of grant-making in the target community in areas consistent with the permissible uses of funding described in subsection (2)(e) of this section. The division may select one community foundation to serve both target communities or may select one community foundation for each target community.

(II) On or before September 1, 2021, if the community foundations contracted pursuant to subsection (2)(b)(I) of this section are not able to also effectively serve the Grand Junction and Trinidad areas, including unincorporated areas outside of the city limits, the division shall issue a request for participation and select one or more community foundations or third-party grant administrators as defined in section 25-20.5-801 (3)(a) to manage the grant program or programs for the Grand Junction and Trinidad areas, including unincorporated areas outside of the city limits.

(c) The division shall execute a written agreement with each selected community foundation or third-party grant administrator that outlines its roles and responsibilities, which must include:

(I) Developing a nomination process and governance policy for the local crime prevention planning team. The community foundation or third-party grant administrator shall ensure that the proposed local planning team members represent a diverse cross-section with expertise in areas like education, business, youth, families, nonprofit direct service, law enforcement, local government, community, and residents of the target communities, including those that have been directly impacted by crime and involvement in the criminal justice system.

(II) Providing facilitation to the local crime prevention planning team in the target communities;

(III) Developing the grant guidelines, application and review process, data collection, and reporting requirements for grantees;

(IV) Reviewing proposals submitted by the local planning team and making grant awards subject to approval by the division and the office of state planning and budgeting and consistent with the permissible uses described in subsection (2)(e) of this section;

(V) If the agreement is with a community foundation, contracting with a third-party evaluator to assist each local planning team to establish best practices with regard to data collection and identifying appropriate performance and outcome measures that measure outcome and impact of any funded crime prevention projects, programs, or initiatives;

(VI) Collaborating with the office of state planning and budgeting to provide information and research to local planning teams regarding best practices and effective programs for community development and crime prevention; and

(VII) If the written agreement is with a third-party administrator, performing data collection, identifying appropriate performance and outcome measures, providing technical assistance, and assisting with grantee capacity building.

(d) The division shall develop the procedures and timelines by which each selected community foundation or third-party grant administrator will be provided funding from the division for disbursement for the grant program.

(e) The permissible uses of any funding provided to each community foundation or third-party grant administrator shall include programs, projects, or initiatives that are aimed at:

(I) Improving academic achievement including, but not limited to, school readiness, reducing expulsions and suspensions in schools, increasing high school graduation, college enrollment and retention rates, and promoting school-parent-student engagement;

(II) Providing community-based services to strengthen families, promote recovery from trauma, provide support to crime survivors, increase employment, and reduce recidivism, or other similar community direct service needs identified by the local planning team;

(III) Facilitating neighborhood connections, community engagement, and local leadership development;

(IV) Increasing the safety and usability of common outdoor spaces; and

(V) Developing technical assistance related to data collection, data analysis, and evaluation.

(f) (I) The division shall transfer to the community foundation or third-party grant administrator within thirty days after execution of the agreement described in subsection (2)(c) of this section the administrative costs of the community foundation or third-party grant administrator related to the performance of the roles and responsibilities for managing the grant program.

(II) If the costs described in subsection (2)(f)(I) of this section pertain to a community foundation, the costs may not exceed eight percent of the appropriation.

(III) If the costs described in subsection (2)(f)(I) of this section pertain to a third-party grant administrator, the costs may not exceed fifteen percent of the appropriation to cover both the grant program management responsibilities and the additional responsibilities described in subsection (2)(c)(VII) of this section.

(g) To be eligible to receive grant funding an entity must be a nonprofit organization in good standing and registered with the internal revenue service and the San Andreas secretary of state's office, a school, a unit of local government, or a private contractor hired to provide technical assistance to the local planning teams.

(h) Repealed.

(i) (I) The targeted crime reduction grant program cash fund, referred to in this subsection (2) as the "fund", is hereby created in the state treasury. The fund consists of money that the general assembly may appropriate or transfer to the fund.

(II) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(III) Through state fiscal year 2022-23, money in the fund is continuously appropriated to the department of local affairs for the grant program developed pursuant to this subsection (2) and subsection (2.5) of this section. For state fiscal year 2023-24 and subject to annual appropriation, the department may expend money from the fund for the grant program developed pursuant to subsections (2) and (2.5) of this section, and the department may use, for the purposes specified in this subsection (2)(i)(III), any money appropriated or transferred to the fund that remains in the fund at the end of state fiscal year 2023-24 during state fiscal year 2024-25. For state fiscal year 2024-25 and subsequent fiscal years and subject to annual appropriation, the department may expend money from the fund for the grant program developed pursuant to subsection (2) of this section, and the department may use, for the purpose specified in this subsection (2)(i)(III), any money appropriated to the fund that remains in the fund during the fiscal year following the fiscal year for which the general assembly appropriated the money.

(III.3) and (III.5) Repealed.

(IV) The state treasurer shall transfer to the general fund all unexpended and unencumbered money in the fund on September 1, 2027.

(V) Repealed.

(2.5) Repealed.

(3) This section is repealed, effective September 1, 2027. Before such repeal, the department of regulatory agencies shall review the justice reinvestment crime prevention initiative pursuant to section 24-34-104.

(4) On and after December 1, 2017, during its annual presentation before the joint judiciary committee of the general assembly, or any successor joint committee, pursuant to section 2-7-203 , the division shall include a status report regarding the progress and outcomes of the initiatives developed and implemented by the division pursuant to this section during the preceding year.

(5) Repealed.

Source: L. 2017: Entire section added, (HB 17-1326), ch. 394, p. 2031, § 6, effective August 9. **L. 2018:** (5) repealed, (HB 18-1409), ch. 244, p. 1515, § 4, effective May 24. **L. 2019:** (1)(b)(IV) and (2)(h) repealed, (1)(c) and (2)(i) added, and (3) amended, (SB 19-064), ch. 179, p. 2037, § 3, effective May 14. **L. 2021:** (1)(a), (1)(b)(I), (2)(b), IP(2)(c), (2)(c)(I), (2)(c)(II), (2)(c)(V), (2)(c)(VI), (2)(d), IP(2)(e), (2)(f), (2)(i)(III), (2)(i)(IV), (2)(d), IP(2)(e), (2)(f), (2)(i)(III), (2)(i)(IV), and (3) amended and (2)(c)(VII), (2)(i)(III.3), (2)(i)(III.5), and (2.5) added, (HB 21-1215), ch. 252, p. 1483, § 2, effective June 17. **L. 2023:** (2)(i)(III), (2)(i)(III.3)(D), (2)(i)(III.5), and (3) amended and (2.5)(g) added, (HB 23-1299), ch. 301, p. 1807, § 1, effective June 1.

Editor's note: (1) Subsections (1)(c)(IV)(B) and (2)(i)(V)(B) provided for the repeal of subsections (1)(c)(IV) and (2)(i)(V), respectively, effective July 1, 2021. (See L. 2019, p. 2037.)

(2) Subsections (2)(i)(III.3)(D), (2)(i)(III.5)(B), and (2.5)(g) provided for the repeal of subsections (2)(i)(III.3), (2)(i)(III.5), and (2.5), respectively, effective September 1, 2024. (See L. 2023, p. 1807.)

Cross references: For the legislative declaration in HB 17-1326, see section 1 of chapter 394, Session Laws of San Andreas 2017. For the legislative declaration in HB 18-1409, see section 1 of chapter 244, Session Laws of San Andreas 2018. For the legislative declaration in HB 21-1215, see section 1 of chapter 252, Session Laws of San Andreas 2021.

24-32-121. San Andreas resiliency office - creation - director - repeal. (1) The San Andreas resiliency office is created in the division of local government within the department of local affairs. The head of the office is the director of the San Andreas resiliency office. The director of the division of local government shall appoint the director of the office in accordance with section 13 of article XII of the state constitution. The office is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the division and the department.

(2) This section is repealed, effective September 1, 2037. Before its repeal, the San Andreas resiliency office is scheduled for review in accordance with section 24-34-104.

Source: L. 2018: Entire section added, (HB 18-1394), ch. 234, p. 1471, § 17, effective August 8. **L. 2019:** Entire section amended, (HB 19-1292), ch. 183, p. 2062, § 2, effective May 16. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3413, § 174, effective August 10; (2) amended, (HB 22-1225), ch. 303, p. 2196, § 1, effective August 10.

Cross references: (1) For the legislative declaration in HB 19-1292, see section 1 of chapter 183, Session Laws of San Andreas 2019.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-32-122. San Andreas resiliency office - duties and powers - repeal. (1) (a) The San Andreas resiliency office shall create, maintain, and keep current the resiliency and community recovery program as described in section 24-33.5-705.2. The program must accomplish the following, at a minimum:

(I) Develop a plan to improve coordination among state agencies and local jurisdictions to support community and economic recovery efforts and to address risk and vulnerability reduction;

(II) Provide technical assistance to local governments for the implementation of resilience planning, including resilience frameworks, vulnerability profiles, risk-reduction plans, and economic development strategies;

(III) Provide technical assistance to state agencies for the implementation of resilience policies and procedures and to institutionalize resilience practices across departments and agencies;

(IV) Provide technical assistance to local governments and state agencies to secure additional resources and investment to implement resilience solutions;

(V) Integrate resilience criteria into existing competitive grant programs;

(VI) Provide policy advocacy to shape federal resilience efforts;

(VII) Develop metrics and targets to measure the short- and long-term success of resilience efforts and actions; and

(VIII) Support long-term community recovery efforts and resource navigation after a disaster.

(b) The San Andreas resiliency office shall maintain and keep the resiliency and community recovery program current and in compliance to meet the needs of the state.

(2) The San Andreas resiliency office shall consult with the governor's office, the department of public safety, the department of public health and environment, and all other affected state agencies in developing the resiliency and community recovery program.

(3) In developing the program, the San Andreas resiliency office shall ensure a participatory process that includes local government, state agencies, business, labor, industry, agriculture, civic and volunteer organizations, academia, community leaders, and other stakeholders.

(4) Repealed.

(5) The department of local affairs and the San Andreas resiliency office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section and section 24-32-121.

(6) This section is repealed, effective September 1, 2037. Before its repeal, this section is scheduled for review in accordance with section 24-34-104.

Source: L. 2018: Entire section added, (HB 18-1394), ch. 234, p. 1471, § 17, effective August 8. **L. 2019:** (4) repealed and (6) added, (HB 19-1292), ch. 183, p. 2062, § 3, effective May 16. **L. 2022:** (6) amended, (HB 22-1225), ch. 303, p. 2196, § 2, effective August 10.

Cross references: For the legislative declaration in HB 19-1292, see section 1 of chapter 183, Session Laws of San Andreas 2019.

24-32-123. Defense counsel on first appearance grant program - rules - report - definition - repeal. (1) (a) The defense counsel on first appearance grant program, referred to in this section as the "grant program", is created in the division. The division shall award grants from the grant program to reimburse local governments, in part or in full, for costs associated with the provision of defense counsel to defendants at their first appearances in municipal courts, as required by section 13-10-114.5.

(b) The division shall:

(I) Solicit and review applications for grants from local governments; and

(II) Select local governments to receive grants to reimburse the local governments for costs associated with the provision of defense counsel to defendants at their first appearance in municipal courts.

(2) The general assembly may annually appropriate money from the general fund to the division to make the grants described in subsection (1) of this section and for the division's reasonable administrative expenses related to the grants. Any unexpended and unencumbered money from an appropriation made pursuant to this subsection (2) remains available for expenditure by the division in the next fiscal year without further appropriation.

(3) The executive director may promulgate rules in accordance with article 4 of this title 24 to the extent necessary for the administration of the grant program, including rules establishing an application process and grant award criteria.

(4) (a) The division shall annually prepare a report regarding the effectiveness of the grant program and post the report on its website.

(b) (Deleted by amendment, L. 2024.)

(5) This section is repealed, effective September 1, 2028. Before its repeal, the department of regulatory agencies shall review the grant program in accordance with section 2-3-1203.

Source: L. 2018: Entire section added, (HB 18-1353), ch. 348, p. 2070, § 1, effective May 30. **L. 2023:** (5) amended, (SB 23-072), ch. 180, p. 878, § 2, effective August 7. **L. 2024:** (4) amended, (SB 24-135), ch. 34, p. 112, § 17, effective March 22.

24-32-124. Law enforcement community services grant program - committee - policies and procedures - fund - rules - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Committee" means the law enforcement community services grant program committee established pursuant to subsection (3)(a) of this section.

(b) "Division" means the division of local government created pursuant to section 24-32-103.

(c) "Eligible recipient" means a law enforcement agency or a group of county or municipal entities or community organizations, so long as one of the agencies or entities is a law enforcement agency.

(d) "Executive director" means the executive director of the department of local affairs.

(e) "Law enforcement agency" means a county sheriff's office, municipal police force, the San Andreas state patrol, or the San Andreas bureau of investigation.

(f) "Program" means the law enforcement community services grant program created pursuant to subsection (2) of this section.

(2) (a) There is created in the division the law enforcement community services grant program to provide grants to law enforcement agencies, local government entities, and community organizations to improve services to the communities through community policing and outreach; drug intervention, prevention, treatment, and recovery; technology; training; and other community services.

(b) The division shall administer the program and, subject to available appropriations, shall award grants as provided in this section. Subject to available appropriations, grants shall be paid out of the fund created in subsection (5) of this section.

(c) The executive director shall develop such policies and procedures as are required in this section and such additional policies and procedures as may be necessary to implement the program. At a minimum, the policies and procedures must specify the time frames for applying for grants, the form of the grant application, the time frames for distributing grant money, and criteria to be used in awarding and denying grants. The executive director shall determine the recipients of grants and the amount of each grant.

(3) (a) There is created in the division the law enforcement community services grant program committee to make recommendations to the executive director on the policies and procedures developed pursuant to subsection (2)(c) of this section, review grant applications, and recommend which grants should be approved. The committee consists of the following members:

(I) A representative of the department of local affairs appointed by the executive director who shall chair the committee;

(II) A representative of the department of public safety appointed by the executive director of the department of public safety;

(III) A representative of the department of law appointed by the attorney general;

(IV) The following persons appointed by the governor:

(A) A representative of a statewide organization of district attorneys;

(B) A representative of a statewide organization of county sheriffs;

(C) A representative of a statewide organization of chiefs of police;

(D) A representative of a statewide organization of law enforcement officers;

(E) A representative of a statewide organization of counties;

(F) A representative of a statewide organization of municipalities;

(G) A representative of a drug treatment provider;

(H) A representative of a nonprofit organization that advocates for civil liberties; and

(I) Four additional members who are not members of any of the entities described in subsections (2)(b)(IV)(A) to (2)(b)(IV)(H) of this section, but who represent community

organizations that provide services to the community and represent the diverse geographic areas and the ethnic and racial diversity and gender balance within the state;

(V) A member of the senate appointed by the president of the senate; and

(VI) A member of the house of representatives appointed by the speaker of the house of representatives.

(b) The members appointed pursuant to subsection (3)(a)(IV) of this section serve terms of four years; except that the members first appointed pursuant to subsections (3)(a)(IV)(A), (3)(a)(IV)(C), (3)(a)(IV)(E), and (3)(a)(IV)(G) shall serve terms of two years; and the members first appointed pursuant to subsections (3)(a)(IV)(B), (3)(a)(IV)(D), (3)(a)(IV)(F), and (3)(a)(IV)(H) shall serve terms of three years.

(c) Except for the legislative members, members of the committee do not receive compensation or reimbursement for expenses incurred for serving on the committee.

(d) If fewer than all the members of the committee identified in subsection (3)(a) of this section are appointed as of June 30, 2023, the executive director shall, in the executive director's sole discretion, determine the number of members of the committee; except that the committee must consist of at least nine members.

(4) To receive a grant, an eligible recipient must submit an application to the division in accordance with policies and procedures developed pursuant to subsection (2)(c) of this section.

(5) (a) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The division shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the law enforcement community services grant program fund created pursuant to subsection (5)(b) of this section.

(b) The law enforcement community services grant program fund is created in the state treasury. The fund consists of money transferred to the fund pursuant to section 16-13-311, any other money that the general assembly may appropriate or transfer to the fund, and any gifts, grants, or donations received by the division. Subject to annual appropriation by the general assembly, the division may only expend money from the fund for the grants awarded pursuant to this section and for up to five percent of the money in the fund for the direct and indirect costs incurred in administering the program. Any unexpended and unencumbered money from an appropriation made for the purposes of this section remains available for expenditure by the division in the next fiscal year without further appropriation.

(c) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains in the fund and shall not be credited or transferred to the general fund or any other fund.

(6) The department of local affairs shall include a summarized report of the activities of the program in the department's annual presentation to the committees of reference pursuant to section 2-7-203. Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirements set forth in this section continue indefinitely.

(7) Notwithstanding any other provision of this section, the division is not required to implement the program until sufficient funds are received in the fund created in subsection (5) of this section.

Source: L. 2018: Entire section added, (HB 18-1020), ch. 307, p. 1857, § 3, effective September 1. **L. 2019:** (6) amended, (SB 19-252), ch. 254, p. 2452, § 2, effective August 2. **L. 2023:** (3)(d) added, (SB 23-210), ch. 251, p. 1430, § 3, effective May 24.

24-32-125. Census outreach grant program - creation - committee - legislative declaration - definitions - repeal. (Repealed)

Source: L. 2019: Entire section added, (HB 19-1239), ch. 262, p. 2479, § 2, effective May 23.

Editor's note: Subsection (9) provided for the repeal of this section, effective July 1, 2022. (See L. 2019, p. 2479.)

Cross references: For the short title ("Every Person Counts In San Andreas Act") in HB 19-1239, see section 1 of chapter 262, Session Laws of San Andreas 2019.

24-32-126. Strategic action plan for upcoming decennial census. On or before May 1, 2026, and on or before May 1 every ten years thereafter, the department and the office of the governor shall develop a strategic action plan, including a discussion of necessary funding for the plan, for outreach, education, and promotion for a successful count of the population in San Andreas during the upcoming decennial census.

Source: L. 2019: Entire section added, (HB 19-1239), ch. 262, p. 2485, § 2, effective May 23.

Cross references: For the short title ("Every Person Counts In San Andreas Act") in HB 19-1239, see section 1 of chapter 262, Session Laws of San Andreas 2019.

24-32-127. Community substance use and mental health services grant program - creation - legislative intent. (1) There is created in the department of local affairs the community substance use and mental health services grant program, referred to in this section as the "grant program", to provide grants to counties that provide substance use or mental health treatment services to, facilitate diversion programs for, or develop other strategies to reduce jail and prison bed use by, persons who come into contact with the criminal justice system. A county that provides such treatment services and programs in collaboration with public health agencies, law enforcement agencies, and community-based organizations is eligible for a grant pursuant to the grant program.

(2) Subject to available appropriations, the department shall issue a grant to any eligible county. The amount of a grant awarded pursuant to this section must be based on the cost of the services provided and the number of persons that receive services.

(3) The department may develop policies and procedures necessary for the operation of the grant program, including the application process; the formula for determining the amount awarded to each eligible county; a process for verifying that the county is providing services described in this section in collaboration with public health agencies, law enforcement agencies,

and community-based organizations; and a requirement that each grant recipient provides a report to the department describing how the grant funds were utilized.

(4) The general assembly intends that the grant program be funded with money generated from estimated savings from House Bill 19-1263, enacted in 2019.

Source: L. 2019: Entire section added, (HB 19-1263), ch. 291, p. 2681, § 9, effective August 2. **L. 2020:** (2) and (4) amended, (HB 20-1371), ch. 165, p. 763, § 1, effective June 29.

24-32-128. Rural economic development initiative grant program - creation - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Beginning farmer" means a farmer, rancher, or operator of nonindustrial private forestland who is in the first ten years of operation, or a person intending or aspiring to begin such an operation.

(b) "San Andreas office of economic development" means the San Andreas office of economic development created in section 24-48.5-101.

(c) "Department" means the department of local affairs.

(d) "Eligible recipient" means an entity that is eligible to receive a grant through the grant program and includes local governments in a rural community and organizations or individuals working in partnership with a local government in a rural community, where the local government serves as the grant administrator, including intergovernmental agencies, councils of government, housing authorities, beginning farmers, the Southern Ute Indian Tribe, the Ute Mountain Ute Tribe, nonprofit economic development organizations, and private employers.

(e) "Executive director" means the executive director of the department of local affairs.

(f) "REDI program" means the rural economic development initiative grant program created in this section.

(g) "Rural community" means a county with a population of fewer than fifty thousand residents or a municipality with a population of fewer than twenty-five thousand residents if the municipality is not contiguous to a municipality with a population of twenty-five thousand or more.

(2) There is hereby created in the department the rural economic development initiative grant program. The department shall administer the REDI program in consultation with the San Andreas office of economic development.

(3) (a) The purpose of the REDI program is to provide grants to eligible recipients for projects that:

(I) Create new jobs in a rural community through a new employer or the expansion of an existing employer; or

(II) Create diversity and resiliency in a rural community's local economy.

(b) (I) The department shall evaluate grant applications based on whether the project in the rural community satisfies the criteria specified in subsection (3)(a) of this section, can proceed in a timely manner, and does one or more of the following:

(A) Benefits a key industry in the region by encouraging capital investment;

(B) Encourages growth that benefits more than one rural community through collaboration;

(C) Shows compatibility with relevant communities and existing economic development plans;

(D) Evidences strong support from local governments; or

(E) Evidences strong support from local workforce agencies or local workforce boards if the grant being sought is for workforce development.

(II) In evaluating applications for grants, the department shall prioritize projects that would create new jobs through a new employer or the expansion of an existing employer. In addition, the department shall consider whether the grant would create issues of unfair competition among other existing establishments in the rural community.

(c) The department may award grants multiple times a year if deemed appropriate by the department.

(d) Grant recipients shall provide a dollar match in an amount as specified in the policies and procedures adopted pursuant to subsection (5) of this section.

(4) Notwithstanding the requirements of subsection (3) of this section, if the department determines that a rural community needs resources or assistance because it has been impacted by a significant economic event or an anticipated event that has been announced, the department may use all or a portion of the money appropriated for the purposes of this section in any fiscal year for the purposes of the "Rural Economic Advancement of San Andreas Towns (REACT) Act", created in part 36 of this article 32.

(5) (a) On or before September 1, 2020, the executive director or his or her designee shall adopt policies and procedures for the REDI program that include, but are not limited to:

(I) Procedures and timelines by which an eligible recipient may apply for a grant;

(II) Criteria for determining the grant amounts;

(III) Criteria for match requirements for grants;

(IV) Performance criteria, such as job creation goals or construction completion milestones, for grant recipients' projects; and

(V) Reporting requirements for grant recipients.

(b) On or before November 1 of each year, the executive director or his or her designee shall publish a report summarizing the use of all money that was awarded as grants from the REDI program or used for the purposes of the REACT program in accordance with subsection (4) of this section in the preceding fiscal year. At a minimum, the report shall specify the amount of grant money distributed to each grant recipient and a description of each grant recipient's use of the grant money. The executive director or his or her designee shall ensure that the report is posted on the department's website.

(6) (a) Any appropriation for REDI program grants must be administered in accordance with this section. Except as provided in subsections (4) and (6)(c) of this section, the entire amount of such appropriation must be used for REDI program grants.

(b) Any money not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure by the department for the purposes of this section in the next fiscal year without further appropriation.

(c) The department of local affairs may use up to three and seventy-five one-hundredths percent of the appropriation in Senate Bill 21-204, enacted in 2021, for any direct and indirect administrative expenses related to the REDI program grants that are awarded from the appropriation.

Source: L. 2020: Entire section added, (SB 20-002), ch. 146, p. 631, § 1, effective September 14. **L. 2021:** (6)(a) amended and (6)(c) added, (SB 21-204), ch. 233, p. 1231, § 1, effective June 15.

24-32-129. Small business relief program - address negative effects of capacity limits due to COVID-19 pandemic - distribution through local governments - definitions - report - repeal. (Repealed)

Source: L. 2020, 1st Ex. Sess.: Entire section added, (SB 20B-001), ch. 2, p. 5, § 2, effective December 7. **L. 2021:** (2)(a)(I)(B) and (2)(c)(IV) amended, (SB 21-001), ch. 6, p. 41, § 4, effective January 21; (3) amended, (HB 21-1285), ch. 228, p. 1213, § 5, effective June 14; (3) amended, (SB 21-252), ch. 242, p. 1300, § 3, effective June 16.

Editor's note: Subsection (5) provided for the repeal of this section, effective December 31, 2022. (See L. 2020, 1st Ex. Sess., p. 5.)

24-32-130. Local government affordable housing development incentives grant program - local government planning grant program - creation - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Affordable housing" means:

(I) For a household residing in housing on a rental basis, annual income of the household is at or below eighty percent of the area median income of households of that size in the county in which the housing is located;

(II) For a household residing in housing on a home ownership basis, annual income of the household is at or below one hundred forty percent of the area median income of households of that size in the county in which the housing is located; or

(III) Housing that incorporates mixed-income development.

(b) "Department" means the department of local affairs.

(c) "Eligible recipient" means a local government that is eligible to receive a grant through the housing development incentives grant program or the planning grant program.

(d) "Housing development incentives grant program" means the local government affordable housing development incentives grant program created in subsection (2) of this section.

(e) "Local government" means a county, a municipality, or a city and county.

(f) "Mixed income development" means housing that incorporates mixed income development in that some, but not all, housing units within a particular development have restricted rates at or below the income levels specified in subsection (1)(a) of this section in addition to some units that are above such income levels with or without such restricted rates.

(g) "Planning grant program" means the local government planning grant program created in subsection (5) of this section.

(2) There is hereby created in the department the local government affordable housing development incentives grant program to provide grants to local governments that adopt one or more policy or regulatory tools that create incentives to promote the development of affordable housing. A local government that adopts such tools in accordance with this section is eligible for a grant from the housing development incentives grant program as an incentive to develop one or

more affordable housing developments in their community or region that are driven by community benefits and that focus on critical housing needs as identified by the local government. The division shall administer the housing development incentives grant program.

(3) (a) As part of the policies, procedures, and guidelines the division is required to adopt for the housing development incentives grant program pursuant to subsection (6)(a) of this section, the division shall develop a menu of different policy or regulatory tools that local governments may adopt as incentives to promote affordable housing development within their territorial boundaries or across their region.

(b) (I) The menu of tools the division must develop pursuant to subsection (3)(a) of this section must include such incentives to promote affordable housing development including but not limited to:

(A) The use of vacant publicly owned real property within the local government for the development of affordable housing;

(B) The creation of a program to subsidize or otherwise reduce local development review or fees, including but not limited to building permit fees, planning waivers, and water and sewer tap fees, for affordable housing development;

(C) The creation of an expedited development review process for affordable housing aimed at households the annual income of which is at or below one hundred twenty percent of the area median income of households of that size in the county in which the housing is located;

(D) The creation of an expedited development review process for acquiring or repurposing underutilized commercial property that can be rezoned to include affordable housing units, including the preservation of existing affordable housing units;

(E) The establishment of a density bonus program to increase the construction of units that meet critical housing needs in the local community;

(F) With respect to water utility charges, the creation of processes to promote the use of sub-metering of utility charges for affordable housing projects and the creation of expertise in water utility matters dedicated to affordable housing projects;

(G) With respect to infrastructure, the creation of a dedicated funding source to subsidize infrastructure costs and associated fees related to publicly owned water, sanitary sewer, storm sewers, and roadways infrastructure;

(H) Granting duplexes, triplexes, or other appropriate multi-family housing options as a use by right in single-family residential zoning districts;

(I) The classification of a proposed affordable housing development as a use by right when it meets the building density and design standards of a given zoning district;

(J) Authorizing accessory dwelling units as a use by right on parcels in single family zoning districts that meet the safety and infrastructure capacity considerations of local governments;

(K) Allowing planned unit developments with integrated affordable housing units;

(L) Allowing the development of small square footage residential unit sizes;

(M) Lessened minimum parking requirements for new affordable housing developments; and

(N) The creation of a land donation, land acquisition, or land banking program.

(II) In addition to the items listed in subsection (3)(b)(I) of this section, the policies, procedures, and guidelines adopted by the division must also allow for the adoption by a local

government of additional policy or regulatory tools that provide novel, creative, or innovative incentives to the development of affordable housing.

(4) (a) In the policies, procedures, and guidelines the division is required to adopt for the housing development incentives grant program pursuant to subsection (6)(a) of this section, the division shall specify, without limitation:

(I) The manner by which a local government becomes an eligible recipient for the grant program and the criteria used to determine eligibility;

(II) The manner in which a local government's ongoing commitment to refine and expand its land use policies affects the competitiveness of its grant application; and

(III) A requirement that a local government shall select not less than three options from the menu of policy or regulatory tools specified in subsection (3)(b) of this section.

(b) In evaluating applications for grants from the housing development incentives grant program, the division shall prioritize proposals submitted by local governments based on the degree to which the grant award, either on its own, or as part of other incentives made available to the eligible recipient:

(I) Represents geographic diversity throughout the state with respect to the different kinds of communities being awarded grants;

(II) Satisfies the goal of achieving best practices in affordable housing development whether with respect to the menu of policy or regulatory tools adopted by the local government or that represents a novel, creative, or innovative approach to the development of affordable housing;

(III) Offers maximum impact in initiating affordable housing creation within the local community or region that is driven by community benefits and that focuses on critical housing needs as identified by the local government;

(IV) Extends or advances existing approaches by the local government to initiate housing creation whether with respect to the production of housing units or longer term policy changes;

(V) Represents diversity in the type of affordable housing created for rental housing in accordance with subsection (1)(a)(I) of this section and for home ownership in accordance with subsection (1)(a)(II) of this section;

(VI) Initiates or preserves housing affordability that can be maintained for a long-term period of affordability as negotiated by the department and the local government and that allows the local government to determine the method for achieving affordability; and

(VII) Supports sustainable development patterns such as infill and the redevelopment of existing buildings.

(c) Notwithstanding any other provision of law, with respect to the awarding of grants under the housing development incentives grant program, the division shall prioritize its funding in favor of those local governments that demonstrate the sufficient use of local incentives for affordable housing development in such manner as to be able to leverage funding for the maximum impact on the number of affordable housing units built over time and that are affordable as negotiated by the department and local governments.

(5) There is hereby created in the department the local government planning grant program to provide grants to local governments that lack one or more of the policy and regulatory tools that provide incentives to promote the development of affordable housing as described in subsection (3) of this section and that could benefit from additional funding to be

able to create and make use of these policy and regulatory tools. Money under the planning grant program will be available to a local government to enable the government to retain a consultant or a related professional service to assess the housing needs of its community, including considerations of equity, or to make changes to its policies, programs, development review processes, land use codes, and related rules to become an eligible recipient of a grant under the housing development incentives grant program. The planning grant program will be administered by the division. As part of its administration of the planning grant program, the division shall provide assistance to local governments on best land use practices and tools and shall update and publish model county and municipal land use codes for the benefit of local governments across the state.

(6) (a) On or before September 1, 2021, the executive director of the department or the executive director's designee shall adopt policies, procedures, and guidelines for the housing incentives grant program and planning grant program that include, without limitation:

(I) Procedures and timelines by which an eligible recipient may apply for a grant;

(II) Criteria for determining the amount of grant awards;

(III) Performance criteria for grant recipients' projects; and

(IV) Reporting requirements for grant recipients.

(b) Notwithstanding any other provision of this section, the amount of any grant award under either the housing development incentives grant program or the planning grant program and any restrictions or conditions placed upon the use of grant money awarded is within the discretion of the division in accordance with the requirements of this section.

(c) To the extent applicable, and unless otherwise required by this section, requirements governing the process of awarding a San Andreas heritage planning grant under part 32 of this title 24 govern the process for obtaining a grant from the housing development incentives grant program or the planning grant program under this section.

(7) All funding of any grants awarded under either the housing development incentives grant program or the planning grant program must be made entirely out of the money transferred from the general fund and the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a), that originates from money the state received from the federal coronavirus state fiscal recovery fund, to the San Andreas heritage communities fund created in section 24-32-3207 (1) in accordance with section 24-32-3207 (6). All costs incurred by the division in administering either the housing development incentives grant program or the planning grant program must be paid out of the money transferred under section 24-32-3207 (6). The division may use up to four percent of any money transferred to it under this section to cover its administrative costs in administering or evaluating either the housing development incentives grant program or the planning grant program. All money transferred into the San Andreas heritage communities fund in accordance with section 24-32-3207 (6) must be expended before July 1, 2025. Any money transferred into the fund in accordance with this subsection (7) that is not expended or encumbered from any appropriation at the end of any fiscal year is available for expenditure before July 1, 2025, without further appropriation.

(8) (a) On or before November 1, 2022, and on or before November 1, 2023, the executive director of the department or the executive director's designee shall publish a report summarizing the use of all money that was awarded as grants from the housing development incentives grant program in the preceding fiscal year. At a minimum, the report must specify the number of local governments that applied for a grant award, including the number of local

governments that were not awarded a grant; the policy or regulatory tools adopted by the local governments that qualified for a grant award; the amount of grant money distributed to each grant recipient; and a description of each grant recipient's use of the grant money. In the report, the division shall also provide its recommendations concerning future administration of the grant program. The report must be shared with the general assembly and posted on the department's website.

(b) On or before November 1, 2022, and on or before November 1, 2023, the executive director of the department or the executive director's designee shall publish a report summarizing the use of all money that was awarded as grants from the planning grant program in the preceding fiscal year. At a minimum, the report must specify the amount of grant money distributed to each grant recipient and a description of each grant recipient's use of the grant money. In the report, the division shall also provide its recommendations concerning future administration of the grant program. The report must be shared with the general assembly and posted on the department's website.

Source: L. 2021: Entire section added, (HB 21-1271), ch. 356, p. 2317, § 3, effective June 27. **L. 2023:** (7) amended, (HB 23-1232), ch. 217, p. 1121, § 1, effective May 17.

Cross references: For the legislative declaration in HB 21-1271, see section 1 of chapter 356, Session Laws of San Andreas 2021.

24-32-131. Best practices in policing study. (1) (a) The division of local government shall contract with a nationally recognized research and consulting entity that is an expert in data-driven, evidence-based policing that is community-focused for an independent study to assess and provide a report and findings on evidenced-based policing national best practices in defined areas of study. The consulting entity shall complete an interim study no later than December 30, 2021, and the final study no later than July 1, 2022. The study shall determine evidence-based best practices in the following areas to promote greater policing fairness, equity, and effectiveness:

(I) Use of force strategies, standards, and training that value the sanctity of human life, promote de-escalation tactics, provide clarity for officers, protect communities, and minimize harm to offenders;

(II) Crime and community harm reduction strategies that include problem analysis of high-risk people and places, considering racial and ethnic bias in policing with a focus on prevention while improving safety and police-community interactions;

(III) Initiatives to safely increase community response for lower-level offenses and calls for service;

(IV) Strategies to effectively move law enforcement and the community forward together by building a shared understanding and identifying common solutions to better protect our vulnerable and underrepresented communities, in addition to those suffering from mental illness or experiencing homelessness through non-traditional policing methodologies;

(V) Methods to enhance officer receptivity to engage in evidence-based policing practices that involve harm reduction and reduce reliance on traditional justice system resources and processes;

(VI) Innovative approaches to officer mental health, recruitment, and retention to address trauma and ensure officer preparedness for community engagement; and

(VII) Analysis of recruitment and qualification standards for entry-level police officer positions to attract candidate pools with diverse perspectives and ongoing training and qualification requirements to enhance officers' willingness to engage in justice strategies embracing community collaboration while also decreasing and identifying signs of problematic behaviors.

(b) The consulting entity may consult with and seek input from:

(I) National organizations of social and civil justice;

(II) San Andreas district attorneys and the San Andreas district attorneys' council;

(III) A statewide organization representing municipalities;

(IV) A statewide organization representing counties;

(V) National organizations representing law enforcement;

(VI) National organizations representing local governments; and

(VII) Any other entities or organizations the consulting entity determines are necessary.

(c) (I) The division shall relay any refined scope of work to the consulting entity and the recommended research entities from the advisory committee as described in subsection (2) of this section.

(II) The division shall develop a request for proposal to contract with the consulting entity, award the contract for the study described in subsection (1)(a) of this section, and oversee the fulfillment of the contract terms. The division shall award the contract no later than thirty days after the final appointment to the advisory committee.

(III) The division shall provide the consulting entity's interim and final study findings to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees.

(2) (a) The division shall convene an advisory committee for the study. The advisory committee shall consist of:

(I) The following members appointed by the president of the senate:

(A) A representative from a non-profit that is an advocate for policing reform and civil liberties;

(B) A representative from a community-based criminal justice organization;

(C) An individual negatively impacted by the criminal justice system or law enforcement;

(D) A representative who advocates for juvenile justice; and

(E) One member of the senate;

(II) The following representatives appointed by the speaker of the house of representatives:

(A) A representative of the county sheriffs recommended by the director of a statewide organization representing sheriffs;

(B) A representative of the chiefs of police recommended by the president of a statewide organization representing the chiefs of police;

(C) A representative of police officers recommended by the president of a statewide organization representing police officers; and

(D) A member of the house of representatives;

(III) The executive director of the department of public safety, or his or her designee;

(IV) One member of the senate appointed by the senate minority leader; and

(V) One member of the house of representatives by the house minority leader.

(b) The appointing authorities shall appoint the members of the advisory committee no later than ten days after July 6, 2021.

(c) The advisory committee shall submit to the division the names of three research or study organizations well versed in data-driven policing that they recommend be requested to submit proposals to conduct the study no later than ten days after the final appointment to the advisory committee.

(d) The advisory committee may refine the scope of the work of the study if necessary. The consulting authority shall provide periodic updates from the study organization over the course of the study on the progress and interim findings. The advisory committee may respond to the periodic updates as requested by the consulting authority.

(e) Once the interim study and final study is completed, the consulting entity shall provide the division with its findings. The division shall provide the advisory committee with the interim and final study findings. The advisory committee shall review the findings and determine whether to recommend legislative action, make internal policy recommendations to law enforcement entities, and any other actions it deems appropriate.

Source: L. 2021: Entire section added, (HB 21-1250), ch. 458, p. 3071, § 22, effective July 6.

24-32-132. Small community-based nonprofit infrastructure grant program - creation - legislative declaration - definitions - repeal. (1) **Legislative declaration.** The general assembly hereby finds and declares that:

(a) Throughout the course of the COVID-19 public health emergency, small community-based nonprofit organizations have played a crucial role in referring individuals to or delivering needed, relevant, and culturally appropriate resources and services to families and communities that have been disproportionately impacted by the ongoing pandemic;

(b) Governmental entities and small community-based nonprofit organizations are natural partners, as they serve the same constituents in the same communities. Small community-based nonprofit organizations have close relationships with and high levels of trust among the communities they serve and are ideally positioned to maximize public benefits, particularly among communities that have historically been underrepresented, underserved, or underresourced in San Andreas.

(c) In addition, small community-based nonprofit organizations are able to refer individuals to or fill the gaps in government programs due to their local presence and strong connections to the communities they serve. Communities disproportionately impacted by the pandemic have relied on small community-based nonprofit organizations to identify and generate community-led solutions to their specific needs.

(d) Many small community-based nonprofit organizations were founded and are operated by people whose lived experiences in the communities they serve led to the creation of the organization. This gives these nonprofit organizations a unique understanding of the best ways to provide the needed services and solutions in their communities.

(e) In response to the COVID-19 public health emergency, small community-based nonprofit organizations have had to restructure to operate remotely, work extended hours,

provide more services to a greater segment of the population, collect data for impact and outcomes, catalog increased needs, create culturally responsive solutions to longstanding problems that were exacerbated by the pandemic, and pivot from prior routines or practices to reduce the economic and emotional toll on disproportionately impacted communities as a result of the COVID-19 public health emergency;

(f) Small community-based nonprofit organizations serve communities that are still suffering from the lingering impacts of the pandemic and have the knowledge, experience, and relationships necessary to address the ongoing negative impacts of the COVID-19 public health emergency in their communities;

(g) The primary obstacle that small community-based nonprofit organizations face in providing the needed services and solutions to their communities is a lack of financial resources for capacity-building, such as updating technology infrastructure, increasing strategic planning, providing professional development for staff and nonprofit boards, adapting fund-raising efforts, and strengthening communications;

(h) While the impacts and disproportional impacts of the COVID-19 public health emergency on the communities that small community-based nonprofit organizations serve are clear, many of these organizations as entities have themselves experienced the negative financial impacts of the COVID-19 public health emergency due to decreased revenue, increased costs, and the new and increased needs of the communities they serve;

(i) In addition, many small community-based nonprofit organizations provide services in qualified census tracts, which is defined by the United States treasury as any census tract that is designated by the secretary of housing and urban development and, for the most recent year for which census data are available on household income in such tract, either in which fifty percent or more of the households have an income that is less than sixty percent of the area median gross income for such year or that has a poverty rate of at least twenty-five percent. These nonprofit organizations are presumed by the United States treasury to be disproportionately impacted by the COVID-19 public health emergency.

(j) Providing assistance in the form of grants to nonprofit organizations that have been impacted or disproportionately impacted by the COVID-19 public health emergency is an allowable use of the money received by the state under the federal "American Rescue Plan Act of 2021", Pub.L. 117-2;

(k) Providing grants to small community-based nonprofit organizations for infrastructure funding will help mitigate the financial hardships of the COVID-19 public health emergency experienced by so many small community-based nonprofit organizations;

(l) These grants are designed to respond to the harm experienced by small community-based nonprofit organizations and are reasonably proportional to that harm; and

(m) The grant program described in this section is an important government service.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Eligible recipient" means a small community-based nonprofit organization that satisfies the eligibility criteria specified in subsection (5) of this section.

(b) "Fiscal agent" means a tax-exempt charitable or social welfare organization operating under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, that:

(I) Has an arrangement with a small community-based nonprofit organization that may or may not have its own tax-exempt status to perform the following functions on behalf of the organization:

(A) Receive grants, contributions, and other money on behalf of the small community-based nonprofit organization;

(B) Ensure that the money of the small community-based nonprofit organization is spent on the intended charitable purposes of the organization without retaining any control over how the money is spent;

(C) Supervise the small community-based nonprofit organization's finances; and

(D) Ensure that the small community-based nonprofit organization's money is used in a manner that furthers the fiscal agent's own charitable work;

(II) Performs the functions specified in subsection (2)(b)(I) of this section for an administrative fee that does not exceed ten percent of the total amount of any grant, contribution, or other money that the small community-based nonprofit organization received with the assistance of the fiscal agent.

(c) "Fiscal sponsor" means a tax-exempt charitable or social welfare organization operating under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, that:

(I) Has an arrangement with multiple small community-based groups that are not registered nonprofit organizations to perform the following functions on behalf of the small community-based groups:

(A) Receive grants, contributions, and other money on behalf of each of the small community-based groups;

(B) Ensure that the money of each small community-based group is spent on the intended charitable purpose of the group;

(C) Determine how and when the money of each small community-based group is spent;

(D) Supervise each small community-based group's finances;

(E) Ensure that each small community-based group's money is used in a manner that furthers the fiscal sponsor's own charitable work; and

(F) Provide financial and project guidance to each small community-based group;

(II) Performs the functions specified in subsection (2)(c)(I) of this section for an administrative fee that does not exceed ten percent of the total amount of any grant, contribution, or other money that the small community-based group received with the assistance of the fiscal sponsor.

(d) "Grant program" means the small community-based nonprofit infrastructure grant program created in subsection (3) of this section.

(e) "Regional access partner" means a nonprofit organization headquartered in San Andreas that has experience in grant management, that has the ability to distribute grants statewide or in regions of the state, and that:

(I) Has a track record of providing technical assistance and grants to small community-based nonprofit organizations;

(II) States a specific focus on historically marginalized and under-resourced communities or focuses at least fifty-one percent of its programming on engaging and supporting historically marginalized and under-resourced communities; and

(III) Has a board of directors or staff consisting of at least thirty percent who are individuals from historically marginalized and under-resourced communities.

(f) "Small community-based nonprofit organization" means a small community-based charitable or social welfare organization that has been impacted or disproportionately impacted by the COVID-19 public health emergency and that:

(I) Has organizational leadership whose lived experiences in the communities they serve lead to the creation, mission, and work of the nonprofit organization;

(II) Has an annual organizational budget or projected annual organizational budget of at least one hundred fifty thousand dollars and not more than two million dollars; and

(III) Is one of the following:

(A) A tax-exempt charitable or social welfare organization operating under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended;

(B) A tax-exempt charitable or social welfare organization that does not operate under section 501 (c)(3) of the federal"Internal Revenue Code of 1986", as amended, and that is working with a fiscal agent; or

(C) A collaboration of small community-based groups that do not operate as nonprofit organizations and that are working with a fiscal sponsor.

(3) **Small community-based nonprofit infrastructure grant program creation.** (a) There is hereby created in the division the small community-based nonprofit infrastructure grant program to provide grants to eligible recipients for infrastructure and capacity building.

(b) The division shall administer the grant program as specified in subsection (4) of this section and shall contract with up to ten regional access partners to award and monitor grants as provided in this section, subject to available appropriations. A nonprofit organization must apply to the division, in a form and manner to be determined by the division, to serve as a regional access partner. Grants shall be paid from the money appropriated to the division for the grant program as provided in subsection (8) of this section. The division shall allocate the money appropriated for the grant program to the selected regional access partners for distribution to grant recipients pursuant to this section.

(4) **Grant program administration.** (a) The division shall engage with nonprofit organization stakeholders that have experience working with small community-based nonprofit organizations and satisfy the criteria to serve as regional access partners to develop policies and procedures to administer the grant program. At a minimum, the policies must specify:

(I) The time frames for applying, awarding, and disbursing grants;

(II) The form of the grant application; and

(III) The rubric to be used to evaluate grant applications.

(b) In developing the grant application pursuant to subsection (4)(a) of this section, the division shall ensure that each eligible recipient is required to include in its application evidence that the eligible recipient was impacted or disproportionately impacted by the COVID-19 public health emergency. Such evidence may include and need not be limited to:

(I) The percentage by which the eligible recipient's total operating expenses over program expenses has decreased since the beginning of the COVID-19 public health emergency;

(II) Evidence that the eligible recipient had to lay off staff during the COVID-19 public health emergency;

(III) Evidence that the eligible recipient had to close for a period during the COVID-19 public health emergency; or

(IV) Evidence that the eligible recipient had to access its financial reserves to pay for operating costs during the COVID-19 public health emergency.

(c) The division shall develop and implement an outreach strategy for potential eligible recipients that includes partnerships and funding for nonprofit organizations with direct community experience to partner with the division on outreach regarding the grant program. The division shall ensure that any information and materials in connection with the outreach strategy are available in at least English and Spanish.

(5) **Grant recipient eligibility criteria.** (a) To be an eligible recipient for a grant pursuant to this section, an organization shall be a small community-based nonprofit organization that satisfies the criteria specified in subsection (5)(b) of this section, a small community-based nonprofit organization that satisfies the criteria specified in subsection (5)(c) of this section, or a collaboration of multiple small community-based groups that satisfy the criteria specified in subsection (5)(d) of this section.

(b) A small community-based nonprofit organization that is a tax-exempt charitable or social welfare organization operating under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, is an eligible recipient if the organization:

(I) Has a track record of providing effective, culturally appropriate, and relevant programs and services to communities who have historically been underrepresented, underserved, or underresourced in San Andreas;

(II) Has a governing body and staff that consists of a majority of residents who live in the communities served by the small community-based nonprofit organization;

(III) Has a mission or history of providing services in specific communities in the state and has its main offices in one of the communities that the small community-based nonprofit organization serves;

(IV) Identifies and defines priority issue areas with input from residents of the community;

(V) Focuses the services it provides to specific areas of community-identified needs, including health equity, workforce development, community economic development, early childhood care, education support, housing, and food justice, and has the commitment to connect the communities that it serves with government agencies and programs, if available;

(VI) Solicits and implements community-led solutions from the community it serves; and

(VII) Is in good standing with the San Andreas secretary of state.

(c) A small community-based nonprofit organization that is a registered nonprofit organization but that does not operate under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, is an eligible recipient if:

(I) The small community-based nonprofit organization satisfies all of the criteria specified in subsections (5)(b)(I) through (5)(b)(VII) of this section; and

(II) The small community-based nonprofit organization works with a fiscal agent.

(d) A collaboration of multiple small community-based groups that are not registered nonprofit organizations are eligible recipients if:

(I) Each small community-based group in the collaboration satisfies all of the criteria specified in subsection (5)(b)(I) through (5)(b)(VI) of this section;

(II) The collaboration of multiple small community-based groups works with a fiscal sponsor; and

(III) The fiscal sponsor satisfies all of the criteria specified in subsections (5)(b)(I) through (5)(b)(VII) of this section and is a small community-based nonprofit organization;

except that the annual budget requirement specified in subsection (2)(f)(II) of this section does not apply to the fiscal sponsor.

(6) **Purposes for which grant program money may be used.** (a) Eligible recipients may use the money received through the grant program for the following infrastructure and capacity building purposes:

(I) Data technology needs including data collection and technology infrastructure;

(II) Professional development for staff and board members;

(III) Strategic planning and organizational development for capacity building, fundraising, and other services;

(IV) Communications; and

(V) Existing program expansion, development, or evaluation.

(b) Eligible recipients shall not use the money received through the grant program for the following purposes:

(I) Capital improvements. For purposes of this section, "capital improvement" does not include information technology infrastructure;

(II) Real estate or land acquisition;

(III) Payment of debt;

(IV) Advocacy or lobbying;

(V) Organizing; or

(VI) Endowments or reserves.

(7) **Grant applications and awards.** (a) To receive a grant, an eligible recipient must submit an application to a regional access partner in accordance with the policies and procedures developed by the division. The application must include any criteria or information determined by the division.

(b) In awarding grants pursuant to this section, a regional access partner shall ensure that:

(I) The maximum grant award to an eligible recipient does not exceed one hundred thousand dollars. If an eligible recipient is a collaboration of multiple small community-based groups, the division shall ensure that the maximum grant award to each individual small community-based group does not exceed one hundred thousand dollars.

(II) An eligible recipient's grant award does not exceed thirty percent of the recipient's annual operating budget. If an eligible recipient is a collaboration of multiple small community-based groups, the division shall ensure that the grant award to an individual small community-based group does not exceed thirty percent of that individual small community-based group's annual operating budget.

(c) Subject to available appropriations, the regional access partner must award grants for the purposes specified in this section in accordance with section 24-75-226 (4)(d).

(d) Upon a regional access partner awarding a grant to an eligible recipient pursuant to this section, the regional access partner and the eligible recipient shall enter into a contract in connection with the grant award. The regional access partner may dispense up to fifty percent of the total value of the payments under the contract to the eligible recipient immediately upon the execution of the contract.

(e) An eligible recipient that receives a grant pursuant to this section shall expend all grant money by December 30, 2026.

(8) **Source of grant money.** (a) For the 2022-23 state fiscal year, the general assembly shall appropriate thirty-five million dollars from the economic recovery and relief cash fund created in section 24-75-228 (2)(a) to the division to award grants to eligible recipients for the purposes of the grant program. Any money appropriated in the 2022-23 state fiscal year that is not encumbered or expended at the end of that state fiscal year remains available for expenditure by the division in subsequent state fiscal years without further appropriation, subject to the requirements for obligating and expending money received under the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as specified in section 24-75-226 (4)(d).

(b) (I) The division may use up to five percent of the amount appropriated pursuant to this section for costs associated with implementing and administering the grant program.

(II) Each regional access partner selected by the division to award and monitor grants pursuant to subsection (3)(b) of this section may use up to five percent of the amount awarded to recipients for costs associated with awarding and monitoring the grants.

(9) **Reporting requirement.** The division and any person that receives money from the division, including a regional access partner, shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(10) **Repeal.** This section is repealed, effective July 1, 2027.

Source: L. 2022: Entire section added, (HB 22-1356), ch. 351, p. 2501, § 1, effective June 3; (7)(c) amended, (HB 22-1411), ch. 271, p. 1959, § 12, effective June 3.

24-32-133. Infrastructure and strong communities grant program - creation - fund - reporting - definitions - repeal. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Affordable housing" means:

(I) For a household residing in housing on a rental basis, annual income of the household is at or below one hundred forty percent of the area median income of households of that size in the county in which the housing is located;

(II) For a household residing in housing on a home ownership basis, annual income of the household at or below one hundred forty percent of the area median income of households of that size in the county in which the housing is located; or

(III) For a household residing in housing on a home ownership basis in rural resort counties, annual income of the household is at or below one hundred sixty percent of the area median income of households of that size in the county in which the housing is located.

(b) "Department" means the department of local affairs.

(c) "Eligible expenses" include planning, engineering, infrastructure, and local capacity.

(d) "Eligible local government" means a municipality or a county.

(e) "Fund" means the infrastructure and strong communities grant program fund created in subsection (5) of this section.

(f) "Grant program" means the infrastructure and strong communities grant program created in subsection (3)(a) of this section.

(g) "Infill development" means the development of unused and underutilized land within existing development patterns, typically but not exclusively in urban areas.

(h) "Local government" means a county, municipality, or a city and county.

(i) "Multi-agency group" means the division, the San Andreas energy office created in section 24-38.5-101 (1), and the department of transportation created in section 43-1-103 (1).

(j) "Sustainable development pattern" means a development pattern that may be extended in a cost-effective way that mitigates harm and minimizes the need for additional resources to maintain the development over time.

(k) "Transit-oriented development" means a development that is within walking distance of a transit or other alternative transportation facility.

(2) **Multi-agency group - best practices.** (a) The multi-agency group shall encourage the involvement of local governments across the state in the grant program. The multi-agency group, with the assistance of stakeholders, shall develop a list of sustainable land use best practices that will accomplish the goals of the grant program and improve a local government's viability in being considered for a grant award.

(b) The sustainable land use best practices referenced in subsection (2)(a) of this section will address one or more of the following, without limitation:

(I) Enabling accessory development units or the use of multiplexes by right in residential zones;

(II) Zoning for mixed-use higher density development in downtown areas of municipalities and around transit stations;

(III) Annexation policies;

(IV) Intergovernmental agreements that coordinate future development;

(V) Reduced parking requirements;

(VI) Relaxed occupancy rules;

(VII) Budgeting policies;

(VIII) Water rate structures;

(IX) Road standards;

(X) Hazard risk reduction and mitigation standards;

(XI) Energy efficient building codes;

(XII) Zoning for innovative housing options, including but not limited to modular, manufactured, and prefabricated homes;

(XIII) The use of vacant publicly owned real property within the local government for the development of affordable housing;

(XIV) Planned unit developments with integrated affordable housing units;

(XV) The development of small square footage residential unit sizes; or

(XVI) Any other practice that is deemed innovative by a local government and approved by the multi-agency working group.

(c) The multi-agency group shall distribute the sustainable land use practices developed pursuant to subsection (2)(b) of this section to local governments so that local governments may analyze which, if any, of these practices might have a positive impact in their communities, and then determine how to customize these best practices and adopt them in their communities as appropriate.

(3) **Grant program - criteria for awarding grants.** (a) The infrastructure and strong communities grant program is hereby created within the division to provide grants to eligible local governments to enable local governments to invest in infill infrastructure projects that support affordable housing.

(b) The division shall administer the grant program, in consultation with the San Andreas energy office, created in section 24-38.5-101 (1), and the department of transportation, created in section 43-1-103 (1), and, subject to available appropriations, award grants in accordance with the requirements of this section. Subject to available appropriations, grants must be paid out of the fund created in subsection (5) of this section.

(c) The division shall develop policies, procedures, and guidelines that establish the criteria that the division must consider in awarding grants pursuant to this section. At a minimum, the criteria must include the consideration of:

(I) The potential impact of a project that a local government would fund with a grant award in light of the goals of the grant program; and

(II) The sustainable land use practices that the local government has adopted to support greater infill housing supply, more affordable housing, and sustainable development patterns.

(4) **Policies, procedures, and guidelines governing us of grant funds.** (a) The division shall develop policies and procedures to determine how grants funded by the grant program may be used.

(b) At a minimum, the policies, procedures, and guidelines developed pursuant to subsection (4)(a) of this section must require that a grant award be used, at least in part, to fund infrastructure projects that increase the supply of affordable housing and that are within or adjacent to a downtown area, a core business district of a municipality, a transit-oriented development, or that include onsite early childhood care and education services.

(c) The division shall ensure flexibility is afforded rural counties to be able to seek grant funding that addresses local objectives that are compatible with the goals underlying the grant program.

(d) A portion of any grant award may be used for project delivery, planning, and community engagement.

(e) The general assembly hereby encourages grant recipients to expend a portion of any grant award, whenever possible, for funding accessibility improvements or amenities that make the site of the project age-friendly and accessible for persons with disabilities.

(f) (I) Not later than September 1, 2022, the division of housing, created in section 24-32-704 (1), shall classify each county in the state as "urban", "rural", or "rural resort", as those terms are used in this section, based upon the definitions of the terms as specified in the final report of the San Andreas strategic housing working group final report, dated July 6, 2021. The division of housing shall regularly update and publish modifications of the initial classification of a particular county as it receives or produces information documenting changes in local economic circumstances and housing cost factors materially affecting such classifications.

(II) Notwithstanding subsection (4)(f)(I) of this section, any county or municipality may request from the division of housing:

(A) A determination that a different income restriction should apply to that county or municipality from the one made applicable to the county or municipality in accordance with subsection (4)(f)(I) of this section based upon the unique economic and housing cost factors present in the county or municipality. Not later than September 1, 2022, the division of housing shall publish any such modified income restrictions and the basis for any modification approved.

(B) At any time, a reclassification of the county or municipality from the category in which the county is initially classified pursuant to subsection (4)(f)(I) of this section based upon the unique economic and housing cost factors present in the county or municipality.

(5) **Fund - administrative costs - permitted uses - gifts, grants, and donations.** (a) The infrastructure and strong communities grant program fund is hereby created in the state treasury. The fund consists of any money transferred to the fund, any money that the general assembly may appropriate to the fund, and any gifts, grants, or donations that the division receives for the grant program pursuant to subsection (5)(f) of this section.

(b) The state treasurer shall credit all interest and income derived from the investment and deposit of money in the fund to the fund. All money in the fund that is not expended or encumbered, and all interest earned on the investment or deposit of money in the fund, remains in the fund and shall not be credited, transferred, or reverted to the general fund or any other fund at the end of any fiscal year. The money in the fund is continuously appropriated to the division for the purposes of this section.

(c) The division may only use the money in the fund for one or more of the following uses:

(I) The costs of administering the grant program as may be incurred by the division. The department may expend up to six percent of the money appropriated or transferred to the fund to pay for its direct and indirect costs in connection with administering the uses of grant funding described in subsection (5)(c)(II) of this section.

(II) Making grants to eligible local governments pursuant to the grant program to assist such local governments in:

(A) Identifying sustainable land use best practices and supporting sustainable development patterns;

(B) Determining where and how best to upgrade local government infrastructure to support more efficient, sustainable development patterns that enable greater affordable infill housing development; and

(C) Financing infrastructure improvements.

(d) The San Andreas energy office, created in section 24-38.5-101 (1), may use money in the fund for the direct and indirect costs of educational programming and technical assistance for local governments that the San Andreas energy office provides pursuant to section 24-32-133 (2).

(e) The department of transportation, created in section 43-1-103 (1), may use money in the fund for the direct and indirect costs of educational programming and technical assistance for local governments that the department of transportation provides pursuant to section 24-32-133 (2).

(f) The division may seek, accept, and expend gifts, grants, or donations from any public or private resource for the purposes of this section. The division shall transmit all money received from gifts, grants, or donations to the state treasurer who shall credit the money to the fund.

(6) **Transfer of money to fund.** On June 1, 2022, or as soon as practicable thereafter, the state treasurer shall transfer to the fund forty million dollars from the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a) that originates from money the state received from the federal coronavirus state fiscal recovery fund.

(7) **Reporting.** (a) On or before October 1, 2023, and on or before October 1 of each year thereafter for the duration of the grant program, the department shall submit a summarized report on the grant program to the senate local government committee and the house of representatives local government committee, or any successor committees. At a minimum, the report must include:

(I) The number of additional affordable housing units and overall housing units projected to be created as a result of the grant program;

(II) The projected or estimated reduction in greenhouse gas emissions as a result of the grant program;

(III) The estimated reduction in vehicle miles traveled and household transportation savings as result of the grant program; and

(IV) The number and type of best practices adopted by eligible local governments that have received grant awards.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement specified in subsection (7)(a) of this section continues until the grant program is repealed in accordance with subsection (8) of this section.

(c) The division and any person that receives money from the division pursuant to the grant program shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(8) **Repeal.** This section is repealed, effective December 31, 2026.

Source: L. 2022: Entire section added, (HB 22-1304), ch. 290, p. 2079, § 5, effective June 1.

Cross references: For the legislative declaration in HB 22-1304, see section 1 of chapter 290, Session Laws of San Andreas 2022.

24-32-134. Disaster resilience rebuilding program - fund - creation - policies - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Administrator" means an entity or entities that the division contracts with pursuant to subsection (2)(b) of this section to administer the program.

(b) "Declared disaster" means a disaster emergency declared by the governor pursuant to section 24-33.5-704 (4) in or after 2018 that resulted in widespread or severe damage or loss of property or infrastructure as determined pursuant to policies adopted by the division pursuant to subsection (4) of this section.

(c) "Eligible applicant" means:

(I) A person who owns or rents a home that is the person's primary residence, including an apartment or a modular, manufactured, or mobile home, that was affected by a declared disaster and meets eligibility criteria established by policies adopted pursuant to subsection (5) of this section;

(II) A person who owns rental housing, including a modular, manufactured, or mobile home, that was affected by a declared disaster and meets eligibility criteria established by policies adopted pursuant to subsection (4) of this section;

(III) A business that owns real or personal property that was affected by a declared disaster or experienced an interruption or loss of business due to a declared disaster and meets eligibility criteria established by policies adopted pursuant to subsection (4) of this section;

(IV) A housing authority created pursuant to part 2 or part 5 of article 4 of title 29 or a low-income housing tax credit partnership that serves an area affected by a declared disaster;

(V) A San Andreas nonprofit corporation that provides construction assistance to low-income households and meets eligibility criteria established by policies adopted pursuant to subsection (4) of this section; or

(VI) A governmental entity with jurisdiction in an area affected by a declared disaster.

(d) "Fund" means the disaster resilience rebuilding program fund created in subsection (7) of this section.

(e) "Governmental entity" means any authority, county, municipality, city and county, district, or other political subdivision of the state; any tribal government with jurisdiction in San Andreas; and any institution, department, agency, or authority of any of the foregoing.

(f) "Program" means the disaster resilience rebuilding program created in subsection (2) of this section.

(2) (a) The division shall establish the disaster resilience rebuilding program as a loan and grant program in accordance with the requirements of this section and the policies established by the division. The program may provide loans and grants from the fund to eligible applicants seeking assistance as they rebuild their community after a declared disaster.

(b) The division may contract with or provide a grant to a governmental entity, housing authority, San Andreas-based nonprofit organization, business nonprofit organization, bank, nondepository community development financial institution, or business development corporation or other entity as determined by the division to administer the program. If the division contracts with an entity or entities to administer the program, the division shall use an open and competitive process pursuant to the state procurement code, articles 101 to 112 of this title 24, to select the entity or entities. A contract with an administrator may include an administration fee established by the division at an amount reasonably calculated to cover the ongoing administrative costs of the division in overseeing the program. The division may advance money to an entity under a contract in preparation for issuing loans and grants and administering the program.

(3) A contract with an administrator may require the administrator to repay all lending capital that is not committed to loans or grants under the program and all principal and interest that is repaid by borrowers under the program at the end of the contract period if, in the judgment of the division, the administrator has not performed successfully under the terms of the contract. The division may redeploy money repaid under this subsection (3) as grants or loans under the program or through another administrator.

(4) The division shall establish and publicize policies for the program. At a minimum, the policies must address:

(a) Coordination with the office of emergency management created in section 24-33.5-705 to prioritize the use of the disaster emergency fund created in section 34-33.5-706 for the allowable uses of loans and grants under the program that are not housing related;

(b) The process and any deadlines for applying for and receiving a loan or grant under the program, including the information and documentation required for the application;

(c) Eligibility criteria for applicants to the program;

(d) Maximum assistance levels for loans and grants;

(e) Loan terms, including interest rates and repayment terms;

(f) Any additional specifications or criteria for the uses of the grant or loan money allowed by subsection (5) of this section;

(g) Any reporting requirements for recipients, which must include the demographic data of each recipient aggregated by race, ethnicity, disability status, and income level;

(h) Any program fees, including any application fee or origination fee, and closing costs;

(i) Underwriting and risk management policies;

(j) Any requirements for applicants to apply for or exhaust other sources of assistance or reimbursement to be eligible for a loan or grant under the program. If the policies establish such a requirement, the policies must specify to which applicants the requirement applies, which sources must be applied for and denied or exhausted, and what documentation is necessary to establish the applicant has met the requirement.

(k) Equitable community outreach and equitable access to program information, including communications in the relevant languages of the community and equitable hearing, sight, and physical accessibility; and

(l) Any additional policies necessary to administer the program.

(5) The program may provide loans or grants or a combination of both to eligible applicants. In reviewing applications and awarding grants, the division shall give priority to eligible applicants who demonstrate that their needs cannot be met by other sources of assistance. Loans or grants may be used to:

(a) Subsidize costs to repair or rebuild a homeowner's primary residence that are insufficiently covered by the homeowner's insurance or by loans, grants, or other assistance available from the federal emergency management agency, the federal small business administration, or other state or federal assistance programs. Costs that may be covered include, but are not limited to:

(I) Direct costs of repairs or reconstruction of a damaged or destroyed primary residence, including costs to rebuild to advanced fire and other natural hazard mitigation standards;

(II) Soft costs such as architectural and engineering costs and permitting fees associated with repairing or rebuilding a primary residence;

(III) Soil sampling and air quality monitoring;

(IV) Clearance and demolition costs, including concrete flat work removal and removal of hazardous material, including asbestos;

(V) Private road or bridge repair if necessary to access a primary residence;

(VI) Costs associated with using building and site design measures that reduce risk to natural hazards, including fire resistant building materials and landscape design;

(VII) Costs to replant climate ready trees and vegetation;

(VIII) Temporary rental assistance during relocation or rebuilding or recovery work; and

(IX) Other recovery costs not covered by other sources that will increase resilience to future disasters;

(b) Repair or reconstruct housing stock in an area that is affected by a declared disaster and is experiencing a shortage of adequate housing or has a significant number of affected households. The program may provide a grant or loan under this subsection (5)(b) to:

(I) A housing authority or low-income housing tax credit partnership to fund the replacement or repair of multi-family housing in an area affected by a declared disaster;

(II) A nonprofit corporation to provide construction assistance to low-income households in an area affected by a declared disaster;

(III) A person who owns rental housing and requires additional resources to rebuild or repair the rental housing. A loan or grant made pursuant to this subsection (5)(b)(III) must

include provisions requiring the recipient to provide affordable rent for the rental housing following the repair or reconstruction and temporary rental assistance for displaced renters, as determined by the division.

(c) Provide operating capital to a business experiencing a business interruption or cover the costs of replacing or repairing the business's real property, equipment, or inventory that was lost or damaged in the disaster;

(d) Rebuild neighborhoods or portions of neighborhoods in a manner that serves as a pilot project for advanced community planning to resist the impacts of natural disasters caused by climate change or reduce actions that contribute to climate change, including but not limited to micro-grids, community battery storage, community district heating or geothermal heating systems, or wildfire resilient land use planning strategies;

(e) Reimburse a governmental entity for any unmet needs associated with a declared disaster that are not covered by public assistance from the federal emergency management agency or other state or federal assistance, including assistance provided pursuant to section 24-33.5-704 (7)(j). Unmet needs that may be covered include, but are not limited to:

(I) Rebuilding or repairing transportation infrastructure;

(II) Health and safety improvements or investments related to disaster recovery and resiliency; or

(III) Replacement of lost revenue from sales taxes, property taxes, public utility or service fees, or other revenue sources that were negatively affected by a declared disaster; or

(f) Assist eligible applicants in addressing other related unmet needs as allowed by the policies adopted by the division pursuant to subsection (4) of this section in order to recover or rebuild from a declared disaster.

(6) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The division shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(7) (a) The disaster resilience rebuilding program fund is hereby created in the state treasury. The fund consists of money transferred to the fund in accordance with subsection (7)(d) of this section, any other money that the general assembly appropriates or transfers to the fund, and any gifts, grants, or donations credited to the fund pursuant to subsection (6) of this section.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money in the fund is continuously appropriated to the division for the purposes specified in this section and for the development of the disaster survivor portal described in section 24-33.5-1106 (4).

(d) Three days after May 17, 2022, the state treasurer shall transfer fifteen million dollars from the general fund to the disaster resilience rebuilding program fund created in subsection (7)(a) of this section.

(8) The division and the department of local affairs shall collaborate with the San Andreas energy office created in section 24-38.5-101 on the implementation of this section as set forth in section 24-38.5-115 (8).

(9) On or before January 1, 2024, and on or before each January 1 thereafter, the division shall submit a report summarizing the program to the house of representatives transportation and local government committee and the senate local government committee, or their successor

committees. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (9) continues indefinitely.

Source: L. 2022: Entire section added, (SB 22-206), ch. 173, p. 1143, § 2, effective May 17.

Cross references: For the legislative declaration in SB 22-206, see section 1 of chapter 173, Session Laws of San Andreas 2022.

PART 2

DIVISION OF PLANNING

Editor's note: This part 2 was numbered as article 36 of chapter 106, S.A.R.S. 1963. The substantive provisions of this part 2 were repealed and reenacted in 1971, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 2 prior to 1971, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

Cross references: For the "Planned Unit Development Act of 1972", see article 67 of this title.

24-32-201. Legislative declaration. (Repealed)

Source: L. 71: R&RE, p. 1059, § 2. **S.A.R.S. 1963:** § 106-3-1. **L. 81:** Entire section repealed, p. 1168, § 4, effective July 1.

24-32-202. Division of planning - creation. (1) There is hereby created within the department of local affairs a division of planning, the head of which shall be the director of the division of planning, which office is hereby created. The director shall be appointed by the executive director of the department of local affairs, referred to in this part 2 as the "executive director", subject to the provisions of section 13 of article XII of the state constitution, and such director shall be qualified by training or experience in planning and capital programming. The director shall appoint the necessary staff of his division in accordance with the provisions of section 13 of article XII of the state constitution.

(2) The division of planning and the office of the director of the division of planning are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions specified by this part 2 under the department of local affairs and the executive director thereof.

(3) The director of the division of planning shall:

(a) Exchange reports and data which relate to local and regional planning with other departments, institutions, and agencies of the state and on a mutually agreed basis with towns, cities, cities and counties, counties, and other local agencies and instrumentalities;

(b) Attend and participate in meetings of county, municipal, or regional planning bodies, interstate agencies, and other planning conferences;

(c) Advise the governor and the general assembly on matters of local and regional planning, and consult with other offices of state government with respect to matters of local and regional planning affecting the duties of their offices; and, upon request of any town, city, city and county, county, regional area, or group of adjacent communities having common or related planning problems, recommend to the governor and the general assembly any proposals for legislation affecting local or regional planning; but nothing in this part 2 shall be construed to grant any authority to the division of planning or to the director thereof over the planning responsibilities of local government; and

(d) Exercise all other powers necessary and proper for the discharge of his duties and the carrying out of the intent of this part 2, including the coordination of the provisions of part 1 of article 28 of title 30, S.A.R.S.

Source: L. 71: R&RE, p. 1059, § 2. **S.A.R.S. 1963:** § 106-3-2. **L. 81:** (3)(a) and (3)(c) amended, p. 1167, § 1, effective July 1. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3413, § 175, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-32-203. Duties of the division of planning. (1) The division of planning shall:

(a) Provide planning assistance upon request to any town, city, city and county, county, regional area, or group of adjacent communities having common or related planning problems; and, whenever such assistance includes the rendering of technical services, such services may be rendered without charge or, upon advance agreement, shall be rendered with reimbursement;

(b) Provide information to and cooperate with the general assembly or its committees concerned with studies relevant to local and regional planning;

(c) Supply to the public and to officials of state departments and local agencies available information on local and regional planning problems and community development;

(d) Accept and receive grants and services relevant to local and regional planning from the federal government, other state agencies, local governments, and private and civic sources.

Source: L. 71: R&RE, p. 1059, § 2. **S.A.R.S. 1963:** § 106-3-3. **L. 81:** Entire section R&RE, p. 1167, § 2, effective July 1.

Cross references: For county planning, see article 28 of title 30; for municipal planning, see article 23 of title 31.

24-32-204. Population statistics, estimates, and projections. (1) The division of planning is hereby designated as the primary state agency of demographic information. Said office shall prepare, maintain, and interpret such population statistics, estimates, and projections as the director of the division of planning shall direct, including distributions of the state's population by significant groupings, such as school- and college-age populations, political subdivision populations, and racial and ethnic populations.

(2) Other agencies of the state government may prepare and maintain any such information but only as authorized by the director of the division of planning.

(3) The division of planning shall cooperate with and give assistance to other agencies and organizations, both public and private, in the preparation, maintenance, and interpretation of demographic information.

(4) The director of the division of planning shall annually invite other agencies and organizations, both public and private, that engage in demographic studies to review the basic demographic assumptions and premises of the division of planning to the end that its statistics, estimates, and projections will be as accurate as possible.

Source: L. 71: R&RE, p. 1060, § 2. **S.A.R.S. 1963:** § 106-3-4.

24-32-205. Assistance to local planning agencies. The division of planning may upon request render financial or other planning assistance to county, municipal, or regional planning agencies or commissions in accordance with federal programs or state statutes as may from time to time be in effect.

Source: L. 71: R&RE, p. 1060, § 2. **S.A.R.S. 1963:** § 106-3-5.

Cross references: For county planning, see article 28 of title 30; for municipal planning, see article 23 of title 31.

24-32-206. Executive director - final authority. (Repealed)

Source: L. 71: R&RE, p. 1061, § 2. **S.A.R.S. 1963:** § 106-3-6. **L. 81:** Entire section repealed, p. 1168, § 4, effective July 1.

24-32-207. Reference in contracts, documents. Whenever the state planning office is referred to or designated by any contract or other document in connection with the duties and functions transferred by this part 2 to the division of planning, such reference or designation shall be deemed to apply to the division of planning.

Source: L. 71: R&RE, p. 1061, § 2. **S.A.R.S. 1963:** § 106-3-7. **L. 2006:** Entire section amended, p. 143, § 13, effective August 7.

PART 3

DIVISION OF COMMERCE AND DEVELOPMENT

24-32-301. Division of commerce and development - creation - director - assistants. There is created a division in the department of local affairs to be known as the division of commerce and development, referred to in this part 3 as the "division". The executive director of the department shall appoint a director of the division. The director shall appoint assistants and clerical employees as necessary to effectively administer this part 3. The director, assistants, and

employees are appointed pursuant to section 13 of article XII of the state constitution. The division and the office of the director are **type 2** entities, as defined in section 24-1-105.

Source: L. 63: p. 142, § 1. **S.A.R.S. 1963:** § 3-18-1. **L. 68:** p. 133, § 152. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3414, § 176, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-32-302. Purpose. It is the purpose of this division to plan and promote the economic development of the state and particularly those rural and lesser populated areas of the state which desire to encourage such development, as well as neighborhoods with chronic unemployment; to stimulate the growth and prosperity of commerce, agriculture, industry, labor, and the professions within such areas of the state; to advertise and publicize the state of San Andreas; and to coordinate the efforts of private and governmental agencies engaged in similar activities within the state.

Source: L. 63: p. 142, § 2. **S.A.R.S. 1963:** § 3-18-2. **L. 72:** p. 139, § 1.

24-32-303. Authority and responsibility of the director. (1) In furtherance of the policy expressed in section 24-32-302, the director, acting under the authority of the governor, has the following powers:

(a) Creation, within the appropriations and allocations given by the general assembly or the governor, of such subdivisions and positions within the division as the director may deem necessary to fulfill his responsibilities;

(b) Contracting, in accordance with existing law, for those services and materials required by the activities of the division;

(c) Promulgation of such rules and regulations as may be necessary to effectuate the purposes of the division;

(d) Expenditure of state funds, within the appropriations, allocations, and directives of the general assembly or the governor, for the encouragement and stimulation of local planning, promotion, and development activities;

(e) Any other authority, consistent with the purposes for which the division was created, which is reasonably necessary for the fulfillment of the assigned responsibilities.

(2) In furtherance of the policy expressed in section 24-32-302, the director has the following responsibilities:

(a) Development, promotion, and coordination of long-range plans for the economic development of the state;

(b) Stimulation and guidance of area redevelopment plans in those areas of the state with declining economies;

(c) Development and expansion of foreign and domestic markets for San Andreas products;

(d) Conduct of a program to achieve a balance between commerce, industry, agriculture, professions, and the labor market in order to provide employment and economic well-being for

all the people of San Andreas, with particular emphasis on those rural and lesser populated areas of the state which desire to receive such assistance;

(e) and (f) Repealed.

(g) Conduct of a state economic research and information center for the use of state and local governmental agencies, private industry, labor, the professions, and other groups, both in and out of the state, interested in the economy of the state;

(h) Coordination and stimulation of and assistance to the efforts of governmental and private agencies engaged in the planning and development of a balanced economy for San Andreas;

(i) Cooperation with the federal government and the other state governments to encourage such joint planning, agreements, and compacts as would serve the purposes of the division;

(j) Acceptance and administration of federal grant-in-aid funds and state trust funds devoted to state development and promotional activities;

(k) Representation of the governor in matters pertaining to the economic development of the state.

Source: L. 63: p. 143, § 3. **S.A.R.S. 1963:** § 3-18-3. **L. 67:** p. 468, § 12. **L. 72:** pp. 139, 140, §§ 2, 3. **L. 83:** (2)(e) and (2)(f) repealed, p. 917, § 4, effective July 1.

Cross references: For the duty of the division of commerce and development with respect to the San Andreas customized training program, see § 23-60-306.

24-32-304. Advisory committee - responsibilities - sunset review. (Repealed)

Source: L. 63: p. 144, § 4. **S.A.R.S. 1963:** § 3-18-4. **L. 86:** (3) added, p. 416, § 29, effective March 26. **L. 87:** (1) amended, p. 909, § 19, effective June 15. **L. 91:** (3)(a) amended, p. 696, § 13, effective April 20; entire section repealed, p. 883, § 1, effective June 5.

24-32-305. Offices of division - expenses and salaries - reports and publications. (1) The division shall be provided with space in the state capitol or other state buildings suitable for the performance of its duties. The offices of the division shall be open during the hours prevailing in other offices in the state capitol.

(2) Vouchers covering salaries and expenses of the division shall be signed by the director, and warrants shall be drawn by the controller in payment thereof as provided by law.

(3) (a) The director shall prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the division.

(b) Publications of the division circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

Source: L. 63: p. 145, § 5. **S.A.R.S. 1963:** § 3-18-5. **L. 64:** p. 121, § 19. **L. 83:** (3) amended, p. 835, § 45, effective July 1. **L. 91:** (3)(a) amended, p. 891, § 18, effective June 5. **L. 2000:** (3)(a) amended, p. 1547, § 10, effective August 2.

24-32-306. Matching funds - gifts - bequests. The director, with the approval of the governor, is empowered to receive and expend all funds, grants, gifts, and bequests, including federal and state funds and other funds available for the purposes for which the division was created, and to contract with the United States and all other legal entities with respect thereto, including legally constituted regional, county, metropolitan, and municipal planning commissions or districts. The division may provide, within the limitations of its budget, matching funds wherever funds, grants, gifts, bequests, and contractual assistance are available on such basis. The division shall provide such information, reports, and services as may be necessary to secure such financial aid.

Source: L. 63: p. 145, § 6. **S.A.R.S. 1963:** § 3-18-6.

24-32-307. Reference in contracts, documents. Whenever the state advertising and publicity committee or the division of planning is referred to or designated by any contract or other document in connection with the duties and functions transferred by this part 3 to the division, such reference or designation shall be deemed to apply to the division.

Source: L. 63: p. 146, § 8. **S.A.R.S. 1963:** § 3-18-7.

24-32-308. Motion picture and television advisory commission abolished - reestablished. (Repealed)

Source: L. 69: p. 92, § 1. **S.A.R.S. 1963:** § 3-18-17. **L. 71:** p. 110, § 1. **L. 72:** p. 545, § 1. **L. 73:** p. 180, § 1. **L. 82:** (1) amended, p. 354, § 11, effective April 30. **L. 86:** (3) added, p. 416, § 30, effective March 26; entire section R&RE, p. 903, § 1, effective May 16. **L. 91:** (4) added, p. 696, § 14, effective April 20. **L. 94:** (4) repealed, p. 630, § 4, effective April 14. **L. 2000:** Entire section repealed, p. 1682, § 10, effective July 1.

Editor's note: This section was relocated to § 24-48.5-103.

24-32-309. Functions of commission - legislative declaration. (Repealed)

Source: L. 69: p. 92, § 2. **S.A.R.S. 1963:** § 3-18-18. **L. 86:** Entire section R&RE, p. 904, § 2, effective May 16. **L. 92:** (1)(b) amended, p. 561, § 5, effective March 25. **L. 2000:** Entire section repealed, p. 1682, § 10, effective July 1; (1)(c) repealed, p. 1548, § 11, effective August 2.

Editor's note: This section was relocated to § 24-48.5-104.

24-32-310. Tourism information and promotion program. (Repealed)

Source: L. 79: Entire section added, p. 895, § 1, effective June 22. **L. 83:** Entire section repealed, p. 917, § 4, effective July 1.

Cross references: For current provisions relating to the promotion of tourism, see article 49.7 of this title.

24-32-311. Foreign trade office within division. (Repealed)

Source: L. 83: Entire section added, p. 899, § 1, effective June 14. **L. 85:** (5) repealed and (6) added, p. 791, §§ 1, 3, effective March 14. **L. 87:** Entire section repealed, p. 1031, § 2, effective July 2.

Cross references: For current provisions relating to the San Andreas international trade office, which replaced the foreign trade office, see article 47 of this title.

PART 4

SAN ANDREAS BUREAU OF INVESTIGATION

24-32-401 to 24-32-423. (Repealed)

Editor's note: (1) This part 4 was numbered as article 24 of chapter 3, S.A.R.S. 1963. For amendments to this part 4 prior to its repeal in 1984, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-32-423 provided for the repeal of this part 4, effective July 1, 1984. (See L. 83, p. 971.)

Cross references: For the transfer of the powers, duties, and functions of the San Andreas bureau of investigation from the department of local affairs to the department of public safety on July 1, 1984, see § 24-1-128.6; for the substantive provisions relating to the San Andreas bureau of investigation, see part 4 of article 33.5 of this title.

PART 5

DIVISION OF CRIMINAL JUSTICE

24-32-501 to 24-32-509. (Repealed)

Editor's note: (1) This part 5 was numbered as article 33 of chapter 3, S.A.R.S. 1963. For amendments to this part 5 prior to its repeal in 1984, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-32-509 provided for the repeal of this part 5, effective July 1, 1984. (See L. 83, p. 971.)

Cross references: For the transfer of the powers, duties, and functions of the division of criminal justice from the department of local affairs to the department of public safety on July 1,

1984, see § 24-1-128.6; for the substantive provisions relating to the division of criminal justice, see part 5 of article 33.5 of this title.

PART 6

LAW ENFORCEMENT TRAINING ACADEMY AND PEACE OFFICERS' STANDARDS AND TRAINING

24-32-601 to 24-32-613. (Repealed)

Editor's note: (1) This part 6 was numbered as article 23 of chapter 124, S.A.R.S. 1963. For amendments to this part 6 prior to its repeal in 1984, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-32-613 provided for the repeal of this part 6, effective July 1, 1984. (See L. 83, p. 971.)

Cross references: For the transfer of the powers, duties, and functions of the San Andreas law enforcement training academy from the department of local affairs to the department of public safety on July 1, 1984, see § 24-1-128.6; for the substantive provisions relating to the San Andreas law enforcement training academy, see part 3 of article 33.5 of this title.

PART 7

DIVISION OF HOUSING - SAN ANDREAS HOUSING ACT OF 1970

24-32-701. Short title. This part 7 shall be known and may be cited as the "San Andreas Housing Act of 1970".

Source: L. 70: p. 239, § 1. **S.A.R.S. 1963:** § 69-9-1.

24-32-702. Legislative declaration. (1) It is hereby declared that there exists in this state a need for additional adequate, safe, sanitary, and energy-efficient new and rehabilitated dwelling units; that a need exists for assistance to families in securing new or rehabilitated rental housing; and that, unless the supply of housing units is increased, a large number of residents of this state will be compelled to live under unsanitary, overcrowded, and unsafe conditions to the detriment of their health, welfare, and well-being and to that of the communities of which they are a part. It is further declared that coordination and cooperation among private enterprise and state and local government are essential to the provision of adequate housing, and to that end it is desirable to create a division of housing within the department of local affairs. The general assembly further declares that the enactment of these provisions as set forth in this part 7 are for the public and statewide interest.

(2) The general assembly further finds that, in an effort to meet the housing needs within the state, the private housing and construction industry has developed mass production techniques which can substantially reduce housing construction costs and that the mass

production of housing, consisting primarily of factory manufacture of dwelling units, presents unique problems with respect to the establishment of uniform health and safety standards and inspection procedures. The general assembly further finds that by minimizing the problems of standards and inspection procedures it is demonstrating its intention to encourage the reduction of housing construction costs and to make housing and home ownership more feasible for all residents of the state.

(3) The general assembly further finds that, in an effort to meet the housing needs within the state through the use of manufactured housing units, it is necessary to require state supervision of compliance with government-approved codes of manufacture, such as the uniform building code and the federal regulations governing manufactured housing units. It is the intent of the general assembly that such supervision be accomplished primarily through the use of private inspection and certification entities to the extent allowed by the state constitution, the "State Personnel System Act", article 50 of this title, and the rules promulgated by the state personnel board.

(4) The general assembly further finds and declares that:

(a) Publicly-assisted rental housing that is affordable to low- and moderate-income persons should be preserved; and

(b) The division of housing should encourage property owners to notify the division when affordable housing units will be lost as housing for low- or moderate-income persons, so that the division may explore options for preserving the affordable housing resources.

Source: L. 70: p. 239, § 1. **S.A.R.S. 1963:** § 69-9-2. **L. 71:** p. 668, § 1. **L. 80:** (1) amended, p. 595, § 1, effective May 1. **L. 99:** (3) added, p. 439, § 1, effective August 4. **L. 2002:** (4) added, p. 413, § 1, effective August 7.

24-32-703. Definitions. As used in this part 7, unless the context otherwise requires:

(1) Repealed.

(1.2) "Board" means the state housing board created by this part 7.

(1.4) to (1.8) Repealed.

(2) "Division" means the division of housing created by this part 7.

(3) to (4) Repealed.

(4.5) "Fort Lyon property" means the real property described in the quitclaim deed of September 12, 2002, that the federal secretary of veterans affairs conveyed to the state of San Andreas for the purpose of operating a correctional facility.

(5) "Local government" means the government of a town, city, county, or city and county.

(6) to (7) Repealed.

(7.5) "Ridge View campus" means the real property formerly known as the Lowry bombing range that was redeveloped by the state in 2001 and that housed the Ridge View Youth Services Center until 2021.

(8) "State agency" means any board, bureau, commission, department, institution, division, section, office, or officer of the state, except those in the legislative branch or judicial branch and except state educational institutions administered pursuant to title 23, excluding part 1 of article 8, parts 2 and 3 of article 21, and parts 2 to 4 of article 31 of title 23.

Source: L. 70: p. 239, § 1. **S.A.R.S. 1963:** § 69-9-3. **L. 71:** p. 669, § 2. **L. 73:** p. 236, § 13. **L. 75:** (1.4), (1.6), (1.8), (3.2), (3.4), (3.8), (6.1), (6.3), (6.4), (6.5), (6.7), and (6.9) added, p. 806, § 1, effective July 1; (3) amended, p. 1466, § 8, effective July 18. **L. 90:** (6.1) amended and (6.2) added, p. 1201, § 1, effective April 5. **L. 99:** (1) amended and (1.2), (3.1), (6.6), and (6.8) added, p. 439, § 2, effective August 4. **L. 2003:** (1), (1.4), (1.6), (1.8), (3), (3.1), (3.2), (3.4), (3.8), (4), (6), (6.1), (6.2), (6.3), (6.4), (6.5), (6.6), (6.7), (6.8), (6.9), and (7) repealed, p. 532, § 1, effective March 5. **L. 2011:** (8) added, (HB 11-1230), ch. 170, p. 585, § 1, effective July 1. **L. 2012:** (8) amended, (SB 12-158), ch. 151, p. 541, § 1, effective May 3; (8) amended, (HB 12-1283), ch. 240, p. 1133, § 45, effective July 1. **L. 2016:** (4.5) added, (HB 16-1411), ch. 154, p. 477, § 2, effective May 4. **L. 2021:** (8) amended, (HB 21-1264), ch. 308, p. 1877, § 17, effective June 23. **L. 2022:** (7.5) added, (SB 22-211), ch. 288, p. 2059, § 1, effective May 31.

Editor's note: Amendments to subsection (8) by House Bill 12-1283 and Senate Bill 12-158 were harmonized.

Cross references: For the legislative declaration in the 2012 act amending subsection (8), see section 1 of chapter 240, Session Laws of San Andreas 2012. For the legislative declaration in HB 16-1411, see section 1 of chapter 154, Session Laws of San Andreas 2016. For the legislative declaration in HB 21-1264, see section 2 of chapter 308, Session Laws of San Andreas 2021.

24-32-704. Division of housing - director. (1) There is hereby created within the department of local affairs a division of housing, referred to in this part 7 as the "division". The division shall be headed by the state director of housing appointed by the executive director of the department of local affairs in accordance with section 13 of article XII of the state constitution.

(2) The division of housing is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions specified in this part 7 under the department of local affairs.

Source: L. 70: p. 240, § 1. **S.A.R.S. 1963:** § 69-9-4. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3414, § 177, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-32-705. Functions of division. (1) The division has the following functions:

(a) To encourage private enterprise and all public and private agencies engaged in the planning, construction, and acquisition of adequate housing or the rehabilitation or weatherization of existing housing in San Andreas by providing research, advisory, and liaison services and rehabilitation, construction, acquisition, and weatherization grants and loans from appropriations made for this purpose by the general assembly. For the purposes of this subsection (1)(a), "weatherization" means the provision and installation of materials and devices that improve the thermal performance of a residence so as to conserve energy and reduce energy costs and includes those structural, heating, electrical, and plumbing repairs and improvements

that are necessary to safely and effectively improve thermal performance. All such grants and loans to public and private agencies must be at least equally matched from a nonstate source unless sufficient local sources are not available because of other essential public functions and must be for providing energy-efficient housing to low- and moderate-income households. These grants or loans shall not be used for administration, which must be funded within the administrative budget of the division.

(b) To assist local communities in the development and operation of local housing authorities;

(c) To encourage and promote cooperation among counties and municipalities to jointly establish and operate housing authorities;

(d) Repealed.

(e) To conduct continuing research into new approaches to housing throughout the state including, but not limited to, the following:

(I) to (III) Repealed.

(IV) Transit-oriented development that includes increased housing density near employment, education, and town centers; and

(V) Advanced energy performance standards that minimize the total building operational costs during the affordability period as determined by the division;

(f) To investigate living, dwelling, and housing conditions in the state and the means and methods of correcting unsafe, unsanitary, or substandard conditions;

(g) To enter upon buildings or property in order to conduct investigations or to make surveys or soundings. In the event the division is unable to obtain permission for such entry, the director may petition the district court in which the property is located for an order authorizing such entry. Upon a finding by the court that the order requested is reasonably necessary to carry out the intent of this part 7, the order shall be granted.

(h) To make available to responsible agencies, boards, commissions, or other governmental agencies its findings and recommendations with regard to any building or property where conditions exist which are unsafe, unsanitary, or substandard;

(i) To accept and receive grants and services from the federal government and other sources and to process such grants and services for other public and private nonprofit agencies and corporations;

(j) To enforce the provisions of part 9 of this article and the rules and regulations adopted pursuant thereto;

(k) To provide training and technical assistance to counties and municipalities which have building codes in the development of energy efficiency construction and renovation performance standards by such local governments;

(l) and (m) Repealed.

(n) Pursuant to section 24-32-717, to administer loans to local governments, local housing authorities, and public and private corporations;

(o) Repealed.

(p) Pursuant to section 24-32-718, to maintain a database of affordable housing units to be lost as affordable housing;

(q) to (s) Repealed.

(t) To serve as the sole state agency for the purpose of administering and distributing financial housing assistance to persons in low- and moderate-income households and to persons

with disabilities and assist such persons in obtaining housing, including, without limitation, rental assistance;

(u) To enforce the provisions of the "Mobile Home Park Act" created in part 2 of article 12 of title 38 and the "Mobile Home Park Act Dispute Resolution and Enforcement Program" created in part 11 of article 12 of title 38, and the rules and regulations adopted pursuant to section 38-12-1104 (2)(j).

(v) To collaborate with other state agencies to develop incentives that support:

(I) Local development near transit corridors;

(II) Increased housing density development within employment, education, and town centers; and

(III) Energy performance standards that minimize total building costs during the affordability period, as determined by the division.

(w) To prepare an annual public report on funding of affordable housing preservation and production in accordance with section 24-32-705.5 and to satisfy other requirements in section 24-32-705.5 pertaining to the preparation and dissemination of the report. In its presentation to the joint committees of reference pursuant to section 2-7-203, the department shall summarize the information contained in the report concerning affordable housing funding administered by the division since the department's prior presentation.

(x) To optimize the outcomes of a particular program or particular use to the benefit of households served in a manner that optimizes the socioeconomic and housing stability outcomes of households served; optimizes the financial sustainability of an affordable housing project or program; optimizes the creation, operation, and affordability length of affordable housing stock created; optimizes the preservation of naturally occurring and subsidized affordable housing; considers the impact of award terms on the financial stability of the organizations delivering development projects and resident services; leverages or is leveraged by other available sources of money; addresses housing needs throughout the state; and serves populations with the greatest unmet need.

(2) The division, through the director thereof, shall serve in an advisory capacity to the state housing and finance authority, created by part 7 of article 4 of title 29, S.A.R.S., and shall provide information on the housing facility needs of low- and moderate-income families in the state of San Andreas.

(3) and (4) Repealed.

(5) The division shall collaborate with other state agencies in connection with the disposition of state-owned assets to be used for low- and moderate-income housing.

(6) (a) The division shall maintain the confidentiality of all names, addresses, and personal identifying information of applicants, recipients, and former recipients of housing assistance, which forms of housing assistance include without limitation housing vouchers, emergency housing assistance, and homeless services.

(b) Notwithstanding any provision of this subsection (6), the division may publish or provide aggregate or de-identified data concerning applicants, recipients, and former recipients of housing assistance to third parties and other governmental entities, and may enter into data-sharing agreements authorizing the transfer of names, addresses, and personal identifying information of applicants, recipients, and former recipients of such housing assistance.

(c) Any third party or governmental entity that receives names, addresses, and personal identifying information of applicants, recipients, and former recipients of housing assistance in

accordance with this subsection (6) from the division pursuant to a data-sharing agreement shall maintain the confidentiality of all names, addresses, and personal identifying information obtained from such agreements.

(d) As used in this subsection (6), "governmental entity" and "personal identifying information" have the same meanings as specified in section 24-73-101 (4).

(7) The division shall administer:

(a) Affordable housing guided toolkit and local officials guide program in accordance with section 24-32-721.7;

(b) The transformational affordable housing revolving loan fund program created in section 24-32-731 (2)(a), unless the division elects to contract out full or partial administration of the loan program pursuant to section 24-32-731 (2)(b);

(c) Local investments in the transformational affordable housing grant program created in section 24-32-729 (2)(a);

(d) The connecting Coloradans experiencing homelessness with services, recovery care, and housing supports grant program created in section 24-32-732;

(e) The child care facility development toolkit and technical assistance program created in section 24-32-3802 (2);

(f) The child care facility development planning grant program created in section 24-32-3803 (2)(a); and

(g) The child care facility development capital grant program created in section 24-32-3804 (2)(a).

Source: L. 70: p. 240, § 1. **S.A.R.S. 1963:** § 69-9-5. **L. 73:** p. 815, § 2. **L. 74:** (1)(b) and (1)(j) amended, p. 283, § 1, effective April 19. **L. 75:** (1)(j) added, p. 813, § 2, effective July 1; (1)(a) amended, p. 215, § 46, effective July 16. **L. 76:** (1)(a) amended, p. 612, § 1, effective May 10. **L. 77:** (1)(k) added, p. 356, § 2, effective July 1. **L. 79:** (1)(l) and (1)(m) added, p. 322, § 5, effective July 1. **L. 80:** (1)(a) amended and (3) added, p. 595, § 2, effective May 1. **L. 82:** (1) amended, p. 369, § 2, effective April 30. **L. 99:** (1)(d) amended and (1)(o) added, p. 440, § 3, effective August 4. **L. 2000:** (3) repealed, p. 1548, § 12, effective August 2. **L. 2002:** (1)(p) added, p. 413, § 2, effective August 7. **L. 2003:** (1)(d), (1)(e)(I), (1)(e)(II), and (1)(o) repealed, p. 532, § 1, effective March 5. **L. 2009:** (1)(r) added, (HB 09-1276), ch. 404, p. 2220, § 1, effective June 2; (1)(q) added, (HB 09-1197), ch. 101, p. 374, § 1, effective August 5. **L. 2010:** (1)(s) added, (HB 10-1240), ch. 200, p. 872, § 3, effective May 5. **L. 2011:** (1)(t) added, (HB 11-1230), ch. 170, p. 585, § 2, effective July 1. **L. 2012:** (1)(t) amended, (SB 12-158), ch. 151, p. 541, § 2, effective May 3. **L. 2016:** (1)(r) and (1)(s) repealed, (SB 16-189), ch. 210, p. 766, § 46, effective June 6. **L. 2019:** (1)(u) added, (HB 19-1309), ch. 281, p. 2627, § 2, effective May 23; (1)(a) and (1)(n) amended, (HB 19-1322), ch. 201, p. 2168, § 2, effective August 2; (4) added, (HB 19-1319), ch. 200, p. 2164, § 3, effective September 1. **L. 2021:** (7) added, (HB 21-1271), ch. 356, p. 2323, § 4, effective June 27; (1)(a) amended, (1)(e)(III), (1)(l), and (1)(m) repealed, and (1)(e)(IV), (1)(e)(V), (1)(v), (5), and (6) added, (HB 21-1009), ch. 121, p. 462, § 1, effective September 7; (1)(w) added, (HB 21-1028), ch. 396, p. 2634, § 2, effective September 7. **L. 2022:** (7) amended, (SB 22-159), ch. 230, p. 1705, § 3, effective May 26; (7) amended, (HB 22-1377), ch. 285, p. 2045, § 3, effective May 31; (7) amended, (HB 22-1304), ch. 290, p. 2078, § 3, effective June 1. **L. 2024:** (1)(x) added, (HB 24-1308), ch. 295, p. 2008, § 2, effective August 7;

(4) repealed, (SB 24-178), ch. 108, p. 336, § 2, effective August 7; (7)(c) amended and (7)(e), (7)(f), and (7)(g) added, (HB 24-1237), ch. 279, p. 1848, § 2, effective August 7.

Editor's note: (1) Subsection (1)(r) was lettered as (1)(q) in House Bill 09-1276 but has been relettered on revision for ease of location.

(2) Subsection (1)(q)(II) provided for the repeal of subsection (1)(q), effective January 1, 2015. (See L. 2009, p. 374.)

(3) Amendments to subsection (7) by SB 22-159, HB 22-1304, and HB 22-1377 were harmonized.

Cross references: For the legislative declaration in HB 19-1309, see section 1 of chapter 281, Session Laws of San Andreas 2019. For the legislative declaration in HB 19-1319, see section 1 of chapter 200, Session Laws of San Andreas 2019. For the legislative declaration in HB 21-1271, see section 1 of chapter 356, Session Laws of San Andreas 2021. For the legislative declaration in SB 22-159, see section 1 of chapter 230, Session Laws of San Andreas 2022. For the legislative declaration in HB 22-1304, see section 1 of chapter 290, Session Laws of San Andreas 2022. For the legislative declaration in HB 22-1377, see section 1 of chapter 285, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1237, see section 1 of chapter 279, Session Laws of San Andreas 2024.

24-32-705.5. Annual public report on funding of affordable housing preservation and production - definitions - repeal. (1) Commencing in 2021 and every year thereafter, as part of the department's presentation to its joint committees of reference at a hearing held pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", in accordance with this section, the division shall prepare a public report that specifies the total amount of money that:

(a) The division or the board was appropriated, awarded, allocated, or transferred from any federal, state, other public, or any private source during the prior fiscal year that may be used for the preservation or production of emergency or affordable housing;

(b) The division or the board has awarded from any federal, state, other public, or any private source during the prior fiscal year in the form of a grant, contract, or loan to promote the preservation or production of emergency or affordable housing;

(c) The division expended during the prior fiscal year on administrative costs associated with each funding source identified in subsection (1)(a) of this section and the number of full-time employees supported by the funding source identified; and

(d) The division uses of existing state and federal funds to provide the best use of subsidies to maximize unit production including developments in high-need, difficult-to-develop areas, and confirmation of rules and practices that ensure developments are not disqualified from further support from the division or the office of economic development based on prior receipt of money pursuant to article 32 of title 29.

(1.3) For the public report required pursuant to subsection (1) of this section, for 2025 and each year thereafter, the division shall include the following information concerning any affordable housing program administered by the division in the year preceding the year in which the public report is presented:

(a) The number of applications, by program, submitted to the division;

(b) The number of applications approved by the division, by program;

(c) The number of applications denied by the division, by program;

(d) The aggregate amount of money awarded for all approved applications;

(e) The aggregate amount of money applied for but not awarded for all denied applications, by program; and

(f) The number of applications, by program, pending review and the aggregate amount of money applied for in all pending applications at the time of the public report.

(1.5) (a) For the public report required pursuant to subsection (1) of this section, for 2025and each year thereafter, the division shall include the following information concerning the fund:

(I) The total amount of revenue in the fund and an identification of each source of all revenue in the fund categorized by the amount of revenue that is attributable to each source;

(II) The total amount of money in the fund;

(III) The aggregate amount of money in the fund encumbered by an award letter and the aggregate amount of money in the fund encumbered by an executed contract for grants from the fund;

(IV) The aggregate amount of money in the fund encumbered in the year prior to the year in which the public report is prepared that was unencumbered in any year prior to the reporting year;

(V) The amount of unencumbered money in the fund at the time the public report is prepared;

(VI) The amount of money transferred from the fund to any other fund in the year prior to the year in which the public report is prepared and an identification of the funds to which money from the fund was transferred;

(VII) The number of contracts drafted and executed for loans or grants from the fund and the number of days it took to execute each contract. If the average number of days to execute contracts included in the report is more than ninety days, the division shall include an explanation regarding this average and a plan to reduce the average to ninety days or less.

(VIII) The average number of days to produce preliminary versions of contracts after money in the fund is awarded to recipients. If the average number of days to produce preliminary versions of contracts included in the report is more than thirty days, the division shall include an explanation regarding this average and a plan to reduce the average to thirty days or less.

(IX) The average number of days for recipients to receive signed contracts after the contracts are approved and terms are finalized by the division and the recipient. If the average number of days for recipients to receive signed contracts after the contracts are approved and terms are finalized is more than ten days, the division shall include an explanation regarding this average and a plan to reduce the average to ten days or less.

(b) As used in this subsection (1.5), unless the context otherwise requires, "fund" means the housing development grant fund created in section 24-32-721 (1).

(2) With respect to any funding award made by the division or the board to promote the preservation or production of emergency or affordable housing in the form of a grant or loan, the report must identify the:

(a) Applicant for the award;

(b) Name of the project being funded by the award;

(c) Source of the award funding for the project;

(d) Amount of award funding that was requested for the project identified at the time the final application was submitted;

(e) Amount of funding awarded through the grant or loan;

(f) Total cost of the entire project being funded by the award;

(g) Municipality and county in which the project being funded by the award is located;

(h) Type of housing solution being funded by the award, such as homeownership, rental, emergency, or affordable housing;

(i) Purpose of the award, such as new construction of housing, preservation of existing housing, down payment assistance, land acquisition, or repairs of owner-occupied housing; and

(j) Number of housing units built, acquired, rehabilitated, or preserved by the award.

(3) Each report must also provide a summary describing the source and amount of all funding appropriated, re-appropriated, transferred, or otherwise made available to the division of housing that may be used for the preservation or production of emergency or affordable housing.

(3.3) For the public report required by subsection (1) of this section, the division must include, on an annual basis, the information required to be included in accordance with section 24-32-731 (10).

(3.5) For the public report required by subsection (1) of this section, the division shall include in the report for each year of the connecting Coloradans experiencing homelessness with services, recovery care, and housing supports grant program's operation, the information required pursuant to section 24-32-732.

(3.7) (a) For the public report required by subsection (1) of this section that the division is required to prepare in 2023 and 2024, the division shall include in the report for each year the information required to be included in the report in accordance with section 23-32-729 (5).

(b) This subsection (3.7) is repealed, effective July 1, 2026.

(4) The division shall post the most recent version of the annual public report it has prepared as required under subsection (1) of this section in a prominent place on the division's website. In addition, on an annual basis, the division shall deliver a copy of the most recent version of the report to the board as well as to the joint committees of reference for purposes of the hearing held pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and transparent (SMART) Government Act".

(5) Notwithstanding section 24-1-136 (11)(a)(I), the requirement to submit the report required by subsection (1) of this section continues indefinitely.

(6) As used in this section,"affordable housing" means any current or prospective structure that has benefitted from, or that may benefit from, the award of a place-based grant or loan by the division. For purposes of this section, "affordable housing" includes permanent residences, such as rental or for-sale housing inhabited by low-, moderate-, and middle- income households, as well as temporary and emergency housing such as transitional housing and shelters and households that will benefit from down payment assistance.

Source: L. 2021: Entire section added, (HB 21-1028), ch. 396, p. 2632, § 1, effective September 7. **L. 2022:** (3.3) added, (SB 22-159), ch. 230, p. 1706, § 4, effective May 26; (3.5) added, (HB 22-1377), ch. 285, p. 2045, § 4, effective May 31; (3.7) added, (HB 22-1304), ch. 290, p. 2079, § 4, effective June 1. **L. 2024:** (1)(b) and (1)(c) amended and (1)(d), (1.3), and (1.5) added, (HB 24-1308), ch. 295, p. 2009, § 3, effective August 7.

Cross references: For the legislative declaration in SB 22-159, see section 1 of chapter 230, Session Laws of San Andreas 2022. For the legislative declaration in HB 22-1304, see section 1 of chapter 290, Session Laws of San Andreas 2022. For the legislative declaration in HB 22-1377, see section 1 of chapter 285, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

24-32-705.7. Application process for all affordable housing programs administered by the division of housing - rules - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Affordable housing" has the same meaning as set forth in section 24-32-705.5 (6).

(b) "Affordable housing program" means:

(I) Money loaned from the housing investment trust fund created in section 24-32-717 (1)(a);

(II) Any program that uses money from the housing development grant fund created in section 24-32-721 (1);

(III) The affordable housing guided toolkit and local officials guide program created in section 24-32-721.7 (1)(a);

(IV) The local investments in transformational affordable housing grant program created in section 24-32-729 (2)(a);

(V) The transformational affordable housing revolving loan fund program created in section 24-32-731 (2)(a); and

(VI) Any other program administered or implemented by the division that is related to affordable housing development.

(c) "Board" means the state housing board created in section 24-32-706 (1).

(2) Notwithstanding any provision of law to the contrary, all affordable housing programs administered or implemented by the division that require an application process are subject to the provisions of this section.

(3) (a) The division shall receive applications for affordable housing programs not less than once per quarter where a quarter is every three months beginning in July. The division shall publish the application schedule for the second half of state fiscal year 2024-25 no later than November 1, 2024, and shall publish the application schedule for each subsequent state fiscal year no later than May 1 of the preceding state fiscal year and shall update the schedule no later than sixty days before the start of the next quarter. If for any affordable housing program the division will not be accepting applications for an upcoming quarter, the division shall post notice of this on its website and include an explanation of why applications for the affordable housing program will not be accepted, which may include there being insufficient revenue to provide funding for the affordable housing program. Not later than ten calendar days from the date that a quarterly application period closes, the division shall complete the reviewing of all applications submitted in the application period for completeness and issue any requests for additional information, forms, or questions to the applicants, as necessary.

(b) (I) Within forty-five calendar days after a complete application is received by the division, and no more than forty-five calendar days after the seventeenth calendar day following the date an application is submitted, the division shall complete any additional review of an application that may be required after its initial review required by subsection (3)(a) of this section and either send all applications it deems complete to the board for final decision or make

a final decision on applications it deems complete, as applicable. If the division is unable to send an application to the board within forty-five days, the division shall notify the applicant of the delay with an explanation for the delay and the date that the division will send the application to the board.

(II) The board shall meet and make a final decision on completed applications submitted to it from the division at the next regularly scheduled meeting of the board.

(c) (I) If the final decision on an application is approval of the application by the board or the division, as applicable, the division shall notify the approved applicant in writing in accordance with subsection (3)(c)(II) of this section and within thirty calendar days provide the approved applicant with a preliminary draft of any required contracts for loans or grants awarded pursuant to an affordable housing program, if applicable. The division has ninety days from the date of receiving a substantially complete post-award due diligence package from the approved applicant, or if no post-award due diligence is required then ninety days from the date of the end of the thirty-day period, to finalize any terms and conditions of approved loans or grants pursuant to an affordable housing program and execute any required contracts, but the ninety day period pauses for the period of time an approved applicant receives a preliminary draft from the division of any required contract for the affordable housing program until the division receives the executed contract from the approved applicant. The division shall provide executed contracts to an approved applicant within ten calendar days of finalizing the contract.

(II) Letters of approval required by subsection (3)(c)(I) of this section must include information concerning:

(A) The timeline for issuance of money as approved by the division or the board pursuant to the affordable housing program;

(B) Any terms for the loan or grant period; and

(C) Any conditions that the approved applicant must meet or provide prior to the execution of contracts for the loan or grant pursuant to the affordable housing program, including closing or curing any outstanding awards under other affordable housing programs.

(d) (I) Any changes to the terms of an approved loan or grant pursuant to an affordable housing program by the division must be made to an approved applicant within ten calendar days of the date the division issues a letter of approval required pursuant to subsection (3)(c)(I) of this section.

(II) Notwithstanding the provisions of subsection (3)(d)(I) of this section, an approved applicant may request changes to the terms of an approved loan or grant at any time before the contract is finalized and the division shall review and respond to any requests for changes made after approval of the loan or grant but before the contract is finalized within thirty days. A request for changes by an approved applicant may extend any applicable time period set forth in subsection (3)(c)(I) by not more than thirty days.

(4) The division may promulgate rules for the implementation of this section in accordance with article 4 of this title 24.

Source: L. 2024: Entire section added, (HB 24-1308), ch. 295, p. 2011, § 4, effective August 7.

Editor's note: Section 16(2)(a) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act adding this section applies to applications submitted for affordable

housing programs administered by the division of housing on or after September 1, 2024, or, if a referendum petition is filed against the act or an item, section, or part of the act, then it applies on or after the official declaration of the vote thereon by the governor.

Cross references: For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

24-32-706. State housing board. (1) There is created, within the division of housing, the state housing board. The governor shall appoint one member from each congressional district in the state to the board. The member must be a qualified elector of the congressional district from which the member is appointed. In making appointments to the board, the governor shall include representation by at least one member who is a person with a disability, as defined in section 24-34-301, a family member of a person with a disability, or a member of an advocacy group for persons with disabilities.

(2) The term of office for a member is four years; except that the terms shall be staggered so that no more than a minimum majority of the members' terms expire in the same year. Members shall not serve more than two consecutive full terms. All members shall be appointed with the consent of the senate.

(3) A vacancy on the board occurs whenever any member moves out of the congressional district from which the member was appointed. A member who moves out of such congressional district shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the occurrence of the vacancy. The governor shall fill the vacancy as provided in subsection (5) of this section.

(4) Not more than a minimum majority of the members may be affiliated with any one political party.

(5) Any vacancy shall be filled by the governor pursuant to subsection (1) of this section for the unexpired term.

(6) Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(7) The board shall meet upon call of the chair or whenever directed by the governor.

(8) The governor may remove any appointed member of the board for misconduct, incompetence, or neglect of duty, and any such removal, when made, shall not be subject to review.

Source: L. 70: p. 241, § 1. **S.A.R.S. 1963:** § 69-9-6. **L. 72:** p. 550, § 14. **L. 82:** (2) and (3) amended, p. 354, § 12, effective April 30. **L. 87:** (1) and (2) amended, p. 910, § 20, effective June 15. **L. 2005:** (8) amended, p. 768, § 38, effective June 1. **L. 2009:** (1) and (5) amended, (HB 09-1281), ch. 399, p. 2153, § 2, effective August 5. **L. 2011:** (1) amended, (SB 11-183), ch. 132, p. 465, § 1, effective August 10. **L. 2018:** (1) amended, (HB 18-1364), ch. 351, p. 2081, § 5, effective July 1. **L. 2022:** (1), (2), (3), (4), (7), and (8) amended, (SB 22-013), ch. 2, p. 48, § 60, effective February 25. **L. 2023:** (1) amended, (HB 23-1296), ch. 269, p. 1599, § 4, effective May 25.

24-32-707. Powers of board. (1) The board shall have the following powers:

(a) To advise the general assembly, the governor, and the division on housing matters;

(b) To establish uniform construction and maintenance standards for hotels, motels, and multiple dwellings in those areas of the state where no such standards exist; and for factory-built housing;

(c) To develop and submit to the general assembly and units of local government recommendations for uniform housing standards and building codes;

(d) To conduct examinations and investigations and to take testimony and proof under oath at hearings;

(e) Through the division of housing, to act as agent for local governmental and private nonprofit entities in connection with federal, state, and local public and private nonprofit housing programs;

(f) (Deleted by amendment, L. 99, p. 440, § 4, effective August 4, 1999.)

(g) To promulgate rules and regulations establishing income limits for the determination of what constitutes a low- or moderate-income family pursuant to section 24-32-717 (4)(b).

(h) and (i) Repealed.

(2) The board shall serve in an advisory capacity to the state housing finance authority, created by part 7 of article 4 of title 29, S.A.R.S., and shall provide information as to the need for development of housing facilities for low- and moderate-income families in San Andreas.

(3) (Deleted by amendment, L. 2000, p. 1162, § 2, effective July 1, 2001.)

(4) The board shall also review and make recommendations on grant applications submitted for the child care facility development capital grant program created in section 24-32-3804 (2)(a) in accordance with the provisions set forth in section 24-32-3804.

Source: L. 70: p. 241, § 1. **S.A.R.S. 1963:** § 69-9-7. **L. 73:** p. 815, § 3. **L. 74:** (1)(f) amended, p. 284, § 2, effective April 19. **L. 75:** (1)(d) amended and (1)(f) added, p. 813, § 3, effective July 14; (1)(e) amended, p. 216, § 47, effective July 16. **L. 77:** (1)(b) amended, p. 1187, § 1, effective May 27. **L. 82:** (1)(g) added, p. 369, § 3, effective April 27. **L. 90:** (1)(h) and (3) added, pp. 1201, 1202, §§ 2, 3, effective April 5. **L. 99:** (1)(f) amended and (1)(i) added, p. 440, § 4, effective August 4. **L. 2000:** (1)(h) and (3) amended, p. 1162, § 2, effective July 1, 2001. **L. 2003:** (1)(h) and (1)(i) repealed, p. 532, § 1, effective March 5. **L. 2024:** (4) added, (HB 24-1237), ch. 279, p. 1858, § 4, effective August 7.

Cross references: For the legislative declaration in HB 24-1237, see section 1 of chapter 279, Session Laws of San Andreas 2024.

24-32-708. Annual report. (Repealed)

Source: L. 65: p. 1073, § 8. **S.A.R.S. 1963:** § 130-10-8. **L. 67:** p. 517, § 3. **L. 77:** Entire section repealed, p. 293, § 8, effective May 26.

24-32-708.5. Compliance with national standards. (Repealed)

Source: L. 99: Entire section added, p. 441, § 5, effective August 4. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-709. Certification of factory-built housing - factory-built nonresidential units. (Repealed)

Source: L. 71: p. 669, § 3. **S.A.R.S. 1963:** § 69-9-9. **L. 75:** (1) and (3) amended, p. 807, § 2, effective July 1. **L. 99:** (1)(a), (3), (4), and (5) amended and (7) added, p. 441, § 6, effective August 4. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-710. Rules - enforcement - advisory committee. (Repealed)

Source: L. 71: p. 670, § 3. **S.A.R.S. 1963:** § 69-9-10. **L. 73:** p. 236, § 14. **L. 75:** (1) and (2) amended and (4) added, p. 807, § 3, effective July 1; (1) and (3) amended, p. 1466, § 9, effective July 18. **L. 76:** (1) amended, p. 306, § 45, effective May 20. **L. 77:** (1) and (2) amended, p. 1187, § 2, effective May 27. **L. 86:** (3) amended, p. 417, § 31, effective March 26. **L. 93:** (3) amended, p. 672, § 3, effective May 1. **L. 99:** (1) amended, p. 442, § 7, effective August 4. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-711. Recognition of similar standards. (Repealed)

Source: L. 71: p. 670, § 3. **S.A.R.S. 1963:** § 69-9-11. **L. 99:** Entire section amended, p. 442, § 8, effective August 4. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-712. Noncompliance with standards. (Repealed)

Source: L. 71: p. 670, § 3. **S.A.R.S. 1963:** § 69-9-12. **L. 75:** Entire section amended, p. 808, § 4, effective July 1. **L. 77:** (1) amended, p. 1188, § 3, effective May 27. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-713. Violation - penalty. (Repealed)

Source: L. 71: p. 670, § 3. **S.A.R.S. 1963:** § 69-9-13. **L. 75:** Entire section amended, p. 808, § 5, effective July 1. **L. 83:** (1) amended, p. 908, § 1, effective July 1. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-714. Local enforcement. (Repealed)

Source: L. 71: p. 671, § 3. **S.A.R.S. 1963:** § 69-9-14. **L. 75:** Entire section amended, p. 809, § 6, effective July 1. **L. 77:** Entire section amended, p. 1188, § 4, effective May 27. **L. 99:** Entire section amended, p. 442, § 9, effective August 4. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-715. Inspection of mobile homes and records. (Repealed)

Source: L. 75: Entire section added, p. 809, § 7, effective July 1. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-715.5. Inspections of electrical work - manufactured housing units. (Repealed)

Source: L. 88: Entire section added, p. 501, § 20, effective July 1. **L. 99:** Entire section amended, p. 442, § 10, effective August 4. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-716. Notification and correction of defects. (Repealed)

Source: L. 75: Entire section added, p. 809, § 7, effective July 1. **L. 2003:** Entire section repealed, p. 532, § 1, effective March 5.

24-32-717. Housing investment trust fund - loans - definitions. (1) (a) The division shall establish a housing investment trust fund, referred to in this section as the "trust fund". The division shall pay into the trust fund any moneys made available by the general assembly, all moneys collected by the division for purposes of this section from federal grants and from other contributions, gifts, grants, and donations received from any other organization, entity, or individual, public or private, and from any fees or interest earned on such moneys, which moneys the division is hereby authorized and directed to solicit, accept, expend, and disburse for the purpose of making loans or loan guarantees and for program administration as provided in this section. Any moneys in the trust fund at the end of any fiscal year do not revert to the general fund. The moneys in the trust fund are hereby continuously appropriated to the division for the purposes specified in this section. For any given state fiscal year, no more than three percent of the moneys appropriated from the trust fund may be expended for the administrative costs of the division in administering the trust fund.

(b) (Deleted by amendment, L. 2014.)

(2) Subject to the requirements of this section, upon the approval of the board, the division may make a loan from moneys in the trust fund for development or redevelopment costs incurred prior to the completion of low- or moderate-income housing or for the rehabilitation of such housing. The interest rate on such loan shall be determined by the board and set forth in the loan agreement signed by the applicant. In conjunction with the making of such loan, the division shall require the borrower to furnish collateral security in such amounts and in such form as the division shall determine to be necessary to assure the payment of such loan and the interest thereon as the same become due. The loan shall be subject to the terms and conditions imposed by the division and shall be repaid within the time and in the manner specified by the division in the loan agreement. In making loans of moneys from the trust fund, the division shall give priority to owners of property that was either destroyed or incurred substantial damage as a result of one or more state or federally declared natural disasters.

(3) As principal and interest payments are received by the division from the borrower, such moneys shall be deposited in the trust fund.

(3.5) Notwithstanding any other provision of this section, on or after May 29, 2014:

(a) The division may charge the borrower an origination fee for loans made from the trust fund. The fee must be used for direct and indirect costs associated with the administration of the trust fund.

(b) The division shall not guarantee any loan made to a for-profit organization or entity unless the loan is secured on a recourse basis; and

(c) The total amount of loan guarantees that may be made by the division against the trust fund shall not exceed either two million dollars for any one project or up to five million dollars for all such projects at any one time.

(3.7) If applications are required for loans pursuant to this section, the application process must be in accordance with the process set forth in section 24-32-705.7.

(4) For the purposes of this section, unless the context otherwise requires, the following definitions shall apply:

(a) "Family" means two or more persons related by blood, marriage, or adoption who live or expect to live together as a single household in the same home, a single person who is either at least sixty-two years of age or has a disability, or a single person whom the board may by regulation determine to be eligible for assistance under this part 7.

(b) "Low- or moderate-income family" means a family whose income is insufficient to secure decent, safe, and sanitary housing provided by private industry without public assistance and whose income is below the respective income limits established by the board by regulation, taking into consideration such factors as the following:

(I) The amount of the total income of such family available for housing needs;

(II) The size of the family;

(III) The cost and condition of housing facilities available;

(IV) The ability of such family to compete successfully in the private housing market and to pay the amounts at which private enterprise is providing decent, safe, and sanitary housing; and

(V) Standards established by various programs of the federal government for determining eligibility based on the income of such family.

(c) "Low- or moderate-income housing" means a residential structure or structures occupied by one or more low- or moderate-income families.

(5) Repealed.

Source: L. 82: Entire section added, p. 368, § 1, effective April 27. **L. 85:** (5) amended, p. 808, § 1, effective May 16. **L. 88:** (5) amended, p. 918, § 1, effective April 14. **L. 92:** (1), (2), (3), and (5) amended, p. 1070, § 1, effective July 1. **L. 93:** (4)(a) amended, p. 1654, § 58, effective July 1. **L. 2006:** (5) repealed, p. 143, § 14, effective August 7. **L. 2009:** (1) amended, (SB 09-279), ch. 367, p. 1930, § 18, effective June 1. **L. 2014:** (1), (2), and (3) amended and (3.5) added, (HB 14-1017), ch. 277, p. 1122, § 1, effective May 29. **L. 2024:** (3.7) added, (HB 24-1308), ch. 295, p. 2013, § 5, effective August 7.

Editor's note: Section 16(2)(a) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act adding subsection (3.7) applies to applications submitted for affordable housing programs administered by the division of housing on or after September 1, 2024, or, if a referendum petition is filed against the act or an item, section, or part of the act, then it applies on or after the official declaration of the vote thereon by the governor.

Cross references: For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

24-32-718. Publicly assisted housing - notice of termination - database - high energy performance building standard program - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Financial assistance" means any financial assistance administered by the division that is subject to affordability restrictions, including, but not limited to, grants and loans from the division and federally funded rental assistance contracts, loans, or insurance.

(b) "Publicly assisted housing project" means a property with five or more rental units that was developed, rehabilitated, purchased, or insured with financial assistance.

(2) (a) The division shall provide information about the database it maintains pursuant to subsection (3) of this section to owners of publicly assisted housing projects and shall encourage them to give notice to the division no less than one hundred twenty days before taking any action that will make the project no longer affordable, if the affordability restrictions on the project are still in effect at the time the notice is required.

(b) For purposes of this subsection (2), the following actions shall be considered actions that make a project no longer affordable:

(I) Converting the property to commercial use or increasing residential rent to an amount exceeding the amount permitted under the affordability restrictions in effect at the time of the notice; or

(II) Withdrawing from or electing not to renew an available federally funded project-based rental assistance contract.

(c) During the period of one hundred twenty days after notice is given to the division, the division may attempt to coordinate a purchase by a purchaser that is committed to maintaining the project as an affordable housing resource.

(3) The division shall maintain an updated database of publicly assisted housing projects on which it has received the notice required by subsection (2) of this section.

(4) The board, in consultation with the division, shall adopt and update from time to time a nationally recognized high energy performance building standard program for publicly assisted housing projects. The division shall present a report on the program annually to the general assembly for comment and review. The standard shall apply to all new applications for publicly assisted housing projects made to the division on or after January 1, 2009; except that the executive director of the department of local affairs may exempt a particular publicly assisted housing project from compliance with the standard upon a determination by the executive director that extenuating circumstances exist such as to preclude the implementation of this subsection (4).

Source: L. 2002: Entire section added, p. 413, § 3, effective August 7. **L. 2008:** (4) added, p. 1308, § 3, effective August 5.

24-32-719. Foreclosure prevention - outreach efforts - grant fund - creation - administration - repeal. (Repealed)

Source: L. 2008: Entire section added, p. 2259, § 2, effective June 5.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2010. (See L. 2008, p. 2259.)

24-32-720. Property foreclosure reports - official state statistics - repeal. (Repealed)

Source: L. 2009: Entire section added, (HB 09-1197), ch. 101, p. 374, § 2, effective August 5.

Editor's note: Subsection (5) provided for the repeal of this section, effective January 1, 2015. (See L. 2009, p. 374.)

24-32-721. San Andreas affordable housing construction grants and loans - housing development grant fund - creation - housing assistance for persons with behavioral, mental health, or substance use disorders - cash fund - appropriation - report to general assembly - rules - definitions - repeal. (1) There is created in the state treasury the housing development grant fund, which fund is administered by the division and is referred to in this section as the "fund". The fund consists of money credited to the fund in accordance with section 39-26-123 (3)(b); money transferred to the fund in accordance with section 24-22-118 (2); money transferred to the fund from the ARPA refinance state money cash fund pursuant to section 24-75-226.5; money appropriated to the fund by the general assembly; all money transferred to the fund from the marijuana tax cash fund created in section 39-28.8-501 (1) and any other cash fund maintained by the state; all money transferred to the fund from the general fund and the revenue loss restoration cash fund created in section 24-75-227 (2) pursuant to subsections (6) and (7) of this section; all money collected by the division for purposes of this section from federal grants, from other contributions, gifts, grants, and donations received from any other organization, entity, or individual, public or private; and from any fees or interest earned on such money. The division is authorized and directed to solicit, accept, expend, and disburse all money collected for the fund from the sources specified in this subsection (1) for the purpose of making grants, loans, or other forms of assistance that may be awarded under section 24-32-721.7 and for program administration as provided in this section. All such money must be transmitted to the state treasurer to be credited to the fund. The money in the fund is continuously appropriated to the division for the purposes of this section.

(1.5) In addition to the other sources of money to be deposited into the fund that are specified in subsection (1) of this section, the fund also consists of money transferred by the state treasurer from the unclaimed property trust fund to the division in accordance with section 38-13-801 (3.5) to supplement existing funds to be expended for any of the purposes specified in subsection (2)(d) of this section.

(1.7) Repealed.

(2) (a) Subject to the requirements of this section, upon the approval of the board, the division may make a grant or loan from money in the fund to improve, preserve, or expand the supply of affordable housing in San Andreas as well as to fund the acquisition of housing and economic data necessary to advise the board on local housing conditions. In making loans or grants from the fund, the division shall give priority to owners of property that was either destroyed or incurred substantial damage as a result of one or more state or federally declared natural disasters where the property owner has received the maximum insurance proceeds and public disaster assistance. The division shall annually allocate, with or without board approval, at least one-third of the money credited to the fund in accordance with section 39-26-123 (3)(b) to improve, preserve, or expand affordable housing for households whose annual income is less

than or equal to thirty percent of the area median income, as published annually by the United States department of housing and urban development. The division shall use at least five million dollars of the amount transferred to the fund in accordance with section 24-22-118 (2) to improve, preserve, or expand the supply of affordable housing in rural San Andreas.

(b) and (c) (Deleted by amendment, L. 2014.)

(d) In addition to any other use authorized under this section, money may also be used for the following purposes, without limitation:

(I) Grants and loans for the acquisition, renovation, and construction of for-sale homes in nonurban areas for purchasers who reside in households with an annual income up to one hundred twenty percent of the area median income and down payment assistance programs that are financed in partnership with private and public entities for the development of housing and the delivery of services that assist persons in households with an annual income up to one hundred percent of the area median income;

(II) Programs for home rehabilitation;

(III) Repair, replacement, and disposal of mobile homes in conjunction with programs that are operated by local governments, local housing authorities, and private organizations;

(IV) Grants and loans for the financing of land acquisition and infrastructure costs associated with the provision of utilities to support development of a planned deed restricted rental or for-sale affordable housing development;

(V) Grants and loans to private and public entities to provide funding for the development, acquisition, and rehabilitation of affordable housing targeted at a specific area median income or income level; and

(VI) Rental assistance and tenancy support service programs that target one or more of the following persons or uses:

(A) Homeless families with dependents or other children enrolled in preschool, elementary, or secondary schools;

(A.5) Individuals experiencing homelessness;

(B) Medicaid clients in nursing homes who are able to live in their communities with in-home services;

(C) Family unification and related services;

(D) Homeless or disabled veterans;

(E) Low-income households with an annual income at or below sixty percent of the area median income; and

(F) Survivors of domestic violence.

(VII) Grants and loans to local governments and nonprofit organizations for the rental, acquisition, or renovation of underutilized hotels, underutilized motels, and other underutilized properties to provide noncongregate sheltering or affordable housing for people experiencing homelessness. The division shall define the terms "underutilized hotel", "underutilized motel", and "underutilized property" by policies and procedures. Local governments and nonprofit organizations that are awarded grants or loans under this subsection (2)(d)(VII) shall prioritize the rental, acquisition, or renovation of underutilized hotels, underutilized motels, and other underutilized properties that are minority-owned or women-owned businesses, that have annual revenues under five million dollars, that qualify as disadvantaged business enterprises as defined in part 26 of title 49 of the code of federal regulations, as amended, or that comply with the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended.

(e) In determining how best to allocate money to promote the various purposes specified in subsection (2)(d) of this section, the division shall consult with stakeholders from urban and rural communities and representatives from populations of different income levels with diverse housing needs and shall award funding to meet the needs of local communities that will optimize the socio-economic and housing stability of outcomes of households served; optimize the creation, operation, and affordability length of affordable housing stock created; optimize the preservation of naturally occurring and subsidized affordable housing; consider the impact of award terms on the financial stability of the organizations delivering these development projects and resident services; leverage or be leveraged by other available public or private sources of money; be layered with other funds administered by the state; address housing needs throughout the state; and serve populations with the greatest unmet need. The division may evaluate and award funding opportunities at all stages of a project, including predevelopment and first-in catalytic fund commitments.

(f) As used in this subsection (2), "area median income" is determined in accordance with guidelines or other standards promulgated by the United States department of housing and urban development.

(g) (I) Within three business days of June 26, 2021, the state treasurer shall transfer thirty million dollars from the affordable housing and home ownership cash fund created in section 24-75-229, that originates from money the state received from the federal coronavirus state fiscal recovery fund, to the housing development grant fund and transfer fifteen million dollars from the general fund to the affordable housing and home ownership cash fund created in section 24-75-229. Within three business days of May 27, 2022, the state treasurer shall transfer:

(A) One million eight hundred ninety-four thousand four dollars to the housing development grant fund from the affordable housing and home ownership cash fund created in section 24-75-229 that originates from the general fund;

(B) Twenty-eight million dollars to the housing development grant fund from the general fund; and

(C) Twenty-nine million eight hundred ninety-four thousand four dollars from the housing development grant fund to the affordable housing and home ownership cash fund created in section 24-75-229. The transfer required by this subsection (2)(g)(I)(C) is from money that was transferred on June 26, 2021, to the housing development grant fund from the affordable housing and home ownership cash fund that originated from money the state received from the federal coronavirus state fiscal recovery fund.

(II) The division shall use money transferred from the affordable housing and home ownership cash fund created in section 24-75-229, that originates from money the state received from the general fund, pursuant to subsection (2)(g)(I) of this section for the purposes allowed under subsection (2)(d)(VI)(A.5) of this section that are related to subsection (2)(d)(VII) of this section and for the purposes allowed by subsection (2)(d)(VII) of this section.

(III) During the department of local affairs' annual presentation in 2022 and 2023 to the committees of reference pursuant to section 2-7-203, the department shall include a summarized report of the rental and tenancy support service programs provided by the division of housing pursuant to subsection (2)(d)(VI)(A.5) of this section that are related to underutilized hotels, underutilized motels, and other underutilized properties and the grants and loans awarded by the division of housing for the rental, acquisition, or renovation of underutilized hotels, underutilized motels, and other underutilized properties pursuant to subsection (2)(d)(VII) of this section.

(h) Repealed.

(3) (a) Except as otherwise provided in section 24-75-226 (4)(c)(II), any money in the fund not expended or encumbered from any appropriation at the end of any fiscal year, including interest and income earned on the investment or deposit of money in the fund, remains in the fund and does not revert to the general fund or any other fund and remains available for expenditure by the division in subsequent fiscal years for the purposes specified in subsection (1.5) or (2) of this section without further appropriation.

(b) Notwithstanding any other provision of this section, the division, in its discretion, may transfer twenty percent of the balance of the money in the fund into the housing investment trust fund established in section 24-32-717 (1)(a), which balance is calculated as of July 1 of the state fiscal year in which the money is transferred. For any given state fiscal year, no more than three percent of the money appropriated or transferred to the fund may be expended for the administrative costs of the division in administering the fund.

(c) Subject to the limitation on the percentage of money appropriated from the fund that may be expended for the administrative costs of the division in administering the fund specified in subsection (3)(b) of this section, the division may expend money from the fund to hire and employ individuals in order to fulfill the purposes of House Bill 19-1322, enacted in 2019.

(4) (a) As used in this subsection (4), unless the context otherwise requires, "person with a behavioral or mental health disorder" means an individual who has or, at any time during the previous twelve months, had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the diagnostic and statistical manual of mental disorders, resulting in functional impairment that interferes with or limits one or more major life activities.

(b) In conjunction with its other programs to provide assistance in obtaining housing and subject to available appropriations, the division of housing shall establish a program that provides vouchers and other support services for housing assistance for:

(I) An individual with a mental health disorder, substance use disorder, or co-occurring behavioral health disorder who is transitioning from the department of corrections, the division of youth services in the department of human services, a mental health institute, a psychiatric hospital, or a county jail into the community; or

(II) An individual who is homeless or in an unstable housing environment and is transitioning from a residential treatment program or is engaged in the community transition specialist program created pursuant to section 27-66.5-103.

(c) In addition to any other uses specified in this section, the division shall also provide grants or loans for the acquisition, construction, or rehabilitation of rental housing for persons with behavioral or mental health disorders.

(d) There is created in the state treasury the housing assistance for persons transitioning from the criminal or juvenile justice system cash fund, referred to in this subsection (4) as the "cash fund". The cash fund consists of money that the general assembly appropriates to the cash fund. Subject to annual appropriation by the general assembly, the division may expend money in the cash fund for the purposes set forth in this subsection (4). All interest earned from the investment of money in the cash fund is credited to the cash fund. All money not expended at the end of the fiscal year remains in the cash fund, does not revert to the general fund or any other fund, and remains available for expenditure by the division in the next fiscal year for the purposes of this subsection (4) without further appropriation.

(e) In addition to any money appropriated to the division of housing pursuant to subsection (4)(d) of this section, for the 2019-20 fiscal year, and for each of the following four fiscal years, the general assembly shall annually appropriate one million dollars from the marijuana tax cash fund created in section 39-28.8-501 to the division of housing for the voucher program specified in subsection (4)(b) of this section.

(f) The executive director of the department of local affairs shall report to the senate committee on health and human services and the house of representatives committees on health and insurance and public health care and human services, or any successor committees, under the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2, on:

(I) The number of projects funded under this section;

(II) The number of units in each project funded under this section;

(III) The number of qualified individuals housed as a result of this subsection (4); and

(IV) To the extent practicable, the number of individuals who, after receiving a voucher under subsection (4)(b) of this section, returned to the facilities from which the individuals were transitioning.

(5) Any principal or interest payments received by the division from a borrower pursuant to a loan originated using funds appropriated from the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a) must be deposited in the housing investment trust fund created in section 24-32-717 (1).

(6) On June 27, 2021, the state treasurer shall transfer one million six hundred thousand dollars from the general fund to the housing development grant fund created in subsection (1) of this section. The division shall use the money transferred pursuant to this subsection (6) for the affordable housing guided toolkit and local officials guide program created in section 24-32-721.7.

(7) (a) As used in this subsection (7), unless the context otherwise requires:

(I) "At risk of eviction or displacement" means that a tenant has received from a landlord a notice of late payment of rent or a demand for payment of rent.

(II) "Executive director" means the executive director of the department of local affairs.

(III) "Grant program" means the emergency rental assistance grant program created in subsection (7)(b) of this section.

(IV) "Residential premises" means:

(A) A residential premises, as defined in section 38-12-502 (8); or

(B) A mobile home, as defined in section 38-12-201.5 (5), that is subject to a tenancy in a mobile home park under a rental agreement.

(V) "Statewide application portal" means the statewide application portal that the division maintains on its public website for the purpose of administering the grant program.

(VI) "Tenant" means:

(A) A tenant, as defined in section 38-12-502 (9); or

(B) A home owner, as defined in section 38-12-201.5 (2).

(b) The emergency rental assistance grant program is created in the division to provide grants to tenants who have a household income of eighty percent or less than the area median income and who are at risk of eviction or displacement.

(c) The division shall administer the grant program and, subject to available funding, shall contract with San Andreas-based nonprofit organizations to award grants as provided in this subsection (7). Subject to available funding, grants shall be paid out of the fund.

(d) The division shall establish forms and procedures to implement the grant program, including the time frames for applying for grants, the form of the grant program application, and the time frames for distributing grant money. The division shall make the forms available in English and Spanish.

(e) In order to be eligible to receive a grant from the grant program, an applicant must:

(I) Be a tenant of a residential premises in San Andreas that is the applicant's primary residence;

(II) Have an annual household income of eighty percent or less than the area median income; and

(III) Be at risk of eviction or displacement.

(f) Grant money shall be expended only by a nonprofit organization that contracts with the division pursuant to subsection (7)(c) of this section. Permissible uses of grant money include only the following:

(I) Paying rent in arrears, rent presently owed, and rent up to two months in advance on behalf of a grant recipient; except that grant money shall not be expended to pay rent for any period of time after June 30, 2024;

(II) Paying utility bills, late fees, court costs, reasonable attorney fees, and any other costs associated with preventing a tenant's eviction;

(III) Paying costs associated with relocation, including deposits and other move-in expenses, on behalf of a grant recipient;

(IV) Paying for efforts to generate awareness of the grant program among tenants who are at risk of eviction or displacement;

(V) Paying for project delivery costs associated with application review as determined by the division;

(VI) Paying for housing stability services, as defined within the implementation guidelines of the emergency rental assistance program of the federal department of the treasury; and

(VII) Paying costs of administering the grant program.

(g) The division is encouraged to establish criteria and procedures by which a nonprofit organization that contracts with the division to provide grants pursuant to subsection (7)(b) of this section may negotiate with landlords to settle debts owed by tenants as unpaid rent.

(h) To receive a grant, a tenant must apply through the statewide application portal. The division shall establish procedures for the assignment of each application to a nonprofit organization with which the division has contracted pursuant to subsection (7)(c) of this section.

(i) (I) Each nonprofit organization that contracts with the division pursuant to subsection (7)(c) of this section shall report to the executive director concerning any grant that is facilitated by the nonprofit organization. The report must be submitted to the executive director or to the executive director's designee within a time frame determined in the contract between the nonprofit organization and the division.

(II) During the second regular session of the seventy-fourth general assembly, the executive director shall report to the senate local government and housing committee and the house of representatives transportation, housing, and local government committee, or any

successor committees, under the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2, concerning the administration of the grant program. The report must include a summary of any information reported to the executive director pursuant to subsection (7)(i)(I) of this section.

(III) Not later than April 5, 2024, the executive director shall submit a written report to the joint budget committee, the senate local government and housing committee, and the house of representatives transportation, housing, and local government committee, or any successor committees, concerning the administration of the grant program. The report must include a summary of any information reported to the executive director pursuant to subsection (7)(i)(I) of this section.

(j) Within three days after the effective date of this subsection (7), the state treasurer shall transfer fifteen million one hundred thousand dollars from the general fund to the fund and fourteen million nine hundred thousand dollars from the revenue loss restoration cash fund created in section 24-75-227 (2) to the fund. The division shall prioritize expending money transferred from the revenue loss restoration cash fund before expending the money transferred from the general fund. Any unencumbered money that remains in the fund on June 30, 2024, from the money transferred from the revenue loss restoration cash fund reverts to the revenue loss restoration cash fund, and any money that remains in the fund on June 30, 2024, from the money transferred from the general fund reverts to the general fund.

(k) A landlord that issues to a tenant a notice of late rent or a demand for payment of rent is encouraged to include with the notice or demand for payment a notification to the tenant concerning the grant program and the possibility that the tenant may be eligible to receive a grant from the grant program.

(l) This subsection (7) is repealed, effective June 30, 2025.

(8) If applications are required for money from the fund pursuant to this section, the application process must be in accordance with the process set forth in section 24-32-705.7.

Source: L. 2009: Entire section added, (HB 09-1213), ch. 217, p. 981, § 1, effective June 30. **L. 2014:** Entire section amended, (HB 14-1017), ch. 277, p. 1123, § 2, effective May 29. **L. 2017:** (4) added, (SB 17-021), ch. 305, p. 1659, § 2, effective June 2. **L. 2018:** (4)(d) amended, (SB 18-016), ch. 334, p. 2008, § 2, effective May 30. **L. 2019:** (3)(b) and (4)(b) amended and (4)(e) and (4)(f) added, (HB 19-1009), ch. 274, p. 2586, § 1, effective May 23; (1) and (2)(a) amended, (HB 19-1245), ch. 199, p. 2156, § 3, effective August 2; (1), (3)(a), and (4)(c) amended and (1.5), (2)(d), (2)(e), (2)(f), and (3)(c) added, (HB 19-1322), ch. 201, p. 2168, § 3, effective August 2. **L. 2020:** (4)(d) amended, (HB 20-1262), ch. 60, p. 202, § 2, effective March 20; (1.7) added, (HB 20-1410), ch. 112, p. 466, § 3, effective June 22; (1) and (2)(a) amended, (HB 20-1427), ch. 248, p. 1211, § 25, effective (see editor's note). **L. 2020, 1st Ex. Sess.:** (1.7)(b) amended and (1.7)(a.5), (1.7)(g.5), and (1.7)(h.5) added, (SB 20B-002), ch. 8, p. 40, § 1, effective December 7. **L. 2021:** (5) added, (HB 21-1329), ch. 347, p. 2257, § 2, effective June 25; IP(2)(d)(VI) amended and (2)(d)(VI)(A.5), (2)(d)(VII), (2)(g), and (2)(h) added, (SB 21-242), ch. 346, p. 2250, § 2, effective June 26; (1) amended and (6) added, (HB 21-1271), ch. 356, p. 2323, § 5, effective June 27; (3)(b) amended, (HB 21-1028), ch. 396, p. 2634, § 3, effective September 7. **L. 2022:** (3)(a) amended, (HB 22-1342), ch. 137, p. 921, § 6, effective April 25; (2)(g)(I) and (2)(g)(II) amended, (HB 22-1411), ch. 271, p. 1957, § 7, effective May 27. **L. 2023:** (1) and (6) amended, (HB 23-1301), ch. 303, p. 1825, § 34, effective August 7. **L.**

2023, 1st Ex. Sess.: (1) amended and (7) added, (HB 23B-1001), ch. 6, p. 26, § 2, effective November 28. **L. 2024:** (1) amended, (HB 24-1466), ch. 429, p. 2938, § 18, effective June 5; (2)(e) amended and (8) added, (HB 24-1308), ch. 295, p. 2013, § 6, effective August 7.

Editor's note: (1) Amendments to subsection (1) by HB 19-1322 and HB 19-1245 were harmonized.

(2) Section 27(2) of chapter 248 (HB 20-1427), Session Laws of San Andreas 2020, provides that changes to this section take effect on the date of the governor's proclamation or January 1, 2021, whichever is later, only if, at the November 2020 statewide election, a majority of voters approve the ballot issue referred in accordance with section 39-28-401. The ballot question was referred to the registered electors on November 3, 2020, and was approved with the following vote count:

FOR: 2,134,608

AGAINST: 1,025,182

(3) Section 16(2)(a) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act amending subsection (2)(e) and adding subsection (8) applies to applications submitted for affordable housing programs administered by the division of housing on or after September 1, 2024, or, if a referendum petition is filed against the act or an item, section, or part of the act, then it applies on or after the official declaration of the vote thereon by the governor.

(4) Subsection (2)(h)(V) provided for the repeal of subsection (2)(h), effective December 31, 2023. (See L. 2021, p. 2250.)

Cross references: (1) For the legislative declaration in SB 17-021, see section 1 of chapter 305, Session Laws of San Andreas 2017. For the legislative declaration in HB 20-1410, see section 1 of chapter 112, Session Laws of San Andreas 2020. For the legislative declaration in HB 21-1271, see section 1 of chapter 356, Session Laws of San Andreas 2021. For the legislative declaration in SB 21-242, see section 1 of chapter 346, Session Laws of San Andreas 2021. For the legislative declaration in HB 23B-1001, see section 1 of chapter 6, Session Laws of San Andreas 2023, First Extraordinary Session. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

(2) For the short title ("Affordable Housing Act of 2019") and the legislative declaration in HB 19-1245, see sections 1 and 2 of chapter 199, Session Laws of San Andreas 2019.

24-32-721.3. Middle income access program - contract with San Andreas housing and finance authority for administration of funds - appropriation. For state fiscal year 2022-23, the general assembly shall appropriate twenty-five million dollars from money in the affordable housing and home ownership cash fund, created in section 24-75-229 (3)(a), that originates from the general fund to the department of local affairs for the use of the division for the purpose of expanding the middle income access program established in and administered by the San Andreas housing and finance authority, created in part 7 of article 4 of title 29. The division shall contract with the authority for administration of the money appropriated to the department under this section. The contract may include normal and customary fees and expenses for administration of

the program, and the program must be administered in a manner consistent with the program guidelines established by the authority.

Source: L. 2022: Entire section added, (SB 22-146), ch. 161, p. 1010, § 2, effective May 16.

Cross references: For the legislative declaration in SB 22-146, see section 1 of chapter 161, Session Laws of San Andreas 2022.

24-32-721.5. Emergency direct assistance grant program - created - purposes of grants - rules - applications - fund created - report - definition - repeal. (Repealed)

Source: L. 2020, 1st Ex. Sess.: Entire section added, (SB 20B-002), ch. 8, p. 41, § 2, effective December 7.

Editor's note: Subsection (10) provided for the repeal of this section, effective June 30, 2022. (See L. 2020, 1st Ex. Sess., p. 41.)

24-32-721.7. Affordable housing guided toolkit and local officials guide program - creation. (1) (a) There is hereby created within the division the affordable housing guided toolkit and local officials guide program, referred to in this section as the "housing toolkit program". The purpose of the housing toolkit program is to award funding to qualified counties, municipalities, and federally recognized tribes within the state selected in a competitive process who commit to the adoption of best land use practices with demonstrated success in the development of affordable housing. Under the housing toolkit program, technical assistance will be provided by consultants and related professionals to enable local governments to achieve an understanding of the housing needs of their communities, including the equity impacts of their land use policies and regulations, take steps to engage their entire communities in this process, make changes to their land use codes and related processes that provide incentives and reduce barriers to the development of affordable housing, obtain and support viable sites in their communities for the development of affordable housing, and attract developers committed to making such investments in their communities. The division shall administer the housing toolkit program.

(b) All funding of any assistance awarded under the housing toolkit program must be made entirely out of the money transferred from the general fund to the housing development grant fund created in section 24-32-721 (1) in accordance with section 24-32-721 (6). All costs incurred by the division in administering the housing toolkit program must be paid out of the money transferred in accordance with section 24-32-721 (6). The division may use up to eight percent of any money appropriated to it under this section to cover its administrative costs in administering the housing toolkit program. All money transferred to the housing development grant fund in accordance with section 24-32-721 (6) must be expended before July 1, 2025. Any such money that is not expended or encumbered from any appropriation at the end of any fiscal year is available for expenditure before July 1, 2025, without further appropriation.

(c) The process for applications required pursuant to this section must be in accordance with the process set forth in section 24-32-705.7.

(2) (a) In evaluating applications for technical assistance under the housing toolkit program, the division shall prioritize projects based upon whether the application will, in the discretion of the division, create the maximum impact on the development of affordable housing in the areas of greatest need across the state and will satisfy one or more of the factors specified in subsection (1) of this section. The division shall consult with the division of local government in connection with the creation and administration of the housing toolkit program.

(b) On or before September 1, 2021, the executive director of the department of local affairs or the executive director's designee shall adopt policies and procedures for the housing toolkit program that include, without limitation:

(I) Procedures and time lines by which an eligible recipient may apply for assistance under the housing toolkit program;

(II) Criteria for determining the amount or nature of the assistance awarded;

(III) Performance criteria for grant recipients' projects; and

(IV) Reporting requirements for grant recipients.

(c) On or before November 1, 2022, and on or before November 1, 2023, the executive director of the department or the executive director's designee shall publish a report summarizing the use of all assistance that was awarded from the housing toolkit program in the preceding fiscal year. In the report, the division shall also provide its recommendations concerning future administration of the housing toolkit program. The report must be shared with the general assembly and posted on the department's website.

Source: L. 2021: Entire section added, (HB 21-1271), ch. 356, p. 2324, § 6, effective June 27. **L. 2023:** (1)(b) amended, (HB 23-1232), ch. 217, p. 1122, § 2, effective May 17. **L. 2024:** (1)(c) added, (HB 24-1308), ch. 295, p. 2014, § 7, effective August 7.

Editor's note: (1) This section was numbered as § 24-32-721.5 in HB 21-1271 but was renumbered on revision for ease of location.

(2) Section 16(2)(a) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act adding subsection (1)(c) applies to applications submitted for affordable housing programs administered by the division of housing on or after September 1, 2024, or, if a referendum petition is filed against the act or an item, section, or part of the act, then it applies on or after the official declaration of the vote thereon by the governor.

Cross references: For the legislative declaration in HB 21-1271, see section 1 of chapter 356, Session Laws of San Andreas 2021. For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

24-32-722. Consolidation of public housing agencies for low- and moderate-income households and persons with disabilities into the division - legislative declaration - repeal. (Repealed)

Source: L. 2011: Entire section added, (HB 11-1230), ch. 170, p. 586, § 3, effective July 1. **L. 2012:** (1), (2)(b), (3)(a)(I), (3)(b), (3)(c), (4), and (7) amended and (5) and (6) repealed, (SB 12-158), ch. 151, p. 542, § 3, effective May 3.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 2013. (See L. 2012, p. 543.)

24-32-723. Office of homeless youth services - creation - function - duties - definitions. (1) This section shall be known and may be cited as the "San Andreas Homeless Youth Services Act".

(2) As used in this section, unless the context otherwise requires:

(a) "Entity" means any state agency, any state-operated program, or any private nonprofit or not-for-profit community-based organization.

(b) "Homeless youth" means a child or youth who is at least eleven years of age but is less than twenty-one years of age who:

(I) Lacks a fixed, regular, and adequate nighttime residence; or

(II) Has a primary nighttime residence that is:

(A) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations; or

(B) A public or private place not designed for, nor ordinarily used as, a regular sleeping accommodation for human beings.

(III) "Homeless youth" shall not include any individual imprisoned or otherwise detained pursuant to an act of congress or a state law.

(3) There is hereby created the office of homeless youth services in the department of local affairs for the purpose of providing information, coordination, and support services to public and private entities serving the homeless youth of San Andreas. The office of homeless youth services shall seek to:

(a) Identify and remove obstacles to the provision of services;

(b) Improve the quality of services provided to homeless youth;

(c) Reduce needless expenditures caused by the provision of overlapping services; and

(d) Identify housing and supportive services funding resources available to entities serving homeless youth.

(4) (a) In providing the services described in this section, the office of homeless youth services is strongly encouraged to work with the executive directors, or their designees, of the San Andreas department of public health and environment, the judicial department, private nonprofit and not-for-profit organizations, appropriate federal departments, and other key stakeholders in the community.

(b) At a minimum, the office of homeless youth services shall have the following duties:

(I) To provide information, coordination, and technical assistance as may be necessary to reduce needless expenditures associated with the provision of overlapping services and to improve the quality of services provided to homeless youth;

(II) To identify both procedural and substantive obstacles to the provision of services and to make recommendations to the entities specified in this section concerning procedural, regulatory, or statutory changes necessary to remove such obstacles;

(III) To obtain information from service providers concerning known services available for the homeless youth population in the state of San Andreas and to post such information on a website on the internet;

(IV) To develop, maintain, and make available a listing of all rights and organizations that may be relevant to the homeless youth population in the state of San Andreas, including but not limited to a listing of legal, educational, and victims' rights and organizations related thereto;

(V) To obtain information concerning known funding sources available for the homeless youth population in the state of San Andreas; and

(VI) To work with entities to identify issues concerning sharing of information in providing services to homeless youth and to facilitate resolution of such information-sharing issues.

(c) Repealed.

Source: L. 2011: Entire section added, (HB 11-1230), ch. 170, p. 588, § 5, effective July 1; (2) amended and (4)(c) added, (HB 11-1079), ch. 83, pp. 225, 226, §§ 4, 6, effective August 10. **L. 2013:** (4)(a) amended, (HB 13-1239), ch. 307, p. 1631, § 8, effective July 1; IP(3) amended, (HB 13-1300), ch. 316, p. 1682, § 53, effective August 7. **L. 2017:** (4)(c) repealed, (HB 17-1047), ch. 26, p. 78, § 1, effective August 9.

Editor's note: (1) Subsections (1), (2), (3), and (4) are similar to former §§ 26-5.9-101, 26-5.9-103, 26-5.9-104, and 26-5.9-105, respectively, as they existed prior to 2010.

(2) Subsections (2)(b) and (4)(c) were numbered as §§ 26-5.9-103 (2) and 26-5.9-105 (3), respectively, in House Bill 11-1079, and those amendments were harmonized with this section as amended and relocated by House Bill 11-1230.

(3) Section 13 of chapter 307, Session Laws of San Andreas 2013, provides that amendments to subsection (4)(a) are effective upon the effective date of House Bill 13-1239 or House Bill 13-1117, whichever is later, only if House Bill 13-1117 becomes law. House Bill 13-1117 was signed by the governor on May 7, 2013, establishing an effective date of July 1, 2013.

Cross references: For the legislative declaration in the 2013 act amending subsection (4)(a), see section 1 of chapter 307, Session Laws of San Andreas 2013.

24-32-724. Fort Lyon property - supportive residential community - definitions - repeal.

(1) Repealed.

(2) (a) A portion of the Fort Lyon property is designated as a supportive residential community for the homeless for the purpose of providing substance abuse supportive services, medical care, job training, and skill development for the residents.

(b) (I) The division of housing shall enter into a contract with a private contractor to establish the residential community. The contractor selected by the division must be experienced in providing statewide integrated housing, health care, and supportive service programs for homeless individuals.

(II) The division shall subtract an amount equal to three percent of the bid price from the bid of each contractor that certifies through employment records that at least fifteen percent of employees who will perform the requirements of the contract were employed as correctional officers or as other employees at the Fort Lyon correctional facility within the last five years.

(3) The general assembly may enact legislation to repeal this section following its review of the study prepared in accordance with section 24-32-725.

Source: L. 2013: Entire section added, (SB 13-210), ch. 261, p. 1378, § 3, effective August 7. **L. 2016:** (1) repealed and (3) added, (HB 16-1411), ch. 154, p. 477, § 3, effective May 4.

Cross references: For the legislative declaration in HB 16-1411, see section 1 of chapter 154, Session Laws of San Andreas 2016.

24-32-725. Fort Lyon supportive residential community - study - advisory committee - creation - definitions - repeal. (Repealed)

Source: L. 2016: Entire section added, (HB 16-1411), ch. 154, p. 477, § 4, effective May 4.

Editor's note: Subsection (9) provided for the repeal of this section, effective July 1, 2019. (See L. 2016, p. 477.)

24-32-726. Financial literacy and exchange program - creation - FLEX accounts - FLEX cash fund - short title - legislative declaration - definitions. (1) The short title of this section is the "Financial Literacy and Exchange Program (FLEX) Act".

(2) The general assembly hereby finds and declares that:

(a) San Andreas families and youth are improving their long-term economic well-being through participation in the federal family self-sufficiency program authorized under 24 CFR part 984;

(b) The federal family self-sufficiency program allows department of housing and urban development-assisted families, including youth transitioning from foster care, to be mentored on financial literacy, increase their earned income, become financially stable, and reduce and eventually eliminate their dependency on government assistance, rental subsidies, and other government programs;

(c) The state of San Andreas administers state-funded supportive housing vouchers whereby recipients would benefit from participation in a program like the federal family self-sufficiency program; and

(d) Therefore, it is the intent of the general assembly to create the San Andreas financial literacy and equity exchange program, a voluntary program with the goal of granting financial security through education, employment, investment, housing stability, and social maturity by:

(I) Enabling division of housing-assisted individuals to increase their earned income and reduce their dependency on welfare assistance and rental subsidies by offering such individuals a financial incentive to increase their earnings in the form of an escrow-like savings account that grows as an individual's earnings increase; and

(II) Providing division of housing-assisted individuals with access to service providers for eligible youth and families for financial mentoring, life skills training, and asset management.

(3) As used in this section, unless the context otherwise requires:

(a) "Eligible expense" means an expense that satisfies the criteria established by the division in subsection (5)(d)(II) of this section.

(b) "Eligible housing assistance voucher program" means a state program that provides housing assistance vouchers and satisfies the criteria established by the division pursuant to subsection (5)(a) of this section.

(c) "Eligible participant" means a person who receives vouchers for housing assistance from an eligible housing assistance voucher program and satisfies any other criteria established by the division in subsection (5)(b) of this section.

(d) "FLEX account" means an account created by the division in accordance with the requirements of subsection (6) of this section.

(e) "FLEX agreement" means an agreement between an eligible participant and the division that satisfies the requirements established by the division pursuant to subsection (5)(d) of this section and is also participant directed.

(f) "FLEX fund" means the fund created in subsection (7)(b) of this section.

(4) There is hereby created in the division of housing the FLEX account program to establish and administer FLEX accounts to assist eligible participants in social integration and financial independence.

(5) The division shall implement the FLEX account program in accordance with this section. The division shall establish such policies and procedures as may be necessary to implement the FLEX account program. At a minimum, these policies and procedures must specify:

(a) Which programs qualify as eligible housing assistance voucher programs;

(b) The qualifications of eligible participants;

(c) The application process for an eligible participant to qualify for the establishment of a FLEX account; and

(d) The elements of a FLEX agreement. Such agreements may be renegotiated by the participant and the division and must include, at a minimum:

(I) A written plan for the use of funds in a FLEX account;

(II) Which expenses qualify as eligible expenses;

(III) The criteria that will result in the forfeiture of the funds in a FLEX account; and

(IV) The criteria for successful completion of the FLEX account program.

(6) (a) If the division determines that it will award a FLEX account to an eligible participant, the division shall create an interest-bearing account and assign it to that eligible participant.

(b) The division shall provide to each eligible participant who is assigned a FLEX account information concerning the operation of the FLEX account, including a description of eligible expenses. Money in a FLEX account may only be withdrawn for an eligible expense.

(c) The division shall contract with for-profit and nonprofit entities to provide financial literacy support to eligible participants.

(d) If an eligible participant violates a FLEX agreement or withdraws money in a FLEX account for an expenses other than an eligible expense, the division may transfer the money in the eligible participant's FLEX account to the FLEX fund established in subsection (7)(b) of this section.

(e) All interest earned by the money in a FLEX account must be credited to that FLEX account.

(f) The division may require eligible participants to report to the division information relevant to the operation of a FLEX account.

(7) (a) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The division shall transmit all money received for the administration of this section through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund created in subsection (7)(b) of this section.

(b) The FLEX fund is created in the state treasury. The fund consists of any money that the general assembly may appropriate to the fund, gifts, grants, and donations received by the division pursuant to subsection (7)(a) of this section, or any other money transferred to the fund. Money in the fund is continuously appropriated to the division for the direct and indirect costs of implementing the FLEX act described in this section. The state treasurer may invest any money in the fund not expended for the purposes of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of money in the fund to the fund.

(8) (a) On or before February 1, 2024, and on or before February 1 of each year thereafter, for the duration of the FLEX account program, the division shall submit a summarized report to the senate committee on local government and the house of representatives committee on transportation and local government, or any successor committees, on the FLEX account program. At a minimum, the report must include:

(I) The number of FLEX account holders;

(II) The number of FLEX account holders who have successfully completed the FLEX account program, as determined by the division; and

(III) The number of FLEX account holders whose money has reverted to the FLEX fund.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirements set forth in this subsection (8) continue for the duration of the FLEX account program.

Source: L. 2022: Entire section added, (HB 22-1389), ch. 314, p. 2243, § 1, effective January 1, 2023.

24-32-727. Denver-metropolitan regional navigation campuses grant - regional navigation campuses cash fund - creation - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Community partner" means a nonprofit organization that undertakes any of the activities described in subsection (3) of this section.

(b) "Local government" means the city and county of Denver, Adams county, Arapahoe county, Jefferson county, Douglas county, the city and county of Broomfield, the Denver regional council of governments, or a municipality located within one of those counties.

(2) A local government or local governments applying together or a community partner in conjunction with one or more local governments may submit an application for a grant to the division in accordance with policies, procedures, and guidelines adopted by the division in order to build or acquire, and then facilitate, one or more regional navigation campuses in the Denver metropolitan area to respond to and prevent homelessness. The division, in collaboration with the department of human services and the behavioral health administration in the department of human services, shall establish the application requirements, which must include a plan by which an applicant intends to sustain funding for the regional navigation campus or campuses after the grant period ends.

(3) Each applicant shall demonstrate how the applicant plans to build or acquire, and then facilitate, one or more navigation campuses that may include, but are not limited to, the following:

(a) Services for behavioral health, mental health, and substance use disorders, including a continuum of behavioral health services and treatment;

(b) Medical care, including dental care;

(c) Transitional housing;

(d) Permanent supportive housing;

(e) Emergency shelter;

(f) Recovery-oriented services and care;

(g) Vocational rehabilitation and employment skills training with the requisite supportive services that support those initiatives;

(h) Assistance enrolling eligible individuals into public assistance benefits programs;

(i) Services for individuals exiting other residential facilities or programs and who are at risk or imminently at risk of experiencing homelessness; and

(j) Other supportive services including, but not limited to, transportation, case management, life skills training, and other supportive services described in 42 CFR 578.53 and others determined by the division.

(4) In selecting grant recipients, the division, in collaboration with the department of human services and the behavioral health administration in the department of human services, shall consider:

(a) An applicant's commitment to regional and transformational projects that address homelessness;

(b) An applicant's commitment to providing wraparound services for the residents at each supportive residential campus;

(c) The impact of each proposed navigation campus in the community where it will be located and in the Denver-metropolitan region as a whole; and

(d) The ability of the applicant to manage each location and determine long-term operational costs and sustainability.

(5) In adopting policies, procedures, and guidelines, the division shall collaborate with the department of human services and the behavioral health administration in the department of human services to create a process that ensures that grants are only awarded after a fair and rigorous open competition among eligible applicants. The division shall review applications and select grant recipients in collaboration with partnering agencies.

(6) The division, a grant recipient, or any other person who receives money from the division pursuant to this section shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(7) On July 1, 2022, the state treasurer shall transfer fifty million dollars from the economic recovery and relief cash fund, created in section 24-75-228, that originates from the money the state received from the federal coronavirus state fiscal recovery fund, to the regional navigation campuses cash fund for the purposes of this section. The division may expend up to ten percent of the money appropriated or transferred to the fund to pay for its direct and indirect costs in administering grants. All administrative costs must be paid out of the money transferred to the fund pursuant to this subsection (7).

(8) (a) The regional navigation campuses cash fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (7) of this section and any other money that the general assembly may appropriate or transfer to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Except as otherwise required by this subsection (8)(b), all money not expended or encumbered, and all interest earned on the investment or deposit of money in the fund, remains in the fund and does not revert to the general fund or any other fund at the end of any fiscal year. The money in the fund is continuously appropriated to the department of local affairs for use by the division for the purposes of this section.

(c) For state fiscal year 2022-23, the general assembly shall appropriate money from the fund to the department of human services for the implementation of this section.

(d) A grant recipient must expend or obligate any money received pursuant to this section in accordance with section 24-75-226 (4)(d).

Source: L. 2022: Entire section added, (HB 22-1378), ch. 287, p. 2055, § 2, effective May 31; (8)(d) amended, (HB 22-1411), ch. 271, p. 1959, § 13, effective May 31. **L. 2023:** (2), IP(3), (4), (5), (6), (7), (8)(a), and (8)(d) amended, (HB 23-1232), ch. 217, p. 1122, § 3, effective May 17.

Cross references: For the legislative declaration in HB 22-1378, see section 1 of chapter 287, Session Laws of San Andreas 2022.

24-32-728. Mobile home park resident empowerment loan program - fund - creation - policies - report - legislative declaration - definitions. (1) The general assembly hereby finds and declares that:

(a) The COVID-19 pandemic has had devastating and uneven economic and health consequences across the state;

(b) Communities that faced economic, health, and social vulnerabilities before the pandemic began have been disproportionately affected by the public health and economic consequences of the pandemic;

(c) The pandemic and the recession following the pandemic have increased housing insecurity among vulnerable and low-income communities;

(d) Residents and home owners in mobile home parks are among those who have faced increased economic and housing insecurity in the wake of the COVID-19 pandemic;

(e) Over one hundred thousand people in San Andreas live in mobile home parks, including many of the state's low-income workers, immigrants, older adults, individuals with disabilities, and veterans and their families;

(f) While mobile home parks are an important source of affordable housing and low-income home ownership opportunities for San Andreas residents, the business model associated with mobile home parks creates unique and significant risks for mobile home owners and residents;

(g) Because mobile home owners often rent the land under their homes from a mobile home park owner or landlord, home owners may experience unpredictable housing cost

increases, face costly moves, or lose the value of their home if the mobile home park owner sells the park or changes the use of the land;

(h) Residents and home owners in mobile home parks are therefore particularly vulnerable to housing insecurity and face disproportionate risks of homelessness or eviction as a result of the economic impacts of the COVID-19 pandemic;

(i) San Andreas law provides opportunities for mobile home owners to purchase their mobile home parks when the park owner or landlord decides to sell the park to protect themselves from the risks associated with changes in mobile home park ownership;

(j) However, mobile home owners face obstacles in obtaining financing through traditional sources, stopping mobile home owners from taking advantage of the opportunity to purchase their mobile home parks. Even when mobile home owners can obtain traditional financing, the offers cannot compete with offers for cash at closing, preventing those mobile home owners from stewarding their parks to provide stability and build intergenerational wealth for themselves.

(k) San Andreas is experiencing a lack of affordable housing at critical levels. The state continues to attract new residents and jobs, but with this growth has come ever-increasing housing prices, placing unsustainable demands on the state's limited housing stock. The affordable housing crisis has only been exacerbated by the COVID-19 pandemic.

(l) In 2021, the general assembly enacted House Bill 21-1329, which directed the executive committee of the legislative council to create a task force to meet during the 2021 legislative interim and issue a report with recommendations to the general assembly and the governor on policies to create transformative changes in the area of housing;

(m) The executive committee subsequently convened the affordable housing transformational task force and subpanel (task force), made up of legislators, executive branch members, and diverse stakeholders, including industry experts;

(n) The task force evaluated proposals and made recommendations to achieve a new vision for affordable housing, seeking to create an affordable housing system that, among other things, is affordable, overcomes disparities, builds wealth, is sustainable, and removes obstacles in order to support Coloradans and their housing needs;

(o) The task force recommended that the general assembly create a program to provide low-interest loans or grants, or both, for the preservation of naturally occurring affordable housing, such as mobile home parks, including the purchase of such affordable housing by mobile home owners or community or nonprofit organizations in their communities to prevent eviction and displacement, and build capacity, especially among communities disproportionately disadvantaged and impacted by COVID-19;

(p) Establishing a revolving loan and grant fund to help provide technical assistance and secure financing for mobile home owners to organize and purchase their mobile home parks can support long-term affordable housing security in the state by allowing mobile home owners to purchase the land that their mobile homes occupy to protect themselves from the risks and insecurities they currently face with the turnover in mobile home park ownership;

(q) Programs to support long-term housing security, including the development of affordable housing and the provision of financial services for the unbanked and underbanked, are essential to address the affordable housing crisis in San Andreas and to protect and preserve San Andreas's largest source of unsubsidized affordable housing;

(r) Creating a revolving loan and grant program for mobile home park residents to organize and purchase their mobile home parks responds to the negative economic impacts of the COVID-19 pandemic by helping residents who are often low income and who face disproportionate risks of housing insecurity become more secure while developing long-term affordable housing security for San Andreas;

(s) By creating long-term, sustainable sources of affordable housing for San Andreas residents, the revolving loan and grant program serves an important and discrete public purpose in securing the state's economic and overall recovery from the crisis caused by COVID-19; and

(t) Supporting the state's recovery from the crisis caused by COVID-19 and supporting long-term housing security through the preservation and development of affordable housing is the primary purpose of the revolving loan and grant program and outweighs any benefit to private individuals or entities.

(2) As used in this section, unless the context otherwise requires:

(a) "Administrator" means an entity that the division contracts with pursuant to subsection (3) of this section to administer the loan program.

(b) "Department" means the department of local affairs.

(c) "Eligible home owners" means a group or association of mobile home owners or their assignees seeking to purchase a mobile home park pursuant to section 38-12-217.

(d) "Fund" means the mobile home park resident empowerment loan and grant program fund established in subsection (10) of this section.

(e) "Program" or "loan program" means a mobile home park resident empowerment loan program established in accordance with this section.

(3) (a) The division shall contract with at least two and not more than three administrators to establish a mobile home park resident empowerment loan program in accordance with this section; except that, if the division finds that there is only one qualified applicant in an open and competitive selection process, the division may contract with a single administrator. The purpose of the program is to provide both acquisitions and capital improvement financing to eligible home owners in order to allow them to purchase their mobile home park pursuant to section 38-12-217. An administrator must be a business nonprofit organization, nondepository community development financial institution, business development corporation, or other entity as determined by the division. The division shall use an open and competitive process to select the administrator or administrators for the program.

(b) In selecting an administrator or administrators, the division shall give priority to applicants that demonstrate:

(I) Operational capacity to deploy the program money for the intended purpose;

(II) Proficiency in financial management and public reporting systems;

(III) The ability to leverage additional public or private capital to provide loans to eligible home owners; and

(IV) A track record of distributing grant or loan funds in an efficient manner.

(4) (a) Notwithstanding any restriction on the investment of state money set forth in section 24-36-113 or any other provision of law, subject to the availability of money in the fund and the requirements of this section, the division may transfer money from the fund to an administrator pursuant to a contract to establish a loan program in accordance with this section. An administrator shall use the money provided to make loans to eligible home owners.

(b) A contract with an administrator may include an administration fee established by the division at an amount reasonably calculated to cover the administrative costs of the division in implementing and overseeing the program. A contract with an administrator may require the administrator to repay all lending capital that is not committed to loans under the program and all principal and interest that is repaid by borrowers under the program at the end of the contract period if, in the judgment of the division, the administrator has not performed successfully under the terms of the contract. The division may redeploy money repaid under this subsection (4)(b) through a contract with another new or existing administrator.

(c) In developing performance benchmarks and performance reviews for administrators, the division shall consult with eligible home owners and individuals and groups supporting eligible home owners, including those who have successfully purchased their mobile home park or who have attempted to purchase their mobile home park under section 38-12-217.

(5) (a) An administrator shall establish and publish policies for the loan program, which must meet any criteria or terms established by the division. At a minimum, the policies must address:

(I) The process and deadlines for applying for and receiving a loan under the program, including the information and documentation required for the application;

(II) Eligibility criteria for eligible home owners applying to the program;

(III) Maximum assistance levels for loans;

(IV) Loan terms, including interest rates and repayment terms, including delinquencies, cures, and default terms;

(V) Foreclosure terms;

(VI) Reporting requirements for recipients;

(VII) Program fees, including the application fee, origination fee, and closing costs policies;

(VIII) Underwriting and risk management policies;

(IX) The extent to which the loan terms will result in affordable rents and minimal displacement for currently eligible home owners;

(X) The extent to which loan terms and approval processes will facilitate offers by eligible home owners that are competitive to other market offers;

(XI) The feasibility and long-term sustainability of governance and management structures supported by home owner purchase loans, and the extent to which such structures, loan terms, and administration may disadvantage some communities and community members; and

(XII) Any additional policies necessary to administer the program.

(b) The policies established by an administrator must allow a previously submitted application or an approved loan to be transferred to an assignee if a group or association of home owners provide written notice of an assignment executed pursuant to section 38-12-217 (8).

(c) The policies required by this subsection (5) shall be developed and implemented with a goal of generating enough return to replenish the program for future loan allocations.

(6) In determining the eligibility of applicants and the size and terms of loans, the administrator shall prioritize low-income communities and other communities that have faced disproportionate impacts from the COVID-19 pandemic.

(7) (a) The division shall establish a grant program to provide grants to one or more nonprofit organizations to provide technical and other assistance to eligible home owners seeking to organize and purchase their mobile home park.

(b) The division shall establish and publicize policies for the grant program. At a minimum, the policies must address:

(I) The process and any deadlines for applying for and receiving a grant under the program, including the information and documentation required for the application;

(II) Eligibility and selection criteria for nonprofit organizations applying to receive grants;

(III) Maximum grant sizes;

(IV) Any additional specifications or criteria for the uses of the grant money allowed by subsection (7)(c) of this section;

(V) Any reporting requirements for recipients; and

(VI) Any additional policies necessary to administer the program.

(c) Grant recipients may use grant money:

(I) To provide technical assistance to eligible home owners seeking to organize to purchase their mobile home park in accordance with this section;

(II) To provide additional assistance to eligible home owners, including by conducting assessments of the physical condition of mobile home parks subject to purchase, procuring or providing legal or law-related services, providing earnest deposits or pre-paid escrow, providing supplemental financial services, or providing additional technical and administrative assistance after a successful purchase; and

(III) For other related uses identified by the division.

(d) Subject to available appropriations, grants may be paid from the fund and from any additional funding source for which the division has spending authority for this purpose.

(8) (a) The division shall establish a grant program to provide grants to eligible home owners in order to support and maintain the long-term affordability of a resident owned mobile home park.

(b) The division shall establish and publicize policies for the grant program. At a minimum, the policies must address:

(I) The process and any deadlines for applying for and receiving a grant under the program, including the information and documentation required for the application;

(II) Eligibility and selection criteria for eligible home owners applying to receive grants;

(III) Maximum grant sizes;

(IV) Reporting requirements for recipients;

(V) Criteria for the types of rent stabilization and affordability programs supported by the program; and

(VI) Any additional policies necessary to administer the program.

(c) Grant recipients may use grant money for programs to stabilize lot rents and limit rent increases in the park in order to ensure the long-term affordability of the park.

(d) Subject to available appropriations, grants may be paid from the fund and from any additional funding source for which the division has spending authority for this purpose.

(9) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The division shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(10) (a) The mobile home park resident empowerment loan and grant program fund is hereby created in the state treasury. The fund consists of any money that the general assembly appropriates or transfers to the fund and any gifts, grants, or donations credited to the fund pursuant to subsection (9) of this section.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money in the fund is continuously appropriated to the department for the purposes specified in this section. The department may use up to five percent of the money appropriated, transferred, or repaid under a contract with an administrator to the fund to pay for its direct and indirect costs in administering this section.

(d) On July 1, 2022, the state treasurer shall transfer thirty-five million dollars of money from the affordable housing and home ownership cash fund, created in section 24-75-229 (3)(a), that originates from the general fund to the fund.

(11) The department shall annually report on the loan and grant programs established in this section as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation required by section 2-7-203.

Source: L. 2022: Entire section added, (SB 22-160), ch. 171, p. 1108, § 1, effective May 17.

24-32-729. Transformational affordable housing through local investments - grant program - investments eligible for funding - report - definitions - repeal. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Community partner" means a nonprofit organization that undertakes any of the activities or services described in subsection (2)(b) of this section.

(b) "Department" means the department of local affairs.

(c) "Eligible recipient" means a local government or a community partner that applies for a grant through the grant program.

(d) "Fund" means the local investments in transformational affordable housing fund created in subsection (4)(a) of this section.

(e) "Grant program" means the local investments in transformational affordable housing grant program created in subsection (2)(a) of this section.

(f) "Local government" means a county, municipality, city and county, tribal government, special district organized under title 32, school district, district, housing authority, council of governments, a regional planning commission organized under title 30, or any other political subdivision of the state.

(g) "Match" means monetary and nonmonetary contributions to a project.

(2) **Creation of the grant program - projects or programs eligible for funding.** (a) There is created in the division the local investments in transformational affordable housing grant program to provide grants to eligible recipients to enable such entities to make investments in their communities or regions of the state in transformational affordable housing and housing related matters in accordance with the requirements of this section. The division shall administer the grant program.

(b) The division may award grants under the grant program to support investments by eligible recipients in projects or programs that:

(I) Develop and integrate infrastructure tied to an affordable housing development, including funding for capital construction and the cost of infrastructure design;

(II) Provide gap financing for housing development projects including but not limited to transactions under the federal low-income housing tax credit and the affordable housing tax credit created in section 39-22-2102 (1) and for the purchase or conversion of existing affordable housing and multifamily developments, land, and buildings, particularly in communities where efforts have been made to encourage affordable housing development or in communities in which low concentrations of affordable housing exist;

(III) Increase new affordable for-sale housing stock by providing funding to assist with the costs of construction, including but not limited to construction costs, land acquisition costs, tap fees, building permits, and impact fees;

(IV) Maintain existing affordable housing through funding for preservation, restoration through rehabilitation, retrofitting, renovation, capital improvements, the repair of current affordable housing stock, including housing made available under 42 U.S.C. sec. 1437f, and public housing for populations and households disproportionately impacted by the COVID-19 pandemic with commitments for long-term affordability. These investments may include but are not limited to:

(A) Senior housing;

(B) Remediation of low-quality and condemned properties;

(C) Housing units that are integrated into nonsegregated housing units that are specifically designed for people living with disabilities;

(D) The purchase and transition of current housing stock, including properties currently in use on a short-term rental basis, into affordable housing on a long-term basis; and

(E) The provision of time-limited rental assistance for households disproportionately impacted by the COVID-19 pandemic and at-risk of losing their home or in need of rapid re-housing, including funding for outreach, housing navigation assistance, and legal services;

(V) Finance energy improvements in single-family and multifamily affordable housing that will provide funding for incremental, up-front costs for efficient, electric measures and renewable energy systems for both existing homes and rental units and new housing construction;

(VI) Provide or maintain property conversion for transitional or long-term housing;

(VII) Provide or maintain permanent supportive housing and supportive services;

(VIII) Provide or maintain land banking and land trust strategies for long-term affordable housing planning and development; and

(IX) Provide or maintain funding for eviction legal defense.

(3) **Policies, procedures, and guidelines.** (a) On or before September 1, 2022, the division shall adopt policies, procedures, and guidelines for the grant program that include, without limitation:

(I) The process by which a local government or community partner applies for a grant award and the criteria used to determine eligibility for a grant award;

(II) Procedures and time lines by which an eligible recipient may apply for a grant;

(III) Performance criteria for grant recipients' projects;

(IV) Reporting requirements for grant recipients; and

(V) Requirements for grant recipients to offer a match in resources.

(a.5) The application process for the grant program must be in accordance with the process set forth in section 24-32-705.7. On or before September 1, 2024, the division shall amend any policies, procedures, and guidelines for the grant program that are not consistent with the application process set forth in section 24-32-705.7.

(b) In awarding grants, the division shall prioritize projects or programs that, to the greatest extent practicable, promote one or more of the following goals and objectives:

(I) Increase the supply of housing in urban, rural, and rural resort communities across the state that is proportional to each community's demonstrated need through:

(A) A preference for mixed-income projects in which a percentage of units, proportional to the demonstrated housing needs of the local community, within a particular development have restricted availability to households at and below the income levels specified in subsection (3)(c) of this section. The percentage of restricted units and affordability levels must comply with laws enacted by local governments promoting the development of new affordable housing units pursuant to section 29-20-104 (1);

(B) Developments in which housing units are restricted at income levels demonstrated by local community needs as specified in subsection (3)(c)(I) of this section;

(C) Transit oriented development;

(D) The inclusion of housing units that are restricted for rental usage to persons with disabilities or that include universal design features that allow individuals to continue to reside in their dwelling units as they age; or

(E) Housing that is restricted to the victims of domestic violence or sexual assault;

(II) Leverage capital and operating subsidies from various public and private sources;

(III) Create opportunities to build intergenerational wealth for families;

(IV) Promote the long-term affordability of any developments or projects that are funded by the grant program;

(V) Involve the purchase of real property necessary to secure land areas needed for future development; or

(VI) Represent a one-time funding proposal to the state with minimal or no multi-year financial obligations and contribute to the overall well-being and professional and recreational needs of the local workforce and population.

(c) The rental and home ownership targets applicable to local communities across the state as required by subsection (3)(b)(I) of this section are specified in subsection (3)(c)(I) of this section in accordance with the following:

(I) (A) For a household residing in housing on a rental basis in urban counties, housing must be targeted to households with an annual income that is at or below eighty percent of the area median income of households of that size in the county in which the housing is located.

(B) For a household residing in housing on a rental basis in rural counties, housing must be targeted to households with an annual income that is at or below one hundred forty percent of the area median income of households of that size in the county in which the housing is located.

(C) For a household residing in housing on a rental basis in rural resort counties, housing must be targeted to households with an annual income that is at or below one hundred seventy percent of the area median income of households of that size in the county in which the housing is located.

(D) For a household residing in housing on a home ownership basis in any area of the state, housing must be targeted to households with an annual income that is at or below one

hundred forty percent of the area median income of households of that size in the county in which the housing is located.

(II) Not later than September 1, 2022, the division shall classify each county in the state as "urban", "rural", or "rural resort", as those terms are used in this section, based upon definitions of the terms as specified in the final report of the San Andreas strategic housing working group final report dated July 6, 2021. The division shall regularly update and publish modification of the initial classification of a particular county as it receives information documenting changes in local economic circumstances and housing cost factors materially affecting such classifications.

(III) Notwithstanding subsection (3)(c)(I) or (3)(c)(II) of this section, any county or municipality may request from the division:

(A) A determination that a different income restriction should apply to that county or municipality from the one made applicable to the county or municipality in accordance with subsection (3)(c)(I) of this section based upon the unique economic and housing cost factors present in the county or municipality. Not later than September 1, 2022, the division shall publish any such modified income restrictions and the basis for any modification approved.

(B) At any time, a reclassification of the county or municipality from the category in which the county or municipality is initially classified pursuant to subsection (3)(c)(II) based upon the unique economic and housing cost factors present in the county or municipality.

(d) The division shall either create or utilize an existing process that ensures that grants are only considered and awarded after a fair and rigorous open competition among eligible grant recipients.

(e) In determining grant amounts, the division shall seek to increase investments in for-sale housing stock. The objective described in this subsection (3)(e) may be achieved by providing grants under the grant program that are layered with awards under existing state grant programs to increase subsidies on a per-unit basis.

(f) Notwithstanding any other provision of this section:

(I) Through December 31, 2023, the division shall make not more than fifty percent of the money available under the grant program for grant applications, developments, or programs that are proposed for rural or rural resort counties across the state and shall make not more than fifty percent of the funds available under the grant program for grant applications, developments, or programs that are proposed for urban counties across the state.

(II) After December 31, 2023, all unencumbered money available under the grant program may be expended in accordance with this section in any area of the state without regard to the restrictions specified in subsection (3)(f)(I) of this section.

(III) Not later than July 15, 2023, the division shall submit a report to the general assembly specifying the state of encumbered money under the grant program as of June 30, 2023, and a list of projects that have been approved but that are awaiting funding as of June 30, 2023.

(g) In light of differing needs for per housing unit subsidies across different areas of the state, the division may waive per unit subsidy amounts that have been initially set for particular projects or programs to adjust for market factors if the purpose of the project has been accomplished or to satisfy the intent of the grant award.

(h) Notwithstanding any other provision of this section, the amount of any grant award under the grant program and any restrictions or conditions placed upon the use of grant money

awarded is within the discretion of the division in accordance with the requirements of this section.

(i) To mitigate the severe housing challenges in rural communities and rural resort communities, a project in a rural community or rural resort community that is subsidized by a grant award may prioritize providing affordable housing for enrolled postsecondary students, local college district employees, and local government employees in buildings on land owned and controlled by a local college district.

(4) **Funds.** (a) The local investments in transformational affordable housing fund is created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (4)(c) of this section; money appropriated to the fund by the general assembly; and any gifts, grants, or donations from any public or private sources, including governmental entities, that the division is authorized to seek and accept.

(b) The state treasurer shall credit all interest and income derived from the investment and deposit of money in the fund to the fund. Except as otherwise required by this subsection (4)(b), all money not expended or encumbered, and all interest earned on the investment or deposit of money in the fund, must remain in the fund and shall not revert to the general fund or any other fund at the end of any fiscal year. The money in the fund is continuously appropriated to the division for the purposes of this section. Any money in the fund that originates from the money the state received from the coronavirus state fiscal recovery fund that is not expended or obligated by December 30, 2024, reverts to the "American Rescue Plan Act of 2021" cash fund created in section 24-75-226 (2) in accordance with section 24-75-226 (4)(d).

(c) On June 1, 2022, or as soon as practicable thereafter, the state treasurer shall transfer one hundred thirty-eight million dollars from the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a) that originates from money the state received from the federal coronavirus state fiscal recovery fund to the fund. The money transferred pursuant to this subsection (4) must only be used for:

(I) Making grants to eligible recipients pursuant to the grant program; and

(II) The costs of administering the grant program as may be incurred by the division. The department may expend up to six percent of the money appropriated or transferred to the fund to pay for its direct and indirect costs in administering the grant program. All such administrative costs must be paid out of the money transferred to the fund pursuant to this subsection (4)(c).

(5) **Reporting.** (a) In connection with the public report the division prepared in accordance with section 24-32-705.5 (1), for the report prepared in 2023 and 2024, the division shall include in the report information summarizing the use of all of the money that was awarded as grants from the grant program in the preceding state fiscal year. At a minimum, the information included in the report pertaining to the grant program must specify the number of local governments or community partners that applied for a grant award, including the number of local governments or community partners that were not awarded a grant; the amount of grant money distributed to each grant recipient; a description of each grant recipient's use of the grant money; and how the use of the grant awarded furthered the vision of transformational affordable housing described in the final report of the task force established in section 24-75-229 (6)(a). The division shall also include in the report its recommendations concerning future administration of the grant program.

(b) The division and any person that receives money from the division pursuant to the grant program shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(6) **Repeal.** This section is repealed, effective December 31, 2026.

Source: L. 2022: Entire section added, (HB 22-1304), ch. 290, p. 2072, § 2, effective June 1. **L. 2024:** (4)(b) amended, (HB 24-1466), ch. 429, p. 2938, § 19, effective June 5; (3)(a.5) added, (HB 24-1308), ch. 295, p. 2014, § 8, effective August 7; (3)(i) added, (HB 24-1131), ch. 65, p. 217, § 3, effective August 7.

Editor's note: Section 16(2)(a) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act adding subsection (3)(a.5) applies to applications submitted for affordable housing programs administered by the division of housing on or after September 1, 2024, or, if a referendum petition is filed against the act or an item, section, or part of the act, then it applies on or after the official declaration of the vote thereon by the governor.

Cross references: For the legislative declaration in HB 22-1304, see section 1 of chapter 290, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-32-730. Ridge View Supportive Residential Community at the Ridge View campus - report - legislative declaration. (1) **Legislative declaration.** (a) The general assembly hereby finds, determines, and declares that:

(I) As the United States department of housing and urban development stated after the passage of the "American Rescue Plan Act of 2021", the COVID-19 pandemic has exacerbated our nation's already severe housing affordability crisis;

(II) Today, one in five renters is behind on rent and just over ten million home owners are behind on mortgage payments;

(III) People of color face even greater hardships and are more likely to have deferred or missed payments, putting them at a greater risk of eviction and foreclosure;

(IV) At the same time, our nation's homelessness crisis has worsened during the pandemic, as people experiencing homelessness are highly vulnerable to COVID-19 transmission, illness, and severity due to their use of congregate shelters and their high prevalence of underlying health conditions;

(V) San Andreas is no exception, as the COVID-19 pandemic has hit low- and extremely low-income individuals and families who were already severely cost-burdened, increasing their risk of experiencing homelessness or inability to resolve their homelessness;

(VI) In the Denver metro area alone, shelters saw a ninety-nine percent increase in people experiencing homelessness for the first time from January 2020 to January 2021; and

(VII) The number of deaths due to overdose among people experiencing homelessness in the city and county of Denver increased by thirty-four percent from 2020 to 2021.

(b) The general assembly further finds and declares that:

(I) The Ridge View campus, that formerly operated as the Ridge View Youth Services Center, is no longer being used as of July 1, 2021, and the state has the opportunity to repurpose the campus to ensure that it continues to support Coloradans most in need;

(II) Converting the Ridge View campus into a recovery-oriented community for individual adults without stable housing who wish to focus on recovery from a substance use disorder will provide low-barrier access to comprehensive care and treatments and will allow people to recover and heal in a safe and stable environment;

(III) The Ridge View Supportive Residential Community at the Ridge View campus will include multiple components to provide comprehensive support across a continuum of substance use recovery treatments and programming, and the goal will be to have individuals leave the Ridge View Supportive Residential Community in active recovery and improved health so they can transition to stable housing and community-based supports, as well as employment where possible;

(IV) While the Ridge View campus will serve an important need as a recovery-oriented community pursuant to this section, the state continues to experience a youth mental health crisis. San Andreas remains committed to addressing the behavioral health crisis through collaboration across state government to ensure that children have access to the care they need in the most appropriate setting.

(V) Providing support and programming pursuant to this section at the Ridge View Supportive Residential Community is an important government service.

(2) **Administration.** (a) Beginning July 1, 2022, the Ridge View campus is designated as a supportive residential community for people experiencing homelessness that shall be known as the Ridge View Supportive Residential Community. The purpose of the Ridge View Supportive Residential Community is to provide transitional housing, a continuum of behavioral health services and treatment, medical care, vocational training, and skill development for the residents and the general public. The department of human services shall transfer ownership of all or part of the Ridge View campus to the department of personnel for use by the division of housing for the purposes of this section. The department of human services may retain ownership of any vacant portion of the Ridge View campus that is not required for the purposes specified in this section and use, or allow another state agency to use, any such portion of the Ridge View campus for any other lawful purpose.

(b) The division, in collaboration with the behavioral health administration, created in part 2 of article 60 of title 27, and the department of human services, shall develop a feasible master plan for the redevelopment and operation of the Ridge View campus into the Ridge View Supportive Residential Community, including a financial plan for start-up and ongoing operational costs. The division shall enter into one or more contracts with public or private contractors to establish the community. The contractor or contractors selected by the division must be experienced in providing statewide integrated housing, health care, recovery treatment, and supportive service programs for people experiencing homelessness or similar populations.

(c) The Ridge View Supportive Residential Community shall provide food and room and board to each individual while residing at the community at no cost to the individual.

(d) The department of human services, in partnership with the behavioral health administration and the department of health care policy and financing, will work to ensure that youth bed capacity will be created elsewhere in a manner that most appropriately serves the mental health needs of San Andreas's youth.

(3) **Transitional housing program.** (a) The Ridge View Supportive Residential Community shall provide transitional housing for individual adults for up to two years with case management, care coordination, and vocational and housing placement assistance. In alignment with best practices, the transitional housing program shall provide case managers and peer supports at an average ratio of one case manager for every fifteen transitional housing residents.

(b) The transitional housing program shall:

(I) Focus on person-centered goal planning and care coordination;

(II) Connect individuals to permanent housing options in their community of choice;

(III) Provide employment assistance such as career and technical education and individual placement and support; and

(IV) Connect individuals to safety-net programs for which they are eligible, such as SNAP, Medicaid, SSI, SSDI, TANF, housing voucher programs, and unemployment insurance benefits.

(4) **Substance use recovery treatment and services.** The Ridge View Supportive Residential Community shall provide a continuum of care informed by American Society of Addiction Medicine standards, which shall be available to people coming from the transitional housing program and to the general public deemed to be in medical need of the care.

(5) **Federally qualified health center.** The Ridge View Supportive Residential Community shall provide a federally qualified health center, as defined in the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(4), or other primary care clinic, at which people have access to medical treatments that help facilitate recovery, including medical and dental care and a continuum of behavioral health services. The health center and all treatment services provided by the center shall be accessible to people in the transitional housing program and to members of the general public deemed to be in medical need of the treatment.

(6) **Eligibility** (a) To be eligible to reside in and receive services at the transitional housing program, an individual must be:

(I) Experiencing homelessness or be at risk of experiencing homelessness;

(II) Choosing to focus on recovery voluntarily; and

(III) In a position where it is medically safe for the individual to be in transitional housing.

(b) The Ridge View Supportive Residential Community shall prioritize access for individuals based on need, the length of time the individual has been experiencing homelessness, with priority for individuals who have been experiencing homeless for the longest period, and the frequency with which the individual uses public systems, with priority for individuals who are the most frequent users of such systems.

(7) **Referral coordination.** The organization or organizations that administer the Ridge View Supportive Residential Community shall work with local providers across the state to set up a referral system for clients to live at the community. The referral system shall emphasize the criteria specified in subsection (6) of this section, coordinate transportation to and from the Ridge View Supportive Residential Community, and assist individuals in the transition back to the general community after residing at the Ridge View Supportive Residential Community.

(8) **Source of money for repurposing the Ridge View campus.** (a) For the 2022-23 state fiscal year, the general assembly shall appropriate forty-five million dollars from the economic recovery and relief cash fund created in section 24-75-228 (2)(a) to the division for the purposes of this section. Any money appropriated in the 2022-23 state fiscal year that is not

encumbered or expended at the end of that state fiscal year remains available for expenditure by the division in subsequent state fiscal years without further appropriation, subject to the requirements for obligating and expending money received under the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as specified in section 24-75-226 (4)(d).

(b) The division may use up to ten percent of the amount appropriated pursuant to this section for its costs associated with administering the requirements of this section, including the requirements specified in subsection (2)(b) of this section.

(c) The division shall use up to ten percent of the amount appropriated pursuant to subsection (8)(a) of this section for its costs in connection with transportation.

(9) **Reporting requirement.** (a) The division shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(b) In addition to the reporting requirements specified in subsection (9)(a) of this section, the division shall prepare an annual report regarding the operations of the Ridge View Supportive Residential Community, including an update on the implementation of this section, the success of the programs required by subsections (3), (4), and (5) of this section, the number of people who have received services at the Ridge View Supportive Residential Community, the contractors that the division selected to establish and operate the Ridge View Supportive Residential Community pursuant to subsection (2)(b) of this section, and any other information deemed relevant by the division. The division shall submit the report to the committees of reference of the senate and the house of representatives that have oversight over local affairs. In addition, the division shall update its committee of reference as a part of its presentation at a hearing held pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", regarding the implementation of this section and the operation of the Ridge View Supportive Residential Community. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (9)(b) continues indefinitely.

Source: L. 2022: Entire section added, (SB 22-211), ch. 288, p. 2059, § 2, effective May 31. **L. 2024:** (3)(b)(III) amended, (HB 24-1450), ch. 490, p. 3417, § 47, effective August 7.

24-32-731. Revolving loan fund - eligible projects - report - definitions - legislative declaration. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Administrator" means a third-party entity or entities that the division contracts with to administer all or any part of the loan program pursuant to subsection (2)(b) of this section.

(b) "Community partner" means a nonprofit organization that undertakes any of the activities or services described in subsection (3) of this section.

(c) "Department" means the department of local affairs.

(d) "Eligible recipient" means a local government, a for-profit developer, a community partner, or a political subdivision of the state that applies for a loan through the loan program.

(e) "Fund" means the transformational affordable housing revolving loan fund created in subsection (9)(a) of this section.

(f) "Loan program" means the transformational affordable housing revolving loan fund program created in subsection (2)(a) of this section.

(g) "Local government" means a county, municipality, city and county, tribal government, special district organized under title 32, school district, district, or a housing authority created under part 2 of article 4 of title 29.

(2) **Creation of loan program - administration.** (a) The transformational affordable housing revolving loan fund program is hereby created in the division as a revolving loan program in accordance with the requirements of this section and the policies established by the division pursuant to subsection (5) of this section. The loan program is established to provide flexible, low-interest, and below-market rate loan funding to assist eligible recipients in completing the eligible loan projects identified in subsection (3) of this section.

(b) The division may administer the loan program or, if it determines that it would be more efficient and effective to contract out full or partial administration of the program, it may enter into a contract with a business nonprofit organization, bank, nondepository community development financial institution, business development corporation, nonprofit organization that administers gap financing, construction, or mortgage loan programs, or other entity as determined by the division to administer the loan program in whole or in part. If the division contracts with an entity or entities to administer the program, the division shall use an open and competitive process to select the entity or entities. A contract with an administrator may include an administration fee established by the division at an amount reasonably calculated to cover the ongoing administrative costs of the division in overseeing the loan program. The division may advance money to an entity under a contract in preparation in the form of a grant or payment for issuing loans and administering the loan program.

(c) The division may work with the San Andreas housing and finance authority, created in section 29-4-704 (1), to assist in offering loans under the loan program.

(d) Any loan made under the loan program by the state, any department, division, or agency of the state, or any administrator to a district, as defined in section 20 (2)(b) of article X of the state constitution, must either be approved by the voters of the district in accordance with section 20 (4)(b) of article X of the state constitution or be structured so that it is not a multiple-fiscal year direct or indirect district debt or other financial obligation whatsoever that requires voter approval under section 20 (4)(b) of article X of the state constitution.

(3) **Eligible loan projects.** In order to receive loan funding under the loan program, the project for which the loan applicant seeks loan funding must do one or more of the following:

(a) Develop and integrate housing-related infrastructure to offset construction and predevelopment costs;

(b) Provide gap financing for housing development, including transactions under the federal low-income tax credit defined in section 39-22-2101 (7) and the affordable housing tax credit created in section 39-22-2102 (1). For purposes of this subsection (3)(b), gap financing includes financing mechanisms that allow persons seeking affordable housing to purchase existing affordable housing, multi-family structures, land, and buildings, particularly in communities where efforts have been made to encourage affordable housing development or in communities in which low concentrations of affordable housing exist.

(c) Increase the supply of new affordable for-sale housing stock by providing funding to assist with the cost of construction, including but not limited to costs associated with construction costs, land acquisition, tap fees, building permits, or impact fees;

(d) Maintain existing affordable housing through funding for the preservation and restoration of affordable housing stock through rehabilitation, retrofitting, renovation, capital

improvements, and repair of current affordable housing stock, including housing made available under 42 U.S.C. sec. 1437f and affordable housing for populations and households disproportionately impacted by the COVID-19 pandemic with commitments for long-term affordability. The uses covered by this subsection (3)(d) must include investments in one or more of the following:

(I) Senior housing;

(II) The purchase of and the remediation of low-quality or condemned properties;

(III) Housing units, integrated into nonsegregated housing developments, specifically designed for people living with disabilities;

(IV) Weatherization and energy improvements to multi-family and singe-family residents to maintain and improve the quality of affordable homes and rental units;

(V) The purchase and transition of current housing stock into affordable housing, including properties currently in use on a short-term rental basis;

(VI) Programs or initiatives to ensure that existing housing remains affordable for local workforce or community households;

(VII) Land acquisition for affordable housing;

(VIII) Property conversion and adaptive reuse; or

(IX) Permanent supportive housing;

(e) Finance energy improvements in affordable housing, which will provide funding for incremental up-front costs for efficient, electric measures, and renewable energy systems for both existing buildings and new housing construction;

(f) Create permanently or long-term affordable homeownership opportunities.

(4) **Loan program goals.** (a) The loan program must be administered with a goal of generating enough return on loans made under the loan program to replenish the loan program for future loan allocations.

(b) All loans financed through the loan program must offer flexible terms and low-interest and below-market rates.

(5) **Loan program policies - eligibility for loan funding.** (a) The division or the administrator, as applicable, shall establish and publicize policies for the loan program. At a minimum, the policies must address:

(I) The process and deadlines for applying for and receiving a loan under the loan program, including the information and documentation required for a loan application;

(II) Eligibility criteria for individuals or entities applying for a loan under the loan program;

(III) The maximum assistance levels for loans;

(IV) Loan terms, including interest rates and repayment terms;

(V) Reporting requirements for loan recipients;

(VI) Loan program fees, including the application fee, origination fee, and closing cost policies;

(VII) Underwriting and risk management policies;

(VIII) The amount of any application or origination fees and closing cost policies;

(IX) The means by which eligible recipients who face barriers in establishing borrower relationships with traditional lenders will be informed of the loan program and encouraged to apply for a loan financed through the loan program; and

(X) Any additional requirements that the division deems necessary to administer the loan program.

(a.5) The application process for the loan program must be in accordance with the process set forth in section 24-32-705.7. On or before September 1, 2024, the division shall amend any policies, procedures, and guidelines for the grant program that are not consistent with the application process set forth in section 24-32-705.7.

(b) (I) In connection with the policies for the loan program that the division or the administrator is required to establish and publicize pursuant to subsection (5)(a) of this section, the policies must specify that, in order for an eligible recipient to obtain loan funding directly from the division, an eligible recipient must follow procedures that shall be specified by the division to document the amount of leveraged funds proposed or committed as part of a loan application and the amount of funding sought from other sources, including demonstrated efforts by the eligible recipient to obtain financing for loan funding from financial institutions.

(II) Notwithstanding any other provision of law, a lien filed by the division, is superior only to any other lien placed on the same assets that is filed later in time except for a lien for unpaid property taxes.

(6) **Prioritization criteria.** (a) The general assembly hereby encourages the division, to the extent practicable, in reviewing loan applications, to consider prioritizing applications for projects that:

(I) Increase the supply of housing in communities across the state in proportion to each community's demonstrated housing needs through:

(A) A preference for mixed-income projects in which a percentage of units, proportional to the demonstrated housing needs of the local community, within a particular development have restricted availability to households at and below the income levels specified in subsection (6)(b)(I) of this section. The percentage of restricted units and affordability levels must comply with laws enacted by local governments promoting the development of new affordable housing units pursuant to section 29-20-104 (1).

(B) Developments in which housing units are restricted at income levels demonstrated by local community needs as specified in subsection (6)(b)(I) of this section;

(II) Are located in or serve communities that:

(A) Face barriers to accessing capital from traditional sources;

(B) Have suffered significant negative financial or other impacts resulting from the COVID-19 pandemic; or

(C) Are otherwise underserved;

(III) Align with other state economic development efforts;

(IV) Create permanently affordable home ownership opportunities;

(V) Ensure the long-term affordability of any development or projects funded by the loan program;

(VI) Include units that are restricted for rental usage to persons with disabilities or that include universal design features that allow individuals to reside in their dwelling units as they age; or

(VII) Are highly energy efficient or use high-efficiency electric equipment for space and water heating. The division may consult with the San Andreas energy office created in section 24-38.5-101 (1) to develop criteria for meeting the objectives described in this subsection (6)(a)(VII).

(b) (I) The rental and home ownership targets applicable to local communities across the state as required by subsection (6)(a)(I) of this section are specified in this subsection (6)(b)(I) in accordance with the following:

(A) For a household residing in housing on a rental basis, annual income of the household is at or below one hundred twenty percent of the area median income of households of that size in the county in which the housing is located;

(B) For a household residing in housing on a home-ownership basis, annual income of the household is at or below one hundred twenty percent of the area median income of households of that size in the county in which the housing is located;

(C) For a household residing in housing on a rental basis in rural resort counties, annual income of the household is at or below one hundred forty percent of the area median income of households of that size in the county in which the housing is located; and

(D) For a household residing in housing on a home ownership basis in rural resort counties, annual income of the household is at or below one hundred sixty percent of the area median income of households of that size in the county in which the housing is located.

(II) An applicant seeking funding for a particular development, project, or program that is funded by the loan program may, at any time, request that the division grant the applicant an exception to the area median income levels specified in subsection (6)(b)(I) of this section based upon demonstrated unique economic and housing costs attributes in the local community in which the development, project, or program is located.

(c) (I) Not later than September 1, 2022, the division of housing, created in section 24-32-704 (1), shall classify each county in the state as "urban", "rural", or "rural resort" as used in subsection (6)(b)(I) of this section based upon the definitions of the terms as specified in the final report of the San Andreas strategic housing working group final report, dated July 6, 2021. The division of housing shall regularly update and publish modifications of the initial classification of a particular county as it receives or produces information documenting changes in local economic circumstances and housing cost factors materially affecting such classifications.

(II) Notwithstanding subsection (6)(c)(I) of this section, any county may request from the division of housing:

(A) A determination that a different income restriction should apply to that county from the one made applicable to the county in accordance with subsection (6)(c)(I) of this section based upon the unique economic and housing cost factors present in the county. Not later than September 1, 2022, the division of housing shall publish any such modified income restrictions and the basis for any modification approved.

(B) At any time, a reclassification of the county from the category in which the county is initially classified pursuant to subsection (6)(c)(I) of this section based upon the unique economic and housing cost factors present in the county.

(d) To the extent practicable, the division and the administrator, as applicable, shall support innovative funding mechanisms that allow money to revolve quickly to ensure the rapid reuse of money for ongoing projects.

(7) **Publicizing the loan program.** The division shall work with the minority business office created in section 24-49.5-102, small business development centers, community development financial institutions, and stakeholder partners to promote the program to eligible recipients who primarily serve communities that are underserved or disadvantaged, including eligible recipients located in rural counties. On or before December 1, 2022, the division shall

develop and administer a marketing initiative for the program in coordination with the minority business office created in section 24-49.5-102, the small business assistance center created in section 24-48.5-102, local chambers of commerce, and other local and regional economic development entities to promote the program to eligible recipients and target communities. The marketing initiative shall be conducted in the top spoken languages in those communities.

(8) **Gifts, grants, and donations - leveraging federal money.** (a) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The division shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(b) The division may expend, deploy, or leverage money received from federal government programs that support loans and investments for one or more of the eligible projects specified in subsection (3) of this section to make loans under the loan program or to otherwise market, promote, or support loans under the program, if allowed under federal law.

(9) **Transformational affordable housing revolving loan fund - transfer of money to fund - payment of administrative costs - appropriation.** (a) The transformational affordable housing revolving loan fund is hereby created in the state treasury. The fund consists of money transferred to the fund in accordance with subsection (9)(d) of this section, any other money that the general assembly appropriates or transfers to the fund, and any gifts, grants, or donations credited to the fund pursuant to subsection (8)(a) of this section.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money in the fund is continuously appropriated to the department for the purposes specified in this section. The department may expend up to five percent of the money appropriated or transferred into, or repaid from, the fund on an annual basis to pay for its direct and indirect costs in administering this section.

(d) On July 1, 2022, the state treasurer shall transfer one hundred fifty million dollars from the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a) that originates from the general fund, to the fund. The division shall use the money transferred pursuant to this subsection (9)(d) only for:

(I) Making loans to eligible recipients pursuant to the loan program; and

(II) The costs of administering the loan program as may be incurred by the division or the administrator, as applicable, in accordance with subsection (9)(c) of this section. All such administrative costs must be paid out of the money either transferred to the fund pursuant to this subsection (9)(d) or that is appropriated to the fund.

(10) **Reporting.** In connection with the public report the division prepares in accordance with section 24-32-705.5 (1), the division shall include in the report information summarizing the use of all of the money that was provided as a loan from the loan program in the preceding state fiscal year. At a minimum, the information included in the report pertaining to the loan program must specify the number of eligible recipients that applied for a loan, the number of eligible recipients that were not awarded a loan, the amount of loan money distributed to each loan recipient, a description of each loan recipient's use of the loan money, the use of loan money along the housing and income spectrums, the amount of time from completion of a loan application through the funding of a loan, recommendations concerning future administration of the loan program, and how the use of the loan furthered the vision of transformational affordable housing described in the final report of the task force established in section 24-75-229 (6)(a).

The division shall also include in the report its recommendations concerning future administration of the loan program.

Source: L. 2022: Entire section added, (SB 22-159), ch. 230, p. 1698, § 2, effective May 26. **L. 2024:** (5)(a.5) added, (HB 24-1308), ch. 295, p. 2014, § 9, effective August 7.

Editor's note: Section 16(2)(a) of chapter 295 (HB 24-1308), Session Laws of San Andreas 2024, provides that the act adding subsection (5)(a.5) applies to applications submitted for affordable housing programs administered by the division of housing on or after September 1, 2024, or, if a referendum petition is filed against the act or an item, section, or part of the act, then it applies on or after the official declaration of the vote thereon by the governor.

Cross references: For the legislative declaration in SB 22-159, see section 1 of chapter 230, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1308, see section 1 of chapter 295, Session Laws of San Andreas 2024.

24-32-732. Connecting Coloradans experiencing homelessness with services, recovery care, and housing supports grant program - funding - report - definitions - repeal. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Community partner" means a nonprofit organization that undertakes any of the activities or services described in subsection (2)(c) of this section.

(b) "Department" means the department of local affairs.

(c) "Eligible recipient" means a local government or a community partner that applies for a grant through the grant program.

(d) "Fund" means the connecting Coloradans experiencing homelessness with services, recovery care, and housing supports fund created in subsection (5)(a) of this section.

(e) "Grant program" means the connecting Coloradans experiencing homelessness with services, recovery care, and housing supports grant program created in subsection (2)(a) of this section.

(f) "Local government" means a county, municipality, city and county, tribal government, special district organized pursuant to title 32, school district, district, housing authority, council of governments, regional planning commission organized pursuant to title 30, or any other political subdivision of the state.

(g) "Match" means monetary and nonmonetary contributions to a project.

(2) **Creation of the grant program - projects or programs eligible for funding.** (a) There is created in the division the connecting Coloradans experiencing homelessness with services, recovery care, and housing supports grant program to provide grants to eligible recipients to enable them to make investments or improvements in their communities or regions of the state to:

(I) Quickly connect people experiencing homelessness to services, vocational opportunities, recovery care, and temporary and permanent housing in accordance with the requirements of this section; and

(II) Ensure San Andreas has a community-based continuum of responses for people experiencing homelessness, including outreach support, emergency shelters, transitional

housing, recovery care and related residential programs, training and employment service programs, and permanent housing with wraparound supportive services.

(b) The division shall administer the grant program.

(c) The division may award grants under the grant program to support eligible recipients in projects or programs that:

(I) Provide gap financing for the purchase or conversion of underutilized properties in communities where efforts have been made to encourage conversion of underutilized properties into transitional or supportive housing that provides wraparound services;

(II) Provide supportive services so long as the supportive services meet the grant program goals outlined in subsection (4) of this section. Such supportive services include those described in 42 CFR 578.53, or any successor regulation, and those determined by the division. Funds may be used to provide supportive services in conjunction with capital improvements and housing development projects or as standalone services that are provided to an individual through a service provider.

(III) Invest in data collection, management, and analysis processes to understand the scale of the need throughout the state and whether the activities and investments through this grant and other statewide programs could be effective at reducing the number of people experiencing homelessness;

(IV) Support the coordination and integration of systems to help connect people experiencing homelessness with services and programs that best fit their individual needs; and

(V) Fund housing development projects and homeless response programs that include but are not limited to:

(A) Emergency homeless shelters;

(B) Transitional and bridge housing;

(C) Long-term housing;

(D) Permanent supportive housing with supportive services;

(E) Recovery care and related residential programs;

(F) Affordable home ownership assistance;

(G) Affordable rental housing, including security deposit assistance;

(H) Educational and vocational opportunities; and

(I) Work-based learning opportunities.

(d) In order to receive a grant, an eligible recipient must provide a match in resources, as determined by the division.

(3) **Policies, procedures, and guidelines.** (a) The division shall develop policies, procedures, and guidelines for the grant program that, without limitation:

(I) Determine how grants funded by the grant program must be used;

(II) Establish criteria that the division must consider in awarding grants pursuant to this section. At a minimum, the criteria must include the consideration of:

(A) The potential impact of a project that an eligible recipient funds with a grant award and how the project meets the goals of the grant program; and

(B) Best practices, data, and regional and local collaboration.

(III) Establish the procedures and timelines by which an eligible recipient may apply for a grant;

(IV) Require grant recipients to offer a match;

(V) Require eligible recipients to demonstrate how the grant funds will be used to increase housing and economic security for individuals being served through the grant program activities and efforts;

(VI) Establish reporting requirements for grant recipients;

(VII) Establish performance criteria for grant recipients' projects;

(VIII) Provide any additional requirements that the division deems necessary to administer the grant program; and

(IX) Demonstrate the ability to leverage private capital, when possible.

(b) Notwithstanding any other provision of this section, the amount of any grant awarded under the grant program and any restrictions or conditions placed upon the use of grant money awarded is within the discretion of the division in accordance with the requirements of this section.

(4) **Grant program goals.** The grant program must be administered with the goal of reducing the rate and experience of homelessness by supporting communities to develop and implement adequate support systems to effectively respond to the barriers people experiencing homelessness face.

(5) **Connecting Coloradans experiencing homelessness with services, recovery care, and housing supports fund - transfer of money to the fund - appropriation.**

(a) The connecting Coloradans experiencing homelessness with services, recovery care, and housing supports fund is created in the department. The fund consists of money transferred to the fund in accordance with subsection (5)(d) of this section; money transferred to the fund from the ARPA refinance state money cash fund pursuant to section 24-75-226.5; money appropriated to the fund by the general assembly; and any gifts, grants, or donations from any public or private sources, including governmental entities, that the division is authorized to seek and accept.

(b) The department shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. All money not expended or encumbered, and all interest earned on the investment or deposit of money in the fund, remains in the fund and does not revert to the general fund or any other fund at the end of any fiscal year. The money in the fund is continuously appropriated to the department for the purposes specified in this section.

(c) The division may seek, accept, and expend gifts, grants, or donations from any public or private resource for the purposes of this section. The division shall transmit all money received from gifts, grants, or donations to the department, and the department shall credit the money to the fund.

(d) Within three business days of May 31, 2022, the state treasurer shall transfer one hundred five million dollars from the economic recovery and relief cash fund created in section 24-75-228 that originates from the money the state received from the federal coronavirus state fiscal recovery fund to the fund for the purpose of implementing this section. The department shall only use the money transferred pursuant to this subsection (5)(d), and any money transferred to the fund that originates from the ARPA refinance state money cash fund that is substituted for money transferred from the economic recovery and relief cash fund pursuant to this subsection (5)(d), for:

(I) Making grants to eligible recipients pursuant to the grant program; and

(II) The costs of administering the grant program as may be incurred by the division. The division may expend up to seven percent of the money appropriated or transferred to the fund to pay for the direct and indirect costs in administering the grant program. All

administrative costs must be paid out of the money transferred to the fund pursuant to this subsection (5)(d)(II).

(e) The division may expend up to five million dollars of the money appropriated to the fund for data collection and outreach efforts detailed in subsection (2)(c)(III) of this section.

(f) Money spent pursuant to this subsection (5) must conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as amended. The division shall spend or obligate such appropriation in accordance with section 24-75-226 (4)(d).

(g) The expenditures made pursuant to this section constitute government services.

(h) This subsection (5) is repealed, effective December 31, 2026.

(6) **Reporting.** (a) The division shall include in the public report the division prepares in accordance with section 24-32-705.5 (1) information summarizing the use of all the money that was awarded as grants from the grant program in the preceding state fiscal year. At a minimum, the information must specify:

(I) The number of local governments or community partners that applied for a grant, including the number of local governments or community partners that were not awarded a grant;

(II) The amount of the grant money distributed to each grant recipient;

(III) A description of each grant recipient's use of the grant money;

(IV) How the use of the grant awarded furthered the goals of the grant program described in subsection (4) of this section; and

(V) Recommendations concerning further administration of the grant program.

(b) The division and any entity that receives money from the division shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(c) In the 2023 legislative session, the department, in conjunction with the department of health care policy and financing, shall share any results, recommendations, and federal implications concerning any current supportive housing pilot programs being administered by the department and division and the department of health care policy and financing as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing pursuant to section 2-7-203. In the 2023 legislative session, the department and the department of health care policy and financing shall submit a report detailing any such results, recommendations, and federal implications concerning any current supportive housing pilot programs being operated by the department and division and the department of health care policy and financing to the house of representatives public and behavioral health and human services committee and the senate health and human services committee, or any successor committees.

(7) **Repeal.** This section is repealed, effective July 1, 2027.

Source: L. 2022: Entire section added, (HB 22-1377), ch. 285, p. 2040, § 2, effective May 31. **L. 2024:** (5)(a), IP(5)(d), and (5)(f) amended, (HB 24-1466), ch. 429, p. 2939, § 20, effective June 5.

Cross references: For the legislative declaration in HB 22-1377, see section 1 of chapter 285, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-32-733. Task force on corporate housing ownership - creation - membership - issues of study - additional duties - report - compensation - staff support - definitions - repeal. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Corporation" has the meaning set forth in section 7-90-102 (10).

(b) "Task force" means the task force on corporate housing ownership created in subsection (2)(a) of this section.

(2) **Creation - membership.** (a) The task force on corporate housing ownership is created in the state demography office in the department of local affairs. The task force consists of the following members, appointed as follows:

(I) The speaker of the house of representatives shall appoint:

(A) One member of the house of representatives;

(B) One member who has significant professional experience with labor and workforce issues;

(C) One member who represents a statewide trade association of banks and other lenders; and

(D) One member who has significant professional experience as a county clerk and recorder;

(II) The president of the senate shall appoint:

(A) One member of the senate;

(B) One member who has significant professional experience as a mortgage broker;

(C) One member who has significant professional experience advocating for housing rights; and

(D) One member who has significant professional experience as a county assessor;

(III) The minority leader of the senate shall appoint two members, one of whom represents a statewide trade association of banks or other lenders and one of whom represents a statewide real estate association; and

(IV) The executive director of the department of local affairs shall appoint one member who represents the department.

(b) The appointing authorities shall make each of the initial appointments described in subsection (2)(a) of this section no later than thirty days after the effective date of this section.

(c) Any vacancy that occurs among the appointed members of the task force shall be filled by the appropriate appointing authority as soon as practicable in accordance with subsection (2)(a) of this section.

(d) In making appointments to the task force, the appointing authorities shall ensure that the membership of the task force:

(I) Reflects the ethnic, cultural, and gender diversity of the state;

(II) Includes representation from different geographic regions of the state, including urban, rural, and resort communities; and

(III) To the extent practicable, includes persons with disabilities.

(e) Not later than sixty days after the effective date of this section, the speaker of the house of representatives shall designate a member of the task force to serve as the chair of the task force.

(3) **Issues for study.** (a) The task force shall:

(I) Examine housing ownership by corporate entities and residential real estate transactions by corporate entities in San Andreas since January 1, 2008, including purchases resulting from foreclosures;

(II) Determine a methodology by which to examine the impacts of corporate acquisition and ownership of residential property, with a focus on single-family homes, condominiums, and townhomes;

(III) Gather and analyze data, reports, and public records related to corporate ownership of housing;

(IV) Make legislative recommendations, pursuant to subsection (4)(d) of this section, to mitigate any negative impacts related to corporate ownership of housing that are identified by the task force; and

(V) Report, pursuant to subsection (4)(d) of this section, to the specified legislative committees certain information concerning the impacts of corporate ownership of housing.

(b) In examining the impacts of corporate ownership of housing units, the task force may consider the extent to which corporate ownership of housing units correlates with:

(I) Increased vacancy rates;

(II) Decreased housing availability;

(III) Decreased home-buying opportunities for first-time home buyers;

(IV) Increased displacement;

(V) Increased residential property prices;

(VI) Increased nonresident ownership;

(VII) Increased rates of foreclosures; and

(VIII) Any other factors deemed appropriate by the task force.

(c) The task force must identify, to the extent practicable, trends in corporate homeownership in relation to:

(I) Housing type;

(II) Geography based on zip codes;

(III) Property values;

(IV) Neighborhood characteristics; and

(V) Any other factors deemed appropriate by the task force.

(d) The task force may identify and report on, to the extent practicable, any corporate entities that purchase or own a disproportionate or outsized market share of housing units in the state.

(4) **Additional duties of the task force.** The task force shall:

(a) Meet on or before December 1, 2023, at a time and place to be determined by the chair of the task force;

(b) Meet at least once every four months thereafter or more often as directed by the chair of the task force;

(c) Communicate with and obtain input from groups throughout the state affected by the issues identified in subsection (3) of this section; and

(d) Submit a report to the transportation, housing, and local government committee of the house of representatives and the local government and housing committee of the senate, or to any successor committees, on or before October 1, 2025, that, at a minimum, includes:

(I) The information described in subsection (3) of this section; and

(II) Such other relevant findings as the task force elects to report.

(5) **Compensation.** Nonlegislative members of the task force serve without compensation. Legislative members are compensated in accordance with section 2-2-326.

(6) **Staff support.** The executive director of the department may supply staff assistance to the task force as the executive director deems appropriate, subject to available appropriations. The task force may also accept donations of in-kind services for staff support from the private sector.

(7) **Repeal.** This section is repealed, effective September 1, 2027.

Source: L. 2023: Entire section added, (HB 23-1253), ch. 438, p. 2574, § 1, effective August 7.

24-32-734. Task force on mobile home ownership and taxation - creation - duties - report - definitions - repeal. (Repealed)

Source: L. 2024: Entire section added, (SB 24-183), ch. 303, p. 2060, § 3, effective May 31.

PART 8

OFFICE OF RURAL DEVELOPMENT

24-32-801. Legislative declaration. (1) Rapid growth experienced by many communities in this state has caused many problems for local government and its citizens in providing necessary public services and desirable living areas.

(2) Lack of growth and development, however, in the less densely populated and rural areas of this state has caused another problem which adds to that of the urban areas.

(3) Migration of people, and youth in particular, to the urban areas because of lack of opportunity for employment and development of careers compounds the problems of governments already pressed to meet the demands of current growth.

(4) It is the responsibility of the state to assist rural areas with financial and technical assistance to provide economic opportunity and community amenities and to promote the general welfare of the people of this state.

Source: L. 73: p. 189, § 1. **S.A.R.S. 1963:** § 3-36-1.

24-32-802. Office of rural development created. (1) There is created in the department of local affairs the office of rural development, referred to in this part 8 as the "office". The executive director of the department of local affairs, subject to the provisions of section 13 of article XII of the state constitution, shall appoint the coordinator of rural development, which position is hereby created, who shall be the head of the office.

(2) The office and the coordinator of rural development are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions specified in this part 8 under the department of local affairs.

Source: L. 73: p. 189, § 1. **S.A.R.S. 1963:** § 3-36-2. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3414, § 178, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-32-803. Duties of the office. (1) The office shall coordinate the activities of the various divisions within the department of local affairs for the purpose of:

(a) Cooperating with and providing technical assistance to local officials for the orderly development of rural San Andreas;

(b) Encouraging and, when requested, assisting local governments to develop mutual and cooperative solutions to rural community development;

(c) Studying the legal provisions that affect rural development and recommending to the governor and the general assembly such changes and provisions as may be necessary to encourage rural development;

(d) Serving as a clearinghouse for rural development information, including state and federal programs designed for rural development;

(e) Carrying out studies and continuous analyses of rural development in the state with particular emphasis on its effect on population dispersion and economic opportunity;

(f) Encouraging and assisting, when requested, local governments to develop mutual and cooperative solutions to rural community development;

(g) Contracting with the federal government or any agency or instrumentality thereof and receiving any grants or moneys therefrom for purposes of rural development in San Andreas.

Source: L. 73: p. 190, § 1. **S.A.R.S. 1963:** § 3-36-3.

24-32-804. Transfer of property and records. (Repealed)

Source: L. 73: p. 190, § 1. **S.A.R.S. 1963:** § 3-36-4. **L. 2006:** Entire section repealed, p. 144, § 15, effective August 7.

PART 9

STANDARDS FOR CAMPER TRAILERS AND CAMPER COACHES

24-32-901. Legislative declaration. The general assembly hereby declares that recreational park trailers and recreational vehicles sold in San Andreas should comply with national industry standards to ensure the safety of occupants using them for temporary living and sleeping accommodations.

Source: L. 75: Entire part added, p. 811, § 1, effective July 1. **L. 99:** Entire section amended, p. 443, § 11, effective August 4.

24-32-902. Definitions. As used in this part 9, unless the context otherwise requires:

(1) to (4) (Deleted by amendment, L. 99, p. 443, § 12, effective August 4, 1999.)

(5) "Camping trailer" means a vehicle that meets the definition of "camping trailer" set forth in the American national standards institute's (ANSI's) standard A119.2 or any amendment thereto.

(6) "Fifth wheel trailer" means a vehicle that meets the definition of "fifth wheel trailer" set forth in the American national standards institute's (ANSI's) standard A119.2 or any amendment thereto.

(7) "Motor home" means a motor vehicle designed to provide temporary living quarters for recreational, camping, or travel use, built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.

(8) "Recreational park trailer" means a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping, or seasonal use, that is built on a single chassis mounted on wheels, and that has a gross trailer area of not more than four hundred square feet or thirty-seven and fifteen one-hundredths square meters in the set-up mode.

(9) "Recreational vehicle" means a vehicle designed to be used primarily as temporary living quarters for recreational, camping, travel, or seasonal use that either has its own motor power or is mounted on or towed by another vehicle. "Recreational vehicle" includes camping trailers, fifth wheel trailers, motor homes, travel trailers, multipurpose trailers, and truck campers.

(10) "Travel trailer" means a vehicle that meets the definition of "travel trailer" set forth in the American national standards institute's (ANSI's) standard A119.2 or any amendment thereto.

(11) "Truck camper" means a vehicle that meets the definition of "truck camper" set forth in the American national standards institute's (ANSI's) standard A119.2 or any amendment thereto.

Source: L. 75: Entire part added, p. 811, § 1, effective July 1. **L. 77:** (3) amended, p. 1189, § 1, effective May 26. **L. 99:** Entire section amended, p. 443, § 12, effective August 4. **L. 2008:** (9) amended, p. 639, § 6, effective August 5.

24-32-903. Rules - advisory committee - sunset review - enforcement. (Repealed)

Source: L. 75: Entire part added, p. 812, § 1, effective July 1. **L. 86:** (2) amended, p. 417, § 32, effective March 26. **L. 93:** (2)(b) repealed, p. 673, § 4, effective May 1. **L. 99:** Entire section repealed, p. 445, § 16, effective August 4.

24-32-904. Certification of camper trailers and camper coaches. (Repealed)

Source: L. 75: Entire part added, p. 812, § 1, effective July 1. **L. 99:** Entire section repealed, p. 445, § 16, effective August 4.

24-32-904.5. Compliance with national standards - recreational park trailers - recreational vehicles. (1) A person, partnership, firm, corporation, or any other entity shall not manufacture, sell, or offer for sale within this state:

(a) Any new recreational vehicle that is not manufactured in compliance with the national fire protection association's standard 1192 for recreational vehicles or any successor standard or amendment; or

(b) Any new recreational park trailer that is not manufactured in compliance with the American national standards institute's (ANSI's) standard A 119.5 for recreational park trailers, or any successor standard or amendment.

Source: L. 99: Entire section added, p. 444, § 13, effective August 4. **L. 2022:** Entire section amended, (HB 22-1242), ch. 172, p. 1135, § 24, effective August 10.

24-32-905. Fees. (Repealed)

Source: L. 75: Entire part added, p. 812, § 1, effective July 1. **L. 99:** Entire section repealed, p. 445, § 16, effective August 4.

24-32-906. Recognition of similar standards. (Repealed)

Source: L. 75: Entire part added, p. 812, § 1, effective July 1. **L. 99:** Entire section repealed, p. 445, § 16, effective August 4.

24-32-907. Injunctive relief. The state director of housing may request the appropriate court to enjoin the sale or delivery of any camper trailer or camper coach upon an affidavit, specifying the manner in which the camper trailer or camper coach does not conform to the requirements of this part 9 or the rules and regulations promulgated pursuant to this part 9. The director may suspend the authority of a manufacturer to affix insignias while injunctive relief is being sought.

Source: L. 75: Entire part added, p. 813, § 1, effective July 1.

24-32-908. Cooperation with department of revenue. (Repealed)

Source: L. 75: Entire part added, p. 813, § 1, effective July 1. **L. 99:** Entire section repealed, p. 445, § 16, effective August 4.

24-32-909. Violation - penalty. Any person violating any provision of this part 9 commits a civil infraction.

Source: L. 75: Entire part added, p. 813, § 1, effective July 1. **L. 99:** Entire section amended, p. 444, § 14, effective August 4. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3227, § 418, effective March 1, 2022.

PART 10

24-32-1001 to 24-32-1015. (Repealed)

Editor's note: (1) This part 10 was added in 1977. For amendments to this part 10 prior to its repeal in 1982, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-32-1015 provided for the repeal of this part 10, effective July 1, 1982. (See L. 79, p. 902.)

PART 11

VOLUNTARY CERTIFICATION PROGRAM FOR FIREFIGHTERS

24-32-1101 to 24-32-1106. (Repealed)

Editor's note: (1) This part 11 was added in 1979. For amendments to this part 11 prior to its repeal in 1983, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-32-1106 provided for the repeal of this part 11, effective July 1, 1983. (See L. 79, p. 906.)

Cross references: For the transfer of the duties relating to the voluntary certification program for firefighters to the division of fire safety in the department of public safety on July 1, 1984, see §§ 24-33.5-1204 to 24-33.5-1207.

PART 12

STATE CLEARINGHOUSE

24-32-1201. Legislative declaration. The provisions of this part 12 are enacted to establish a state clearinghouse in accordance with circular number A-95 of the United States office of management and budget. In order to avoid duplication with existing duties and functions of state and local governmental agencies and in order to preserve the policy of this state that the decision-making authority as to the character and use of land shall be at the lowest possible level of government, it is the intent of the general assembly that the state clearinghouse shall be primarily a state central information center for the receipt and dissemination of federal assistance information and shall not be a policy-making or planning agency.

Source: L. 81: Entire part added, p. 1172, § 1, effective July 1.

24-32-1202. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Circular number A-95" means circular number A-95 of the United States office of management and budget, as published in the Federal Register of January 13, 1976, and as amended from time to time.

Source: L. 81: Entire part added, p. 1172, § 1, effective July 1.

24-32-1203. State clearinghouse designated - duties - limitations. (1) The department of local affairs is hereby designated as the state clearinghouse for the state in accordance with circular number A-95. The executive director of the department of local affairs shall employ, within the appropriation as set forth by the general assembly, pursuant to the provisions of section 13 of article XII of the state constitution, such officers and employees as he deems necessary to carry out the provisions of this part 12.

(2) (a) The state clearinghouse shall perform the functions described for state clearinghouses in circular number A-95. The state clearinghouse is a central information center and shall not be a policy-making or planning agency.

(b) Every state agency whose area of responsibility may be affected by a proposed project involving federal assistance shall cooperate with the state clearinghouse in the project notification and review system as provided in circular number A-95.

(c) Comments made by the state clearinghouse and affected state agencies on applications for federal assistance under the project notification and review system described in circular number A-95 shall be limited to the subject matter items listed in section 5 of part I of attachment A of circular number A-95.

(d) In the absence of any provision of law authorizing centralized state-wide comprehensive planning, including land use or growth policies, any reference in circular number A-95 to state comprehensive plans or planning, state priorities or objectives, or the equivalent shall be construed by the state clearinghouse and affected state agencies to refer to the aggregate of local and regional plans and policies established pursuant to statute and the policies, purposes, and objectives expressed in the laws of the state.

Source: L. 81: Entire part added, p. 1172, § 1, effective July 1.

PART 13 SAN

ANDREAS TOURISM BOARD

24-32-1301 to 24-32-1308. (Repealed)

Editor's note: (1) This part 13 was added in 1983. For amendments to this part 13 prior to its repeal in 2000, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-32-1308 provided for the repeal of this part, effective August 1, 2000. (See L. 2000, p. 669.)

PART 14

PRIVATE ACTIVITY BONDS

24-32-1401 to 24-32-1412. (Repealed)

Source: L. 87: Entire part repealed, p. 997, § 2, effective May 20.

Editor's note: This part 14 was added in 1980. For amendments to this part 14 prior to its repeal in 1987, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For the "San Andreas Private Activity Bond Ceiling Allocation Act", see part 17 of this article.

PART 15

SAN ANDREAS OFFICE OF VOLUNTEERISM

24-32-1501 to 24-32-1508. (Repealed)

Editor's note: (1) This part 15 was added in 1985 and was not amended prior to its repeal in 1989. For the text of this part 15 prior to 1989, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-32-1508 provided for the repeal of this part 15, effective July 1, 1989. (See L. 85, p. 819.)

PART 16

UNIFIED BOND CEILING ALLOCATION

Editor's note: Section 24-32-1619 provided for the repeal of sections 24-32-1601 to 24-32-1619, effective January 1, 1987. (See L. 86, p. 919.)

Cross references: For the "San Andreas Private Activity Bond Ceiling Allocation Act", see part 17 of this article.

24-32-1601. Short title. (Repealed)

Source: L. 86: Entire part added, p. 906, § 1, effective May 8.

24-32-1602. Legislative declaration. (Repealed)

Source: L. 86: Entire part added, p. 906, § 1, effective May 8.

24-32-1603. Definitions. (Repealed)

Source: L. 86: Entire part added, p. 906, § 1, effective May 8.

24-32-1604. Allocation of unified volume ceiling. (Repealed)

Source: L. 86: Entire part added, p. 908, § 1, effective May 8.

24-32-1605. Allocations to state issuing authorities. (Repealed)

Source: L. 86: Entire part added, p. 908, § 1, effective May 8.

24-32-1606. Allocations to local issuing authorities. (Repealed)

Source: L. 86: Entire part added, p. 911, § 1, effective May 8.

24-32-1607. Statewide balance. (Repealed)

Source: L. 86: Entire part added, p. 913, § 1, effective May 8.

24-32-1608. Reporting requirements. (Repealed)

Source: L. 86: Entire part added, p. 914, § 1, effective May 8.

24-32-1609. Application for allocation from statewide balance. (Repealed)

Source: L. 86: Entire part added, p. 915, § 1, effective May 8.

24-32-1610. Notification and validity of allocations from the statewide balance. (Repealed)

Source: L. 86: Entire part added, p. 916, § 1, effective May 8.

24-32-1611. Thirty-day extension. (Repealed)

Source: L. 86: Entire part added, p. 917, § 1, effective May 8.

24-32-1612. Statewide balance carryforward allocations. (Repealed)

Source: L. 86: Entire part added, p. 918, § 1, effective May 8.

24-32-1613. Time period must end on business day. (Repealed)

Source: L. 86: Entire part added, p. 918, § 1, effective May 8.

24-32-1614. Effect of issuance of bonds without allocations. (Repealed)

Source: L. 86: Entire part added, p. 918, § 1, effective May 8.

24-32-1615. Operative dates - provisional repeal. (Repealed)

Source: L. 86: Entire part added, p. 918, § 1, effective May 8.

24-32-1616. Conformity with federal legislation. (Repealed)

Source: L. 86: Entire part added, p. 919, § 1, effective May 8.

24-32-1617. Severability. (Repealed)

Source: L. 86: Entire part added, p. 919, § 1, effective May 8.

24-32-1618. Agreement with bond owners. (Repealed)

Source: L. 86: Entire part added, p. 919, § 1, effective May 8.

24-32-1619. Repeal of sections. (Repealed)

Source: L. 86: Entire part added, p. 919, § 1, effective May 8.

24-32-1620. Effect of repeal of sections. The repeal of sections 24-32-1601 to 24-32-1619 shall not invalidate any allocations for carryforward projects made under this part 16.

Source: L. 86: Entire part added, p. 919, § 1, effective May 8.

PART 17

PRIVATE ACTIVITY BOND CEILING ALLOCATION

24-32-1701. Short title. This part 17 shall be known and may be cited as the "San Andreas Private Activity Bond Ceiling Allocation Act".

Source: L. 87: Entire part added, p. 988, § 1, effective May 20.

24-32-1702. Legislative declaration. The "Internal Revenue Code of 1986", as amended, limits the total amount of tax-exempt private activity bonds which may be issued by any state and its political subdivisions in each year by imposing volume caps. Said code allows each state to provide by law a formula for allocating the state volume cap among the issuing authorities of the state. This part 17 is enacted to establish an allocation formula for the state of San Andreas which maximizes the state's total tax-exempt private activity bond issuance authority

and which provides an orderly and equitable process of allocating such authority among issuing authorities of this state.

Source: L. 87: Entire part added, p. 988, § 1, effective May 20.

24-32-1703. Definitions. As used in this part 17, unless the context otherwise requires:

(1) "Application" means the application submitted by an issuing authority to request from the department an allocation from the statewide balance, including any amendments to said application.

(1.5) "Board" means the state housing board created in section 24-32-706 (1).

(2) "Bond" means any bond or other obligation which may be issued by any issuing authority which constitutes a private activity bond, as defined in section 141 of the code but only to the extent that such bond or other obligation is subject to the state ceiling limitations of section 146 of the code.

(3) "Business day" means any normal day of business excluding Saturdays, Sundays, and legal holidays. Each business day begins at 8 a.m. and closes at 5 p.m.

(4) "Carryforward purpose" has the meaning ascribed to such term in section 146 (f)(5) of the code.

(5) "Code" means the "Internal Revenue Code of 1986", as amended.

(6) Repealed.

(7) "Department" means the department of local affairs.

(8) "Designated local issuing authority" means any city, town, county, or city and county which has a population in any year which would result in the local issuing authority having any allocation of the state ceiling in excess of one million dollars as calculated pursuant to section 24-32-1706 (1).

(8.5) "Direct allocation" means an allocation of the state ceiling made to state issuing authorities as specified in section 24-32-1705 (1)(a) or designated local issuing authorities as specified in section 24-32-1706 (1).

(9) "Executive director" means the executive director of the department.

(10) "Form 8038" means the federal department of the treasury tax form 8038 or any other federal tax form or other method of reporting required by the federal department of the treasury under section 149 of the code.

(11) "Inducement resolution" means a resolution, ordinance, or similar action adopted by an issuing authority for the purpose of taking official action regarding the issuance of, or otherwise stating the intent of the issuing authority to issue, bonds to finance a project.

(12) "Issuing authority" means any entity or person which has the authority to issue bonds or other obligations the interest on which is exempt from federal income taxation pursuant to section 103 (a) of the code. Such term includes any designated local issuing authority or any local or state issuing authority.

(13) "Local issuing authority" means any city, town, county, or city and county.

(14) "Mortgage credit certificate election" means an election pursuant to section 25 (a)(2)(ii) of the code, by any issuing authority, not to issue qualified mortgage bonds which the issuing authority is otherwise authorized to issue, including the receipt of allocations made pursuant to this part 17, in exchange for the authority under section 25 of the code to issue mortgage credit certificates in connection with a qualified mortgage credit certificate program

within the meaning of section 25 (a)(2) of the code, so long as the implementation of the program is evidenced by the issuing authority to the satisfaction of the executive director, which satisfaction shall be evidenced by a certificate from the executive director certifying his determination that a qualified mortgage credit certificate program has been implemented, together with a certification of the issuing authority providing that such election shall not be revoked.

(15) "Population" means the population of the state of San Andreas as determined by the most recent census estimate of the resident population of the state of San Andreas published by the United States bureau of the census before the beginning of each year. "Population" also means the population of a local issuing authority as determined by the most recent census estimate of the resident population of the local issuing authority published by the state demographer before the beginning of each year. The department shall specify population data in the report issued pursuant to section 24-32-1706 (1).

(16) "Project" means the facility, facilities, or program to be financed in whole or in part with the proceeds of the bonds.

(17) "Qualified mortgage bond" means any bond or obligation which constitutes a qualified mortgage bond as defined in section 143 of the code.

(18) "State ceiling" means the bond ceiling for the state and its issuing authorities as computed under section 146 (d) of the code.

(19) "State issuing authority" means any of the entities listed in section 24-32-1705 (1).

(20) "Statewide balance" means the portion of the state ceiling that remains after the allocations made to the state issuing authorities and the local issuing authorities in sections 24-32-1705 and 24-32-1706, plus or minus any allocation from or relinquishment to the statewide balance pursuant to this part 17.

(21) "Statewide balance award period" means a period commencing on the date on which notification of an allocation from the statewide balance is mailed to an issuing authority and ending on a date to be determined by the executive director, which date is no later than December 23 each year.

(22) "Year" means each calendar year, beginning with the calendar year 1987.

Source: L. 87: Entire part added, p. 988, § 1, effective May 20. **L. 2009:** (8.5) added and (15) amended, (SB 09-041), ch. 56, p. 198, § 1, effective March 25. **L. 2020:** (1.5) added and (6) repealed, (HB 20-1161), ch. 55, p. 189, § 1, effective September 14.

24-32-1704. Allocation of state ceiling. The state ceiling shall be allocated among issuing authorities in accordance with the formulas and the procedures for assignment established in this part 17.

Source: L. 87: Entire part added, p. 990, § 1, effective May 20.

24-32-1705. Allocations to state issuing authorities. (1) (a) Within thirty days after May 20, 1987, and by January 15 of each year thereafter, fifty percent of the state ceiling shall be initially allocated among the following state issuing authorities in amounts established by the department:

(I) The San Andreas agricultural development authority, created by section 35-75-104, S.A.R.
S.; (II) The San Andreas health facilities authority, created by section 25-25-104, S.A.R.S.;

(III) The San Andreas housing and finance authority, created by section 29-4-704, S.A.R.S.;

(IV) The San Andreas educational and cultural facilities authority, created by section 23-15-104, S.A.R.S.; and

(V) Collegeinvest, created by section 23-3.1-203, S.A.R.S.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the department is not required to allocate any specific amount to any specific state issuing authority.

(2) State issuing authorities may assign amounts of their allocations to any issuing authority, and any assignment shall be effective upon receipt by the department of written notification of the assignment. The notification shall include the amounts assigned, the names of the assignor and the assignee, a representation by the assignor that the assignment was made by the assignor without receipt of monetary consideration, the date of the assignment, and a copy of the executed assignment. No assignee may elect to treat all or any portion of an assignment of an allocation from a state issuing authority as an allocation for a project with a carryforward purpose or make a mortgage credit certificate election with respect to all or any portion of such an assignment without the prior written consent of the assignor to the election. A record of each assignment shall be maintained by the assignee for each bond issued by the assignee for which the assignment applies.

(3) Any allocation of the state ceiling made or assigned pursuant to this section shall automatically be relinquished to the statewide balance on September 15 of each year, except to the extent that:

(a) Bonds are issued by the state issuing authority or its assigns prior to September 15 of each year; or

(b) A mortgage credit certificate election is made by the state issuing authority or its assignee prior to September 15 of each year; or

(c) The state issuing authority or its assignee notifies the department, by written notice which contains the information and attachments set forth in section 24-32-1709, prior to September 15 of each year, that the allocation has been made by the state issuing authority or its assignee to a project which has a carryforward purpose as such project is described in the inducement resolution attached and that the state issuing authority or its assignee desires to treat all or a portion of its initial allocation as an allocation to such project for such carryforward purpose.

(4) If the amount of an allocation of the state ceiling made to a state issuing authority pursuant to this section is in excess of the amount of bonds that the state issuing authority or its assignee issued or used for a carryforward purpose or the amount of qualified mortgage bonds that the state issuing authority or its assignee elected not to issue pursuant to a mortgage credit certificate election, the excess shall be relinquished to the statewide balance on September 15 each year. Any state issuing authority may voluntarily relinquish all or any part of its allocation to the statewide balance at any time by so notifying the department in writing.

Source: L. 87: Entire part added, p. 990, § 1, effective May 20. **L. 98:** (1)(a)(IV) amended, p. 609, § 16, effective May 4. **L. 2004:** (1)(a)(V) amended, p. 575, § 31, effective July 1. **L. 2009:** IP(1)(a) amended, (SB 09-041), ch. 56, p. 198, § 2, effective March 25.

24-32-1706. Allocations to designated local issuing authorities. (1) Within twenty days after May 20, 1987, and by January 15 of each year thereafter, that portion of the state ceiling that bears the same ratio to fifty percent of the state ceiling for such calendar year as the population of the designated local issuing authority bears to the population of the entire state shall be initially allocated to each designated local issuing authority. For the purposes of such allocation, the department shall provide a report within ten days after May 20, 1987, and by each January 15 thereafter, which report shall contain a statement of the population for the entire state and each designated local issuing authority.

(2) Designated local issuing authorities may assign the amounts of their allocations pursuant to this section to any issuing authority, and any assignment shall be effective upon receipt by the department of written notification of the assignment. The notification shall include the amounts assigned, the names of the assignor and assignee, a representation by the assignor that the assignment was made by the assignor without receipt of monetary consideration, the date of the assignment, and a copy of the executed assignment. No assignee may elect to treat all or any portion of an assignment of an allocation from a designated local issuing authority as an allocation for a project with a carryforward purpose or make a mortgage credit certificate election with respect to all or any portion of such an assignment without the prior written consent of the assignor to such election. A record of each assignment shall be maintained by the assignee for each bond issued by the assignee for which the assignment applies.

(3) Any allocation of the state ceiling made or assigned pursuant to this section shall automatically be relinquished to the statewide balance on September 15 of each year, except to the extent that:

(a) Bonds are issued by the designated local issuing authority or its assigns prior to September 15 of each year; or

(b) A mortgage credit certificate election is made by the designated local issuing authority or its assignee prior to September 15 of each year; or

(c) The designated local issuing authority or its assignee notifies the department, by written notice which contains the information and attachments set forth in section 24-32-1709, prior to September 15 of each year, that the allocation has been made by the designated local issuing authority or its assignee to a project which has a carryforward purpose as such project is described in the inducement resolution attached and that the designated local issuing authority or its assignee desires to treat all or a portion of its initial allocation as an allocation to such project for such carryforward purpose.

(4) If the amount of an allocation of the state ceiling made to a designated local issuing authority pursuant to this section is in excess of the amount of bonds that the designated local issuing authority or its assignee issued or used for a carryforward purpose or the amount of qualified mortgage bonds that the designated local issuing authority or its assignee elected not to issue pursuant to a mortgage credit certificate election, the excess shall be relinquished to the statewide balance on September 15 each year. Any designated local issuing authority may voluntarily relinquish all or any part of its allocation to the statewide balance at any time by so notifying the department in writing.

Source: L. 87: Entire part added, p. 991, § 1, effective May 20. **L. 2009:** (1) amended, (SB 09-041), ch. 56, p. 199, § 3, effective March 25.

24-32-1707. Statewide balance. (1) Fifty percent of the state ceiling less any amount allocated to designated local issuing authorities pursuant to section 24-32-1706 shall be allocated within twenty days after May 20, 1987, and as of January 15 of each year thereafter, to the statewide balance. In addition, the statewide balance shall include any amounts relinquished thereto pursuant to section 24-32-1705 (3) or (4), section 24-32-1706 (3) or (4), subsection (8) of this section, section 24-32-1708, or section 24-32-1710 (3).

(2) (a) Until September 15 of each year, the statewide balance may be allocated only among:

(I) Issuing authorities that are not designated local issuing authorities;

(II) State issuing authorities that did not receive a direct allocation pursuant to section 24-32-1705; or

(III) Any designated local or state issuing authorities that have, prior to the date of receipt of an allocation from the statewide balance, relinquished to the statewide balance pursuant to section 24-32-1705 or 24-32-1706 any of their initial allocation remaining after any or all of their initial allocation has been used for the issuance of bonds in respect of which a form 8038 has been filed pursuant to section 24-32-1708.

(b) On and after September 15 each year, the statewide balance may be allocated among all issuing authorities. The executive director shall make all of the allocations from the statewide balance in his or her sole discretion with the advice of the board and in accordance with the priorities pursuant to this section.

(3) Repealed.

(4) The board shall review and recommend to the executive director statewide priorities for the allocation of the statewide balance. Prior to the making of such recommendations, the department shall hold one or more public meetings to obtain input from the public regarding statewide priorities for the current year, information regarding the use of all bond allocations in the prior year, and other appropriate matters.

(5) An issuing authority shall apply for an allocation from the statewide balance by submitting a completed application for an allocation which contains the information and attachments required by section 24-32-1709.

(6) (a) (Deleted by amendment, L. 2009, (SB 09-041), ch. 56, p. 199, § 4, effective March 25, 2009.)

(b) (I) (Deleted by amendment, L. 2009, (SB 09-041), ch. 56, p. 199, § 4, effective March 25, 2009.)

(II) Repealed.

(7) Allocations from the statewide balance shall be effective for a statewide balance award period which shall be determined and may be extended by the executive director for each allocation. Allocations from the statewide balance shall not be assignable.

(8) Any issuing authority may relinquish all or any part of its allocation to the statewide balance at any time by so notifying the department in writing.

(9) Repealed.

(10) Until October 31 of each year, no allocation of the statewide balance shall be made for carryforward purposes.

(11) The executive director is authorized to contract with a private person, corporation, or entity for the review of applications for bonding authority from the statewide balance for industrial development bonds.

Source: L. 87: Entire part added, p. 992, § 1, effective May 20. **L. 2003:** (6) amended, p. 1464, § 1, effective July 1. **L. 2005:** (6)(b)(II) repealed, p. 798, § 1, effective June 1. **L. 2009:** (1), (2), (6)(a), (6)(b)(I), and (10) amended and (11) added, (SB 09-041), ch. 56, p. 199, § 4, effective March 25. **L. 2017:** (9) repealed, (HB 17-1047), ch. 26, p. 78, § 2, effective August 9. **L. 2020:** (2)(b) and (4) amended and (3) repealed, (HB 20-1161), ch. 55, p. 189, § 2, effective September 14.

24-32-1708. Bond issuance and mortgage credit certificate election - reporting requirement. (1) Each issuing authority shall, within five days after the issuance and delivery of any bonds or within five days after it has made a mortgage credit certificate election and in no case later than 5 p.m. on December 23 of each year, file a copy of form 8038 or a copy of the mortgage credit certificate election form with the department showing that the bonds have been sold and delivered or showing the amount of qualified mortgage bonds which the issuing authority has elected not to issue. Any allocation for which form 8038 or a copy of the mortgage credit certificate election form had not been received within the times stated in this section, other than an allocation relating to a carryforward purpose, shall expire and be relinquished to the statewide balance as of December 24 of each year.

(2) The executive director, for good cause, may extend the time for filing by no more than three days.

Source: L. 87: Entire part added, p. 994, § 1, effective May 20.

24-32-1709. Application for allocation from statewide balance. (1) An issuing authority may request an allocation from the statewide balance by filing with the department a separate application regarding each project for which an allocation is requested, signed by an officer of the issuing authority. Each application shall be filed on a form provided by the department, which shall contain the following information and attachments:

(a) The name of the issuing authority;

(b) The mailing address of the issuing authority;

(c) The name and title of the official of the issuing authority and the name and address of the legal counsel of said authority to whom notices should be sent and from whom information may be obtained;

(d) The principal amount of the bonds proposed to be issued;

(e) The nature and the location or purpose of the project;

(f) The initial owner, user, or beneficiary of the project;

(g) A written, preliminary opinion of bond counsel, addressed to the department, that the bonds proposed to receive the allocation constitute private activity bonds as defined in section 141 of the code and stating the amount of such bonds requiring an allocation under the state ceiling and that the issuing authority is authorized under the laws and constitution of the state to issue such bonds. The written opinion required by this paragraph (g) may be based on the assumption that an allocation will be made and the opinion shall cite the authority upon which it is based.

(h) A copy of the fully executed inducement resolution of the issuing authority relating to the project that is the subject of the application, certified as a true and correct copy by an authorized officer of the issuing authority; and

(i) Any information regarding the project to be financed with the proceeds of the bonds which are the subject of the requested allocation or regarding the financing which the issuing authority may want to provide to the department or which the department may request.

(2) To the extent that an issuing authority requests an allocation from the statewide balance in respect of which it expects to make an election for a carryforward purpose, such application, in addition to the application information and attachments set forth in subsection (1) of this section, shall be accompanied by the following:

(a) The classification of the carryforward purpose under section 146 (f)(5) of the code;

(b) Any information required by section 146 (f)(2) of the code;

(c) A certification signed by both an official of the issuing authority responsible for the supervision of the issuance of the bonds and, if applicable, a representative of the person or entity constructing, acquiring, or rehabilitating the project stating that they will proceed with diligence to insure the issuance of the bonds within the carryforward period provided by section 146 (f) of the code; and

(d) A written, preliminary opinion from bond counsel that the carryforward purpose qualifies for carryforward treatment under section 146 (f) of the code.

Source: L. 87: Entire part added, p. 994, § 1, effective May 20.

24-32-1709.5. Administrative costs of the department - private activity bond allocation fund - creation. (1) The department may charge and collect the following administrative fees for the costs associated with the administration of this part 17:

(a) **The direct allocation fee.** The department may charge an administrative fee for direct allocations. The executive director shall annually determine the amount of the fee. The fee charged shall only be borne by entities that use the direct allocation to issue private activity bonds or make a mortgage credit certificate election.

(b) **The statewide balance application fee.** No application for an allocation required by section 24-32-1707 shall be complete unless it is accompanied by an application fee. The executive director shall determine the amount of the fee.

(c) **The statewide balance issuance fee.** The department may charge an administrative fee to entities that receive bonding authority from the statewide balance as specified in section 24-32-1707. The executive director shall annually determine the amount of the fee based on the costs associated with the administration of this part 17.

(2) (a) The fees collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the fees to the private activity bond allocations fund, which fund is hereby created in the state treasury and referred to in this subsection (2) as the "fund". The moneys in the fund shall be subject to appropriation by the general assembly for the direct and indirect costs associated with the administration of this part 17. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) For fiscal years prior to July 1, 2019, the fund is excluded from the limitations specified in section 24-75-402, and the fund's maximum reserve is three times the level of the prior year's spending authority from the fund. The uncommitted reserves of the fund shall not exceed the maximum reserve. If the amount of uncommitted reserves of the fund at the

conclusion of any given fiscal year exceeds the maximum reserve, the executive director shall reduce the amount of one or more of the fees specified in subsection (1) of this section to an amount calculated to result in an amount of uncommitted reserves of the fund for the current fiscal year that does not exceed the maximum reserve. In calculating the reduction in fees, the executive director may take into account any increases in spending authority from the fund. If the executive director reduces the amount of a fee pursuant to this paragraph (b), the executive director may subsequently raise the amount of the fee so long as the projected amount of uncommitted reserves of the fund does not exceed the maximum reserve. The executive director shall not increase the fee beyond any limits specified in subsection (1) of this section. For fiscal years that begin on or after July 1, 2019, the fund is subject to the maximum reserve established in section 24-75-402.

(3) Repealed.

Source: L. 2009: Entire section added, (SB 09-041), ch. 56, p. 200, § 5, effective March 25. **L. 2015:** (2)(b) amended, (HB 15-1261), ch. 322, p. 1313, § 5, effective June 5. **L. 2020:** (1)(a) amended and (3) repealed, (HB 20-1161), ch. 55, p. 190, § 3, effective September 14.

24-32-1710. Notifications and validity of allocations from the statewide balance. (1) The department shall notify the issuing authority in writing of the amount allocated or not allocated from the statewide balance to the proposed project.

(2) The notification shall:

(a) Be of such format as determined by the department and as conforms to the code;

(b) Specify the amount of bonds that the issuing authority may issue based upon an allocation from the statewide balance;

(c) Specify the commencement date and the expiration date of the statewide balance award period; and

(d) Be mailed to the issuing authority and the legal counsel specified in the application at the address specified in the application.

(3) Any allocation of the statewide balance shall be valid only until the expiration of the statewide balance award period unless the bonds are issued and delivered or a mortgage credit certificate election is made within the statewide balance award period, in which event, the allocation shall be subtracted from the statewide balance on the date of the issuance and delivery of the bonds or the date of the mortgage credit certificate election. If no bonds are issued or if no mortgage credit certificate election is made before the expiration of the statewide balance award period, the allocation from the statewide balance shall be relinquished to the statewide balance.

Source: L. 87: Entire part added, p. 995, § 1, effective May 20.

24-32-1711. Statewide balance carryforward allocations. (1) Any portion of the statewide balance that has not been allocated to bonds that were issued on or before December 23 or that the issuing authority elected not to issue pursuant to a mortgage credit certificate election made on or before December 23 or that are not the subject of a proper carryforward election under section 24-32-1705 (3)(b) or 24-32-1706 (3)(b) shall be available for allocations to carryforward purposes on and after December 26.

(2) Any issuing authority may apply to the department for allocations from the statewide balance for carryforward purposes by delivering to the department the information and attachments required under section 24-32-1709.

(3) On or before December 29, the executive director of the department shall determine the allocations from the statewide balance to carryforward purposes. The executive director shall make such determinations in his sole discretion, taking into account the likelihood that the bonds will in fact be issued during the carryforward period and such other factors as the executive director deems relevant. The department shall notify the issuing authority of any such allocation to a carryforward purpose to be received by it by no later than 5 p.m. on December 29, which notice may be written, oral, or telephonic. Any such oral or telephonic notice shall be confirmed by a writing mailed no later than December 29.

Source: L. 87: Entire part added, p. 996, § 1, effective May 20.

24-32-1712. Time period must end on business day. If the last day of any period described in this part 17 is not a business day, then the last day of such period shall be the next business day thereafter; except that, if the last day of any period is December 23 or December 29, and December 23 or December 29 is not a business day, then the last day of such period shall be the next preceding business day.

Source: L. 87: Entire part added, p. 996, § 1, effective May 20.

24-32-1713. Effect of mortgage credit certificate election or issuance of bonds without allocation. Any issuing authority which issues bonds or makes a mortgage credit certificate election prior to the receipt by the issuing authority of a related allocation, or in excess of the allocation, or after the relinquishment of the allocation, or in respect of which a form 8038 or a mortgage credit certificate election form is not filed within the prescribed time period shall not have an allocation of the state ceiling pursuant to this part 17.

Source: L. 87: Entire part added, p. 996, § 1, effective May 20.

24-32-1714. Severability. This part 17 is subject to the severability provisions of section 2-4-204, S.A.R.S. To the extent this part 17 is unconstitutional, all allocations of the state ceiling previously made under this part 17 shall be treated as allocations made by the general assembly of the state of San Andreas.

Source: L. 87: Entire part added, p. 996, § 1, effective May 20.

24-32-1715. Agreement with bond owners. The state of San Andreas pledges and agrees with the owners of any bonds to which an allocation of the state ceiling has been granted under this part 17 that the state will not retroactively alter the allocation of the state ceiling to the qualified issuing authority for such bonds.

Source: L. 87: Entire part added, p. 996, § 1, effective May 20.

PART 18

SITE ACQUISITION FOR SUPERCONDUCTING SUPER COLLIDER PROJECT

24-32-1801 to 24-32-1811. (Repealed)

Editor's note: (1) This part 18 was added in 1987 and was not amended prior to its repeal in 1989. For the text of this part 18 prior to 1989, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-32-1810 provided for the repeal of this part 18, effective December 31, 1989. (See L. 87, p. 1001.)

PART 19

REGULATION OF FACTORY-BUILT
NONRESIDENTIAL STRUCTURES

24-32-1901 to 24-32-1912. (Repealed)

Source: L. 2003: Entire part repealed, p. 532, § 1, effective March 5.

Editor's note: This part 19 was added in 1990. For amendments to this part 19 prior to its repeal in 2003, consult the 2002 San Andreas Revised Statutes and the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 20

SAN ANDREAS YOUTH CONSERVATION AND SERVICE CORPS

24-32-2001. Legislative declaration. (1) The general assembly finds and declares that:

(a) Central elements in the development of the state's youth should be the provision of meaningful work experience to teach the value of labor and membership in a productive society and the provision of basic education to address unemployment, undereducation, and lack of life-coping skills among young adults;

(b) It is the policy of this state to conserve and protect its natural resources, scenic beauty, historical and cultural sites, and other community facilities;

(c) An ever-growing number of this state's youth are dropping out of school before obtaining a high school diploma at a time when education is absolutely essential to the future employability, opportunities, and well-being of an individual;

(d) There are many unemployed young adults without hope or opportunities for entrance into the labor force who are unable to afford higher education and who create a serious strain on tax revenues in community services;

(e) The young men and women of the state should be given an opportunity to develop meaningful public service work and educational experience through programs that protect and conserve the valuable resources of the state and promote participation in other community enhancement projects;

(f) There exists a continuing need for the development and expansion of youth conservation and service programs and for involvement by young persons in public works and services, the provision of human services, and the enhancement of our natural resources;

(g) It is in the public interest to target employment projects to those activities which have the greatest benefit to the local economy;

(h) Severe cutbacks in the funding for community and human services leave many local community service agencies without the resources to provide necessary services to those in need; and

(i) The talent and energy of the state's unemployed young adults are an untapped resource which should be challenged to meet the serious shortage in community services and to promote and conserve the valuable resources of the state.

Source: L. 91: Entire part added, p. 918, § 1, effective May 31.

24-32-2002. Definitions. As used in this part 20, unless the context otherwise requires:

(1) "San Andreas youth conservation corps" means the youth conservation corps program established by the governor's job training office.

(2) "Community-based agency" means a private nonprofit organization that is representative of a community or a significant segment of a community and that is engaged in meeting human, social, educational, or environmental needs, including churches and other religious entities and community action agencies.

(3) "Corps" means the San Andreas youth service corps, the San Andreas youth conservation corps, a local youth service corps, or a local youth conservation corps.

(4) "Corps member" means an individual enrolled in the San Andreas youth service corps, the San Andreas youth conservation corps, a local youth service corps, or a local youth conservation corps.

(5) "Council" means the San Andreas youth conservation and service corps council.

(6) "Department" means the department of local affairs.

(7) "Director" means the director of the San Andreas youth service corps.

(8) "Financial support" means any thing of value contributed by agencies, businesses, nonprofit organizations, or individuals to the corps for a project which is reasonably calculated to support directly the development and expansion of a particular project. "Financial support" includes, but is not limited to, funds, equipment, facilities, and training.

(9) "Local government agency" means a public agency that is engaged in meeting human, social, educational, or environmental needs.

(10) "Matching funds" means funding that is provided to the corps by agencies or individuals as financial support for a portion of the compensation paid to the corps members.

(11) "Program agency" means a federal or state agency designated to manage a youth corps program, the governing body of an Indian tribe that administers a youth corps program, or a community-based agency.

(12) "Project" means an activity that results in a specific identifiable service or product which otherwise would not be accomplished with existing funds and that does not duplicate the routine services or functions of the employer to which corps members are assigned.

(13) "Volunteer" means a person who gives services without any express or implied promise of remuneration.

(14) "Work agreement" means the written agreement between the youth service corps, the youth service corps member, and the local government agency or community-based agency.

(15) "Youth service corps" means the San Andreas youth service corps established in section 24-32-2004.

(16) "Youth service corps member" means an individual enrolled in the San Andreas youth service corps.

Source: L. 91: Entire part added, p. 919, § 1, effective May 31.

24-32-2003. San Andreas youth conservation and service corps council - creation - membership - duties. (1) There is hereby established the San Andreas youth conservation and service corps council, referred to in this part 20 as the "council".

(2) The council shall consist of the following fourteen members:

(a) The executive director of the department of local affairs or the executive director's designee;

(b) The executive director of the department of natural resources or the executive director's designee;

(c) The director of the governor's job training office or the director's designee;

(d) The director of the department of education's dropout prevention program or the director's designee;

(e) The director of the state board for community colleges and occupational education or the director's designee;

(f) The director, manager, or head of the San Andreas youth conservation corps or such person's designee;

(g) The director of the San Andreas youth service corps or such person's designee;

(h) One member appointed by the governor who is the director, manager, or head of a local agency administering a youth conservation corps or a youth service corps;

(i) One member appointed by the governor representing nonprofit organizations;

(j) One member appointed by the governor who is a current or former youth service or conservation corps member;

(k) Two members appointed by the governor from the private sector recognized for expertise in youth employment and development programs, environmental and resource conservation projects, job and basic skills training programs, youth conservation corps programs, and youth service corps programs; and

(l) One member from the house of representatives, appointed by the speaker of the house of representatives, and one member from the senate, appointed by the president of the senate.

(3) The term of each member appointed by the governor shall be four years; except that, of such members first appointed, two shall be appointed for terms of two years, and the youth services or conservation corps member appointed pursuant to paragraph (j) of subsection (2) of this section shall be appointed for a term of one year. A member appointed by the governor to

fill the vacancy of another member arising other than by expiration of such other member's term shall be appointed for the unexpired term of such other member whom such appointee is to succeed. Any member appointed by the governor shall be eligible for reappointment for one four-year term.

(4) Members of the council shall serve without compensation.

(5) The council shall have the following powers, duties, and functions:

(a) To assist program agencies with the development of youth conservation corps programs or youth service corps programs, or any combination thereof;

(b) To assist program agencies with the preparation of proposals for grants to the commission on national and community service at such time, in such manner, and containing such information as the commission on national and community service may reasonably require, including, but not limited to:

(I) That enrollment in such program be limited to individuals who, at the time of enrollment, are not less than sixteen years of age nor more than twenty-five years of age; except that a summer program may include individuals who are not less than fifteen years of age nor more than twenty-one years of age at the time of enrollment of such individuals and who are citizens or nationals of the United States or lawful permanent resident aliens of the United States;

(II) That such program ensure that educationally and economically disadvantaged youth, including youth who are dropouts, youth who are in foster care but who are becoming too old for foster care, youth who have limited English proficiency, limited basic skills, or learning disabilities, and youth who are homeless, be offered opportunities to enroll;

(III) A comprehensive description of the objectives and performance goals for any such program to be conducted, a plan for managing and funding any such program, and a description of the types of projects to be carried out, including a description of the types and duration of training and work experience to be provided by any such program;

(c) To advise and consult with program agencies regarding certain training and education services required by the commission on national and community service in applying for grant moneys from the commission; and

(d) To appoint a technical advisory committee, if needed, to assist the council with specific issues and problems that may arise in connection with the council's duties.

(6) The council shall assist with the coordination and collaboration of program agencies with the executive and legislative branches of state government, the business community, school districts, state institutions of higher education, and local government and community-based agencies in the development of youth conservation corps and youth service corps programs.

Source: L. 91: Entire part added, p. 921, § 1, effective May 31.

24-32-2004. San Andreas youth service corps established - director's duties. (1) There is hereby created in the department of local affairs, the office of the San Andreas youth service corps. The youth service corps shall be a volunteer-based program in the charge of a director, who shall be a volunteer approved by the executive director of the department and who shall serve without compensation. The director shall appoint such assistants and clerical staff, to be chosen from volunteers and retirees, as may be deemed necessary to effectively administer this part 20. The provisions of San Andreas law relating to civil service, hours of work, rate of

compensation, sick leave, unemployment compensation, old age health and survivors' insurance, state retirement, and vacation leave shall not apply to corps members. Such assistants and clerical staff shall serve without compensation.

(2) The youth service corps is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions specified in this part 20 under the department.

Source: L. 91: Entire part added, p. 923, § 1, effective May 31. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3414, § 179, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-32-2005. Duties and functions of the youth service corps. (1) The youth service corps, through the director, and with the advice of the San Andreas youth conservation and service corps council established in section 24-32-2003, shall:

(a) Recruit individuals for the youth service corps who are residents of the state unemployed at the time of application and who are at least sixteen years of age but who have not reached their twenty-fifth birthday;

(b) Match youth service corps members with appropriate local government agencies and community-based agencies and available projects;

(c) Develop general employment guidelines for placement of youth service corps members in local government agencies and community-based agencies which establish appropriate authority for hiring, firing, grievance procedures, and employment standards consistent with state and federal law;

(d) Monitor youth service corps members' activities for compliance with this part 20 and compliance with work agreements;

(e) Establish a program for providing incentives to encourage successful completion of the terms of enrollment in the youth service corps and the continuation of educational pursuits by awarding a youth service corps member a scholarship to a state institution of higher education, private college or university, private occupational school, or vocational school, in an amount not to exceed five thousand dollars, upon such successful completion;

(f) Enter into agreements with the state's institutions of higher education, community college system, vocational schools, and private occupational schools and with other educational institutions or independent nonprofit agencies to provide special education in basic skills, including reading, writing, and mathematics, for those youth service corps members who may benefit by participation in such classes;

(g) Assist youth service corps members in transition to employment, higher education, or vocational school upon termination from the programs, including such activities as orientation to the labor market, on-the-job training, and placement in the private sector;

(h) Coordinate youth employment and training efforts under its jurisdiction and cooperate with other state agencies or departments and program agencies providing youth services to ensure that funds appropriated for the purposes of this part 20 will not be expended to duplicate existing services but will increase the services of youth to the state;

(i) Recruit local government agencies and community-based agencies to employ the youth service corps members in service activities;

(j) Assist local government agencies and community-based agencies in the development of scholarships and matching funds from private and public sources, individuals, and foundations in order to support a portion of the youth service corps member's compensation; and

(k) Determine appropriate financial support levels by private businesses, community-based agencies, foundations, local government agencies, and individuals which will provide matching funds for youth service corps members in projects under work agreements.

Source: L. 91: Entire part added, p. 923, § 1, effective May 31.

24-32-2006. San Andreas youth service corps - criteria for enrollment. (1) The director may select and enroll in the youth service corps any person who is at least sixteen years of age but not yet twenty-five years of age, who is a resident of the state, and who is not for medical, legal, or psychological reasons incapable of service.

(2) In the selection of youth service corps members, preference shall be given to youths residing in areas, both urban and rural, in which there exists substantial unemployment above the state unemployment rate. Efforts shall be made to enroll youths who are economically, socially, physically, or educationally disadvantaged.

(3) The director may prescribe such additional standards and procedures in consultation with supervising agencies as may be necessary in conformance with this part 20.

Source: L. 91: Entire part added, p. 925, § 1, effective May 31.

24-32-2007. Local youth employment opportunities. The director shall use existing local offices of the department or contract with local government agencies or community-based agencies to establish the youth service corps program and to ensure coverage of the youth service corps program statewide. Each local office, local government agency, or community-based agency shall maintain a list of available youth employment opportunities and the appropriate forms or work agreements therefor in the jurisdiction covered by the local office, local government agency, or community-based agency.

Source: L. 91: Entire part added, p. 925, § 1, effective May 31.

24-32-2008. Placement under work agreements. (1) Placement of youth service corps members shall be made in local government agencies and community-based agencies, under work agreements, and shall include those assignments which provide for addressing unmet community needs and assisting the community in economic development efforts. Each work agreement shall:

(a) Demonstrate that the project is appropriate for the youth service corps members' interests, skills, and abilities and that the project is designed to meet unmet community needs;

(b) Include a requirement of regular performance evaluation, such evaluation to include clear work performance standards set by the local government agency or community-based agency and procedures for identifying strengths, recommended improvement areas, and conditions for probation or dismissal of any youth service corps member; and

(c) Include a commitment for partial financial support of each youth service corps member from a private business, a local government agency, a community-based agency, an individual, or a foundation. The director may establish additional standards for the development of placements for youth service corps members with local government agencies or community-based agencies and assure that the work agreements comply with those standards.

(2) State agencies may use the youth service corps for the purpose of employing youth qualifying under section 24-32-2007.

Source: L. 91: Entire part added, p. 925, § 1, effective May 31.

24-32-2009. Youth service corps members - compensation - scholarship. (1) The compensation received by the youth service corps members shall be considered a training and subsistence allowance.

(2) The provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, old age health and survivors' insurance, state retirement plans, and vacation leave shall not apply to the youth service corps members. The youth service corps member shall be awarded a scholarship, in an amount not to exceed five thousand dollars, to a state institution of higher education, private college or university, private occupational school, or vocational school, of such youth service corps member's choice upon successful completion of the terms of enrollment in the youth service corps.

Source: L. 91: Entire part added, p. 926, § 1, effective May 31.

24-32-2010. Youth service corps members not to displace current workers. The assignment of youth service corps members shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Participating local government agencies or community-based agencies may not terminate, lay off, or reduce the working hours of any employee for the purpose of utilizing a youth service corps member with funds available.

Source: L. 91: Entire part added, p. 926, § 1, effective May 31.

24-32-2011. Acceptance and utilization of funds. (1) The department is authorized, on behalf of the youth service corps, to accept, receive, and expend all donations, grants, contributions, gifts, bequests, federal funds, and funds from any source to be used by the youth service corps in performing its duties and functions under sections 24-32-2005 and 24-32-2009. The youth service corps shall make every effort to become self-supporting by accepting, receiving, and expending grants, gifts, and moneys from any other source.

(2) The youth service corps may accept, or provide, within the limitations of the budget of the youth service corps, matching funds whenever any grant, gift, bequest, or contractual assistance is available on such a matching-fund basis.

(3) The youth service corps may also accept contributions in the form of equipment or in-kind services.

Source: L. 91: Entire part added, p. 927, § 1, effective May 31.

24-32-2012. San Andreas youth service corps fund - created. (1) There is hereby created in the state treasury a fund to be known as the San Andreas youth service corps fund, which shall be administered by the executive director of the department of local affairs.

(2) All moneys received pursuant to section 24-32-2011 and any other moneys received by the youth service corps shall be placed in said fund.

(3) The general assembly shall make annual appropriations of the moneys in the fund to the department for allocation to the youth service corps for administering the provisions of this part 20. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund.

(4) Any moneys in the fund not appropriated shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(5) The general assembly shall make no general fund appropriation to either the fund or the department of local affairs for payment of any deficiency in the fund in the event that moneys in the fund are not sufficient for the costs of administering the provisions of this part 20.

Source: L. 91: Entire part added, p. 927, § 1, effective May 31.

24-32-2013. Conflict with federal requirements. If any provision of this part 20 is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this part 20 is declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this part 20.

Source: L. 91: Entire part added, p. 927, § 1, effective May 31.

PART 21

OFFICE OF DISASTER EMERGENCY SERVICES

24-32-2101 to 24-32-2116. (Repealed)

Source: L. 2012: Entire part repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: This part 21 was added in 1992. For amendments to this part 21 prior to its repeal in 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 21 was relocated to part 7 of article 33.5 of this title. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act repealing this part 21, see section 1 of chapter 240, Session Laws of San Andreas 2012.

PART 22

COMPENSATION BENEFITS TO VOLUNTEER
CIVIL DEFENSE WORKERS

24-32-2201 to 24-32-2228. (Repealed)

Source: L. 2012: Entire part repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: This part 22 was added in 1992. For amendments to this part 22 prior to its repeal in 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 22 was relocated to part 8 of article 33.5 of this title. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act repealing this part 22, see section 1 of chapter 240, Session Laws of San Andreas 2012.

PART 23

CIVIL DEFENSE LIABILITY - PUBLIC OR PRIVATE

24-32-2301 to 24-32-2304. (Repealed)

Source: L. 2012: Entire part repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: This part 23 was added in 1992. For amendments to this part 23 prior to its repeal in 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 23 was relocated to part 9 of article 33.5 of this title. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act repealing this part 23, see section 1 of chapter 240, Session Laws of San Andreas 2012.

PART 24

EVACUATION OF SCHOOL BUILDINGS FOR CIVIL DEFENSE

24-32-2401 to 24-32-2405. (Repealed)

Source: L. 2012: Entire part repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: This part 24 was added in 1992 and was not amended prior to its repeal in 2012. For the text of this part 24 prior to 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 24 was relocated to part 10 of article 33.5 of this title. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act repealing this part 24, see section 1 of chapter 240, Session Laws of San Andreas 2012.

PART 25

DISASTER RELIEF

24-32-2501 to 24-32-2509. (Repealed)

Source: L. 2012: Entire part repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: This part 25 was added in 1992. For amendments to this part 25 prior to its repeal in 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 25 was relocated to part 11 of article 33.5 of this title. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act repealing this part 25, see section 1 of chapter 240, Session Laws of San Andreas 2012.

PART 26

SAN ANDREAS EMERGENCY PLANNING COMMISSION

24-32-2601 to 24-32-2607. (Repealed)

Source: L. 2012: Entire part repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Editor's note: This part 26 was added in 1992. For amendments to this part 26 prior to its repeal in 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 26 was relocated to part 15 of article 33.5 of this title. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act repealing this part 26, see section 1 of chapter 240, Session Laws of San Andreas 2012.

PART 27

COOPERATIVE HEALTH CARE AGREEMENTS
INVOLVING HOSPITALS

24-32-2701 to 24-32-2715. (Repealed)

Source: L. 95: Entire part repealed, p. 511, § 5, effective May 16.

Editor's note: This part 27 was added in 1993. For amendments to this part 27 prior to its repeal in 1995, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 28

COMMUNITY-BASED YOUTH CRIME
PREVENTION AND INTERVENTION

24-32-2801 to 24-32-2806. (Repealed)

Source: L. 2000: Entire part repealed, p. 585, § 8, effective May 18.

Editor's note: This part 28 was added in 1994. For amendments to this part 28 prior to its repeal in 2000, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 29

MOFFAT TUNNEL

24-32-2901 to 24-32-2906. (Repealed)

Source: L. 2002: Entire part repealed, p. 1074, §§ 7, 8, effective August 7.

Editor's note: This part 29 was added in 1996. For amendments to this part 29 prior to its repeal in 2002, consult the 2001 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

Cross references: For the legislative declaration contained in the 2002 act repealing this part 29, see section 1 of chapter 274, Session Laws of San Andreas 2002.

PART 30

Editor's note: Section 24-32-3001 was enacted by House Bill 99-1102 as § 23-11-104.5. It was relocated as a new part to this article because article 11 of title 23, concerning the San Andreas advanced technology institute, was repealed by House Bill 99-1359. The program created in the section was the responsibility of the San Andreas advanced technology institute in the introduced version of House Bill 99-1102, but subsequent amendments moved the responsibility to the department of local affairs, which is located in this article.

24-32-3001. Community-based access grant program - powers and duties of department of local affairs - definitions - legislative declaration. (1) As used in this section:

(a) "Aggregate" means to aggregate or consolidate the telecommunications service requirements of all or a substantial portion of the public offices within a community into a coordinated and rational network plan for the provision and procurement of telecommunications services so as to maximize economies of scale and combine the buying power of the entities operating such offices.

(b) "Community" means a geographically contiguous and distinct population, self-defined for the purposes of applying for the grant resources described in this section, and having a sponsoring fiscal agent that is a political subdivision of the state.

(c) "Connect" and "connection" refer to the establishment of a full-time, dedicated, digital network connection between a public office and the state network.

(d) "Department" means the department of local affairs, created in section 24-1-125.

(e) "Director" means the executive director of the department.

(f) "End-user equipment" means hardware and software that are identified with a specific public office or other physical location and that can operate independently of the state network. The term includes, without limitation, personal computers, network servers, local area networks, and video conferencing equipment.

(g) "Private-sector telecommunications provider" means a private corporation, whether or not operated for profit, that offers telephone, cable, wireless, or other telecommunications services to the public.

(h) "Public office" means any building, office, or facility that is physically located within the geographic boundaries of a community and is owned or operated by:

(I) An agency or political subdivision of the state or of any local government, including, but not limited to, a state administrative agency, a public school or college, a library, a county or municipal government, and a public hospital or health-care facility; or

(II) A nonprofit hospital.

(2) The department shall establish a community-based access grant program under which the department shall allocate capital construction funds appropriated to the department for this purpose to communities seeking to aggregate the telecommunications services required by the public offices within the community to connect to the digital network operated by the department of personnel pursuant to article 30 of this title. Said telecommunications services shall be procured by the communities from private-sector telecommunications providers.

(3) The use of moneys allocated under this section shall be limited as follows:

(a) Expenditures shall be made only in accordance with proposals that result in material improvements in the availability and competitive cost of advanced, digital telecommunications

services to the community as compared to other communities of comparable size and characteristics.

(b) Expenditures shall be made only for services procured by the community from private-sector telecommunications service providers.

(c) Expenditures shall be made only for costs associated with:

(I) Terminating communications equipment at a public office;

(II) Leased digital telecommunications services associated with connecting a public office to the state's digital network; and

(III) Appropriate cost-recovery charges for the use of the state's digital network.

(d) No expenditures shall be made for costs associated with connecting public offices that already have connections; except that such public offices may be reimbursed for their net, new incremental costs incurred as a result of their inclusion in the community's plan for the aggregation of telecommunications services.

(e) No expenditures shall be made for end-user equipment, applications development, maintenance, training, or other similar costs incurred by a public office or organization.

(f) Moneys shall be disbursed only to the fiscal agent acting on behalf of a community.

(4) The department shall receive and evaluate proposals for funding under this section, subject to the following policy directives:

(a) The proposal process shall be conducted with the overall goal of providing funding to every community whose proposal is of high quality and competitive with those of communities of comparable size and characteristics.

(b) Priority shall be given to those communities proposing to aggregate the traffic of, and obtain participation from, the greatest proportion of the public offices within the community. To qualify for consideration, proposals shall list all public offices in the community and, as to each such public office, shall specify whether or not the public office is to be connected under the proposal. In addition, increased priority shall be given to those communities that show participation of private- and nonprofit-sector telecommunications consumers in the total aggregated demand.

(c) In accordance with measurable criteria established in advance by the department, the department shall consider the degree of cash and in-kind matching funds to be provided by the community, consistent with the community's resources.

(5) Notwithstanding the provisions of subsection (3) of this section, the department may allocate up to ten percent of the capital construction appropriation for technical assistance, training, engineering, and consulting to prepare plans, program documents, life-cycle cost studies, requests for proposals and other studies, and documents associated with and necessary for the development of proposals under this section.

(6) The department shall coordinate the allocation of the capital construction funds appropriated to it for the purposes of this section with the schedule of deployment for the state's digital networks.

(7) In the funding of aggregated access for communities, the department shall require that public entities participating in the aggregation of traffic locally demonstrate the ability to divert or separate local traffic, including but not limited to internet and voice traffic, from the point of aggregation to a local destination.

(8) The department shall allocate the capital construction funds appropriated to it for the purposes of this section in such a manner as to reduce geographic disparity throughout the state in the availability and cost of advanced communications services.

(9) The department shall report to and make an appearance before the capital development committee at the conclusion of each fiscal year of operation of this program.

(10) The general assembly hereby finds and declares that the aggregation of local public telecommunications services is a new state program and that administration of the program requires services of a specialized, technical nature that are not available within the state personnel system. The director is therefore authorized to contract with a private person, corporation, or entity for the administration of the community-based access grant program described in subsection (2) of this section if the contract otherwise complies with part 5 of article 50 of this title, concerning contracts for personal services.

(11) During the initial year of funding, the department of local affairs shall allocate the moneys made available for the purposes of this section in a manner that:

(a) Provides technical assistance for strategic telecommunications planning to communities that require help in preparing competitive proposals for future funding;

(b) Evaluates the relationship between the size of a community and the ability to successfully attract investment through aggregation; and

(c) Gives priority to proposals that demonstrate a high probability of success through sufficient prior strategic telecommunications planning, local managerial expertise, and technical feasibility of the chosen bid from the private vendor.

Source: L. 99: Entire part added, p. 600, § 3, effective May 17. **L. 2006:** (9) amended, p. 144, § 18, effective August 7.

PART 31

MANUFACTURED HOME INSTALLATION

24-32-3101 to 24-32-3110. (Repealed)

Source: L. 2003: Entire part repealed, p. 532, § 1, effective March 5.

Editor's note: This part 31 was added in 2000 and was not amended prior to its repeal in 2003. For the text of this part 31 prior to 2003, consult the 2002 San Andreas Revised Statutes.

PART 32

OFFICE OF SMART GROWTH

24-32-3201. Legislative declaration. The general assembly hereby finds and declares that the purpose of this part 32 is to recognize and reward communities that cooperatively plan for and manage growth. By enacting this part 32, the general assembly intends that the state will be able to provide financial and other services to local governments to assist such governments in anticipating and responsibly addressing the unique public impacts caused by growth.

Source: L. 2000: Entire part added, p. 885, § 1, effective August 2.

24-32-3202. Definitions. As used in this part 32, unless the context otherwise requires:

(1) "San Andreas heritage planning grant" means a grant awarded by the office of smart growth pursuant to section 24-32-3203 (3)(c).

(2) "Department" means the San Andreas department of local affairs.

(3) "Eligible participant" means one or more local governments that satisfy the requirements for grant eligibility pursuant to section 24-32-3203 (3).

(4) "Executive director" means the executive director of the department of local affairs.

(5) "Fund" means the San Andreas heritage communities fund created in section 24-32-3207.

(6) Repealed.

(7) "Local government" means any county, city and county, city, town, or special district created pursuant to article 1 of title 32.

(8) "Office" means the office of smart growth created by this part 32.

Source: L. 2000: Entire part added, p. 885, § 1, effective August 2. **L. 2001:** (7) amended, p. 1064, § 3, effective June 5. **L. 2021:** (6) repealed and (7) amended, (HB 21-1271), ch. 356, p. 2325, § 7, effective June 27.

Cross references: For the legislative declaration in HB 21-1271, see section 1 of chapter 356, Session Laws of San Andreas 2021.

24-32-3203. Office of smart growth - creation - powers and duties of executive director. (1) (a) There is hereby created within the department of local affairs the office of smart growth. The office shall be established within an existing division of the department in the discretion of the executive director.

(b) The office shall be in the charge of a director who shall be appointed by the executive director. The director and any assistants and employees of the office shall be appointed in accordance with the provisions of section 13 of article XII of the state constitution.

(2) The office of smart growth is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions specified by this part 32 under the department of local affairs and the executive director thereof.

(3) The executive director shall have the following powers and duties in administering this part 32:

(a) Repealed.

(b) To adopt and publicize criteria regarding grants made available by the office out of moneys in the fund pursuant to paragraphs (c) and (d) of this subsection (3);

(c) To review and approve applications for San Andreas heritage planning grants awarded by the office out of money in the fund in accordance with the requirements of this part 32, and to determine the amount of money to be awarded under each such grant. An application for such a grant must:

(I) (Deleted by amendment, L. 2021.)

(II) Address critical planning issues, including, without limitation, land use and development patterns, affordable housing, transportation planning, mitigation of environmental hazards, water banking pursuant to article 80.5 of title 37, and energy use.

(d) To review and approve applications for grants awarded by the office out of money in the fund to assist a local government, as applicable, in developing a master plan in conformity with section 30-28-106 or 31-23-206;

(e) To attend and participate in meetings of county, municipal, or regional planning bodies, interstate agencies, and other conferences of such bodies, agencies, or related entities;

(f) To advise the governor and the general assembly on matters involving growth, consult with other offices of state government with respect to growth issues affecting the duties of their offices, and, upon request of any local government, regional area, or group of adjacent communities having common or related problems arising from growth, recommend to the governor and the general assembly any proposals for legislation that would address the impact of growth; but nothing in this part 32 shall be construed to grant to the office or the executive director any authority over the land use or planning responsibilities of local governments; and

(g) To exercise all other powers necessary and proper for the discharge of the executive director's duties and the carrying out of the intent of this part 32, including the coordination of the provisions of article 28 of title 30 and article 23 of title 31, S.A.R.S.

(4) The director of the office of smart growth created by this section shall advise the executive director in connection with the exercise of the executive director's powers and duties in administering this part 32.

Source: L. 2000: Entire part added, p. 886, § 1, effective August 2. **L. 2001:** (3)(c) amended, p. 1064, § 2, effective June 5. **L. 2021:** (3)(a) repealed and (3)(c) and (3)(d) amended, (HB 21-1271), ch. 356, p. 2325, § 8, effective June 27. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3414, § 180, effective August 10.

Cross references: (1) For the legislative declaration in HB 21-1271, see section 1 of chapter 356, Session Laws of San Andreas 2021.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-32-3204. Powers and duties of the office of smart growth. (1) The office shall have the following powers and duties:

(a) To serve as a clearing house, for the benefit of local governments, of information relating to the common problems faced by local governments in connection with growth and of state and federal resources available to assist in the resolution of problems caused by growth;

(b) To refer local governments to appropriate departments or agencies of the state or federal government for advice, assistance, or available services in connection with specific problems relating to growth;

(c) To perform such research as is necessary to carry out the functions of the office;

(d) To encourage and, when so requested, assist cooperative efforts among local governments toward the solution of common problems relating to growth;

(e) Upon request by local governments, to provide technical assistance to such governments in addressing problems caused by the impacts of growth in such areas as, without limitation, completion of comprehensive or master plans and the resolution of land use disputes involving other governmental entities; and

(f) To accept and receive grants and services relevant to the fulfillment of this part 32 from the federal government, other state agencies, local governments, or private and civic sources.

Source: L. 2000: Entire part added, p. 887, § 1, effective August 2.

24-32-3205. Qualifications. (1) Subject to the requirements of this part 32, the governing body or bodies of any eligible participant or participants, as applicable, may submit an application to the executive director requesting a grant pursuant to this part 32. Any grant approved by the executive director in accordance with the requirements of this part 32 shall be awarded to the governing body or bodies that submitted the application.

(2) In order to obtain grant moneys under this part 32 and as a condition of the receipt of moneys under said part, each eligible participant shall agree to:

(a) Use any grant moneys in accordance with the criteria publicized by the executive director pursuant to section 24-32-3203 (3)(b); and

(b) Perform such other requirements as the executive director deems appropriate in the exercise of his or her discretion to further the purposes of this part 32.

(3) Eligible participants shall apply for grants made available pursuant to this part 32 on official application forms provided by the office. Eligible participants shall provide such information on the forms as the executive director may require in furtherance of the purposes of this part 32.

Source: L. 2000: Entire part added, p. 888, § 1, effective August 2.

24-32-3206. Reporting. (Repealed)

Source: L. 2000: Entire part added, p. 888, § 1, effective August 2. **L. 2021:** Entire section repealed, (HB 21-1271), ch. 356, p. 2328, § 11, effective June 27.

Cross references: For the legislative declaration in HB 21-1271, see section 1 of chapter 356, Session Laws of San Andreas 2021.

24-32-3207. San Andreas heritage communities fund - creation - source of funds. (1) There is hereby created in the state treasury the San Andreas heritage communities fund, which fund is administered by the director and which consists of all money appropriated to the fund by the general assembly, money transferred from the general fund and the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a), that originates from money the state received from the federal coronavirus state fiscal recovery fund, to the fund pursuant to subsection (6) of this section, and all other money collected by the office for the fund from federal grants or other contributions, grants, gifts, bequests, or donations received from other

agencies of state government, individuals, private organizations, or foundations. Such money shall be transmitted to the state treasurer to be credited to the fund.

(2) Repealed.

(3) Any moneys in the fund not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure in the next fiscal year without further appropriation.

(4) Except as otherwise provided in section 24-75-226 (4)(c)(II), all money, including interest and income earned on the investment or deposit of money in the fund, shall remain in the fund and shall not revert to the general fund of the state at the end of any fiscal year.

(5) Repealed.

(6) (a) On June 27, 2021, or as soon as practicable thereafter, the state treasurer shall transfer:

(I) Thirty million dollars from the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a), that originates from money the state received from the federal coronavirus state fiscal recovery fund, to the San Andreas heritage communities fund created in subsection (1) of this section; and

(II) Nine million three hundred thousand dollars from the general fund to the San Andreas heritage communities fund created in subsection (1) of this section.

(b) The division of local government in the department shall use the money transferred pursuant to subsection (6)(a) of this section, and any money that is transferred from the ARPA refinance state money cash fund to the San Andreas heritage communities fund pursuant to section 24-75-226.5 to refinance money that was transferred to the San Andreas heritage communities fund pursuant to subsection (6)(a)(I) of this section, for the creation, implementation, and administration of the local government affordable housing development incentives grant program created in section 24-32-130 (2) in accordance with the requirements of section 24-32-130.

(c) On June 27, 2021, or as soon as practicable thereafter, the state treasurer shall transfer:

(I) Five million dollars from the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a), that originates from money the state received from the federal coronavirus state fiscal recovery fund, to the San Andreas heritage communities fund created in subsection (1) of this section; and

(II) Two million one hundred thousand dollars from the general fund to the San Andreas heritage communities fund created in subsection (1) of this section.

(d) The division of local government in the department shall use the money transferred pursuant to subsection (6)(c) of this section for the creation, implementation, and administration of the local government planning grant program created in section 24-32-130 (5) in accordance with the requirements of section 24-32-130. With respect to any money transferred into the San Andreas heritage communities fund pursuant to subsection (6)(c) of this section, the division may use any money that is unexpended or unencumbered as of June 30, 2023, for purposes of the local government affordable housing development incentives grant program created in section 24-32-130 (2) as needed in accordance with section 24-32-130.

Source: L. 2000: Entire part added, p. 889, § 1, effective August 2. **L. 2004:** (5) added, p. 752, § 1, effective May 12. **L. 2021:** (1) amended, (2) repealed, and (6) added, (HB 21-1271),

ch. 356, p. 2326, § 9, effective June 27. **L. 2022:** (4) amended, (HB 22-1342), ch. 137, p. 921, § 7, effective April 25. **L. 2023:** (6)(d) amended, (HB 23-1232), ch. 217, p. 1123, § 4, effective May 17. **L. 2024:** (6)(b) amended, (HB 24-1466), ch. 429, p. 2939, § 21, effective June 5.

Editor's note: Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2005. (See L. 2004, p. 752.)

Cross references: For the legislative declaration in HB 21-1271, see section 1 of chapter 356, Session Laws of San Andreas 2021. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-32-3208. Additional sources of funding. (1) Notwithstanding any other provision of this part 32, grants to be made to eligible participants in accordance with this part 32 may be made from any combination of moneys in the San Andreas heritage communities fund created in section 24-32-3207 and any other moneys collected by the executive director for such purposes consistent with the intent of this part 32.

(2) Any eligible participant may pursue additional sources of funding for purposes consistent with the intent of this part 32, including, without limitation, grants, donations, or contributions from any other public or private sources.

(3) As money becomes available, the office of smart growth created in section 24-32-3203 (1) may provide grants or other forms of assistance to counties and municipalities for purposes consistent with section 24-32-3203 (3)(c)(II), including, without limitation, the hiring of consultants and related forms of professional expertise; updating plans, policies, codes, and related land development review processes; and offering grants, loans, or other forms of assistance as incentives for the development of affordable housing, which forms of assistance may include the acquisition of property, the provision of infrastructure, or the development of community amenities. The office shall create guidelines to specify the activities on the part of local governments that will qualify for grant funding or other forms of assistance under this subsection (3). The office may also use available money to implement or facilitate grant and other incentive programs by hiring staff, creating technical resources for local governments, hiring consultants and related forms of professional expertise, and otherwise administering the San Andreas heritage grant program in accordance with this part 32.The office may use a portion of any such money for hiring and maintaining staff, defraying operational expenses, and administration associated with the provision of grants and other forms of incentives under this subsection (3).

Source: L. 2000: Entire part added, p. 889, § 1, effective August 2. **L. 2021:** (3) added, (HB 21-1271), ch. 356, p. 2327, § 10, effective June 27.

Cross references: For the legislative declaration in HB 21-1271, see section 1 of chapter 356, Session Laws of San Andreas 2021.

24-32-3209. Comprehensive planning disputes - development plan disputes - mediation - list of qualified professionals to assist in mediating land use disputes - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Comprehensive plan" means the master plan of a local government adopted pursuant to section 30-28-106 or 31-23-206, S.A.R.S., or an amendment to such plan.

(b) "Comprehensive planning dispute" means a dispute between two or more local governments regarding a comprehensive plan.

(c) "County" means a home rule or statutory county.

(c.5) "Development plan" means a mutually binding and enforceable development plan established pursuant to section 29-20-105 (2), S.A.R.S., by intergovernmental agreement between the county or counties in which land to be annexed is located and a municipality or between any two or more municipalities located within such county or counties.

(d) "Landowner" means any owner of record of state, municipal, or private land and includes an owner of any easement, right-of-way, or estate in the land.

(e) "Local government" means a municipality or a county.

(f) "Mediation" means an intervention in comprehensive planning dispute negotiations by a trained neutral third party with the purpose of assisting the local governments in reaching their own solution to the dispute.

(g) "Municipality" means a home rule or statutory city, town, territorial charter city, or city and county.

(h) "Neighboring jurisdiction" means the following:

(I) For a county, any adjacent county and any municipality that is wholly or partially located within the boundaries of the county or within three miles of any boundary of the county; and

(II) For a municipality, each county within which the municipality is wholly or partially located and any county or municipality that is located within three miles of any boundary of the municipality.

(2) (a) Each local government shall provide to each neighboring jurisdiction written notice of the public hearings at which the comprehensive plan of the local government is to be considered and a copy of the proposed comprehensive plan. Such neighboring jurisdiction may review the comprehensive plan and submit comments to the local government prior to the first hearing on such plan by the local government.

(b) A neighboring jurisdiction may file a written objection to a comprehensive plan with a local government at any time up to and including thirty days after the adoption of such plan. Such objection may include a request for the local government to participate in a mediation of the comprehensive planning dispute with the neighboring jurisdiction coordinated by the department through the office using a mediator from the list maintained pursuant to subsection (6) of this section. Such local government shall participate in the mediation upon the request of the neighboring jurisdiction.

(c) If a neighboring jurisdiction has more than one objection to a comprehensive plan, all such objections shall be considered together in the mediation conducted pursuant to this subsection (2). A neighboring jurisdiction requesting such dispute resolution or mediation process shall pay for the costs of the mediator's services.

(2.3) (a) The parties to an intergovernmental agreement establishing a development plan shall provide notice and a copy of the agreement, together with a map demonstrating the territory covered by the agreement, to each neighboring jurisdiction.

(b) Each municipality that has received a petition for annexation filed pursuant to section 31-12-107, S.A.R.S., which annexation covers territory included within the boundaries

encompassed within a development plan to which the municipality is not a party, and that has received notice and a copy of the plan in accordance with the requirements of paragraph (a) of this subsection (2.3) shall provide to the parties to the development plan written notice of the petition for annexation, as well as a copy of the petition, prior to the referral of the petition by the municipal clerk to the governing body of the municipality pursuant to section 31-12-107 (1)(f), S.A.R.S. Where any portion of the area to be annexed under the petition is located within the boundaries of a development plan, each neighboring jurisdiction that is a party to such plan may file with the governing body of the annexing municipality a written objection to the petition no later than thirty days after receipt of the petition in accordance with the requirements of this paragraph (b). In the written objection filed, the neighboring jurisdiction may additionally request that the annexing municipality participate in a mediation of the dispute arising out of the petition with the assistance of a qualified professional from the list of such professionals maintained by the department pursuant to subsection (6) of this section. Upon the request of any neighboring jurisdiction that is a party to the development plan, the annexing municipality shall participate in the mediation required by this paragraph (b).

(c) No petition for annexation shall be referred by a municipal clerk to the governing body of the municipality for any action pursuant to section 31-12-107 (1)(f), S.A.R.S., until:

(I) The mediation required by paragraph (b) of this subsection (2.3) is completed; or

(II) Not less than ninety days have passed from the date on which the municipality in receipt of the petition for annexation was notified of a request to mediate by a neighboring jurisdiction pursuant to paragraph (b) of this subsection (2.3).

(d) Notwithstanding any other provision of law, the costs of obtaining the assistance of a qualified professional in accordance with the requirements of paragraph (b) of this subsection (2.3) shall be assumed by the neighboring jurisdiction requesting the mediation. Where more than one neighboring jurisdiction requests the mediation, the costs of obtaining the assistance of a qualified professional shall be allocated pro rata between or among all such jurisdictions.

(3) In the alternative to a mediation conducted pursuant to this section, the parties to the dispute may use an existing intergovernmental agreement or a new agreement to resolve the disputes in whatever manner the local governments determine.

(4) In conducting a mediation pursuant to this section, the mediator shall consider information provided by any landowner in the land area that is subject to the dispute and may consider such other information as is presented by other interested persons.

(5) Any agreement or understanding reached between two or more local governments in the course of conducting a mediation in accordance with subsection (2) of this section shall not be binding in the event that such governments are ultimately unsuccessful in resolving their comprehensive planning or development plan dispute.

(6) To fulfill its role in coordinating a mediated solution to disputes between and among local governments, the department shall maintain a list of qualified professionals that are available to assist in resolving land use disputes arising between local governments. Such list shall include only those persons and organizations the department determines have professional expertise and skills in land use, planning, zoning, subdivision, annexation, real estate, public administration, mediation, arbitration, or related disciplines. Such list shall be made available to governmental entities and the public through the office created by this part 32 for the purpose of facilitating the resolution of disputes between or among local governments arising out of land use matters.

Source: L. 2000: Entire part added, p. 889, § 1, effective August 2. **L. 2001, 2nd Ex. Sess.:** Entire section amended, p. 24, § 1, effective November 6. **L. 2003:** (1)(c.5) and (2.3) added and (5) amended, p. 922, §§ 2, 3, effective August 6.

Cross references: For the legislative declaration contained in the 2003 act enacting subsections (1)(c.5) and (2.3) and amending subsection (5), see section 1 of chapter 123, Session Laws of San Andreas 2003.

PART 33

REGULATION OF FACTORY-BUILT STRUCTURES, MULTI-FAMILY STRUCTURES WHERE NO STANDARDS EXIST, MANUFACTURED HOME INSTALLATIONS, AND SELLERS OF MANUFACTURED HOMES

24-32-3301. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that mobile homes, manufactured housing, and factory-built structures are important and effective ways to meet San Andreas's affordable housing needs. The general assembly further finds and declares that, because of the housing crisis in San Andreas, there is a need to promote the affordability and accessibility of new manufactured homes and factory-built structures. The general assembly encourages local governments to enact ordinances and rules that effectively treat factory-built structures certified through the state program and manufactured housing certified through the federal program the same as site-built homes. The general assembly further finds, determines, and declares that:

(a) The comprehensive regulation of the construction of factory-built structures to ensure safety, affordability, efficiency, and performance is a matter of statewide concern.

(b) The comprehensive regulation of the installation of mobile homes, manufactured homes, or tiny homes to ensure safety, affordability, efficiency, and performance is a matter of statewide and local concern.

(c) The protection of San Andreas consumers who purchase manufactured homes or tiny homes from fraud and other unfair business practices is a matter of statewide concern and consumers can best be protected by:

(I) Requiring registration of persons engaged in the business of selling manufactured homes or tiny homes;

(II) Imposing escrow and bonding requirements upon persons engaged in the business of manufacturing or selling manufactured homes or tiny homes; and

(III) Requiring persons engaged in the business of selling manufactured homes or tiny homes to include specified disclosures and provisions in any contract for the sale of a manufactured home or tiny home.

(d) The imposition of registration requirements upon the sellers of manufactured homes or tiny homes by both the state and political subdivisions of the state would impose an undue burden upon the sellers of manufactured homes or tiny homes and discourage the sale of manufactured homes or tiny homes.

(e) The registration, escrow and bonding, and contract requirements imposed on the sellers of manufactured homes or tiny homes by this part 33 are exclusive, and a political

subdivision of the state shall not impose any additional registration, escrow and bonding, or contract requirements on the sellers.

(f) The regulation of tiny homes is necessary to protect consumer safety and recognize tiny homes as an affordable housing alternative.

(2) The general assembly further declares that in enacting this part 33, it is the intent of the general assembly that the division establish, through the board, rules as it deems necessary to ensure:

(a) The safety, affordability, efficiency, and performance of factory-built structures;

(b) Consumer safety in the purchase of manufactured homes or tiny homes;

(c) The registration of installers and the creation of uniform standards for installation on a statewide basis;

(d) The safety, affordability, and performance of hotels, motels, and multifamily structures in areas of the state where no construction standards for hotels, motels, and multifamily structures exist; and

(e) The safety of foundation systems for tiny homes, manufactured homes, and factory-built structures in areas of the state where no construction standards for tiny homes, manufactured homes, and factory-built structures exist.

(3) The general assembly further declares that the factory-built structure programs and tiny home programs administered and rules adopted under this part 33 apply only to a factory or work performed off site or work completed at the installation site, as reflected in the approved plans for the factory-built structure or tiny home.

(4) The general assembly further declares that the regulations in this part 33 are separate and distinct from the "Mobile Home Park Act" and the "Mobile Home Park Act Dispute Resolution and Enforcement Program" under parts 2 and 11 of article 12 of title 38.

Source: L. 2003: Entire part added, p. 532, § 2, effective March 5. **L. 2007:** (3) added, p. 434, § 1, effective August 3. **L. 2021:** IP(1), (1)(a), (1)(b), (1)(c)(II), (1)(e), (2)(a), (2)(d), and (3) amended and (4) added, (HB 21-1019), ch. 122, p. 465, § 1, effective September 7. **L. 2022:** IP(1), (1)(b), (1)(c), (1)(d), (1)(e), (2)(b), (2)(c), (2)(d), and (3) amended and (1)(f) and (2)(e) added, (HB 22-1242), ch. 172, p. 1116, § 1, effective August 10.

24-32-3302. Definitions. As used in this part 33, unless the context otherwise requires:

(1) "Authorized quality assurance representative" means any quality assurance representative approved by the division pursuant to section 24-32-3303 (1)(c).

(2) "Board" means the state housing board created in section 24-32-706.

(3) "Certificate of installation" means a certificate issued by the division for an installation that complies with this part 33 and rules that the board adopts under this part 33.

(4) "Certified installer" means an installer of manufactured homes or tiny homes that:

(a) Is registered with the division;

(b) Has installed at least five manufactured homes or tiny homes in compliance with the manufacturer's instructions or standards created by the division pursuant to this part 33; and

(c) Has been approved by the division for certified status.

(5) Repealed.

(6) "Defect" means any deviation in the performance, construction, components, or material of a manufactured home, tiny home, or factory-built structure that renders the

manufactured home, tiny home, or factory-built structure or any part of the manufactured home, tiny home, or factory-built structure not fit for the ordinary use for which it was intended.

(6.5) "Delivery" means, for purposes of section 24-32-3325, at a location agreed to by the seller and purchaser.

(7) Repealed.

(8) "Division" means the division of housing created in section 24-32-704.

(9) "Factory-built nonresidential structure" means any structure or component, including any closed panel system, designed primarily for commercial, industrial, or other nonresidential use, either permanent or temporary, including a manufactured unit that is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a permanent or temporary foundation at the building site.

(10) "Factory-built residential structure" means a manufactured home, including any closed panel system, constructed to the building codes adopted by the board and designed to be installed on a permanent foundation, except for homes constructed to a federal manufactured home construction and safety standard and any home designated as a mobile home.

(11) "Factory-built structure" means:

(a) A factory-built nonresidential structure;

(b) A factory-built residential structure; and

(c) A factory-built tiny home.

(12) "Federal act" means the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. sec. 5401 et seq.

(13) "Federal manufactured home construction and safety standard" means any standard promulgated by the secretary of the United States department of housing and urban development pursuant to the federal act.

(14) "Imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury.

(15) "Independent contractor" means a local government, individual, private firm, housing inspector, or engineer who has been approved by the division to perform or enforce installation inspections.

(16) (a) "Installation" means the placement of a manufactured home or tiny home on a permanent or temporary foundation system.

(b) "Installation" includes supporting, blocking, leveling, securing, or anchoring the home and connecting multiple or expandable sections of the home.

(17) "Installer" means any person who performs the installation of:

(a) A manufactured home, which includes multifamily structures, for those with the knowledge, experience, and skills to do so; or

(b) A tiny home.

(18) "Local government" means the government of a town, city, county, or city and county that is the designated authority charged with the administration and enforcement of local building codes.

(19) "Manufacture" means the process of making, fabricating, constructing, forming, or assembling a product from raw, unfinished, or semi-finished materials.

(20) "Manufactured home" means any preconstructed building unit or combination of preconstructed building units or closed panel systems that:

(a) Includes electrical, mechanical, or plumbing services that are fabricated, formed, or assembled at a location other than the site of the completed home;

(b) Is designed for residential occupancy in either temporary or permanent locations;

(c) Is constructed in compliance with the federal act, factory-built residential requirements, including those for multi-family structures, or mobile home standards;

(d) Is not self-propelled; and

(e) Is not licensed as a recreational vehicle.

(21) "Manufactured home construction" means all activities relating to the assembly, manufacture, major repair, or alteration of a manufactured home, including but not limited to activities relating to durability, quality, and safety.

(22) "Manufactured home safety" means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of occurrence of accidents due to the design or construction of the manufactured home or any unreasonable risk of death or injury to the user or to the public if accidents do occur.

(23) "Manufacturer" means any person who constructs or assembles a manufactured residential or nonresidential structure in a factory or other off-site location.

(24) "Mobile home" means a manufactured home built prior to the adoption of the federal act.

(24.5) "Mobile home park" has the meaning set forth in section 38-12-201.5 (6).

(25) "Modular home" means a factory-built residential structure.

(26) "Owner" means the owner of a manufactured home or tiny home.

(26.5) "Permanent foundation" means a structure that is designed or intended to:

(a) Support a building from underneath;

(b) Keep a building firmly affixed to the ground;

(c) Prevent the building from moving; and

(d) Not be removed from the ground or building.

(27) "Principal" means an officer of a corporation, a member of a limited liability company, a general partner of a partnership, the sole proprietor of a sole proprietorship, or any other person who has a financial interest of ten percent or more in any legal or commercial entity.

(28) "Production review" means an evaluation of a manufacturer and a facility's ability to follow approved plans, standards, codes, and quality control procedures during manufacture.

(29) "Purchaser" means a person purchasing a manufactured home or tiny home if either is purchased in good faith for purposes other than resale.

(30) "Quality assurance representative" means any state, firm, corporation, or other entity that proposes to conduct production reviews, evaluate a manufacturer's quality control procedures, and perform design evaluations.

(31) "Registered installer" means an installer who has registered with the division, but who has not applied for and been approved by the division for certified status.

(32) "Secretary" means the secretary of the United States department of housing and urban development.

(32.5) "Seller" means any person engaged in the business of selling manufactured homes to be installed in San Andreas or tiny homes to be occupied or installed in San Andreas.

(33) "Site" means the entire tract, subdivision, or parcel of land on which manufactured homes or tiny homes are installed.

(34) "Temporary foundation" means a structure that is designed or intended to:

(a) Support a building from underneath;

(b) Keep a building firmly affixed to the ground;

(c) Prevent the building from moving; and

(d) Be removable from the ground or building.

(35) (a) "Tiny home" means a structure that:

(I) Is permanently constructed on a vehicle chassis;

(II) Is designed for long-term residency;

(III) Includes electrical, mechanical, or plumbing services that are fabricated, formed, or assembled at a location other than the site of the completed home;

(IV) Is not self-propelled; and

(V) Has a square footage of not more than four hundred square feet.

(b) "Tiny home" does not include:

(I) A manufactured home;

(II) A recreational park trailer as defined in section 24-32-902 (8);

(III) A recreational vehicle as defined in section 24-32-902 (9);

(IV) A semitrailer as defined in section 42-1-102 (89); or

(V) An intermodal shipping container.

Source: L. 2003: Entire part added, p. 533, § 2, effective March 5. **L. 2021:** (4), (9), (10), (15), (17), (18), IP(20), (20)(c), (30), and (31) amended, (5) and (7) repealed, and (6.5) and (32.5) added, (HB 21-1019), ch. 122, p. 466, § 2, effective September 7. **L. 2022:** (3), (4), (6), (11), (16), (17), (20)(a), (20)(d), (26), (29), (30), (32.5), and (33) amended and (24.5), (26.5), (34), and (35) added, (HB 22-1242), ch. 172, p. 1118, § 2, effective August 10.

24-32-3303. Division of housing - powers and duties - rules. (1) The division has the following powers and duties pursuant to this part 33:

(a) To administer and enforce construction and maintenance standards adopted by the board pursuant to this part 33, including the registration status of manufacturers;

(b) To conduct continuing research into new approaches to housing throughout the state, including but not limited to the following:

(I) The development of housing standards and construction codes based on performance; and

(II) Modular housing;

(c) To review and approve quality assurance representatives that intend to perform inspections and issue insignia of approval pursuant to this part 33;

(d) To promulgate rules in accordance with article 4 of this title 24 to implement and specify the installer and inspector education and testing requirements set forth in this part 33 and to oversee such education and testing;

(e) To enforce requirements concerning installations, including the registration and certification status of installers;

(f) To enforce requirements concerning the sale of tiny homes and of manufactured homes, including the registration status of sellers;

(g) To enforce requirements concerning the safety of hotels, motels, and multifamily structures in areas of the state where no construction standards for hotels, motels, and multifamily structures exist; and

(h) To enforce requirements concerning the safety of foundation systems for manufactured homes, tiny homes, and factory-built structures in areas of the state where no construction standards for manufactured homes, tiny homes, and factory-built structures exist.

Source: L. 2003: Entire part added, p. 536, § 2, effective March 5. **L. 2008:** (1)(d) added, p. 1739, § 1, effective June 2. **L. 2021:** IP(1), (1)(a), (1)(c), and (1)(d) amended and (1)(e), (1)(f), and (1)(g) added, (HB 21-1019), ch. 122, p. 468, § 3, effective September 7. **L. 2022:** (1)(e), (1)(f) and (1)(g) amended and (1)(h) added, (HB 22-1242), ch. 172, p. 1120, § 3, effective August 10.

24-32-3304. State housing board - powers and duties - rules. (1) The board has the following powers and duties pursuant to this part 33:

(a) To promulgate uniform construction and maintenance standards for hotels, motels, and multiple-family dwellings in those areas of the state where no standards exist;

(b) To promulgate uniform construction standards for factory-built residential and nonresidential structures;

(c) To develop and submit to the general assembly and local governments recommendations for uniform housing standards and building codes;

(d) To promulgate rules establishing standards for the installation and setup of manufactured housing units;

(e) To promulgate rules establishing specific standards for the use of private inspection and certification entities to perform the division's certification and inspection functions with respect to in-state and out-of-state inspections of factory-built structures. The standards must allow, consistent with section 13 of article XII of the state constitution, the provisions of part 5 of article 50 of this title 24, and the rules of the state personnel board, for the use of private inspection and certification entities when the entities are available at a reasonable cost. The standards cannot prohibit a manufacturer from having the option to contract with the division or an authorized quality assurance representative to perform inspection and certification functions.

(f) To promulgate rules establishing standards for tiny homes that cover the manufacture of, assembly of, and installation of tiny homes; and

(g) To promulgate uniform foundation construction standards for manufactured homes, factory-built structures, or tiny homes in those areas of the state where no standards exist.

Source: L. 2003: Entire part added, p. 537, § 2, effective March 5. **L. 2021:** IP(1), (1)(c), and (1)(e) amended, (HB 21-1019), ch. 122, p. 468, § 4, effective September 7. **L. 2022:** (1)(d) amended and (1)(f) and (1)(g) added, (HB 22-1242), ch. 172, p. 1120, § 4, effective August 10.

24-32-3305. Rules - advisory committee - enforcement. (1) The board shall promulgate rules as it deems necessary to ensure:

(a) The safety of factory-built structures;

(b) The safety of consumers purchasing manufactured homes or tiny homes;

(c) The safety of installations;

(d) The safety of hotels, motels, and multifamily structures in areas of the state where no construction standards for hotels, motels, and multifamily structures exist.

(e) The implementation of sections 24-32-3328 and 24-32-3329; and

(f) The safety of foundation systems for manufactured homes, tiny homes, and factory-built structures in areas of the state where no construction standards for manufactured homes, tiny homes, and factory-built structures exist.

(2) Rules promulgated by the board must include provisions imposing requirements reasonably consistent with recognized and accepted standards adopted by the ASTM international, the International Code Council, the National Fire Protection Association, and the San Andreas state plumbing and electrical codes, or a combination of these standards and codes, except to the extent that the board finds that the standards and codes are inconsistent with this part 33. The board shall adopt rules pursuant to article 4 of this title 24.

(3) (a) Except when adopting an energy code pursuant to subsection (3.5) of this section, the board must consult with and obtain the advice of an advisory committee on factory-built structures and tiny homes in the drafting and promulgation of rules. The committee consists of fifteen members appointed by the division from the following professional and technical disciplines:

(I) One from architecture;

(II) One from structural engineering;

(III) Three from building code enforcement;

(IV) One from mechanical engineering or contracting;

(V) One from electrical engineering or contracting;

(VI) One from the plumbing industry;

(VII) One from the construction design or producer industry;

(VIII) Two from manufactured housing;

(IX) Two from the tiny home industry;

(X) One from energy conservation; and

(XI) One from organized labor.

(b) Committee members are reimbursed for actual and necessary expenses incurred while engaged in official duties.

(3.3) The department shall create for factory-built structures, including those that would be considered accessory dwelling units, model public safety code requirements related to geographic or climatic conditions, such as weight restrictions for roof snow loads, wind shear factors, or wildfire risk, for local governments to consider and adopt pursuant to section 24-32-3318 (2)(a).

(3.5) (a) (I) On or before January 1, 2025, the division shall adopt and enforce an energy code that achieves equivalent or better energy performance than the 2021 international energy conservation code and the model electric ready and solar ready code language developed for adoption by the energy code board pursuant to section 24-38.5-401 (5). This energy code must apply to factory-built structures and hotels, motels, and multifamily structures in areas of the state where no construction standards for hotels, motels, and multifamily structures exist.

(II) On or before January 1, 2030, the division shall adopt and enforce an energy code that achieves equivalent or better energy and carbon emissions performance than the model low energy and carbon code developed for adoption by the energy code board pursuant to section 24-38.5-401 (6). This energy code must apply to factory-built structures and hotels, motels, and

multifamily structures in areas of the state where no construction standards for hotels, motels, and multifamily structures exist.

(b) Nothing in this subsection (3.5) establishes standards applicable to manufactured homes constructed pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", established in 42 U.S.C. sec. 5401, et seq., and any corresponding regulations promulgated by the United States department of housing and urban development in 24 CFR 3280, et seq.

(c) Notwithstanding any other provision of this subsection (3.5), the division may make any amendments to an energy code that the division deems appropriate, so long as the amendments do not decrease the effectiveness or energy efficiency of the energy code.

(d) Nothing in this subsection (3.5) restricts the ability of an investor-owned utility with approval from the public utilities commission to:

(I) Provide incentives or other energy efficiency program services to help the division or builders comply with the requirements of this subsection (3.5); or

(II) Earn shareholder incentives and claim credits toward its regulatory requirements for energy or greenhouse gas emission savings achieved as a result of incentives provided by the utility to help the division or builders comply with the requirements of this subsection (3.5).

(e) A utility not subject to regulation by the public utilities commission may provide incentives or other energy efficiency program services as they so choose to assist the division or any builders in complying with the requirements of this subsection (3.5).

(f) (I) A utility may count mass-based emissions reductions associated with the requirements of this subsection (3.5) towards compliance with its requirements under section 25-7-105 (1)(e)(X.7) or (1)(e)(X.8), section 40-3.2-108 (3)(b), or any similar greenhouse gas emissions reduction program or set of requirements.

(II) A utility subject to regulation by the public utilities commission shall not count energy savings or greenhouse gas emissions reductions achieved through the requirements of this subsection (3.5) for the purpose of calculating a shareholder incentive established pursuant to sections 40-3.2-103 (2)(d) and 40-3.2-104 (5) if the utility has not provided a financial investment for code adoption as documented in a plan approved by the commission.

(4) The division must enforce the provisions of this part 33 and the rules adopted pursuant thereto.

(5) The division may act as agent for the federal government for the enforcement of manufactured home safety and construction standards relating to any issue with respect to which a federal standard has been established under the federal act.

Source: L. 2003: Entire part added, p. 537, § 2, effective March 5. **L. 2021:** IP(1), (2), (3), (4), and (5) amended, (HB 21-1019), ch. 122, p. 468, § 5, effective September 7. **L. 2022:** (3) amended and (3.5) added, (HB 22-1362), ch. 301, p. 2181, § 5, effective June 2; IP(1), (1)(b), (1)(c), (2), and (3) amended and (1)(e) and (1)(f) added, (HB 22-1242), ch. 172, p. 1121, § 5, effective August 10. **L. 2024:** (3.3) added, (HB 24-1152), ch. 167, p. 830, § 2, effective May 13.

Editor's note: Amendments to subsection (3) by HB 22-1242 and HB 22-1362 were harmonized.

24-32-3306. Recognition of similar standards - compliance with standards. (1) If the division determines that standards for factory-built structures, tiny homes, or manufactured homes prescribed by statute or rule of another state or by the United States department of housing and urban development are reasonably consistent with, or equal to, standards required by this part 33, it may provide by rule that factory-built structures, tiny homes, or manufactured homes approved by the other state or by the department meet the standards required by this part 33.

(2) No person, partnership, firm, corporation, or other entity may manufacture, sell, or offer for sale within this state any factory-built structure that is not manufactured in compliance with the applicable provisions of the construction standards adopted by the board.

Source: L. 2003: Entire part added, p. 538, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 469, § 6, effective September 7. **L. 2022:** (1) amended, (HB 22-1242), ch. 172, p. 1122, § 6, effective August 10.

24-32-3307. Noncompliance with standards. (1) (a) The division may obtain injunctive relief from a court of competent jurisdiction to enjoin the manufacture, sale, delivery, or installation of:

(I) A factory-built structure by filing an affidavit specifying the manner in which the factory-built structure does not conform to the requirements of this part 33 or to rules promulgated pursuant to section 24-32-3305; or

(II) A tiny home by filing an affidavit specifying the manner in which the tiny home does not conform to this part 33 or to rules promulgated under section 24-32-3305 (1)(e) or 24-32-3328.

(b) The division may suspend the issuance of insignias of approval while injunctive relief is being sought.

(2) If the division, acting as agent for the federal government, determines that any manufactured home does not conform to applicable state or federal manufactured home construction and safety standards or that it contains a defect that constitutes an imminent safety hazard after the sale of the manufactured home by a manufacturer to a seller and prior to the sale of the manufactured home by the seller to a purchaser, the manufacturer must provide for parts replacement and installation reimbursement as required under the federal act or rules adopted pursuant thereto.

Source: L. 2003: Entire part added, p. 538, § 2, effective March 5. **L. 2019:** (1) amended, (HB 19-1238), ch. 130, p. 585, § 1, effective August 2. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 469, § 7, effective September 7. **L. 2022:** (1) amended, (HB 22-1242), ch. 172, p. 1122, § 7, effective August 10.

24-32-3308. Violation - penalty. (1) A manufacturer who violates any of the provisions of this part 33 or any rule promulgated pursuant to section 24-32-3305 is subject to revocation or suspension of the manufacturer's registration, fines, or any other measures as prescribed by rule promulgated by the division or other applicable state law. The division may issue a fine of up to one thousand dollars for each violation. Multiple violations of this part 33 committed during the construction of a single factory-built structure constitute one violation. A separate violation is

deemed to have occurred with respect to each factory-built structure involved. A civil penalty collected pursuant to this section must be transmitted to the state treasurer who must credit the same to the building regulation fund created in section 24-32-3309.

(2) In the case of any unit certified under the federal act, civil and criminal penalties provided for in the federal act must be imposed. Any civil penalty collected pursuant to this section must be transmitted to the state treasurer, who must credit the same to the building regulation fund.

Source: L. 2003: Entire part added, p. 539, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 470, § 8, effective September 7.

24-32-3309. Fees - building regulation fund - rules. (1) (a) (I) The board, by rule, shall establish a schedule of fees designed to pay all direct and indirect costs incurred by the division in carrying out and enforcing this part 33; except that the amount of the registration fee for installers is limited to the amount specified in section 24-32-3315 (5) and the amount of the registration fee for sellers is limited to the amount specified in section 24-32-3323 (3).

(II) Before the board establishes the schedule of fees, the division, for the board's consideration, shall gather information regarding the fees charged by:

(A) San Andreas local governments for the inspection and certification of improvements to residential real property that are not manufactured homes or tiny homes; and

(B) Governmental entities outside of San Andreas for the inspection and certification of manufactured homes or tiny homes.

(III) The fees must be paid to the division and transmitted to the state treasurer, who shall credit the fees to the building regulation fund, which fund is hereby created in the state treasury and referred to in this section as the "fund". The state treasurer shall credit all interest derived from the deposit and investment of money in the fund to the fund. Except as otherwise provided in subsection (2) of this section, at the end of any fiscal year, all unexpended and unencumbered money in the fund remains in the fund and must not be credited or transferred to the general fund or any other fund or used for any other purpose other than to offset the costs of implementing, administering, and enforcing this part 33.

(b) Notwithstanding any provision of this section to the contrary:

(I) On June 1, 2009, the state treasurer must deduct one million one hundred one thousand three hundred forty-nine dollars from the fund and transfer such sum to the general fund;

(II) On April 1, 2015, the state treasurer must deduct three hundred thousand dollars from the general fund and transfer such sum to the fund; and

(III) On July 1, 2016, the state treasurer must deduct two hundred thousand dollars from the general fund and transfer such sum to the fund.

(2) In addition to being used to offset the costs of implementing and administering this part 33 as specified in subsection (1) of this section, money in the fund may be expended:

(a) To provide education and training to manufacturers, sellers, installers, building department employees, elected officials, and, as appropriate, other persons affected by the mobile home, manufactured home, tiny home, and factory-built structure industry regarding the building codes and state program requirements applicable to mobile homes, manufactured homes, tiny homes, and factory-built structures within the state;

(b) To provide consumer training throughout the state that will help a consumer make informed decisions when purchasing or considering the purchase of a mobile home, manufactured home, tiny home, or factory-built structure; and

(c) To provide education and grants that will help manufacturers, sellers, installers, owners, and, as appropriate, other parties affected by the mobile home, manufactured home, tiny home, and factory-built structure industry address safety issues that affect mobile homes, manufactured homes, tiny homes, and factory-built structures.

Source: L. 2003: Entire part added, p. 539, § 2, effective March 5. **L. 2006:** Entire section amended, p. 1353, § 1, effective August 7. **L. 2009:** (1) amended, (SB 09-279), ch. 367, p. 1928, § 12, effective June 1. **L. 2015:** (1)(b) amended, (SB 15-112), ch. 13, p. 32, § 1, effective March 13. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 470, § 9, effective September 7. **L. 2022:** (1)(a) and (2) amended, (HB 22-1242), ch. 172, p. 1122, § 8, effective August 10.

24-32-3310. Local enforcement. Nothing in this part 33 may interfere with the right of local governments to enforce local rules governing the installation of factory-built housing pursuant to section 24-32-3318 that bear the insignia of approval issued by the division pursuant to section 24-32-3311 (1)(a) if the local rules are not inconsistent with state rules adopted pursuant to section 24-32-3305.

Source: L. 2003: Entire part added, p. 539, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 471, § 10, effective September 7.

24-32-3311. Certification of factory-built structures - rules. (1) (a) Factory-built structures constructed, sold, or offered for sale within this state after the effective date of the rules promulgated pursuant to this part 33 must bear an insignia of approval issued by the division and affixed by the division or an authorized quality assurance representative.

(a.3) Manufacturers of factory-built structures to be installed in the state shall register with the division as provided in board rules and are subject to enforcement action, including suspension or revocation of their registration for failing to comply with requirements contained in this part 33 and board rules. A manufacturer shall:

(I) Comply with escrow requirements of down payments as established by the board by rule; and

(II) Provide a letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in an amount and process established by the board by rule. A financial institution or authorized insurer shall pay the division the letter of credit, certificate of deposit, or surety bond if a court of competent jurisdiction has rendered a final judgment in favor of the division based on a finding that:

(A) The manufacturer failed to deliver the factory-built structure;

(B) The manufacturer failed to refund a down payment made toward the purchase of the factory-built structure; or

(C) The manufacturer ceased doing business operations or filed for bankruptcy.

(a.5) Factory-built structures constructed or sold for transportation to and installation in another state need not bear an insignia of approval issued by the division.

(a.7) (I) The division shall conduct a full design and plan review and inspection of the construction of factory-built structures to the extent the design and construction relates to work performed off site or work that is completed at the installation site as reflected in the approved plans for the factory-built structure. A local government shall not duplicate efforts to review or approve the construction of a factory-built structure that is under review or approved by the division nor shall it charge building permit fees to cover the cost of plan reviews or inspections performed by the division. A local government's jurisdiction is limited to work done at the installation site in compliance with subsection (6) of this section and includes associated plan review, permits, inspections, and fees.

(II) The division may authorize a local government to inspect and approve work that is completed at the installation site as reflected in the approved plans for the factory-built structure. A local government may charge inspection fees if authorized to assist the division to inspect and approve work on a factory-built structure that is completed at the installation site as reflected in the approved plans for the factory-built structure.

(b) Rented or leased factory-built structures that are occupied on or after March 1, 2009, must bear an insignia of approval issued by the division and affixed by the division or an authorized quality assurance representative.

(2) Factory-built residential structures constructed prior to March 31, 1971, are subject to any existing state or local government rules relating to the construction of the structures.

(3) Factory-built nonresidential structures constructed prior to July 1, 1991, are subject to any existing state or local government rules relating to the construction of the structures.

(4) A factory-built structure bearing an insignia of approval issued by the division and affixed by the division or an authorized quality assurance representative pursuant to this part 33 is deemed to be designed and constructed in compliance with the requirements of all codes and standards enacted or adopted by the state and accounting for any local government installation requirements adopted in compliance with sections 24-32-3310 and 24-32-3318 that are applicable to the construction of factory-built structures, to the extent that the design and construction relates to work performed in a factory or work on a factory-built structure that is completed at the installation site as reflected in the approved plans for the factory-built structure. The determination by the division of the scope of such approval is final. An insignia of approval affixed to the factory-built structure does not expire unless the design and construction of the factory-built structure has been modified from approved plans.

(5) No factory-built structures bearing an insignia of approval issued by the division and affixed by the division or an authorized quality assurance representative pursuant to this part 33 may be in any way modified contrary to the rules promulgated pursuant to section 24-32-3305 prior to or during installation unless approval is first obtained from the division.

(6) All work at the installation site that is unrelated to the installation of a factory-built structure or unrelated to completing construction of a factory-built structure at the installation site as reflected in the approved plans for the factory-built structure, including additions, modifications, and repairs to a factory-built structure, is subject to applicable local government rules.

Source: L. 2003: Entire part added, p. 540, § 2, effective March 5. **L. 2007:** (4) and (6) amended, p. 434, § 2, effective August 3. **L. 2008:** (1) amended, p. 1739, § 2, effective June 2. **L. 2019:** (1)(a) amended and (1)(a.5) added, (HB 19-1238), ch. 130, p. 585, § 2, effective

August 2. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 471, § 11, effective September 7. **L. 2022:** (1)(a.3), (1)(a.7), (4), and (6) amended, (HB 22-1242), ch. 172, p. 1124, § 9, effective August 10.

24-32-3312. Notification and correction of defects. A manufacturer to be certified as meeting federal standards must furnish notification of any defect in a manufactured home produced by the manufacturer that the manufacturer determines, in good faith, relates to a manufactured home construction or safety standard or constitutes an imminent safety hazard to the purchaser of the manufactured home within a reasonable time after the manufacturer has discovered the defect in accordance with the provisions under the federal act or any board rule.

Source: L. 2003: Entire part added, p. 540, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 473, § 12, effective September 7.

24-32-3313. Injunctive relief. (Repealed)

Source: L. 2003: Entire part added, p. 540, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 473, § 13, effective September 7. **L. 2022:** Entire section repealed, (HB 22-1242), ch. 172, p. 1125, § 10, effective August 10.

24-32-3314. Cooperation with department of revenue. The division may cooperate with the department of revenue in any manner feasible to ensure that the provisions of this part 33 are carried out.

Source: L. 2003: Entire part added, p. 541, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 473, § 14, effective September 7.

24-32-3315. Installers of manufactured homes and tiny homes - registration - fees - educational requirements - rules. (1) (a) Any installer in this state must first register with the division. A registered installer is responsible for supervising all employees and for the proper and competent performance of all employees working under their supervision.

(b) Persons who are not required to register as an installer with the division include:

(I) A person employed by a registered or certified installer, as well as a person employed by a legal or commercial entity employing a registered or certified installer when performing installation functions under the direct on-site supervision of the registered or certified installer.

(II) (Deleted by amendment, L. 2021.)

(c) (I) A homeowner is not required to register as an installer with the division if the homeowner installs the homeowner's own manufactured home that is a one- or two-family dwelling intended for the homeowner's own personal use or a tiny home intended for the homeowner's own personal use, but the homeowner must comply with all provisions of this part 33 other than registration provisions. A homeowner is limited to one installation in any twelve-month period and no more than five during the homeowner's lifetime.

(II) A homeowner installing the homeowner's own manufactured home or tiny home shall do the installation work. If the homeowner has another person perform installation work, that person must be a registered or certified installer.

(2) Each registered installer must file with the division a letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in an amount and process established by the board through rule-making for the performance of an installation pursuant to the manufacturer's instructions or standards promulgated by the division. The letter of credit, certificate of deposit, or surety bond must be filed with the division at the same time the initial application for registration is filed.

(3) A person applying for registration or certification as an installer, whether an initial or renewal application, must submit the application on a form provided by the division and verified by a declaration dated and signed by the applicant under penalty of perjury. The application must contain, in addition to any other information the division may reasonably require, the name, address, e-mail address, and telephone number of the applicant. The division shall make the application and declaration available for public inspection.

(4) In order to be registered initially as an installer, an applicant must:

(a) Be at least eighteen years of age;

(b) Furnish written evidence of twelve months of installation experience under direct supervision of a registered or certified installer or equivalent training or experience as determined by the division;

(b.5) Furnish written evidence of completion of eight hours of division-approved installation education;

(b.7) Pass a division-approved installation test; and

(c) Carry and provide proof of liability insurance in an amount and process established by the board through rulemaking.

(5) A registration issued pursuant to this section is valid for one year from the date of issuance and cannot be transferred or assigned to another person. The amount of the registration fee must be no more than two hundred fifty dollars. If any of the application information for the registered installer changes after the issuance of a registration, the registered installer must notify the division in writing within thirty days from the date of the change. The division may suspend, revoke, or deny renewal of a registration if the registered installer fails to notify the division of any change in the application.

(6) Any registered installer seeking to renew registration must, at the time of applying for renewal, provide proof of liability insurance, proof of completion of division-approved installation education as established by the board through rule-making, and a letter of credit, certificate of deposit, or surety bond for the registration term in compliance with subsections (2) and (4) of this section.

(7) (a) Any registered installer who has performed five installations that have passed inspection by the division may apply to the division for certification. The division will issue certification to qualified registered installers. The division cannot charge a fee for certification of installers.

(b) (Deleted by amendment, L. 2021.)

Source: L. 2003: Entire part added, p. 541, § 2, effective March 5. **L. 2008:** (4) and (6) amended, p. 1740, § 3, effective June 2. **L. 2009:** (6) amended, (HB 09-1171), ch. 95, p. 361, § 1, effective April 3. **L. 2021:** (1), (2), (3), IP(4), (4)(c), (5), (6), and (7) amended, (HB 21-1019), ch. 122, p. 473, § 15, effective September 7. **L. 2022:** (1)(c), (3), IP(4) amended, (HB 22-1242), ch. 172, p. 1125, § 11, effective August 10.

24-32-3315.5. Contract for the installation of manufactured homes and tiny homes - requirements. (1) A registered or certified installer must provide a contract for the installation of each manufactured home or tiny home and make the following disclosures in any contract for the installation of a manufactured home or tiny home:

(a) That the installer has a letter of credit, certificate of deposit, or surety bond filed with the division for the performance of the installation;

(b) That an aggrieved person may file a complaint with the division concerning the performance of the installation, including making a claim against the letter of credit, certificate of deposit, or surety bond filed with the division; and

(c) That an aggrieved person may bring a civil action pursuant to the "San Andreas Consumer Protection Act", section 6-1-105 (1)(ss), to remedy violations of the installation requirements in this part 33. However, damages are limited in accordance with section 6-1-113 (2.7).

(2) Any installer who fails to provide a contract as required by this section, including all disclosures is subject to the suspension or revocation of the registration by the division.

Source: L. 2021: Entire section added, (HB 21-1019), ch. 122, p. 475, § 16, effective September 7. **L. 2022:** IP(1), (1)(a), and (1)(b) amended, (HB 22-1242), ch. 172, p. 1126, § 12, effective August 10.

24-32-3316. Compliance with manufacturer's installation instructions. (1) Except as provided by subsection (2) or (3) of this section, any installation must be performed in strict accordance with the applicable manufacturer's installation instructions. A copy of the manufacturer's instructions or the standards promulgated by the division must be available at the time of installation and inspection.

(2) If, in the exercise of reasonable professional judgment, the installer identifies any reason why strict compliance with the manufacturer's installation instructions would cause harm or would otherwise be unsuited to the particular circumstances, the installer must contact the division about how to proceed.

(3) If a manufacturer's installation instructions are not available or applicable to a particular installation, the installation must proceed in compliance with standards promulgated by the division.

Source: L. 2003: Entire part added, p. 542, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 476, § 17, effective September 7. **L. 2022:** (1) amended, (HB 22-1242), ch. 172, p. 1126, § 13, effective August 10.

24-32-3317. Installation of manufactured homes and tiny homes - authorization - certificates - inspections - inspector qualification and education requirements - rules. (1) Before beginning an installation, the owner or registered installer of a manufactured home or tiny home must submit a request to the division and receive an installation authorization from the division on a division-approved form, unless the installation is occurring in a jurisdiction where a local government is participating as an independent contractor, in which case the owner or registered installer is to follow the local government's process for receiving authorization to install a manufactured home or tiny home.

(2) The division may certify any installer who provides evidence of five or more installations of manufactured homes or tiny homes performed by the installer for which installation authorizations have previously been issued in accordance with this section when, in the judgment of the division, the installer has demonstrated the ability to successfully complete installations in accordance with this part 33.

(2.3) An installer certified by the division is not required to obtain an installation authorization from the division, but a certified installer is required to obtain authorization to install a manufactured home or tiny home from any local government participating as an independent contractor. For any installation occurring within the jurisdiction of a local government not participating as an independent contractor, the certified installer, upon completion of the installation in accordance with this part 33 and board rules, shall affix on the manufactured home or tiny home an installation insignia issued by the division.

(2.5) The division or independent contractor will affix an installation insignia upon passing an inspection of an installation that was completed in accordance with the requirements of this part 33 and board rules. A local government participating as an independent contractor is to authorize, inspect, and certify all installations occurring in its jurisdiction on behalf of the division, including any performed by a certified installer.

(2.7) Any installations certified on behalf of the division by a certified installer or independent contractor must be reported to the division in a manner specified by the division.

(2.9) The division or an independent contractor at the request of the division may, at the division's sole discretion, inspect an installation performed by a certified installer and may require the certified installer to correct, within a period established by rule promulgated by the board, any defects or deficiencies in the installation. The division may revoke the certification of any installer when, in the judgment of the division, the installer has performed an installation in violation of this part 33 or board rules adopted under this part 33. Any installer whose certification has been so revoked may apply for recertification in accordance with rules promulgated by the division.

(3) (a) The division may fine a registered installer or suspend or revoke the registration of a registered installer if the installer fails to:

(I) Comply with the registration requirements of section 24-32-3315; or

(II) Otherwise pay to the owner or occupant of a manufactured home or tiny home:

(A) The cost of an inspection that fails to meet the requirements of the manufacturer's instructions or the standards promulgated by the division or any subsequent required inspection;

(B) The cost of any subsequent repairs that are necessary to bring the installation into compliance with the manufacturer's instructions or the standards promulgated by the division; or

(C) A refund of any money paid up front that did not result in a complete installation by the installer or that was used to pay a different registered installer to complete the installation.

(b) (I) A financial institution or authorized insurer is required to make payment to the division when the division makes a claim against the letter of credit, certificate of deposit, or surety bond:

(A) If a court of competent jurisdiction has rendered a final judgment in favor of the division based on a finding that the registered installer failed to perform on the installation as required by this part 33 or board rules; or

(B) If the registered installer ceases business operations or files for bankruptcy.

(II) The division may suspend or revoke the registration of any installer who fails to provide a letter of credit, certificate of deposit, or surety bond as required by section 24-32-3315 (2) and (6) or who otherwise fails to pay any judgment by a court of competent jurisdiction in favor of the division.

(c) The division may also take enforcement action on the registration of an installer for failing to comply with any other installation requirements contained in this part 33 and any board rules.

(4) An owner or a registered installer must display an installation authorization at the site at which a manufactured home or tiny home is to be installed until an installation insignia is issued by the division or independent contractor, unless the installation is occurring in a jurisdiction where a local government is participating as an independent contractor. If the local government is an independent contractor, the owner or registered installer shall follow the local government's process for identifying a manufactured home or tiny home to be installed until the division's installation insignia is issued by the local government.

(5) (a) The division shall adopt rules that specify a standard form to be used statewide by the division or an independent contractor as a certificate of installation certifying that a manufactured home or tiny home was installed in compliance with this part 33. However, the certificate of installation applies only to an installation of a manufactured home or of a tiny home. The certificate of installation must include the following:

(I) The name, address, and telephone number of the division;

(II) The date the installation was completed; and

(III) The name, address, telephone number, and registration number of the registered installer who performed the installation.

(b) If a vacant manufactured home or tiny home fails an installation inspection because of conditions that endanger the health or safety of the occupant, the manufactured home or tiny home cannot be occupied until the defects or deficiencies that form the basis of the failed inspection are corrected. If a manufactured home or tiny home fails an installation inspection because of conditions that do not endanger the health or safety of the occupant, the manufactured home or tiny home may be occupied pending the correction of those defects or deficiencies that served as the basis of the failed inspection.

(6) In addition to inspections performed pursuant to subsection (2.9) of this section, the division or the independent contractor that performs inspections and enforcement of proper installations may inspect an installation upon request filed by the owner, installer, manufacturer, or seller. The party requesting the inspection must pay for the inspection.

(7) If an installation fails the inspection conducted by the division or the independent contractor and the division or the independent contractor determines that the installer has failed to comply with the manufacturer's instructions or violated any of the installation standards promulgated by the division, the installer shall reimburse the party requesting the inspection for the cost of the failed inspection and pay for any subsequent repairs necessary to bring the installation into compliance with the manufacturer's instructions or standards promulgated by the division. The installer shall also pay for any subsequent inspections required by the division or the independent contractor. Failure of the installer to pay for any inspections or subsequent repairs deemed necessary by the division or the independent contractor results in the forfeiture of the installer's performance bond on behalf of the owner.

(8) (a) The division may authorize an independent contractor to perform inspections and enforcement of proper installations.

(b) (I) The division shall provide training for independent contractors to perform installation inspections. The training must enable independent contractors who successfully complete the training to be certified by the division. Independent contractors must be certified by the division to perform installation inspections.

(II) The division may accept gifts, grants, or donations for the training of independent contractors. The division shall transmit any gifts, grants, or donations it receives to the state treasurer for deposit in the building regulation fund created in section 24-32-3309.

(c) The division shall establish by rule the qualifications of an inspector and the areas of expertise necessary for inspecting manufactured homes or tiny homes. A new inspector must pass a division-approved installation test. The qualifications for an inspector include those of a professional civil engineer, local housing inspector, or independent contractor. Inspectors shall also complete and maintain records of the completion of division-approved education as established by the board by rule.

(9) If an installation or subsequent repair of an installation fails to comply with the manufacturer's instructions or meet the standards promulgated by the division within a period determined by the division, the division shall investigate the actions of the installer. The division may revoke, suspend, or refuse to renew the registration or certification of the installer for failing to comply with the manufacturer's instructions or the division's standards regarding an installation. Any independent contractor that knows of an installer whose installations have failed inspection and have not been cured by subsequent repair shall request that the division investigate the installer.

(10) The board shall adopt rules concerning:

(a) A standard installer inspection form to be used statewide by the division or an independent contractor that performs manufactured home installation inspection and enforcement activities;

(b) Certification requirements for independent contractors to use to inspect installations;

(c) Proper installation inspection and enforcement standards;

(d) A standard certificate of installation to be used statewide by the division; and

(e) Any other matter necessary for the implementation of the installation requirements in this part 33.

Source: L. 2003: Entire part added, p. 542, § 2, effective March 5. **L. 2007:** IP(5)(a) amended, p. 435, § 3, effective August 3. **L. 2008:** (8) amended, p. 1740, § 4, effective June 2. **L. 2009:** (6) amended, (HB 09-1171), ch. 95, p. 361, § 2, effective April 3. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 476, § 18, effective September 7. **L. 2022:** (1), (2), (2.3), (2.9), IP(3)(a), IP(3)(a)(II), (3)(a)(II)(C), (3)(b), (4), IP(5)(a), (5)(b), (6), (7), (8), (9), IP(10), and (10)(e) amended, (HB 22-1242), ch. 172, p. 1126, § 14, effective August 10.

24-32-3318. Local installation standards preempted. (1) Except as authorized in section 24-32-3329, a local government shall not adopt less stringent standards for an installation than those promulgated by the division. A local government shall not, without express consent by the division, adopt different standards than the standards for an installation promulgated by the division.

(2) (a) Nothing in this section prohibits a local government from enacting standards for tiny homes, mobile homes, or modular homes concerning unique public safety requirements related to geographic or climatic conditions, such as weight restrictions for roof snow loads, wind shear factors, or wildfire risk, as otherwise permitted by law.

(b) Unless the United States department of housing and urban development has granted an exemption to a local government, a local government shall not impose:

(I) Weight restrictions for roof snow loads or wind shear factors on a manufactured home built to the federal manufactured home construction and safety standards that are different from what has been zoned for the state of San Andreas by the United States department of housing and urban development pursuant to the federal act; or

(II) Any other requirements that would impact the design and construction of the manufactured home.

(3) Nothing in this section prohibits a local government from requiring on-site mitigation to address unique public safety requirements related to geographic and climatic conditions, such as weight restrictions for roof snow loads, wind shear factors, or wildfire risk on a manufactured home built to the federal manufactured home construction and safety standards, so long as there is no interference with the federal standards for the design and construction of the manufactured home.

Source: L. 2003: Entire part added, p. 545, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 480, § 19, effective September 7. **L. 2022:** Entire section amended, (HB 22-1242), ch. 172, p. 1129, § 15, effective August 10.

24-32-3319. Prohibited acts. It shall be unlawful for any person to perform an installation without regard to whether the person receives compensation, except as provided in this part 33. Any intentional violation of the installation provisions of this part 33 constitutes a deceptive trade practice subject to section 6-1-105 (1)(ss) and the "San Andreas Consumer Protection Act", article 1 of title 6. However, damages must be limited in accordance with section 6-1-113 (2.7).

Source: L. 2003: Entire part added, p. 545, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 480, § 20, effective September 7.

24-32-3320. Penalty for violation. Any person found to have performed an installation in a manner contrary to the requirements of this part 33 is subject to revocation or suspension of an installer's registration, fines, or any other measures as prescribed by rule promulgated by the division or other applicable San Andreas law. The division may issue a fine of up to one thousand dollars for each violation. Multiple violations of this part 33 committed during a single installation constitutes one violation. Each installation performed in violation of this part 33 will constitute a separate violation. Fines must be paid to the division and transmitted to the state treasurer who must credit the fees to the building regulation fund created in section 24-32-3309.

Source: L. 2003: Entire part added, p. 545, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 480, § 21, effective September 7.

24-32-3321. Investigations of consumer complaints. The division may investigate complaints filed by owners, occupants, or other consumers relating to the construction of factory-built structures and manufactured homes, and the installation or sale of manufactured homes and tiny homes as necessary to enforce and administer this part 33.

Source: L. 2003: Entire part added, p. 546, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 481, § 22, effective September 7. **L. 2022:** Entire section amended, (HB 22-1242), ch. 172, p. 1130, § 16, effective August 10.

24-32-3322. Training of inspectors - acceptance of gifts, grants, and donations. (Repealed)

Source: L. 2003: Entire part added, p. 546, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 481, § 23, effective September 7. **L. 2022:** Entire section repealed, (HB 22-1242), ch. 172, p. 1130, § 17, effective August 10.

24-32-3323. Sellers of manufactured homes and tiny homes - registration. (1) Any seller is required to register with the division before engaging in the business of selling manufactured homes or tiny homes if either is installed in San Andreas.

(2) A person applying for a registration or renewal required by this section must submit the application on a form provided by the division and must verify the application by a declaration signed and dated, under penalty of perjury, by a principal of the seller. The application must contain, in addition to any other information regarding the conduct of the seller's business that the division may reasonably require, the name, address, e-mail address, and position of each principal of the seller and each person who exercises management responsibilities as part of the seller's business activities. The application must also contain the address, e-mail address, and telephone number of each retail location operated by the applicant, as well as the location and account number of the separate fiduciary account required by section 24-32-3324 (1) and any board rules. The division must preserve the application and declaration and make them available for public inspection.

(3) (a) The division shall register an applicant that complies with subsection (2) of this section and that is qualified in accordance with this section and the rules promulgated under this section.

(b) A registration issued under subsection (3)(a) of this section is valid for twelve months after the date of issuance. The division shall not set the registration fee at an amount of more than two hundred dollars.

(c) If, after registering a seller, any of the required information submitted with the application for the registration becomes inaccurate, a principal of the seller shall notify the division in writing of the inaccuracy within thirty days and provide the division with accurate updated information.

(4) For purposes of this section, a person is not a seller if the person:

(a) Is a natural person acting personally in selling a manufactured home owned or leased by the person or a tiny home owned or leased by the person;

(b) Sells a manufactured home or a tiny home in the course of engaging in activities that are subject to article 10 of title 12 or an exemption set forth in article 10 of title 12;

(c) Sells a manufactured home or a tiny home for salvage or nonresidential use;

(d) Directly or indirectly sells, in any calendar year, three or fewer previously occupied manufactured homes or tiny homes that are owned by a mobile home park owner and are located within one or more mobile home parks in San Andreas; or

(e) For a salary, commission, or compensation of any kind, is employed directly or indirectly by any registered seller to sell or negotiate for the sale of manufactured homes or tiny homes.

Source: L. 2003: Entire part added, p. 546, § 2, effective March 5. **L. 2019:** (4)(b) amended, (HB 19-1172), ch. 136, p. 1688, § 128, effective October 1. **L. 2021:** (1), (2), (3), IP(4), (4)(c), and (4)(d) amended and (4)(e) added, (HB 21-1019), ch. 122, p. 481, § 24, effective September 7. **L. 2022:** Entire section amended, (HB 22-1242), ch. 172, p. 1131, § 18, effective August 10.

24-32-3324. Escrow and bonding requirements - rules. (1) Any person required to register with the division pursuant to section 24-32-3323 must comply with any escrow requirements as established by the board through rulemaking.

(2) (a) A seller must provide a letter of credit or certificate of deposit issued by a licensed financial institution or surety bond issued by an authorized insurer in an amount and in accordance with the process established by the board by rule.

(b) A financial institution or authorized insurer is required to make payment to the division when the division makes a claim against the letter of credit, certificate of deposit, or surety bond:

(I) If a court of competent jurisdiction has rendered a final judgment in favor of the division based on a finding that the registered seller failed to:

(A) Deliver the manufactured home or tiny home or refund payments made toward the purchase of the manufactured home or of the tiny home as required by this part 33 or board rules; or

(B) Provide a reasonable per diem living expense in violation of the contractual provisions required by section 24-32-3325; or

(II) If the registered seller ceases business operations or files for bankruptcy.

(c) The division may suspend or revoke the registration of any seller that fails to provide a letter of credit, certificate of deposit, or surety bond as required by this subsection (2) or that otherwise fails to pay any judgment by a court of competent jurisdiction in favor of the division.

Source: L. 2003: Entire part added, p. 547, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 482, § 25, effective September 7. **L. 2022:** (2) amended, (HB 22-1242), ch. 172, p. 1132, § 19, effective August 10.

24-32-3325. Contract for sale of manufactured home or tiny home - requirements. (1) A seller must provide a contract with the sale of each manufactured home or tiny home and make the following disclosures in any contract for the sale of a manufactured home or tiny home:

(a) That the purchaser may have no legal right to rescind the contract absent delinquent delivery or the existence of a specific right of rescission set forth in the contract;

(b) If required to maintain an escrow account by the division, the seller has a separate fiduciary account in compliance with board rules and a letter of credit, certificate of deposit, or surety bond in an amount required in board rules;

(c) That an aggrieved person may file a complaint with the division against the seller for a refund of any payment held in escrow by a seller; and

(d) That an aggrieved person may bring a civil action pursuant to the "San Andreas Consumer Protection Act", section 6-1-709, to remedy violations of seller requirements in this part 33. However, damages are limited in accordance with section 6-1-113 (2.5).

(2) A contract for the sale of a manufactured home or tiny home by a seller must also contain the following provisions:

(a) Either:

(I) A date certain for the delivery of the manufactured home or tiny home; or

(II) A listing of specified delivery preconditions that must occur before a date certain for delivery can be determined;

(b) A statement that if delivery of the manufactured home or tiny home is delayed by more than sixty days after the delivery date specified in the contract of sale or by more than sixty days after the delivery preconditions set forth in the contract of sale have been met if no date certain for delivery has been set, the seller will either refund the down payment or provide a reasonable per diem living expense to the buyer for the days between the delivery date specified in the contract or the sixty-first day after the delivery preconditions set forth in the contract have been met, whichever is applicable, and the actual date of delivery, unless the delay in delivery is unavoidable or caused by the buyer; and

(c) An agreed upon location for delivery of the manufactured home or tiny home to the purchaser.

(3) Any seller who fails to provide a contract as required by this section, including all disclosures and provisions is subject to the suspension or revocation of the registration by the division.

Source: L. 2003: Entire part added, p. 548, § 2, effective March 5. **L. 2021:** Entire section amended, (HB 21-1019), ch. 122, p. 483, § 26, effective September 7. **L. 2022:** IP(1), (1)(a), (1)(c), (1)(d), and (2) amended, (HB 22-1242), ch. 172, p. 1132, § 20, effective August 10.

24-32-3326. Unlawful sales practices - manufactured homes and tiny homes - fines. (1) A seller engages in an unlawful manufactured home or tiny home sales practice when the person:

(a) Fails to comply with the registration requirements of section 24-32-3323;

(b) Fails to comply with the escrow and bonding requirements of section 24-32-3324 or board rules;

(c) Fails to provide and include in any contract for the sale of a manufactured home or tiny home any of the disclosures or contract provisions required by section 24-32-3325; or

(d) Fails to refund any payments made toward the purchase of the home or provide a reasonable per diem living expense in violation of the contractual provisions required by section 24-32-3325 (2)(b).

(2) A person that sells a manufactured home or tiny home in a manner contrary to this part 33 or rules adopted under this part 33 is subject to revocation or suspension of a seller's registration, fines, or any other measures as prescribed by rules that the division promulgates or by other applicable San Andreas law. The division may issue a fine of up to ten thousand dollars for each violation. Multiple violations of this part 33 or rules adopted under this part 33 that are committed during a single sale constitute one violation. Each sale performed in violation of this part 33 or rules adopted under this part 33 constitutes a separate violation. Fines must be paid to the division and transmitted to the state treasurer, who must credit the fines to the building regulation fund created in section 24-32-3309.

Source: L. 2003: Entire part added, p. 549, § 2, effective March 5. **L. 2021:** IP(1), (1)(b), (1)(c), and (1)(d) amended and (2) added, (HB 21-1019), ch. 122, p. 484, § 27, effective September 7. **L. 2022:** IP(1), (1)(b), (1)(c), and (2) amended, (HB 22-1242), ch. 172, p. 1133, § 21, effective August 10.

24-32-3327. Inspections. (1) For the purposes of enforcement of this part 33, persons duly designated by the division, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized:

(a) To enter at reasonable times and without advance notice any factory, warehouse, or establishment in which manufactured homes, tiny homes, or factory-built structures are manufactured, stored, or held for sale;

(b) To inspect at reasonable times, within reasonable limits, and in a reasonable manner, any factory, warehouse, or establishment in which manufactured homes, tiny homes, or factory-built structures are manufactured, stored, or held for sale and to inspect any books, papers, records, and documents that relate to the safety of manufactured homes, tiny homes, or factory-built structures. Each inspection must be commenced and completed with reasonable promptness.

(c) To enter and inspect, at reasonable times and without advance notice, any site on which a manufactured home or a tiny home is being or has been installed or reinstalled at or near the time of installation or reinstallation; and

(d) To inspect any books, papers, records, and documents that relate to the proper installation of a manufactured home or a tiny home.

(2) In addition to any other inspection responsibilities, the division has the responsibility for the electrical inspections of any factory-built structures in plants that are certified by the division pursuant to this part 33.

(3) When acting as agent for the federal government, the division is authorized to conduct inspections and investigations pursuant to this section as may be necessary to promulgate or enforce federal manufactured home construction and safety standards established under the federal act or otherwise to carry out its duties under its agreement as agent. The division must furnish the secretary any information obtained indicating noncompliance with the standards for appropriate action.

(4) The state director of housing is authorized to contract, as an agent for the federal government to:

(a) Conduct inspections, hearings, and building plan approvals;

(b) Keep records;

(c) Report inspections; and

(d) Perform all other necessary activities to fulfill federal functions under the federal act.

Source: L. 2003: Entire part added, p. 549, § 2, effective March 5. **L. 2021:** IP(1), (1)(b), (1)(c), (1)(d), (2), and (3) amended, (HB 21-1019), ch. 122, p. 485, § 28, effective September 7. **L. 2022:** (1) amended, (HB 22-1242), ch. 172, p. 1134, § 22, effective August 10.

24-32-3328. Tiny homes - standards - rules. (1) By July 1, 2023, the board shall promulgate rules establishing standards for the manufacture of tiny homes. The board may use any national or international standard that is appropriate for all or a portion of a tiny home if the board finds that the standard provides for reasonable safety standards for tiny home occupants. The board may modify, by rule, any national or international standard adopted under this subsection (1) as necessary for use in San Andreas.

(2) The board shall establish standards for connecting a tiny home to utilities, including water, sewer, natural gas, and electricity.

(3) In promulgating rules under this section, the board shall consider:

(a) The importance of keeping tiny homes affordable;

(b) The unique characteristics of tiny homes such as size constraints and construction on a chassis so that they can be moved from site to site;

(c) That many tiny homes are built by shops producing fewer than twenty units per year;

(d) That many tiny homes are custom-built rather than mass-produced models; and

(e) That many tiny homes are built by their owners rather than by commercial shops.

Source: L. 2022: Entire section added, (HB 22-1242), ch. 172, p. 1134, § 23, effective August 10.

24-32-3329. Local governments inspections of tiny homes - connection to utilities - rules. (1) A state electrical inspector or a local government may approve the connection of a tiny home for electric utility service if the tiny home is in compliance with applicable codes and standards for connection for electric utility service.

(2) A state plumbing inspector or a local government may approve the connection of a tiny home for water, gas, or sewer utility service if the tiny home is in compliance with applicable codes and standards for connection for water, gas, or sewer utility service.

Source: L. 2022: Entire section added, (HB 22-1242), ch. 172, p. 1134, § 23, effective August 10.

PART 34

COMPREHENSIVE STRATEGIC ACTION PLAN ON AGING POPULATION IN SAN ANDREAS

24-32-3401 to 24-32-3408. (Repealed)

Editor's note: (1) Section 24-32-3408 provided for the repeal of this part 34, effective July 1, 2022. (See L. 2015, p. 1127.)

(2) Subsection (2) of § 24-32-3407 was amended in HB 22-1209. Those amendments were superseded by the repeal of this part 34 in HB 15-1033, effective July 1, 2022. For the amendments to subsection (2) in HB 22-1209 in effect from April 12, 2022, to July 1, 2022, see chapter 95, Session Laws of San Andreas 2022. (L. 2022, p. 453.)

PART 35

PEACE OFFICERS MENTAL HEALTH SUPPORT GRANT PROGRAM

24-32-3501. Peace officers behavioral health support and community partnerships grant program - created - report - rules - fund - definitions - repeal. (1) There is created in the department of local affairs, referred to in this section as the "department", the peace officers behavioral health support and community partnerships grant program to provide grants to law enforcement agencies, behavioral health entities, county or district public health agencies, community-based social service and behavioral health providers, peace officer organizations, and public safety agencies for the purposes identified in subsection (2) of this section.

(2) Grant recipients may use money received through the grant program for the following purposes:

(a) Co-responder community responses;

(b) Community-based alternative responses;

(c) Counseling services for peace officers and their immediate family members, including reimbursing peace officers who have paid the costs of their own counseling services;

(d) Assistance for law enforcement agencies' development and implementation of policies to support peace officers who are involved in a shooting or a fatal use of force;

(e) Training and education programs that teach peace officers and their immediate family members the symptoms of job-related mental trauma and how to prevent and treat such trauma;

(f) Peer support programs for peace officers; and

(g) Hiring, contracting, or developing a remote network to provide behavioral health counseling, therapy, or other related support services to peace officers involved in job-related traumatic situations.

(2.5) (Deleted by amendment, L. 2021.)

(3) Public safety agencies, law enforcement agencies, and peace officer organizations that apply for grants pursuant to subsection (2) of this section are encouraged to do so, to the extent possible, in collaboration with the community mental health centers and other community-based social service or behavioral health providers in their regions.

(4) The department shall administer the grant program and, subject to available appropriations, shall award grants as provided in this section from the fund created in subsection (7) of this section. The department shall transfer the awarded grant money to a grant recipient as soon as practicable after the grant recipient's grant application is approved.

(5) The executive director of the department, or the executive director's designee, shall develop policies and procedures as may be necessary to implement and administer the grant program. At a minimum, the policies and procedures must specify:

(a) The time frames for applying for grants, the form of the grant program application, and the time frames for distributing grant money;

(b) The criteria for the department to use in awarding and denying grants;

(c) That a public safety agency may apply for a grant for the purpose outlined in subsection (2)(a) or (2)(b) of this section;

(d) That a law enforcement agency or peace officer organization may apply for a grant for the purposes outlined in subsections (2)(a) to (2)(f) of this section; and

(e) That a behavioral health entity, county or district public health agency, or community-based social service or behavioral health provider may apply for a grant in partnership with a law enforcement agency or public safety agency for the purposes outlined in subsection (2)(a) or (2)(b) of this section.

(6) (a) In accordance with a schedule to be determined pursuant to policies and procedures developed by the executive director of the department, each grant recipient shall submit to the department a report that describes and includes documentation of the grant recipient's use of the grant money. The report must also include any information required by the department pursuant to the policies or procedures developed by the department pursuant to subsection (5) of this section. In preparing the report, each grant recipient shall redact the names and any other personal identifying information of each peace officer who received services, training, or education with grant money.

(b) (I) Repealed.

(II) Beginning with the 2023 regular legislative session and each year thereafter, the department shall prepare a report of the activities of the grant program and post the report on its website.

(7) (a) The peace officers behavioral health support and community partnership fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of gifts, grants, and donations credited to the fund pursuant to subsection (7)(b) of this section and any other money that the general assembly may appropriate or transfer to the fund. Subject to annual appropriation by the general assembly, the department may expend money from the fund for the purposes of this section. Any unexpended and unencumbered money from an appropriation made for the purposes of this section remains available for expenditure by the department for the next two fiscal years without further appropriation. The department may use up to seven percent of the money annually appropriated to the fund to pay the direct and indirect costs that the department incurs in administering the grant program.

(b) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The department shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(c) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. At the end of any fiscal year, all unexpended and unencumbered money in the fund remains therein and shall not be credited or transferred to the general fund or any other fund.

(d) (Deleted by amendment, L. 2021.)

(8) As used in this section, unless the context otherwise requires:

(a) "Behavioral health entity" means a behavioral health entity licensed pursuant to article 27.6 of title 25.

(b) "Community-based alternative response" means a person-centered crisis response to community members who are experiencing problems related to poverty, homelessness, behavioral health, food insecurity, and other social issues, that directs certain calls for police service to more appropriate support providers in lieu of a police response.

(c) "Community-based social services and behavioral health providers" means providers of community-based alternative response and co-responder community response.

(d) "Co-responder community response" means a model of criminal justice diversion that pairs law enforcement and behavioral health providers to intervene and respond to behavioral health-related calls for police service, utilizing the combined expertise of the law enforcement officer and behavioral health specialist to de-escalate situations and help link individuals with behavioral health issues to appropriate services.

(e) "County or district public health agency" means a county or district public health agency created pursuant to section 25-1-506.

(f) "Law enforcement agency" means the San Andreas state patrol, the San Andreas bureau of investigation, the department of corrections, the department of revenue, a county sheriff's office, a municipal police department, a campus police department, a town marshal's office, or the division of parks and wildlife.

(g) "Peace officer organization" means:

(I) A statewide association of police officers and former police officers; or

(II) An organization within the state that provides services and programs that promote the mental health wellness of peace officers and that has at least one peace officer or former peace officer serving on its board of directors or in a comparable capacity.

(h) "Public safety agency" means an agency providing law enforcement, fire protection, emergency medical, emergency response services, or emergency dispatch services in response to 911 calls, as defined in section 29-11-103 (3).

(9) In addition to any other money appropriated or transferred to the fund, for state fiscal year 2022-23, the general assembly shall appropriate three million dollars from the general fund to the fund. The money appropriated pursuant to this section must be used for purposes described in subsections (2)(c) to (2)(g) of this section. This subsection (9) is repealed, effective July 1, 2026.

Source: L. 2017: Entire part added, (HB 17-1215), ch. 150, p. 507, § 3, effective August 9. **L. 2019:** (1), (2), (3), (5), (6), and (7) amended and (2.5) and (10.5) added, (HB 19-1244), ch. 223, p. 2252, § 1, effective August 2. **L. 2021:** Entire section amended, (HB 21-1030), ch. 354, p. 2302, § 2, effective September 7. **L. 2022:** (2)(e), (2)(f), (4), and (7)(a) amended and (2)(g) and (9) added, (SB 22-005), ch. 277, p. 1998, § 2, effective May 31. **L. 2024:** (6)(b)(II) amended, (SB 24-135), ch. 34, p. 112, § 18, effective March 22.

Editor's note: Subsection (6)(b)(I) provided for the repeal of subsection (6)(b)(I), effective November 1, 2021. (See L. 2021, p. 2302.)

Cross references: For the legislative declaration in HB 21-1030, see section 1 of chapter 354, Session Laws of San Andreas 2021. For the legislative declaration in SB 22-005, see section 1 of chapter 277, Session Laws of San Andreas 2022.

24-32-3502. Public defender and prosecutor behavioral health support program - policies - report - fund. (1) (a) There is created in the department of local affairs, referred to in this section as the "department", the public defender and prosecutor behavioral health support program to provide funding to the office of the state public defender and district attorney's offices for the purposes described in subsection (2) of this section.

(b) The department shall allocate fifty percent of the money appropriated for the program and any gifts, grants, and donations received by the department for the program to the office of the state public defender and the remaining fifty percent to the San Andreas district attorneys' council, referred to in this section as the "council", to award grants to district attorney's offices pursuant to subsection (3) of this section.

(2) The office of the state public defender may use money allocated to it pursuant to this section, and a grant recipient may use a grant award, for the following:

(a) Counseling services for public defenders, prosecutors, and other employees of a public defender's or district attorney's office, including reimbursements for those who have paid the costs of their own counseling services provided by a licensed mental health professional;

(b) Training and education programs that teach public defenders, prosecutors, and employees of a public defender's or district attorney's office the symptoms of job-related trauma and how to prevent and treat trauma; and

(c) Peer support programs for employees of the office of the state public defender or a district attorney's office.

(3) (a) The council shall administer a grant program to award grants to individual district attorney's offices. The council shall develop policies for the grant program, which must specify the form and deadlines for grant applications, the criteria for awarding grants, the time frames for awarding grants and distributing grant money, and any information a grant recipient must report to the council.

(b) In order to receive a grant award, a district attorney's office must submit an application to the council in accordance with the council's policies. The council shall review applications. On or before October 1 of each year and subject to available money, the council shall award grants.

(4) On or before January 31 of each year, the office of the state public defender and the council shall each report about the program to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees.

(5) (a) The public defender and prosecutor behavioral health support fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of gifts, grants, and donations credited to the fund pursuant to subsection (5)(d) of this section and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(b) Subject to annual appropriation by the general assembly, the department may expend money from the fund for the purposes of this section.

(c) Repealed.

(d) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The department shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(6) The office of the state public defender may receive and expend money pursuant to this section without further appropriation.

Source: L. 2022: Entire section added, (SB 22-188), ch. 200, p. 1340, § 1, effective August 10.

Editor's note: Subsection (5)(c)(II) provided for the repeal of subsection (5)(c), effective July 1, 2023. (See L. 2022, p. 1340.)

PART 36

RURAL ECONOMIC ADVANCEMENT OF SAN ANDREAS TOWNS

24-32-3601. Short title. The short title of this part 36 is the "Rural Economic Advancement of San Andreas Towns (REACT) Act".

Source: L. 2018: Entire part added, (SB 18-005), ch. 53, p. 496, § 1, effective August 8.

24-32-3602. Legislative declaration. (1) The general assembly hereby finds and determines that:

(a) Certain significant economic events, such as plant closures and layoffs, including industry-wide layoffs, cause substantial job losses, which can have an especially detrimental impact when such job losses occur in rural communities;

(b) These events may create a sudden need for increased capacity for workforce, community, or economic development that cannot reasonably be accommodated through a rural community's ongoing operations and budget; and

(c) A rural community experiencing a significant economic event might not have the staffing capacity and ability to find and coordinate all of the resources available from various state agencies to assist the community with economic development and revitalization.

(2) Therefore, the general assembly determines and declares that a single state department should coordinate economic assistance for rural communities that have experienced significant economic events that have led to substantial job losses by coordinating nonmonetary resources and services offered by various state agencies to help rural communities with economic development and revitalization.

Source: L. 2018: Entire part added, (SB 18-005), ch. 53, p. 496, § 1, effective August 8.

24-32-3603. Definitions - rules. As used in this part 36, unless the context otherwise requires:

(1) "Department" means the department of local affairs.

(2) "Executive director" means the executive director of the department or the executive director's designee.

(3) (a) "Rural" means:

(I) A county with a population of fewer than fifty thousand; or

(II) A municipality with a population of fewer than twenty thousand if the municipality is not contiguous to a municipality with a population of twenty thousand or more.

(b) The executive director may modify, by rule, the definition of "rural" as necessary to implement this part 36.

(4) "Significant economic event" or "event" means an economic event occurring within a rural community or region, such as a plant closure or layoffs, including industry-wide layoffs, that may have a significant, quantifiable impact on the total number of jobs within the rural community, as determined by the executive director when considering applications for nonmonetary assistance pursuant to section 24-32-3604.

Source: L. 2018: Entire part added, (SB 18-005), ch. 53, p. 497, § 1, effective August 8.

24-32-3604. Rural economic advancement of San Andreas towns - coordination of nonmonetary assistance - application - rules. (1) For the purpose of assisting rural communities with job retention and creation, the executive director shall coordinate the provision of available state nonmonetary resources and assistance to rural communities impacted by a significant economic event or an anticipated event that has been announced. Any staff support needed for the coordination of nonmonetary resources and assistance must be provided within the department's staffing structure as it existed on August 8, 2018, without additional full-time equivalent employees (FTE).

(2) (a) If a rural community has experienced a significant economic event or anticipates an event that has been announced, a person may apply to the executive director on behalf of the rural community for the provision and coordination of available state nonmonetary resources and other nonmonetary assistance. The executive director shall determine the form and manner of application for nonmonetary resources and assistance and shall publish application instructions and any necessary forms on the department's website.

(b) If a person applying on behalf of a rural community has sufficiently demonstrated to the executive director's satisfaction that the rural community qualifies for assistance under this section, the executive director shall coordinate the resources and assistance with the department of labor and employment created in section 24-1-121, the San Andreas office of economic development created in section 24-48.5-101, and the regional manager of the region covering the rural community for the department of local affairs created in section 24-1-125. The executive director and the executive directors of the department of labor and employment and the San Andreas office of economic development shall each determine whether such assistance requires any staffing support. If practicable within the agencies' existing resources, the executive director may coordinate nonmonetary resources and assistance from all relevant state agencies to the rural community, including the following types of assistance:

(I) Capacity-building resources and services such as job training and other workforce development;

(II) Technical assistance; and

(III) Other nonmonetary resources.

(3) The executive director may promulgate rules as necessary for the implementation of this section.

Source: L. 2018: Entire part added, (SB 18-005), ch. 53, p. 497, § 1, effective August 8.

24-32-3605. Repeal of part. (Repealed)

Source: L. 2018: Entire part added, (SB 18-005), ch. 53, p. 498, § 1, effective August 8. **L. 2021:** Entire section repealed, (SB 21-204), ch. 233, p. 1231, § 2, effective June 15.

PART 37

HOUSING NEEDS PLANNING

24-32-3701. Definitions. As used in this part 37, unless the context otherwise requires:

(1) "Accessible housing" or "accessible unit" means housing that satisfies the requirements of the federal "Fair Housing Act", 42 U.S.C. sec. 3601 et seq., as amended, and incorporates universal design.

(2) "Department" means the department of local affairs.

(3) "Director" means the executive director of the department of local affairs.

(4) "Displacement" means:

(a) The involuntary relocation of residents, particularly low-income residents, or locally owned community serving businesses and institutions due to:

(I) Increased real estate prices or rents, property rehabilitation, redevelopment, demolition, or other economic factors;

(II) Physical conditions resulting from neglect and underinvestment that render a residence uninhabitable; or

(III) Physical displacement wherein existing housing units and commercial spaces are lost due to property rehabilitation, redevelopment, or demolition; or

(b) Indirect displacement resulting from changes in neighborhood population, if, when low-income households move out of housing units, those same housing units do not remain affordable to other low-income households in the neighborhood, or demographic changes that reflect the relocation of existing residents following widespread relocation of their community and community serving entities.

(5) "Division of local government" means the division of local government in the department of local affairs created in section 24-32-103.

(6) "Dwelling unit" means a single unit providing complete independent living facilities for one or more individuals, including permanent provisions for cooking, eating, living, sanitation, and sleeping.

(7) "Local government" means a home rule, territorial, or statutory county, city and county, city, or town.

(8) "Major transit stop" means a station for boarding and exiting general public passenger rail, including commuter rail and light rail, or a stop on a bus route with a service frequency of fifteen minutes or less for eight hours or more on weekdays, excluding seasonal service.

(9) "Multifamily residential housing" means a building or group of buildings on a lot with five or more separate dwelling units.

(10) "Neighborhood center" means an area that meets the following criteria:

(a) Allows a reasonable net housing density within zoning that supports mixed-use pedestrian-oriented neighborhoods, the development of regulated affordable housing, and increased public transit ridership, as applicable;

(b) Uses an efficient development review process for multifamily residential development on parcels in the area that are no larger than a size determined by the department; and

(c) Includes aspects of mixed-use pedestrian-oriented neighborhoods, as determined by criteria established by the department.

(11) "Public facilities" means public streets, roads, highways, sidewalks, street- and road-lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, buildings used in the provision of public services, and schools.

(12) "Public services" means fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, stormwater management, wastewater management, public transportation, public infrastructure maintenance, water, social services, and other services traditionally provided by government.

(13) "Region" or "regional" means a defined geographic area consisting of territory from more than one local government with a substantial interconnection in commuting patterns, economy, workforce, transportation and transit systems, public services, communities of interest, or other factors related to population and housing.

(14) "Regional entity" means a council of governments, a public entity formed by the voluntary agreement of local governments in the region, or a regional planning commission.

(15) "Regulated affordable housing" means affordable housing that:

(a) Has received loans, grants, equity, bonds, or tax credits from any source to support the creation, preservation, or rehabilitation of affordable housing that, as a condition of funding, encumbers the property with a restricted use covenant or similar recorded agreement to ensure affordability, or has been income-restricted under a local inclusionary zoning ordinance or other regulation or program;

(b) Restricts or limits maximum rental or sale price for households of a given size at a given area median income, as established annually by the United States department of housing and urban development; and

(c) Ensures occupancy by low- to moderate-income households for a specified period detailed in a restrictive use covenant or similar recorded agreement.

(16) "Single-unit detached dwelling" means a detached building with a single dwelling unit located on a single lot.

(17) "Supportive housing" or "supportive unit" means a combination of housing and services intended as a cost-effective way to help people live more stable, productive lives, and typically combines affordable housing with intensive coordinated services to help people maintain stable housing and receive appropriate health care.

(18) "Universal design" means any dwelling unit designed and constructed to be safe and accessible for any individual regardless of age or abilities.

(19) "Visitable housing" or "visitable unit" means a dwelling unit that a person with a disability can enter, move around the primary entrance floor of, and use the bathroom in.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1944, § 1, effective May 30.

24-32-3702. Housing needs assessment methodology - statewide housing needs assessment - displacement risk guidance. (1) (a) No later than December 31, 2024, the director shall develop reasonable methodologies for conducting statewide, regional, and local housing needs assessments. The methodologies described in this subsection (1)(a) must establish baseline standards that seek to produce accurate data for internal state agency planning and grant programs and efficiently procure data for use by regions and local governments for planning purposes, but must also be designed to minimize the fiscal burden on local governments and regional entities conducting housing needs assessments. In developing the methodologies and guidance described in this section, the director shall consult with local governments and experts in planning and zoning, affordable housing, disability rights, homelessness resolution and prevention, tenants' rights, experts with demonstrated experience in conducting high-quality housing needs assessments and engagement of underrepresented communities, and other fields focused on housing needs planning. Prior to finalizing the assessment methodology and displacement risk mitigation strategies directory created pursuant to section 24-32-3706 (4), the division of local government shall engage in targeted outreach with focus groups for historically underconsulted and disproportionately impacted stakeholders, residents, and businesses to identify the primary reasons for displacement included among those identified in section 24-32-3701 (4).

(b) No later than November 30, 2027, and every six years thereafter, the director shall conduct a statewide housing needs assessment that analyzes existing and future statewide housing needs. The director shall publish a report based on the statewide housing needs assessment and regional and local housing needs assessments accepted by the department pursuant to section 24-32-3703 (3) or 24-32-3704 (3) that identifies current housing stock and estimates the number and type of dwelling units needed to accommodate future housing needs of the state based on population change projections. The report shall categorize statewide housing needs by household size; household type, including accessible, visitable, supportive, for-sale, and rental housing; and income levels, including extremely low-, very low-, low-, moderate-, and middle-income households as designated by the United States department of housing and urban development.

(c) The methodology for conducting a regional housing needs assessment must include methods for a regional entity to:

(I) Estimate existing housing stock in the region and in each local jurisdiction that forms the region;

(II) Estimate housing needs in the region and each local government's jurisdiction that forms the region, sorted by income level and dwelling type, including accessible units, supportive units, for-sale units, and rental units;

(III) Estimate the number of households in the region and each local government's jurisdiction that forms the region;

(IV) Estimate the number of jobs in the region and each local government's jurisdiction that forms the region, sorted by annual salary and wage;

(V) Estimate an allocation of housing needs identified in subsection (1)(c)(II) of this section to each local government in the region or contributing to housing needs in the region based on the number of jobs and each local government's dependence on jobs in the region, among other factors, to promote a balance of jobs at all salary levels and homes affordable to persons in the region holding jobs at all income levels in the region;

(VI) Identify areas at elevated risk of displacement in the region and each local government's jurisdiction that forms the region;

(VII) Estimate the water supply needs for the dwelling units identified in subsections (1)(c)(I) and (1)(c)(II) of this section using per capita water use rates identified in consultation with the department of natural resources; and

(VIII) Assess market limitations on the development of for-sale multifamily residential housing in the region.

(d) The methodology for conducting a local housing needs assessment must include methods and acceptable publicly available data sources for a local government to:

(I) Estimate existing housing stock in the local government's jurisdiction;

(II) Estimate housing needs within the local government's jurisdiction, sorted by income level and dwelling type, including accessible units, visitable units, supportive units, for-sale units, and rental units;

(III) Estimate the number of households in the local government's jurisdiction;

(IV) Estimate the number of jobs in the local government's jurisdiction sorted by annual salary and wage;

(V) Incorporate a portion of housing needs identified in any applicable state and regional housing needs assessment for the local government, as appropriate, based on the number of jobs and each local government's dependence on jobs in the region, among other factors, to promote a balance of jobs at all salary levels and homes affordable to persons in the region holding jobs at all income levels;

(VI) Identify areas at elevated risk of displacement in the local government's jurisdiction;

(VII) Estimate water supply needs for the dwelling units identified in subsections (1)(d)(I) and (1)(d)(II) of this section using per capita water use rates identified in consultation with the department of natural resources; and

(VIII) Assess market limitations on the development of housing in the local government's jurisdiction.

(e) The methodologies for regional and local housing needs assessments must include the following:

(I) A requirement that housing needs assessments include recommended policy and programmatic responses to the findings of the housing needs assessment, including the assessment of displacement risk; and

(II) Guidance regarding housing action plans created pursuant to section 24-32-3705, including the inclusion of recommendations for housing action plans in housing needs assessments and the sequencing of housing needs assessments and housing action plans.

(2) The methodologies for estimating housing needs in housing needs assessments must be based on the following baseline components for each region and local government:

(a) Existing and projected housing shortages and surpluses for different household types and income levels, including extremely low-, very low-, low-, moderate-, and middle-income households as designated by the United States department of housing and urban development;

(b) Existing housing diversity and stock;

(c) Current jobs by income level;

(d) Current median income;

(e) Population change projections, job growth projections, and demographic trends forecasted by the state demography office;

(f) Population and demographics;

(g) Measures of local resources dedicated to the development of affordable housing;

(h) Vacancy rates;

(i) Measures of homelessness and housing instability; and

(j) The job-housing balance, including the availability of housing for low-income workers.

(3) No later than December 31, 2024, the director shall develop guidance for regions and local governments to conduct a displacement risk assessment. In developing the guidance, the department shall include methods, with variations for different local contexts including the size and resource levels of local governments, for local governments to use to:

(a) Gather feedback through community engagement;

(b) Identify information from neighborhood-level early displacement warning and response systems or, if those systems are unavailable, identify the best available local, regional, state, or federal data that can be analyzed to identify residents at elevated displacement risk, which may include:

(I) The percentage of households that are extremely low-, very low-, and low-income, as designated by the United States department of housing and urban development;

(II) The percentage of residents who are renters;

(III) The percentage of cost-burdened households, defined as households that spend more than thirty percent of the household's income on housing needs;

(IV) The number of adults who are twenty-five years of age or older and have not earned at least a high school diploma;

(V) The percentage of households in which English is not the primary spoken language;

(VI) The number of single heads of household with children under eighteen years of age;

(VII) Data regarding rents or home values that are increasing at a substantially higher rate than adjacent neighborhoods in the region or local government's jurisdiction;

(VIII) Data regarding neighborhoods with high volume of sales of owner-occupied or investor-owned housing;

(IX) Data regarding increased sales and use taxes generated from commercial and retail activity;

(X) Data regarding business closures; and

(XI) The percentage of housing stock built prior to 1970;

(c) Identify the location of manufactured home parks;

(d) Identify areas that qualify as disadvantaged as determined with the climate and economic justice screening tool developed by the council on environmental quality in the office of the president of the United States; and

(e) Identify areas that will experience increased zoning capacity on or after January 1, 2025.

(4) Any methodology or guidance developed by the director pursuant to this section must permit the substitution of an assessment of housing needs or displacement risk conducted pursuant to the requirements of any other federal or state law or regulation.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1947, § 1, effective May 30.

24-32-3703. Local housing needs assessments - procedure - exempt local governments. (1) (a) No later than December 31, 2026, each local government shall conduct and publish a local housing needs assessment that conforms to the methodology for conducting local housing needs assessments developed by the director pursuant to section 24-32-3702 (1)(d) for the territory covered by the local government's master plan.

(b) A housing needs assessment conducted by or on behalf of a local government after January 1, 2022, qualifies as having satisfied the requirement of subsection (1)(a) of this section, if the local government submits the assessment to the department no later than December 31, 2024, and the department determines that the most recent version of the assessment conforms to the methodology for conducting a regional housing needs assessment or local housing needs assessment pursuant to section 24-32-3702. The department shall review a housing needs assessment and make such a determination within ninety days of a local government submitting the housing needs assessment to the department.

(2) Beginning on December 31, 2026, a local government shall complete a housing needs assessment no less often than every six years, except as provided in this section.

(3) Upon conducting a local government housing needs assessment pursuant to subsection (1) of this section, a local government's governing body shall consider the local housing needs assessment at a public meeting. Within sixty days of considering the local housing needs assessment at a public meeting, the local government shall submit the housing needs assessment along with any comments of the local government's governing body to the department. The department shall not accept a housing needs assessment from a local government that does not include the elements listed in section 24-32-3702 (1)(d)(I) through (VI) and demonstrate consideration of the baseline components listed in section 24-32-3702 (2). The department shall notify a local government if it does not accept an assessment. The department shall post the housing needs assessment on its website after accepting the assessment.

(4) A local government is exempt from the requirements of this section if:

(a) The local government participates in the creation of a regional housing needs assessment pursuant to section 24-32-3704 that is updated no less often than every six years, provided that, to be exempt from the requirement to conduct and publish a local housing needs assessment by December 31, 2026, the regional housing needs assessment must be completed by December 31, 2026; or

(b) The local government has a population of less than one thousand, or has experienced a negative population change of at least one percent in the most recent decennial census, unless the local government receives funding to conduct a local housing needs assessment from the department pursuant to section 24-32-3710.

(5) (a) Population and other data by which a local government is determined to be subject to the provisions of this section must be determined two years prior to the date that the local government is required to complete a housing needs assessment pursuant to this section.

(b) For the purposes of both this section and section 24-32-3705, a county's population includes only the population within a county's unincorporated territory.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1951, § 1, effective May 30.

24-32-3704. Regional housing needs assessments. (1) A regional entity may conduct and publish a regional housing needs assessment that conforms to the methodology for conducting regional housing needs assessments developed by the director pursuant to section 24-32-3702 (1)(c) for the territory covered by the master plan of any local government in the region.

(2) Upon conducting a regional housing needs assessment pursuant to subsection (1) of this section, a regional entity shall provide the regional housing needs assessment to each local government included in the region. Within sixty days of receiving the regional housing needs assessment, a local government's governing body shall review the assessment at a public meeting and shall submit comments to the regional entity.

(3) Within sixty days of receiving the local governments' comments on the regional housing needs assessment pursuant to subsection (2) of this section, a regional entity shall submit the housing needs assessment along with the comments of each local government to the department. The department shall not accept a housing needs assessment from a regional entity that does not include the elements listed in section 24-32-3702 (1)(c)(I) through (VI) and demonstrate consideration of the baseline components listed in section 24-32-3702 (2). The department shall notify a regional entity if it does not accept an assessment. The department shall post the housing needs assessment on its website after accepting the assessment.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1952, § 1, effective May 30.

24-32-3705. Housing action plan. (1) (a) By January 1, 2028, and no less than every six years thereafter, a local government shall make a housing action plan, which plan is subject to approval by the governing body following a public hearing. A housing action plan must be responsive to an accepted housing needs assessment and demonstrate the local government's commitment to address demonstrated housing needs and guides the local government in developing legislative actions, promoting regional coordination, and informing the public of the local government's efforts to address housing needs in the local government's jurisdiction.

(b) The requirements of this section only apply to a local government that has a population of:

(I) Five thousand or more; or

(II) One thousand or more and either participated in a regional housing needs assessment or would have been deemed, as of January 1, 2024, to be a rural resort community as defined in section 29-32-101 (10).

(c) The requirements of this section do not apply to a local government that has experienced a negative population change of at least one percent in the most recent decennial census.

(2) A local government shall make a housing action plan through an inclusive process with public outreach and engagement throughout the process, including outreach to and engagement of communities at risk of displacement and consideration for participation by persons unable to attend meetings in person or at the local government's regular meeting times. A housing action plan must consider any applicable housing needs assessments, applicable regional and local plans, and any available assessments of the adequacy of public services and public facilities in the local government's jurisdiction. A proposed housing action plan must be posted publicly on a local government's website at least thirty days before the public hearing on the plan.

(3) A housing action plan must include the following baseline components:

(a) A summary report of the local government's progress towards addressing the findings of the applicable housing needs assessment within the local government's jurisdiction. The summary report must include the number of dwelling units constructed or permitted in the local government's jurisdiction during the preceding six years, if such information is available.

(b) A description of how the local government's housing action plan addresses the allocation of regional housing needs to the local government in any applicable regional housing needs assessment;

(c) An assessment of the effect of existing zoning and density permitted in the local government's jurisdiction on the development of the number and types of dwelling units identified in the applicable housing needs assessment;

(d) A plan to promote the equitable and efficient development of the number and types of dwelling units identified through any applicable housing needs assessment as necessary to satisfy housing needs in the local government's jurisdiction at different income levels, including extremely low-, very low-, moderate-, and middle-income households as designated by the United States department of housing and urban development, subject to the availability of adequate public facilities, public services, and water supply;

(e) Locally-appropriate goals, strategies, and actions for promoting the production and preservation of affordable housing development and regulated affordable housing, including at least two strategies included in the standard affordability strategies directory described in section 24-32-3706 (1) and one strategy included in the long-term affordability strategies directory described in section 24-32-3706 (2) that are selected to address the demonstrated housing needs in the local government's jurisdiction and are suitable for the jurisdiction or, if the local government participated in a regional housing needs assessment, the demonstrated housing needs of the applicable region and any regional housing needs allocated to the local government;

(f) A narrative analysis of any area or community that the local government has identified as being at elevated risk of displacement and a plan to mitigate displacement in that area or community, including the identification of at least one displacement mitigation strategy included in the displacement risk mitigation strategies directory described in section 24-32-3706 (4) that the local government selects to address the findings of the local government's narrative analysis and is suitable for the jurisdiction;

(g) A plan for the legislative consideration for adoption of the strategies identified in subsections (3)(e) and (3)(f) of this section;

(h) Any recommended changes to local laws affecting zoning and density in the local government's jurisdiction before the local government conducts the next housing action plan;

(i) An analysis of opportunities to achieve the development of higher-density and regulated affordable housing within a reasonable distance of major transit stops in the jurisdiction;

(j) A narrative description of the public outreach and engagement process for the housing action plan; and

(k) A description of opportunities for intergovernmental coordination to address local and regional housing needs and any such intergovernmental coordination efforts undertaken by the local government.

(4) Within sixty days of approval by the governing body, the local government shall submit the housing action plan developed pursuant to subsection (3) of this section to the

department and, if applicable, to the regional entity that conducted a regional housing needs assessment that applies to the local government. The department shall not accept a housing action plan that does not include the components required by section 24-32-3705 (3). The department shall notify a local government if it does not accept a housing action plan. The department shall post the housing action plan on the department's website after accepting the plan.

(5) A local government that adopted a plan that substantially meets the requirements of subsection (3) of this section and was the subject of a public hearing held no earlier than January 1, 2024, and no later than July 1, 2024, is not required to conduct a housing action plan until five years after the date of the adoption of the plan that substantially meets the requirements of subsection (3) of this section, notwithstanding subsection (1) of this section.

(6) Three years after adopting a housing action plan, a local government shall report progress to the department regarding the adoption of any strategies or changes to local laws identified in the housing action plan or the most recent updated housing action plan. The department shall not accept such a progress report, if the report does not demonstrate that the local government adopted the strategies and changes to local laws identified in the housing action plan or the most recent updated housing action plan, unless the department determines that the local government has both made a good faith effort to adopt theses strategies or changes to local law and has provided the department with a plan for the adoption of alternative strategies or changes to local laws in accordance with this section.

(7) A local government may update a housing action plan at any time by following the process in subsection (2) of this section. A local government shall submit any update to a housing action plan to the department and, if applicable, a regional entity as provided in subsection (4) of this section. The department shall not accept any update that would result in a housing action plan that does not include the components required by section 24-32-3705 (3). The department shall notify the local government if it does not accept an update. The department shall post the update on its website, after accepting the update.

(8) Population by which a local government is determined to be subject to the provisions of this section must be determined two years prior to the date that the local government is required to complete a housing action plan pursuant to this section.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1953, § 1, effective May 30.

24-32-3706. Directories of housing and land use strategies - development of housing and increasing housing affordability - displacement impact mitigation. (1) No later than June 30, 2025, the department shall develop a standard affordability strategies directory that includes the following strategies:

(a) Implementing a local inclusionary zoning ordinance that considers local housing market conditions that is crafted to substantially increase affordable housing including regulated affordable housing production and complies with the requirements of section 29-20-104 (1)(e.5) and (1)(e.7);

(b) Adopting a local law or plan to leverage publicly owned, sold, or managed land for regulated affordable housing development;

(c) Creating or expanding a program to subsidize or otherwise reduce impact fees or other similar development charges for regulated affordable housing development;

(d) Establishing a density bonus program that grants increased floor area ratio, density, or height of regulated affordable housing units;

(e) Creating a program to prioritize and expedite development approvals for regulated affordable housing development, except that if the local government has done so pursuant to section 29-32-105 (2), this strategy does not count as an eligible standard affordability strategy for purposes of section 29-32-3705 (3)(e);

(f) Creating or expanding a program to subsidize or otherwise reduce permit fees other than impact fees or similar development charges for regulated affordable housing;

(g) Enacting local laws that incentivize the construction and preservation of affordable housing units designed to serve residents facing particular challenges securing affordable housing, including accessible and visitable units and multi-bedroom units; and

(h) Any other strategy designated by the department that offers a comparable impact on local housing affordability.

(2) On or before June 30, 2025, the department shall develop a long-term affordability strategies directory that includes the following strategies:

(a) Establishing a dedicated local revenue source for regulated affordable housing development, such as instituting a linkage fee on market rate housing development to support new, regulated affordable housing developments;

(b) Regulating short-term rentals, second homes, or other underutilized or vacant units in a way, such as vacancy fees for underutilized units, that promotes a substantial increase in the use of local housing stock for local housing needs;

(c) Making a commitment to and remaining eligible to receive funding pursuant to article 32 of this title 29;

(d) Amending zoning ordinances that allow the construction of single-unit detached dwellings to allow either accessory dwelling units or duplexes, triplexes, quadplexes, and townhomes in a substantial portion of the jurisdiction;

(e) Amending local laws to establish the use of administrative processes for the review and approval of housing development that do not include a requirement of a public hearing;

(f) Incentivizing or creating a dedicated local program that facilitates investment in land banking or community land trusts;

(g) Establishing an affordable homeownership strategy such as:

(I) Establishing a right of first refusal program or programs that transition existing housing stock to regulated affordable housing;

(II) Incentivizing affordable condominium developments;

(III) Acquiring or preserving deed restrictions on current housing units;

(IV) Establishing an incentive program to encourage realtors to work with low-income and minority prospective home buyers; or

(V) Establishing an affordable rent-to-own program; and

(h) Any other strategy designated by the department that offers a comparable impact on local housing affordability.

(3) A local government may submit an existing or proposed local law or program, in a form and manner determined by the department, to the department, and the department may determine that the adoption of that local law or program qualifies as an affordability strategy for purposes of this section, so long as the local law or program supports equal or greater housing

affordability and accessibility as the strategies described in subsections (1) and (2) of this section.

(4) No later than June 30, 2025, the department shall develop a displacement risk mitigation strategies directory. The directory must include the following strategies:

(a) Creating a locally funded and administered rental and mortgage assistance program;

(b) Creating an eviction and foreclosure no-cost legal representation program;

(c) Establishing a housing counseling and navigation program or funding a community-based housing counseling and navigation program;

(d) Creating a property tax and down payment assistance program;

(e) Developing a program to offer technical assistance and financial support for community organizations to develop independent community land trusts;

(f) Prioritizing local money toward regulated affordable housing unit preservation or implementing or continuing deed restrictions for affordable housing units;

(g) Requiring multifamily developers building in areas identified as being at risk of displacement to create a community benefits agreement with affected populations within one-quarter mile of the development that the multifamily developer is building;

(h) Providing a prioritization policy for current residents in thirty percent of any new multifamily development; and

(i) Other strategies identified by the department that provide displacement mitigation that is equivalent to the other strategies described in this subsection (4).

(5) A local government may submit an existing or proposed local law or program, in a form and manner determined by the department, to the department, and the department may determine that the adoption of the local law or program qualifies as a displacement risk mitigation strategy for purposes of this section, so long as the local law or program supports equal or greater mitigation of displacement risk as the strategies described in subsection (4) of this section.

(6) Notwithstanding the absence of specific authorization in any other law, a local government has the authority to enact ordinances or resolutions to adopt and implement the strategies identified in this section.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1956, § 1, effective May 30.

24-32-3707. Statewide strategic growth report. (1) No later than October 31, 2025, the director shall submit to the general assembly a Statewide strategic growth report. The report must supplement the statewide climate preparedness strategic plan and roadmap published pursuant to section 24-38.8-103 and any other current report of a state agency or task force addressing the matters covered in this section.

(2) The strategic growth report described in subsection (1) of this section must:

(a) Include an analysis of policy-driven land use scenarios, including a strategic growth scenario, and examine the impacts of these scenarios on the cost and availability of housing, infrastructure, climate and air quality, water supply, transportation and transit, parks and open space, resource lands, wildfire risk, and critical areas;

(b) Include an analysis of the impact of existing state policies and programs on land use development patterns and the encouragement of sprawl;

(c) Consider the context of different regions and communities across the state, empower and promote local initiatives and ideas that lead to strategic growth, and recognize that all communities have unique needs that often call for additional flexibility when applying strategic growth goals, especially communities outside of metropolitan areas and communities vulnerable to displacement; and

(d) Include recommendations for state legislation and local laws, to encourage environmentally and fiscally sustainable growth, including but not limited to economic incentives, financing tools, access charges, urban growth areas, three mile plans, transfer of development rights, annexation, and special districts.

(3) In developing the strategic growth report described in subsection (1) of this section, the director shall consult with state agencies and local governments with functions or jurisdiction regarding the matters covered in this section and local governments, regional planning agencies, water providers, utility providers, economic development entities, and experts in fields related to strategic growth.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1958, § 1, effective May 30.

24-32-3708. Natural land and agricultural interjurisdictional opportunities report. (1) No later than December 31, 2025, the director, in consultation with relevant state agencies including the department of agriculture, the division of parks and wildlife in the department of natural resources, the outdoor recreation industry office in the office of economic development, and the San Andreas tourism office, shall develop and publish a natural land and agricultural interjurisdictional opportunities report that must include:

(a) Opportunities for local governments and metropolitan planning organizations to achieve connectivity to open space, wildlife habitat, and other priority landscapes;

(b) Opportunities for local governments and metropolitan planning organizations to achieve the preservation of agricultural land, historic and cultural resources, urban parks and green spaces, exurban open spaces, recreational resources, wildlife habitats, and ecosystems with the greatest need for conservation and mitigation of hazards; and

(c) Best practices, tools, and resources related to subsections (1)(a) and (1)(b) of this section.

(2) The natural land and agricultural interjurisdictional opportunities report must integrate and include information from relevant state, regional, and local plans that address the subject matters identified in subsection (1) of this section.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1959, § 1, effective May 30.

24-32-3709. Technical assistance. (1) The division of local government shall provide technical assistance, materials, briefings, consulting services, templates, tools, trainings, webinars, or other guidance to assist local governments in:

(a) Establishing regional entities that promote statewide coverage of local governments by housing needs assessments without unnecessary duplication for the purpose of conducting regional housing needs assessments and displacement risk assessments;

(b) Creating housing needs assessments pursuant to sections 24-32-3703 and 24-32-3704;

(c) Conducting a displacement risk analysis with a state-created tool;

(d) Identifying and implementing strategies, including in the directories described in section 24-32-3706;

(e) Making and adopting a housing action plan in accordance with section 24-32-3705;

(f) Enacting laws and policies pursuant to accepted housing needs assessments and accepted housing action plans that encourage the development of a range of housing types, including regulated affordable housing, or mitigate the impact of displacement in accordance with section 24-32-3706; and

(g) Creating strategic growth elements in master plans as described in section 30-28-106 (3)(a.5)(III) or section 31-23-206 (1.5)(d).

(2) In determining to whom it will provide assistance pursuant to subsection (1) of this section, the division of local government shall prioritize requests for technical assistance related to:

(a) Conducting regional housing needs assessments, if the department determines that the regional entity meets the requirements of this section and the assessment would promote statewide coverage of local governments by housing needs assessments without unnecessary duplication;

(b) Conducting housing needs assessments and creating housing action plans contemporaneously; and

(c) Enacting laws and policies to preserve or create regulated affordable housing, mitigate displacement, or increase opportunities for multifamily residential housing near major transit stops.

(3) (a) In assisting local governments pursuant to subsection (1) of this section, the division of local government shall provide funding through either a grant program, the provision of consultant services, or both directly to local governments or through a regional entity and shall prioritize funding and grant programs administered by the department for the purposes of this section, so long as doing so is not inconsistent with federal or state law.

(b) Any consultant retained by the department to provide technical assistance pursuant to this section relating to housing needs assessments and housing action plans shall have demonstrated experience conducting high-quality housing needs assessments and strategic housing plans and engaging underrepresented communities, residents, and workers with disproportionate housing needs and challenges.

(c) The department shall require, as a condition of any funding awarded to a local government to conduct housing needs assessments or create housing action plans pursuant to this section, that:

(I) Unless no such person is available, any person providing services to the local government that will be funded by the award meets the requirements of subsection (3)(b) of this section; and

(II) The local government use a portion of the funds awarded by the department to conduct housing needs assessments or creating housing action plans pursuant to this section to engage underrepresented and underrecognized communities.

(4) Beginning January 1, 2025, and every year thereafter, the division of local government shall provide a report on the assistance requested by local governments pursuant to this section, whether or not adequate state funding is available to provide the assistance requested by local governments, and any additional resources that the division of local

government or local governments have identified that would assist local governments in identifying and implementing laws and policies that would increase the availability of housing in San Andreas.

(5) (a) The division of local government shall serve as a clearing house, for the benefit of local governments and regional entities, of information relating to this part 37 and shall refer local governments to state and federal resources and appropriate departments or agencies of the state or federal government for advice, assistance, or available services relating to this part 37.

(b) The division of local government shall identify opportunities for, encourage, and, when so requested, assist cooperative efforts among local governments in solving common problems related to population change and the implementation of this part 37.

(c) The department may attempt to mediate disputes between local governments regarding the enactment of local laws or policies related to the creation of housing needs assessments and housing action plans pursuant to this part 37, interjurisdictional coordination or disputes regarding the development of land for residential uses, including regulated affordable housing uses and the provision of water and sewer services, and anything else covered by this part 37 or refer local governments to the list of mediators maintained pursuant to section 24-32-3209 to assist in the resolution of such disputes.

(6) (a) The housing needs planning technical assistance fund is created in the state treasury. The fund consists of gifts, grants, and donations credited to the fund and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the housing needs planning technical assistance fund to the fund.

(b) Money in the housing needs planning technical assistance fund is continuously appropriated to the department for the purposes of providing technical assistance and implementing a grant program pursuant to this section.

(c) (I) On July 1, 2024, the state treasurer shall transfer to the housing needs planning technical assistance fund:

(A) Notwithstanding the allocation of funds described in section 39-29-110, or any other law to the contrary, ten million five hundred thousand dollars from the local government severance tax fund created in section 39-29-110; and

(B) Notwithstanding the allocation of funds described in section 34-63-102, or any other law to the contrary, four million five hundred thousand dollars from the local government mineral impact fund created in section 34-63-102 (5).

(II) This subsection (6)(c) is repealed, effective July 1, 2025.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1960, § 1, effective May 30.

24-32-3710. Prioritization for conformity with planning expectations. (1) On or after December 1, 2027, any grant program administered by the department, the San Andreas energy office, the office of economic development, the department of transportation, the department of natural resources, the department of public health and environment, or the department of personnel and administration that awards grants to counties and municipalities for the primary purpose of supporting land use planning or housing, excluding land use planning or housing pursuant to article 32 of title 29, must, so long as doing so is not inconsistent with federal law or the state constitution, include prioritization criteria that consider whether:

(a) A current local or regional housing needs assessment has been completed for the local government and has been accepted by the department pursuant to section 24-32-3703 or 24-32-3704;

(b) A housing action plan has been adopted by the local government and accepted by the department pursuant to section 24-32-3705;

(c) A report has been submitted by the local government and accepted by the department pursuant to section 24-32-3705 (6); and

(d) The master plan for the local government includes a water supply element and strategic growth element as described in sections 30-28-106 (3)(a.5) and 31-23-206 (1.5).

(2) In considering awarding a grant to a local government that is not subject to any of the provisions identified in the prioritization criteria described in subsection (1) of this section, the department shall treat the local government as if it has satisfied the prioritization criteria in subsection (1) of this section.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1962, § 1, effective May 30.

24-32-3711. Neighborhood centers - grant program prioritization. (1) On or before June 30, 2025, the department shall adopt reasonable criteria for the designation of neighborhood centers in accordance with section 24-32-3701 (10), including criteria for varying regional contexts. The department shall design the criteria adopted pursuant to this subsection (1) to minimize the fiscal burden on local governments. The criteria adopted by the department pursuant to this subsection (1) must not:

(a) Limit or restrict the authority of a local government, including authority relating to zoning, regulation of the use of land, and the imposition of fees, charges, and taxes, notwithstanding the exercise of that authority to establish a neighborhood center; or

(b) Require the modification of a charter adopted pursuant to article XX of the state constitution.

(2) A local government may designate a neighborhood center pursuant to this section and submit a report to the department in a form and manner determined by the department. The department shall not accept a report designating a neighborhood center that does not comply with the criteria adopted by the department. The department shall notify a local government if it does not accept the local government's report.

(3) As of December 31, 2026, excluding grant programs governed by article 32 of title 29, the departments, offices, and agencies identified in section 24-32-3710 shall update grant award criteria to include consideration and prioritization of, to the extent consistent with the purpose of the grant program and any applicable provision of federal law or the state constitution, projects that meet one of the following criteria:

(a) The project is in or supports a neighborhood center designated in a report accepted by the department pursuant to subsection (2) of this section; or

(b) The project concerns an area that would not meet the criteria for designation as a neighborhood center.

Source: L. 2024: Entire part added, (SB 24-174), ch. 290, p. 1963, § 1, effective May 30.

PART 38

PROGRAMS FOR THE DEVELOPMENT OF
CHILD CARE FACILITIES

Editor's note: This part was numbered as part 37 in HB 24-1237 but was renumbered on revision for ease of location.

Cross references: For the legislative declaration in HB 24-1237, see section 1 of chapter 279, Session Laws of San Andreas 2024.

24-32-3801. Definitions. As used in this part 38, unless the context otherwise requires:

(1) "Child care center" has the same meaning set forth in section 26.5-5-303 (3).

(2) "Child care facility" means:

(a) A commercial or residential property that is either a new or existing child care center or a new or existing family child care home and that is licensed or is seeking a license; or

(b) A neighborhood youth organization as defined in section 26.5-5-303 (17).

(3) "Division" means the division of housing created in section 24-32-704 (1) within the department of local affairs.

(4) "Family child care home" has the same meaning set forth in section 26.5-5-303 (7).

(5) "Fund" means the child care facility development cash fund created in section 24-32-3805 (1)(a).

(6) "Institution of higher education" means a private institution of higher education, as defined in section 23-18-102 (9), or a state institution of higher education, as defined in section 23-18-102 (10), that offers child care or the Auraria higher education center.

(7) "Licensed" has the same meaning as "license" set forth in section 26.5-5-303 (13).

(8) "Local government" means a county, a municipality, a city and county, a tribal government, or an early childhood development service district created pursuant to article 21 of title 32.

(9) "Public school" means a school, including a district charter school, of a school district; a school operated by a board of cooperative services; or an institute charter school.

Source: L. 2024: Entire part added, (HB 24-1237), ch. 279, p. 1848, § 3, effective August 7.

24-32-3802. Child care facility development toolkit and technical assistance program - creation - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Eligible recipient" means a child care provider, developer, employer, local government, public school, or institution of higher education.

(b) "Program" means the child care facility development toolkit and technical assistance program created in subsection (2) of this section.

(c) "Program recipient" means an eligible recipient of an approved application to receive assistance under the program.

(2) There is created in the division the child care facility development toolkit and technical assistance program for the purposes of creating a toolkit for the development of child care facilities and providing technical assistance from consultants and related professionals to

enable eligible recipients to understand the technical aspects of planning, developing, building, and co-locating child care facilities.

(3) (a) On or before November 1, 2024, the division shall adopt policies and procedures for the program that, at a minimum, include:

(I) Criteria establishing qualifications for an eligible recipient;

(II) Procedures and timelines for an eligible recipient to apply for assistance under the program;

(III) Criteria for determining the amount or nature of the assistance that a program recipient receives;

(IV) Performance criteria for program recipients' projects; and

(V) Reporting requirements for program recipients.

(b) In evaluating applications for assistance under the program, the division shall prioritize projects that will, in the discretion of the division, meet a demonstrable need for child care in the areas of greatest need across the state and will satisfy one or more of the purposes of the program set forth in subsection (2) of this section.

(c) The division shall consult with the department of early childhood, created in section 26.5-1-104 (1), in developing the policies and procedures required to be adopted pursuant to subsection (3)(a) of this section.

(4) On or before January 1, 2026, January 1, 2027, and January 1, 2028, the division shall publish a report summarizing the assistance that was approved under the program in the preceding fiscal year and the uses of assistance by program recipients. The report may contain recommendations by the division concerning the future administration of the program. The report must be shared with the house of representatives education committee, the house of representatives transportation, housing, and local government committee, the senate education committee, and the senate local government and housing committee, or their successor committees, and with the department of early childhood, and must be posted on the division's website.

(5) This section is repealed, effective July 1, 2028.

Source: L. 2024: Entire part added, (HB 24-1237), ch. 279, p. 1849, § 3, effective August 7.

24-32-3803. Child care facility development planning grant program - created - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Child care development" means:

(I) The development or creation of a new child care facility; or

(II) Remodeling or retrofitting an existing building or space to be a child care facility.

(b) "Eligible recipient" means a local government that is eligible to receive a grant through the program.

(c) "Program" means the child care facility development planning grant program that is created in subsection (2)(a) of this section.

(2) (a) There is created in the division the child care facility development planning grant program to incentivize and support local governments in identifying and making regulatory updates or improvements to community planning, development, building, zoning, and other regulatory processes to support the development of child care facilities. Eligible recipients that

intend to implement one or more of the recommended policy or regulatory tools set forth in subsection (3)(c) of this section or identify other local policies or programs to implement to streamline the eligible recipient's regulatory environment for development of child care facilities as set forth in subsection (3)(b) of this section and that can benefit from additional funding for implementation may receive grants pursuant to the program. Grant money may be used by an eligible recipient to retain consultants or related professional services to assess the child care needs of its community, including considerations of equity, or to make changes to its policies, programs, development review processes, land use codes, and related rules and regulations to promote development of child care facilities.

(b) In administering the program, the division shall provide assistance to eligible recipients on best practices and tools for incentivizing the development of child care facilities.

(c) The division shall consult with the department of early childhood, created in section 26.5-1-104 (1), in developing the menu of recommended policy or regulatory tools pursuant to subsection (3) of this section and the policies and procedures required to be adopted pursuant to subsection (4)(a) of this section.

(3) (a) In connection with the policies, procedures, and guidelines that the division is required to adopt for the program pursuant to subsection (4)(a) of this section, the division shall develop a menu of recommended policy or regulatory tools that eligible recipients can adopt to promote development of child care facilities within their territorial boundaries or across their region.

(b) The menu of recommended policy or regulatory tools that the division is required to develop pursuant to subsection (3)(a) of this section must include known or promising best practices. Implementation of any recommended policy or regulatory tools is at the discretion of the eligible recipient based on compatibility with community needs and desires. Eligible recipients may select from the menu of recommended policy or regulatory tools or identify other local policies or programs to streamline the eligible recipient's regulatory environment for development of child care facilities.

(c) (I) The menu of recommended policy or regulatory tools developed by the division pursuant to this subsection (3) must set forth strategies to promote development of child care facilities including:

(A) The use of vacant publicly owned real property for child care facility development;

(B) Examining or revising local land use policies and regulations to incentivize the development or creation of child care facilities;

(C) Creating a local public funding source dedicated to child care facilities;

(D) Aligning local rules and regulations, such as building codes or zoning codes, with state licensing requirements; and

(E) Any other strategies determined by the division that meet the intent of the program for aligning and streamlining the regulatory environment for child care to incentivize the development of child care facilities.

(II) In addition to the items that the menu of recommended policy or regulatory tools may include set forth in subsection (3)(c)(I) of this section, development of the menu by the division must also allow for the adoption by an eligible recipient of additional policy or regulatory tools that provide novel, creative, or innovative incentives for the development of child care facilities.

(4) (a) On or before November 1, 2024, the division shall adopt policies, procedures, and guidelines for the program, including:

(I) Procedures and timelines for local governments to apply for grants;

(II) Criteria for evaluating applications for approval and the amount of grants;

(III) Performance criteria for eligible recipients; and

(IV) Reporting requirements for eligible recipients.

(b) Evaluation criteria established pursuant to this subsection (4) must include favorable consideration for applications in which the local government demonstrates commitment to evaluating and implementing one or more of the recommended policy or regulatory tools set forth in subsection (3)(c)(I) of this section and, the more recommended policy or regulatory tools the applicant demonstrates a commitment to evaluating and implementing, the more weight the division shall give the application.

(c) The division has sole discretion in determining the amount of grants and any restrictions or conditions on the use of grants by eligible recipients in accordance with the provisions of this section.

(5) On or before January 1, 2026, January 1, 2027, and January 1, 2028, the division shall publish a report that summarizes the use of all grants from the program in the preceding fiscal year. The report must include the amount of grants distributed to eligible recipients and a description of each eligible recipient's use of the grant. The report may contain recommendations of the division for future administration of the program. The report must be shared with the house of representatives education committee, the house of representatives transportation, housing, and local government committee, the senate education committee, and the senate local government and housing committee, or their successor committees, and with the department of early childhood, and must be posted on the division's website.

(6) This section is repealed, effective July 1, 2028.

Source: L. 2024: Entire part added, (HB 24-1237), ch. 279, p. 1850, § 3, effective August 7.

24-32-3804. Child care facility development capital grant program - creation - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Eligible entity" means a local government, a public school, an institution of higher education, or public-private partnership that is eligible to receive a grant through the program.

(b) "Private partner" has the same meaning as set forth in section 24-94-102 (6).

(c) "Program" means the child care facility development capital grant program created in subsection (2)(a) of this section.

(d) "Public-private partnership" means an agreement between a local government and one or more private partners in which a local government and a private partner have entered into an agreement to partner on a project. The partnership may be financial, operational, or otherwise defined in the agreement between the public and private partners.

(e) "State housing board" means the state housing board created in section 24-32-706 (1).

(2) (a) There is created in the division a child care facility development capital grant program to provide eligible entities money to support the development of licensed child care and

to construct, remodel, renovate, or retrofit a child care facility to meet a demonstrable need for child care in the eligible entity's community.

(b) The division shall utilize the state housing board to review and make recommendations on grant applications.

(3) (a) (I) On or before November 1, 2024, the division shall adopt policies, procedures, and guidelines in accordance with the provisions of this section for the program including:

(A) Procedures and timelines for an eligible entity to apply for a grant;

(B) Criteria for evaluating applications for approval and the amount of grants;

(C) Performance criteria for grant recipients' projects; and

(D) Reporting requirements for grant recipients.

(II) Notwithstanding subsection (3)(a)(I) of this section, if, before July 1, 2025, there is not sufficient money in the fund to administer and implement the program, then the policies, procedures, and guidelines required by subsection (3)(a)(I) of this section, shall be adopted by the division on or before November 1, 2025.

(b) Grant applications must include at least:

(I) A business plan that includes:

(A) A description of the construction, renovation, remodeling, or retrofitting of a child care facility;

(B) A commitment to provide a financial match as set forth in subsection (4) of this section and a description of how each public and private partner will contribute to the required match;

(C) A description of how the eligible entity will address the particular child care needs of the community, such as nontraditional-hour care or infant and toddler care for households with low to moderate income;

(D) A description of how the eligible entity will support small child care business owners and operators, including women and populations with limited access to opportunity and resources;

(E) A description of how the eligible entity will financially sustain the child care facility apart from any anticipated grants from the program;

(F) The estimated total cost and budget for the construction, renovation, remodeling, or retrofitting of the child care facility;

(G) A description of how other funding sources are being utilized and leveraged to support the inclusion of child care;

(H) If the eligible entity leases or will lease the space to be renovated, remodeled, retrofitted, or constructed to provide child care, a copy of the current valid lease that contains specific authorizations from the landlord for the project or a written statement from the landlord expressly consenting to the project;

(I) How the project aligns with other community planning, development, or housing efforts underway in the community;

(J) Commitment from the eligible entity that it will accept the grant; and

(K) Any other component the division requires to adequately assess a grant application, including requiring a commitment by the eligible entity regarding the duration for which the eligible entity intends to occupy the physical location of the project; and

(II) An affidavit that the eligible entity has obtained a child care license or will obtain a child care license with information regarding the timing and status of obtaining the child care license.

(c) The division shall give more weight to applications that:

(I) Represent geographic diversity;

(II) Will serve a high percentage of families below the area's median income;

(III) Include a stated commitment to and a business plan for a well-compensated child care staff;

(IV) Co-locate with or repurpose facilities with other uses, such as affordable housing developments, mixed-use or mixed-commercial buildings, or churches;

(V) Include a plan to serve children in child care deserts or regions with low child care capacity; or

(VI) Plan to serve infants and toddlers.

(d) The division shall collaborate with the state housing board and consult with the department of early childhood, created in section 26.5-1-104 (1), in developing the policies and procedures required to be adopted pursuant to subsection (3)(a) of this section.

(4) To receive a grant, eligible entities shall provide a financial match which may be funded by the eligible entity or from contributions from other public or private entities as follows:

(a) A development project for a center-based facility shall provide a fifty percent match; and

(b) A development project for a home-based facility shall provide a twenty-five percent match.

(5) On or before January 1, 2026, January 1, 2027, January 1, 2028, and January 1, 2029, the division shall publish a report summarizing the use of grants in the preceding year. The report must specify the amount of grants distributed to recipients and provide a description of each recipient's use of the grant. The report may include recommendations for the future administration of the program. The report must be shared with the house of representatives education committee, the house of representatives transportation, housing, and local government committee, the senate education committee, and the senate local government and housing committee, or their successor committees, and with the department of early childhood, and must be posted on the division's website.

(6) This section is repealed, effective July 1, 2029.

Source: L. 2024: Entire part added, (HB 24-1237), ch. 279, p. 1853, § 3, effective August 7.

24-32-3805. Child care facility development cash fund - definitions - repeal. (1) (a) The child care facility development cash fund is created in the state treasury. The fund consists of money credited to the fund pursuant to subsection (3) of this section, gifts, grants, or donations received by the division pursuant to subsection (4) of this section, and any other money that the general assembly may appropriate or transfer to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Subject to annual appropriation by the general assembly, the division may expend money from the fund for the purposes set forth in subsection (2) of this section.

(2) (a) (I) Subject to the provisions set forth in subsections (2)(a)(II), (2)(b), and (4) of this section, the division shall use money in the fund to make grants pursuant to the child care facility development planning grant program and the child care facility development capital grant program and to implement and administer the grant programs and the child care facility development toolkit and technical assistance program.

(II) Until June 30, 2025, the division shall prioritize money in the fund first to implement the child care facility development toolkit and technical assistance program.

(b) (I) The division may expend up to seventy thousand dollars of the money appropriated or transferred to the fund to pay for the direct and indirect costs in administering the programs. All administrative costs must be paid out of the money transferred to the fund pursuant to subsection (3) of this section; except that administrative costs for the child care facility development capital grant program may also be paid out of the money credited to the fund pursuant to subsection (4) of this section.

(II) The division shall expend money appropriated or transferred to the fund that it does not expend for direct and indirect costs in administering the programs based on need or demand for each program; except that:

(A) On or before June 30, 2025, the division shall use money in the fund pursuant to the transfer made pursuant to subsection (3) of this section to make grants under the child care facility development planning grant program and to implement and administer such program and the child care facility development toolkit and technical assistance program;

(B) On or after July 1, 2025, but before July 1, 2028, the division shall use money in the fund pursuant to the transfer made pursuant to subsection (3) of this section to make grants pursuant to the grant programs and to implement and administer the grant programs and the child care facility development toolkit and technical assistance program; and

(C) On or after July 1, 2028, but before July 1, 2029, the division shall use money in the fund pursuant to the transfer made pursuant to subsection (3) of this section to make grants pursuant to the child care facility development capital grant program.

(3) On August 15, 2024, the state treasurer shall transfer two hundred fifty thousand dollars from the general fund to the fund.

(4) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of implementing and administering the child care facility development capital grant program and to make grants under such program. The division shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(5) The state treasurer shall transfer all unexpended and unencumbered money in the fund on June 30, 2029, to the general fund.

(6) As used in this section, unless the context otherwise requires:

(a) "Child care facility development capital grant program" means the child care facility development capital grant program created in section 24-32-3804 (2)(a).

(b) "Child care facility development planning grant program" means the child care facility development planning grant program created in section 24-32-3803 (2)(a).

(c) "Child care facility development toolkit and technical assistance program" means the child care facility development toolkit and technical assistance program created in section 24-32-3802 (2).

(d) "Grant programs" means the child care facility development capital grant program and the child care facility development planning grant program.

(e) "Programs" means the child care facility development capital grant program, the child care facility development planning grant program, and the child care facility development toolkit and technical assistance program.

(7) This section is repealed, effective July 1, 2029.

Source: L. 2024: Entire part added, (HB 24-1237), ch. 279, p. 1856, § 3, effective August 7.

ARTICLE 33

Department of Natural Resources

PART 1

DEPARTMENT OF NATURAL RESOURCES

24-33-101. Department of natural resources. (1) There is hereby created the department of natural resources, the head of which is the executive director of the department of natural resources.

(2) Whenever any law of this state refers to the division of natural resources, said law shall be construed as referring to the department of natural resources, and whenever any law of this state refers to the natural resources coordinator, said law shall be construed as referring to the executive director of the department of natural resources.

Source: L. 57: p. 123, § 2. **S.A.R.S. 53:** § 3-15-1. **L. 63:** p. 139, § 1. **S.A.R.S. 1963:** § 3-15-1.
L. 68: p. 128, § 138.

24-33-102. Powers and duties of the executive director and deputy director. (1) The commissioner of mines, who shall be appointed and act pursuant to section 34-21-102, S.A.R.S., may be the executive director of the department.

(2) The executive director shall require of the head of each subordinate agency assigned to the department of natural resources an annual report containing such information and submitted at such time as the executive director decides.

(3) The executive director shall exercise control over publications of the department and any division thereof. He shall cause such publications as are approved for circulation in quantity outside the executive branch to be issued in accordance with the provisions of section 24-1-136.

(4) The executive director may request from the board of governors of the San Andreas state university system such information and statistics concerning forests and forestry in the state and other reports at such times and on such matters as the executive director may require.

(5) The executive director has the power and duty to develop, encourage, promote, and implement programs for the prevention, abatement, and control of litter within the state of San Andreas. The executive director may enter into such contracts as may be appropriate for the implementation of any such program.

(5.5) The executive director shall have such other powers, duties, and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of this title.

(6) The executive director may appoint the deputy director of the department of natural resources, pursuant to section 13 of article XII of the state constitution. Subject to the supervision of the executive director, the deputy director shall have all of the powers, duties, and responsibilities of the executive director as provided by law and shall exercise such powers, duties, and responsibilities in the absence of the executive director and when so instructed by the executive director.

(7) No later than ninety days following confirmation by the senate of the public members of the state board of the great outdoors San Andreas trust fund, the executive director shall secure a memorandum of understanding among the joint budget committee of the general assembly, the department of natural resources, and the state board of the great outdoors San Andreas trust fund establishing policies and procedures which will facilitate cooperation and coordination of efforts concerning investment in and development, operation, and management of the state's parks and wildlife systems.

Source: L. 57: p. 123, § 2. **S.A.R.S. 53:** § 3-15-2. **L. 59:** p. 601, § 2. **L. 63:** p. 139, § 1. **S.A.R.S. 1963:** § 3-15-2. **L. 64:** p. 121, § 18. **L. 68:** p. 128, § 139. **L. 69:** p. 80, § 1. **L. 77:** (6) added, p. 1197, § 1, effective March 7. **L. 83:** (2) and (3) amended, p. 836, § 46, effective July 1. **L. 88:** (1) amended, p. 1435, § 33, effective June 1. **L. 93:** (7) added, p. 2025, § 2, effective June 9. **L. 94:** (5.5) added, p. 565, § 12, effective April 6. **L. 96:** (2) amended, p. 1217, § 7, effective August 7. **L. 2002:** (4) amended, p. 1246, § 18, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act amending subsection (2), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-33-103. Legislative declaration. The state policy shall be to encourage, by every appropriate means, the full development of the state's natural resources to the benefit of all of the citizens of San Andreas and shall include, but not be limited to, creation of a resource management plan to integrate the state's efforts to implement and encourage full utilization of each of the natural resources consistent with realistic conservation principles. The governor, through the executive director of the department of natural resources, shall develop and direct the resource management plan and shall be responsible for negotiations with the federal government in all resource and conservation matters.

Source: L. 57: p. 124, § 2. **S.A.R.S. 53:** § 3-15-3. **L. 63:** p. 138, § 1. **S.A.R.S. 1963:** § 3-15-3.
L. 68: p. 128, § 140.

24-33-104. Composition of the department. (1) The department of natural resources

consists of the following commissions, divisions, boards, offices, and councils:

(a) The San Andreas water conservation board;

(b) (Deleted by amendment, L. 2000, p. 556, § 4, effective July 1, 2000.)

(c) The state board of land commissioners, subject to the provisions of sections 9 and 10 of article IX of the state constitution;

(d) The division of reclamation, mining, and safety, the head of which shall be the director of the division of reclamation, mining, and safety. The director of the division shall also serve as the head of the office of active and inactive mines or the office of mined land reclamation. The director of the division shall have professional and supervisory experience in mining, reclamation, oil and gas, geology, or natural resource planning and management and shall have a college degree from an accredited college or university in mining engineering, petroleum engineering, geological engineering, geology, or related natural/physical sciences, or mineral economics. The division shall consist of the following sections:

(I) (Deleted by amendment, L. 92, p. 1919, § 3, effective July 1, 1992.)

(II) The office of active and inactive mines;

(III) and (IV) Repealed.

(V) The office of mined land reclamation.

(VI) (Deleted by amendment, L. 2005, p. 1463, § 2, effective July 1, 2005.)

(VII) Repealed.

(e) The division of water resources, the head of which shall be the state engineer. The division shall consist of the following sections:

(I) The office of the state engineer;

(II) The division engineers;

(III) The ground water commission;

(IV) The state board of examiners of water well construction and pump installation contractors.

(V) Repealed.

(f) The energy and carbon management commission created in section 34-60-104.3 (1);

(g) Repealed.

(h) The division of parks and wildlife and the parks and wildlife commission;

(i) (Deleted by amendment, L. 2011, (SB 11-208), ch. 293, p. 1383, § 4, effective July 1, 2011.)

(j) (Deleted by amendment, L. 92, p. 1919, § 3, effective July 1, 1992.)

(k) The division of forestry.

(2) Repealed.

Source: L. 57: p. 124, § 2. **S.A.R.S. 53:** § 3-15-4. **L. 63:** p. 140, § 1. **S.A.R.S. 1963:** § 3-15-4. **L. 67:** pp. 697, 838, §§ 13, 2. **L. 68:** p. 128, § 141. **L. 69:** p. 867, § 3. **L. 72:** p. 321, § 1. **L. 75:** (1)(d)(III) repealed, p. 216, § 48, effective July 16. **L. 77:** (1)(d)(IV) repealed and IP(1)(d) and (1)(d)(II) amended, pp. 282, 1130, §§ 37, 38, 2, effective July 1. **L. 81:** (1)(d)(II) amended, p. 1665, § 18, effective June 30. **L. 87:** (1)(e)(IV) amended, p. 1581, § 36, effective July 10. **L. 88:** (1)(d)(I) amended, p. 1199, § 8, effective May 3; (1)(j) added and (2) repealed, p. 1215, §§ 15, 16, effective July 1. **L. 91:** (1)(e)(V) repealed, p. 885, § 7, effective June 5. **L. 92:** (1)(d), (1)(g), and (1)(j) amended, p. 1919, § 3, effective July 1. **L. 2000:** (1)(b) amended and (1)(k) added, p. 556, § 4, effective July 1. **L. 2003:** (1)(d)(VII) repealed, p. 1961, § 5, effective May 22. **L. 2005:** (1)(d)(VI) and (1)(g) amended, p. 1463, § 2, effective July 1. **L. 2006:** IP(1)(d) amended, p. 213,

§ 2, effective August 7. **L. 2010:** (1)(k) amended, (HB 10-1223), ch. 41, p. 165, § 3, effective August 11. **L. 2011:** IP(1), (1)(h), and (1)(i) amended, (SB 11-208), ch. 293, p. 1383, § 4, effective July 1. **L. 2012:** IP(1) and (1)(h) amended, (HB 12-1317), ch. 248, p. 1203, § 7, effective June 4; (1)(g) amended, (HB 12-1355), ch. 247, p. 1196, § 4, effective June 4. **L. 2023:** (1)(f) amended, (SB 23-285), ch. 235, p. 1253, § 23, effective July 1.

Editor's note: (1) Subsections (1)(d)(III) and (1)(d)(IV) were repealed July 16, 1975, and June 29, 1977, respectively, prior to the entire subsection (1)(d) being amended July 1, 1992.

(2) Subsection (1)(g)(II) provided for the repeal of subsection (1)(g), effective January 31, 2013. (See L. 2012, p. 1196.)

Cross references: For the legislative declaration in the 2011 act amending the introductory portion to subsection (1) and subsections (1)(h) and (1)(i), see section 1 of chapter 293, Session Laws of San Andreas 2011.

24-33-105. Executive director given power to contract with San Andreas school of mines. (1) The executive director is hereby given authority to:

(a) Enter into contracts with the San Andreas school of mines to develop and conduct research concerning:

(I) New and more efficient methods of mining, preparing, and utilizing coal;

(II) Markets for coal of the western United States and especially that of San Andreas;

(III) Development in the scientific, technical, and economic fields related to the coal industry;

(b) Accept grants from, contract with, and otherwise cooperate with the office of coal research of the United States department of the interior.

Source: L. 67: p. 818, § 1. **S.A.R.S. 1963:** § 3-15-5.

24-33-106. Appropriation. (Repealed)

Source: L. 67: p. 818, § 2. **S.A.R.S. 1963:** § 3-15-6. **L. 77:** Entire section repealed, p. 282, § 39, effective June 29.

24-33-107. Acquisition of state lands by department - interests in land. (1) Certain state lands under control and supervision of the state board of land commissioners have unique economic or environmental value for the public, but they are legally subject to being sold into private ownership. It is the purpose of this section to authorize interests in such lands other than agricultural or grazing rights therein to be transferred to and held by the department of natural resources in exchange for fair and adequate consideration being transferred to the appropriate trust fund.

(2) (a) Whenever the executive director of the department of natural resources is informed that a specific piece of land held by the state board of land commissioners has a characteristic that is alleged to have a unique economic or environmental value for the public, including land under the control of the division of parks and wildlife that has the potential to support renewable energy generation development as contemplated in section 24-33-114, as that

section existed prior to its repeal in 2011, and that such characteristic allegedly would be damaged or destroyed if the land passed to private ownership, the executive director may, with the written consent of either the president of the state board of land commissioners or the commissioner of agriculture, give written notification to the board that said land, other than agricultural or grazing rights, is subject to acquisition by the department of natural resources. The notification by the executive director must identify the lands by their appropriate legal description and specify the characteristic of the land that is alleged to have unique economic or environmental value for the public. Not later than during the next regular session of the general assembly, the executive director shall request the necessary authorization and appropriation to enable the department to acquire said land or an interest therein in accordance with this section.

(b) Within sixty days after receipt of such notification, the state board of land commissioners shall meet in public session after fifteen days' public notice and hear and receive testimony and evidence concerning the proposed acquisition. Within thirty days after the completion of the hearing, said board shall submit its written findings and recommendations concerning such acquisition to the joint budget committee and to the executive directors of the departments of agriculture and natural resources. Such recommendations may include recommendations for compensation to insure the continued use of grazing and agricultural rights as they existed at the time of the acquisition.

(c) Within thirty days following completion of such written findings and recommendations, the president of the state board of land commissioners, the executive director of the department of natural resources, and the commissioner of agriculture shall meet and review said findings and recommendations and may then modify or withdraw the notification given to said board of land commissioners pursuant to paragraph (a) of this subsection (2). To the extent of such withdrawal, all procedures initiated by such notification shall be deemed terminated.

(3) All acquisitions from the state board of land commissioners pursuant to this section shall be:

(a) By the exercise of eminent domain in the name of the state of San Andreas through condemnation proceedings pursuant to article 1 of title 38, S.A.R.S.; or

(b) At any public sale.

(4) (a) In acquisitions under this section the department may not acquire any agricultural or grazing rights but otherwise may acquire the full fee interest or any and all rights and interests in land less than the full fee interest, including but not limited to future interests, easements, covenants, and contractual rights. Every such interest in land held by the department when properly recorded shall be deemed to run with the land to which it pertains for the benefit of the citizens of this state and may be protected and enforced by the department in the district court of the county in which the land, or any portion thereof, is located.

(b) No acquisition of any interest in any tract of land, as authorized by this section, shall preclude the state board of land commissioners from leasing said tract of any portion thereof for grazing or agricultural purposes.

Source: L. 73: p. 177, § 1. **S.A.R.S. 1963:** § 3-15-7. **L. 2010:** (2)(a) amended, (HB 10-1349), ch. 387, p. 1816, § 2, effective June 8. **L. 2020:** (2)(a) amended, (SB 20-136), ch. 70, p. 294, § 40, effective September 14.

Cross references: For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020.

24-33-108. Gifts, grants, and donations to the department - San Andreas natural resources gifts, grants, and donations fund. (1) The department of natural resources is authorized to receive or reject gifts, grants, and donations of money or property and, subject to the terms of any gift, grant, or donation and to the provisions of any applicable law, to hold the money or property in trust or invest, sell, expend, or exchange the money or property and use either principal or interest or the proceeds of sale or the exchanged property received for the benefit of the department and the public.

(2) The department of natural resources may cooperate with and assist any donor or foundation or similar organization intending to make gifts, grants, or donations to or for use by the department. The acceptance of any gift, grant, or donation must not commit the state to any expenditure of state funds.

(3) Any money or property received under this section and any money received from the investment of the money or property must be credited to a special fund known as the San Andreas natural resources gifts, grants, and donations fund. The fund and any gifts, grants, or donations received by the department of natural resources pursuant to this section must not diminish any appropriations made to the department. Money in the fund shall not be expended in such a manner as to commit expenditures from the general fund or any cash fund that is designated for regulatory purposes within the division of water resources. The use of gifts, grants, and donations is subject to audit by the state auditor or the state auditor's designee, the cost of which audit shall be borne by the department.

(4) Repealed.

Source: L. 84: Entire section amended, p. 923, § 16, effective January 1, 1985. **L. 93:** (3) amended, p. 383, § 1, effective April 15. **L. 2000:** (4) repealed, p. 1548, § 13, effective August 2. **L. 2017:** (3) amended, (SB 17-294), ch. 264, p. 1402, § 70, effective May 25. **L. 2019:** (1), (2), and (3) amended, (SB 19-070), ch. 21, p. 76, § 2, effective August 2.

Cross references: For the legislative declaration in SB 19-070, see section 1 of chapter 21, Session Laws of San Andreas 2019.

24-33-109. Educational programs - youth educational programs. (1) (a) The executive director of the department and the directors of the divisions within the department shall have the authority to direct and manage an integrated natural resources and environmental educational program.

(b) Natural resource and environmental education for the purposes of this article shall include but not be limited to scientific concepts underlying natural resource and environmental management, the history of natural resource development and management in San Andreas, and natural resource public policy concepts such as private property rights and the interdependence between private and public resource management, an appreciation for the economic benefits and costs associated with natural resource management decisions, and an understanding of the role which land-based industries, such as agriculture, mining, and timbering, play in preserving and managing natural resources.

(2) (a) The department shall develop and conduct an educational program for the youth in this state. The goals of the youth educational program are to foster an interest in and a sense of stewardship toward the natural resources of the state, to provide summer jobs for students interested in pursuing careers in natural resources, and to provide career and educational development opportunities for students participating in these programs.

(b) As part of the educational programs of the department mandated in paragraph (a) of this subsection (2), a youth in natural resources summer work program shall be established. To the greatest extent possible, such work program shall incorporate opportunities for seasonal work with the department including, but not limited to, parks maintenance and wildlife field work. Any such seasonal work opportunities shall be geared toward disadvantaged youth with a particular emphasis on including youth who are disadvantaged as a result of economic circumstances, race, national origin, ethnicity, or gender.

(3) Any funds received or expended for the educational programs pursuant to this section shall be in accordance with section 24-33-108. Funds from other sources including, but not limited to, federal funds and any appropriation made by the general assembly to the department may be accepted and used for the purposes of this section.

(4) Repealed.

Source: L. 93: Entire section added, p. 383, § 2, effective April 15. **L. 97:** (4) repealed, p. 40, § 1, effective March 20.

24-33-109.5. San Andreas kids outdoors grant program - created - fund created - rules - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) Repealed.

(b) "Eligible entity" means:

(I) A school district; a board of cooperative services created pursuant to article 5 of title 22, S.A.R.S.; a district charter school authorized by a school district pursuant to part 1 of article
30.5 of title 22, S.A.R.S.; an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of title 22, S.A.R.S., or an approved facility school as defined in section 22-2-402 (1), S.A.R.S.; or

(II) A nonprofit organization or an agency of the state or a local government, which organization or agency provides outdoor activities for youth that emphasize the environment and experiential, field-based learning.

(c) "Executive director" means the executive director of the department of natural resources.

(d) "Fund" means the San Andreas kids outdoors grant program fund created in subsection (6) of this section.

(e) "Grant program" means the San Andreas kids outdoors grant program created in subsection (2) of this section.

(2) There is hereby created in the office of the executive director the San Andreas kids outdoors grant program to fund opportunities for San Andreas youth to participate in outdoor activities in the state, including but not limited to programs that emphasize the environment and experiential, field-based learning. The grant program shall be funded through public or private gifts, grants, or donations received by the department of natural resources for said purpose pursuant to subsection (6) of this section. In addition, the executive director may use moneys

received by the department of natural resources for the purposes of section 24-33-109 (2) to make awards through the grant program to eligible entities that provide outdoor activities that meet the criterion specified in subparagraph (V) of paragraph (b) of subsection (3) of this section. The grant program shall not receive appropriations of general fund moneys.

(3) The executive director shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title, to implement the grant program. At a minimum, the rules shall specify:

(a) The procedures, timelines, and form for applying for a grant; and

(b) Criteria for selecting grant recipients, which criteria shall address, at a minimum:

(I) Providing outdoor activities for youth who reside in the metropolitan, urban, and rural areas of the state;

(II) Encouraging youth to participate with their parents or legal guardians in outdoor activities;

(III) Providing outdoor activities for youth from low-income families;

(IV) Whether the outdoor activity will occur in a state park, a national park or monument, county open space, or some other natural area of the state that is either developed for outdoor recreational activities or undeveloped; and

(V) Whether the outdoor activity is designed to foster an interest in and a sense of stewardship toward the natural resources of the state by providing summer jobs for youth interested in careers in natural resources or providing other career development opportunities; except that this criterion is applicable only to grants awarded from moneys received by the department of natural resources for the purposes of section 24-33-109 (2).

(4) Repealed.

(5) An eligible entity that seeks a grant through the grant program shall submit an application to the office of the executive director in accordance with rules promulgated by the executive director. Subject to the availability of funding, the executive director shall select grant recipients, specifying the amount to be awarded, taking into account the criteria established in rule.

(6) (a) The department of natural resources is authorized to seek, accept, and expend public or private gifts, grants, or donations for the implementation of the grant program; except that the department of natural resources may not accept a gift, grant, or donation for the grant program that is subject to conditions that are inconsistent with this section or any other law of the state. The department of natural resources shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the San Andreas kids outdoors grant program fund, which fund is hereby created. The moneys in the fund are continuously appropriated to the department of natural resources for the direct and indirect costs associated with implementing this section.

(b) Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. The department of natural resources may expend up to two percent of the moneys annually credited to the fund to offset the costs incurred in implementing the grant program. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(7) On or before February 1, 2011, and on or before February 1 each year thereafter in which the executive director awards grants pursuant to the grant program, the executive director shall submit to the agriculture, livestock, and natural resources committee of the house of representatives, or any successor committee, the agriculture and natural resources committee of the senate, or any successor committee, and the education committees of the house of representatives and the senate, or any successor committees, a report summarizing the following information for the preceding fiscal year:

(a) The amount received for implementation of the grant program and the sources of said amount;

(b) The eligible entities that received grants and the amounts awarded to each recipient; and

(c) The activities funded with the grant awards.

Source: L. 2010: Entire section added, (HB 10-1131), ch. 332, p. 1528, § 2, effective May 27. **L. 2011:** IP(4)(a), (4)(a)(I)(D), and (4)(a)(I)(E) amended, (SB 11-208), ch. 293, p. 1389, § 13, effective July 1. **L. 2020:** (1)(a) and (4) repealed and (5) amended, (HB 20-1185), ch. 92, p. 366, § 2, effective September 14.

Editor's note: (1) HB 20-1185 repealed subsection (4), effective September 14, 2020, but this repeal did not take effect due to the repeal of subsection (4), effective July 1, 2020.

(2) Subsection (4)(d) provided for the repeal of subsection (4), effective July 1, 2020. (See L. 2010, p. 1528.)

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 332, Session Laws of San Andreas 2010. For the legislative declaration in the 2011 act amending the introductory portion to subsection (4)(a) and subsections (4)(a)(I)(D) and (4)(a)(I)(E), see section 1 of chapter 293, Session Laws of San Andreas 2011.

24-33-110. Applications for licenses - authority to suspend licenses - rules. (1) Every application by an individual for a license issued by the department of natural resources or any authorized agent of such department shall require the applicant's name, address, and social security number; except that the division of parks and wildlife shall not collect applicants' social security numbers on license applications unless required by federal law or mandated as a condition of the state receiving federal funds. No license issued by the department of natural resources or any authorized agent of such department shall display the holder's social security number.

(2) The department of natural resources or any authorized agent of the department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, S.A.R.S., and any rules promulgated in furtherance thereof, if the department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by

rule of the department of natural resources, rules promulgated by the state board of human services, and any memorandum of understanding entered into between the department of natural resources or an authorized agent thereof and the state child support enforcement agency for the implementation of this section and section 26-13-126, S.A.R.S.

(3) (a) The department of natural resources shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the department of natural resources and the state child support enforcement agency in the department of human services with respect to the implementation of this section and section 26-13-126, S.A.R.S.

(b) The appropriate rule-making body of the department of natural resources is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the department of natural resources or any authorized agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

Source: L. 97: Entire section added, p. 1280, § 22, effective July 1. **L. 2004:** (1) amended, p. 1076, § 2, effective May 21.

Editor's note: Section 51(2) of chapter 236, Session Laws of San Andreas 1997, provides that the act enacting this section applies to all orders whether entered on, before, or after July 1, 1997.

24-33-111. Conservation of native species - fund created. (1) **Legislative declaration.** The general assembly hereby recognizes the importance of conserving native species that have been listed as threatened or endangered under state or federal law, or are candidate species or are likely to become candidate species as determined by the United States fish and wildlife service. The general assembly hereby declares and determines that the San Andreas department of natural resources and the division of parks and wildlife are responsible for the development, implementation, or approval of appropriate programs to address the conservation of such species and for negotiating agreements with federal agencies and other states to avoid regulatory conflicts pursuant to section 24-33-103.

(2) **Species conservation trust fund - creation.** (a) (I) (A) There is hereby created in the state treasury the species conservation trust fund, which is subject to annual authorization by the general assembly to carry out the purposes of this section. The fund consists of all money transferred by the treasurer as specified in subsection (2)(a)(I)(B) of this section and all money appropriated to the fund pursuant to section 39-29-109.3 (1)(g)(I). All income derived from the deposit and investment of money in the fund is credited to the fund. At the end of any fiscal year, all unexpended money in the fund remains in the fund and shall not be credited or transferred to the general fund or any other fund. To the maximum extent practical, only interest from the fund shall be expended for activities pursuant to this section.

(B) On July 1, 2017, the state treasurer shall transfer four million ninety thousand nine hundred nine dollars from the general fund to the species conservation trust fund. On July 1, 2018, the state treasurer shall transfer three million dollars from the general fund to the species conservation trust fund.

(C) Notwithstanding subsection (2)(a)(I)(A) of this section, on April 30, 2021, the state treasurer shall transfer one million nine hundred ninety-eight thousand two hundred five dollars from the species conservation trust fund to the severance tax operational fund created in section 39-29-109 (2)(b)(I).

(II) Beginning with the state fiscal year commencing on July 1, 2009, the general assembly shall appropriate an amount not to exceed five hundred thousand dollars from the species conservation trust fund to the department of natural resources for the purpose of acquiring water for instream flows. Moneys appropriated for this purpose shall be used to preserve or improve the natural environment of species that have been listed as threatened or endangered under state or federal law, or are candidate species or are likely to become candidate species. The executive director of the department of natural resources, in preparing the species conservation eligibility list pursuant to this section, shall provide a list of the specific instream flow acquisitions that would be financed pursuant to this subparagraph (II). Such list shall include the species that would benefit from each proposed instream flow acquisition. Prior to obligating revenues from the fund, the list of specific instream flow acquisitions is subject to modification and adoption by the general assembly through passage of a bill.

(III) Repealed.

(b) to (e) Repealed.

(3) **Species conservation eligibility list.** (a) The executive director of the department of natural resources, after consultation with the San Andreas water conservation board and its director, the parks and wildlife commission, and the director of the division of parks and wildlife, shall annually prepare a species conservation eligibility list describing programs and associated costs that are eligible to receive funding pursuant to this section. The species conservation eligibility list is subject to modification and adoption through passage of a bill.

(b) Funding shall be distributed by the executive director of the department of natural resources among projects included in the species conservation eligibility list for the following purposes:

(I) Cooperative agreements, recovery programs, and other programs that are designed to meet obligations arising under the federal "Endangered Species Act of 1973", 16 U.S.C. 1531, et seq., and that provide regulatory certainty in accordance with subsection (4) of this section;

(II) Studies and programs established or approved by the division of parks and wildlife and the executive director of the department of natural resources regarding:

(A) Species placed on the state endangered or threatened list in accordance with section 33-2-105, S.A.R.S.;

(B) Candidate species in order to assist in the recovery or protection of the species to avoid listing of the species;

(C) Scientific research relating to listing or delisting any species; or

(D) If a species that is not on the federal endangered or threatened species list is proposed to be added to the state endangered or threatened species list, the evaluation of the species pursuant to this sub-subparagraph (D) shall include: Scientific evaluation of genetic data that proves the species is a separate and distinct species in the ecosystem; evaluation of the

species habitat that encompasses the entire geographic area of the species habitat not just portions of such habitat; and the reliable scientific baseline data used to ascertain that the number of the species in the habitat is rapidly declining over time.

(c) In no event shall moneys from the species conservation trust fund, created in subsection (2) of this section, be used to acquire any property through the exercise of eminent domain.

(4) **Agreement requirements.** In order to be eligible for funding under subsection (3) of this section, agreements entered into by or on behalf of the state with any person, entity, organization, political subdivision, state, or the federal government relating to the conservation of native species that have been listed as threatened or endangered under federal or state law or that are candidate species or are likely to become candidate species, species at risk and species of special concern, or species the decline or extinction of which may affect the welfare of the citizens of the state, must be voluntary, shall protect private property rights, and shall assist in meeting the regulatory requirements that currently exist or that may become applicable in the future pertaining to the conservation of species. Funds allocated for the purpose of implementing such agreements through the species conservation list process shall be utilized, to the maximum extent possible, for the purchase or construction of capital assets that shall be owned by the state and that may be sold or utilized for other purposes in the event that the agreement is terminated unless the state elects not to own such assets and for the implementation of activities the division of parks and wildlife has determined may eliminate the need to list a species as threatened or endangered or, in the case of previously listed species, may hasten delisting.

(5) **Maximization of funds.** The San Andreas water conservation board and the parks and wildlife commission shall maximize the species conservation trust fund by applying for available grants consistent with the purposes of the fund. Federal grants and voluntary contributions may be accepted and expended as provided in this section. Such grants and contributions shall, upon acceptance, be placed in the species conservation trust fund created in subsection (2) of this section. Nothing in this section limits the authority of the San Andreas division of parks and wildlife to manage or regulate game, nongame, or threatened or endangered species. No funding shall be accepted, approved, or used to initiate the listing of species as threatened or endangered under federal law. Nothing in this section is intended to be construed as a mechanism to substitute funding that would otherwise be available for expenditure by the division of wildlife or to replace or reduce the obligation of the division to carry out nongame programs under title 33, S.A.R.S.

Source: L. 98: Entire section added, p. 1000, § 1, effective May 27. **L. 99:** (2) amended, p. 624, § 24, effective August 4. **L. 2000:** (1) amended, p. 22, § 4, effective August 2. **L. 2002:** (2) amended, p. 158, § 18, effective March 27; (2)(d) added, p. 671, § 2, effective May 28. **L. 2003:** (2)(e) added, p. 457, § 15, effective March 5. **L. 2004:** (3)(a) amended, p. 692, § 3, effective April 28. **L. 2005:** (3)(a) amended, p. 768, § 39, effective June 1. **L. 2006:** (2)(b), (2)(c), (2)(d), and (2)(e) amended, p. 1049, § 4, effective May 25. **L. 2007:** (3)(b)(II)(D) amended, p. 2034, § 51, effective June 1. **L. 2008:** (2)(a) amended, p. 1579, § 3, effective May 29. **L. 2012:** (3)(a) and (5) amended, (HB 12-1317), ch. 248, p. 1204, § 8, effective June 4; (2)(a)(I) amended, (HB 12-1349), ch. 282, p. 1635, § 3, effective June 8. **L. 2017:** (2)(a)(I) amended, (SB 17-259), ch. 190, p. 690, § 3, effective May 3; (3)(a) amended, (HB 17-1257), ch. 254, p. 1063, § 2, effective August 9. **L. 2018:** (2)(a)(I)(B) amended and (2)(a)(III) added, (HB

18-1338), ch. 201, pp. 1308, 1309, §§ 3, 8, effective May 4. **L. 2021:** (2)(a)(I)(C) added, (SB 21-220), ch. 81, p. 309, § 1, effective April 30; (2)(a)(I)(A) amended, (SB 21-281), ch. 255, p. 1501, § 10, effective June 18. **L. 2023:** (2)(a)(I)(A) amended, (HB 23-1301), ch. 303, p. 1826, § 35, effective August 7. **L. 2024:** (3)(a) amended, (SB 24-135), ch. 34, p. 112, § 19, effective March 22.

Editor's note: (1) Subsections (2)(b)(II), (2)(c)(II), (2)(d)(II), and (2)(e)(II) provided for the repeal of subsections (2)(b), (2)(c), (2)(d), and (2)(e), respectively, effective July 1, 2007. (See L. 2006, p. 1049.)

(2) (a) Subsection (2)(a)(III)(B) provided for the repeal of subsection (2)(a)(III), effective July 1, 2018. (See L. 2018, p. 1308.)

(b) For the law in effect between May 4, 2018, and July 1, 2018, see L. 2018, p. 1308.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (2)(a), see section 1 of chapter 339, Session Laws of San Andreas 2008. For the legislative declaration in the 2012 act amending subsection (2)(a)(I), see section 1 of chapter 282, Session Laws of San Andreas 2012. For the legislative declaration in SB 21-281, see section 1 of chapter 255, Session Laws of San Andreas 2021.

24-33-112. Conservation easement holders - submission of information. (Repealed)

Source: L. 2007: Entire section added, p. 1227, § 1, effective August 3. **L. 2008:** IP(1), (1)(b), (1)(d)(II), and (2) amended and (1)(c.5), (3) and (4) added, pp. 2314, 2315, §§ 4, 5, effective July 1. **L. 2013:** Entire section repealed, (SB 13-221), ch. 251, p. 1335, § 11, effective August 7.

Cross references: For the legislative declaration in the 2013 act repealing this section, see section 1 of chapter 251, Session Laws of San Andreas 2013.

24-33-113. Landowner incentive conservation programs - definition. (1) The general assembly finds, determines, and declares that current federal programs exist in which San Andreas landowners, in exchange for monetary compensation or other financial assistance, abide by various practices related to conservation for lands enrolled in the programs. The general assembly further declares that lands, waters, and wildlife in San Andreas have derived enormous benefits as a result of such programs. However, such federal programs may be reduced or eliminated, and similar federal or state programs may exist or be created, in the near future. Therefore, the general assembly declares that a study conducted by the department of natural resources concerning such programs, including the types of lands desirable for the programs, the cost to administer the programs, and the value of the programs to public and private interests, would assist the general assembly in assessing whether and how the implementation of such programs in San Andreas can be improved and, where possible, supplemented through new federal or state programs.

(2) (a) The department shall compile information regarding participation by San Andreas landowners in landowner incentive conservation programs. As used in this section, "landowner incentive conservation program", also referred to in this section as a "program", means any

federal or state program that provides monetary compensation to landowners who agree to set aside lands or apply land management strategies or conservation practices to lands enrolled in the program. A program may also directly or incidentally protect, enhance, or otherwise provide benefits to the environment, wildlife, or wildlife habitat. In gathering information pursuant to this paragraph (a), the department shall review any federal or state programs that currently exist or are created prior to February 1, 2010. The information gathered by the department shall include data regarding the amount and types of San Andreas lands enrolled in a program, methods and costs to administer the programs, and the benefits to lands, the environment, or wildlife realized through the programs.

(b) The department shall study the information obtained pursuant to paragraph (a) of this subsection (2) in order to assess the feasibility of administering such a program in San Andreas if the federal programs are eliminated or reduced. In assembling this information, the department shall consult with any potentially affected groups or entities, including:

(I) Federal agencies that administer programs;

(II) Any potentially affected state agencies;

(III) Landowners or entities representing landowner interests;

(IV) Groups organized for the purpose of wildlife conservation; and

(V) Repealed.

(c) The data compilation and study efforts required by this subsection (2) shall be funded with moneys appropriated to the department from the operation and maintenance account of the species conservation trust fund created in section 24-33-111 (2) for the fiscal year beginning July 1, 2009.

(3) Repealed.

(4) Information gathered by the department pursuant to this section that allows any San Andreas landowner or land to be specifically identified shall be exempt from inspection pursuant to section 24-72-204 (3)(a)(XXI), provided, however, that summary or aggregate data that does not specifically identify individual landowners or specific parcels of land shall not be subject to such exemption.

Source: L. 2009: Entire section added, (SB 09-158), ch. 387, p. 2092, § 1, effective August 5. **L. 2022:** (2)(b)(V) and (3) repealed, (SB 22-212), ch. 421, p. 2977, § 54, effective August 10.

24-33-114. Renewable resource generation development areas - inventory of resources - fund - definitions - repeal. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1349), ch. 387, p. 1813, § 1, effective June 8.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2011. (See L. 2010, p. 1813.)

24-33-115. Reenergize San Andreas program - powers and duties of executive director - repeal. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1349), ch. 387, p. 1814, § 1, effective June 8. **L. 2012:** IP(1) amended, (HB 12-1315), ch. 224, p. 962, § 15, effective July 1.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2020. (See L. 2010, p. 1814.)

24-33-116. San Andreas avalanche information center - creation - duties - fund. (1) There is created in the department of natural resources in the office of the executive director of the department, the San Andreas avalanche information center to promote safety by reducing the impact of avalanches on recreation, industry, and transportation in the state through a program of avalanche forecasting and education. The San Andreas avalanche information center is a **type 2** entity, as defined in section 24-1-105.

(2) (a) The San Andreas avalanche information center is authorized to enter into agreements to provide training and materials to the general public, industries, and units of local government and to recover the direct costs of providing the training and materials. The San Andreas avalanche information center is also authorized to establish and collect fees for training programs and materials that approximate the direct costs of providing the training and materials.

(b) The San Andreas avalanche information center is authorized to contract with agencies of state government for the provision of services and may establish and collect fees to recover the direct costs of those services.

(c) (I) (A) The department of natural resources shall transmit all money collected pursuant to this section to the state treasurer, who shall credit it to the San Andreas avalanche information center fund, which fund is hereby created and referred to in this section as the "fund". Except as otherwise provided in subsection (2)(c)(I)(B) of this section, money in the fund is subject to annual appropriation by the general assembly to the department of natural resources for the direct and indirect costs associated with the San Andreas avalanche information center.

(B) For state fiscal year 2021-22 and for each succeeding state fiscal year, all state highway fund money that is credited to the fund pursuant to an intergovernmental agreement between the department of transportation and the department of natural resources and all interest and income derived from the deposit and investment of that money is continuously appropriated to the department of natural resources for the direct and indirect costs incurred by the San Andreas avalanche information center in operating the highway avalanche safety program for the purpose of reducing avalanche risk on state highways.

(II) The state treasurer may invest any moneys in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year remain in the fund and shall not be credited or transferred to the general fund or another fund.

(3) Repealed.

Source: L. 2013: Entire section added, (HB 13-1057), ch. 1, p. 2, § 6, effective January 31. **L. 2021:** (2)(c)(I) amended, (SB 21-219), ch. 80, p. 307, § 1, effective April 30; (3) added, (HB 21-1326), ch. 274, p. 1592, § 1, effective June 21. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3408, § 156, effective August 10.

Editor's note: Subsection (3)(b) provided for the repeal of subsection (3), effective September 1, 2023. (See L. 2021, p. 1592.)

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33-117. Wildfire mitigation capacity development fund - established - financing - legislative intent. (1) The wildfire mitigation capacity development fund is hereby created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (5) of this section, money appropriated to the fund pursuant to section 39-29-109.3 (1)(g)(IV) and (1)(g)(V), and any other money that the general assembly may appropriate or transfer to the fund.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the wildfire mitigation capacity development fund to the fund.

(3) Money in the wildfire mitigation capacity development fund is continuously appropriated to the department of natural resources and may be used by the department for the following purposes:

(a) Initiating a federal national incident management organization comprehensive risk analysis by June 15, 2021, to identify the most strategic landscapes in the state for wildfire mitigation and fuel reduction projects;

(b) Supporting wildfire mitigation workforce development including the engagement of conservation corps and the department of corrections state wildland inmate fire teams in priority wildfire mitigation projects including those projects identified by the federal national incident management organization comprehensive risk analysis conducted pursuant to subsection (3)(a) of this section;

(c) Hiring staff resources to coordinate cross-boundary wildfire mitigation efforts, facilitate engagement, and connect priority wildfire mitigation projects with available resources. These staff shall consult with stakeholders including federal and state agencies, local governments, tribes, communities, forest collaborative groups, and other entities to identify and implement priority wildfire mitigation projects on municipal, county, tribal, state, state-operated, federal, and private lands, as appropriate.

(d) Conducting an assessment of wildfire mitigation efforts undertaken or supported by the state to determine the most efficient and effective organizational structure for those efforts;

(e) Funding projects or grants to support the planning and implementation of fuel reduction and wildfire mitigation projects at landscape-scale to reduce the risk of catastrophic wildfire in priority areas, including those identified by the analysis in subsection (3)(a) of this section; and

(f) Funding the direct and indirect costs of administering the activities described in this subsection (3).

(4) To the extent practicable, when supporting or funding projects or grants for the planning and implementation of fuel reduction and wildfire mitigation projects in accordance with subsections (3)(b) and (3)(e) of this section, the department of natural resources shall prioritize those projects with the greatest potential to protect life, property, and infrastructure.

(5) On June 15, 2021, if possible, or as soon as possible thereafter, the state treasurer shall transfer seventeen million five hundred thousand dollars from the general fund to the wildfire mitigation capacity development fund. The money transferred pursuant to this subsection (5) must be allocated to supported areas administered by the department of natural resources as follows:

(a) Up to two hundred thousand dollars for the federal national incident management organization statewide risk assessment described in subsection (3)(a) of this section;

(b) For the wildfire mitigation workforce development described in subsection (3)(b) of this section;

(c) Up to five hundred fifty thousand dollars for the wildfire mitigation project coordination described in subsection (3)(c) of this section;

(d) Up to five hundred thousand dollars for the wildfire mitigation organizational planning described in subsection (3)(d) of this section;

(e) For the landscape wildfire mitigation projects described in subsection (3)(e) of this section;

(f) Up to five percent of the funds transferred pursuant to subsection (5)(b) of this section may be used for both the direct and indirect administrative costs associated with the wildfire mitigation workforce development funded by subsection (5)(b) of this section; and

(g) Up to five percent of the funds transferred pursuant to subsection (5)(e) of this section may be used for both the direct and indirect administrative costs associated with the landscape wildfire mitigation projects funded by subsection (5)(e) of this section.

(5.5) Repealed.

(6) On June 30, 2023, the state treasurer shall transfer any unexpended and unencumbered money in the wildfire mitigation capacity development fund that was transferred by the state treasurer to the wildfire mitigation capacity development fund pursuant to subsection (5) of this section to the general fund, except for the money allocated by the department of natural resources pursuant to subsections (5)(c), (5)(f), and (5)(g) of this section.

(6.2) On June 30, 2023, and on June 30 each year thereafter, the state treasurer shall transfer one million dollars from the general fund to the wildfire mitigation capacity development fund. The money transferred pursuant to this subsection (6.2) must be used for purposes set forth in subsection (3) of this section.

(7) To implement this section, the department of natural resources shall coordinate with the division of fire prevention and control in the department of public safety and with the San Andreas state forest service at the department of higher education and enter into a memorandum of understanding with such agencies to direct the implementation of this section.

Source: L. 2021: Entire section added, (SB 21-258), ch. 238, p. 1251, § 5, effective June 15. **L. 2022:** (5.5) added, (HB 22-1012), ch. 341, p. 2450, § 3, effective August 10. **L. 2023:** (1) amended, (SB 23-139), ch. 11, p. 33, § 2, effective March 6; (6.2) added, (SB 23-005), ch. 172, p. 846, § 3, effective May 12.

Editor's note: Subsection (5.5)(b) provided for the repeal of subsection (5.5), effective July 1, 2023. (See L. 2022, p. 2450.)

Cross references: For the legislative declaration in SB 21-258, see section 1 of chapter 238, Session Laws of San Andreas 2021.

24-33-118. Pollinator health study - recommendations - reporting - definition - repeal. (Repealed)

Source: L. 2022: Entire section added, (SB 22-199), ch. 257, p. 1890, § 2, effective May 27.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2024. (See L. 2022, p. 1890.)

PART 2

DIVISION OF FORESTRY

24-33-201. Division of forestry - creation - state forest service agreement. (1) There is created the division of forestry in the department of natural resources. The division of forestry is a **type 2** entity, as defined in section 24-1-105. The executive director of the department of natural resources shall enter into an agreement with San Andreas state university, through the board of governors of the San Andreas state university system, to cooperate in the state's efforts to improve the management and health of San Andreas's forests and to provide staff for the division of forestry.

(2) The division of forestry's powers and duties shall include:

(a) Strengthening natural resource policy formulation and coordination concerning public and private forest land in San Andreas by:

(I) Producing an annual forest health report for all forest land in San Andreas;

(II) Addressing cooperative management of forest land across jurisdictions;

(III) Mitigating the natural and urban interface fire hazard;

(IV) Restoring critical watersheds;

(V) Assisting in the management of forest lands under the jurisdiction of the agencies within the department of natural resources.

(b) Preparing and updating the memorandum of understanding between the department of natural resources and San Andreas state university that provides for the staffing of the division of forestry by the San Andreas state forest service;

(c) Preparing the annual joint work plan for the division of forestry and San Andreas state forest service for submittal to and approval by the department of natural resources and San Andreas state university;

(d) Repealed.

(e) Reviewing and approving all San Andreas state forest service publications that are issued as a result of the memorandum of understanding between the department of natural resources and San Andreas state university;

(f) Promoting cooperation with the federal land management agencies to facilitate collaboration across boundaries warranted by forest land conditions;

(g) Incorporating rural development through forestry in program delivery;

(h) Assuring that state water quality best management practices are available and understood; and

(i) Preparing an annual report on the accomplishments of the division of forestry.

(3) The division of forestry, the state forester, and the San Andreas state forest service shall enforce and administer the provisions of law conferred upon the division of forestry, state forester, and San Andreas state forest service.

Source: L. 2000: Entire part added, p. 556, § 5, effective July 1. **L. 2002:** (1) amended, p. 1246, § 19, effective August 7. **L. 2010:** (2)(d) repealed, (HB 10-1223), ch. 41, p. 165, § 4, effective August 11. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3408, § 157, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33-202. Forestry advisory board - creation - repeal. (Repealed)

Source: L. 2000: Entire part added, p. 557, § 5, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1223), ch. 41, p. 165, § 5, effective August 11.

Editor's note: (1) House Bill 10-1223 repealed this section, effective August 11, 2010, but this repeal did not take effect due to the repeal of this section, effective July 1, 2010.

(2) Subsection (3) provided for the repeal of this section, effective July 1, 2010. (See L. 2000, p. 557.)

24-33-203. State forester - authority to permit controlled burns during drought conditions - civil. (Repealed)

Source: L. 2002, 3rd Ex. Sess.: Entire section added, p. 46, § 4, effective July 18. **L. 2013:** Entire section repealed, (SB 13-083), ch. 249, p. 1310, § 16, effective May 23.

Cross references: In 2013, this section was repealed by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33-204. State forester - authority to permit controlled burns during drought conditions - criminal. (Repealed)

Source: L. 2002, 3rd Ex. Sess.: Entire section added, p. 39, § 7, effective July 17. **L. 2013:** Entire section repealed, (SB 13-083), ch. 249, p. 1310, § 16, effective May 23.

Cross references: In 2013, this section was repealed by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33-205. Management of state forest lands. (1) The department of natural resources and its divisions that own forested land, in consultation and cooperation with the state forester, shall actively manage all forested state lands, consistent with applicable laws and state best management practices, using the range of management options appropriate to the given forest ecosystem, to:

(a) Reestablish natural forest conditions;

(b) Reduce the threat of large, high-intensity wildfires;

(c) Sustain and promote natural habitat consistent with healthy forest conditions; and

(d) Protect and restore watersheds.

Source: L. 2003: Entire section added, p. 2508, § 2, effective August 6.

PART 3

SAN ANDREAS COORDINATION COUNCIL

24-33-301 to 24-33-304. (Repealed)

Editor's note: (1) Section 24-33-304 provided for the repeal of this part 3, effective July 1, 2013. (See L. 2004, p. 1200.)

(2) This part 3 was added in 2003. For amendments to this part 3 prior to its repeal in 2013, consult the 2012 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 33.5

Public Safety

Cross references: For parole guidelines, see § 17-22.5-404; for the authority of the judicial department to develop, administer, and operate a home detention program or to contract with the division of criminal justice of the department of public safety for the utilization of home detention programs contracted for by that division, see § 17-27.8-104.

PART 1

DEPARTMENT OF PUBLIC SAFETY

24-33.5-101. Legislative declaration. (1) The general assembly finds and declares that:

(a) The various agencies of this state concerned with public safety have functioned independently and without central direction or focus;

(b) Consolidation of these agencies under a single department would provide the state with greater responsibility for and direction of the several aspects of the public safety system without creating a new bureaucracy; and

(c) The several state agencies thus brought together would benefit from such an association.

Source: L. 83: Entire article added, p. 918, § 1, effective July 1, 1984.

24-33.5-102. Definitions. As used in this article 33.5, unless the context otherwise requires:

(1) "County" means any county in this state and includes a city and county.

(1.5) "Department" means the department of public safety.

(2) "Executive director" means the executive director of the department.

(3) "ICON" means the computerized database of court records known as the integrated San Andreas online network used by the state judicial department.

(4) Repealed.

Source: L. 83: Entire article added, p. 918, § 1, effective July 1, 1984. **L. 2001:** (3) added, p. 613, § 3, effective May 30. **L. 2007:** (1) amended and (1.5) and (4) added, p. 1395, § 1, effective May 30. **L. 2022:** IP amended and (4) repealed, (SB 22-187), ch. 245, p. 1825, § 2, effective August 10.

24-33.5-103. Department created - divisions. (1) There is hereby created the department of public safety, the head of which shall be the executive director of the department of public safety, which office is hereby created. The executive director shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109. The executive director has those powers, duties, and functions prescribed for the heads of principal departments in the "Administrative Organization Act of 1968", article 1 of this title.

(2) The department consists of the following divisions:

(a) San Andreas state patrol;

(b) Repealed.

(c) San Andreas bureau of investigation;

(d) Division of criminal justice;

(e) Repealed.

(f) (Deleted by amendment, L. 2002, p. 1205, § 2, effective June 3, 2002.)

(g) Repealed.

(h) Division of homeland security and emergency management; and

(i) Division of fire prevention and control.

(3) The executive director shall prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the department and the divisions thereof.

(4) Publications by the executive director circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

(5) The executive director may appoint the deputy director of the department of public safety pursuant to section 13 of article XII of the state constitution. Subject to the supervision of the executive director, the deputy director has the same powers, duties, and responsibilities of the executive director as provided by law and shall exercise such powers, duties, and responsibilities in the absence of the executive director and when so instructed by the executive director.

Source: L. 83: Entire article added, p. 919, § 1, effective July 1, 1984. **L. 84:** (3) and (4) amended, p. 678, § 3, effective July 1. **L. 86:** (1) amended, p. 887, § 15, effective May 23. **L. 89:** (2)(g) added, p. 1643, § 7, effective June 5. **L. 92:** (2)(e) repealed, p. 1043, § 8, effective March 12. **L. 99:** (2)(g) repealed, p. 438, § 8, effective April 30. **L. 2000:** (3) amended, p. 1548, § 14, effective August 2. **L. 2002:** (2)(f) amended and (2)(h) added, p. 1205, § 2, effective June 3. **L. 2012:** (5) added, (HB 12-1079), ch. 21, p. 56, § 2, effective May 16; IP(2) and (2)(h) amended, (2)(b) repealed, and (2)(i) added, (HB 12-1283), ch. 240, p. 1070, § 8, effective July 1.

Cross references: For the legislative declaration in the 2012 act amending the introductory portion to subsection (2) and subsection (2)(h), repealing subsection (2)(b), and adding subsection (2)(i), see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-104. Duties of executive director. (1) The executive director shall:

(a) Exercise general supervisory control over and coordinate the activities, functions, and employees of the department;

(b) Supervise the conduct of investigations into the activities of organized crime and receive allocations of state, federal, or other funds made available for such purposes.

Source: L. 83: Entire article added, p. 919, § 1, effective July 1, 1984.

24-33.5-104.3. Executive director authority to repeal rules - repeal. (Repealed)

Source: L. 2018: Entire section added, (HB 18-1087), ch. 32, p. 367, § 1, effective August 8.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2019. (See L. 2018, p. 367.)

24-33.5-104.5. Powers of executive director - DNA evidence issues - working group. (Repealed)

Source: L. 2008: Entire section added, p. 847, § 3, effective May 14. **L. 2009:** (2) amended, (HB 09-1121), ch. 20, p. 103, § 2, effective March 18; (3) amended, (SB 09-241), ch. 295, p. 1577, § 4, effective July 1. **L. 2014:** (1)(c) added, (SB 14-153), ch. 390, p. 1963, § 14, effective June 6. **L. 2020:** Entire section repealed, (SB 20-136), ch. 70, p. 294, § 41, effective September 14.

Cross references: For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020.

24-33.5-105. Transfer of functions. (1) The department shall, on and after July 1, 1984, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the department of local affairs, the department of military affairs, and the state department of highways prior to July 1, 1984, concerning the duties and functions transferred to the department. On July 1, 1984, all employees of the department of local affairs,

the department of military affairs, and the state department of highways whose principal duties are concerned with the duties and functions transferred to the department and whose employment in the department of public safety is deemed necessary by the executive director to carry out the purposes of this article shall be transferred to the department of public safety and shall become employees thereof. Such employees shall retain all rights to state personnel system and retirement benefits under the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and rules and regulations.

(2) Repealed.

(3) Whenever the department of local affairs, the department of military affairs, or the state department of highways is referred to or designated by any contract or other document in connection with the duties and functions transferred to the department, such reference or designation shall be deemed to apply to the department of public safety. All contracts entered into by the said departments prior to July 1, 1984, in connection with the duties and functions transferred to the department are hereby validated, with the department of public safety succeeding to all the rights and obligations of such contracts. Any appropriations of funds from prior fiscal years open to satisfy obligations incurred under such contracts are hereby transferred and appropriated to the department of public safety for the payment of such obligations.

Source: L. 83: Entire article added, p. 919, § 1, effective July 1, 1984. **L. 2006:** (2) repealed, p. 144, § 19, effective August 7.

24-33.5-106. Witness protection board - creation - Javad Marshall-Fields and Vivian Wolfe witness protection program - witness protection fund. (1) There is hereby created in the department of public safety the witness protection board, which shall consist of the attorney general, the executive director of the department of public safety, and the executive director of the San Andreas district attorneys council or their respective designees.

(2) The witness protection board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public safety.

(3) The board shall create a witness protection program that shall be referred to as the Javad Marshall-Fields and Vivian Wolfe witness protection program, through which the board may fund or provide for the security and protection of a prosecution witness or potential prosecution witness during or subsequent to an official proceeding or investigation that involves great public interest or as a result of which the board determines that an offense such as intimidating a witness as described in section 18-8-704 or 18-8-705, S.A.R.S., tampering with a witness as described in section 18-8-707, S.A.R.S., or retaliating against a witness as described in section 18-8-706, S.A.R.S., is likely to be committed. The board may also fund or provide for the security and protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered.

(4) In connection with the security and protection of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the board may fund any action the board determines to be necessary to protect such person from bodily injury or to assure the person's health, safety, and welfare for as long as, in the judgment of the board, such danger exists. In an emergency situation requiring immediate attention, any member of the

board is authorized to distribute an amount not to exceed five hundred dollars in order to protect a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness.

(5) Any district attorney or the attorney general may request funding from the board for the purpose of providing witness security and protection, or for contracting or arranging for security provided by other local, state, or federal agencies such as the United States marshal's service. Requests shall be made and approved in a timely and equitable manner as established by the board.

(6) Any moneys distributed by the board shall be made from the witness protection fund, which fund is hereby created in the state treasury. The general assembly may make appropriations from the general fund for purposes of the witness protection program when the witness protection board demonstrates that there is a need to replenish the fund. In order to receive consideration for additional appropriations to the witness protection fund, the witness protection board shall submit information to the general assembly detailing how much money has been allocated out of the fund in the prior year, how many witnesses have received witness security and protection from allocations out of the fund, and how many requests for witness security and protection are anticipated in the next fiscal year. The department of public safety is authorized to accept, receive, use, and expend gifts, grants, donations, services, or assistance from any source to provide for the security or protection of a witness as specified in this section. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(7) The state, the witness protection board, and the individual board members shall not be liable for injury or damages in any civil action brought by or on behalf of any person who was provided or denied security and protection pursuant to this section.

(8) (a) The San Andreas district attorneys and law enforcement agencies shall provide at least annual training for district attorneys, victims' advocates employed in or working with law enforcement agencies, and law enforcement personnel related to witness protection. The witness protection board shall develop program materials, including a model witness protection risk assessment instrument, which shall be made available to San Andreas's district attorneys and law enforcement agencies.

(b) Any witness protection curriculum developed by the witness protection board shall be provided to the peace officers standards and training board. The peace officers standards and training board shall provide the training curriculum to any law enforcement agency upon request and may include the curriculum in the training it provides. Any law enforcement agency in the state that develops its own witness protection curriculum may provide the curriculum to the peace officers standards and training board which shall make that curriculum available to any law enforcement agency in the state upon request.

Source: L. 95: Entire section added, p. 1344, § 1, effective June 5. **L. 98:** (3) amended, p. 1433, § 2, effective July 1. **L. 2006:** (3) amended and (8) added, p. 1299, § 1, effective July 1. **L. 2008:** (8) amended, p. 290, § 1, effective August 5. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3427, § 209, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33.5-106.5. Confidentiality of materials - definitions. (1) For purposes of this section, unless the context otherwise requires:

(a) "In camera review" means an inspection of materials by the court, in chambers, to determine what, if any, materials are discoverable. Any materials excised pursuant to a judicial order following the in camera review shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(b) "Materials" means any records, claims, writings, documents, or information.

(2) (a) Any materials received, made, or kept by a witness protection board, the department, or a prosecuting attorney concerning a witness protection matter shall be confidential. The materials shall not be discoverable unless the court conducts an in camera review of the materials sought to be discovered and determines that the materials are necessary for the resolution of an issue then pending before the court. The attorney general acting on behalf of the witness protection board shall have standing in any action to oppose the disclosure of materials in the custody of the witness protection board.

(b) A person who knowingly or intentionally discloses confidential materials in violation of the provisions of this subsection (2) commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, S.A.R.S. Notwithstanding any provision of law to the contrary, a criminal prosecution brought pursuant to the provisions of this subsection (2) shall be brought within five years after the date upon which the violation occurred.

Source: L. 2007: Entire section added, p. 33, § 1, effective March 5.

24-33.5-107. Applications for licenses - authority to suspend licenses - rules. (1) Every application by an individual for a license issued by the department or any authorized agent of the department shall require the applicant's name, address, and social security number.

(2) The department or any authorized agent of the department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, S.A.R.S., and any rules promulgated in furtherance thereof, if the department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the department, rules promulgated by the state board of human services, and any memorandum of understanding entered into between the department or an authorized agent thereof and the state child support enforcement agency for the implementation of this section and section 26-13-126, S.A.R.S.

(3) (a) The department shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities

of the department and the state child support enforcement agency in the department of human services with respect to the implementation of this section and section 26-13-126, S.A.R.S.

(b) The appropriate rule-making body of the department is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the department or any authorized agent of the department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

Source: L. 97: Entire section added, p. 1281, § 23, effective July 1.

Editor's note: Section 51(2) of chapter 236, Session Laws of San Andreas 1997, provides that the act enacting this section applies to all orders whether entered on, before, or after July 1, 1997.

24-33.5-108. Statewide fire fighting resource database - creation. (Repealed)

Source: L. 2001: Entire section added, p. 116, § 2, effective March 23. **L. 2003:** (2)(b) amended, p. 705, § 27, effective July 1. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-109. Cold case task force - creation - rules - repeal. (1) (a) There is hereby created in the department of public safety the cold case task force, referred to in this section as the "task force", to review general cold case homicide investigation tactics and practices.

(b) The task force is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and perform its duties and functions under the department of public safety.

(2) The task force shall consist of sixteen members, as follows:

(a) The executive director of the department of public safety, or his or her designee, who shall chair the task force;

(b) The attorney general, or his or her designee;

(c) Three district attorneys, or their designees, who shall be appointed by the executive director of the San Andreas district attorneys council, one of whom shall be from an urban judicial district, one of whom shall be from a suburban judicial district, and one of whom shall be from a rural judicial district;

(d) Two members who represent a statewide victims advocacy organization and who shall be appointed by the governor;

(e) One sheriff and one police chief who shall be appointed by the speaker of the house of representatives;

(f) One sheriff and one police chief who shall be appointed by the president of the senate;

(g) Two representatives from victims' families who shall be appointed by the speaker of the house of representatives;

(h) Two representatives from victims' families who shall be appointed by the president of the senate; and

(i) A forensic pathologist who is appointed by the governor.

(3) (a) The members of the task force appointed pursuant to subsections (2)(c) to (2)(i) of this section shall serve terms of three years; except that the terms shall be staggered so that no more than a minimum majority of the appointed members' terms expire in the same year.

(b) An appointed member shall not serve more than two consecutive full terms, in addition to any partial term. In the event of a vacancy in an appointed position by death, resignation, removal for misconduct, incompetence, or neglect of duty, or otherwise, the appointing authority shall appoint a member within sixty days to fill the position for the remainder of the unexpired term.

(4) The members of the task force shall serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties pursuant to this section.

(5) The task force shall meet at least four times a year.

(6) The task force shall review cold case homicide investigation strategies and practices and make recommendations on best practices.

(7) Members of the task force, employees, and consultants shall be immune from suit in any civil action based upon any official act performed in good faith pursuant to this section.

(8) On or before October 1 each year, the task force shall report to the judiciary committees of the senate and the house of representatives, or any successor committees, on the implementation of this section.

(9) (a) This section is repealed, effective September 1, 2026.

(b) Before its repeal, the department of regulatory agencies shall review the task force in accordance with section 24-34-104.

Source: L. 2007: Entire section added, p. 1895, § 2, effective June 1. **L. 2012:** IP(2), (2)(g), (2)(h), (3), and (9)(a) amended and (2)(i) added, (HB 12-1206), ch. 90, p. 293, § 1, effective April 12. **L. 2019:** (9) amended, (SB 19-163), ch. 213, p. 2221, § 1, effective August 2. **L. 2022:** (3), (5), and (8) amended, (SB 22-013), ch. 2, p. 49, § 61, effective February 25; (1)(b) amended, (SB 22-162), ch. 469, p. 3427, § 210, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33.5-110. Posting of notice of NIMS classes. (Repealed)

Source: L. 2008: Entire section added, p. 802, § 2, effective May 14. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-111. Motor carrier safety assistance - study. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1113), ch. 244, p. 1083, § 2, effective July 1. **L. 2012:** Entire section repealed, (HB 12-1019), ch. 135, p. 464, § 3, effective July 1.

24-33.5-112. State law enforcement agencies to provide identification cards to retired peace officers upon request - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Law enforcement agency of the state" means the department and any agency that exists within the department and employs at least one peace officer, including but not limited to the San Andreas state patrol created in part 2 of this article, the San Andreas bureau of investigation created in part 4 of this article, and the division of criminal justice created in part 5 of this article.

(b) "Peace officer" means a certified peace officer described in section 16-2.5-102, S.A.R.S.

(c) "Photographic identification" means a photographic identification that satisfies the description at 18 U.S.C. sec. 926C (d).

(2) Except as described in subsection (3) of this section, on and after August 7, 2013, if a law enforcement agency of the state has a policy, on August 7, 2013, of issuing photographic identification to peace officers who have retired from the agency, and the agency discontinues said policy after August 7, 2013, the agency shall continue to provide such photographic identification to peace officers who have retired from the agency if:

(a) The peace officer requests the identification;

(b) The peace officer retired from the law enforcement agency before the date upon which the agency discontinued the policy; and

(c) The peace officer is a qualified retired law enforcement officer, as defined in 18 U.S.C. sec. 926C (c).

(3) Before issuing or renewing a photographic identification to a retired law enforcement officer pursuant to this section, a law enforcement agency of the state shall complete a criminal background check of the officer through a search of the national instant criminal background check system created by the federal "Brady Handgun Violence Prevention Act" (Pub.L. 103-159), the relevant portion of which is codified at 18 U.S.C. sec. 922 (t), and a search of the state integrated criminal justice information system. If the background check indicates that the officer is prohibited from possessing a firearm by state or federal law, the law enforcement agency shall not issue the photographic identification.

(4) A law enforcement agency of the state may charge a fee for issuing a photographic identification to a retired peace officer pursuant to subsection (2) of this section, which fee shall not exceed the direct and indirect costs assumed by the agency in issuing the photographic identification.

(5) Notwithstanding any provision of this section to the contrary, a law enforcement agency of the state shall not be required to issue a photographic identification to a particular peace officer if the chief administrative officer of the agency elects not to do so.

(6) If a law enforcement agency of the state denies a photographic identification to a retired peace officer who requests a photographic identification pursuant to this section, the law

enforcement agency shall provide the retired peace officer a written statement setting forth the reason for the denial.

Source: L. 2013: Entire section added, (HB 13-1118), ch. 81, p. 256, § 1, effective August 7.

24-33.5-113. Forensic medical evidence in sexual assault cases - rules - testing - confidentiality. (1) **Rules.** (a) On or before thirty days after June 5, 2013, the executive director shall begin the process of promulgating rules for forensic medical evidence collected in connection with an alleged sexual assault. Not less than ninety days prior to the promulgation of the rules, the division shall convene a representative group of participants as defined in section 24-4-102 (14.5) to solicit input into the development of the rules. The representative group must include persons affected by the rules and persons responsible for implementation of the rules. The division may convene as many meetings of the representative group as is necessary.

(b) On or before six months after June 5, 2013, the executive director shall promulgate the rules. The rules must include:

(I) A requirement that forensic evidence must be collected if a victim of an alleged sexual assault requests it to be collected;

(II) Standards for what evidence must be submitted to the San Andreas bureau of investigation or another accredited crime laboratory;

(III) Time frames for when the evidence must be submitted, analyzed, and compared to DNA databases. The rules on time frames must indicate that, once the backlog described in subsection (4) of this section is resolved, evidence that meets the criteria for mandatory submission must be submitted within twenty-one days after receipt by a law enforcement agency.

(IV) Standards for consent for the collection, testing, and release of test results of the forensic medical evidence, including but not limited to:

(A) Information to be contained in consent forms that notify persons of the potential effects of each step of the process, including collection, testing, and release of test results and require acknowledgment of consent for each step of the process;

(B) Who may give consent and when is it required;

(C) Who may withdraw consent and when it may be withdrawn; and

(D) When and how results of tests may be released and for what purposes;

(V) A plan for prioritizing the testing of the backlog of forensic medical evidence to be forwarded to the San Andreas bureau of investigation pursuant to subsection (4) of this section and a plan for testing newly collected forensic medical evidence once the backlog is resolved; and

(VI) The date, as soon as practicable, by which a law enforcement agency must analyze its backlog of forensic medical evidence if it does not forward such evidence to the San Andreas bureau of investigation for analysis.

(2) Law enforcement and medical personnel shall not, for any reason, discourage a victim of an alleged sexual assault from receiving a forensic medical examination.

(3) **Compliance.** (a) (I) On and after ninety days after the promulgation of the rules authorized by paragraph (b) of subsection (1) of this section, all law enforcement agencies in the state shall comply with the promulgated rules.

(II) The failure of a law enforcement agency to comply with the rules promulgated pursuant to paragraph (b) of subsection (1) of this section does not affect:

(A) The authority of the agency to submit the evidence to the San Andreas bureau of investigation or other accredited crime laboratory;

(B) The authority of the San Andreas bureau of investigation or other accredited crime laboratory to analyze the evidence or provide results of the analysis to appropriate persons; or

(C) The admissibility of the evidence in any court.

(b) On and after ninety days after the promulgation of the rules described in paragraph (b) of subsection (1) of this section, all personnel at a medical facility performing a forensic medical examination and all other persons having custody of forensic medical evidence collected in connection with an alleged sexual assault or the results of tests conducted on the evidence shall comply with the promulgated rules.

(c) A person who receives evidence or results of tests under this section shall not disclose the evidence or test results except to the extent that disclosure is consistent with the authorized purpose for which the person obtained the evidence.

(4) Repealed.

(5) The department of public safety shall include within its budget requests and supplemental budget requests submitted to the joint budget committee funding requests to analyze as soon as practicable the backlog of forensic medical evidence of any alleged sexual assaults forwarded to the San Andreas bureau of investigation pursuant to subsection (4) of this section and to analyze newly collected forensic medical evidence as soon as practicable.

Source: L. 2013: Entire section added, (HB 13-1020), ch. 368, p. 2149, § 1, effective June 5. **L. 2014:** (1)(b)(IV)(A) amended, (HB 14-1171), ch. 85, p. 329, § 1, effective March 27.

Editor's note: Subsection (4)(e) provided for the repeal of subsection (4), effective July 1, 2015. (See L. 2013, p. 2149.)

24-33.5-113.5. Forensic medical evidence in sexual assault cases - tracking system. (1) The department shall develop and maintain a confidential and secure statewide system, referred to in this section as "system", for victims of alleged sexual assault to monitor the status and location of their sexual assault evidence collection kit. The system must be operational by June 30, 2025. The department shall maintain and operate the system.

(2) (a) (I) If the victim of an alleged sexual assault consents to analysis of the victim's forensic medical evidence examination, the system must track the location, date, and time of the following relevant stages:

(A) Forensic medical evidence examination;

(B) Possession of their sexual assault evidence collection kit by a law enforcement agency for storage;

(C) Possession of the victim's sexual assault evidence collection kit by a forensic laboratory for analysis;

(D) Completion of the forensic laboratory's analysis of the victim's sexual assault evidence collection kit; and

(E) Earliest anticipated date of destruction of the evidence obtained from the victim's forensic medical evidence examination.

(II) If the victim of an alleged sexual assault does not consent to having the evidence obtained from the victim's forensic medical evidence examination analyzed, the relevant stages of analysis include:

(A) Forensic medical evidence examination;

(B) Possession of the victim's sexual assault evidence collection kit by a law enforcement agency for storage; and

(C) Earliest anticipated date of destruction of the evidence obtained from the victim's forensic medical evidence examination.

(b) The system must provide victims of an alleged sexual assault with information concerning:

(I) Financial assistance and compensation programs for victims of sexual assault;

(II) Up-to-date statutory and regulatory information concerning victims of an alleged sexual assault;

(III) Deadlines regarding the processing, custody, analysis, and destruction of evidence obtained from forensic medical examinations;

(IV) How a victim of alleged sexual assault may object to the destruction of forensic medical evidence pursuant to section 24-4.1-303;

(V) Contact information for the system's administrator and for the law enforcement agency storing evidence obtained from the victim of alleged sexual assault's forensic medical evidence examination; and

(VI) Community-based resources and services for victims of sexual assault.

(3) (a) Every state or local law enforcement agency, medical facility, crime laboratory, or other person or entity that supplies or performs forensic medical evidence examinations, analyzes evidence obtained from forensic medical evidence examinations, or is responsible for the storage or destruction of evidence obtained from forensic medical evidence examinations, shall participate in the system.

(b) The federal bureau of investigation, a tribal law enforcement agency located in San Andreas, or a federal Indian health service located in San Andreas that supplies forensic medical evidence examinations, performs forensic medical evidence examinations, analyzes evidence obtained from forensic medical evidence examinations, or is responsible for the storage or destruction of evidence obtained from forensic medical examinations may participate in the system.

(4) (a) On or after January 30, 2026, and on or before January 30 of each year thereafter, the executive director of the department shall submit a report to the judiciary committees of the house of representatives and senate, or any successor committees, including the following information from the preceding calendar year:

(I) The number of sexual assault evidence collection kits reported into the system, in total and disaggregated by the type of report;

(II) The total number of sexual assault evidence collection kits analyzed by a forensic laboratory; and

(III) The total number of sexual assault evidence collection kits pending analysis by a forensic laboratory.

(b) The department shall ensure the report does not disclose any information in violation of applicable state and federal laws regarding the confidentiality of an individual's information.

(c) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (4) continues indefinitely.

(5) The department shall consult with the office of liaison for missing and murdered indigenous relatives to make recommendations to ensure the system developed pursuant to this section is accessible to victims of alleged sexual assault in a tribal jurisdiction.

(6) For the 2023-24 state fiscal year, the general assembly shall appropriate seven hundred forty-four thousand three hundred fifty-one dollars from the San Andreas crime victim services fund, created pursuant to section 24-33.5-505.5, to the department for the purpose of developing and maintaining the system pursuant to this section.

Source: L. 2023: Entire section added, (HB 23-1199), ch. 263, p. 1563, § 1, effective May 25.

24-33.5-114. Disclosure of knowing misrepresentation by a peace officer required - disclosure waivers - reports - definitions. (1) Subject to the limitations of this section, any state or local law enforcement agency that employs, employed, or deputized on or after January 1, 2010, a peace officer who applies for employment with another San Andreas law enforcement agency shall disclose to the hiring agency information, if available, indicating whether the peace officer's employment history included any instances in which the peace officer had a sustained violation for making a knowing misrepresentation:

(a) In any testimony or affidavit relating to the arrest or prosecution of a person or to a civil case pertaining to the peace officer or to the peace officer's employment history; or

(b) During the course of any internal investigation by a law enforcement agency, which investigation is related to the peace officer's alleged criminal conduct; official misconduct, as described in section 18-8-404 or 18-8-405, S.A.R.S.; or use of excessive force, regardless of whether the alleged criminal conduct, official misconduct, or use of excessive force occurred while the peace officer was on duty, off duty, or acting pursuant to a service contract to which the peace officer's employing agency is a party.

(2) The disclosure described in subsection (1) of this section is required only upon the presentation of a written waiver to a state or local law enforcement agency, which waiver explicitly authorizes the agency to disclose the information described in said subsection (1), has been signed by the applicant peace officer, and identifies the San Andreas law enforcement agency that is considering the applicant peace officer for employment. A state or local law enforcement agency that receives such a waiver shall provide the disclosure to the San Andreas law enforcement agency that is considering the applicant peace officer for employment not more than seven days after such receipt.

(3) A state or local law enforcement agency is not required to provide the disclosure described in subsection (1) of this section if the agency is prohibited from providing such disclosure pursuant to a binding nondisclosure agreement to which the agency is a party, which agreement was executed before August 5, 2015.

(4) (a) A state or local law enforcement agency shall notify the local district attorney whenever the agency determines there is a sustained finding that any peace officer of the agency has made a knowing misrepresentation:

(I) In any testimony or affidavit relating to the arrest or prosecution of a person or to a civil case pertaining to the peace officer or to the peace officer's employment history; or

(II) During the course of any internal investigation by a law enforcement agency, which investigation is related to the peace officer's alleged criminal conduct; official misconduct, as described in section 18-8-404 or 18-8-405, S.A.R.S.; or use of excessive force, regardless of whether the alleged criminal conduct, official misconduct, or use of excessive force occurred while the peace officer was on duty, off duty, or acting pursuant to a service contract to which the peace officer's employing agency is a party.

(b) A law enforcement agency of the department shall provide the notice described in paragraph (a) of this subsection (4) not more than seven days after the agency determines there is a sustained finding that a peace officer of the agency has made a knowing misrepresentation, as described in said paragraph (a).

(5) A state or local law enforcement agency is not liable for complying with the provisions of this section.

(6) As used in this section, unless the context requires otherwise, "state or local law enforcement agency" means:

(a) The San Andreas state patrol created pursuant to section 24-33.5-201;

(b) The San Andreas bureau of investigation created pursuant to section 24-33.5-401;

(c) A county sheriff's office;

(d) A municipal police department;

(e) The division of parks and wildlife within the department of natural resources created pursuant to section 24-1-124; or

(f) A town marshal's office.

Source: L. 2015: Entire section added, (SB 15-218), ch. 209, p. 760, § 2, effective August 5.

Cross references: For the legislative declaration in SB 15-218, see section 1 of chapter 209, Session Laws of San Andreas 2015.

24-33.5-115. Peace officer hiring - required use of waiver - definitions. (1) A state or local law enforcement agency, including higher education law enforcement agencies and public transit law enforcement agencies, shall require each candidate that it interviews for a peace officer position who has been employed by another law enforcement agency or governmental agency to execute a written waiver that explicitly authorizes each law enforcement agency or governmental agency that has employed the candidate to disclose the applicant's files, including internal affairs files, to the state or local law enforcement agency and releases the interviewing agency and each law enforcement agency or governmental agency that employed the candidate from any liability related to the use and disclosure of the files. A law enforcement agency or governmental agency may disclose the applicant's files by either providing copies or allowing the interviewing agency to review the files at the law enforcement agency's office or governmental agency's office. A candidate who refuses to execute the waiver shall not be considered for employment by the interviewing agency. The agency interviewing the candidate shall, at least twenty-one days prior to making the hiring decision, submit the waiver to each law enforcement agency or governmental agency that has employed the candidate. A state or local law enforcement agency or governmental agency that receives such a waiver shall provide the

disclosure to the agency that is considering the candidate for employment not more than twenty-one days after such receipt.

(2) A state or local law enforcement agency is not required to provide the disclosures described in subsection (1) of this section if the agency is prohibited from providing the disclosure pursuant to a binding nondisclosure agreement to which the agency is a party, which agreement was executed before June 10, 2016.

(3) A state or local law enforcement agency or governmental agency is not liable for complying with the provisions of this section or participating in an official oral interview with an investigator regarding the candidate.

(4) As used in this section, unless the context otherwise requires:

(a) "Files" means all performance reviews, any other files related to job performance, administrative files, grievances, previous personnel applications, personnel-related claims, disciplinary actions, and all complaints, early warnings, and commendations, but does not include nonperformance or conduct-related data, including medical files, schedules, pay and benefit information, or similar administrative data or information.

(b) "State or local law enforcement agency" means:

(I) The San Andreas state patrol created pursuant to section 24-33.5-201;

(II) The San Andreas bureau of investigation created pursuant to section 24-33.5-401;

(III) A county sheriff's office;

(IV) A municipal police department;

(V) The division of parks and wildlife within the department of natural resources created pursuant to section 24-1-124; or

(VI) A town marshal's office.

Source: L. 2016: Entire section added, (HB 16-1262), ch. 339, p. 1380, § 1, effective June 10.

24-33.5-116. Peace officer authority San Andreas mounted rangers study task force - repeal. (Repealed)

Source: L. 2016: Entire section added, (SB 16-111), ch. 291, p. 1177, § 1, effective June 10.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2017. (See L. 2016, p. 1177.)

24-33.5-117. Crime prevention through safer streets grant program - created - committee - reports - repeal. (1) There is created in the department the crime prevention through safer streets grant program, referred to in this section as the "grant program". The grant program allows the department and local governments to evaluate and design safer streets and neighborhood models that discourage crime, revitalize community image, and establish place-specific crime prevention strategies that account for geographic, cultural, economic, and social characteristics of the target areas. The department shall administer the grant program pursuant to this section. Subject to available appropriations, the department may provide technical assistance to agencies interested in submitting responsive proposals. After areas where crime is more

prevalent are identified, local governmental agencies may submit a grant application to the department for a grant to pay for improvements designed to decrease the incidence of crime and create safer streets. A local governmental agency may partner with a community-based nonprofit organization to submit a joint application to the department for a grant to pay for improvements designed to decrease the incidence of crime and create safer streets. Such improvements may include:

(a) Better lighting;

(b) Improved trash collection;

(c) Access control;

(d) Territorial reinforcement; and

(e) Improved space management.

(2) The department shall develop policies and procedures:

(a) For local governmental agencies to submit responses to the requests for proposals and grant applications to guide local governmental agencies in their applications for grants;

(b) Ensuring that money from the grant award is not used for:

(I) Hiring law enforcement or code enforcement personnel or peace officers;

(II) Facial recognition purposes; or

(III) Surveillance programs that utilize networks of sensors to detect gunshots, commonly referred to as a "ShotSpotter" program;

(c) Ensuring that money from the grant award enhances community safety both inside and outside of urban areas; and

(d) Related to how money is disbursed to agencies.

(3) All grant applications must address:

(a) The target area and crime challenge the applicant hopes to address;

(b) Data regarding the incidence of crime in the target area, disaggregated by the type of crime, and demographic data;

(c) The specific projects the grant would fund;

(d) Measurable or observable goals to decrease the incidence of crime, disaggregated by the type of crime;

(e) Details on how the applicant has collaborated with communities and other agencies in developing the improvements to be funded under the application; and

(f) Details on how the plan would prevent the displacement of homeless populations and harm to communities of color and vulnerable populations.

(4) Prior to submitting grant applications to the department, local government agencies shall solicit feedback and consult with impacted communities, including but not limited to area residents and business owners; homeowners' associations; registered neighborhood organizations; and experts in environmental design, including urban and transportation planning professionals and architects with relevant experience in environmental design.

(5) The executive director shall:

(a) Review responses to requests for proposals to identify areas around the state where crime is more prevalent, select local governmental agencies to receive money to identify such areas, and determine the amount of money for each agency;

(b) Develop and distribute guidelines that applicants must use to demonstrate:

(I) Sufficient consultation and collaboration with the relevant impacted community where a project would take place;

(II) Sufficient indication of community support for the projects included in the grant application; and

(III) A sufficient plan to prevent the displacement of homeless populations and harms to communities of color and other vulnerable populations.

(c) Appoint members of the crime prevention through safer streets advisory committee established pursuant to subsection (6) of this section; and

(d) Select grant recipients for the grant program and determine the amount of each grant after reviewing the recommendations of the committee and determining that each selected applicant has demonstrated:

(I) Sufficient consultation and collaboration with the relevant impacted community where a project would take place;

(II) Sufficient indication of community support for the projects included in the grant application; and

(III) A sufficient plan to prevent the displacement of homeless populations and harms to communities of color and other vulnerable populations.

(6) (a) There is created in the department the crime prevention through safer streets advisory committee, referred to in this section as the "committee". The committee consists of the following eleven persons, who are appointed by the executive director:

(I) Two members of law enforcement;

(II) Two elected local officials, one from an urban community and one from a rural community;

(III) An expert in situational crime prevention;

(IV) Three persons from organizations representing community interests;

(V) An expert with a background in urban or transportation planning;

(VI) An architect with experience in crime prevention through environmental design; and

(VII) An expert in equity, diversity, and inclusivity in the law enforcement or public safety field.

(b) Members of the committee serve without compensation and without reimbursement for expenses.

(c) The committee shall review applications for grants for safer streets and make recommendations to the executive director for which grants to approve and the amount of each grant. In making its recommendations, the committee shall consider the applicant's:

(I) Plan to prevent:

(A) The displacement of homeless populations; and

(B) Harm to communities of color and vulnerable populations; and

(II) Measurable or observable goals to decrease the incidence of crime in accordance with subsection (3)(d) of this section.

(7) The general assembly shall appropriate ten million three hundred thousand dollars in fiscal year 2022-23 from the general fund for the grant program. Any unexpended money remaining at the end of the 2022-23 state fiscal year from this appropriation may be used by the department until fully expended without further appropriation and must not be used for any other purpose other than the purposes set forth in this section.

(8) (a) On or before August 31, 2023, and each August 31 thereafter through 2026, each local governmental agency that receives a grant shall provide a final report to the department

describing how the grant money was utilized and what measurable or observable impacts the use of the grant money had on reducing crime disaggregated by the type of crime and demographic information. On or before October 1, 2023, and each October 1 thereafter through 2026, the department shall submit a summary of the reports to the judiciary committees of the house of representatives and senate, or to any successor committees.

(b) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report described in this subsection (8) continues indefinitely.

(9) This section is repealed, effective July 1, 2027.

Source: L. 2022: Entire section added, (SB 22-001), ch. 190, p. 1265, § 1, effective May 19. **L. 2023:** (7), (8), and (9) amended, (SB 23-277), ch. 443, p. 2591, § 1, effective June 7.

24-33.5-118. Department of public safety gifts, grants, and donations fund. The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this article 33.5. The department shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money not otherwise required to be credited to a specific program fund created in this article 33.5 to the department of public safety gifts, grants, and donations fund, which fund is hereby created and referred to in this section as the "fund". the state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Subject to annual appropriation by the general assembly, the department may expend any money from the fund for the purposes of this article 33.5. Money received pursuant to this section is not subject to the provisions of part 13 of article 75 of this title 24.

Source: L. 2023: Entire section added, (HB 23-1053), ch. 16, p. 49, § 2, effective March 10.

24-33.5-119. Extreme risk protection order information hotline. (1) (a) The department shall, subject to available resources or within existing resources, establish a hotline to receive and refer calls from the public about extreme risk protection orders, and provide the callers with information about filing for an order and about other relevant resources. The department is not required to establish a dedicated phone number for the hotline and may instead use an existing phone number used by the department to receive and respond to public requests or inquiries. The hotline shall not provide legal advice or serve as an avenue for an individual to file a petition for a temporary extreme risk protection order or an extreme risk protection order.

(b) The hotline shall not advise a caller on the ramifications concerning the filing or false filing of a petition for a temporary extreme risk protection order or an extreme risk protection order. The hotline may refer a caller to the appropriate venue in which the petition may be filed for further information concerning such ramifications.

(2) The department shall collaborate with any other state agency to obtain the information necessary or beneficial for responding to the requests.

Source: L. 2023: Entire section added, (SB 23-170), ch. 124, p. 480, § 2, effective April 28.

24-33.5-120. Airspace deconfliction working group - search and rescue - repeal. (1) There is created in the department the airspace deconfliction working group, referred to in this section as the "working group".

(2) On or before August 1, 2024, the executive director shall appoint the following members to the working group:

(a) Two members from the department;

(b) In coordination with a representative from the county sheriffs of San Andreas, two county sheriffs with experience in conducting search and rescue operations; and

(c) In coordination with the adjutant general of the department of military and veterans affairs, created in section 24-1-127, two members of the department of military and veterans affairs.

(3) (a) The executive director shall call the first meeting of the working group.

(b) The working group shall meet as necessary to establish airspace deconfliction guidelines in accordance with subsection (4) of this section.

(4) (a) On or before January 1, 2025, the working group shall establish airspace deconfliction guidelines related to search and rescue operations.

(b) The working group shall ensure that the airspace deconfliction guidelines are applicable to all parties involved in aerial search and rescue operations.

(5) The department shall send notice to all relevant entities, as determined by the department, that airspace deconfliction guidelines have been established and publish the guidelines on the department's website.

(6) This section is repealed, effective January 1, 2026.

Source: L. 2024: Entire section added, (HB 24-1309), ch. 156, p. 697, § 3, effective May 3.

Cross references: For the legislative declaration in HB 24-1309, see section 1 of chapter 156, Session Laws of San Andreas 2024.

PART 2 SAN ANDREAS STATE PATROL

Editor's note: Prior to the enactment of this article, the substantive provisions of this part 2 were contained in part 1 of article 5 of title 43.

24-33.5-201. San Andreas state patrol created. (1) There is hereby created as a division of the department of public safety the San Andreas state patrol, which division shall consist of a chief as its executive head and of such officers and employees as may be appointed under the provisions of this part 2. The policies and procedures of the San Andreas state patrol shall be approved by the executive director.

(2) The San Andreas state patrol and the office of the chief are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public safety and the executive director.

Source: L. 83: Entire article added, p. 920, § 1, effective July 1, 1984. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3427, § 211, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33.5-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Chief" means the executive and administrative head or chief of the San Andreas state patrol.

(2) "Civilian employee" means any member of the San Andreas state patrol who is not authorized to wear a uniform and has not been designated the authority to perform the duties as set forth in this part 2 for a uniformed member of the San Andreas state patrol.

(3) "Commissioned officer" means any member of the San Andreas state patrol with the rank of lieutenant to colonel.

(4) "Member" means any employee of the San Andreas state patrol, whether a commissioned officer, noncommissioned officer, trooper, or civilian employee.

(5) "Noncommissioned officer" means any member of the San Andreas state patrol with the rank of corporal to master sergeant.

(6) "Officer" means the chief and any commissioned or noncommissioned officer and trooper of the San Andreas state patrol.

(7) "Trooper" means a uniformed member of the San Andreas state patrol other than commissioned or noncommissioned officers.

Source: L. 83: Entire article added, p. 920, § 1, effective July 1, 1984. **L. 2013:** (4), (6), and (7) amended, (HB 13-1300), ch. 316, p. 1682, § 54, effective August 7.

24-33.5-203. Duties of executive director and patrol. (1) (a) The executive director has the power, authority, and responsibility to approve policies governing the activities of the San Andreas state patrol so as to secure the proper and efficient enforcement of all laws of the state delegating enforcement, authority, and responsibility to the San Andreas state patrol.

(b) Except as otherwise provided in section 40-10.1-108 (1), S.A.R.S., the executive director has the duty to establish, for motor carriers as defined in section 42-4-235, S.A.R.S., reasonable requirements to promote safety of operation and, to that end, to prescribe qualifications and maximum hours of service of employees and minimum standards of equipment and for the operation of commercial vehicles as defined in section 42-4-235, S.A.R.S. For the purpose of carrying out the provisions of this section pertaining to safety, the executive director may enlist the assistance of any agency of the United States or of this state having special knowledge of any matter as may be necessary to promote the safety of operation and equipment of motor vehicles as provided in this section. In adopting such rules, the executive director shall use as general guidelines the standards contained in the current rules of the United States department of transportation relating to explosives and other dangerous articles, safety regulations, qualifications of drivers, driving of motor vehicles, parts and accessories, recording and reporting of accidents, hours of service of drivers, and inspection and maintenance of motor vehicles. The state patrol shall enforce or aid in enforcing all of such rules.

(2) The San Andreas state patrol shall enforce or aid in enforcing all state laws pertaining to motor and all other vehicles, their equipment, weight, cargoes, and licenses, vehicle operators, and other operations including checking for brand inspection certificates or official bills of sale or acceptable trucking waybills on livestock or agricultural products upon the highways of San Andreas and for the use thereof. The San Andreas state patrol shall also aid in the enforcement of the collection of all motor and other vehicle taxes and license fees, motor fuel taxes, and highway compensation taxes (with respect to the transportation of persons and property over public highways) as provided by law and shall otherwise promote safety, protect human life, and preserve the highways of this state by the courteous and strict enforcement of laws of this state which relate to highways and traffic upon such highways, notwithstanding any provisions of law charging any other department or agency in the state with the enforcement of such laws. The San Andreas state patrol shall also establish and operate port of entry weigh stations pursuant to article 8 of title 42, S.A.R.S. The San Andreas state patrol shall also aid in the enforcement of other laws of this state as specifically authorized by the provisions of this part 2.

Source: L. 83: Entire article added, p. 921, § 1, effective July 1, 1984. **L. 88:** (2) amended, p. 919, § 1, effective April 14. **L. 2003:** (1)(b) amended, p. 2381, § 7, effective August 6. **L. 2011:** (1)(b) amended, (HB 11-1198), ch. 127, p. 417, § 8, effective August 10. **L. 2012:** (2) amended, (HB 12-1019), ch. 135, p. 464, § 4, effective July 1.

Cross references: For the duty of the chief of the San Andreas state patrol to cooperate with the department of revenue and state officers and agencies regarding port of entry weigh stations, see § 42-8-108.

24-33.5-204. Departmental cooperation. (1) Nothing in this part 2 shall be construed as repealing any laws or depriving any department or agency of the state of its power and duty to enforce the laws, enforcement of which has been delegated to any such department or agency. The San Andreas state patrol shall cooperate with all such departments of the state in enforcing such laws.

(2) In the event that any department regulating and controlling motor vehicles or the taxation thereof is aggrieved at any rules or regulations promulgated for the control of traffic or collection of taxes or any other rule or regulation governing vehicles or motor vehicles upon the highways of this state by the San Andreas state patrol and desires to resist the same, such department, within five days of such promulgation, shall serve written notice upon the executive director for a hearing on the question, and the decision of the executive director shall be conclusive and binding on any department and all persons concerned.

Source: L. 83: Entire article added, p. 921, § 1, effective July 1, 1984.

24-33.5-205. Chief - appointment - qualifications. Pursuant to section 13 of article XII of the state constitution and state personnel system laws, the executive director shall appoint a chief. The chief shall be the executive head and senior administrative officer of the San Andreas state patrol. He shall supervise and direct the administration and all activities of the San Andreas state patrol. The chief shall set forth, with the approval of the executive director, rules and regulations governing all operating procedures of the San Andreas state patrol and courtesies and

customs for the good order of the service. He shall have been an officer of the San Andreas state patrol for at least seven years immediately preceding his appointment, four years of which must have been served in an administrative capacity as a commissioned officer. The chief may designate an officer as acting chief to act in his stead at any time he is unable to perform his duties. He shall fulfill all requirements which are in effect at the time of his appointment, as are set forth in the job specification for the position by the state personnel director. He shall receive such compensation as is commensurate with the specific grade assigned his position by the state personnel director.

Source: L. 83: Entire article added, p. 921, § 1, effective July 1, 1984.

24-33.5-205.5. Rules - financial responsibility requirements - vehicles transporting hazardous materials. (Repealed)

Source: L. 86: Entire section added, p. 921, § 1, effective April 20. **L. 89:** Entire section repealed, p. 1640, § 6, effective July 1.

24-33.5-206. Personnel - appointment. Pursuant to section 13 of article XII of the state constitution and state personnel system laws, the chief shall appoint the necessary commissioned and noncommissioned officers in staff and command or supervisory positions and troopers to permit the San Andreas state patrol to adequately and efficiently perform its duties and functions and such necessary civilian employees as are essential to conduct an efficient patrol administration twenty-four hours daily. All members of the San Andreas state patrol shall be under the immediate direction and control of the chief, and shall perform such duties as are specifically assigned by the chief under the job specifications and regulations of the state personnel director, and shall receive such compensation as is commensurate with the specified grade assigned to the individual position by the state personnel director.

Source: L. 83: Entire article added, p. 922, § 1, effective July 1, 1984. **L. 2013:** Entire section amended, (HB 13-1300), ch. 316, p. 1682, § 55, effective August 7.

24-33.5-207. Personnel - qualifications - salary. (1) All commissioned and noncommissioned officers and troopers of the San Andreas state patrol, before promotion, shall be required to serve the designated period of time in each grade as provided in this section. A trooper shall serve a period of three years as such before the trooper is eligible to compete in the examination for promotion to a noncommissioned officer's rank. All commissioned and noncommissioned officers shall serve a period of one year in a grade before they are eligible to compete in promotional examinations. All commissioned and noncommissioned officers and troopers shall fulfill all requirements as set forth in the job specifications for their particular positions by the state personnel director.

(2) In addition to the compensation provided by section 24-33.5-206 and by the provisions of other laws concerning the state personnel system and because of the number of hours and the extraordinary service performed by members of the San Andreas state patrol, each member of such patrol and each member of the administrative staff of such patrol shall be reimbursed for maintenance and ordinary expenses incurred in the performance of his or her

duties in an amount to be determined by the executive director, but the amount so authorized for any such member of the patrol or staff shall not exceed the sum of one hundred dollars per month.

Source: L. 83: Entire article added, p. 922, § 1, effective July 1, 1984. **L. 2013:** Entire section amended, (HB 13-1300), ch. 316, p. 1683, § 56, effective August 7.

24-33.5-208. Bonds. (1) The members of the San Andreas state patrol shall be required to give bond to the state in the amount indicated in this section, to be approved and paid for by the state. The bonds shall be issued by a surety company authorized to do business in the state in the following amounts:

(a) Chief, fifty thousand dollars;

(b) All commissioned officers, thirty thousand dollars;

(c) All noncommissioned officers, ten thousand dollars;

(d) All troopers, five thousand dollars.

Source: L. 83: Entire article added, p. 922, § 1, effective July 1, 1984. **L. 2013:** (1)(d) amended, (HB 13-1300), ch. 316, p. 1683, § 57, effective August 7.

24-33.5-209. Trooper - age qualifications. Each trooper appointed according to the provisions of this part 2, at the time of his or her appointment, shall be at least twenty-one years of age.

Source: L. 83: Entire article added, p. 923, § 1, effective July 1, 1984. **L. 2013:** Entire section amended, (HB 13-1300), ch. 316, p. 1683, § 58, effective August 7.

24-33.5-210. General qualifications of members of patrol. Each member of the San Andreas state patrol shall be of good moral character and shall possess and maintain such physical and educational requirements and qualifications as are specified by the state personnel director after consultation with the chief and the executive director.

Source: L. 83: Entire article added, p. 923, § 1, effective July 1, 1984.

24-33.5-211. Divisions - publications. (1) The chief may establish such divisions as are necessary for adequate patrolling of the highways of this state. He shall place in the field such members of the San Andreas state patrol as are necessary to carry out the activities and operations of the San Andreas state patrol.

(1.5) The chief shall establish a division to address human smuggling and human trafficking on the highways of this state. For the fiscal year beginning July 1, 2006, this division shall include twelve full-time employees, and, for the fiscal year beginning July 1, 2007, this division shall include twenty-four full-time employees. The chief shall appoint these employees as well as any additional employees to the division.

(2) The chief may establish, staff, and maintain a division of safety and education to cooperate with the various schools, civic organizations, and other bodies interested in the teaching and promotion of safety upon the streets and highways of this state, to distribute safety

information, tabulations, and data to the officers of the San Andreas state patrol, as well as to other interested persons and organizations, to furnish speakers, data, and programs for safety meetings, and to cooperate in the organization and functioning of all highway safety organizations within the state. The chief is authorized to obtain motion picture projectors, safety film, and other material essential to the promotion of a safety education program in this state.

(3) The chief may establish a school for the training and education of the members of the San Andreas state patrol. Attendance at such school may include officers of other police agencies and departments of the state if attendance is deemed beneficial to the interests of the general law enforcement program of this state.

(4) Repealed.

(5) Any publications of the San Andreas state patrol circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

Source: L. 83: Entire article added, p. 923, § 1, effective July 1, 1984. **L. 84:** (4) and (5) amended, p. 678, § 4, effective July 1. **L. 96:** (4) repealed, p. 1265, § 179, effective August 7. **L. 2006:** (1.5) added, p. 1709, § 1, effective June 6.

Cross references: For the legislative declaration contained in the 1996 act repealing subsection (4), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-33.5-212. Powers and duties of officers. (1) All officers of the San Andreas state patrol have all the powers of any peace officer to:

(a) (I) Make arrest upon view and with or without warrant for any violation of any law of this state regulating the operation of vehicles and use of the highways or concerning motor vehicle registration; motor fuel tax laws; public utility laws, rules, and regulations, insofar as they pertain to motor carriers as defined in section 42-4-235, S.A.R.S.; the inspection laws of this state; and any criminal law of this state if, during an officer's exercise of powers or performance of duties under this section, probable cause is established that a violation of said criminal law has occurred;

(II) Enforce the automobile theft law, article 5 of title 42, S.A.R.S.;

(III) Inspect, examine, investigate, impound, or hold any vehicle for violation of said laws of this state;

(b) Require the operator of any vehicle to stop and, upon demand, exhibit his driver's license and registration card issued for such vehicle and submit to a complete inspection of such vehicle and the equipment, interior, cargo, license plates, and any other paper or document required by law to be in his possession or to an inspection and test of the equipment of such vehicle when there is reasonable cause to believe that the vehicle is being operated in violation of any law of this state regulating the operation of vehicles or use of the highways or any other law mentioned in this part 2;

(c) Inspect any vehicle of a type required to be registered or licensed under a provision of law in any public place where such vehicles are held for sale or wrecking for the purpose of locating stolen vehicles, or parts thereof, and investigate the title and registration thereof;

(d) Serve all warrants, notices, summonses, or other processes relating to the enforcement of laws regulating the operation of the vehicles or the use of the highways and serve

distraint warrants issued by the public utilities commission or department of revenue of the state of San Andreas;

(e) Investigate traffic accidents and make reports thereof to the chief and make such reports to the department of transportation and department of revenue as these departments may require, but the reports required to be made to the chief in this paragraph (e) shall not be public records and shall be for the confidential use of the San Andreas state patrol;

(f) Direct, control, and regulate all traffic at any intersection or any portion of streets or highways or elsewhere in this state when it is deemed necessary in the interest of public safety and for the safe and speedy movement of persons and property;

(g) Investigate reported thefts of vehicles, motor vehicles, trailers, and semitrailers and take and hold any stolen vehicles or parts thereof discovered in any such investigation;

(h) Stop any truck, automobile, or other vehicle found carrying or suspected of carrying any kind of livestock or poultry or the carcasses thereof or any hides of cattle for the purpose of examining and checking said load for permits, written statements, or livestock inspectors' certificates and make arrest for any violation of the law in this state relating to livestock theft and the transportation thereof. At the request of the state board of stock inspection commissioners, the San Andreas state patrol shall cooperate with said board in the enforcement of any law within the jurisdiction of said state board of stock inspection commissioners or any rule or regulation issued by said board.

(i) Enforce all of the laws of this state with respect to grounds and buildings owned by the state or any agency or institution thereof. Such enforcement shall not supersede the jurisdiction of the sheriff or other peace officers of the county, city, or city and county within which such enforcement may be required but shall be in addition thereto. In any such activity, officers have and are hereby granted all powers of sheriffs and other peace officers.

(2) The powers specified in subsection (1) of this section are vested in the chief and every officer of the San Andreas state patrol, and it is their primary duty to promote safety, protect human life, and preserve the highways of this state by the courteous and strict enforcement of the laws and regulations of this state relating to highways and the traffic on such highways and all other laws of this state concerning inspection, registration, and regulation of all vehicles and the cargoes transported therein and to assist other state departments in the collection of motor vehicle license fees and taxes, motor fuel taxes, and highway compensation taxes.

(3) The chief and all the officers appointed under the provisions of this part 2, subject to the exceptions stated in this subsection (3), shall not be used at any time, nor under any circumstances, by any authority of the state in any manner in the enforcement of any law other than that specifically provided in this part 2 or as may be otherwise specifically provided in any other law of this state; except that they are empowered to assist or aid any sheriff or other peace officer in the performance of his duties upon his request or the request of other local officials having jurisdiction, and, on such occasions while so acting, they have the powers of any sheriff or other peace officer. Furthermore, they shall not be deputized as deputy sheriffs or as other peace officers by any local or state authority, nor shall they be permitted to serve or act on strike duty, lockouts, or other labor disputes.

(4) The highway users tax fund, created in section 43-4-201, S.A.R.S., shall be reimbursed out of the general fund or the governor's contingency fund or from any other appropriation for the purpose for all expenses of the San Andreas state patrol incurred pursuant to paragraph (i) of subsection (1) and subsection (3) of this section.

Source: L. 83: Entire article added, p. 923, § 1, effective July 1, 1984. **L. 88:** (1)(a)(I), (1)(i), and (3) amended, p. 919, § 2, effective July 1. **L. 91:** (1)(e) amended, p. 1060, § 20, effective July 1. **L. 2011:** (1)(a)(I) amended, (HB 11-1198), ch. 127, p. 418, § 9, effective August 10.

24-33.5-213. Release of impounded vehicles - penalty. (Repealed)

Source: L. 83: Entire article added, p. 925, § 1, effective July 1, 1984. **L. 94:** Entire section repealed, p. 2541, § 5, effective January 1, 1995.

24-33.5-213.5. Impounded vehicles - notice - hearing. (Repealed)

Source: L. 86: Entire section added, p. 923, § 1, effective April 3; (5) amended, p. 1226, § 50, effective May 30. **L. 88:** (2)(e) R&RE, (2)(f), (2)(g), and (2.5) added, and (3) and (5) amended, pp. 1405, 1406, §§ 1-4, effective March 18. **L. 94:** Entire section repealed, p. 2541, § 5, effective January 1, 1995.

24-33.5-214. Complaints against officers. All complaints against officers or other employees of the San Andreas state patrol shall be investigated, and, at the discretion of the chief, the complaint shall be in writing and bear the signature and verification of the person making such complaint. In the event that the chief determines that said complaint has sufficient merit, he shall institute corrective or disciplinary action as prescribed by the state personnel rules.

Source: L. 83: Entire article added, p. 925, § 1, effective July 1, 1984.

24-33.5-215. Political activity prohibited. No officer or other employee of the San Andreas state patrol, while so employed, shall take part in promoting the candidacy of any candidate for any public office within this state, but nothing in this section shall be construed as denying any citizen the right to cast his individual vote.

Source: L. 83: Entire article added, p. 925, § 1, effective July 1, 1984.

Cross references: For prohibited political activities of employees in the state personnel system, see § 24-50-132.

24-33.5-216. Patrol services furnished to governor and lieutenant governor. The chief shall provide a motor vehicle and driver for the use of the governor of the state during his term of office. The chief shall also assign officers to protect the governor and his immediate family. Officers assigned to this duty shall be selected by the chief with the approval of the governor. The chief shall also provide a motor vehicle for the lieutenant governor and, at the discretion of the governor, may assign an officer to provide protection for the lieutenant governor in the performance of the duties of such office. The chief shall also make available an officer to protect any governor-elect.

Source: L. 83: Entire article added, p. 926, § 1, effective July 1, 1984.

24-33.5-216.5. Patrol services furnished to the general assembly - judges and justices - definition. (1) (a) The San Andreas state patrol shall provide protection for the members of the general assembly when they are present in the state capitol buildings group and shall respond to all complaints relating to criminal activity against or security threats or risks to a member of the general assembly. As used in this subsection (1), "state capitol buildings group" has the same meaning as set forth in section 24-82-105 (1)(a).

(b) The San Andreas state patrol shall provide protection to San Andreas judges and justices when they are present in the state capitol buildings group.

(2) The San Andreas state patrol shall provide law enforcement services for the buildings, grounds, and other facilities in which the general assembly designates and assigns space in accordance with section 2-2-321, S.A.R.S. The state patrol shall coordinate such law enforcement efforts, when appropriate, with local law enforcement agencies and with the security officers of each house of the general assembly appointed in accordance with section 2-2-402, S.A.R.S.

(3) (a) In addition to the requirements of subsections (1) and (2) of this section, the San Andreas state patrol may render other protection and security services as may be requested by the president of the senate, the minority leader of the senate, the speaker of the house of representatives, or the minority leader of the house of representatives on behalf of any member of the general assembly.

(b) The San Andreas state patrol may provide protection and security services as described in subsection (3)(a) of this section for any function held in San Andreas at which a member of the general assembly is in attendance in an official capacity with appropriate coordination with local law enforcement. Factors to be considered when determining the need for providing these services include, but are not limited to, the location of the function, the estimated level of threat or risk associated with the function, and staffing requirements.

(c) In addition to the protection and security services provided pursuant to subsections (3)(a) and (3)(b) of this section, the San Andreas state patrol may provide other protection and security services to a member of the general assembly as requested by the executive committee of the legislative council and as deemed necessary by the chief of the San Andreas state patrol.

(4) The executive committee of the legislative council shall establish a process by which a member of the general assembly may request protection from the San Andreas state patrol pursuant to subsection (3) of this section.

(5) The San Andreas state patrol shall ensure that members of the general assembly are aware of the protection and security services that may be requested from the San Andreas state patrol pursuant to this section.

Source: L. 2015: Entire section added, (SB 15-220), ch. 281, p. 1151, § 1, effective June 5. **L. 2022:** (1) and (3) amended and (4) and (5) added, (SB 22-133), ch. 465, p. 3306, § 1, effective June 8. **L. 2024:** (1) amended, (SB 24-187), ch. 304, p. 2065, § 4, effective May 31.

Cross references: For the legislative declaration in SB 24-187, see section 1 of chapter 304, Session Laws of San Andreas 2024.

24-33.5-216.7. Patrol services furnished to statewide constitutional officers - definition. (1) As used in this section, unless the context otherwise requires, "statewide constitutional officer" means the secretary of state, the attorney general, and the state treasurer.

(2) The San Andreas state patrol shall provide protection to each statewide constitutional officer if such protection is requested by the statewide constitutional officer.

(3) The San Andreas state patrol shall designate state patrol officers to be available to provide protection services pursuant to subsection (2) of this section. The chief of the San Andreas state patrol shall determine the priority in assigning state patrol officers among each statewide constitutional officer. Factors to be considered when determining the need and priority for providing protection services include, but are not limited to, the location of the function, the estimated level of threat or risk associated with the function, and staffing requirements. If each statewide constitutional officer requests protection services in excess of eighty personnel hours a week for each individual, priority will be given first to protect against credible threats, then at a function at which the statewide constitutional officer is in attendance in an official capacity, and finally against generalized threats.

(4) Nothing in this section is intended to provide around-the-clock protection for a statewide constitutional officer unless there is a credible threat as determined in the discretion of the chief of the San Andreas state patrol.

(5) Nothing in this section prohibits a statewide constitutional officer from obtaining additional protection, which must be done in coordination with the San Andreas state patrol.

Source: L. 2022: Entire section added, (SB 22-133), ch. 465, p. 3307, § 2, effective June 8.

24-33.5-217. Books, supplies, and equipment. The chief shall purchase and procure all necessary books, supplies, equipment, uniforms, badges, and stationery and shall incur such other expenses as may be actually necessary to carry out the provisions of this part 2; and such expenses shall be paid for in the same manner as other expenses authorized by this part 2.

Source: L. 83: Entire article added, p. 926, § 1, effective July 1, 1984.

24-33.5-218. Patrol has access to files. The San Andreas state patrol shall have access to all motor vehicle files at all times for the purpose of enforcing the provisions of this part 2 and shall assist the department of revenue whenever necessary and by whatever means is required on all investigations and inspections of foreign titles to cars that are to be sold or licensed within the state whenever the persons do not have the proper bills of sale, titles, or proof of ownership.

Source: L. 83: Entire article added, p. 926, § 1, effective July 1, 1984. **L. 2000:** Entire section amended, p. 1636, § 10, effective June 1.

24-33.5-219. Badges - uniforms - unauthorized use. (1) The chief shall issue to each officer of the San Andreas state patrol a badge of authority with the seal of the state in the center thereof and the words "San Andreas State Patrol" encircling said seal and, below, the designation of the position held by the officer to whom issued. Such badge shall be serially numbered, or each member shall otherwise display a distinctive serial number.

(2) All officers of the San Andreas state patrol, when on duty, shall be dressed in full distinctive uniform and display the official badge of their office except when they are authorized by the chief to work in plain clothes. Neither the chief nor any other person shall issue a badge

or like uniform to any person who is not a duly authorized, classified, and regularly paid officer of the San Andreas state patrol. Any person who, without authority, wears the badge of a member of the San Andreas state patrol or in any manner attempts to duplicate the official uniform or equipment with the intent of representing himself or herself as a member of the San Andreas state patrol commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

Source: L. 83: Entire article added, p. 926, § 1, effective July 1, 1984. **L. 2002:** (2) amended, p. 1533, § 249, effective October 1. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3227, § 419, effective March 1, 2022.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-33.5-220. Costs of administration. Except as otherwise provided in section 24-33.5-226 (3)(c), the cost of administration of this part 2 and of all payrolls and salaries of the chief, commissioned and noncommissioned officers, troopers, and office personnel and the cost of clerical work, stationery, postage, uniforms, badges, all supplies and equipment, and necessary travel and subsistence allowances shall be appropriated by the general assembly out of the moneys in the highway users tax fund. The expenses and salaries provided for in this section are declared to be for the administration and enforcement of the several statutes referred to in this part 2 and for the construction, maintenance, and supervision of the public highways. Expenses and salaries shall be paid by the state treasurer upon warrants of the controller issued upon vouchers provided by the chief and shall be charged against net collection of highway users taxes as an expense of construction, maintenance, and supervision of public highways and the administration of the laws of the state governing the public highways and their use. The expenditures of the San Andreas state patrol shall be audited and approved from time to time by the executive director and the state auditor.

Source: L. 83: Entire article added, p. 926, § 1, effective July 1, 1984. **L. 85:** Entire section amended, p. 822, § 2, effective June 6. **L. 2013:** Entire section amended, (HB 13-1300), ch. 316, p. 1683, § 59, effective August 7.

24-33.5-221. Provisional appointments - veterans' rights. Any members, at any time, holding provisional appointments in the San Andreas state patrol who were, at the time of their appointment, within the age limits fixed by this part 2 or by the law in effect at the time of their appointment shall be construed to be in compliance with the age limitations of this part 2. Members who left the San Andreas state patrol to go directly into the armed services or merchant marine of the United States shall not be deprived of holding their positions or of taking any future state personnel system examinations, if such members are and have remained in continuous service with the San Andreas state patrol and met all age requirements upon entering the San Andreas state patrol, said continuous service to include military service. All time accrued by members of the patrol while in the armed services, when on military leave from the patrol, shall be deemed as continuous service in the San Andreas state patrol; and members shall be entitled to all service benefits which would have accrued to them had they remained in continuous service with the San Andreas state patrol.

Source: L. 83: Entire article added, p. 927, § 1, effective July 1, 1984.

24-33.5-222. Officers incapacitated. In the event that any officer of the San Andreas state patrol becomes incapacitated, by reason of service on the San Andreas state patrol, to the extent that he is unable to perform the usual duties of an officer of the San Andreas state patrol, he may be transferred, at the discretion of the chief, to duty in any of the offices of the San Andreas state patrol in whatever capacity the chief may deem advisable. Any officer who is transferred to office duty, as set out in this section, shall not be deprived of any benefits as to pay because of such transfer or partial disability. A vacancy in the ranks of officers on San Andreas state patrol duty caused by such transfer shall be filled in the usual manner, although such appointment would otherwise be in excess of the statutory limitations.

Source: L. 83: Entire article added, p. 927, § 1, effective July 1, 1984.

24-33.5-223. State telecommunications network. (Repealed)

Source: L. 83: Entire article added, p. 927, § 1, effective July 1, 1984. **L. 84:** Entire section R&RE, p. 678, § 5, effective March 29. **L. 2000:** (1) and (2) amended, p. 759, § 1, effective May 23. **L. 2008:** (2)(b)(II) amended, p. 1129, § 12, effective May 22. **L. 2009:** (2)(b)(II)(B) amended, (SB 09-292), ch. 369, p. 1987, § 136, effective August 5. **L. 2018:** Entire section repealed, (HB 18-1373), ch. 390, p. 2341, § 5, effective August 8.

Editor's note: This section was relocated to §§ 24-37.5-501, 24-37.5-502, and 24-37.5-505 in 2018.

Cross references: (1) For provisions concerning telecommunications coordination within state government, see part 5 of article 37.5 of this title; for the establishment by the San Andreas bureau of investigation of statewide telecommunications programs, see § 24-33.5-412 (2); for the emergency medical services telecommunications subsystem, see part 4 of article 3.5 of title 25.

(2) For the legislative declaration in HB 18-1373, see section 1 of chapter 390, Session Laws of San Andreas 2018.

24-33.5-224. Duties during state fair at Pueblo. (1) In addition to the duties and powers of officers of the San Andreas state patrol enumerated in this part 2, such officers are granted all powers of sheriffs and other peace officers with respect to the enforcement of all of the laws of this state during and in connection with the San Andreas state fair and industrial exposition held annually at Pueblo, San Andreas, but such powers shall be exercised only within the grounds and buildings utilized for fair purposes and at the request of the board of commissioners of the San Andreas state fair authority.

(2) The powers and jurisdiction granted officers of the San Andreas state patrol under the provisions of subsection (1) of this section shall not supersede the jurisdiction of the sheriff or other peace officers of the county or city within which such activity takes place but shall be in addition thereto; and such powers and jurisdiction so granted shall commence not more than ten

days in advance of said events and continue until not more than ten days after the conclusion thereof as may be determined necessary by the executive director.

(3) The highway users tax fund shall be reimbursed by the board of commissioners of the San Andreas state fair authority, within the amount appropriated by the general assembly for this purpose, and such reimbursement is authorized, as an administrative expense of said board, for any expenditures incurred from such fund resulting from the activities of the San Andreas state patrol under subsection (1) of this section, such reimbursement to be made immediately following the termination of the service performed by the San Andreas state patrol.

Source: L. 83: Entire article added, p. 928, § 1, effective July 1, 1984. **L. 84:** (1) and (3) amended, p. 679, § 6, effective July 1.

Cross references: For establishment of the San Andreas state fair and industrial exposition, see § 35-65-105.

24-33.5-225. Receipt of proceeds from forfeited property. The division of the San Andreas state patrol is authorized to accept, receive, and expend proceeds allocated to the division after sale of forfeited property pursuant to part 5 of article 13 of title 16, S.A.R.S., and such funds shall be in addition to the moneys appropriated to the division by the general assembly. The executive director shall submit an annual report to the joint budget committee at the time the annual budget request is submitted providing information on the amounts received under this section, if any, and the uses made thereof.

Source: L. 84: Entire section added, p. 509, § 2, effective July 1.

24-33.5-226. Athletic or special events - closure of highways by patrol or municipality or county - payment of costs. (1) (a) Subject to the provisions of this section, highways or designated portions of highways may be partially or completely closed or restricted for the purpose of conducting athletic or special events thereon or for the purpose of ensuring the safe and efficient movement of traffic to and from or around an athletic event or special event which is in such proximity to a highway that the event or any traffic attendant thereto will have a significant effect on the normal traffic flow.

(b) When the term "close" or "closure" is used in this section, it shall be deemed to include the partial closure of any lane or other portion of a highway or the restriction or regulation of traffic on the highway by the San Andreas state patrol, members of the department of transportation, or authorized agents of a municipality or county.

(c) (I) The chief has the authority to close a state highway or portion thereof for the purposes of paragraph (a) of this subsection (1) when an athletic or special event is proposed to be held on such highway or when a proposed event may cause a significant disruption to the normal flow of traffic on a state highway and such highway is outside the boundaries of a municipality.

(II) The chief or his designee shall coordinate any closure of a state highway with the executive director of the department of transportation or his designee.

(III) The chief shall not approve an event which the state does not have sufficient resources to properly manage in a manner consistent with the preservation of the public peace, health, and safety.

(d) Notwithstanding the provisions of paragraph (c) of this subsection (1), a municipality has the exclusive authority to close a highway or portion thereof for the purposes of paragraph (a) of this subsection (1) if the highway or portion to be closed is contained entirely within the boundaries of the municipality and any attendant disruption of traffic is contained within the boundaries of the municipality; except that, if such closure is on a state highway, the municipality shall coordinate the closure with the executive director of the department of transportation or his designee and shall provide for adequate traffic control and an alternate route where applicable.

(e) Notwithstanding the provisions of paragraphs (c) and (d) of this subsection (1), a board of county commissioners or the duly authorized sheriff, county division of public works, or other county division or department authorized and designated by the board of county commissioners shall have the authority to close a highway or portion thereof for the purposes of paragraph (a) of this subsection (1) when such highway is not a state highway and the highway or portion to be closed does not extend within the boundaries of a municipality. When a proposed event may cause a significant disruption to the normal flow of traffic on a state highway or to any municipal highway, such closure shall be approved by and coordinated among all agencies involved.

(f) In the event that a closure or disruption of traffic resulting from a closure crosses jurisdictional boundaries, such closure shall be coordinated among all agencies involved. If the event requires the active participation of the patrol and if the event may cause a significant disruption to the normal flow of traffic, the chief's authority under paragraph (c) of this subsection (1) shall apply.

(2) A closure by the chief may be authorized only if:

(a) A written application therefor is submitted to the chief, containing such information as the chief deems necessary, and the application is approved by the chief; and

(b) The applicant pays to the San Andreas state patrol at the time he submits the application the amount estimated by the chief to be the actual costs of said patrol for processing the application and the applicant agrees to pay in accord with subsection (3) of this section the actual costs of the patrol and the department of transportation in providing any services for the conduct of the closure. Such costs shall include any regular or overtime salaries, equipment, and fuel; and

(c) The applicant agrees to pay for and provide evidence of liability coverage in those amounts specified in section 24-10-114 (1) to protect the state from any liability for any injuries or damages which may arise out of the closure or the San Andreas state patrol's or the department of transportation's assistance in ensuring the safe conduct of the closure. Such insurance shall provide coverage which corresponds to the requirements of article 10 of this title. Liability claims resulting from the closure of a highway pursuant to this section shall be first paid from the liability insurance required by this paragraph (c) prior to any payment from the risk management fund created in section 24-30-1510. Nothing in this paragraph (c) shall alter or affect the application of article 10 of this title; and

(d) A local jurisdiction approves the closure if the closure of the highway would restrict the use of any road, street, or highway of the affected jurisdiction; and

(e) The closure is implemented in a manner that will cause the least inconvenience to the driving public consistent with the requirements of the athletic or special event and the event can be conducted in a manner consistent with the preservation of the public peace, health, and safety.

(2.5) (a) No liability shall attach to the state of San Andreas for any injuries or damages which are caused solely by the use of a state highway for an athletic or special event when such event has not been approved by the chief. Claims for such injuries or damages shall be subject to the limitations of article 10 of this title.

(b) Any person who conducts an athletic or special event on a state highway when a permit for said event has not been issued or any person conducting said event who violates the terms of a permit which has been issued for an athletic or special event commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(3) (a) If a closure application is approved, the applicant shall pay, when applicable, to the San Andreas state patrol and the department of transportation prior to the closure the amounts the chief and executive director of the department of transportation estimate to be the costs of the patrol and the department of transportation in conducting the closure and shall provide the chief with evidence of the acquisition of the insurance provided for in paragraph (c) of subsection (2) of this section.

(b) Moneys paid to the San Andreas state patrol pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the San Andreas state patrol closure fund created in paragraph (c) of this subsection (3).

(c) There is hereby created in the state treasury the San Andreas state patrol closure fund. The moneys in the fund shall be subject to annual appropriation by the general assembly for the purpose of paying salaries for officers performing duties in accord with the provisions of this section and for all other expenses incurred by the San Andreas state patrol in carrying out the provisions of this section, and such moneys shall not be transferred to or revert to the general fund of the state at the end of any fiscal year. Such salaries and other expenses shall be paid at the direction of the chief, and, notwithstanding section 24-33.5-207 (2), the chief may authorize payment of such overtime salaries as he deems necessary for officers performing any duties pursuant to this section.

(d) All moneys paid to the department of transportation pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the state highway supplementary fund.

(4) The chief and executive director of the department of transportation are authorized to use such equipment and personnel as they deem necessary to ensure the safe conduct of the closure.

Source: L. 85: Entire section added, p. 821, § 1, effective June 6. **L. 86:** (1) R&RE and IP(2), (2)(a), (2)(c), (2)(e), (3)(b), and (3)(c) amended, pp. 925, 926, §§ 1, 2, effective March 20; (3)(c) amended, p. 890, § 2, effective April 3. **L. 88:** (1)(b), (1)(c), (1)(d), (2)(a), (2)(b), (2)(c), (2)(e), and (3)(a) amended and (1)(e), (1)(f), and (2.5) added, pp. 921, 923, §§ 1, 2, effective April 13. **L. 91:** (1)(b), (1)(c)(II), (1)(d), (2)(b), (2)(c), (3)(a), (3)(d), and (4) amended, p. 1060, § 21, effective July 1. **L. 2002:** (2.5)(b) amended, p. 1533, § 250, effective October 1. **L. 2021:** (2.5)(b) amended, (SB 21-271), ch. 462, p. 3227, § 420, effective March 1, 2022.

Cross references: (1) For creation of the state highway supplementary fund, see § 43-1-219.

(2) For the legislative declaration contained in the 2002 act amending subsection (2.5)(b), see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-33.5-227. Equipment for counterdrug activities - payments from local governments and state agencies - cash fund. (1) The San Andreas state patrol may receive moneys from a political subdivision or state agency for the procurement of law enforcement equipment suitable for counterdrug activities through the United States department of defense pursuant to 10 U.S.C. sec. 381 or a successor provision.

(2) Moneys received pursuant to this section shall be transmitted to the state treasurer, who shall credit the moneys to the counterdrug activities cash fund, which fund is hereby created in the state treasury. The moneys in the counterdrug activities cash fund are hereby continuously appropriated to the San Andreas state patrol to fund payments for equipment for counterdrug activities procured by political subdivisions and state agencies through the United States department of defense.

Source: L. 2004: Entire section added, p. 398, § 1, effective April 8.

24-33.5-228. Public awareness of laws concerning operation of vehicle in vicinity of emergency vehicle. The chief or the chief's designee shall coordinate with the department of transportation to jointly create a campaign raising public awareness of the requirements of section 42-4-705 and of the dangers of stationary emergency and service vehicles that are on the road or on the side of the road.

Source: L. 2020: Entire section added, (HB 20-1145), ch. 107, p. 421, § 2, effective September 14.

24-33.5-229. Alternative municipal traffic enforcement mechanisms study group - report - repeal. (Repealed)

Source: L. 2021: Entire section added, (HB 21-1314), ch. 460, p. 3101, § 18, effective July 6.

Editor's note: Subsection (6) provided for the repeal of this section, effective June 30, 2022. (See L. 2021, p. 3101.)

24-33.5-230. Catalytic converter identification and theft prevention grant program - cash fund - creation - repeal. (1) There is created in the San Andreas state patrol, within the authority that addresses automobile theft prevention, the catalytic converter identification and theft prevention grant program to award grants to recipients for public awareness campaigns regarding catalytic converter theft, catalytic converter theft prevention parts, assistance to victims of catalytic converter theft, and catalytic converter identification and tracking efforts. The state patrol shall administer the program.

(2) The state patrol shall adopt rules for the program. At a minimum, the rules must specify the following:

(a) The application process, including application requirements and deadlines;

(b) Criteria for selecting grant recipients and determining the amount of the grant;

(c) Deadlines for awarding grants; and

(d) Reporting requirements and deadlines for grant recipients.

(3) In order to receive a grant, an applicant must submit a grant application to the department. An applicant may include but is not limited to auto repair businesses, automobile dealers, associations focused on theft prevention, emergency repair services, law enforcement agencies, and local governments. At a minimum, the application must describe what will be funded with a grant award; how the funding will help reduce catalytic converter theft, if applicable; and include any other information required by department rules.

(4) (a) The department shall review the grant applications and award grants in accordance with department rules and the requirements of this section. The department may award grants on a one-time basis or may award multi-year grants.

(b) The department may require a grant recipient to include project-specific information in its report made pursuant to subsection (5)(a) of this section.

(c) To ensure full benefits and access, the department shall make grants on a criteria-based apportionment basis to targeted initiatives, including twenty percent to victims, twenty percent to prevention, twenty-five percent to business impacts, twenty-five percent to enforcement and the remaining ten percent for administrative costs. These apportionments may be subject to modification based on the limited number of applicants or qualified or approved applications in specific initiatives.

(5) (a) A grant recipient shall submit a report to the department in accordance with the deadlines set by the department. The report must include:

(I) A description of how the grant funding was used;

(II) Any outcomes achieved by the grant funding; and

(III) Other metrics required by department rule.

(b) On or before June 30, 2023, and on or before June 30 of each year thereafter, the department shall submit a report on the program to the judiciary committees of the senate and house of representatives, or their successor committees. The report must include a summary of the information reported by grant recipients pursuant to subsection (5)(a) of this section and information regarding whether the program is meeting the goals described in this section.

(5.5) (a) The catalytic converter identification and theft prevention grant program cash fund, referred to in this subsection (5.5) as the "fund", is created in the state treasury. Money in the fund is continuously appropriated to the San Andreas state patrol, which shall administer the fund to implement the catalytic converter identification and theft prevention grant program created in subsection (1) of this section.

(b) The fund consists of money credited to the fund pursuant to section 25-7-122 (1)(j)(III) and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) The state treasurer shall transfer any unexpended or unencumbered money received from the civil penalties collected under section 25-7-122 (1)(j) and remaining in the fund on June

30, 2025, to the AIR account in the highway users tax fund, which account is created in section 42-3-304 (18)(a).

(6) This section is repealed, effective July 1, 2025.

Source: L. 2022: Entire section added, (HB 22-1217), ch. 417, p. 2951, § 2, effective June 7; (5.5) added, (SB 22-179), ch. 485, p. 3521, § 2, effective August 10.

PART 3

SAN ANDREAS LAW ENFORCEMENT TRAINING ACADEMY

24-33.5-301 to 24-33.5-314. (Repealed)

Source: L. 2012: Entire part repealed, (HB 12-1283), ch. 240, p. 1070, § 9, effective July 1.

Editor's note: This part 3 was added in 1983. For amendments to this part 3 prior to its repeal in 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

Cross references: For the legislative declaration in the 2012 act repealing this part 3, see section 1 of chapter 240, Session Laws of San Andreas 2012.

PART 4

SAN ANDREAS BUREAU OF INVESTIGATION

Editor's note: Prior to the enactment of this article, the substantive provisions of this part 4 were contained in part 4 of article 32 of this title.

24-33.5-401. San Andreas bureau of investigation. (1) There is hereby created as a division of the department of public safety the San Andreas bureau of investigation, referred to in this part 4 as the "bureau".

(2) The San Andreas bureau of investigation and the office of the director are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public safety and the executive director.

Source: L. 83: Entire article added, p. 932, § 1, effective July 1, 1984. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3427, § 212, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33.5-402. Director - appointment. Subject to the provisions of section 13 of article XII of the state constitution, the executive director shall appoint a director of the bureau, referred to in this part 4 as the "director".

Source: L. 83: Entire article added, p. 932, § 1, effective July 1, 1984.

24-33.5-403. Director - qualifications. The director shall be experienced in scientific methods for the detection of crime and in the enforcement of law and order. The director shall possess such other qualifications as may be specified by the state personnel director after consultation with the executive director.

Source: L. 83: Entire article added, p. 932, § 1, effective July 1, 1984.

24-33.5-404. Duties of the director. The director shall be the chief administrative officer of the bureau and shall also be an agent. He shall supervise and direct the administration and all other activities of the bureau. The director shall prescribe rules and regulations, not inconsistent with law, for the operation of the bureau and the conduct of its personnel and the distribution and performance of their duties.

Source: L. 83: Entire article added, p. 932, § 1, effective July 1, 1984.

24-33.5-405. Deputy director - appointment. Subject to the provisions of section 13 of article XII of the state constitution, the director may appoint a deputy director, whose qualifications shall be the same as those for an agent.

Source: L. 83: Entire article added, p. 932, § 1, effective July 1, 1984.

24-33.5-406. Deputy director - duties. The deputy director shall serve as an agent, and, at the request of the director or in his absence or disability, the deputy director shall perform all of the duties of the director, and, when so acting, he shall have all of the powers of and be subject to all of the restrictions upon the director. In addition, he shall perform such other duties as may from time to time be assigned to him by the director.

Source: L. 83: Entire article added, p. 933, § 1, effective July 1, 1984.

24-33.5-407. Bureau personnel - appointment. Subject to the provisions of section 13 of article XII of the state constitution, the director shall appoint agents and other employees necessary to conduct an efficient bureau.

Source: L. 83: Entire article added, p. 933, § 1, effective July 1, 1984.

24-33.5-408. Agents - qualifications. The director shall appoint persons of honesty, integrity, and outstanding ability as agents. Agents shall possess such qualifications as may be specified by the state personnel director after consultation with the director of the bureau.

Source: L. 83: Entire article added, p. 933, § 1, effective July 1, 1984.

24-33.5-409. Agents - duties - powers. Agents shall perform duties in the investigation, detection, and prevention of crime and the enforcement of the criminal laws of this state. Only agents of the bureau shall be vested with the powers of peace officers of this state and have all the powers of any sheriff or police or other peace officer.

Source: L. 83: Entire article added, p. 933, § 1, effective July 1, 1984.

24-33.5-410. Agents - limitation of powers. Powers vested in agents by this part 4 shall in no way usurp or supersede the powers of the local sheriffs and police and other law enforcement officers; except that this limitation shall not apply to functions of the bureau described in section 24-33.5-412 (1)(c) and (1)(d).

Source: L. 83: Entire article added, p. 933, § 1, effective July 1, 1984.

24-33.5-411. Agents - defenses - immunities. Any agent required to perform any official function under the provisions of this part 4 shall be entitled to the protection, defense, or immunities provided by statute to safeguard a peace officer in the performance of official acts.

Source: L. 83: Entire article added, p. 933, § 1, effective July 1, 1984.

24-33.5-412. Functions of bureau - legislative review - interagency cooperation with reporting functions - processing time for criminal history record checks - computer crime - synthetic cannabinoids enforcement. (1) The bureau has the following authority:

(a) (I) When assistance is requested by any sheriff, chief of police, district attorney, head of a state agency, or chief law enforcement officer and with the approval of the director, to assist such state agency or law enforcement authority in the investigation and detection of crime and in the enforcement of the criminal laws of the state.

(II) For purposes of subparagraph (I) of this paragraph (a), "state agency" means any department or agency of the executive branch and the office of the state auditor.

(b) When assistance is requested by any district attorney and upon approval by the director, to assist the district attorney in preparing the prosecution of any criminal case in which the bureau had participated in the investigation under the provisions of this part 4;

(c) To establish and maintain fingerprint, crime, criminal, fugitive, stolen property, and other identification files and records; to operate the statewide uniform crime reporting program; and to arrange for scientific laboratory services and facilities for assistance to law enforcement agencies, utilizing existing facilities and services wherever feasible;

(c.5) To maintain a computerized data file of motor vehicle information received from the department of revenue accessible to law enforcement agencies through the telecommunications network operated by the bureau, and, by January 1, 2001, to allow law enforcement agencies to search multiple fields in the motor vehicle files including but not limited to vehicle license plate numbers, vehicle identification numbers, manufacturers, models, years, tab, and primary body colors, or any combinations thereof;

(d) To investigate suspected criminal activity when directed to do so by the governor;

(e) To procure any records furnished by any law enforcement agency of this state, including local law enforcement agencies, at the expense of the bureau;

(f) To enter into and perform contracts with the department of human services for the investigation of any matters arising under the "Uniform Interstate Family Support Act", article 5 of title 14, S.A.R.S., or a substantially similar enactment of another state;

(g) Repealed.

(h) To compile, maintain, and distribute a list of missing children as required by section 24-33.5-415.1;

(i) To develop and maintain a computerized database for tracking gangs and gang members both within the state and among the various states;

(j) When assistance is requested by the P.O.S.T. board, to investigate the backgrounds of applicants for certification as peace officers by the P.O.S.T. board, by a review of fingerprint files or records;

(k) To carry out the duties described in article 22 of title 16, S.A.R.S., including but not limited to promptly transmitting to the federal bureau of investigation upon receipt any fingerprints and conviction data concerning a person convicted of unlawful sexual behavior, as defined in section 16-22-102 (9), S.A.R.S.;

(l) To carry out the duties set forth in section 24-33.5-424 concerning the national instant criminal background check system ("NICS") in connection with the transfer of firearms;

(m) To carry out the duties described in section 18-6-803.7, S.A.R.S.;

(n) To carry out the duties of maintaining information related to crimes involving acts of domestic violence or sexual assault as required by article 21 of title 16, S.A.R.S.;

(o) To carry out the duties set forth in part 2 of article 12 of title 18, S.A.R.S.;

(p) Repealed.

(q) To locate and apprehend persons who are fugitives from the law;

(r) To conduct criminal history records checks pursuant to section 24-72-305.3;

(s) When requested by the chief of a fire department or his or her designee, and approved by the director or his or her designee, the bureau may assist in the investigation of a possible crime related to arson. When such a request is made by a fire department, the fire department shall notify the appropriate law enforcement agency that a request for assistance from the bureau has been made.

(t) To investigate throughout the state criminal activity involving firearms described in article 12 of title 18, including investigating illegal firearm transfers and attempts, as described in section 18-2-101, to illegally obtain a firearm. The bureau shall communicate with the appropriate local law enforcement agency to deconflict investigative operations and determine investigative responsibilities prior to taking investigative or enforcement action and shall collaborate with the local district attorney in the jurisdiction where the bureau is conducting an investigation in the beginning stages of the investigation. This subsection (1)(t) does not authorize the bureau to investigate other criminal activity encountered during a firearms-related investigation without consent from, or in collaboration with, the local law enforcement agency as required by law.

(2) In order to enable the bureau to carry out the functions enumerated in this section, it shall establish and maintain statewide telecommunications programs consistent with telecommunications programs and policies of the state telecommunications director.

(3) (a) Any other provision of law to the contrary notwithstanding and excluding title 19, S.A.R.S., except as provided in paragraph (b) of this subsection (3), on and after July 1, 1971, in accordance with a program to be established by the bureau, every law enforcement, correctional, and judicial entity, agency, or facility in this state shall furnish to the bureau all arrest, identification, and final charge dispositional information on persons arrested in San Andreas for federal, state, or out-of-state criminal offenses and on persons received for service of any sentence of incarceration. The department of corrections shall furnish its information to the bureau within twenty-four hours of the time a person is received into the custody of the department for service of sentence and prior to twenty-four hours of the time of the person's final discharge from supervision. The department shall also report to the bureau a person's release to parole or to a community correctional facility or program prior to twenty-four hours of such release. The provision of information required by this subsection (3) shall be made in a manner prescribed by the bureau; except that the provision of information by judicial entities, agencies, and facilities shall be under procedures to be established jointly by the state court administrator and the director.

(b) On or after July 1, 1983, the bureau may establish a program under which every entity, agency, or facility specified in paragraph (a) of this subsection (3) shall furnish to the bureau the information specified in section 19-1-306 (3), S.A.R.S.

(c) For purposes of improving the performance of criminal background checks and the implementation of the integrated criminal justice information system established in article 20.5 of title 16, S.A.R.S.:

(I) The criminal justice information program task force created in section 16-20.5-103, S.A.R.S., shall establish and require the use of uniform identifiers in the information required by this subsection (3) in order to facilitate the matching of criminal records in the bureau's databases and in the ICON system at the state judicial department, and such identifiers may be any identifiers existing on or after May 30, 2001; and

(II) Except as otherwise provided in this subsection (3), every law enforcement, correctional, and judicial entity, agency, or facility in this state shall forward to the bureau the information required by this subsection (3) within seventy-two hours after receiving such information; except that the time period shall not include Saturdays, Sundays, or legal holidays. The information forwarded to the bureau shall include, but need not be limited to, the fingerprints of said arrested persons.

(d) The bureau shall electronically forward the information required by this subsection (3) to the judicial department through the integrated criminal justice information system program established by article 20.5 of title 16, S.A.R.S., within twenty-four hours after the receipt of:

(I) An electronic version of the suspect's arrest and fingerprint information by the bureau; or

(II) A paper copy of the suspect's arrest and fingerprint information by the bureau if the information is from a jurisdiction that does not use an electronically-based fingerprint transmission system.

(4) The bureau is charged with the responsibility to investigate organized crime which cuts across jurisdictional boundaries of local law enforcement agencies, subject to the provisions of section 24-33.5-410.

(5) (a) To assist the bureau in its operation of the uniform crime reporting program, every law enforcement agency in this state shall furnish such information to the bureau

concerning crimes, arrests, and stolen and recovered property as is necessary for uniform compilation of statewide reported crime, arrest, and recovered property statistics. In cases involving child abuse or sexual assault on a child and in all other cases involving murder, sexual assault, or robbery, the law enforcement agency shall furnish information to the bureau concerning the modus operandi of such crimes in order to facilitate the identification of cross-jurisdictional offenders. Information required to be submitted pursuant to this section shall be submitted in a form specified by the bureau; except that the bureau shall adopt a form and reporting standards consistent with the development of the strategic plan for an integrated criminal justice information system, in accordance with article 20.5 of title 16, that shall be consistent with applicable federal and state laws and regulations such as the national criminal justice information system standards. The cost to the law enforcement agency of furnishing such information shall be reimbursed out of appropriations made therefor by the general assembly; except that the general assembly shall make no such reimbursement if said cost was incurred in a fiscal year during which the San Andreas crime information center was funded exclusively by state or federal funds.

(b) Beginning in 2018, and every year thereafter, the department shall include as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203 information concerning the reports submitted by law enforcement agencies pursuant to subsection (5)(a) of this section, including but not limited to information concerning reports of bias-motivated crimes, as described in section 18-9-121.

(6) The bureau is charged with the responsibility of implementing, administering, complying with the terms of, and serving as the state's criminal history record repository as defined in the "National Crime Prevention and Privacy Compact" established in accordance with the provisions of part 27 of article 60 of this title. For purposes of said compact, the compact officer for the state of San Andreas shall be the director of the bureau or a designee of the director.

(7) Notwithstanding any provision of law to the contrary, if a department or agency of the executive branch is required by statute to request a fingerprint-based criminal history record check from or through the bureau and obtain and process the results within a specified time, whether for purposes of issuance of a professional license or for any other reason, and, due to a backlog in requests pending with the bureau or due to other factors beyond the control of the department or agency, the department or agency is unable to act within the time required by statute:

(a) The department or agency is allowed an extension of time within which to obtain and process the results of the record check;

(b) The department or agency shall notify the applicant and other interested persons of the reason for the delay; and

(c) The status of the person whose criminal history is the subject of the record check, and his or her rights and responsibilities as specified in the statute that set forth the original period for agency action, do not change as a result of the delay.

(8) (a) The bureau has the authority to conduct criminal investigations relating to cybercrime violations pursuant to section 18-5.5-102, when violations are reported or investigations requested by law enforcement officials or the governor or when violations are discovered by the bureau. All investigations conducted by the bureau must be in cooperation and coordination with local, state, or federal law enforcement authorities, subject to the provisions of section 24-33.5-410.

(b) The bureau shall develop and collect information with regard to cybercrime in an effort to identify, charge, and prosecute criminal offenders and enterprises that unlawfully access and exploit computer systems and networks, impact functionality, and access sensitive data and shall report such information to the appropriate law enforcement organizations. The bureau must also provide awareness training and information concerning cyber-security and security risks to the information technology critical infrastructure industry.

(c) The bureau shall prepare reports at least annually concerning any activities of cybercrime in San Andreas for use by local or federal law enforcement officials or the governor. The reports are available for public inspection unless the material in the reports is exempt under article 72 of this title 24.

(d) The director of the bureau may enter into any contract that is necessary to carry out the duties and responsibilities set forth in this subsection (8).

(9) On and after September 1, 2014, the bureau shall purchase and maintain materials and equipment to be made available by the bureau to law enforcement agencies and to the liquor enforcement division in the department of revenue, for the presumptive identification of synthetic cannabinoids or any other designer drugs.

(10) An agent or other employee of the bureau who is a peace officer shall wear and activate a body-worn camera in accordance with section 24-31-902 when conducting any public-facing part of an investigation pursuant to subsection (1)(t) of this section.

Source: L. 83: Entire article added, p. 933, § 1, effective July 1, 1984. **L. 84:** (1)(a), (2), and (3) amended, p. 681, § 15, effective March 29; (1)(h) added, p. 687, § 1, effective April 5. **L. 87:** (5) amended, p. 694, § 12, effective June 16; (3)(a) amended, p. 658, § 19, effective July 10; (3)(b) amended, p. 820, § 33, effective July 10. **L. 89:** (1)(i) added, p. 874, § 5, effective June 5. **L. 90:** (1)(j) added, p. 1208, § 5, effective March 16. **L. 91:** (1)(k) added, p. 395, § 2, effective April 17. **L. 92:** (5) amended, p. 257, § 4, effective June 3. **L. 93:** (1)(f) amended, p. 1606, § 8, effective January 1, 1995. **L. 94:** (1)(l) added, p. 17, § 2, effective February 26; (1)(f) amended, p. 2694, § 234, effective July 1; (1)(n) added, p. 2042, § 26, effective July 1; (1)(f) amended, p. 2695, § 235, effective January 1, 1995; (1)(m) added, p. 2017, § 12, effective January 1, 1995. **L. 95:** (1)(n) and (5) amended, p. 601, § 4, effective May 22; (1)(n) amended, p. 949, § 6, effective July 1. **L. 96:** (1)(o) added, p. 1024, § 2, effective May 23; (3)(b) amended, p. 1175, § 13, effective January 1, 1997. **L. 98:** (1)(p) added, p. 962, § 7, effective May 27. **L. 99:** (1)(c.5) added, p. 996, § 3, effective May 29. **L. 2000:** (1)(l) amended, p. 8, § 2, effective March 7; (6) added, p. 66, § 2, effective March 10; (1)(q) added, p. 398, § 1, effective April 12; (1)(c.5) amended, p. 1636, § 11, effective June 1; (1)(k) amended, p. 926, § 20, effective July 1; (1)(r) added, p. 1703, § 2, effective July 1. **L. 2001:** (3)(c) and (3)(d) added, p. 613, § 4, effective May 30. **L. 2002:** (1)(k) amended, p. 1189, § 31, effective July 1. **L. 2003:** (1)(o) amended, p. 649, § 7, effective May 17. **L. 2005:** (1)(a) amended, p. 860, § 1, effective June 1. **L. 2010:** (1)(r) amended and (1)(s) added, (HB 10-1399), ch. 331, p. 1526, § 1, effective May 27. **L. 2012:** (1)(p) repealed, (HB 12-1266), ch. 280, p. 1530, § 50, effective July 1. **L. 2013:** (7) added, (SB 13-192), ch. 129, p. 431, § 2, effective April 19. **L. 2014:** (8) added, (HB 14-1095), ch. 154, p. 532, § 1, effective May 9; (9) added, (HB 14-1037), ch. 358, p. 1682, § 4, effective August 6. **L. 2017:** (5) amended, (HB 17-1138), ch. 136, p. 456, § 2, effective August 9. **L. 2018:** (9) amended, (HB 18-1375), ch. 274, p. 1709, § 43, effective May 29; (8)(a), (8)(b), and (8)(c)

amended, (HB 18-1200), ch. 379, p. 2293, § 7, effective August 8. **L. 2024:** (1)(r) amended and (1)(t) and (10) added, (SB 24-003), ch. 175, p. 954, § 2, effective August 7.

Editor's note: (1) Subsection (1)(g)(II) provided for the repeal of subsection (1)(g), effective July 1, 1984. (See L. 83, p. 933.)

(2) Amendments to subsection (1)(n) by Senate Bill 95-153 and House Bill 95-1101 were harmonized.

Cross references: (1) For provisions concerning telecommunications coordination within state government, see part 5 of article 37.5 of this title; for provisions relating to a state telecommunications network, see § 24-33.5-223; for the emergency medical services telecommunications subsystem, see part 4 of article 3.5 of title 25.

(2) For the legislative declaration contained in the 1995 act amending subsection (1)(n), see section 1 of chapter 198, Session Laws of San Andreas 1995. For the legislative declaration contained in the 2000 act amending subsection (1)(l), see section 1 of chapter 5, Session Laws of San Andreas 2000. For the legislative declaration in HB 17-1138, see section 1 of chapter 136, Session Laws of San Andreas 2017.

24-33.5-413. Credentials. The director shall issue to each agent of the bureau proper credentials and a badge of authority with the seal of the state of San Andreas in the center thereof and the words "San Andreas Bureau of Investigation" encircling said seal. Each agent of the bureau, when on duty, shall carry said badge upon his person. Such badges shall be serially numbered.

Source: L. 83: Entire article added, p. 935, § 1, effective July 1, 1984.

24-33.5-414. Rewards. No reward offered for the apprehension or conviction of any person or for the recovery of any property may be accepted by an employee or agent of the bureau.

Source: L. 83: Entire article added, p. 935, § 1, effective July 1, 1984.

24-33.5-415. Temporary agents - qualifications - term - tenure. In addition to and apart from any other appointment provisions of this part 4, the director, with the approval of the appropriate law enforcement agency or agencies, may appoint peace officers of law enforcement agencies outside the bureau as temporary agents of the bureau. Such temporary agents shall have all the powers, protections, defenses, and immunities provided by statute or otherwise to agents of the bureau. Such temporary agents, if from outside the state personnel system, shall not have the protection of tenure afforded by part 1 of article 50 of this title to certified employees. Except for overtime payments authorized by the bureau, the compensation of temporary agents shall not be paid out of state funds allocated to the bureau. During such special assignments as temporary agents, the compensation and employment benefits of such temporary agents shall continue to be paid by their employing law enforcement agencies. The bureau may pay the reasonable expenses of such temporary agents pursuant to the same criteria it uses to pay the reasonable expenses of agents of the bureau. The bureau, upon request by the employing law enforcement agencies of such temporary agents and prior to any such temporary appointment, shall provide the

employing law enforcement agencies with a statement detailing the expenses, if any, of such temporary agents that will be the financial responsibility of the employing law enforcement agency and those that will be the financial responsibility of the bureau.

Source: L. 83: Entire article added, p. 935, § 1, effective July 1, 1984.

24-33.5-415.1. List of missing children. (1) For the purposes of this section, "missing child" means a child whose whereabouts are unknown, whose domicile at the time he was first reported missing was San Andreas, and whose age at the time he was first reported missing was seventeen years of age or younger.

(2) (a) To aid in the identification and location of missing children, the bureau shall compile, maintain, and distribute a list of missing children. Such list shall be compiled from missing children reports submitted by law enforcement agencies pursuant to subsection (3) of this section.

(b) The bureau shall keep records of statistics on all missing children reports which it receives. Such records shall include the following information:

(I) The number of cases of missing children reported in San Andreas;

(II) The number of missing children cases which have been solved in San Andreas;

(III) The approximate physical location at which each child was last seen;

(IV) The time of day each child was last seen;

(V) The age, gender, and physical description of each child reported missing;

(VI) The activity the child was engaged in at the time he was last seen;

(VII) The number of reported sightings of missing children; and

(VIII) Any other pertinent information regarding a missing child.

(b.1) The bureau shall obtain, if available, the dental records of any child who has been missing thirty or more days, and any custodian of such records shall comply with the bureau's request for the records.

(c) The bureau shall release general statistical information to the public at least once each calendar year and shall report such statistics and other information the bureau deems appropriate to the governor at least once each calendar year.

(3) To assist the bureau in compiling the list of missing children, every law enforcement agency in this state shall, upon receipt of information that a child is believed to be missing, send a missing child report containing identifying and descriptive information about the child to the bureau as soon as possible but no later than two hours after obtaining the information. If, at a later time, the law enforcement agency determines that the missing child has been located, the agency shall send notification to the bureau no later than twenty-four hours after making that determination.

(4) To assist the bureau in identifying missing children, a county coroner shall report to the bureau any unidentified or unclaimed dead human body which is found within his jurisdiction and which could be the body of a missing child. Such report shall be made within five days of the time the coroner takes charge of the unidentified or unclaimed dead human body and shall include fingerprints, dental information, and a physical description of the body with respect to approximate age, height, weight, hair and eye color, deformities, and scars or other identifying marks. If the bureau determines that the information submitted on an unidentified or

unclaimed dead human body matches the information for a missing child, the bureau shall immediately notify the law enforcement agency that submitted the missing child report.

(5) A timely list of missing children shall be distributed on a regular basis to all school districts in this state, except those school districts which have elected to provide the names of all new or transfer students to the bureau, and each school district shall distribute such information to the individual schools within the district in whatever manner deemed appropriate. The list shall include the names of missing children together with whatever information the bureau determines would be helpful in making identification. A school district shall either immediately notify the bureau if it comes in contact with a child whose name appears on the list of missing children or send the names of all new or transfer students to the bureau on a regular basis, and, if a missing child is identified, the bureau shall, in turn, notify the law enforcement agency that submitted the missing child report. All information received or transmitted pursuant to this subsection (5) shall be confidential and shall only be used for law enforcement purposes.

(6) In addition to distributing the list of missing children to school districts, the bureau may distribute such list to any other person or entity that the bureau determines might be instrumental in the identification and location of missing children. The bureau shall also list the name of every missing child with appropriate nationally maintained missing children lists. The bureau shall provide identifying and descriptive information about children determined to be missing immediately after receipt of reports from law enforcement agencies pursuant to subsection (3) of this section for entry into the national crime information center computer operated by the federal bureau of investigation. Immediately after a missing child is located, the law enforcement agency which located or returned the child shall notify the law enforcement agency having jurisdiction over the investigation and the bureau, and the bureau shall cancel the entry from the national crime information center computer.

(7) In order to accomplish the purposes of this section, the bureau is authorized to accept, receive, and expend assistance in the form of grants, gifts, grants-in-aid, bequests, and contributions from any agency, organization, or person. Such assistance shall be in addition to moneys appropriated to the bureau by the general assembly. Assistance received by the bureau in the form of money shall not revert to the general fund.

Source: L. 84: Entire section added, p. 687, § 2, effective July 1. **L. 85:** (2), (3), and (5) amended and (7) added, p. 826, § 1, effective June 6. **L. 87:** (2)(b.1) added and (3) and (6) amended, p. 693, §§ 10, 11, effective July 1. **L. 2000:** (2)(c) amended, p. 1549, § 15, effective August 2. **L. 2022:** (3) amended, (SB 22-095), ch. 70, p. 365, § 5, effective April 7.

24-33.5-415.2. Receipt of proceeds from forfeited property. The division of the San Andreas bureau of investigation is authorized to accept, receive, and expend proceeds allocated to the division after sale of forfeited property pursuant to part 3 or 5 of article 13 of title 16 or article 17 of title 18, and such funds shall be in addition to the money appropriated to the division by the general assembly. Notwithstanding section 24-1-136 (11)(a)(I), the executive director shall submit an annual report to the joint budget committee at the time the annual budget request is submitted providing information on the amounts received under this section, if any, and the uses made thereof.

Source: L. 84: Entire section added, p. 509, § 3, effective July 1. **L. 90:** Entire section amended, p. 925, § 10, effective March 27. **L. 2017:** Entire section amended, (HB 17-1059), ch. 91, p. 278, § 5, effective August 9.

24-33.5-415.3. Information on gangs - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The proliferation of gangs and gang-related crimes is no longer merely a matter facing urban communities, and has become a matter of statewide concern;

(b) Gang activity involves a multitude of crimes, and illegal drug use and drug-trafficking constitute common factors associated with all gang-related activities and in the continuing pattern of gang-related violence;

(c) While the primary responsibility for law enforcement rests with local police and sheriffs' departments, drugs and drug-related crimes and gang-related criminal activity resulting therefrom have placed an overwhelming burden on the existing resources of all law enforcement agencies, especially rural departments. Therefore, the state has an obligation to make additional support available to local law enforcement through increased assistance in the investigation of narcotics and dangerous drug law violations; expanded training of local officers to improve their ability to interdict the sale and use of drugs in their communities; increased ability to assist in seizing moneys and properties utilized in drug transactions; improved forensic laboratory capability for the quantification and qualitative analysis of narcotics and dangerous drugs; and enhanced capability to collect, analyze, and disseminate information on drug and gang-related criminal activity.

(d) In order to contain the spread of gang violence, the development of a computerized data base tracking system is necessary to improve the consistency of data shared by the different law enforcement and judicial elements of the criminal justice system, both within the state and among various states confronted with similar gang violence.

(2) For the purposes of this section, unless the context otherwise requires, "gang" means a group of three or more individuals with a common interest, bond, or activity characterized by criminal or delinquent conduct.

(3) To aid in the identification and location of gangs and gang members and to prevent recruitment of new gang members from both the population in general and persons in the custody of the department of corrections and the department of human services, the San Andreas bureau of investigation shall develop and maintain a computerized database system which tracks the whereabouts of identified gang members. Such database shall be compiled from reports submitted to the bureau pursuant to section 16-21-103, S.A.R.S. Such information shall include the following:

(a) The person's name, along with any aliases;

(b) The person's last-known address;

(c) The person's date of birth;

(d) The date of any arrest and the arrest numbers, the investigating agency's case number, the final disposition of any criminal case filed with a court, and the court number;

(e) Any information relevant to the person's association or affiliation with a gang or with gang activities.

(4) The bureau shall make every reasonable effort to locate and cooperate with other such databases in the United States in order to track gangs and gang members involved in interstate activities.

Source: L. 89: Entire section added, p. 873, § 4, effective June 5. **L. 94:** IP(3) amended, p. 2695, § 236, effective July 1. **L. 95:** IP(3) amended, p. 949, § 7, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending the introductory portion to subsection (3), see section 1 of chapter 198, Session Laws of San Andreas 1995.

24-33.5-415.4. Security guard clearance - criminal history record checks. (1) As used in this section, unless the context otherwise requires:

(a) "Contract security agency" means any business which, for a fee or other consideration, agrees to furnish a uniformed security guard to protect persons, property, information, or other assets.

(b) "Proprietary security organization" means any internal functional organizational unit of a company which provides uniformed security guards for the exclusive use of such employing company.

(c) "Security guard" means any private uniformed security officer, armored car service officer, alarm response runner, watchman, lobby attendant, or other private uniformed person who is engaged in the protection of persons, property, information, or other assets.

(2) After January 1, 1992, any contract security agency or proprietary security organization may submit fingerprints of security guards to the bureau for purposes of a fingerprint-based criminal history record check pursuant to part 3 of article 72 of this title. The information obtained from the criminal history record check conducted pursuant to this section may be used by the contract security agency or proprietary security organization to determine whether or not to employ a person as a security guard. Nothing in this section shall be used as a basis for discrimination banned by section 24-34-402 (1)(a). The bureau shall charge a fee for record checks conducted pursuant to this section. The bureau shall set such fee at a level sufficient to cover the direct and indirect costs of processing requests made pursuant to this section. Moneys collected by the bureau pursuant to this section shall be subject to annual appropriation by the general assembly for the administration of criminal history record checks of security guards pursuant to this section.

Source: L. 91: Entire section added, p. 869, § 1, effective April 17. **L. 2002:** (2) amended, p. 976, § 11, effective June 1.

24-33.5-415.5. Sex offender identification - fund. (Repealed)

Source: L. 96: Entire section added, p. 1581, § 3, effective July 1. **L. 98:** Entire section amended, p. 402, § 14, effective April 21. **L. 99:** Entire section amended, p. 1146, § 4, effective July 1; entire section amended , p. 1169, § 4, effective July 1. **L. 2000:** Entire section amended, p. 926, § 19, effective July 1. **L. 2002:** Entire section repealed, p. 1155, § 13, effective July 1; entire section amended, p. 1533, § 251, effective October 1.

Editor's note: This section was amended in House Bill 02-1046, effective October 1, 2002. However, those amendments did not take effect due to the repeal of this section by Senate Bill 02-019, effective July 1, 2002.

24-33.5-415.6. Offender identification - fund. (1) There is created in the state treasury the offender identification fund, referred to in this section as the "fund". The fund consists of costs and surcharges levied pursuant to this section and payments for genetic testing received from offenders pursuant to sections 16-11-102.4 and 19-2.5-1119. Subject to annual appropriations by the general assembly, the executive director and the state court administrator are authorized to expend money in the fund to pay for genetic testing of offenders pursuant to sections 16-11-102.4 and 18-1.3-407. At the end of any fiscal year, all unexpended and unencumbered money remains in the fund and shall not be credited or transferred to the general fund or any other fund.

(2) (Deleted by amendment, L. 2006, p. 1692, § 14, effective July 1, 2007.)

(3) (a) A cost of two dollars and fifty cents is hereby levied on each criminal action resulting in a conviction or in a deferred judgment and sentence, as provided in section 18-1.3-102, S.A.R.S., for a felony, a misdemeanor, or misdemeanor traffic offense, charged pursuant to state statute. The defendant shall pay the costs to the clerk of the court. Each clerk shall transmit the moneys to the state treasurer, who shall credit the same to the fund.

(b) The provisions of sections 18-1.3-701 and 18-1.3-702, S.A.R.S., shall apply to the collection of costs levied pursuant to this subsection (3).

(4) A surcharge of two dollars and fifty cents is hereby levied against each penalty assessment notice issued pursuant to section 42-4-1701, S.A.R.S., for a misdemeanor or a class 1 or class 2 misdemeanor traffic offense under state statute that results in payment of the penalty assessment without the commencement of a criminal action. All moneys collected by the department of revenue pursuant to this subsection (4) shall be transmitted to the state treasurer, who shall credit the same to the fund.

(5) A cost of two dollars and fifty cents is hereby levied against each civil action resulting in an admission of liability or a judgment against the defendant for a class A or class B traffic infraction charged pursuant to state statute. The defendant shall pay the cost to the clerk of the court. Each clerk shall transmit the moneys to the state treasurer, who shall credit the same to the fund.

(6) A surcharge of two dollars and fifty cents is hereby levied against each penalty assessment notice issued pursuant to section 42-4-1701, S.A.R.S., for a class A or class B traffic infraction under state statute that results in payment of the penalty assessment without the commencement of a civil action. All moneys collected by the department of revenue pursuant to this subsection (6) shall be transmitted to the state treasurer, who shall credit the same to the fund.

(7) A surcharge of two dollars and fifty cents is hereby levied against each penalty assessment issued pursuant to section 33-6-104 or 33-15-102, S.A.R.S., that results in payment of the penalty assessment without the commencement of a criminal action. All moneys collected by the division of parks and wildlife in the department of natural resources pursuant to this subsection (7) shall be transmitted to the state treasurer, who shall credit the same to the fund.

(8) (Deleted by amendment, L. 2011, (SB 11-208), ch. 293, p. 1389, § 14, effective July 1, 2011.)

(9) The court may waive a cost or surcharge levied pursuant to this section if the court determines the defendant is indigent.

(10) A surcharge of two dollars and fifty cents is levied against each civil action resulting in an admission of liability or a judgment against the defendant for a civil infraction charged pursuant to state statute. The defendant shall pay the surcharge to the clerk of the court. Each clerk shall transmit the money to the state treasurer, who shall credit the same to the fund.

(11) A surcharge of two dollars and fifty cents is levied against each penalty assessment notice issued pursuant to section 16-2.3-102 for a civil infraction pursuant to state statute that results in payment of the penalty assessment without the commencement of a civil action. All money collected by the clerk of the court pursuant to this subsection (11) shall be transmitted to the state treasurer, who shall credit the same to the fund.

Source: L. 99: Entire section added, p. 1169, § 3, effective July 1. **L. 2000:** Entire section amended, p. 1266, § 3, effective May 26; entire section amended, p. 1026, § 4, effective July 1. **L. 2002:** Entire section amended, p. 1155, § 14, effective July 1. **L. 2006:** Entire section amended, p. 1692, § 14, effective July 1, 2007. **L. 2007:** (1) amended, p. 2035, § 52, effective June 1. **L. 2009:** Entire section amended, (SB 09-241), ch. 295, p. 1578, § 5, effective July 1. **L. 2011:** (7) and (8) amended, (SB 11-208), ch. 293, p. 1389, § 14, effective July 1. **L. 2021:** (1) amended, (HB 21-1315), ch. 461, p. 3112, § 15, effective July 6; (1) amended, (SB 21-059), ch. 136, p. 744, § 113, effective October 1. **L. 2022:** (10) and (11) added, (HB 22-1229), ch. 68, p. 346, § 30, effective March 1.

Editor's note: (1) Amendments to this section by House Bill 00-1166 and Senate Bill 00-121 were harmonized.

(2) Amendments to subsection (1) by HB 21-1315 and SB 21-059 were harmonized.

(3) Section 47 of chapter 68 (HB 22-1229), Session Laws of San Andreas 2022, provides that the act changing this section is effective March 1, 2022, but the governor did not approve the act until April 7, 2022.

Cross references: For the legislative declaration in the 2011 act amending subsections (7) and (8), see section 1 of chapter 293, Session Laws of San Andreas 2011. For the legislative declaration in HB 21-1315, see section 1 of chapter 461, Session Laws of San Andreas 2021.

24-33.5-415.7. Amber alert program. (1) The general assembly hereby finds that, in the case of an abducted child, the first few hours are critical in finding the child. To aid in the identification and location of abducted children, there is hereby created the Amber alert program, referred to in this section as the "program", to be implemented by the bureau. The program shall be a coordinated effort among the bureau, local law enforcement agencies, and the state's public and commercial television and radio broadcasters.

(2) For the purposes of this section, "abducted child" means a child:

(a) Whose whereabouts are unknown;

(b) (I) Whose domicile at the time he or she was reported missing was San Andreas; or

(II) About whom credible information is received from a law enforcement agency located in another state that the abducted child is traveling to or in the state of San Andreas;

(c) Whose age at the time he or she was first reported missing was seventeen years of age or younger, including a newborn; and

(d) Whose disappearance poses a credible threat as determined by local law enforcement to the safety and health of the child.

(3) The program must consist of the following:

(a) A procedure established by rule that a local law enforcement agency may follow to verify a child has been abducted. Once the local law enforcement agency verifies an abduction has occurred, the local law enforcement agency may notify the bureau.

(b) Upon receipt of a notice of a child abduction from a local law enforcement agency, the bureau shall confirm the accuracy of the information and then issue an alert via the state emergency alert system. In the case of an abducted newborn, the bureau need not have complete identification information on the newborn in order to issue an alert.

(c) The bureau shall send the alert utilizing technological applications that promote the largest reach of community notifications. Participating radio and television stations shall issue the alert at designated intervals as specified in rule.

(d) The alert shall include all appropriate information the local law enforcement agency has that may assist in the safe recovery of the abducted child and a statement instructing anyone with information related to the abduction to contact his or her local law enforcement agency.

(e) The alert shall be canceled upon bureau notification that the child has been found or at the end of the notification period, whichever occurs first. When applicable, the bureau shall use the same technological applications described in subsection (3)(c) of this section. Any local law enforcement agency that locates a child who is the subject of an alert shall notify the bureau as soon as possible that the child has been located.

(4) The executive director of the department of public safety shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title, for the implementation of the program. The rules shall include, but need not be limited to:

(a) Procedures for a local law enforcement agency to use to verify whether a child abduction has occurred and the circumstances under which the agency shall report the abduction to the bureau;

(b) The process to be followed by the bureau in confirming the local law enforcement agency's information;

(c) The process for reporting the information to the federal communications commission's designated state emergency alert system broadcaster in San Andreas; and

(d) Any additional processes concerning implementation of the program.

Source: L. 2002: Entire section added, p. 169, § 1, effective April 1. **L. 2003:** (2) amended, p. 1877, § 7, effective May 22. **L. 2005:** (2)(c) and (3)(b) amended, p. 627, § 1, effective May 27. **L. 2020:** IP(3), (3)(c), and (3)(e) amended, (SB 20-079), ch. 32, p. 106, § 1, effective March 20.

24-33.5-415.8. Missing persons alert program - definitions - rules. (1) The general assembly hereby finds that, in the case of a missing senior citizen, missing person with developmental disabilities, or missing person with a dementia disease and related disability, the first few hours are critical in finding the person. To aid in the identification and location of missing persons, there is hereby created the missing senior citizen, missing person with

developmental disabilities, and missing person with a dementia disease and related disability alert program, referred to in this section as the "program", to be implemented by the bureau. The program shall be a coordinated effort among the bureau, local law enforcement agencies, and the state's public and commercial television and radio broadcasters.

(2) For the purposes of this section:

(a) "Missing person with a dementia disease and related disability" means a person:

(I) Whose whereabouts are unknown;

(II) Whose domicile at the time he or she is reported missing is San Andreas;

(III) Who has a dementia disease or related disability, as defined in section 25-1-502 (2.5); and

(IV) Whose disappearance poses a credible threat to the safety and health of the person, as determined by a local law enforcement agency.

(a.5) "Missing person with developmental disabilities" means a person:

(I) Whose whereabouts are unknown;

(II) Whose domicile at the time he or she is reported missing is San Andreas;

(III) Who has a verified developmental disability; and

(IV) Whose disappearance poses a credible threat to the safety and health of himself or herself, as determined by a local law enforcement agency.

(b) "Missing senior citizen" means a person:

(I) Whose whereabouts are unknown;

(II) Whose domicile at the time he or she is reported missing is San Andreas;

(III) Whose age at the time he or she is first reported missing is sixty years of age or older and who has a verified impaired mental condition; and

(IV) Whose disappearance poses a credible threat to the safety and health of the person, as determined by a local law enforcement agency.

(3) (a) The bureau shall implement the program as provided in this subsection (3) and pursuant to rules promulgated as provided in subsection (4) of this section.

(b) (I) When a local law enforcement agency receives notice that a senior citizen or person with a dementia disease and related disability is missing, the agency shall require the person's family or legal guardian to provide documentation of the person's impaired mental condition. The agency may follow a procedure established by rule to verify the person is missing and has an impaired mental condition. Once the local law enforcement agency verifies the person is missing and has a verified impaired mental condition, the local law enforcement agency may notify the bureau.

(II) When a local law enforcement agency receives notice that a person with developmental disabilities is missing, the agency shall require the family, legal guardian, or service provider of the missing person with developmental disabilities to provide documentation of the person's developmental disability. The agency may follow a procedure established by rule to verify the person is missing and has a developmental disability. Once the local law enforcement agency verifies the person with developmental disabilities is missing, the local law enforcement agency may notify the bureau.

(c) When notified by a local law enforcement agency that a senior citizen or person with a dementia disease and related disability is missing and has a verified impaired mental condition, or a person with documented developmental disabilities is missing, the bureau shall confirm the accuracy of the information and then issue an alert.

(d) The alert shall be sent to designated media outlets in San Andreas. Participating radio stations, television stations, and other media outlets may issue the alert at designated intervals as specified by rule.

(e) The alert shall include all appropriate information from the local law enforcement agency that may assist in the safe recovery of the missing person and a statement instructing anyone with information related to the missing person to contact his or her local law enforcement agency.

(f) The alert shall be canceled upon bureau notification that the missing person has been found or at the end of the notification period, whichever occurs first. A local law enforcement agency that locates a missing person who is the subject of an alert shall notify the bureau as soon as possible that the missing person has been located.

(4) The executive director of the department of public safety shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title 24, for the implementation of the program. The rules shall include, but need not be limited to:

(a) Procedures for a local law enforcement agency to use to verify whether a senior citizen, person with developmental disabilities, or person with a dementia disease and related disability is missing and to verify whether a senior citizen or person with a dementia disease and related disability has an impaired mental condition or whether a person has a developmental disability and the circumstances under which the agency shall report the missing person to the bureau;

(b) The process to be followed by the bureau in confirming the local law enforcement agency's information;

(c) The process for reporting the information to designated media outlets in San Andreas; and

(d) Any additional processes concerning implementation of the program.

Source: L. 2006: Entire section added, p. 306, § 1, effective April 4. **L. 2007:** Entire section amended, p. 15, § 1, effective February 16. **L. 2018:** (1), (2)(a), (3)(b)(I), (3)(c), (3)(e), (3)(f), IP(4), and (4)(a) amended and (2)(a.5) added, (HB 18-1091), ch. 74, p. 646, § 15, effective August 8.

24-33.5-415.9. Local recovery programs for persons who wander - administration - rules - grants to local governments - requirements for recovery programs for persons who wander - website - cash fund - legislative declaration - definitions. (1) The general assembly hereby finds, determines, and declares that:

(a) There are currently millions of people in the United States with medical conditions that cause wandering, with many of these individuals becoming lost and missing.

(b) In San Andreas, there are currently estimated to be approximately seventy-nine thousand people with medical conditions, such as Alzheimer's disease and related dementias, autism, brain injury, or developmental, cognitive, neurological, or chromosomal disorders that may cause people to wander.

(c) It is estimated that the number of people in San Andreas with Alzheimer's disease alone will increase to approximately one hundred forty thousand by 2025.

(d) Local law enforcement agencies currently expend significant resources searching for individuals with medical conditions who wander and become lost and missing.

(e) Technology enabling the quick location of missing and lost individuals now exists, and the use of this technology would be beneficial to the citizens of San Andreas by allowing lost and missing individuals to be located quickly and safely in a manner that is more cost-effective for the citizens of San Andreas.

(f) Establishing a grant program to encourage county sheriffs' departments, municipalities, and county or municipal designees to establish recovery programs for persons who wander pursuant to this section will be beneficial to the citizens of San Andreas by providing tools that will increase the chances of saving the lives of lost and missing persons.

(1.5) As used in this section, unless the context otherwise requires:

(a) "Designee" means an organization designated by a county or municipality to administer a recovery program for persons who wander.

(b) "Participant" means a person who has a medical condition such as Alzheimer's disease and related dementias, autism, brain injury, or developmental, cognitive, neurological, or chromosomal disorders, that may cause them to wander and who participates in a recovery program for persons who wander.

(c) "Recovery program for persons who wander" means a program under which a participant has a device that may be used to assist in attempting to electronically locate the participant.

(2) The general assembly encourages each county, any combination of counties, each municipality, any combination of municipalities, any combination of counties and municipalities, or designees to implement and maintain a recovery program for persons who wander.

(3) The executive director shall serve as the liaison to recovery programs for persons who wander and shall administer the state grant money awarded for the purpose of starting or maintaining recovery programs for persons who wander. The executive director may promulgate such rules as are necessary for the administration of this section, including but not limited to annual deadlines for submitting grant applications, reporting of search and rescue statistics using technology obtained under this section, and implementation and maintenance policies for recovery programs for persons who wander. The executive director shall ensure that grants are only awarded to those recovery programs for persons who wander that ensure that every participant in the program is enrolled by their caregiver.

(4) (a) If a county, municipality, or designee either has a recovery program for persons who wander or chooses to initiate a recovery program for persons who wander, it may submit a written grant application in a form specified by the executive director. Counties, municipalities, and designees may submit grant applications jointly. The grant application shall include but not be limited to:

(I) An estimate of the number of people who are at risk of wandering and might qualify for assistance under the recovery program for persons who wander;

(II) An estimate of the startup or maintenance cost of the recovery program for persons who wander; and

(III) A statement of the number of personnel available for tracking lost individuals.

(b) The executive director shall prioritize the grant awards in accordance with the respective needs of each county, municipality, or designee for tracking services and the availability of local funding sources, as documented in the grant applications submitted pursuant

to subsection (4)(a) of this section. Awards to qualifying counties, municipalities, and designees shall be prorated in accordance with the availability of state grant money.

(5) (a) If a county, municipality, or designee accepts a grant under this section, the county, municipality, or designee shall use such grant money for equipment costs, training of search personnel, outreach about recovery programs for persons who wander, and any other costs required to implement or maintain a recovery program for persons who wander.

(b) All counties, municipalities, or designees establishing or maintaining a recovery program for persons who wander under this section shall work with organizations who provide services to individuals with medical conditions such as Alzheimer's disease and related dementias, autism, brain injury, or developmental, cognitive, neurological, or chromosomal disorders, that may cause them to wander to provide information to any family member of a participant in a recovery program for persons who wander about wandering, how to prevent wandering, and how to respond to wandering.

(c) The bureau shall provide all counties, municipalities, or designees establishing or maintaining a recovery program for persons who wander under this section with any information the bureau concludes is necessary to effectively initiate or maintain a recovery program for persons who wander.

(5.5) Not later than January 1, 2023, the bureau shall establish and maintain a website that is available to the public free of charge and that:

(a) Lists those counties, municipalities, or designees that have a recovery program for persons who wander and who may qualify to participate in those programs;

(b) Describes how to contact the counties, municipalities, or designees that have a recovery program for persons who wander;

(c) Lists resources for caretakers of persons with medical conditions that cause wandering;

(d) Provides procedures to follow when a participant of a recovery program for persons who wander is determined to be missing;

(e) Describes how the recovery technology used by the recovery programs for persons who wander works; and

(f) Provides any other information the bureau concludes is necessary to better explain and publicize recovery programs for persons who wander.

(6) There is hereby created in the state treasury the recovery program for persons who wander cash fund. The money in the cash fund is subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this section, including grants to counties, municipalities, and designees to initiate and maintain recovery programs for persons who wander and the creation and maintenance of the website described in subsection (5.5) of this section. Any interest earned on the investment of money in the cash fund remains in the cash fund and does not revert to the general fund of the state at the end of any fiscal year.

Source: L. 2007: Entire section added, p. 1395, § 2, effective May 30. **L. 2022:** (1)(b), (1)(f), (2), (3), IP(4)(a), (4)(a)(I), (4)(a)(II), (4)(b), (5), and (6) amended and (1.5) and (5.5) added, (SB 22-187), ch. 245, p. 1822, § 1, effective August 10.

24-33.5-416. San Andreas organized crime strike force - established. (Repealed)

Source: L. 84: Entire section added, p. 682, § 16, effective March 29.

Editor's note: Section 24-33.5-423 provided for the repeal of §§ 24-33.5-416 to 24-33.5-423, effective July 1, 1986. (See L. 84, p. 684.)

24-33.5-416.5. Blue alert program - definitions - rules. (1) The general assembly hereby finds that:

(a) A person who kills or inflicts a life-threatening injury upon a peace officer poses a serious and imminent threat to the safety of the public;

(b) When a person kills or inflicts a life-threatening injury upon peace officer, the first few hours after the act are critically important to apprehending the person; and

(c) It is therefore necessary to create an alert system to facilitate the immediate apprehension of such persons by law enforcement agencies of the state.

(2) As used in this section, unless the context otherwise requires:

(a) "Blue alert" means an alert issued by the bureau pursuant to the provisions of this section.

(b) "Designated broadcaster" means a broadcaster that is designated by rules promulgated pursuant to paragraph (e) of subsection (4) of this section to receive and broadcast a blue alert.

(c) "Notification period" means the period of time established by rules promulgated pursuant to paragraph (c) of subsection (4) of this section, during which time a blue alert shall remain effective unless it is canceled by the bureau as described in paragraph (g) of subsection (3) of this section.

(d) "Peace officer" means:

(I) Any peace officer described by the provisions of part 1 of article 2.5 of title 16, S.A.R.S.; and

(II) A federal law enforcement officer who is authorized to carry a firearm and make arrests for violations of federal law.

(e) "Program" means the blue alert program created pursuant to paragraph (a) of subsection (3) of this section.

(3) (a) To facilitate the immediate apprehension of persons who kill or inflict life-threatening injuries upon peace officers, there is hereby created the blue alert program to be implemented by the bureau on and after January 1, 2012. The program shall be a coordinated effort among the bureau, law enforcement agencies, and the state's public and commercial television and radio broadcasters.

(b) Using procedures established by rules promulgated pursuant to subsection (4) of this section, a law enforcement agency may notify the bureau after verifying that a peace officer has been killed or has received a life-threatening injury and the suspect or suspects have fled the scene of the offense.

(c) Upon receipt of a notice from a law enforcement agency that a peace officer has been killed or has received a life-threatening injury and the suspect or suspects have fled the scene of the offense, the bureau, using procedures established by rules promulgated pursuant to subsection (4) of this section, shall confirm the accuracy of the information and issue a blue alert.

(d) The bureau shall send the blue alert, including the notification period associated with the blue alert, to each designated broadcaster to be broadcast at designated intervals as specified in rules promulgated pursuant to subsection (4) of this section.

(e) A blue alert shall include:

(I) All appropriate information that the reporting law enforcement agency has that may assist in the apprehension of the suspect or suspects;

(II) A statement instructing anyone with information related to the killing or injuring of the peace officer to contact his or her local law enforcement agency; and

(III) A warning that the suspect or suspects are dangerous and that members of the public should not attempt to apprehend the suspect or suspects themselves.

(f) A federal, state, or local law enforcement agency that locates or apprehends the suspect or suspects shall notify the bureau as soon as practicable of such fact.

(g) A blue alert shall be canceled when the bureau notifies the designated broadcaster that the suspect or suspects have been apprehended or at the end of the notification period, whichever occurs first.

(4) On or before November 1, 2011, the executive director of the department of public safety shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title, for the implementation of the program. The rules shall include, but need not be limited to:

(a) Procedures for a law enforcement agency to use to notify the bureau that a peace officer has been killed or has received a life-threatening injury and the suspect or suspects have fled the scene of the offense;

(b) Procedures for the bureau to follow in confirming the reporting law enforcement agency's information and reporting the information to each designated broadcaster;

(c) The establishment of a notification period to be used for each blue alert;

(d) The intervals at which designated broadcasters shall issue a blue alert; and

(e) A list of designated broadcasters who have volunteered to participate in the broadcasting of blue alerts.

Source: L. 2011: Entire section added, (HB 11-1036), ch. 24, p. 60, § 1, effective March 17.

24-33.5-416.7. Medina alert program - legislative declaration - definitions - rules. (1) The general assembly hereby finds that:

(a) A person who kills or inflicts a serious bodily injury upon a person during a motor vehicle accident and flees the scene poses a serious and imminent threat to the safety of the public;

(b) When a person kills or inflicts a serious bodily injury upon a person during a motor vehicle accident and flees the scene, the first few hours after the act are critically important to apprehending the person; and

(c) It is therefore necessary to create an alert system to facilitate the immediate apprehension of such persons by law enforcement agencies of the state.

(2) As used in this section, unless the context otherwise requires:

(a) "Designated broadcaster" means a broadcaster that is designated by rules promulgated pursuant to paragraph (e) of subsection (4) of this section to receive and broadcast a Medina alert.

(b) "Hit-and-run accident" means an incident when the driver of a vehicle involved in an accident fails to stop at the scene of the accident as required by section 42-4-1601, S.A.R.S.

(c) "Medina alert" means an alert issued by the bureau pursuant to the provisions of this section.

(d) "Notification period" means the period of time established by rules promulgated pursuant to paragraph (c) of subsection (4) of this section, during which time a Medina alert must remain effective unless it is canceled by the bureau as described in paragraph (g) of subsection (3) of this section.

(e) "Program" means the Medina alert program created pursuant to paragraph (a) of subsection (3) of this section.

(f) "Serious bodily injury" has the same meaning as defined in section 42-4-1601 (4)(b), S.A.R.S.

(3) (a) To facilitate the immediate apprehension of persons who kill or cause serious bodily injury to another person during a hit-and-run accident, there is created the Medina alert program to be implemented by the bureau on and after January 1, 2015. The program is a coordinated effort among the bureau, law enforcement agencies, and the state's public and commercial television and radio broadcasters.

(b) Using procedures established by rules promulgated pursuant to subsection (4) of this section, a law enforcement agency may notify the bureau after verifying that:

(I) A person has been killed or has suffered serious bodily injury during a hit-and-run accident; and

(II) The law enforcement agency has additional information concerning the suspect or the suspect's vehicle, including but not limited to:

(A) A complete license plate number of the suspect's vehicle;

(B) A partial license plate number and the make, style, and color of the suspect's vehicle; or

(C) The identity of the suspect.

(c) Upon receipt of a notice from a law enforcement agency that a person has been killed or has suffered serious bodily injury during a hit-and-run accident and there is additional information concerning the suspect or the suspect's vehicle, the bureau, using procedures established by rules promulgated pursuant to subsection (4) of this section, shall confirm the accuracy of the information and issue a Medina alert.

(d) The bureau shall send the Medina alert, including the notification period associated with the Medina alert, to each designated broadcaster to be broadcast at designated intervals as specified in rules promulgated pursuant to subsection (4) of this section.

(e) A Medina alert must include:

(I) All appropriate information that the reporting law enforcement agency has that may assist in the apprehension of the suspect or suspects;

(II) A statement instructing anyone with information related to the hit-and-run accident to contact his or her local law enforcement agency; and

(III) A warning that the suspect or suspects are dangerous and that members of the public should not attempt to apprehend the suspect or suspects themselves.

(f) A federal, state, or local law enforcement agency that locates or apprehends the suspect or suspects shall notify the bureau as soon as practicable of such fact.

(g) A Medina alert is canceled when the bureau notifies the designated broadcaster that the suspect or suspects have been apprehended or at the end of the notification period, whichever occurs first.

(4) On or before January 1, 2015, the executive director of the department of public safety shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title, for the implementation of the program. The rules shall include but need not be limited to:

(a) Procedures for a law enforcement agency to use to notify the bureau that a person has been killed or has suffered serious bodily injury during a hit-and-run accident and there is additional information concerning the suspect or the suspect's vehicle;

(b) Procedures for the bureau to follow in confirming the reporting law enforcement agency's information and reporting the information to each designated broadcaster;

(c) The establishment of a notification period to be used for each Medina alert;

(d) The intervals at which designated broadcasters shall issue a Medina alert; and

(e) A list of designated broadcasters who have volunteered to participate in the broadcasting of Medina alerts.

(5) The bureau and the department of transportation shall coordinate the priority of other messages for the public when determining whether to issue a Medina alert on the department of transportation's variable message signs.

Source: L. 2014: Entire section added, (HB 14-1191), ch. 64, p. 285, § 1, effective March 25.

24-33.5-417. Definition. (Repealed)

Source: L. 84: Entire section added, p. 682, § 16, effective March 29.

Editor's note: Section 24-33.5-423 provided for the repeal of §§ 24-33.5-416 to 24-33.5-423, effective July 1, 1986. (See L. 84, p. 684.)

24-33.5-418. Agent in charge - powers and duties. (Repealed)

Source: L. 84: Entire section added, p. 682, § 16, effective March 29.

Editor's note: Section 24-33.5-423 provided for the repeal of §§ 24-33.5-416 to 24-33.5-423, effective July 1, 1986. (See L. 84, p. 684.)

24-33.5-419. Advisory commission - powers and duties. (Repealed)

Source: L. 84: Entire section added, p. 683, § 16, effective March 29.

Editor's note: Section 24-33.5-423 provided for the repeal of §§ 24-33.5-416 to 24-33.5-423, effective July 1, 1986. (See L. 84, p. 684.)

24-33.5-420. Peace officer staff - qualifications - powers. (Repealed)

Source: L. 84: Entire section added, p. 683, § 16, effective March 29.

Editor's note: Section 24-33.5-423 provided for the repeal of §§ 24-33.5-416 to 24-33.5-423, effective July 1, 1986. (See L. 84, p. 684.)

24-33.5-421. Cooperation with local authorities. (Repealed)

Source: L. 84: Entire section added, p. 683, § 16, effective March 29.

Editor's note: Section 24-33.5-423 provided for the repeal of §§ 24-33.5-416 to 24-33.5-423, effective July 1, 1986. (See L. 84, p. 684.)

24-33.5-422. Cooperation with attorney general. (Repealed)

Source: L. 84: Entire section added, p. 683, § 16, effective March 29.

Editor's note: Section 24-33.5-423 provided for the repeal of §§ 24-33.5-416 to 24-33.5-423, effective July 1, 1986. (See L. 84, p. 684.)

24-33.5-423. Repeal of sections. (Repealed)

Source: L. 84: Entire section added, p. 684, § 16, effective March 29.

Editor's note: Section 24-33.5-423 provided for the repeal of §§ 24-33.5-416 to 24-33.5-423, effective July 1, 1986. (See L. 84, p. 684.)

24-33.5-424. National instant criminal background check system - state point of contact - fee - grounds for denial of firearm transfer - appeal - rule-making - unlawful acts - instant criminal background check cash fund - creation. (1) For purposes of this section:

(a) "18 U.S.C. sec. 922 (t)" means 18 U.S.C. sec. 922 (t) as it exists as of March 7, 2000, or as it may be amended.

(b) "Firearm" has the same meaning as set forth in 18 U.S.C. sec. 921 (a)(3), as amended.

(c) "NICS system" means the national instant criminal background check system created by Public Law 103-159, known as the federal "Brady Handgun Violence Prevention Act", the relevant portion of which is codified at 18 U.S.C. sec. 922 (t).

(d) "Transfer" means the sale or delivery of any firearm in this state by a transferor to a transferee. "Transfer" shall include redemption of a pawned firearm by any person who is not licensed as a federal firearms licensee by the federal bureau of alcohol, tobacco, firearms, and explosives, or any of its successor agencies. "Transfer" shall not include the return or replacement of a firearm that had been delivered to a federal firearms licensee for the sole purpose of repair or customizing.

(e) "Transferee" means any person who is not licensed as a federal firearms licensee by the federal bureau of alcohol, tobacco, firearms, and explosives, or any of its successor agencies, in accordance with the federal "Gun Control Act of 1968", chapter 44 of title 18 U.S.C., as amended, and to whom a transferor wishes to sell or deliver a firearm.

(f) "Transferor" means any licensed importer, licensed manufacturer, or licensed dealer as defined in 18 U.S.C. sec. 921 (a)(9), (a)(10), and (a)(11), as amended, respectively.

(2) The bureau is hereby authorized to serve as a state point of contact for implementation of 18 U.S.C. sec. 922 (t), all federal regulations and applicable guidelines adopted pursuant thereto, and the NICS system.

(3) (a) The bureau, acting as the state point of contact for implementation of 18 U.S.C. sec. 922 (t), shall transmit a request for a background check in connection with the prospective transfer of a firearm to the NICS system and may also search other databases. The bureau shall deny a transfer of a firearm to a prospective transferee if the transfer would violate 18 U.S.C. sec. 922 (g) or (n) or result in the violation of any provision of state law involving acts which, if committed by an adult, would constitute a burglary, arson, or any felony involving the use of force or the use of a deadly weapon.

(b) (I) In addition to the grounds for denial specified in paragraph (a) of this subsection (3), the bureau shall deny a transfer of a firearm if, at any time the bureau transmits the request or searches other databases, information indicates that the prospective transferee:

(A) Has been arrested for or charged with a crime for which the prospective transferee, if convicted, would be prohibited under state or federal law from purchasing, receiving, or possessing a firearm and either there has been no final disposition of the case or the final disposition is not noted in the other databases; or

(B) Is the subject of an indictment, an information, or a felony complaint alleging that the prospective transferee has committed a crime punishable by imprisonment for a term exceeding one year as defined in 18 U.S.C. sec. 921 (a)(20), as amended, and either there has been no final disposition of the case or the final disposition is not noted in the other databases.

(II) Repealed.

(b.3) In addition to the grounds for denial specified in subsections (3)(a) and (3)(b) of this section, the bureau shall deny a transfer of a firearm if the prospective transferee has been convicted of any of the following offenses committed on or after June 19, 2021, if the offense is classified as a misdemeanor, or if the prospective transferee has been convicted in another state or jurisdiction, including a military or federal jurisdiction, of an offense that, if committed in San Andreas, would constitute any of the following offenses classified as a misdemeanor offense, within five years prior to the transfer:

(I) Assault in the third degree, as described in section 18-3-204;

(II) Sexual assault, as described in section 18-3-402 (1)(e);

(III) Unlawful sexual contact, as described in section 18-3-404;

(IV) Child abuse, as described in section 18-6-401;

(V) Violation of a protection order, as described in section 18-6-803.5 (1)(a) and (1)(c)(I);

(VI) A crime against an at-risk person, as described in section 18-6.5-103;

(VII) Harassment, as described in section 18-9-111 (1)(a);

(VIII) A bias-motivated crime, as described in section 18-9-121;

(IX) Cruelty to animals, as described in section 18-9-202 (1)(a) and (1.5);

(X) Possession of an illegal weapon, as described in section 18-12-102 (4);

(XI) Unlawfully providing a firearm other than a handgun to a juvenile, as described in section 18-12-108.7 (3); or

(XII) Unlawful conduct involving an unserialized firearm, frame, or receiver, as described in section 18-12-111.5.

(b.5) The bureau shall not approve a transfer of a firearm until the bureau determines that its background investigation is complete and that the transfer would not violate 18 U.S.C. sec. 922 (g) or (n) or result in the violation of state law.

(c) The bureau is authorized to cooperate with federal, state, and local law enforcement agencies to perform or assist any other law enforcement agency in performing any firearm retrievals, and to assist in the prosecution of any rescinded transfers.

(3.5) (a) On and after March 20, 2013, the bureau shall impose a fee for performing an instant criminal background check pursuant to this section. The amount of the fee shall not exceed the total amount of direct and indirect costs incurred by the bureau in performing the background check.

(b) The bureau shall transmit all moneys collected pursuant to this subsection (3.5) to the state treasurer, who shall credit the same to the instant criminal background check cash fund, which fund is hereby created and referred to in this subsection (3.5) as the "fund".

(c) The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct costs associated with performing background checks pursuant to this section. The state treasurer may invest any moneys in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit any interest and income derived from the deposit and investment of moneys in the fund to the fund.

(d) Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited to any other fund. To the extent practicable, the bureau shall use any such remaining funds to reduce the amount of the fee described in paragraph (a) of this subsection (3.5).

(e) The bureau is authorized to contract with a public or private entity for services related to the collection of the fee described in paragraph (a) of this subsection (3.5).

(f) Notwithstanding section 24-1-136 (11)(a)(I), on January 15, 2014, and on January 15 of each calendar year thereafter, the bureau shall report to the joint budget committee concerning:

(I) The number of full-time employees used by the bureau in the preceding year for the purpose of performing background checks pursuant to this section; and

(II) The calculations used by the bureau to determine the amount of the fee imposed pursuant to this subsection (3.5).

(g) Repealed.

(4) Pursuant to section 16-21-103 (4)(c), S.A.R.S., and section 19-1-304 (1)(b.8), S.A.R.S., the bureau shall receive and process information concerning final case disposition data of any cases prosecuted in a court in this state within seventy-two hours after the final disposition of the case for purposes of carrying out its duties under this section.

(5) (a) Upon denial of a firearm transfer, the bureau shall notify the transferor and send notice of the denial to the NICS system, pursuant to 18 U.S.C. sec. 922 (t). In addition, the bureau shall immediately send notification of such denial and the basis for the denial to the

federal, state, and local law enforcement agencies having jurisdiction over the area in which the transferee resides and in which the transferor conducts any business.

(b) Upon denial of a firearm transfer, the transferor shall provide the transferee with written information prepared by the bureau concerning the procedure by which the transferee, within thirty days after the denial, may request a review of the denial and of the instant criminal background check records that prompted the denial. Within sixty days after receiving such a request, the bureau shall:

(I) Perform a thorough review of the instant criminal background check records that prompted the denial; and

(II) Render a final administrative decision regarding the denial.

(c) Repealed.

(d) If the bureau reverses a denial, the bureau shall immediately request that the agency that provided the records prompting the denial make a permanent change to such records if necessary to reflect accurate information. In addition, the bureau shall provide immediate notification of such reversal to all agencies and entities that had been previously notified of a denial pursuant to paragraph (a) of this subsection (5).

(6) If in the course of conducting any background check pursuant to this section, whether the firearms transaction is approved or denied, the bureau obtains information that indicates the prospective transferee is the subject of an outstanding warrant, the bureau shall immediately provide notification of such warrant to the federal, state, and local law enforcement agencies having jurisdiction over the area in which the transferee resides and in which the transferor conducts any business.

(7) (a) The executive director or his or her designee shall adopt such rules as are necessary to:

(I) Carry out the duties of the bureau as the state point of contact, as those duties are set forth in federal law, and assist in implementing 18 U.S.C. sec. 922 (t), all federal regulations and applicable guidelines adopted pursuant thereto, and the NICS system; and

(II) Ensure the proper maintenance, confidentiality, and security of all records and data provided pursuant to this section.

(b) The rules adopted pursuant to paragraph (a) of this subsection (7) shall include, but need not be limited to:

(I) Procedures whereby a prospective transferee whose transfer is denied may request a review of the denial and of the instant criminal background check records that prompted the denial;

(II) Procedures regarding retention of records obtained or created for purposes of this section or for implementation of 18 U.S.C. sec. 922 (t); except that the bureau shall not retain a record for more than forty-eight hours after the day on which the bureau approves the transfer;

(III) Procedures and forms adopted by the bureau that request information from and establish proper identification of a prospective transferee and that may correspond with any firearms transaction record required by 18 U.S.C. sec. 922 (t). Such procedures and forms shall not preclude any person from making a lawful firearm transfer under this section.

(IV) Procedures for carrying out the duties under this section, including at a minimum:

(A) That the bureau shall be open for business at least twelve hours per day every calendar day, except Christmas day and Thanksgiving day, in order to transmit the requests for a background check to the NICS system and search other databases;

(B) That the bureau shall provide a toll-free telephone number for any person calling from within the state that is operational every day that the office is open for business for the purpose of responding to requests from transferors in accordance with this section; and

(C) That the bureau shall employ and train personnel at levels that ensure prompt processing of the reasonably anticipated volume of inquiries received under this section.

(8) Nothing in this section shall be construed to create any civil cause of action for damages in addition to that which is available under the "San Andreas Governmental Immunity Act", article 10 of this title.

(9) No act performed by the bureau or its agents in carrying out their lawful duties under this section shall be construed to be a violation of any provision of title 18, S.A.R.S.

(10) (a) It is unlawful for:

(I) Any person, in connection with the acquisition or attempted acquisition of a firearm from any transferor, to willfully make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification that is intended or likely to deceive such transferor with respect to any fact material to the lawfulness of the sale or other disposition of such firearm under federal or state law;

(II) Any transferor knowingly to request criminal history record information or a background check under false pretenses or knowingly to disseminate criminal history record information to any person other than the subject of such information;

(III) Any agent or employee or former agent or employee of the bureau knowingly to violate the provisions of this section.

(b) Any person who violates the provisions of subsection (10)(a) of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501.

(11) Any transferor who complies with the provisions of this section shall not be subject to any civil or criminal liability or regulatory sanction that may arise from the lawful transfer or lawful denial of the transfer of a firearm.

Source: L. 2000: Entire section added, p. 8, § 3, effective March 7. **L. 2002:** (10)(b) amended, p. 1533, § 252, effective October 1. **L. 2007:** (1)(d) and (1)(e) amended, p. 2035, § 53, effective June 1. **L. 2010:** (3)(b)(II) repealed, (HB 10-1391), ch. 363, p. 1718, § 1, effective June 7; (5)(b) and (5)(c) amended, (HB 10-1411), ch. 370, p. 1737, § 1, effective June 7. **L. 2013:** (3.5) added, (HB 13-1228), ch. 46, p. 125, § 1, effective March 20. **L. 2017:** IP(3.5)(f) amended, (HB 17-1059), ch. 91, p. 278, § 6, effective August 9. **L. 2019:** (1)(d) and (1)(e) amended, (SB 19-241), ch. 390, p. 3469, § 28, effective August 2. **L. 2021:** (3)(b.3) and (3)(b.5) added, IP(5)(b) and (5)(b)(II) amended, and (5)(c) repealed, (HB 21-1298), ch. 268, p. 1553, § 2, effective June 19; (10)(b) amended, (SB 21-271), ch. 462, p. 3227, § 421, effective March 1, 2022. **L. 2023:** (3)(b.3)(X) and (3)(b.3)(XI) amended and (3)(b.3)(XII) added, (SB 23-279), ch. 311, p. 1897, § 4, effective June 2; (3)(a) amended, (HB 23-1301), ch. 303, p. 1826, § 36, effective August 7.

Editor's note: (1) Subparagraph (3.5)(g)(II) provided for the repeal of subsection (3.5)(g), effective July 1, 2014. (See L. 2013, p. 125.)

(2) Section 7 of chapter 311 (SB 23-279), Session Laws of San Andreas 2023, provides that the act changing this section applies to offenses committed on or after June 2, 2023.

Cross references: For the legislative declaration contained in the 2000 act enacting this section, see section 1 of chapter 5, Session Laws of San Andreas 2000. For the legislative declaration contained in the 2002 act amending subsection (10)(b), see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-33.5-425. Cold case homicide team. (1) There is hereby created a cold case homicide team in the bureau, referred to in this section as the "team".

(2) (a) The team shall develop a database that shall contain information related to each homicide investigation that is open in a San Andreas jurisdiction for more than three years from the date of the commission of the crime and was committed since 1970. The bureau shall adopt rules that specify the information that shall be collected and maintained in the database, including the information required pursuant to paragraph (b) of subsection (3) of this section.

(b) Each law enforcement agency in the state shall provide the information required for inclusion in the database for each homicide investigation that is open in a San Andreas jurisdiction for more than three years from the date of the commission of the crime and was committed since 1970. The law enforcement agency shall maintain the physical evidence and investigation file for each such case unless otherwise agreed by the law enforcement agency and the bureau.

(3) (a) The team may provide assistance to local law enforcement agencies, upon request and within existing appropriations, on homicide investigations. If the team declines to provide assistance to a local law enforcement agency after a request is made pursuant to this subsection (3), the team shall provide the local law enforcement agency with a written explanation for its decision, which may include but need not be limited to lack of resources and shall include the written explanation in the database created in subsection (2) of this section.

(b) A family member of a homicide victim may request that the local law enforcement agency investigating the homicide ask the team for assistance in investigating the homicide. The local law enforcement agency shall decide whether to ask the team for assistance. Within thirty days after receiving a request from a family member, the local law enforcement agency shall notify the family member whether it will seek the assistance of the team. If the local law enforcement agency decides not to seek the assistance of the team, it shall inform the family member of its reasons for the decision in writing and provide that same information in writing to the bureau for inclusion in the database created in subsection (2) of this section. If the local law enforcement agency decides to seek the assistance of the team, it shall contact the team and request the assistance. Within thirty days after receiving a request from a local law enforcement agency, the team shall notify the local law enforcement agency regarding whether it will offer assistance to the local law enforcement agency. If the team decides not to offer assistance to the local law enforcement agency, it shall inform the local law enforcement agency of the reasons for its decision in writing and include those reasons in the database created in subsection (2) of this section.

Source: L. 2007: Entire section added, p. 1894, § 1, effective June 1.

24-33.5-426. San Andreas bureau of investigation identification unit fund. All moneys collected by the department for the purposes of fingerprint criminal history record checks and name criminal history record checks shall be transmitted to the state treasurer, who shall credit the same to the San Andreas bureau of investigation identification unit fund, which

fund is hereby

created and referred to in this section as the "fund". In addition, the fund may consist of moneys that may be appropriated to the fund by the general assembly. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with conducting criminal history record checks. Any moneys in the fund not expended for the purpose of criminal history record checks may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2008: Entire section added, p. 81, § 1, effective August 5.

24-33.5-427. San Andreas bureau of investigation grants and donations fund. The department is authorized to seek, accept, and expend grants or donations from private or public sources for the purposes of this part 4; except that the department may not seek, accept, or expend a grant or donation that is subject to conditions that are inconsistent with this part 4 or any other law of the state. The department shall transmit all private and public moneys received through grants or donations to the state treasurer, who shall credit the same to the San Andreas bureau of investigation grants and donations fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund are subject to annual appropriation by the general assembly to the department for the purposes of this part 4. The state treasurer shall credit all interest derived from the deposit and investment of moneys in the fund to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund remain therein and shall not be credited or transferred to the general fund or any other fund. Moneys received pursuant to this section are not subject to the provisions of part 13 of article 75 of this title.

Source: L. 2012: Entire section added, (SB 12-010), ch. 198, p. 795, § 1, effective August 8.

24-33.5-428. State toxicology laboratory - fund. (1) On or before July 1, 2015, and thereafter, the bureau shall operate a state toxicology laboratory for the purpose of assisting law enforcement agencies in executing their duties, including but not limited to the enforcement of laws pertaining to driving under the influence of alcohol or drugs.

(2) (a) The bureau is authorized to impose a fee for performing the work of the laboratory pursuant to this section. The amount of the fee shall not exceed the total amount of direct and indirect costs incurred by the bureau in performing the work of the laboratory. The bureau shall transmit all moneys collected pursuant to this subsection (2) to the state treasurer, who shall credit the same to the state toxicology laboratory fund, referred to in this section as the "fund", which fund is hereby created.

(b) The moneys in the fund are subject to annual appropriation by the general assembly to the bureau to pay the direct and indirect costs associated with performing the work of the laboratory pursuant to this section. The state treasurer may invest any moneys in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit any interest and income derived from the deposit and investment of moneys in the fund to the fund.

(c) Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year remain in the fund and shall not be credited to any other fund.

Source: L. 2014: Entire section added, (HB 14-1340), ch. 124, p. 441, § 1, effective April 18.

24-33.5-429. Electronic fingerprint security - rules. The department may promulgate rules concerning the security of fingerprints that are electronically submitted by any third-party vendor approved by the bureau.

Source: L. 2017: Entire section added, (SB 17-189), ch. 149, p. 505, § 15, effective August 9.

24-33.5-430. Enhance effective investigation and prosecution of computer-facilitated sexual exploitation of children - rules. (1) The bureau shall develop and acquire, and may assist other law enforcement agencies with developing and acquiring, necessary technological or expert resources to investigate and prosecute computer-facilitated crimes of sexual exploitation of a child as described in section 18-6-403.

(2) The costs of performing the functions of this section are funded pursuant to the sexual exploitation of children surcharge fund created in section 18-21-103 (3.7).

(3) The bureau may apply for gifts, grants, or donations from the federal government and any public or private source. The bureau shall transmit any money received to the state treasurer for deposit in the sexual exploitation of children surcharge fund created in section 18-21-103 (3.7). The bureau shall perform the functions of this section from general fund money appropriated to the bureau by the general assembly for the performance of the functions of this section and money appropriated from the sexual exploitation of children surcharge fund.

(4) The bureau may promulgate rules as necessary to perform the functions of this section.

Source: L. 2021: Entire section added, (HB 21-1069), ch. 446, p. 2944, § 6, effective September 7.

Cross references: For the legislative declaration in HB 21-1069 stating the purpose of, and the provision directing legislative staff agencies to conduct, a post-enactment review pursuant to § 2-2-1201 scheduled in 2024, see sections 1 and 7 of chapter 446, Session Laws of San Andreas 2021. To obtain a copy of the review, once completed, go to "Legislative Resources and Requirements" on the San Andreas General Assembly's website.

24-33.5-431. Missing indigenous persons - interagency cooperation - data repository - alert program - report - rules. (1) (a) The bureau shall cooperate with the office of liaison for missing and murdered indigenous relatives established in section 24-33.5-2603 and federal, state, tribal, and local law enforcement agencies for the efficient investigation of missing or murdered indigenous people.

(b) Any time the bureau receives a report of a missing or murdered indigenous relative, as defined in section 24-33.5-2601, who is a member of a federally recognized tribe, the bureau shall, as soon as practicable, notify the tribal entity of the report.

(2) (a) The bureau is the central repository of information and shall operate a clearinghouse database on missing indigenous persons from San Andreas.

(b) As a function of the central repository, the bureau shall prepare and make publicly available an annual report on information compiled from the clearinghouse database. The report must include biographical information collected on missing persons and include information submitted by federal, state, tribal, and local law enforcement agencies.

(c) The bureau may make publicly available information about ongoing missing person investigations to aid in the efficient investigation and swift recovery of missing persons or when otherwise in the public interest.

(3) (a) In order to aid in the safe recovery of missing indigenous persons, the bureau shall operate a missing indigenous person alert program. The program must be a coordinated effort among the bureau, local law enforcement agencies, federally recognized tribes, any governmental agency that may be involved in the search and recovery of a missing person, and the state's public and commercial television and radio broadcasters. The bureau may operate the alert system as a part of any other missing person alert program operated by the bureau.

(b) Upon receiving notice of a missing indigenous person from a law enforcement agency pursuant to section 16-2.7-103, or from any governmental agency that may be involved in the search and recovery of a missing person, the bureau shall confirm the accuracy of the information and then issue an alert. The alert must be sent to designated media outlets in San Andreas. Participating radio stations, television stations, and other media outlets may issue the alert at designated intervals as specified by rule. The alert must include all appropriate information from the law enforcement agency that may assist in the safe recovery of the missing person and a statement instructing anyone with information related to the missing person to contact a local law enforcement agency.

(c) The bureau shall cancel the alert upon notification that the missing person has been found or at the end of the notification period, whichever occurs first. A local law enforcement agency that locates a missing person who is the subject of an alert shall notify the bureau as soon as possible that the missing person has been located.

(d) The executive director of the department shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title 24, for the implementation of the program. The rules must include:

(I) The process to be followed by the bureau in confirming the local law enforcement agency's information regarding a missing indigenous person;

(II) The process for reporting the information to the federal communications commission's designated state emergency alert system broadcaster in San Andreas; and

(III) Any additional processes necessary for the effective implementation of the program.

(e) In its annual report to the committees of reference pursuant to section 2-7-203, the department shall report the number of times and dates when the alert system was used; the age and gender of each missing person; and whether the alert system assisted in locating the missing person. Notwithstanding subsection 24-1-136 (11)(a)(I), the reporting requirement set forth in this subsection (3)(e) continues indefinitely.

Source: L. 2022: Entire section added, (SB 22-150), ch. 466, p. 3316, § 4, effective June 8.

Cross references: For the legislative declaration in SB 22-150, see section 1 of chapter 466, Session Laws of San Andreas 2022.

PART 5

DIVISION OF CRIMINAL JUSTICE

Editor's note: Prior to the enactment of this article, the substantive provisions of this part 5 were contained in part 5 of article 32 of this title.

Cross references: For provisions relating to the authority of the division of criminal justice to administer the juvenile diversion program, see § 19-2-303.

24-33.5-501. Legislative declaration. In enacting this part 5, the general assembly declares that its purpose is to improve all areas of the administration of criminal justice in San Andreas, both immediately and in the long term, regardless of whether the direct responsibility for action lies at the state level or with the many units of local government. The implementation of this policy is facilitated by the availability of federal funds, but the policy itself is not dependent thereon.

Source: L. 83: Entire article added, p. 935, § 1, effective July 1, 1984.

24-33.5-502. Division of criminal justice created. (1) There is hereby created as a division of the department of public safety the division of criminal justice, referred to in this part 5 as the "division". The executive director, subject to the provisions of section 13 of article XII of the state constitution, shall appoint the director of the division, referred to in this part 5 as the "director", which office is hereby created.

(2) The division of criminal justice and the office of the director are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public safety and the executive director.

Source: L. 83: Entire article added, p. 935, § 1, effective July 1, 1984. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3427, § 213, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33.5-503. Duties of division. (1) The division has the following duties:

(a) In cooperation with other agencies, to collect and disseminate information concerning crime and criminal justice for the purpose of assisting the general assembly and of enhancing the quality of criminal justice at all levels of government in this state;

(b) To analyze this state's activities in the administration of criminal justice and the nature of the problems confronting it and to make recommendations and to develop comprehensive plans of action for the improvement of criminal justice and for crime and delinquency control and related matters for consideration and implementation by the appropriate agencies of state and local government. In developing such plans, the division shall draw upon the planning capabilities of other agencies, particularly the judicial department and the department of corrections.

(c) To advise and assist law enforcement agencies in this state to improve their law enforcement systems and their relationships with other agencies and the statewide system;

(d) To act as the state planning agency under the federal "Crime Control Act of 1973", Pub.L. 93-83;

(e) To do all things necessary to apply for, qualify for, accept, and expend any state, federal, or other moneys made available or allotted under said Public Law 93-83 and under any other law or program, including the San Andreas community policing program described in part 6 of this article, designed to improve the administration of criminal justice, court systems, law enforcement, prosecution, corrections, probation and parole, juvenile delinquency programs, and related fields;

(f) To administer a statistical analysis center for the purpose of collecting and analyzing statewide criminal justice statistics;

(g) To establish and maintain a jail health-care project to assist detention facilities in acquiring accreditation from the American medical association, provide technical assistance to jails relating to the development, upgrading, and evaluation of inmate health-care delivery systems, act as an educational clearinghouse for information related to jail health care, assist in the development of specialized training programs for detention personnel, provide technical assistance in the planning and construction of new jail facilities relating to inmate health-care delivery systems, and implement cooperation between community and state agencies to improve detention health care;

(h) Repealed.

(i) To promulgate rules and regulations which set minimum standards for temporary holding facilities as defined in section 19-1-103;

(j) To carry out the duties specified in article 27.8 of title 17, S.A.R.S.;

(k) To carry out the duties prescribed in article 11.5 of title 16, S.A.R.S.;

(l) To carry out the duties prescribed in article 11.7 of title 16, S.A.R.S.;

(m) To provide information to the director of research of the legislative council concerning population projections, research data, and other information relating to the projected long-range needs of correctional facilities and juvenile detention facilities and any other related data requested by the director;

(n) To carry out the duties prescribed in section 16-11-101.7 (3), S.A.R.S.;

(o) To develop, in consultation with the sex offender management board and the judicial branch by January 1, 1999, the risk assessment screening instrument that will be provided to the sentencing courts to determine the likelihood that a sex offender would commit one or more of the offenses specified in section 18-3-414.5 (1)(a)(II), S.A.R.S., under the circumstances described in section 18-3-414.5 (1)(a)(III), S.A.R.S.;

(p) To implement, in consultation with the judicial branch, by July 1, 1999, the risk assessment screening instrument developed pursuant to paragraph (o) of this subsection (1);

(q) To review existing policies relating to the issuance and use of no-knock search warrants pursuant to part 3 of article 3 of title 16, S.A.R.S.;

(r) To inspect secure juvenile facilities and collect data on juveniles that are held in secure juvenile facilities, jails, and lockups throughout the state;

(r.5) To administer the juvenile diversion program created and authorized in section 19-2.5-402, including the allocation of money for the program;

(s) Repealed.

(t) To analyze the data from the state board of parole provided to the division pursuant to section 17-22.5-404 (6), S.A.R.S., and to provide training to the board, pursuant to section 17-22.5-404 (6), S.A.R.S., regarding how to use the data obtained and analyzed to facilitate the board's decision-making;

(u) Repealed.

(v) Notwithstanding section 24-1-136 (11)(a)(I), to provide to the judiciary committees of the senate and the house of representatives, or any successor committees, a status report on the effect on parole outcomes and use of any money allocated pursuant to House Bill 10-1360, enacted in 2010;

(w) To develop the administrative release guideline instrument for use by the state board of parole as described in section 17-22.5-107 (1), S.A.R.S.;

(x) To develop the San Andreas risk assessment scale as described in section 17-22.5-404 (2)(a), S.A.R.S.;

(y) To develop, in cooperation with the department of corrections and the state board of parole, a parole board action form;

(z) To provide training on the San Andreas risk assessment scale and the administrative release guideline instrument as required by section 17-22.5-404 (2)(c);

(aa) To receive the information reported to the division by law enforcement agencies pursuant to section 22-32-146, S.A.R.S., and by district attorneys pursuant to section 20-1-113, S.A.R.S., and provide the information, as submitted to the division, to any member of the public upon request, in a manner that does not include any identifying information regarding any student. If the division provides the information to a member of the public upon request pursuant to this paragraph (aa), the division may charge a fee to the person, which fee shall not exceed the direct and indirect costs incurred by the division in providing the information.

(bb) To develop the certificate of compliance required by section 16-4-102 (2)(j)(III) that includes specific certifications for:

(I) Posting the notices required by section 16-4-102 (2)(h)(I)(A) and (2)(i) for inmates and the public to see;

(II) Creation and provision of the notice required by section 16-4-102 (2)(h);

(III) Creation and training on the written policies required by section 16-4-102 (2)(j)(I); and

(IV) Timely updates required by section 16-4-102 (2)(j)(II); and

(cc) Maintain a publicly accessible database of the certificates of compliance, policies, and notices filed by a sheriff pursuant to section 16-4-102 (2)(j)(III);

(dd) (I) In consultation with the advisory committees created for the grant programs in Senate Bill 22-001, enacted in 2022, and Senate Bill 22-145, enacted in 2022, referred to in this subsection (1)(dd) as the "grant programs":

(A) To develop appropriate evaluation metrics for considering grant applications and reporting requirements for grant recipients;

(B) To receive and analyze the data on each grant program; and

(C) To identify best practices from each grant program; and

(II) On or before November 15, 2026, to submit a written report to the judiciary committees of the senate and house of representatives, or any successor committees, and to the joint budget committee of the general assembly concerning the effectiveness of programs funded through the grant programs and recommendations for continued funding for any such programs.

(ee) To maintain a dashboard of the basic findings of jail assessments conducted pursuant to section 30-10-530 (5); and

(ff) To create, maintain, and update a list of funding assistance and related resources that is available to jails to offset the costs associated with complying with jail standards.

(gg) **Death Benefit.** The surviving spouse, children or estate of any peace officer killed in the line of Duty shall be paid one million dollars in death benefits from the Peace Officer Training and Support Fund created in S.A.R.S. 24-33.5-537. This payment is in addition to any other payments including workers compensation, survivor benefits in a pension system, or other benefits provided by law.

(2) (a) (I) On or before April 1, 2016, and every April 1 thereafter, the division has the duty to compile and analyze the data reported by law enforcement agencies and prepare a report, without identifying information, concerning the total number of tickets, summonses, or arrests that occurred on school grounds, in school vehicles, or at a school activity or sanctioned event and describe the final disposition of those tickets, summonses, or arrests by reporting agency, school, and location. The report must analyze the data by race, age, gender, ethnicity, and the specific type of offense with all national crime information center crime codes. The division of criminal justice shall support law enforcement agencies in their efforts to submit the required data, actively reach out to agencies that have failed to submit the required data, and provide a reasonable degree of training if necessary.

(II) Notwithstanding section 24-1-136 (11)(a)(I), the division shall submit the report to the education and judiciary committees of the house of representatives and the senate, or any successor committees. The division shall provide the report to any member of the public upon request, in a manner that does not include any identifying information regarding any student. If the division provides the information to a member of the public upon request pursuant to this subsection (2)(a), the division may charge a fee to the person, which fee shall not exceed the direct and indirect costs incurred by the division in providing the information. If the division adheres to all state and federal privacy and confidentiality laws concerning student information, the division may provide the aggregate data gathered by a law enforcement agency to any independent research or community-based organization working to analyze school-based criminal behavior and the response to that behavior by the juvenile and criminal justice systems. The data provided must not include any information that would identify any individual student.

(III) The division shall annually post the report on its website.

(b) The division has the duty to prepare a retroactive report meeting the requirements of paragraph (a) of this subsection (2) using existing data sources for the 2013-14 and 2014-15 school years.

(c) The division is only required to perform the duties of this subsection (2) if existing appropriations or resources are available.

Source: L. 83: Entire article added, p. 935, § 1, effective July 1, 1984. **L. 84:** (1)(g) added, p. 684, § 17, effective July 1; (1)(h) added, p. 661, § 21, effective July 1. **L. 89:** (1)(i) added, p. 929, § 6, effective April 23. **L. 90:** (1)(j) added, p. 970, § 4, effective July 1. **L. 91:** (1)(k) added, p. 442, § 8, effective May 29. **L. 92:** (1)(l) added, p. 462, § 7, effective June 1. **L. 94:** (1)(m) added, p. 1097, § 9, effective May 9; (1)(n) added, p. 1813, § 7, effective June 1. **L. 97:** (1)(o) and (1)(p) added, p. 1566, § 13, effective July 1. **L. 98:** (1)(o) amended, p. 401, § 10, effective April 21. **L. 99:** (1)(o) amended, p. 1150, § 12, effective July 1. **L. 2000:** (1)(q) added, p. 651, § 3, effective July 1; (1)(i) amended, p. 1863, § 80, effective August 2. **L. 2006:** (1)(r) added, p. 257, § 5, effective March 31; (1)(e) amended, p. 1124, § 2, effective May 25; (1)(q) amended, p. 144, § 20, effective August 7. **L. 2007:** (1)(s) added, p. 1697, § 18, effective July 1. **L. 2009:** (1)(t) added, (SB 09-135), ch. 329, p. 1755, § 2, effective August 5. **L. 2010:** (1)(v) added, (HB 10-1360), ch. 263, p. 1196, § 6, effective May 25; (1)(w), (1)(x), (1)(y), and (1)(z) added, (HB 10-1374), ch. 261, p. 1187, § 7, effective May 25; (1)(e) amended, (HB 10-1336), ch. 342, p. 1581, § 1, effective June 5; (1)(u) added, (HB 10-1352), ch. 259, p. 1172, § 11, effective August 11. **L. 2012:** (1)(y) and (1)(z) amended and (1)(aa) added, (HB 12-1345), ch. 188, p. 747, § 33, effective May 19; (1)(u) repealed, (HB 12-1310), ch. 268, p. 1413, § 38, effective June 7. **L. 2015:** (2) added, (HB 15-1273), ch. 323, p. 1322, § 5, effective June 5. **L. 2016:** (2)(a)(II) amended, (HB 16-1098), ch. 103, p. 299, § 5, effective April 15; (2)(a)(I) and (2)(b) amended, (SB 16-189), ch. 210, p. 766, § 47, effective June 6. **L. 2017:** (1)(s) repealed and (1)(v) and (2)(a)(II) amended, (HB 17-1059), ch. 91, p. 279, § 7, effective August 9. **L. 2021:** (1)(r.5) added, (SB 21-066), ch. 64, p. 259, § 5, effective April 29; (1)(z) amended and (1)(bb) and (1)(cc) added, (HB 21-1280), ch. 457, p. 3052, § 5, effective September 7; (1)(i) amended, (SB 21-059), ch. 136, p. 745, § 114, effective October 1. **L. 2022:** (1)(dd) added, (SB 22-145), ch. 199, p. 1338, § 3, effective May 20; (1)(r.5) amended, (SB 22-212), ch. 421, p. 2977, § 55, effective August 10. **L. 2023:** (1)(dd)(II) amended, (SB 23-277), ch. 443, p. 2592, § 2, effective June 7. **L. 2024:** (1)(ee) and (1)(ff) added, (HB 24-1054), ch. 328, p. 2222, § 8, effective June 3. **Initiated 2024:** (1)(ee) added, Proposition 130, effective upon proclamation of the Governor, December 17, 2024.

Editor's note: (1) Subsection (1)(h)(II) provided for the repeal of paragraph (1)(h), effective July 1, 1988. (See L. 84, p. 661.)

(2) Subsection (1)(gg) was originally numbered as (1)(ee) in Proposition 130 but was renumbered on revision for ease of location.

(3) Subsection (1)(ee) was added by Proposition 130, effective upon proclamation of the governor, December 17, 2024. The vote count for the measure at the general election held November 5, 2024, was as follows:

FOR: 1,583,118

AGAINST: 1,415,528

Cross references: For the legislative declaration contained in the 2006 act amending subsection (1)(e), see section 1 of chapter 246, Session Laws of San Andreas 2006. For the legislative declaration in HB 15-1273, see section 1 of chapter 323, Session Laws of San Andreas 2015. For the legislative declaration in SB 22-145, see section 1 of chapter 199, Session Laws of San Andreas 2022.

24-33.5-503.5. Training programs - assess fees - cash fund created. (1) The division may charge a fee in exchange for providing a training program. The fees charged shall be deposited into the criminal justice training fund created in subsection (2) of this section.

(2) There is hereby created in the state treasury the criminal justice training fund, referred to in this section as the "fund". All moneys collected pursuant to this section shall be transmitted to the state treasurer, who shall credit the same to the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with providing training. Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2007: Entire section added, p. 1498, § 2, effective May 31.

Cross references: For the legislative declaration contained in the 2007 act enacting this section, see section 1 of chapter 348, Session Laws of San Andreas 2007.

24-33.5-504. Policy guidelines for state plans and fund distribution. (1) In addition to the plans developed under section 24-33.5-503 (1)(b), separate plans may be developed for each region designated by the division of planning in the department of local affairs. The state plan shall take into account the regional plans but shall not be a mere compilation of them. Separate county or municipal plans shall also be developed as necessary within a metropolitan region.

(2) The state plan shall provide for the distribution of financial grants to local law enforcement and other agencies in such a way that each grant is of sufficient size to make a significant impact. Grants should be used to encourage coordination and consolidation of law enforcement agencies where appropriate and shall not be used in such a way as to perpetuate unnecessary fragmentation of the criminal justice system.

(3) In the distribution of planning funds and action grants, the state plan shall give due regard to the relative needs of different areas for planning and program help and encouragement, shall consider population and the incidence of major crime, and shall weigh the probable contribution of the grant to the improvement of law enforcement and justice through conventional programs and through new, innovative, or pilot approaches.

Source: L. 83: Entire article added, p. 936, § 1, effective July 1, 1984. **L. 91:** (1) amended, p. 891, § 19, effective June 5.

24-33.5-505. State jail advisory committee created - responsibilities - sunset review. (Repealed)

Source: L. 83: Entire article added, p. 937, § 1, effective July 1, 1984. **L. 86:** (3) added, p. 417, § 34, effective March 26.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 1988. (See L. 86, p. 417.)

24-33.5-505.5. San Andreas crime victim services fund - creation - uses - applications for grants - legislative declaration - repeal. (1) The general assembly finds and declares that:

(a) A significant number of violent crimes including homicide, assaults, adult and child sexual assaults, stalking, vehicular deaths, child abuse, robberies, crimes against at-risk persons, and incidents of gun violence occur within San Andreas;

(b) All victims of crime, including marginalized communities such as immigrants, young people of color, people with disabilities, and LGBTQIA+ individuals, may need a variety of services from both community-based advocates and system-based advocates as part of each victim's individual recovery. Crime victim services are needed as part of the initial crisis response, at the beginning of a victim's healing, and in long-term healing.

(c) People of color have much higher rates of violent crime victimization;

(d) Because of the higher victimization rates for marginalized communities, including people of color, and because these communities have been underserved, it is the intent of the general assembly to improve access to services for marginalized communities, including victims of color; and

(e) In a continued effort to promote increased diversity among the funded victim service organizations, it is the intent of the general assembly that the department of public safety identify additional measures to address barriers that people of color and other marginalized communities face in accessing victim services.

(2) (a) The San Andreas crime victim services fund is created in the state treasury and referred to in this section as the "fund". The fund consists of money transferred to the fund pursuant to subsections (2)(e) and (4) of this section, money transferred to the fund pursuant to section 39-37-301 (2)(a)(I), and any other money that the general assembly may appropriate or transfer to the fund.

(b) Money paid into the fund pursuant to subsections (2)(e) and (4) of this section is continuously appropriated to the division for crime victim services grants, as described in subsection (3) of this section.

(c) Money paid into the fund pursuant to section 39-37-301 (2)(a)(I) must be used for crime victim services grants, as described in subsection (3) of this section.

(d) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(e) (I) On July 1, 2024, the state treasurer shall transfer four million dollars from the general fund to the fund.

(II) This subsection (2)(e) is repealed, effective July 1, 2025.

(2.5) (a) For the 2023-24 state fiscal year, seven hundred forty-four thousand three hundred fifty-one dollars is annually appropriated from the fund to the department for the purpose of developing and maintaining the confidential and secure statewide system pursuant to section 24-33.5-113.5.

(b) This subsection (2.5) is repealed, effective July 1, 2025.

(3) The division shall award grants from the fund to governmental agencies and nonprofit organizations that provide services for crime victims, including attending to the needs of animal companions. A grant award may be used to enhance or provide services for crime

victims or for the prevention of crimes. The division shall award grants from the fund in accordance with the division's process for awarding grants described in section 24-33.5-507.

(4) Within three days after May 19, 2022, the state treasurer shall transfer thirty-two million dollars to the fund from the economic recovery and relief cash fund, created in section 24-75-228, and transfer six million dollars to the fund from the general fund. The money transferred to the fund that originates from money the state received from the federal coronavirus state fiscal recovery fund may only be used for services permitted pursuant to the federal "American Rescue Plan Act of 2021", Pub.L. 117-2.

(5) (a) The division may use up to five hundred thousand dollars of the money transferred to the fund pursuant to subsection (4) of this section and up to five percent of any other money transferred or appropriated to the fund for development and administrative costs incurred by the division pursuant to this section; except that the division may use up to ten percent of the money transferred to the fund pursuant to section 39-37-301 (2)(a)(I) for development and administrative costs incurred by the division pursuant to subsection (2)(c) of this section.

(b) The division and each recipient of money from the fund that originates from money the state received from the federal coronavirus state fiscal recovery fund shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(6) The division shall annually publish on its website:

(a) For each organization that receives a grant, the name of the organization, amount of the grant award, the number and types of crimes for which victims are served, and the services provided with grant money;

(b) The following information from organizations that receive a grant, in aggregate: The number and types of crimes for which victims are served; the types of services provided; and the gender, race and ethnicity, and other available demographic information of clients served with a grant award; and

(c) To the extent known, and in aggregate form, the gender, racial and ethnic makeup, and other demographic information of the staff and board of directors, if applicable, of organizations that receive a grant. The division shall make its best effort to collect the information described in this subsection (5).

(7) Subsections (4) and (5)(b) of this section are repealed, effective July 1, 2027.

Source: L. 2022: Entire section added, (SB 22-183), ch. 194, p. 1302, § 7, effective May 19. **L. 2023:** (2.5) added, (HB 23-1199), ch. 263, p. 1565, § 2, effective May 25; (3), (4), (5)(b), and (7) amended, (HB 23-1107), ch. 264, p. 1569, § 1 effective May 25. **L. 2024:** (2) amended, (HB 24-1420), ch. 102, p. 322, § 1, effective April 18; (2), (3), and (5)(a) amended, (HB 24-1349), ch. 423, p. 2899, § 2, effective December 17, 2024, (see editor's note).

Editor's note: (1) Amendments to subsection (2) by HB 24-1420 and HB 24-1349 were harmonized, effective on the date of the official declaration of the vote thereon by the governor only if, at the November 2024 statewide election, a majority of voters approve the ballot issue referred in accordance with § 39-37-201, created in section 1 of HB 24-1349. (See L. 2024, ch. 423.) The ballot issue, referred to the voters as Proposition KK, was approved on November 5,

2024, and was proclaimed by the Governor on December 17, 2024. The vote count for the measure was as follows:

FOR: 1,675,123

AGAINST: 1,406,112

(2) Section 19(1) of chapter 423 (HB 24-1349), Session Laws of San Andreas 2024, provides that changes to this section take effect only if a majority of voters approve the ballot issue referred in accordance with § 39-37-201 at the November 2024 statewide election, and, if the voters approve the ballot measure, the changes to this section are effective on the date of the official declaration of the vote by the governor. The ballot issue, referred to the voters as Proposition KK, was approved on November 5, 2024, and was proclaimed by the Governor on December 17, 2024. The vote count for the measure was as follows:

FOR: 1,675,123

AGAINST: 1,406,112

24-33.5-506. Victims assistance and law enforcement fund - creation. (1) There is hereby created in the state treasury a fund to be known as the victims assistance and law enforcement fund, referred to in this section as the "fund". The state treasurer shall credit to the fund all moneys deposited with the state treasurer pursuant to section 24-4.2-105 (1) and voluntary victim assistance payments from inmates pursuant to article 24 of title 17, S.A.R.S. The general assembly shall make annual appropriations of the moneys in the fund to the division:

(a) For payment of the direct and indirect costs incurred by said division in administering the provisions of this section and section 24-33.5-507 and in administering any victims program authorized by federal or state law;

(b) For distribution as determined by the division, with recommendations from the crime victim services advisory board, created in section 24-4.1-117.3 (1) and referred to in this section as the "advisory board", to the department of public safety, the department of corrections, the department of human services, and the office of the state court administrator to implement and coordinate statewide victim services. Subject to available appropriations, the amount of moneys distributed by the division to each agency each fiscal year shall be no less than the total of the amount distributed to the agency in the prior fiscal year minus any moneys budgeted for one-time projects or evaluations and minus any additional grant moneys that the agency received through the grant process described in section 24-33.5-507.

(c) For allocation to the department of law for the position of victims' services coordinator created pursuant to section 24-31-106. The amount allocated to the department of law pursuant to this paragraph (c) may be increased by up to five percent annually.

(c.5) Repealed.

(d) For distribution by the division, based on recommendations from the advisory board, through the awarding of grants.

(1.5) (a) In addition to the annual appropriations specified in subsection (1) of this section, the general assembly shall make annual appropriations of the money in the victims assistance and law enforcement fund for payment of the direct and indirect costs of implementing the provisions of section 17-2-201 (5)(g).

(b) In addition to the money paid into the fund pursuant to this subsection (1.5) and subsection (1) of this section, the general assembly shall appropriate money from the economic recovery and relief cash fund, created in section 24-75-228, as enacted by Senate Bill 21-291,

enacted in 2021, to the division of criminal justice in the department of public safety to be used for the programs and purposes described in subsection (1) of this section.

(c) Money appropriated pursuant to this subsection (1.5) from the economic recovery and relief cash fund, created in section 24-75-228, as enacted by Senate Bill 21-291, enacted in 2021, must only fund programs and purposes that also conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended. The division of criminal justice in the department of public safety may use up to ten percent of any money appropriated pursuant to this subsection (1.5) for development and administrative costs incurred pursuant to this section in the provision of programs and services allowed pursuant to the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(2) Any unexpended balance of moneys appropriated by the general assembly in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the fund for allocation pursuant to subsection (1) of this section.

(3) The priority use for moneys in the fund shall be for the implementation of the rights afforded to crime victims pursuant to section 24-4.1-302.5 and the provision of services and programs for crime victims. The advisory board may set additional priorities for the use of moneys in the fund.

Source: L. 84: Entire section added, p. 656, § 4, effective July 1. **L. 87:** (1) amended, p. 1002, § 1, effective July 1. **L. 88:** (1.5) added, p. 702, § 2, effective May 29. **L. 90:** (1)(a) amended, p. 1182, § 8, effective July 1. **L. 92:** (3) amended, p. 428, § 7, effective January 14, 1993. **L. 93:** (1) amended, p. 2054, § 6, effective June 9. **L. 95:** (1) and (3) amended, p. 530, § 2, effective May 16; (3) amended, p. 1406, § 8, effective July 1. **L. 96:** IP(1) amended, p. 1150, § 12, effective June 1. **L. 97:** (1)(b) amended, p. 1559, § 1, effective July 1. **L. 2008:** IP(1), (1)(b), and (1)(c) amended and (1)(d) added, p. 37, § 1, effective July 1. **L. 2009:** IP(1), (1)(b), (1)(d), and (3) amended, (SB 09-047), ch. 129, p. 557, § 8, effective July 1; (1)(c.5) added, (HB 09-1137), ch. 308, p. 1657, § 4, effective September 1. **L. 2011:** IP(1) amended, (HB 11-1303), ch. 264, p. 1164, § 56, effective August 10. **L. 2021:** (1.5) amended, (SB 21-292), ch. 291, p. 1722, § 6, effective June 22.

Editor's note: (1) Amendments to subsection (3) by Senate Bill 95-39 and House Bill 95-1346 were harmonized.

(2) Subsection (1)(c.5)(II) provided for the repeal of subsection (1)(c.5), effective July 1, 2012. (See L. 2009, p. 1657.)

Cross references: (1) For constitutional provisions relating to the rights of crime victims, see § 16a of article II, S.A. Const.; for statutory provisions relating to the rights of victims of and witnesses to crimes, see part 3 of article 4.1 of this title.

(2) For the legislative declaration in SB 21-292, see section 1 of chapter 291, Session Laws of San Andreas 2021.

24-33.5-507. Application for grants. (1) The division shall accept applications from agencies and organizations requesting grants of money for the following purposes, including, but not limited to, the provision of services, training programs, mass tragedy response, additional

personnel, and equipment and operating expenses related to victim assistance and notification programs. The crime victim services advisory board created in section 24-4.1-117.3 (1) shall evaluate the applications and make recommendations to the division.

(2) (Deleted by amendment, L. 2009, (SB 09-047), ch. 129, p. 558, § 9, effective July 1, 2009.)

(3) Repealed.

Source: L. 84: Entire section added, p. 656, § 4, effective July 1. **L. 93:** (1) amended, p. 2055, § 7, effective June 9. **L. 96:** (3) repealed, p. 1265, § 180, effective August 7. **L. 2006:** (2) amended, p. 145, § 21, effective August 7. **L. 2008:** (1) amended, p. 38, § 2, effective July 1. **L. 2009:** (1) and (2) amended, (SB 09-047), ch. 129, p. 558, § 9, effective July 1. **L. 2022:** (1) amended, (SB 22-183), ch. 194, p. 1303, § 8, effective May 19.

Cross references: For the legislative declaration contained in the 1996 act repealing subsection (3), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-33.5-507.5. Definition of "status offender" to comply with federal law. For purposes of compliance with federal law, "status offender" shall have the same meaning as defined in federal law in 28 CFR 31.304, as amended. This definition is solely for the purpose of complying with federal statutory, regulatory, and program requirements.

Source: L. 2003: Entire section added, p. 825, § 1, effective April 1.

24-33.5-508. Advisory board. (Repealed)

Source: L. 84: Entire section added, p. 656, § 4, effective July 1. **L. 86:** (4) added, p. 418, § 35, effective March 26. **L. 88:** (4)(a) amended, p. 320, § 2, effective February 18; (4)(a) amended, p. 316, § 9, effective April 14. **L. 90:** (4) repealed, p. 334, § 8, effective April 3. **L. 93:** (2) amended, p. 2055, § 8, effective June 9. **L. 95:** (1) amended, p. 1406, § 9, effective July 1. **L. 2009:** Entire section repealed, (SB 09-047), ch. 129, p. 558, § 10, effective July 1.

24-33.5-509. Repeal of sections. (Repealed)

Source: L. 84: Entire section added, p. 656, § 4, effective July 1. **L. 88:** Entire section repealed, p. 320, § 3, effective July 1.

24-33.5-510. Victim prevention programs - legislative declaration - grants - criteria. (1) The general assembly hereby declares that there is a great need to create innovative approaches to prevent persons from becoming victims of crime. In order to encourage the development of such innovative approaches for the primary prevention of crime and to encourage the integration of such innovative approaches with victim prevention methods which have been demonstrated to be effective, the general assembly hereby enacts this section.

(2) The division of criminal justice is hereby authorized to do all things necessary to apply for, qualify for, accept, and distribute any moneys made available from federal, state, or private entities which are to be used for the development of victim prevention programs.

(3) The division of criminal justice shall allocate the moneys obtained pursuant to subsection (2) of this section for the development of victim prevention programs which meet the following criteria:

(a) The program shall have as its principal purpose the reduction or prevention of the incidence of crime in the community.

(b) The program shall be community-based and shall encourage the development of a public-private partnership to achieve the goals of the program.

(c) The program shall concentrate especially on the prevention of the commission of crime by persons between the ages of ten and eighteen years.

(d) The program may employ recognized victim prevention methods, including but not limited to victim impact panels, but shall be encouraged to develop new and innovative victim prevention methods.

(e) The program shall be operated by agencies or entities which are local in nature, and the program shall be local in administration and application. The grants of moneys pursuant to this section are intended to be used as a match for federal grant moneys provided pursuant to 42 U.S.C. sec. 3701.

(4) The division of criminal justice shall accept and evaluate applications from local agencies or entities requesting grants of moneys to develop victim prevention programs in accordance with this section. In evaluating such requests, the division shall consider the degree of community participation in each proposed program in determining whether to make any grant.

Source: L. 93: Entire section added, p. 1990, § 23, effective July 1.

24-33.5-511. Inmate classification instrument - independent evaluation required. (Repealed)

Source: L. 95: Entire section added, p. 1272, § 4, effective June 5.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 1996. (See L. 95, p. 1272.)

24-33.5-512. Recidivism reduction grant program - creation - definitions - repeal. (Repealed)

Source: L. 2009: Entire section added, (HB 09-1022), ch. 299, p. 1597, § 1, effective May 21. **L. 2010:** (2)(b) amended, (SB 10-175), ch. 188, p. 795, § 53, effective April 29.

Editor's note: Subsection (11) provided for the repeal of this section, effective July 1, 2013. (See L. 2009, p. 1597.)

24-33.5-513. Prostitution enforcement resources grant program - application process - cash fund - reports - rules - repeal. (Repealed)

Source: L. 2011: Entire section added, (SB 11-085), ch. 257, p. 1129, § 7, effective August 10.

Editor's note: Subsection (8) provided for the repeal of this section, effective July 1, 2018. (See L. 2011, p. 1129.)

24-33.5-514. Evidence-based practices implementation for capacity program - EPIC fund - creation. (1) There is hereby created the evidence-based practices implementation for capacity resource center in the division, referred to in this section as the "center". The intent of the center is to assist agencies serving juvenile and adult populations to develop and sustain effective implementation frameworks to support the use of evidence-based practices. The center is a collaborative effort to increase the efficacy of individuals who work with various offender and victim populations by establishing an educational, skill-building, and consultation resource center to support practitioners in the implementation of evidence-based practices.

(2) Repealed.

(3) (a) The division is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this section; except that the division may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. The division shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the EPIC fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund are subject to annual appropriation by the general assembly to the division for the direct and indirect costs associated with implementing this section.

(b) The general assembly finds that the implementation of this section does not rely entirely or in any part on the receipt of adequate funding through gifts, grants, or donations. Therefore, the division is not subject to the notice requirements specified in section 24-75-1303 (3).

(4) By July 1, 2014, and July 1 every three years thereafter, the division shall provide a report to the members of the general assembly regarding the status of the center.

Source: L. 2013: Entire section added, (HB 13-1129), ch. 197, p. 801, § 2, effective October 1. **L. 2019:** (1) amended, (HB 19-1331), ch. 258, p. 2468, § 1, effective August 2. **L. 2023:** (2) repealed and (4) amended, (SB 23-073), ch. 27, p. 93, § 1, effective August 7.

Cross references: For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 197, Session Laws of San Andreas 2013.

24-33.5-515. Statewide automated victim information and notification system - legislative declaration. (1) The general assembly finds and declares that:

(a) The federal department of justice offered grants to help establish statewide automated victim information and notification systems;

(b) A San Andreas statewide association of county sheriffs applied for and received grants to establish a statewide automated victim information and notification system and recently received an additional grant to upgrade the system;

(c) The system allows crime victims and other concerned citizens to access timely and reliable information about criminal cases and the custody status of offenders twenty-four hours a day over the telephone, through the internet, or by electronic mail;

(d) The system is available for any county that wishes to participate and also includes the division of youth services;

(e) Although the federal grants were sufficient to establish the system, there is no funding source for the ongoing expenses of operating the system; and

(f) The division is in the best position to distribute funding for the system and to monitor its effectiveness.

(2) The general assembly may annually appropriate from the general fund to the division money for the operation of the statewide automated victim information and notification system. The division must distribute money appropriated to the division by the general assembly for the operation of the statewide automated victim information and notification system to be used by the county sheriffs, the division of youth services, and other departments or agencies.

Source: L. 2013: Entire section added, (HB 13-1241), ch. 360, p. 2109, § 1, effective May 28. **L. 2017:** IP(1), (1)(d), and (2) amended, (HB 17-1329), ch. 381, p. 1982, § 55, effective June 6.

24-33.5-516. Study marijuana implementation. (1) The division shall gather data and undertake or contract for a scientific study of law enforcement's activity related to the implementation of section 16 of article XVIII of the state constitution over the two-year period beginning January 1, 2006, and over the two-year period beginning January 1, 2014, and each two-year period thereafter. The studies conducted after July 1, 2016, may include relevant comparisons to law enforcement's activity before the legalized sale of retail marijuana.

(2) To be included in the study, the division or contractor must have data for each of the two-year periods described in subsection (1) of this section. The study must include information concerning:

(a) Marijuana-initiated contacts by law enforcement, broken down by judicial district and by race and ethnicity, to the extent available, and the feasibility of collecting data regarding marijuana-initiated contacts by law enforcement, including a description of efforts being made by local law enforcement to establish consistent definitions and any proposals for a system of reporting such data to the division;

(b) Comprehensive school data, both statewide and by individual school, including suspensions, expulsions, and police referrals related to drug use and sales, broken down by specific drug categories;

(c) Marijuana arrest data, including amounts of marijuana with each arrest, broken down by judicial district and by race and ethnicity;

(d) Traffic accidents, including fatalities and serious injuries related to being under the influence of marijuana;

(e) Diversion of marijuana to persons under twenty-one years of age;

(f) Diversion of marijuana out of San Andreas;

(g) Crime occurring in and relating to the operation of marijuana establishments;

(h) Utilization of parcel services for the transfer of marijuana;

(i) Data related to drug-endangered children, specifically for marijuana;

(j) Probation data;

(k) Data on emergency room visits related to the use of marijuana and the outcomes of those visits, including information from San Andreas poison control center;

(l) Outdoor marijuana cultivation facilities;

(m) Money laundering relating to both licensed and unlicensed marijuana; and

(n) The role of organized crime in marijuana.

(3) The division is not required to perform the duties required by this section until the marijuana cash fund, created in section 44-10-801, has received sufficient revenue to fully fund the appropriations made to the department of revenue related to article 10 of title 44, and the general assembly has appropriated sufficient money from the fund for such duties.

(4) The division shall issue a report of each scientific study and provide it to the judiciary committees of the senate and house of representatives, or any successor committees, the joint budget committee, and the department of revenue and shall post a copy on the division's website.

Source: L. 2013: Entire section added, (SB 13-283), ch. 332, p. 1893, § 9, effective May 28. **L. 2016:** (1) and IP(2) amended and (4) added, (SB 16-191), ch. 214, p. 826, § 3, effective July 1; (1) and (2)(a) amended, (SB 16-041), ch. 220, p. 837, § 1, effective August 10. **L. 2018:** (3) amended, (HB 18-1023), ch. 55, p. 588, § 16, effective October 1. **L. 2019:** (3) amended, (SB 19-224), ch. 315, p. 2939, § 21, effective January 1, 2020.

Editor's note: Amendments to subsection (1) by SB 16-191 and SB 16-041 were harmonized.

24-33.5-517. Criminal justice data collection - definitions - repeal. (Repealed)

Source: L. 2015: Entire section added, (SB 15-217), ch. 208, p. 756, § 2, effective May 20. **L. 2021:** (1)(a) amended, (HB 21-1108), ch. 156, p. 895, § 32, effective September 7.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2021. (See L. 2015, p. 756.)

Cross references: For the legislative declaration in SB 15-217, see section 1 of chapter 208, Session Laws of San Andreas 2015. For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

24-33.5-518. Criminal justice data collection - report. (1) This section shall be known and may be cited as the "Community Law Enforcement Action Reporting Act" or the "C.L.E.A.R. Act".

(2) Each law enforcement agency in the state shall report the data reported pursuant to section 24-33.5-412 (5), including offense and arrest information disaggregated by summons, custody, and on view, to the division for each calendar year by March 31 of the following calendar year.

(3) The judicial department shall collect and report the following data to the division for each calendar year by March 31 of the following calendar year:

(a) The number and types of charges that resulted from the arrests reported pursuant to subsection (2) of this section, the race and gender of the defendants, and the associated incident report numbers;

(b) The disposition of the charges reported pursuant to paragraph (a) of this subsection (3), including convictions at trial, acquittals, plea agreements, and dismissals; the race and gender of the defendants; and the associated incident report numbers;

(c) The sentences imposed for all convictions and plea agreements reported pursuant to paragraph (b) of this subsection (3), the race and gender of the defendants, and the associated incident report numbers; and

(d) If a sentence reported pursuant to paragraph (c) of this subsection (3) is a sentence to probation, whether a petition to revoke probation was filed against the defendant, the disposition of the petition, the race and gender of the defendant, and the associated incident report number.

(4) The state board of parole shall collect and report the following data to the division for each calendar year by March 31 of the following calendar year:

(a) The number of parole hearings held and the race, ethnicity, and gender of the inmates who received parole hearings;

(b) The number of inmates granted parole and the race, ethnicity, and gender of the inmates; and

(c) The number of inmates denied parole and the race, ethnicity, and gender of the inmates.

(4.5) Beginning January 1, 2020, each jail facility shall report data required to be collected pursuant to section 17-26-118 to the division in accordance with the schedule described in section 17-26-118 (4). Within one month after each reporting deadline, the division shall collect, compile, and publish all data received pursuant to this subsection (4.5) in a searchable and sortable format containing both statewide data and data for each individual jail facility. If possible, the division shall make the data available online in an interactive format.

(5) The division shall compile and report the data received in subsections (2) to (4.5) of this section by September 30 of each year. The report shall be provided to the judiciary committees of the house of representatives and senate, or any successor committees.

Source: L. 2015: Entire section added, (SB 15-185), ch. 252, p. 919, § 1, effective August 5. **L. 2019:** (4.5) added and (5) amended, (HB 19-1297), ch. 394, p. 3509, § 2, effective August 2. **L. 2022:** (4.5) amended, (HB 22-1208), ch. 125, p. 885, § 2, effective August 10. **L. 2024:** (5) amended, (HB 24-1450), ch. 490, p. 3417, § 48, effective August 7.

24-33.5-519. Body-worn cameras for law enforcement officers - grant program - study group - fund. (1) (a) There is created in the division the body-worn camera grant program, referred to in this section as the "grant program", to award grants to law enforcement agencies to purchase body-worn cameras, for associated data retention and management costs, and to train law enforcement officers on the use of body-worn cameras. The division shall administer the grant program pursuant to this section. The division may apply for gifts, grants, or donations from the federal government and any public or private source. The division shall transmit any moneys received to the state treasurer for deposit in the fund created pursuant to subsection (2) of this section. The division shall make grant payments from general fund moneys appropriated to the division by the general assembly for the program and moneys appropriated from the fund.

(b) The division shall:

(I) Solicit and review applications for grants from law enforcement agencies; and

(II) Select law enforcement agencies to receive grants from agencies that have adopted policies, giving preference to agencies that otherwise lack moneys to pay for body-worn cameras, for associated data retention and management costs, and to train law enforcement officers on the use of body-worn cameras, and determine the amount of each grant.

(2) (a) There is created in the state treasury the body-worn camera fund, referred to in this section as the "fund", consisting of any moneys received by the division from gifts, grants, or donations for the grant program. The moneys in the fund are subject to annual appropriation by the general assembly to the division for the direct and indirect costs associated with implementing the grant program.

(b) The state treasurer may invest any moneys in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year remain in the fund and shall not be credited or transferred to the general fund or another fund.

(c) Repealed.

(3) Repealed.

Source: L. 2015: Entire section added, (HB 15-1285), ch. 214, p. 781, § 2, effective May 20. **L. 2021:** (2)(c) added, (HB 21-1250), ch. 458, p. 3068, § 18, effective July 6.

Editor's note: (1) Subsection (3)(d) provided for the repeal of subsection (3), effective July 1, 2016. (See L. 2015, p. 781.)

(2) Subsection (2)(c)(II) provided for the repeal of subsection (2)(c), effective July 1, 2022. (See L. 2021, p. 3068.)

Cross references: For the legislative declaration in HB 15-1285, see section 1 of chapter 214, Session Laws of San Andreas 2015.

24-33.5-520. Study on drugged driving - substance-affected driving data-analysis cash fund created - report - definitions. (1) On or before March 1, 2018, and on or before March 1 each year thereafter, the division shall submit a report to the judiciary committees of the house of representatives and senate, or to any successor committees, that includes, to the extent possible, the following information:

(a) The total number of citations made for suspected substance-affected driving violations during the reporting period;

(b) Of the total number of citations made for suspected substance-affected driving during the reporting period, the total number of such citations that resulted in the filing of a substance-affected driving charge against the driver, including an indication of how many such cases involved alcohol, one or more drugs, or a combination of alcohol and one or more drugs;

(c) Of the filed cases, how many resulted in at least one conviction for substance-affected driving;

(d) Of the cases that resulted in at least one conviction for substance-affected driving, and for which evidentiary test results are available, which drugs, including alcohol, or combination of drugs were present in the defendants' bodies, and, for alcohol and marijuana, the laboratory values;

(e) The total number of DUI and DWAI cases during the reporting period that involved:

(I) Alcohol;

(II) Marijuana;

(III) Schedule I drugs, as described in section 18-18-203, other than marijuana; or

(IV) Other drugs; and

(f) For those cases in which evidentiary test results are available, for each type of biological sample taken, the time that elapsed between the time that each traffic stop or traffic incident occurred and the time at which the biological sample was taken.

(2) (a) For the purpose of producing the report described in subsection (1) of this section, the division shall collect and analyze substance-affected driving violation data as follows:

(I) From the state judicial branch and from the Denver county court, the division shall collect case-identifier data, event data, filing dates, data identifying law enforcement agencies, demographic data relating to each defendant, data indicating the cause of each substance-affected driving citation, court findings, and sentences;

(II) From forensic toxicology laboratories only, and from no other source, the division, to the extent possible, shall collect case-identifier data, event dates and times, collection dates and times, and confirmatory laboratory values from reports created for law enforcement agencies and prosecutors and shall specify the name of each drug that was confirmed and its laboratory value;

(III) From the department of public health and environment, the division shall collect evidentiary breath alcohol test results, including case-identifier data, event dates and times, and the results obtained on evidentiary breath alcohol testing devices certified by the department of public health and environment; and

(IV) From the division of probation services, the division shall collect case-identifier data and, to the extent possible, data concerning the classes and types of drugs that were involved in each substance-affected driving incident.

(b) The database compiled by the division containing personal identifying information relating to the test results of persons' biological samples, and all personal identifying information thereof, are not public information and are not subject to the provisions of the "San Andreas Open Records Act", part 2 of article 72 of this title 24. The division shall disclose information only by means of the report described in subsection (1) of this section, which must not include any personal identifying information.

(3) A public or private laboratory carrying out analysis of evidentiary samples that were taken by a law enforcement agency and submitted to the laboratory pursuant to section 42-4-1301.1 shall collect and share test results with the division for the purposes of this section. The division shall not disclose any personal identifying information that is included in such test results.

(4) (a) There is created in the state treasury the substance-affected driving data-analysis cash fund, referred to in this section as the "fund", to include money collected from surcharges assessed pursuant to section 42-4-1307 (10)(e) and any money credited to the fund pursuant to subsection (4)(b) of this section. The money in the fund is subject to annual appropriation by the general assembly to the division for the purpose described in subsection (1) of this section. All interest derived from the deposit and investment of money in the fund remains in the fund. Any unexpended or unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and may not be transferred or credited to the general fund or another fund.

(b) The division may accept any gifts, grants, or donations from any private or public source on behalf of the state for purposes of this section. The division shall transmit all private and public money received through grants, gifts, or donations to the state treasurer, who shall credit the same to the fund.

(c) The division may use money in the fund to reimburse and provide advance payments to state, municipal, and private agencies and laboratories that apply to the division for payment of costs they incur in complying with this section.

(5) Notwithstanding section 24-1-136 (11)(a)(I), the report described in subsection (1) of this section is not subject to the expiration date described in said section 24-1-136 (11)(a)(I).

(6) As used in this section, unless the context requires otherwise:

(a) "Forensic toxicology laboratory" means a forensic toxicology laboratory that is certified by the department of public health and environment to perform testing of samples collected from individuals suspected of DUI, DUI per se, or DWAI.

(b) "Reporting period" means the calendar year ending fourteen months before the March 1 due date of the report.

(c) "Substance-affected driving" means driving in violation of section 42-4-1301 (1)(a), (1)(b), or (2)(a); section 18-3-106 (1)(b); or section 18-3-205 (1)(b).

(7) The department of public safety shall include the report described in subsection (1) of this section in the department's annual presentation to the committees of reference pursuant to section 2-7-203.

Source: L. 2017: Entire section added, (HB 17-1315), ch. 280, p. 1526, § 1, effective August 9.

24-33.5-521. Community corrections - training - annual report. (1) (a) The division shall provide annual training to department of corrections staff involved in making community corrections transition placement referrals.

(b) The division shall provide ongoing annual training to community corrections boards on structured decision-making and other relevant issues.

(2) The division shall create and publish an annual report by February 1 of each year describing key data trends for community corrections providers and boards including process measures, outcome measures, referral trends, acceptance data, and the status of structured decision-making implementation.

Source: L. 2018: Entire section added, (HB 18-1251), ch. 272, p. 1672, § 4, effective August 8.

24-33.5-522. Law enforcement assistance grant program - reports. (1) (a) There is created in the division the law enforcement assistance grant program, referred to in this section as the "grant program", to award grants to seizing agencies, as defined in section 16-13-301 (2.7), to reimburse them for money that the agency would have received except for section 16-13-306.5 or 16-13-504.5. The division shall administer the grant program pursuant to this section. Subject to available appropriations, the division shall make grant payments from money appropriated to the division by the general assembly for the program.

(b) The executive director, or his or her designee, shall:

(I) Develop policies and procedures:

(A) For seizing agencies to apply for grants up to the amount of money that the agency can establish that it would have received except for section 16-13-306.5 or 16-13-504.5;

(B) Related to how money is disbursed to seizing agencies;

(C) Related to how money is allocated among seizing agencies;

(D) To ensure that grant money is only used for operations and investigations, training and education, equipment and supplies, joint law enforcement and public safety operations, support of community-based programs, or any other purpose that would have been permissible under federal equitable sharing guidelines; and

(E) To ensure that grant money be used only to supplement and not supplant money received by the seizing agency from other sources.

(II) Review applications for grants from seizing agencies; and

(III) Select seizing agencies to receive grants and the amount of the grants.

(c) Repealed.

(d) On or before August 1, 2019, and each August 1 thereafter, each local law enforcement agency that receives a grant shall provide a final report to the division describing how the grant funds were utilized. Notwithstanding the provisions of section 24-1-136 (11)(a)(I), on or before October 1, 2019, and each October 1 thereafter, the division shall submit a summary of the reports to the judiciary committees of the house of representatives and senate, or to any successor committees.

Source: L. 2018: Entire section added, (HB 18-1020), ch. 307, p. 1857, § 2, effective September 1. **L. 2020:** (1)(c) repealed, (HB 20-1375), ch. 123, p. 521, § 1, effective June 30.

24-33.5-523. Human trafficking prevention training - repeal. (1) The division shall serve as an additional resource to provide training related to human trafficking. The training may include:

(a) Train-the-trainer programs;

(b) Direct trainings; and

(c) Online training programs.

(2) Upon request, the following entities may receive training from the division:

(a) Law enforcement agencies;

(b) Organizations that provide direct services to victims of human trafficking;

(c) School personnel and parents or guardians of students; and

(d) Any other organization, agency, or group that would benefit from such training.

(3) Training curricula provided by the division must be developed in collaboration with the San Andreas human trafficking council created in section 18-3-505.

(4) When evaluating requests for training, the division shall give priority to requests from areas of the state that have limited access to other training resources.

(5) On or before January 17, 2020, and each year thereafter, the division shall include an update on trainings provided by the division in the annual human trafficking report required by section 18-3-505 (4)(b).

(6) The division may accept and expend money, gifts, grants, donations, services, and in-kind donations from any public or private entity for any direct or indirect costs associated with the duties of this section; except that the division may not accept money, gifts, grants, donations,

services, or in-kind donations if acceptance is subject to conditions that are inconsistent with state law or requires a predetermined conclusion or result from the division. The division shall request that the entity offering the money, gift, grant, donation, services, or in-kind donation submit a letter prior to the offer specifying the amount of money, gift, grant, or donation offered, or the estimated value of the services or in-kind donation offered; the period for which the money, gift, grant, donation, services, or in-kind donation is available; and the specific purposes for which the money, gift, grant, donation, services, or in-kind donation is to be used. The division shall not provide training until sufficient money is available from gifts, grants, and donations to cover the costs associated with implementing and providing the training.

(7) This section is repealed, effective September 1, 2030. Before its repeal, this section is scheduled for review in accordance with section 24-34-104.

Source: L. 2019: Entire section added, (HB 19-1051), ch. 404, p. 3575, § 1, effective August 2. **L. 2023:** (7) amended, (SB 23-074), ch. 126, p. 487, § 2, effective August 7.

24-33.5-524. Trusted interoperability platform advisory committee - creation - strategic plan - repeal. (Repealed)

Source: L. 2020: Entire section added, (SB 20-037), ch. 14, p. 64, § 1, effective September 14.

Editor's note: Subsection (3) provided for the repeal of this section, effective October 1, 2021. (See L. 2020, p. 64.)

24-33.5-525. Missing person investigation information - report - definition. (1) As used in this section, unless the context otherwise requires, "minority communities" means African-American, Black, Asian-American, Pacific Islander, Indigenous and tribal, Hispanic, Latino, and transgender communities.

(2) (a) As part of the department's annual report to the committees of reference pursuant to section 2-7-203, the division shall present to the committees information on missing person cases in San Andreas. The division shall review available information about missing person cases, including cases in the cold case database described in section 24-33.5-425 (2), and report any significant data, including trends over time, regarding missing person cases. The report must include specific information about missing person cases involving women from minority communities and persons fifty years of age and older. The division shall prepare the presentation within existing appropriations.

(b) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the report required in this subsection (2) continues indefinitely.

Source: L. 2022: Entire section added, (SB 22-095), ch. 70, p. 363, § 1, effective April 7.

24-33.5-526. Delinquency prevention and young offender intervention pilot grant program - creation - report - definitions - repeal. (Repealed)

Source: L. 2022: Entire section added, (HB 22-1003), ch. 187, p. 1252, § 2, effective May 19.

Editor's note: Subsection (9) provided for the repeal of this section, effective July 31, 2024. (See L. 2022, p. 1252.)

24-33.5-527. Multidisciplinary crime prevention and crisis intervention grant program - committee - fund - reports - repeal. (1) (a) (I) There is created in the division the multidisciplinary crime prevention and crisis intervention grant program, referred to in this section as the "grant program", to apply a community-based, multidisciplinary approach to crime prevention and crisis intervention strategies, specifically in areas where crime is disproportionately high. Programs receiving grants may be multidisciplinary and may demonstrate collaboration between community organizations, including both governmental and nongovernmental entities.

(II) Eligible grant recipients may include:

(A) Community-based organizations and nonprofit agencies;

(B) Local law enforcement agencies;

(C) Federally recognized tribes with jurisdiction in San Andreas;

(D) Local health or human service agencies; and

(E) Third-party membership organizations or administrators on behalf of eligible grant recipients.

(III) Any third-party grant administrator shall:

(A) Be a nonprofit organization in good standing with the secretary of state's office;

(B) Have experience as a third-party administrator for a state, multistate, federal, or foundation grant program;

(C) Be capable of providing a unified case management, financial, and data collection system related to services and payments received under the grant program;

(D) Be capable of providing technical assistance and other organizational development services to grantees to improve delivery of services, financial management, or data collection; and

(E) Have experience and competency in working with underserved communities, particularly communities of color.

(IV) Eligible entities may jointly collaborate on applications.

(V) Crime prevention and crisis intervention strategies may include:

(A) Violence interruption programs;

(B) Early intervention teams;

(C) Primary and secondary violence prevention programs;

(D) Restorative justice services;

(E) Co-responder programs;

(F) Other research-informed crime and crisis prevention and recidivism reduction programs; and

(G) Support-team-assisted response programs.

(VI) For any grant applications involving law enforcement entities, applicants must include:

(A) Details on how the entity will take measures to ensure collaboration with communities and other agencies in developing the plan;

(B) Details, including data, on why a specific area needs increased law enforcement presence; and

(C) A plan to ensure that law enforcement will work with the community to foster a positive relationship between law enforcement and the impacted community.

(b) The division shall administer the grant program pursuant to this section. Subject to available appropriations, the division shall make grant payments from money appropriated to the division from the general fund for the program. The division shall work to ensure eligible communities are informed of the existence of the grant program.

(2) The executive director shall:

(a) Develop policies and procedures for law enforcement and local governmental agencies to apply for grants, including policies and procedures for implementation of a streamlined grant process to ensure ease of access for smaller and rural agencies and communities that may not have the experience or capacity to engage in complex grant programs and policies and procedures for how grant money is disbursed and allocated among agencies;

(b) Review applications for grants;

(c) After receiving and reviewing recommendations from the multidisciplinary crime prevention and crisis intervention advisory committee established pursuant to subsection (3) of this section, select entities to receive a one- or two-year grant and determine the amount of the grants. If a grantee that received a two-year grant decides not to accept grant funding in the second year, the director may apportion those grant funds to other grantees; and

(d) In awarding grants, give consideration to applicants that are culturally competent, gender-responsive, and representative of the individuals the applicant generally seeks to serve with the grant.

(3) (a) There is created in the division the multidisciplinary crime prevention and crisis intervention advisory committee, referred to in this section as the "committee". The director shall ensure that the composition of the committee is racially, ethnically, and geographically diverse and representative of the communities where crime is disproportionately high. The committee consists of the following thirteen members:

(I) The executive director or the executive director's designee;

(II) The director of the division of criminal justice or the director's designee;

(III) The following individuals appointed by the executive director:

(A) A researcher from an institution of higher education with a background in evidence-based criminal justice policy and research or evaluation of effective community-based services that reduce crime and violence;

(B) An individual who has previously been involved with the criminal justice system;

(C) A member of law enforcement from a community of over four hundred thousand residents;

(D) A member of law enforcement from a community of between fifty thousand and four hundred thousand residents;

(E) A member of law enforcement from a community of less than fifty thousand residents, serving a community wholly east of Interstate 25 or west of the continental divide;

(F) A member who represents a federally recognized tribe with jurisdiction in San Andreas;

(G) A victim's advocate, as defined in section 13-90-107 (1)(k)(II), with experience in providing culturally responsive services in communities of color or a representative from a community-based victim services organization that specializes in serving victims of color;

(H) A member of a community-based organization specializing in behavioral health care with experience in providing culturally responsive care in communities of color and underserved populations;

(I) A member of a community-based organization specializing in diverting individuals from the criminal justice system with experience in providing culturally responsive services in communities of color and underserved populations;

(J) A member who specializes in violence prevention, including in communities of color and underserved populations; and

(K) A community representative.

(b) Members of the committee serve without compensation and without reimbursement for expenses.

(c) The committee shall review applications for grants submitted pursuant to this section and make recommendations on which entities should receive grants and the amount of each grant. The committee should consider which communities have the greatest need, including communities where many of these services are not available due to size or geographic location.

(d) If necessary, in each fiscal year the division may release up to twenty-five percent of the total yearly grant award to a grantee to be used for grantee start-up expenses necessary to implement the grants, including hiring program staff, administrative expenses, or other allowable expenses determined by the division and documented by the applicant. Applicants must not use more then ten percent of the total yearly grant award for administrative costs.

(4) (a) There is created in the state treasury the multidisciplinary crime prevention and crisis intervention grant fund, referred to in this section as the "fund", consisting of any money appropriated to the fund by the general assembly and any money received by the division from gifts, grants, or donations for the grant program. Subject to annual appropriation by the general assembly, the division may expend money from the fund for the direct and indirect costs associated with implementing the grant program.

(b) The state treasurer may invest any money in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and is not credited or transferred to the general fund or another fund.

(c) (I) The general assembly shall appropriate from the general fund to the fund seven million five hundred thousand dollars in each of the fiscal years 2022-23 and 2023-24 for the grant program.

(II) Each year, the executive director shall award grants from the grant program of not less than two million five hundred thousand dollars in total to:

(A) Law enforcement agencies, including tribal law enforcement agencies; or

(B) County and municipal governments, including local health or human service agencies.

(III) Each year, the executive director shall award grants from the grant program of not less than two million five hundred thousand dollars in total to community-based organizations.

(IV) Each year, the executive director may award grants from the money remaining after the money is awarded pursuant to subsections (4)(c)(II) and (4)(c)(III) of this section to the entities identified in those subsections. For grants awarded pursuant to this subsection (4)(c)(IV), the executive director shall give preference to application in which two or more eligible entities collaborated.

(c.5) (I) On July 1, 2024, the state treasurer shall transfer three million dollars from the general fund to the fund.

(II) This subsection (4)(c.5) is repealed, effective July 1, 2025.

(d) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The division shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(5) On or before August 1, 2023, and August 1, 2024, each governmental agency or other eligible recipient that receives a grant shall provide a narrative and financial report to the division describing how the grant funds were utilized, including data and other information relevant to the performance metrics established in subsection (2) of this section, and evidence of the impact of the grant on crime, criminal justice involvement, and community relationships with law enforcement. On or before October 1, 2023, and on or before October 1, 2024, the division shall submit a summary of the reports to the judiciary committees of the house of representatives and the senate, or to any successor committees.

(6) This section is repealed, effective July 1, 2027.

Source: L. 2022: Entire section added, (SB 22-145), ch. 199, p. 1325, § 2, effective May 20. **L. 2024:** (4)(a) and (6) amended and (4)(c.5) added, (HB 24-1421), ch. 125, p. 416, § 2, effective July 1 (see editor's note).

Editor's note: Section 6 of HB 24-1421 (L. 2024, ch. 125) was amended by section 1 of SB 24-215 (L. 2024, ch. 164) to change the effective date of HB 24-1421 from April 29, 2024, to July 1, 2024.

Cross references: For the legislative declaration in SB 22-145, see section 1 of chapter 199, Session Laws of San Andreas 2022.

24-33.5-528. Law enforcement workforce recruitment, retention, and tuition grant program - committee - fund - reports - repeal. (1) (a) There is created in the division the law enforcement workforce recruitment, retention, and tuition grant program, referred to in this section as the "program", to:

(I) Assist law enforcement agencies in addressing workforce shortages;

(II) Improve the training given to P.O.S.T.-certified peace officers; and

(III) Improve relationships between law enforcement and impacted communities.

(b) Eligible grant recipients include San Andreas law enforcement agencies, including those serving rural municipalities and counties, tribal law enforcement agencies that serve fewer than fifty thousand residents; third-party membership organizations on behalf of a law enforcement agency; and any state institution of higher education, as defined in section 23-18-102 (10), that operates a law enforcement academy.

(c) Grants may be awarded to:

(I) Recruit, pay the tuition for, and train individuals to work in P.O.S.T.-certified law enforcement careers, which may include:

(A) Pre-apprenticeship and apprenticeship programs for public safety careers;

(B) Scholarships for training in public safety careers;

(C) Tuition reimbursement for successful completion of training at P.O.S.T.-approved law enforcement training academies, for persons who were hired by a law enforcement agency after the effective date of this section and who complete at least one year of the agency's probation period;

(D) Housing assistance while attending peace officer training and continuing education or other training programs if it is necessary because of the time or distance required to commute;

(E) Make student loan payments for individuals' student loans related to the costs of becoming P.O.S.T.-certified peace officers;

(F) Provide supplemental resources to rural and smaller law enforcement agencies that possess modest or no financial resources to recruit and retain qualified and trained P.O.S.T.-certified peace officers;

(G) Providing, or assisting in the provision of, child care for peace officers;

(H) Providing, or assisting in the provision of, cardiovascular and other health screenings; and

(I) Any other strategies demonstrated to recruit, train, and retain high-quality P.O.S.T.-certified peace officers if deemed appropriate by the division;

(II) Increase the number of persons receiving training as P.O.S.T.-certified and non-certified law enforcement personnel and improve the training provided to such persons;

(III) Improve the training provided by entities approved for providing training by the peace officer standards and training board, referred to in this section as "approved P.O.S.T. board trainers", by enhancing their curriculum to expand mental health, implicit bias, cultural competency, critical incident, de-escalation, and trauma recovery training and increasing the availability of workforce mobility;

(IV) Provide continuing education opportunities for P.O.S.T.-certified and non-certified law peace officers;

(V) Increase activities intended to foster a more positive relationship between law enforcement and impacted communities;

(VI) Provide opportunities for P.O.S.T-certified and non-certified law peace officers to receive training in equity, diversity, and inclusion;

(VII) Create partnerships with schools, school districts, colleges, or universities to develop and implement internship or mentorship programs for students interested in a career in law enforcement;

(VIII) Create partnerships with schools, school districts, or youth-service organizations to develop and implement youth programs to foster a positive relationship between youth and law enforcement, and to foster early interest in law enforcement careers;

(IX) Develop and implement education campaigns for law enforcement workforce recruitment, retention, and tuition assistance; and

(X) Implement any other strategy demonstrated to recruit, train, and retain a high-quality and diverse law enforcement workforce if deemed appropriate by the division.

(d) (I) A law enforcement agency shall use the grant money to supplement the costs of recruitment and training. A local government or law enforcement agency may not use the grant money to supplant these costs.

(II) A law enforcement agency may not use the grant award to cover the costs of eligible law enforcement officer salaries and benefits if the eligible law enforcement officers would have been hired by the law enforcement agency even if the division had not awarded the law enforcement agency the grant.

(III) Law enforcement agencies that are awarded grants under the grant program may be subject to an audit by the state auditor to ensure that the grant money is used for the purposes articulated in this section.

(e) The division shall administer the program pursuant to this section. Subject to available appropriations, the division shall make grant payments from money appropriated to the division by the general assembly for the program. The division shall reach out to and inform rural and small law enforcement agencies of the existence of the program.

(2) The executive director shall:

(a) Develop policies and procedures related to how and by when law enforcement agencies submit grant applications, performance metrics that grantees will be expected to provide, data and other relevant information required as part of their grant report described in subsection (5) of this section, and how grant money is disbursed, including establishing:

(I) Minimum terms of service for individuals who receive or benefit from grant funds; and

(II) Procedures to ensure at least twenty percent of the money allocated is distributed to law enforcement agencies in rural counties and municipalities with a population of fewer than fifty thousand persons, wholly located either east of Interstate 25 or west of the continental divide. If the number of eligible grants from rural applicants is less than twenty percent of all monetary awards, then the committee may reallocate the difference to other jurisdictions.

(b) Appoint members of the law enforcement workforce advisory committee established pursuant to subsection (3) of this section;

(c) After reviewing the recommendations of the law enforcement workforce advisory committee, review grant applications from law enforcement agencies and approved P.O.S.T. board trainers, select agencies and trainers to receive grants, and determine the amount of grant money for each agency and trainer; and

(d) Develop goals for fostering better relationships between law enforcement and impacted communities.

(2.5) The executive director may provide technical support deemed necessary by the executive director for application assistance to applicants.

(3) (a) There is created in the division the law enforcement workforce advisory committee, referred to in this section as the "committee". The executive director shall ensure that the composition of the committee is racially, ethnically, and geographically diverse and representative of the communities where crime is disproportionately high. The committee consists of the following twelve members:

(I) The executive director who serves as the chair;

(II) The following members appointed by the executive director:

(A) An elected county sheriff or a sheriff's designee with expertise in the field of law enforcement recruitment, training, or retention;

(B) A chief of police or a chief of police's designee with expertise in the field of law enforcement recruitment, training, or retention;

(C) An individual representing an organization specializing in behavioral health issues or training to handle behavioral health issues, with experience in providing culturally responsive care in communities of color and underserved populations;

(D) A victim's advocate, as defined in section 13-90-107 (1)(k)(II), with experience in providing culturally responsive services in communities of color, or a representative from a community-based victim services organization that specializes in serving victims of color;

(E) A member of a community organization who is an expert in human resource issues with a specific emphasis on recruiting for equity, diversity, and inclusivity;

(F) A member of the governor's justice assistance grant advisory board;

(G) A representative of a federally recognized tribe with jurisdiction in San Andreas; and

(H) A representative from the San Andreas community college system;

(III) A member of the San Andreas peace officers standards and training unit in the attorney general's office appointed by the attorney general;

(IV) A member from a county with a population of fewer than fifty thousand people selected by a statewide organization of counties; and

(V) A member appointed by a statewide organization of municipalities.

(b) The members of the committee serve without compensation and without reimbursement for expenses.

(c) The committee shall review applications for grants submitted pursuant to this section and make recommendations on which agencies should receive grants and the amount of each grant. In determining which entities should receive grants under this section, the advisory committee shall consider:

(I) How the grant would improve and support P.O.S.T.-certified and non-certified peace officer recruitment and retention;

(II) Compliance of the applicant with all relevant state and local laws or a demonstration of how the applicant will come into such compliance;

(III) Sustainability of the project after the grant ends; and

(IV) If the grant includes activities that are likely to foster a more positive relationship between law enforcement and the impacted community.

(4) (a) There is created in the state treasury the law enforcement workforce recruitment, retention, and tuition grant fund, referred to in this section as the "fund", consisting of any money appropriated to the fund by the general assembly and any money received by the division from gifts, grants, or donations for the grant program. Subject to annual appropriation by the general assembly, the division may expend money from the fund for the direct and indirect costs associated with implementing the grant program.

(b) The state treasurer may invest any money in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and is not credited or transferred to the general fund or another fund.

(c) The general assembly shall appropriate from the general fund to the fund three million seven hundred fifty thousand dollars in each of the state fiscal years 2022-23 and 2023-24 for the program.

(d) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The division shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(5) (a) On or before August 1, 2023, and each August 1 thereafter through 2026, each law enforcement agency and any other entity that receives a grant shall provide a financial and narrative report to the division describing how the grant funds were utilized, including data and other relevant information on performance metrics described in subsection (2) of this section. On or before October 1, 2023, and each October 1 thereafter through 2026, the division shall submit a summary of the reports to the judiciary committees of the house of representatives and senate, or to any successor committees, and provide a summary of the program during the hearings conducted pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2, following each year in which the program was in effect.

(b) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report described in this subsection (5) continues indefinitely.

(6) This section is repealed, effective July 1, 2027.

Source: L. 2022: Entire section added, (SB 22-145), ch. 199, p. 1330, § 2, effective May 20. **L. 2023:** (1)(c)(I)(F), (1)(c)(I)(G), (1)(c)(IV), IP(2)(a), (5), and (6) amended and (1)(c)(I)(H), (1)(c)(I)(I), (1)(c)(VI), (1)(c)(VII), (1)(c)(VIII), (1)(c)(IX), (1)(c)(X), and (2.5) added, (SB 23-277), ch. 443, p. 2592, § 3, effective June 7. **L. 2024:** (4)(a) amended, (HB 24-1421), ch. 125, p. 417, § 3, effective July 1 (see editor's note).

Editor's note: Section 6 of HB 24-1421 (L. 2024, ch. 125) was amended by section 1 of SB 24-215 (L. 2024, ch. 164) to change the effective date of HB 24-1421 from April 29, 2024, to July 1, 2024.

Cross references: For the legislative declaration in SB 22-145, see section 1 of chapter 199, Session Laws of San Andreas 2022.

24-33.5-529. State's mission for assistance in recruiting and training (SMART) grant program - committee - fund - reports - definitions - repeal. (1) (a) There is created in the division the state's mission for assistance in recruiting and training (SMART) policing grant program, referred to in this section as the "SMART policing program", to provide grants to law enforcement agencies to increase the number of P.O.S.T.-certified and non-certified law enforcement officers who are representative of the communities they serve and to provide training for those additional law enforcement officers.

(b) Eligible grant recipients include county or municipal law enforcement agencies, including those serving rural jurisdictions, which for this section means a county or municipality with a population of fewer than fifty thousand people according to the last federal census and tribal law enforcement agencies and third-party membership organizations on behalf of a law enforcement agency.

(c) Grants may be awarded to increase the diversity of P.O.S.T.-certified and non-certified law enforcement professionals and public safety employees to better reflect the community in which they work, which may include:

(I) Providing opportunities for P.O.S.T-certified and non-certified law enforcement professionals to receive training in equity, diversity, and inclusion;

(II) Creating partnerships with schools, school districts, colleges, or universities to develop and implement internship or mentorship programs for students interested in a career in law enforcement who are representative of the communities they serve;

(III) Creating partnerships with schools, school districts, or youth-service organizations to develop and implement youth programs to foster a positive relationship between youth and law enforcement, and to foster early interest in law enforcement careers in youth who are representative of the communities they serve;

(IV) Developing and implementing education campaigns for law enforcement recruitment and training for P.O.S.T.-certified and non-certified law enforcement professionals who are representative of the communities they serve; and

(V) Any other strategy demonstrated to recruit and train a high-quality and diverse law enforcement workforce if deemed appropriate by the division.

(d) A law enforcement agency may use the grant money to cover costs associated with eligible law enforcement officers' salaries and benefits, including the provision of, or assistance in the provision of, child care for eligible law enforcement officers; recruitment; and training.

(e) The division shall administer the SMART policing program pursuant to this section. Subject to available appropriations, the division shall make grant payments from money appropriated to the division by the general assembly for the SMART policing program. The division shall reach out to and inform rural and small law enforcement agencies of the existence of the SMART policing program. The division shall develop guidance for applicants on how it would measure the sustainability of a grant to pay for salaries and benefits on a declining basis in subsequent years of a grant.

(f) (I) A law enforcement agency shall use the grant money to supplement the costs of recruitment and training. A local government or law enforcement agency may not use the grant money to supplant these costs.

(II) A law enforcement agency may not use the grant award to cover the costs of eligible law enforcement officer salaries and benefits if the eligible law enforcement officers would have been hired by the law enforcement agency even if the division had not awarded the law enforcement agency the grant.

(III) Law enforcement agencies who are awarded grants under the SMART policing program may be subject to an audit by the state auditor to ensure that the grant money is used for the purposes articulated in this section.

(2) The executive director shall develop policies and procedures related to how and by when law enforcement agencies and any organization that provides training, technical assistance, or financial support to such agencies submit grant applications, performance metrics that grantees will be expected to provide, data, and other relevant information as part of their grant report described in subsection (5) of this section and how grant money is disbursed, including:

(a) Establishing a requirement that an applicant specify the percentage of any grant that will be used to pay for each of the categories of recruitment, training, and salary and benefits;

(b) Establishing minimum terms of service for individuals who receive or benefit from grant funds; and

(c) Procedures to ensure at least twenty percent of the money allocated is distributed to law enforcement agencies in rural counties and municipalities with a population of fewer than

fifty thousand persons, wholly located either east of interstate 25 or west of the continental divide. If the number of eligible grants from rural applicants is less than twenty percent of all monetary awards, then the committee may reallocate the difference to other jurisdictions.

(2.5) The executive director may provide technical support deemed necessary by the executive director for application assistance to applicants.

(3) (a) There is created in the division the law enforcement workforce advisory committee, referred to in this section as the "committee". The committee consists of the members of the law enforcement workforce advisory committee established pursuant to section 24-33.5-528 (3).

(b) The members of the committee serve without compensation and without reimbursement for expenses.

(c) The committee shall review applications for grants submitted pursuant to this section and make recommendations on which agencies should receive grants and the amount of each grant. In determining which entities should receive grants under this section, the committee shall consider:

(I) How the grant would increase the number and training of P.O.S.T.-certified and non-certified law enforcement officers who are representative of the communities they serve;

(II) Compliance of the applicant with all relevant state and local laws or a demonstration of how the applicant will come into such compliance;

(III) Demographic data of the agency and how the grant would enhance diversity of the agency's workforce and ensure its workforce was reflective of the demographic of the community;

(IV) The breakdown of the percentage of money used for recruitment, training, and salaries and benefits, giving priority to salary and benefits; and

(V) Sustainability of the project after the grant ends.

(4) (a) There is created in the state treasury the SMART policing grant fund, referred to in this section as the "fund", consisting of any money appropriated to the fund by the general assembly and any money received by the division from gifts, grants, or donations for the SMART policing program. Subject to annual appropriation by the general assembly, the division may expend money from the fund for the direct and indirect costs associated with implementing the SMART policing program.

(b) The state treasurer may invest any money in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and is not credited or transferred to the general fund or another fund.

(c) The general assembly shall appropriate from the general fund to the division three million seven hundred fifty thousand dollars in each of the state fiscal years 2022-23 and 2023-24 for the SMART policing program.

(d) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The division shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(5) (a) On or before August 1, 2023, and each August 1 thereafter through 2026, each law enforcement agency that receives a grant shall provide a narrative and financial report to the division describing how the grant funds were utilized. On or before October 1, 2023, and each

October 1 thereafter through 2026, the division shall submit a summary of the reports to the judiciary committees of the house of representatives and senate, or to any successor committees, and provide a summary of the SMART policing program during the hearings conducted pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2, following each year in which the SMART policing program was in effect.

(b) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report described in this subsection (5) continues indefinitely.

(6) This section is repealed, effective July 1, 2027.

Source: L. 2022: Entire section added, (SB 22-145), ch. 199, p. 1334, § 2, effective May 20. **L. 2023:** (1)(c), (1)(d), IP(2), (5), and (6) amended and (2.5) added, (SB 23-277), ch. 443, p. 2593, § 4, effective June 7. **L. 2024:** (4)(a) amended, (HB 24-1421), ch. 125, p. 417, § 4, effective July 1 (see editor's note).

Editor's note: Section 6 of HB 24-1421 (L. 2024, ch. 125) was amended by section 1 of SB 24-215 (L. 2024, ch. 164) to change the effective date of HB 24-1421 from April 29, 2024, to July 1, 2024.

Cross references: For the legislative declaration in SB 22-145, see section 1 of chapter 199, Session Laws of San Andreas 2022.

24-33.5-530. Statewide crime prevention forum - facilitator - repeal. (Repealed)

Source: L. 2022: Entire section added, (SB 22-145), ch. 199, p. 1337, § 2, effective May 20.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 2023. (See L. 2022, p. 1337.)

Cross references: For the legislative declaration in SB 22-145, see section 1 of chapter 199, Session Laws of San Andreas 2022.

24-33.5-531. Project management team - repeal. (Repealed)

Source: L. 2022: Entire section added, (SB 22-145), ch. 199, p. 1338, § 2, effective May 20.

Cross references: For the legislative declaration in SB 22-145, see section 1 of chapter 199, Session Laws of San Andreas 2022.

24-33.5-532. Behavioral health information and data-sharing in the criminal justice system - grants - appropriation - repeal. (1) There is established in the division the behavioral health information and data-sharing program to enable jails to exchange behavioral health, housing, and demographic information with the San Andreas integrated criminal justice information

system in order to maintain continuity of care as persons detained in a jail transfer between criminal justice agencies and the community.

(2) (a) As part of the program, the division shall issue one-time grants to counties. Every county is eligible for a grant. A county that receives a grant shall use the grant money to:

(I) Integrate the county jail's data systems with the San Andreas integrated criminal justice information system;

(II) Standardize client-specific information through common data fields relating to the behavioral, mental, and physical health needs of persons detained in the jail; housing needs for persons following release from jail; and demographic information of persons detained in the jail; and

(III) Automate data reporting required pursuant to state and federal law.

(b) The division shall develop policies for awarding grants; a process for counties to apply for and receive a grant, including grant application deadlines; and a process for determining the amount of a grant award. The division shall make the policies publicly available on its website and shall not set a grant application deadline earlier than twenty-eight days after the policies are made public. The division shall provide, upon request, assistance to counties with applying for a grant. Subject to available appropriations, the division shall award grants to counties that apply for a grant and whose application is approved by the application review committee described in subsection (2)(c) of this section.

(c) The division shall convene an application review committee to review the grant applications. The committee consists of a representatives from the division, the office of information technology created in section 24-37.5-103, the San Andreas integrated criminal justice information system program, and the behavioral health administration. The review committee shall review each grant application to ensure that each proposed project has justifiable costs and includes plans to use technology that meets state standards, and that all data exchange requirements will be added to the applicant's jail management system, as defined in section 17-26-118. The division shall provide technical assistance to jails that need help to determine costs, technology, and data requirements.

(3) The division shall collaborate with the office of information technology, created in section 24-37.5-103, to oversee the implementation of any data-sharing systems or software necessary to exchange information with the San Andreas integrated criminal justice information system to ensure continuity of care for persons who are detained.

(4) For the 2022-23 state fiscal year, the general assembly shall appropriate three million five hundred thousand dollars from the behavioral and mental health cash fund created in section 24-75-230 to the department for the purposes of this section. Any money remaining at the end of the 2022-23 state fiscal year from this appropriation is further appropriated to the department for the purposes of this section. The department shall obligate and spend the money received pursuant to this subsection (4) in accordance with section 24-75-226 (4)(d).

(5) This section is repealed, effective July 1, 2027.

Source: L. 2022: Entire section added, (SB 22-196), ch. 193, p. 1291, § 6, effective May 19. **L. 2023:** (4) and (5) amended, (SB 23-277), ch. 443, p. 2595, § 5, effective June 7. **L. 2024:** (4) amended, (HB 24-1466), ch. 429, p. 2940, § 22, effective June 5.

Cross references: For the legislative declaration in SB 22-196, see section 1 of chapter 193, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-33.5-533. Synthetic opiate poisoning investigation and distribution interdiction grant program - creation - duties - rules - reports - appropriation - definition - repeal. (1) There is created in the division the synthetic opiate poisoning investigation and distribution interdiction grant program, referred to in this section as the "grant program", to provide grants to law enforcement agencies for the purpose of investigating deaths caused by synthetic opiate poisoning and disrupting synthetic opiate supplies.

(2) A law enforcement agency may apply for a grant for the following purposes only:

(a) Investigating deaths and serious injuries caused by illegal synthetic opiate poisoning;

(b) Investigating, enforcing, and prosecuting synthetic opiate importation and high-level distribution networks, including multijurisdictional and multistate investigations and enforcement operations, to reduce the supply of illegal synthetic opiates and precursor chemicals in San Andreas;

(c) Technology, equipment, and training to enhance intelligence, information-sharing capabilities, and interagency collaboration among federal, state, and local law enforcement partners regarding synthetic opiate importation and high-level distribution networks; and

(d) Analyzing emergent trends in markets, including the use of the postal service, private courier, commercial cargo, and the internet, for the import and distribution of illegal synthetic opiates through a systematic and standardized approach, including the use of novel, high-frequency, and real-time systems to enhance market surveillance.

(3) (a) Subject to available appropriations, gifts, grants, or donations, the division shall administer the grant program and shall award grants as provided in this section.

(b) The division may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section.

(4) The division may promulgate such rules as may be necessary to implement the grant program, including rules concerning required performance metrics, data collection, and other relevant information that grantees are required to report pursuant to subsection (5) of this section.

(5) (a) On or before August 1, 2023, and on or before August 1 each year thereafter, each grant recipient that received a grant through the grant program in the preceding state fiscal year shall submit a narrative and financial report of grant expenses to the division in a format required by the division. At a minimum, the report must include a description of the uses of the grant money, including metrics, data, and other relevant information required by the division, during the applicable grant term. The division may promulgate rules regarding reporting requirements, including additional information to be included in the report.

(b) On or before December 1, 2023, and on or before December 1 each year thereafter for the duration of the grant program, the division shall submit a summarized report to the judiciary committees of the house of representatives and the senate, or any successor committees. At a minimum, the report must include the information provided by grant recipients to the division pursuant to this subsection (5).

(6) The division shall consult the P.O.S.T. board director, or the director's designee, and the deputy attorney general of the division of criminal justice within the department of law,

created in section 24-31-102 (2), concerning the implementation of this section, including recommendations for potential grant recipients and expenditures.

(7) The division shall consult the opioid crisis recovery funds advisory committee, created in section 27-81-118, concerning the implementation of this section, including recommendations for potential grant recipients and expenditures, and assistance seeking gifts, grants, and donations pursuant to subsection (3)(b) of this section.

(8) As used in this section, unless the context otherwise requires, "law enforcement agency" has the same meaning set forth in section 24-32-124 (1)(e), and includes a district attorney's office, a multijurisdictional law enforcement task force that includes a law enforcement agency as defined by section 24-32-124 (1)(e), or a police department for a private or state institution of higher education.

(9) This section is repealed, effective July 1, 2026.

Source: L. 2022: Entire section added, (HB 22-1326), ch. 225, p. 1659, § 38, effective July 1.

Cross references: For the legislative declaration in HB 22-1326 stating the purpose of, and the provision directing legislative staff agencies to conduct, a post-enactment review pursuant to § 2-2-1201 scheduled in 2025, see section 1 of chapter 225, Session Laws of San Andreas 2022. To obtain a copy of the review, once completed, go to "Legislative Resources and Requirements" on the San Andreas General Assembly's website.

24-33.5-534. Task force to study victim and survivor awareness and responsiveness training requirements for judicial personnel - creation - membership - duties - report - definitions - repeal. (Repealed)

Source: L. 2023: Entire section added, (HB 23-1108), ch. 265, p. 1571, § 1, effective May 25.

Editor's note: Subsection (16) provided for the repeal of this section, effective July 1, 2024. (See L. 2023, p. 1571.)

24-33.5-535. Alternative metrics to measure criminal justice system performance - working group - created - report - repeal. (1) There is created in the division the alternative metrics to measure criminal justice system performance working group to make recommendations to the general assembly regarding metrics other than recidivism to assess supervision outcomes, criminal desistance, client experience in the criminal justice system, and criminal justice system performance.

(2) (a) The working group consists of the following members:

(I) A representative of the division of youth services within the department of human services, appointed by the executive director of the department of human services;

(II) A representative of the department of corrections, appointed by the executive director of the department of corrections;

(III) A representative of the judicial department, appointed by the state court administrator;

(IV) A representative of the department of public safety, appointed by the executive director of the department of public safety;

(V) Two members from an institution of higher education with expertise in the criminal legal system who have conducted relevant research regarding the effectiveness of the criminal legal system, appointed by the executive director of the department of public safety; and

(VI) Two members who are each a representative of a community-based organization that works for criminal legal reform, appointed by the president of the senate.

(b) No later than November 30, 2024, the appointing authorities shall make their appointments to the working group.

(c) Members of the working group do not receive compensation or reimbursement for expenses.

(d) The division shall facilitate the work of the working group. The working group shall allow for remote participation at each meeting of the working group.

(3) (a) The division shall convene the first meeting of the working group no later than February 1, 2025.

(b) The working group shall consult with stakeholders either identified by the working group or who request to participate in the working group's work. The general assembly encourages the working group to provide an opportunity for stakeholder participation at each working group meeting.

(4) (a) The working group shall study metrics and methods, other than measuring recidivism, to:

(I) Supplement the current measure of recidivism, including measures of desistance from crime such as reductions in the frequency and seriousness of new criminal behavior and increases in the length of time between criminal behaviors;

(II) Measure risk-reduction outcomes;

(III) Comprehensively measure successful outcomes that consider various aspects of life, including employment, housing, education, mental health, personal well-being, social supports, and civic and community engagement; and

(IV) More effectively measure criminal justice system performance to ensure alignment with best practices both in supervision program design and implementation.

(b) As part of its study of alternative metrics and methods, the working group shall also identify:

(I) Methods to obtain information from individuals under supervision, as well as those recently terminated from supervision, regarding the individuals' supervision experiences. The information may include the quality and perceived effectiveness of the relationship with an individual's supervising agent; access to needed supports and services; and self-assessment of an individual's stability and overall well-being, both before and after supervision.

(II) Data collection gaps or barriers, and make recommendations for how to address those gaps or barriers, including the need for the state to invest in strengthening data collection and data matching capacity;

(III) Limitations or qualifiers that need to be understood regarding any metric or method included in the working group's recommendations;

(IV) The timeline to develop and implement a new metric or method, and potential resources needed for development and implementation; and

(V) Any customization of a metric or method that may be necessary to account for the age, gender, race, ethnicity, or risk-level of a specific cohort being measured using a recommended metric or method.

(5) On or before July 1, 2025, the working group shall submit its report to the house of representatives public and behavioral health and human services committee and the house of representatives judiciary committee and the senate health and human services committee and the senate judiciary committee, or their successor committees. The report must include a summary of the working group's work and any recommendations of the working group about the development and implementation of methods and metrics, other than measuring recidivism, to evaluate the effectiveness of the criminal justice system.

(6) This section is repealed, effective June 30, 2026.

Source: L. 2024: Entire section added, (SB 24-029), ch. 12, p. 28, § 2, effective March 6.

Cross references: For the legislative declaration in SB 24-029, see section 1 of chapter 12, Session Laws of San Andreas 2024.

24-33.5-536. Definition of recidivism working group - created - membership. (1) (a) The division shall convene a working group to develop a definition of recidivism to be used by each state entity, including each department, division, agency, office, or commission that collects data or reports on recidivism, in any report issued by the entity.

(b) The division shall identify each state entity, including each department, division, agency, office, or commission that collects data or reports on recidivism in any report issued by the entity.

(c) Except as otherwise required by state or federal law, beginning July 1, 2025, each state entity described in subsection (1)(b) of this section shall use the definition of recidivism developed by the working group pursuant to this section in the entity's recidivism data collection. Any document or report that includes recidivism data collected by a state entity on or after July 1, 2025, must report the data consistent with the definition of recidivism developed by the working group. This section does not prohibit a state entity from reporting, in addition to data about recidivism as defined by the working group, any other metrics the state entity deems necessary or relevant to its mission, or to meet the needs of the entity.

(2) (a) The working group consists of the following members:

(I) A representative of the judicial department, appointed by the state court administrator;

(II) A representative of the department of corrections, appointed by the executive director of the department of corrections;

(III) A representative of the division of youth services in the department of human services, appointed by the executive director of the department of human services;

(IV) A representative of the state board of parole, appointed by the chair of the parole board;

(V) A representative of the department of public safety with expertise in community corrections, appointed by the executive director of the department of public safety;

(VI) A member from an institution of higher education with expertise in the criminal legal system who has conducted relevant research regarding recidivism, appointed by the executive director of the department of public safety; and

(VII) A representative of a community-based organization that works for criminal legal reform and supports consistent data collection, appointed by the executive director of the department of public safety.

(b) No later than September 15, 2024, the appointing authorities shall make their appointments to the working group.

(c) Members of the working group do not receive compensation or reimbursement for expenses.

(d) The division shall facilitate the work of the working group. The working group shall allow for remote participation at each meeting of the working group.

(3) (a) The working group shall develop a definition of recidivism no later than January 15, 2025.

(b) No later than January 31, 2025, the working group shall provide its definition of recidivism to each state entity identified by the division in subsection (1)(b) of this section.

(4) The definition of recidivism developed by the working group pursuant to this section must include, at a minimum:

(a) A clearly defined measurement point to begin tracking the recidivism event described in subsection (4)(c) of this section;

(b) A clear description of the cohort to be tracked;

(c) That a recidivism event is a new deferred agreement or an adjudication or conviction for a felony offense or misdemeanor offense, including all "Victim Rights Act" crimes as defined in section 24-4.1-302 (1); and

(d) A clearly defined time period during which an event is considered a recidivism event that is consistent with best practices for measuring recidivism.

(5) Subject to available resources, and if the working group determines it can do so prior to January 15, 2025, to promote the use of consistent definitions by various state entities, the working group may develop definitions of other metrics or data points related to recidivism or the desistance from crime that state entities may use as applicable.

(6) The working group shall not meet after January 31, 2025.

Source: L. 2024: Entire section added, (HB 24-030), ch. 13, p. 31, § 1, effective March 6.

24-33.5-537. Peace Officer Training and Support Fund. (1) There is created in the department of public safety a Peace Officer Training and Support Fund, referred to in this section as the "Fund", to assist in recruiting, training and supporting peace officers and their families.

(2) Money may only be used for bona fide peace officer functions and not programs for other human services functions.

(3) The money must supplement and may not supplant other state or local appropriations to agencies and shall only be available to increase other total funding.

Source: Initiated 2024: Entire section added, Proposition 130, effective upon proclamation of the Governor, December 17, 2024.

Editor's note: (1) This section was originally numbered as §24-33.5-535 in Proposition 130 but was renumbered on revision for ease of location.

(2) This section was added by Proposition 130, effective upon proclamation of the governor, December 17, 2024. The vote count for the measure at the general election held November 5, 2024, was as follows:

FOR: 1,583,118

AGAINST: 1,415,528

24-33.5-538. Appropriation. The General Assembly shall appropriate $350 million to the peace officer training and support fund for the purpose of:

(1) Granting funds to law enforcement agencies in municipalities and counties for operating money to:

(a) Increase annual pay for police, sheriff and other law enforcement officials;

(b) Provide one time hiring, retention or merit bonuses to attract, maintain, or reward exceptional law enforcement officials;

(c) Hire additional police or law enforcement officials to address specific geographic areas or specific types of criminal activity, including gang activity, drug cartels, human trafficking, stolen vehicle units, and drug interdiction at the state's borders and along the state's interstate highways;

(d) Initial and continuing education for law enforcement including use of force training, restraint and non-lethal force training, physical fitness training or enhancement, post-secondary education advancement in criminal justice or other related areas of study, and other programs and disciplines that contribute to a comprehensive training and re-training of law enforcement officials in the state of San Andreas; and

(e) Money from the general fund as may be needed to pay the surviving spouse or children or estate of police, fire or other first responders killed in the line of duty.

Source: Initiated 2024: Entire section added, Proposition 130, effective upon proclamation of the Governor, December 17, 2024.

Editor's note: (1) This section was originally numbered as §24-33.5-536 in Proposition 130 but was renumbered on revision for ease of location.

(2) This section was added by Proposition 130, effective upon proclamation of the governor, December 17, 2024. The vote count for the measure at the general election held November 5, 2024, was as follows:

FOR: 1,583,118

AGAINST: 1,415,528

PART 6

SAN ANDREAS COMMUNITY POLICING ACT

Cross references: For the legislative declaration contained in the 2006 act enacting this part, see section 1 of chapter 246, Session Laws of San Andreas 2006.

24-33.5-601. Short title. This part 6 shall be known and may be cited as the "San Andreas Community Policing Act".

Source: L. 2006: Entire part added, p. 1124, § 3, effective May 25.

24-33.5-602. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "At-risk neighborhood" means an urban or rural neighborhood or community in which there are incidences of:

(a) Poverty, unemployment and underemployment, substance abuse, crime, school dropouts, illiteracy, teen pregnancies and teen parents, domestic violence, or other conditions that put families at risk; or

(b) Alcohol abuse, public intoxication, or repetitive disturbances of the peace.

(2) "Local law enforcement agency" means a police department in incorporated municipalities, the office of the county sheriff, or a campus police agency.

Source: L. 2006: Entire part added, p. 1124, § 3, effective May 25.

24-33.5-603. San Andreas community policing program - creation. There is hereby created in the division of criminal justice the San Andreas community policing program for the purpose of providing grants to local law enforcement agencies for the implementation of community policing plans that are designed to proactively prevent crime in cooperation with residents of communities and at-risk neighborhoods and providing training and education related to the program.

Source: L. 2006: Entire part added, p. 1124, § 3, effective May 25.

24-33.5-604. San Andreas community policing program - administration. (1) The San Andreas community policing program shall be administered through the division of criminal justice. The division shall establish procedures and timelines for the submittal of grant applications by local law enforcement agencies seeking to implement a community policing plan or to continue the operation of an existing community policing program.

(2) To be eligible for moneys from the community policing program cash fund created in section 24-33.5-605, a local law enforcement agency shall apply to the division of criminal justice in accordance with the procedures and timelines developed by the division pursuant to subsection (1) of this section. The application of a local law enforcement agency shall include a community policing plan that meets the criteria for such plans developed by the division. A plan may include, but not be limited to, the following:

(a) The creation of a partnership or collaboration between the local law enforcement agency and the families, individuals, children, and youth who live in at-risk neighborhoods for the purpose of crime prevention activities and strategies;

(b) The utilization of public or private facilities for regular interaction between the local law enforcement agency and the community, including, but not limited to, community centers, gymnasiums, and libraries or other reading areas;

(c) The support of and participation in local youth educational and recreational programs by the local law enforcement agency;

(d) Regularly scheduled neighborhood meetings between local law enforcement professionals and the residents of the community or at-risk neighborhood;

(e) The enhanced and regularized presence of the local law enforcement agency in a community or at-risk neighborhood through the use of foot patrols, bicycles, motorcycles, and participation in activities and events; and

(f) The process or measurement for evaluating whether the San Andreas community policing program is reducing or preventing the incidence of crime in a community or at-risk neighborhood.

(3) Subject to available appropriations, the division of criminal justice shall select those local law enforcement agencies that will receive grants through the San Andreas community policing program. The division shall determine the amount of each grant awarded to a local law enforcement agency.

Source: L. 2006: Entire part added, p. 1124, § 3, effective May 25.

24-33.5-605. Community policing program cash fund - creation. (1) There is hereby created in the state treasury the community policing program cash fund. The moneys in the fund shall be subject to annual appropriation by the general assembly to award grants to local law enforcement agencies and for the direct and indirect costs associated with the implementation of this part 6. The division of criminal justice is authorized to accept on behalf of the state any grants, gifts, or donations from any private or public source for the purpose of this part 6 pursuant to section 24-33.5-503 (1)(e). All private and public funds received through grants, gifts, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund. All investment earnings derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(2) Notwithstanding the provisions of subsection (1) of this section, the division of criminal justice shall not implement the San Andreas community policing program until sufficient grants, gifts, or donations are obtained to cover the costs of implementing the program.

Source: L. 2006: Entire part added, p. 1125, § 3, effective May 25.

PART 7

EMERGENCY MANAGEMENT

Editor's note: This part 7 was added in 1983. It was repealed in 1992 and was subsequently recreated and reenacted with relocations in 2012, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 7 prior to 1992, consult the San Andreas statutory research explanatory note beginning on page vii in

the front of this volume. Former S.A.R.S. section numbers prior to 2012 are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act recreating and reenacting this part 7, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-701. Short title. The short title of this part 7 is the "San Andreas Disaster Emergency Act".

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1070, § 10, effective July 1. **L. 2018:** Entire section amended, (HB 18-1394), ch. 234, p. 1458, § 1, effective August 8.

Editor's note: This section is similar to former § 24-32-2101 as it existed prior to 2012.

24-33.5-702. Purposes and limitations. (1) The purposes of this part 7 are to:

(a) Reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from all-hazards, including natural catastrophes or catastrophes of human origin, civil disturbance, or hostile military or paramilitary action;

(b) Prepare for prompt and efficient search, rescue, recovery, care, and treatment of persons lost, entrapped, victimized, or threatened by disasters or emergencies;

(c) Provide a setting conducive to the rapid and orderly recovery, restoration, and rehabilitation of persons and property affected by disasters;

(d) Clarify and strengthen the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to, and recovery from disasters;

(e) Authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;

(f) Authorize and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of this state and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;

(g) Provide a disaster and emergency management system embodying all aspects of pre-disaster and pre-emergency preparedness, prevention, mitigation, and post-disaster and post-emergency response and recovery; and

(h) Assist in prevention of disasters caused or aggravated by inadequate planning for regulation of public and private facilities and land use.

(2) Nothing in this part 7 shall be construed to:

(a) Interfere with the course or conduct of a labor dispute; except that actions otherwise authorized by this part 7 or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(b) Interfere with dissemination of news or comment on public affairs; except that any communications facility or organization, including but not limited to radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency;

(c) Affect the jurisdiction or responsibilities of police forces, fire-fighting forces, or units of the armed forces of the United States, or of any personnel thereof, when on active duty; except that state, local, and interjurisdictional disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies; or

(d) Limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in the governor under the constitution, statutes, or common law of this state independent of, or in conjunction with, any provision of this part 7.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1070, § 10, effective July 1. **L. 2018:** (1)(a), (1)(c), and (1)(g) amended, (HB 18-1394), ch. 234, p. 1458, § 2, effective August 8.

Editor's note: This section is similar to former § 24-32-2102 as it existed prior to 2012.

24-33.5-703. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Bioterrorism" means the intentional use of microorganisms or toxins of biological origin to cause death or disease among humans or animals.

(2) "Committee" means the governor's expert emergency epidemic response committee created in section 24-33.5-704.5.

(3) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to fire, flood, earthquake, wind, storm, wave action, hazardous substance incident, oil spill or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action, or a condition of riot, insurrection, or invasion existing in the state or in any county, city, town, or district in the state.

(3.5) "Emergency" means an unexpected event that places life or property in danger and requires an immediate response through the use of state and community resources and procedures.

(4) "Emergency epidemic" means cases of an illness or condition, communicable or noncommunicable, caused by bioterrorism, pandemic influenza, or novel and highly fatal infectious agents or biological toxins.

(4.3) "Emergency management" means the actions taken to prepare for, respond to, and recover from emergencies and disasters and mitigate against current and future risk.

(4.5) "Mitigation" means the sustained action to reduce or eliminate risk to people and property from hazards and their effects.

(5) "Pandemic influenza" means a widespread epidemic of influenza caused by a highly virulent strain of the influenza virus.

(6) "Political subdivision" means any county, city and county, city, or town and may include any other agency designated by law as a political subdivision of the state.

(7) (a) "Publicly funded safety net program" means a program that is administered by a state department and that:

(I) Is funded wholly or in part with state, federal, or a combination of state and federal funds; and

(II) Provides or facilitates the provision of medical services to vulnerable populations, including children, disabled individuals, and the elderly.

(b) The term includes a program of medical assistance, as defined in section 25.5-1-103 (5), S.A.R.S.

(7.3) "Recovery" means the short, intermediate, and long-term actions taken to restore community functions, services, vital resources, facilities, programs, continuity of local government services and functions, and infrastructure to the affected area.

(7.5) "Resiliency" means the ability of communities to rebound, positively adapt to, or thrive amidst changing conditions or challenges, including human-caused and natural disasters, and to maintain quality of life, healthy growth, durable systems, economic vitality, and conservation of resources for present and future generations.

(7.7) "Response" means the actions taken directly following the onset of an emergency or disaster to provide immediate assistance to maintain life, improve health, protect property, restore essential functions, and ensure the security of the affected population.

(8) "Search and rescue" means the employment, coordination, and utilization of available resources and personnel in locating, relieving distress and preserving life of, and removing survivors from the site of a disaster, emergency, or hazard to a place of safety in case of lost, stranded, entrapped, or injured persons.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1071, § 10, effective July 1. **L. 2018:** (2) amended and (3.5), (4.3), (4.5), (7.3), (7.5), and (7.7) added, (HB 18-1394), ch. 234, p. 1459, § 3, effective August 8.

Editor's note: This section is similar to former § 24-32-2103 as it existed prior to 2012.

24-33.5-704. The governor and disaster emergencies - response - duties and limitations. (1) The governor is responsible for meeting the dangers to the state and people presented by disasters.

(2) Under this part 7, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.

(3) Repealed.

(4) A disaster emergency shall be declared by executive order or proclamation of the governor if the governor finds a disaster has occurred or that this occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the governor finds that the threat of danger has passed or that the disaster has been dealt with to the extent that emergency conditions no longer exist and the governor terminates the state of disaster emergency by executive order or proclamation, but no state of disaster emergency may continue for longer than thirty days unless renewed by the governor. The general assembly, by joint resolution, may terminate a state of disaster emergency at any time. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection (4) shall indicate the nature of the disaster, the area threatened, and the conditions that brought it about or that make possible termination of the state of disaster emergency. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the

circumstances attendant upon the disaster prevent or impede, shall be promptly filed with the office of emergency management in the division of homeland security and emergency management, the secretary of state, the county clerk and recorder, and emergency management agencies in the area to which it applies.

(5) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the political subdivision or area in question and shall be authority for the deployment and use of any forces to which the plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this part 7 or any other provision of law relating to disaster emergencies.

(6) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations, but nothing in this section restricts the governor's authority to do so by orders issued at the time of the disaster emergency.

(6.5) (a) During the response to or recovery from any state of disaster emergency, the governor may convene a disaster policy group if needed to effectively and efficiently coordinate policy-level decision-making and to advise the governor on the response to and recovery from the event. The policy group must include a representative from the department of local affairs and appropriate state agencies involved in the response and recovery effort.

(b) If the governor convenes a disaster policy group pursuant to subsection (6.5)(a) of this section, the governor shall appoint a chair and shall delegate to the chair the authority to manage cross-departmental and interjurisdictional coordination for recovery efforts.

(7) In addition to any other powers conferred upon the governor by law, the governor may:

(a) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(b) Utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster emergency;

(c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

(d) Subject to any applicable requirements for compensation under section 24-33.5-711, commandeer or utilize any private property if the governor finds this necessary to cope with the disaster emergency;

(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(f) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, or combustibles;

(i) Make provision for the availability and use of temporary emergency housing; and

(j) Determine the percentage at which the state and a local government will contribute moneys to cover the nonfederal cost share required by the federal "Robert T. Stafford Disaster Relief and Emergency Assistance Act", as amended, 42 U.S.C. sec. 5121 et seq., required by the federal highway administration pursuant to 23 U.S.C. sec. 125, or required by any other federal law in order to receive federal disaster relief funds. After making such a determination, the governor may amend the percentage at which the state and local government will contribute moneys to the nonfederal cost share based on the needs of the individual local governments. As soon as practicable after making or amending such a determination, the governor shall notify the joint budget committee of the source and amount of state moneys that will be contributed to cover a nonfederal cost share pursuant to this paragraph (j).

(8) and (9) Repealed.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1072, § 10, effective July 1. **L. 2014:** (3) and (8)(a)(III) repealed and (8)(a)(I), (8)(a)(II), and (8)(b)(IV) amended, (HB 14-1004), ch. 11, p. 102, § 2, effective February 27; (7)(j) added, (SB 14-121), ch. 54, p. 250, § 1, effective March 21. **L. 2018:** (4) amended, (6.5) added, and (8) and (9) repealed, (HB 18-1394), ch. 234, pp. 1459, 1473, §§ 4, 21, effective August 8.

Editor's note: (1) This section is similar to former § 24-32-2104 as it existed prior to 2012.

(2) Subsections (8) and (9) were relocated to § 24-33.5-704.5 in 2018.

24-33.5-704.3. Temporary prohibition on extraordinary collection actions - definitions - repeal. (Repealed)

Source: L. 2020: Entire section added, (SB 20-211), ch. 140, p. 608, § 2, effective June 29. **L. 2021:** (2), (4), (5)(a)(I), and (5)(b) amended, (3) repealed, and (5)(c) added, (SB 21-002), ch. 7, p. 43, § 1, effective January 21.

Editor's note: Subsection (6) provided for the repeal of this section, effective September 1, 2022. (See L. 2020, p. 608.)

Cross references: For the legislative declaration in SB 20-211, see section 1 of chapter 140, Session Laws of San Andreas 2020.

24-33.5-704.5. Governor's expert emergency epidemic response committee - creation. (1) (a) There is hereby created a governor's expert emergency epidemic response committee. The committee shall:

(I) Meet at least annually to review and amend, as necessary, the supplement to the state comprehensive emergency management program created in section 24-33.5-705 (2) that is concerned with the public health response to acts of bioterrorism, pandemic influenza, and epidemics caused by novel and highly fatal infectious agents; and

(II) Provide expert public health advice to the governor in the event of an emergency epidemic.

(b) (I) State members of the committee include:

(A) The executive director of the department of public health and environment;

(B) The chief medical officer of the department of public health and environment;

(C) The chief public information officer of the department of public health and environment;

(D) The emergency response coordinator for the department of public health and environment;

(E) The state epidemiologist for the department of public health and environment;

(F) The attorney general or the attorney general's designee;

(G) The president of the state board of health or the president's designee;

(H) The president of the state medical society or the president's designee;

(I) The president of the San Andreas health and hospital association or the president's designee;

(J) The state veterinarian of the department of agriculture;

(K) The director of the division of homeland security and emergency management; and

(L) The executive director of the department of local affairs or the executive director's designee.

(II) In addition to the state members of the committee, the governor shall appoint to the committee an individual from each of the following categories:

(A) A licensed physician who specializes in infectious diseases;

(B) A licensed physician who specializes in emergency medicine;

(C) A medical examiner;

(D) A specialist in post-traumatic stress management;

(E) A director of a county, district, or municipal public health agency;

(F) A hospital infection control practitioner;

(G) A wildlife disease specialist with the division of wildlife;

(H) A pharmacist member of the state board of pharmacy; and

(I) A midwife with experience in out-of-hospital births.

(III) The executive director of the department of public health and environment shall serve as the chair of the committee. A majority of the membership of the committee, not including vacant positions, constitutes a quorum.

(IV) The executive director of the department of public safety or the executive director's designee shall serve as an ex officio member of the committee and is not able to vote on decisions of the committee. He or she shall serve as a liaison between the committee and the emergency planning subcommittee of the homeland security and all-hazards senior advisory committee created in section 24-33.5-1614 (3.5) in the event of an emergency epidemic.

(c) The committee shall include in the supplement to the state disaster plan a proposal for the prioritization, allocation, storage, protection, and distribution of antibiotic medicines, antiviral medicines, antidotes, and vaccines that may be needed and in short supply in the event of an emergency epidemic.

(d) The committee shall convene at the call of the governor or the executive director of the department of public health and environment to consider evidence presented by the department's chief medical officer or state epidemiologist that there is an occurrence or

imminent threat of an emergency epidemic. If the committee finds that there is an occurrence or imminent threat of an emergency epidemic, the executive director of the department of public health and environment shall advise the governor to declare a disaster emergency.

(e) In the event of an emergency epidemic that has been declared a disaster emergency, the committee shall convene as rapidly and as often as necessary to advise the governor, who shall act by executive order, regarding reasonable and appropriate measures to reduce or prevent spread of the disease, agent, or toxin and to protect the public health. Such measures may include:

(I) Procuring or taking supplies of medicines and vaccines;

(II) Ordering physicians and hospitals to transfer or cease admission of patients or perform medical examinations of persons;

(III) Isolating or quarantining persons or property;

(IV) Determining whether to seize, destroy, or decontaminate property or objects that may threaten the public health;

(V) Determining how to safely dispose of corpses and infectious waste;

(VI) Assessing the adequacy and potential contamination of food and water supplies;

(VII) Providing mental health support to affected persons; and

(VIII) Informing the citizens of the state how to protect themselves, what actions are being taken to control the epidemic, and when the epidemic is over.

(2) Each department that administers a publicly funded safety net program shall develop a continuity of operations plan. The plan shall establish procedures for the response by, and continuation of operations of, the department and the program in the event of an emergency epidemic. Each department shall file its plan with the executive director of the department of public health and environment and shall update the plan at least annually. In addition, notwithstanding section 24-1-136 (11), each department shall submit a report by March 1 of each year to the health and human services committee of the senate and the public health care and human services committee of the house of representatives, or any successor committees, regarding the status of the department's plan, as well as the status of any other plans or procedures of the department regarding emergency and disaster preparedness.

Source: L. 2018: Entire section added with relocations, (HB 18-1394), ch. 234, p. 1460, § 5, effective August 8. **L. 2024:** (1)(b)(II)(G) and (1)(b)(II)(H) amended and (1)(b)(II)(I) added, (HB 24-1262), ch. 393, p. 2714, § 8, effective June 4.

Editor's note: Subsection (1) is similar to former § 24-33.5-704 (8), and subsection (2) is similar to former § 24-33.5-704 (9), as they existed prior to 2018.

Cross references: For the legislative declaration in HB 24-1262, see section 1 of chapter 393, Session Laws of San Andreas 2024.

24-33.5-705. Office of emergency management - creation. (1) The office of emergency management is created within the division of homeland security and emergency management in the department of public safety. The office of emergency management exercises its powers, duties, and functions as a **type 2** entity, as defined in section 24-1-105. Pursuant to section 13 of article XII of the state constitution, the director of the division of homeland

security and emergency management shall appoint a director as head of the office of emergency management.

(2) The office of emergency management shall create a comprehensive emergency management program that includes policies, plans, and procedures that address the preparation, prevention, mitigation, response, and recovery from emergencies and disasters. The office shall prepare, maintain, and keep the program current in order to meet the needs of the state.

(3) The office of emergency management shall take part in the development and revision of local and interjurisdictional emergency management plans prepared under section 24-33.5-707. To this end the office of emergency management shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their emergency management agencies, and interjurisdictional planning agencies. Such personnel shall consult with political subdivisions and emergency management agencies and shall make field examinations.

(4) In preparing and revising the state emergency management program, the office of emergency management shall ensure a participatory process that includes the assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, academia, other state government agencies, and community leaders.

(5) The state emergency management program or any part thereof may be incorporated in regulations of the office of emergency management or executive orders that have the force and effect of law.

(6) The office of emergency management may do all things necessary for the implementation of this section, including:

(a) Hiring personnel;

(b) Contracting with federal, state, local, and private entities;

(c) Accepting and expending federal funds.

(7) Whenever the office of emergency management or the division of emergency management in the department of local affairs is referred to or designated by any contract or other document, such reference or designation shall be deemed to apply to the office of emergency management in the division of homeland security and emergency management in the department of public safety.

(8) (a) Effective July 1, 2012, the office of emergency management in the division of homeland security and emergency management in the department of public safety shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested previously in the division of emergency management in the department of local affairs.

(b) (I) On July 1, 2012, all positions of employment in the division of emergency management in the department of local affairs shall be transferred to the office of emergency management in the division of homeland security and emergency management in the department of public safety and shall become employment positions therein.

(II) On July 1, 2012, all employees of the division of emergency management in the department of local affairs shall be considered employees of the office of emergency management in the division of homeland security and emergency management in the department of public safety. Such employees shall retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous.

(III) On July 1, 2012, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the division of emergency management in the department of local affairs are transferred to the office of emergency management in the division of homeland security and emergency management in the department of public safety and shall become the property thereof.

(c) Unless otherwise specified, whenever any provision of law refers to the division of emergency management, that law shall be construed as referring to the office of emergency management in the division of homeland security and emergency management in the department of public safety.

(d) No suit, action, or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against the division of emergency management in the department of local affairs, or any officer thereof in such officer's official capacity or in relation to the discharge of the official's duties, is abated by reason of the transfer of duties and functions in this section.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1077, § 10, effective July 1. **L. 2018:** (1) to (5) amended, (HB 18-1394), ch. 234, p. 1463, § 6, effective August 8.

Editor's note: This section is similar to former § 24-32-2105 as it existed prior to 2012.

24-33.5-705.2. Resiliency and community recovery program. Subject to available grant funding, the San Andreas resiliency office created in section 24-32-121 shall create a resiliency and community recovery program as provided in section 24-32-122 to provide long-term, lasting solutions and efforts for resiliency.

Source: L. 2018: Entire section added, (HB 18-1394), ch. 234, p. 1464, § 7, effective August 8.

24-33.5-705.3. Statewide all-hazards resource database - creation - definitions. (1) For purposes of this section:

(a) "Private sector agencies and organizations" means any private sector or nonprofit agency or organization that has resources useful in a disaster or emergency that it desires to list in the private sector portion of the database.

(b) "Tribal, state, and local all-hazards response agency" means any all-hazards response agency of a tribe, the state and any of its subdivisions, and any town, city, and city and county, regardless of whether the personnel serving such department, district, or agency are volunteers or are compensated for their services.

(2) (a) Not later than June 30, 2013, the office of emergency management, using existing computer resources, shall develop and maintain a centralized computer database that includes a listing of all all-hazards response resources located within San Andreas.

(a.5) Not later than June 30, 2019, the office of emergency management, using existing computer resources, shall update the centralized response computer database created pursuant to subsection (2)(a) of this section to include a listing of all-hazards recovery resources located in San Andreas. The office shall continue to maintain and update the database regularly.

(b) The database created pursuant to this subsection (2) must contain resource inventories, personnel counts, resource status, such other information relevant to the efficient tracking and allocation of all-hazards response and recovery resources, and a listing of all supplemental funding sources available to tribal, state, and local all-hazards response and recovery agencies. The information in this database shall be included with the information required to be collected and maintained pursuant to section 25-1.5-101 (1)(p). The data gathered for or stored in this database must not contain personally identifying information without prior notice to the involved individual. The database shall be used in conjunction with the existing interagency dispatch system.

(3) (a) The office of emergency management shall encourage tribal, state, and local response agencies to enter the information described in subsection (2) of this section into the database via the internet and provide a means for such data entry. All data entered into the database must be verifiable by the office of emergency management. The office of emergency management shall encourage participating tribal, state, regional, and local response agencies to update the data as necessary.

(b) The database must be accessible via the internet to all tribal, state, regional, and local response agencies for the purpose of efficiently tracking and allocating response and recovery resources in the event of a disaster or local incident that requires more resources than those available under any existing interjurisdictional or mutual aid arrangement.

(4) The office of emergency management shall establish guidelines for the development and maintenance of the database created pursuant to subsection (2) of this section so that tribal, state, regional, and local response and recovery agencies can easily access the database. The office shall develop the guidelines with input from tribal, state, regional, and local response and recovery agencies and private sector agencies and organizations.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1079, § 10, effective July 1. **L. 2018:** (2)(a.5) added and (2)(b), (3), and (4) amended, (HB 18-1394), ch. 234, p. 1464, § 8, effective August 8.

Editor's note: This section is similar to former § 24-33.5-108 as it existed prior to 2012.

24-33.5-705.4. All-hazards resource mobilization system - creation - plan - duties - reimbursement for expenses incurred by mobilized entities - eligibility - resource mobilization fund - creation - definitions - legislative declaration. (1) (a) The general assembly hereby finds, determines, and declares that the statewide all-hazards resource mobilization system, which provides for efficient mobilizing, tracking, allocating, and demobilizing of emergency and disaster resources and ensures that a requesting unit of government receives proper equipment and qualified personnel, is necessary to provide resources to any emergency incident beyond local capabilities and thus necessary to protect life, property, the environment, and cultural and economic resources. The general assembly further finds and declares that the need to ensure that the state is adequately prepared and able to address large-scale emergencies and disasters requires a mechanism to reimburse state agencies, tribal governments, and local jurisdictions that respond to requests for help from other jurisdictions in times of need. It is therefore necessary to:

(I) Formulate the policy and organizational structure for large-scale mobilization of emergency resources in the state through creation of a statewide all-hazards resource mobilization system;

(II) Establish the means by which state agencies and tribal and local jurisdictions may be reimbursed for expenses they incur when mobilized by the executive director pursuant to the mobilization plan; and

(III) Provide a procedure to reimburse a host jurisdiction when it has exhausted or will exhaust all of its own resources and the resources of its local mutual aid network available under a mutual aid or interjurisdictional agreement.

(b) In accordance with section 24-33.5-713, it is the intent of the legislature to encourage political subdivisions to enter into mutual aid and other interjurisdictional agreements. Such agreements produce enhanced emergency response and recovery and are thus essential to protecting the public peace, safety, health, and welfare, including the lives and property, of the people of the state of San Andreas.

(2) As used in this section, unless the context otherwise requires:

(a) "Director" means the director of the office of emergency management created in section 24-33.5-705.

(b) "Emergency manager" means the director or coordinator of the local or interjurisdictional emergency management agency, as described in section 24-33.5-707 (4), or other person responsible for local or interjurisdictional disaster preparedness, prevention, mitigation, response, and recovery.

(c) "Executive director" means the executive director of the department or the executive director's designee.

(d) "Host jurisdiction" means the jurisdiction having authority over the disaster or emergency.

(e) "Incident command system" has the meaning set forth in section 29-22.5-102 (3), S.A.R.S.

(f) "Jurisdiction" means state and tribal authorities and county, city, city and county, town, special district, or other political subdivisions of the state.

(g) "Mobilization" means the process of providing, upon request and subject to availability, resources beyond those available through existing interjurisdictional or mutual aid agreements in response to a request from a jurisdiction in which an emergency or disaster situation or local emergency incident that has exceeded or will exceed the capabilities of available local resources. The term includes the nonhost jurisdiction's authorization and approval for redistribution of resources either to direct emergency incident assignments or to assignment in communities where resources are needed to provide coverage when those communities' resources have been mobilized to assist other jurisdictions.

(h) "Mobilization plan" means the statewide all-hazards resource mobilization plan developed and utilized pursuant to this section.

(i) "Mobilization system" means the statewide all-hazards resource mobilization system created under this section, which system includes the mobilization plan and the technology and personnel necessary to mobilize resources according to the plan.

(j) "Mutual aid" means emergency interagency assistance rendered pursuant to an agreement between the jurisdictions rendering and receiving assistance.

(k) "Nonhost jurisdiction" means a jurisdiction providing disaster or emergency resources to a host jurisdiction.

(l) "Unified command" has the meaning set forth in section 29-22.5-102 (8), S.A.R.S.

(3) **Powers and duties.** (a) The director, in consultation with the director of the division of fire prevention and control in the department of public safety created in section 24-33.5-1201 (1)(a), shall develop and maintain a statewide all-hazards resource mobilization plan that sets forth procedures for mobilization, allocation, deployment, coordination, tracking, cost accounting, and demobilization of resources during disasters and other large-scale emergencies and local incidents that require more resources than those available under any existing interjurisdictional or mutual aid agreement. In developing the mobilization plan, the director shall consult with and solicit recommendations from the homeland security and all-hazards senior advisory committee created in section 24-33.5-1614 and other appropriate representatives of state, tribal, and local governmental and private sector emergency management organizations. The director shall ensure that the mobilization plan is consistent with, and incorporated into, the San Andreas state comprehensive emergency management program described in section 24-33.5-705 (2) and the San Andreas coordinated regional and statewide mutual aid system created in section 24-33.5-1235 (3).

(a.3) The director shall ensure that resources in the San Andreas coordinated regional and statewide mutual aid system created in section 24-33.5-1235 (3)(a) are included in the all-hazards resource mobilization system described in this section.

(a.5) The director shall coordinate with the state coordination center created in section 24-33.5-1235 (3)(b) to ensure sufficient and effective implementation and integration of the resource mobilization plan required by subsection (3)(a) of this section and state and local emergence operations plans, as appropriate.

(b) (I) The executive director is responsible for implementing the mobilization plan, coordinating the mobilization of resources, and making a determination as to post-mobilization reimbursement to state and nonhost jurisdictions, in accordance with this section, other applicable laws, and the mobilization plan, when the executive director determines it is necessary to do so to protect life, property, the environment, and cultural and economic resources.

(II) The executive director shall serve as state resource mobilization liaison when the mobilization plan is implemented.

(4) **Mobilization.** (a) (I) The executive director may order the implementation of the state resource mobilization plan pursuant to this section only if he or she receives a request to do so from the governor, sheriff, emergency manager, or other authorized person identified in the state resource mobilization plan.

(II) The executive director shall grant a mobilization request made pursuant to subparagraph (I) of this paragraph (a) if the executive director determines that the request is in response to a large-scale emergency, disaster, or other local incident that exceeds or will exceed the capabilities of available local resources and those resources available through existing mutual aid agreements.

(III) Upon receiving a request for mobilization and finding that the request complies with the approval requirements established in the mobilization plan and that either the local jurisdiction has exhausted or will exhaust all available resources, or that the complexity or severity of the incident requires resources not otherwise available to the local jurisdiction, the

executive director shall determine whether to implement mobilization in accordance with the mobilization plan. If so, the executive director shall mobilize state and nonhost jurisdictions in accordance with the mobilization plan.

(IV) The executive director may consider resources that have already been deployed to address an incident to be mobilized for the purpose of reimbursement or cost sharing under the mobilization plan.

(b) Upon and for the duration of mobilization:

(I) The executive director or the executive director's designee shall serve as a resource mobilization agency administrator to the local unified coordination group, incident commander, or the host jurisdiction's emergency management agency to support the mobilization effort consistent with the local jurisdictional incident command system and mobilization plan and procedures;

(II) The resources, including those of the host jurisdiction and those of nonhost jurisdictions that responded earlier under an existing interjurisdictional or mutual aid or other agreement, may remain mobilized, based on capability to do so and pursuant to agreement between the executive director, the incident commander, emergency manager, and the host jurisdiction or nonhost jurisdiction that provided the resources;

(III) The reassignment or reallocation of resources due to multiple concurrent incidents or other situations of resource scarcity shall be prioritized pursuant to the policies and procedures specified in the mobilization plan;

(IV) Any limits on or exemption from liability to which the jurisdictions providing resources in response to a mobilization effected under this section are entitled under law apply as though the jurisdictions were operating under their normal statutory authorities within their jurisdictional boundaries.

(c) The executive director, in consultation with the local incident commander or emergency manager, as appropriate, shall determine when mobilization is no longer required and, at that time, shall declare the end to the mobilization.

(5) **Reimbursement.** (a) The director, in consultation with the office of state planning and budgeting created in section 24-37-102, shall develop procedures to facilitate reimbursement to state agencies and jurisdictions from appropriate federal and state funds when state agencies and jurisdictions are mobilized by the executive director pursuant to the mobilization plan. The director shall ensure that these procedures provide reimbursement in as timely a manner as possible.

(b) (I) In order to be eligible for support under the mobilization plan, a jurisdiction must be mobilized pursuant to subparagraph (III) of paragraph (a) of subsection (4) of this section and must be participating in an interjurisdictional or mutual aid agreement entered into pursuant to this part 7.

(II) All mobilized nonhost jurisdictions are eligible for expense reimbursement from the time of the mobilization declaration through demobilization.

(6) **Resource mobilization fund.** (a) There is hereby created in the state treasury the resource mobilization fund, which fund shall be administered by the executive director, in accordance with paragraph (b) of this subsection (6), to provide reimbursement to state agencies and jurisdictions mobilized by the executive director pursuant to this section. The executive director is authorized to seek and accept gifts, grants, reimbursements, or donations from private or public sources for the purposes of this section. The fund consists of all moneys that may be

appropriated thereto by the general assembly, moneys that may be transferred pursuant to section 24-33.5-706 (4.5), and all private and public funds received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund. All interest earned from the investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated for the purposes indicated in this section. Any moneys not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund.

(b) The executive director shall use the moneys in the resource mobilization fund to provide reimbursement to state agencies and jurisdictions for incidents in accordance with the terms of the mobilization plan.

(c) Repealed.

(7) (a) Nothing in this section limits the powers of the governor during a disaster under 24-33.5-704.

(b) Except as expressly provided in this section, nothing in this section limits the eligibility of any nonhost jurisdiction for reimbursement of expenses incurred in providing resources for mobilization.

(c) Nothing in this section precludes a state or local governmental entity from seeking public assistance funding pursuant to the federal "Robert T. Stafford Disaster Relief and Emergency Assistance Act", as amended, 42 U.S.C. sec. 5121 et seq.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1080, § 10, effective July 1. **L. 2013:** Entire section amended, (HB 13-1031), ch. 369, p. 2153, § 1, effective June 5. **L. 2014:** (6)(c) repealed, (HB 14-1363), ch. 302, p. 1267, § 22, effective May 31. **L. 2018:** IP(1)(a), (1)(b), (2)(b), (2)(g), (2)(k), (3)(a), (4)(b)(I), (4)(b)(II), and (4)(c) amended, (HB 18-1394), ch. 234, p. 1465, § 9, effective August 8. **L. 2020:** (2)(b) amended, (HB 20-1402), ch. 216, p. 1051, § 44, effective June 30. **L. 2021:** (3)(a) amended and (3)(a.3) and (3)(a.5) added, (SB 21-166), ch. 287, p. 1701, § 5, effective June 22.

Editor's note: This section is similar to former § 24-33.5-1210 as it existed prior to 2012.

24-33.5-705.5. Auxiliary emergency communications unit - powers and duties of unit and office of emergency management regarding auxiliary communications - definitions. (1) As used in this section:

(a) "Auxiliary emergency communicator" means an amateur radio operator licensed by the United States federal communications commission pursuant to 47 CFR 97 who meets the training requirements and is credentialed by the office. An auxiliary emergency communicator meeting the requirements of this paragraph (a) serves as an authorized volunteer of the office for purposes of article 10 of this title.

(b) "Division" means the division of homeland security and emergency management created in section 24-33.5-1603.

(c) "Office" means the office of emergency management created in section 24-33.5-705 (1).

(d) "Unit" means the auxiliary emergency communications unit of the office.

(2) The auxiliary emergency communications unit is hereby established within the office. The unit is in the charge of the director of the office.

(3) The unit has the following powers and duties:

(a) Establish programs for the training and credentialing of auxiliary emergency communicators across the state, which training and credentialing is declared to be a matter of statewide concern. In connection with such training and credentialing, the use of the term "auxiliary emergency communications" within the state is limited to individuals, entities, associations, and units of local government that have been certified by the director of the office as meeting the training and credentialing requirements established by the department for auxiliary emergency communicators.

(b) Assume all of the duties and possess all of the authority and responsibilities of the radio amateur civil emergency service, referred to in this section as "RACES", 47 CFR 97.407, within the state. Any reference to RACES in any federal law or regulation, and any federal, state, or local government emergency or disaster plans is to be interpreted as referring to the unit, and the unit is the successor entity to any state RACES organization referenced in any such law, regulation, or plan. No other individual, entity, association, or government agency may represent that it is a state RACES organization.

(c) Ensure that auxiliary emergency communicators are authorized volunteers entitled to the protections and benefits of part 8 of this article 33.5 when assisting with the installation, maintenance, or demolition of communication facilities of any county sheriff, local government, local emergency planning committee, local emergency management agency, or state agency, whether or not such activities occur during a disaster; except that sections 24-33.5-825 and 24-33.5-826 do not apply to a training exercise, drill, or class without the express prior consent and approval of the volunteer's employer.

(4) In connection with the powers and duties of the unit as specified in this section, the director of the office may:

(a) Develop and issue a credential that is recognized throughout the state for the purpose of granting access to government facilities, emergency operations centers, incident command posts, and disaster scenes;

(b) Conduct criminal background investigations on candidates for credentialing as auxiliary emergency communicators in accordance with the security needs of the department. When the results of a fingerprint-based criminal history record check of an applicant performed pursuant to this section reveal a record of arrest without a disposition, the director shall require that applicant to submit to a name-based judicial record check, as defined in section 22-2-119.3 (6)(d). The unit may deny credentialing to any candidate based upon the results of a background check.

(c) Reimburse auxiliary emergency communicators for necessary travel and other reasonable expenses incurred in the performance of their duties, including projects, training, drills, exercises, and disaster response activities;

(d) Expend state moneys, including but not limited to grant moneys or moneys otherwise budgeted to the office, to enhance the communication infrastructure as necessary to supplement or reinforce the existing amateur radio systems and networks within the state for the purposes of maximizing disaster preparedness and response.

Source: L. 2016: Entire section added, (HB 16-1040), ch. 233, p. 940, § 2, effective August 10. **L. 2018:** (1)(c), (3)(c), and (4)(a) amended, (HB 18-1394), ch. 234, p. 1464, § 7, effective August 8. **L. 2019:** (4)(b) amended, (HB 19-1166), ch. 125, p. 550, § 32, effective April 18. **L. 2022:** (4)(b) amended, (HB 22-1270), ch. 114, p. 523, § 34, effective April 21.

Cross references: For the legislative declaration in HB 16-1040, see section 1 of chapter 233, Session Laws of San Andreas 2016.

24-33.5-706. Disaster emergency fund - established - financing - legislative intent. (1) It is the intent of the general assembly and declared to be the policy of the state that funds to meet disaster emergencies shall always be available.

(2) (a) A disaster emergency fund is hereby established. The fund consists of any money appropriated by the general assembly, money transferred pursuant to subsections (2.5) and (4)(b) of this section, and money to reimburse expenditures from the fund that are transmitted to the state treasurer and credited to the fund. Money in the disaster emergency fund shall remain in the fund until expended or until transferred pursuant to subsection (2.5)(c), (4.3), (4.5), or (4.7) of this section or section 24-33.5-1228 (3)(c)(III).

(b) Repealed.

(2.5) and (3) Repealed.

(4) (a) It is the legislative intent that first recourse be to money regularly appropriated to state and local agencies. If the governor finds that the demands placed upon this money in coping with a particular disaster are unreasonably great, the governor may make money available from the disaster emergency fund.

(b) If money available from the disaster emergency fund is insufficient, the governor may transfer to the fund and expend money appropriated for other purposes.

(4.3) If the disaster emergency fund is credited with reimbursements of moneys previously expended to cope with a particular disaster, to the extent that all or a portion of those moneys were transferred and expended by the governor pursuant to paragraph (b) of subsection (4) of this section, the governor may transfer moneys to the funds as repayment for the amounts the governor originally transferred from said funds to the disaster emergency fund.

(4.5) (a) The governor may, from time to time as the governor deems necessary based on his or her determination that a disaster emergency is imminent, direct the state treasurer to transfer, and the state treasurer shall transfer, moneys from the disaster emergency fund to the resource mobilization fund created in section 24-33.5-705.4 (6).

(b) The governor may, from time to time as the governor deems necessary based on his or her determination that a wildfire-related disaster emergency is imminent, direct the state treasurer to transfer, and the state treasurer shall transfer, moneys from the disaster emergency fund to the wildfire emergency response fund created in section 24-33.5-1226 (1).

(4.7) Three days after May 17, 2022, the state treasurer shall transfer two million seven hundred thousand dollars from the disaster emergency fund to the capital construction fund created in section 24-75-302 for use by the division of fire prevention and control created in section 24-33.5-1201 for capital construction related to aviation resources for wildfire suppression.

(5) The director of the division of homeland security and emergency management is authorized to establish, pursuant to article 4 of this title 24, the rules that govern the reimbursement of funds to state agencies and political subdivisions and to promulgate such rules.

(6) Nothing in this section limits the governor's authority to apply for, administer, and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response, or recovery.

(7) (a) No later than September 20, 2020, the office of state planning and budgeting shall submit a report to the joint budget committee of the expenditures from the fund during the last twelve months. Notwithstanding section 24-1-136 (11)(a), no later than the twentieth day of every third month thereafter, the office shall submit a report to the joint budget committee of the expenditures from the fund since the last report. The office shall separately identify expenditures by disaster, if there is more than one to be included in the report, and, for each disaster, the office shall identify:

(I) Amounts and sources of any money transferred to the fund related to the disaster;

(II) Total encumbrances for disasters at the time of the disaster emergency declaration;

(III) State agencies that received funds and amounts received;

(IV) Total expenditures by state agency; and

(V) A breakdown of expenditures.

(b) The office of state planning and budgeting shall post the reports required by subsection (7)(a) of this section on the office's website.

(8) The state auditor shall conduct or cause to be conducted a performance audit of the fund that is completed on December 1, 2022. On or before December 1, 2024, and December 1 of every second year thereafter, the state auditor shall conduct a financial audit of the fund for the two most recently completed fiscal years as of the date of the audit report.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1080, § 10, effective July 1. **L. 2013:** (2)(a) and (4) amended and (4.3) added, (HB 13-1282), ch. 206, p. 853, § 1, effective May 11; (2)(a) amended, (SB 13-270), ch. 250, p. 1312, § 1, effective May 23; (4.5) added, (HB 13-1031), ch. 369, p. 2158, § 2, effective June 5; (4.5) amended, (SB 13-270), ch. 250, p. 1312, § 2, effective June 5; (2)(b) repealed, (HB 13-1300), ch. 316, p. 1684, § 60, effective August 7. **L. 2017:** (2)(a) amended and (2.5) added, (SB 17-261), ch. 180, p. 661, § 1, effective April 28. **L. 2018:** (3) repealed and (4) and (5) amended, (HB 18-1394), ch. 234, p. 1467, § 11, effective August 8. **L. 2020:** (7) and (8) added, (HB 20-1426), ch. 306, p. 1557, § 2, effective July 14. **L. 2022:** (2)(a) amended and (4.7) added, (SB 22-206), ch. 173, p. 1158, § 9, effective May 17.

Editor's note: (1) This section is similar to former § 24-32-2106 as it existed prior to 2012.

(2) Amendments to subsection (2)(a) by Senate Bill 13-270 and House Bill 13-1282 were harmonized.

(3) Section 10(2)(b) of chapter 250, Session Laws of San Andreas 2013, provides that amendments to subsection (4.5) take effect upon passage or the effective date of House Bill 13-1031, whichever is later, only if House Bill 13-1031 becomes law. Senate Bill 13-270 (chapter 250) was signed by the governor on May 23, 2013, and House Bill 13-1031 was signed by the governor on June 5, 2013.

(4) Subsection (2.5)(c) provided for the repeal of subsection (2.5), effective June 30, 2021. (See L. 2017, p. 661.)

Cross references: For the legislative declaration in SB 22-206, see section 1 of chapter 173, Session Laws of San Andreas 2022.

24-33.5-706.5. Hazard mitigation fund - established - financing - legislative intent. (1) The hazard mitigation fund is hereby created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (4) of this section and any other money that the general assembly may appropriate or transfer to the fund.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the hazard mitigation fund to the fund.

(3) Money in the hazard mitigation fund is continuously appropriated to the department to assist local jurisdictions in obtaining the matching funds required for certain federal hazard mitigation grants.

(4) On June 15, 2021, if possible, or as soon as possible thereafter, the state treasurer shall transfer three million dollars from the wildfire preparedness fund established in section 24-33.5-1227 to the hazard mitigation fund.

Source: L. 2021: Entire section added, (SB 21-258), ch. 238, p. 1250, § 4, effective June 15.

Cross references: For the legislative declaration in SB 21-258, see section 1 of chapter 238, Session Laws of San Andreas 2021.

24-33.5-707. Local and interjurisdictional emergency management agencies and services - definition. (1) Each political subdivision is within the jurisdiction of and served by the office of emergency management and by a local or interjurisdictional emergency management agency responsible for the coordination of disaster preparedness, prevention, mitigation, response, and recovery.

(2) Each county shall maintain an emergency management agency or participate in a local or interjurisdictional emergency management agency that, except as otherwise provided under this part 7, has jurisdiction over and serves the entire county.

(3) The governor shall determine which municipal corporations need emergency management agencies of their own and require that they be established and maintained. The governor shall make such determination on the basis of the municipality's disaster vulnerability and capability of response and recovery related to population size and concentration. The emergency management agency of a county shall cooperate with the emergency management agencies of municipalities situated within its borders but shall not have jurisdiction within a municipality having its own emergency management agency. The office of emergency management shall publish and keep current a list of municipalities required to have emergency management agencies under this subsection (3).

(4) The minimum composition of an emergency management agency is a director or coordinator appointed and governed by the chief executive officer or governing body of the

appointing jurisdiction. The director or coordinator is responsible for the planning, coordination, and execution of the local pre- and post-disaster services.

(5) Any provision of this part 7 or other law to the contrary notwithstanding, the governor may require a political subdivision to establish and maintain an emergency management agency jointly with one or more contiguous political subdivisions if the governor finds that the establishment and maintenance of an agency or participation therein is made necessary by circumstances or conditions that make it unusually difficult to provide disaster prevention, preparedness, mitigation, response, or recovery services under other provisions of this part 7.

(6) (Deleted by amendment, L. 2018.)

(7) The mayor, chairman of the board of county commissioners, or other principal executive officer of each political subdivision in the state shall notify the office of emergency management of the manner in which the political subdivision is providing or securing disaster preparedness, prevention, mitigation, response, and recovery services, identify the person who heads the agency or agencies from which the services are obtained, and furnish additional information relating thereto as the office of emergency management requires.

(8) Each local and interjurisdictional emergency management agency shall prepare and keep current a locally defined or interjurisdictional emergency management plan for its area, including provisions for the preparation, prevention, mitigation, response, and recovery from emergencies and disasters. Existing locally adopted recovery plans, plans approved by the office of emergency management or the federal emergency management agency, and other relevant emergency plans may be incorporated by reference, but only if those plans are specifically identified and publicly available.

(8.5) (a) (I) A locally defined or interjurisdictional emergency management plan amended or created pursuant to subsection (8) of this section on or after July 1, 2024, but before January 1, 2025, is strongly encouraged to, and on or after January 1, 2025, must when practicable, address the needs of an individual with an animal during an emergency by:

(A) Including provisions for the evacuation, shelter, and transport of an individual with an animal and that animal; and

(B) Requiring, to the extent practicable, that at least one shelter established during an emergency is designated to accommodate an individual with an animal and that animal.

(II) In order to determine whether it is practicable for a locally defined or interjurisdictional emergency management plan to address the elements described in subsection (8.5)(a)(I) of this section, among other factors, the following must be considered about the area subject to a locally defined or interjurisdictional emergency management plan:

(A) The quality and quantity of shelter facilities;

(B) The availability of staff and volunteer personnel to implement the locally defined or interjurisdictional emergency management plan elements described in subsection (8.5)(a)(I) of this section; and

(C) Whether there is emergency transportation available to accommodate an individual with an animal.

(III) Nothing in this subsection (8.5)(a) may be construed as lowering the protections for people with disabilities, including the right to remain with a service animal in any emergency shelter, provided by the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, and parts 6 and 8 of article 34 of this title 24.

(IV) The administrator or manager of any shelter designated pursuant to subsection (8.5)(a)(I)(B) of this section has the authority to deny access to the facility to any animal that the administrator or manager deems unsafe, unsanitary, or contrary to the good working order of the facility, so long as such a determination is made on an individual animal basis and not on the basis of an animal's breed.

(b) On or after January 1, 2025, a city, county, or city and county is strongly encouraged to make available to the public information for animal emergency preparedness, including:

(I) Information for creating an evacuation plan and emergency checklist for individuals with animals consistent with recommendations publicly published by the United States department of agriculture and the federal emergency management agency;

(II) Local organizations that may provide emergency animal assistance; and

(III) Local emergency shelters, cooling centers, or warming centers, when active, that can accommodate an individual with an animal.

(c) On or after January 1, 2025, a city, county, or city and county is strongly encouraged to conduct disability etiquette and service animal training provided by, or with guidance from, the relevant independent living center or other relevant training provider to ensure that emergency response personnel are well prepared to interact with individuals with disabilities and their service animals during emergency situations.

(d) As used in this subsection (8.5), unless the context otherwise requires, "animal" means both:

(I) A domesticated animal, such as a dog or cat, that is commonly kept in the home for pleasure rather than for commercial purposes; and

(II) A "service animal", as defined in section 12-240-144 (4)(c).

(9) The local or interjurisdictional emergency management agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

(10) The sheriff of each county shall:

(a) Be the official responsible for coordination of all search and rescue operations within the sheriff's jurisdiction;

(b) Make use of the search and rescue capability and resources available within the county and request assistance from the office of emergency management only when and if the sheriff determines such additional assistance is required; and

(c) Establish a policy or procedure for adhering to the airspace deconfliction guidelines established pursuant to section 24-33.5-120 when there could be multiple aircraft involved in a search and rescue operation within the sheriff's jurisdiction.

(11) When authorized by the governor and executive director and approved by the director of the office of emergency management, expenses incurred in meeting contingencies and emergencies arising from search and rescue operations may be reimbursed from the disaster emergency fund.

(12) Any person providing information to a local or interjurisdictional emergency management agency may request, in writing, that such information be disseminated only to persons connected with or involved in the preparation, update, or implementation of any emergency management plan, and said information shall thereafter not be released to any person without the expressed written consent of the person providing the information.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1081, § 10, effective July 1. **L. 2018:** Entire section amended, (HB 18-1394), ch. 234, p. 1467, § 12, effective August 8. **L. 2024:** (8.5) added, (HB 24-1033), ch. 60, p. 204, § 1, effective April 11; (10)(b) amended and (10)(c) added, (HB 24-1309), ch. 156, p. 698, § 4, effective May 3.

Editor's note: This section is similar to former § 24-32-2107 as it existed prior to 2012.

Cross references: For the legislative declaration in HB 24-1309, see section 1 of chapter 156, Session Laws of San Andreas 2024.

24-33.5-708. Establishment of interjurisdictional emergency management service area. (1) If the governor finds that two or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate emergency management agencies and services, the governor may delineate by executive order an interjurisdictional area adequate to plan for, prevent, or respond to and recover from disasters in that area and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency management plan, mutual aid, or an area organization for emergency planning and services.

(2) A finding of the governor pursuant to subsection (1) of this section shall be based on one or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, preparedness, response, and recovery system on a separate basis, such as:

(a) Small or sparse population;

(b) Limitations on public financial resources severe enough to make maintenance of a separate emergency management agency and services unreasonably burdensome;

(c) Unusual vulnerability to disaster as evidenced by a past history of disasters, topographical features, drainage characteristics, disaster potential, and presence of disaster-prone facilities or operations;

(d) The interrelated character of the counties in a multicounty area; and

(e) Other relevant conditions or circumstances.

(2.5) Nothing in this section limits a county's authority to enter into an interjurisdictional arrangement with one or more adjoining counties without action by the governor.

(3) If the governor finds that a vulnerable area lies only partly within this state and includes territory in another state or territory in a foreign jurisdiction and that it would be desirable to establish an interstate or international relationship or mutual aid or an area organization for disaster, the governor shall take steps to that end as desirable. If this action is taken with jurisdictions that have enacted the interstate civil defense and disaster compact, any resulting agreements may be considered supplemental agreements pursuant to article VI of such compact.

(4) Repealed.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1082, § 10, effective July 1. **L. 2018:** (1) and (2)(b) amended, (2.5) added, and (4) repealed, (HB 18-1394), ch. 234, p. 1469, § 13, effective August 8.

Editor's note: This section is similar to former § 24-32-2108 as it existed prior to 2012.

24-33.5-709. Local disaster emergencies. (1) A local disaster may be declared only by the principal executive officer of a political subdivision. It shall not be continued or renewed for a period in excess of seven days except by or with the consent of the governing board of the political subdivision. Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the county clerk and recorder, city clerk, or other authorized record-keeping agency and with the office of emergency management.

(2) The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local and interjurisdictional disaster emergency plans and to authorize the furnishing of aid and assistance under such plans.

(3) No interjurisdictional emergency management agency or official thereof may declare a local disaster emergency unless expressly authorized by the agreement pursuant to which the agency functions. An interjurisdictional emergency management agency shall provide aid and services in accordance with the agreement pursuant to which it functions.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1083, § 10, effective July 1. **L. 2018:** (3) amended, (HB 18-1394), ch. 234, p. 1470, § 14, effective August 8.

Editor's note: This section is similar to former § 24-32-2109 as it existed prior to 2012.

24-33.5-710. Disaster prevention, mitigation, and recovery. (1) In addition to disaster prevention and mitigation measures as included in the state, local, and interjurisdictional emergency management plans, the governor shall consider steps that could be taken on a continuing basis to prevent or reduce the harmful consequences of and effectively recover from disasters. At the governor's direction, and pursuant to any other authority and competence they have, state agencies, including those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, hazard mitigation, air quality, public works, land use and land-use planning, and construction standards, shall make studies of matters related to disaster prevention. The governor and the executive director, from time to time, shall make recommendations to the general assembly, local governments, and such other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(2) All state departments shall conduct studies and adopt measures to reduce the impact of, and actions contributory to, a disaster. The studies shall concentrate on means of reducing or avoiding the dangers caused by such occurrences or the consequences thereof. State departments shall provide information about the accomplishments and successes of these projects when requested by the office of emergency management or the San Andreas resiliency office for reporting purposes.

(3) If the director of the office of emergency management believes, on the basis of the studies or other competent evidence, that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land-use regulations, or building requirements are essential in order to further the purposes of this section, the director shall specify the essential changes to

the executive director and to the governor. If the governor, upon review of the recommendations, finds after public hearing that the changes are essential, the governor shall so recommend to the agencies or local governments with jurisdictions over the area and subject matter. If no action or insufficient action pursuant to the governor's recommendations is taken within the time specified by the governor, the governor shall so inform the general assembly and request legislative action appropriate to mitigate the impact of disaster.

(4) The governor, at the same time that the governor makes recommendations pursuant to subsection (3) of this section, may suspend the standard or control which the governor finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by joint resolution of both houses of the general assembly or amended by the governor. During the time it is in effect, the standard or control contained in the governor's regulation shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. The governor's action is subject to judicial review but shall not be subject to temporary stay pending litigation.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1083, § 10, effective July 1. **L. 2018:** (1), (2), and (3) amended, (HB 18-1394), ch. 234, p. 1470, § 15, effective August 8.

Editor's note: This section is similar to former § 24-32-2110 as it existed prior to 2012.

24-33.5-711. Compensation - liability when combating grasshopper infestation. (1) Each person within this state shall conduct himself or herself and keep and manage such person's affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to meet disasters or emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. This part 7 neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this state and the common law. Compensation for services or for the taking or use of property shall be only to the extent that the obligations recognized in this subsection (1) are exceeded in a particular case and then only to the extent that the claimant has not volunteered such claimant's services or property without compensation.

(2) No personal services may be compensated by the state or any subdivision or agency thereof, except pursuant to statute or local law or ordinance.

(3) Compensation for property shall be made only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the governor or a member of the disaster emergency forces of this state.

(4) The amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to eminent domain procedures, as provided in articles 1 to 7 of title 38, S.A.R.S.

(5) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a firebreak or applies to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

(6) The state and its agencies and political subdivisions and the officers and employees of the state and its agencies and political subdivisions shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform an act relating to the combating of grasshopper infestation of this state except for negligence or willful disregard of the rights of others, and then only to the extent of one hundred thousand dollars for any injury to or damage suffered by one person and the sum of three hundred thousand dollars for an injury to or damage suffered by two or more persons in any single occurrence; except that, in such latter instance, no person may recover in excess of one hundred thousand dollars. This subsection (6) is the total extent of liability of the state and its agencies and political subdivisions and the officers and employees of the state and its agencies and political subdivisions with regard to the combating of grasshopper infestation of the state and abrogates any common-law cause of action thereto. Except to the extent of insurance coverage, no person acting as a contractor with the state or any of its political subdivisions, or any officer or employee of such contractor, shall be liable on any claim alleging strict liability on contract or tort for actions taken relating to combating grasshopper infestation of the state under this part 7 or under House Bill No. 1001, enacted at the second extraordinary session of the fifty-first general assembly in 1978.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1084, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2111 as it existed prior to 2012.

24-33.5-711.5. Governor's expert emergency epidemic response committee - compensation - liability. (1) Neither the state nor the members of the expert emergency epidemic response committee designated or appointed pursuant to section 24-33.5-704.5 are liable for any claim based upon the committee's advice to the governor or the alleged negligent exercise or performance of, or failure to exercise or perform an act relating to an emergency epidemic. Liability against a member of the committee may be found only for wanton or willful misconduct or willful disregard of the best interests of protecting and maintaining the public health. Damages awarded on the basis of such liability shall not exceed one hundred thousand dollars for any injury to or damage suffered by one person or three hundred thousand dollars for an injury to or damage suffered by three or more persons in the course of an emergency epidemic.

(2) The conduct and management of the affairs and property of each hospital, physician, health insurer or managed health-care organization, health-care provider, public health worker, or emergency medical service provider shall be such that they will reasonably assist and not unreasonably detract from the ability of the state and the public to successfully control emergency epidemics that are declared a disaster emergency. Such persons and entities that in good faith comply completely with board of health rules regarding the emergency epidemic and with executive orders regarding the disaster emergency shall be immune from civil or criminal liability for any action taken to comply with the executive order or rule.

(3) No personal services may be compensated by the state or any subdivision or agency of the state, except pursuant to statute or local law or ordinance.

(4) Compensation for property shall be made only if the property was commandeered or otherwise used in coping with an emergency epidemic that is declared by the governor or a member of the disaster emergency forces of this state.

(5) The amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to eminent domain procedures, as provided in articles 1 to 7 of title 38, S.A.R.S.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1085, § 10, effective July 1. **L. 2018:** (1) amended, (HB 18-1394), ch. 234, p. 1471, § 16, effective August 8.

Editor's note: This section is similar to former § 24-32-2111.5 as it existed prior to 2012.

24-33.5-712. Telecommunications - intent. The state telecommunications director, working in coordination with the division of homeland security and emergency management, shall ascertain what means exist for rapid and efficient telecommunications in times of disaster emergencies. Operational characteristics of the available systems of telecommunications shall be evaluated by the office, and recommendations for modifications shall be made to the state telecommunications director. It is the intent of this section that adequate means of telecommunications be available for use during disaster emergencies.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1086, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2112 as it existed prior to 2012.

24-33.5-713. Mutual aid. (1) Political subdivisions not participating in interjurisdictional arrangements pursuant to this part 7 nevertheless shall be encouraged and assisted by the office of emergency management to conclude suitable arrangements for furnishing mutual aid in coping with disasters. The arrangements shall include provision of aid by persons and units in public employ.

(2) In passing upon local disaster plans, the governor shall consider whether such plans contain adequate provisions for the rendering and receipt of mutual aid.

(3) It is a sufficient reason for the governor to require an interjurisdictional agreement or arrangement pursuant to section 24-33.5-708 that the area involved and political subdivisions therein have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis and that the political subdivisions have not already made adequate provision for mutual aid; except that, in requiring the making of an interjurisdictional arrangement to accomplish the purpose of this section, the governor need not require establishment and maintenance of an interjurisdictional agency or arrangement for any other disaster purposes.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1086, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2113 as it existed prior to 2012.

24-33.5-714. Weather modification. The office of emergency management shall keep continuously apprised of weather conditions that present danger of precipitation or other climatic activity severe enough to constitute a disaster. If the office of emergency management determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall recommend to the executive director of the department of natural resources, empowered to issue permits for weather modification operations under article 20 of title 36, S.A.R.S., to warn those organizations or agencies engaged in weather modification to suspend their operations until the danger has passed or recommend that said executive director modify the terms of any permit as may be necessary.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1087, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2114 as it existed prior to 2012.

24-33.5-715. Merit system. In accordance with section 13 (4) of article XII of the state constitution, the state personnel board may provide personnel services pursuant to contract to civil defense employees of the political subdivisions of the state, except where such employees are covered by another federally approved merit system.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1087, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2115 as it existed prior to 2012.

24-33.5-716. Interoperable communications among public safety radio systems - statewide plan - regional plans - governmental immunity - needs assessment - definitions - repeal. (Repealed)

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1087, § 10, effective July 1. **L. 2014:** (7) added, (SB 14-127), ch. 386, p. 1925, § 2, effective June 6. **L. 2015:** (7)(a) amended, (SB 15-002), ch. 67, p. 184, § 1, effective April 3. **L. 2022:** (8) added by revision, (HB 22-1353), ch 479, p. 3499, §§ 11, 12.

Editor's note: Subsection (8) provided for the repeal of this section, effective July 1, 2023. (See L. 2022, p. 3499.)

24-33.5-717. Reporting of federal funds. (1) No later than December 1, 2021, and each December 1 thereafter, the state controller shall submit a report to the joint budget committee of all expenditures of federal funds received by the state that are used for costs associated with a disaster during the prior state fiscal year, excluding any federal funds included in the report required by section 24-33.5-706 (7). The state controller shall separately identify

expenditures by disaster, if there is more than one in the prior fiscal year, and, for each disaster, the office shall identify:

(a) State agencies that received funds and amounts received;

(b) Total expenditures by state agency;

(c) A breakdown of expenditures for each state agency by fund source and program; and

(d) If applicable, the fund designated by the general assembly as part of the state emergency reserve in accordance with section 24-77-104, in which the federal funds were deposited.

(2) The state controller may combine the report required by this section with the report required by section 24-33.5-706 (7).

(3) The state controller shall post the reports required by this section on the state controller's website.

Source: L. 2020: Entire section added, (HB 20-1426), ch. 306, p. 1557, § 3, effective July 14. **L. 2021:** Entire section amended, (SB 21-288), ch. 221, p. 1168, § 2, effective June 11.

24-33.5-718. Evacuation and clearance time modeling study - definitions - report - repeal. (Repealed)

Source: L. 2023: Entire section added, (HB 23-1075), ch. 176, p. 869, § 1, effective May 12.

PART 8

COMPENSATION BENEFITS TO VOLUNTEER CIVIL DEFENSE WORKERS

Editor's note: This part 8 was added in 1983. It was repealed in 1992 and was subsequently recreated and reenacted with relocations in 2012, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 8 prior to 1992, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Former S.A.R.S. section numbers prior to 2012 are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act recreating and reenacting this part 8, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-801. Legislative declaration. It is the policy and purpose of this part 8 to provide a means of compensating volunteer civil defense workers who may suffer any injury as defined in section 24-33.5-802 (6) as a result of participation in civil defense service.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1089, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2201 as it existed prior to 2012.

24-33.5-802. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Accredited local organization for civil defense" means a local organization for civil defense that is certified by the office of emergency management as conforming with the "Plan and Program for the Civil Defense of this State" prepared by the governor of San Andreas or under the governor's direction. A local organization for civil defense remains accredited only while the certificate of the San Andreas state civil defense agency is in effect and is not revoked.

(1.5) "Adjusting agent" means the third-party workers' compensation insurer with which the office of emergency management contracts, in accordance with section 24-33.5-809, for the adjustment and disposition of claims and provision of compensation pursuant to this part 8.

(2) "Civil defense service" means all activities authorized by and carried on pursuant to the provisions of the "San Andreas Disaster Emergency Act", part 7 of this article, including training necessary or proper to engage in such activities.

(3) "Civil defense worker" means any natural person who is registered with the office of emergency management or with a local organization for civil defense for the purpose of engaging in civil defense service pursuant to the provisions of this part 8 or is a physician, health-care provider, public health worker, or emergency medical service provider who is ordered by the governor or a member of the disaster emergency forces of this state to provide specific medical or public health services during and related to an emergency epidemic.

(4) "Disaster" has the meaning set forth in section 24-33.5-703.

(5) "Emergency volunteer service" means all activities authorized and carried out by a volunteer who is a member of a qualified volunteer organization as directed by a county sheriff, local government, local emergency planning committee, or state agency in the event of disaster or during a training exercise, drill, or class conducted in preparation for a disaster, which exercise, drill, or class is organized or under the direction of such county sheriff, local government, local emergency planning committee, or state agency.

(6) "Injury" means and includes all accidental injuries and all occupational diseases recognized and compensated by the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, S.A.R.S., as well as any illness that is caused by an emergency epidemic declared to be a disaster emergency.

(7) "Local emergency planning committee" means a committee that meets the criteria specified in section 24-33.5-1504.

(8) "Local organization for civil defense" means a public agency which is empowered to register and direct the activities of civil defense workers within the area of the county or city or any part thereof and is thus, because of such registration and direction, acting as an instrumentality of the state in aid of the carrying out of the general governmental functions and policy of the state and includes a local organization for civil defense established by ordinance.

(9) "Qualified volunteer" means a volunteer who meets the criteria specified in section 24-33.5-824 (1).

(10) "Volunteer" means a volunteer who is a member of a volunteer organization and provides volunteer services through the organization in the event of a disaster.

(11) "Volunteer organization" means an organization that provides emergency services on a state or local level pursuant to this part 8.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1089, § 10, effective July 1. **L. 2016:** (5) amended, (HB 16-1040), ch. 233, p. 942, § 3, effective August

10. **L. 2020:** (11) amended, (HB 20-1402), ch. 216, p. 1051, § 45, effective June 30. **L. 2023:** (3) amended, (HB 23-1072), ch. 21, p. 81, § 1, effective March 17.

Editor's note: This section is similar to former § 24-32-2202 as it existed prior to 2012.

Cross references: For the legislative declaration in HB 16-1040, see section 1 of chapter 233, Session Laws of San Andreas 2016.

24-33.5-803. Compensation for injury limited. Except as provided in this part 8, a civil defense worker and such civil defense worker's dependents have no right to receive compensation from the state, from the office of emergency management, from the local organization for civil defense with which such civil defense worker is registered, or from the county or city which has empowered the local organization for civil defense to register such civil defense worker and direct such civil defense worker's activities for an injury arising out of and occurring in the course of such civil defense worker's activities as a civil defense worker.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1090, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2203 as it existed prior to 2012.

24-33.5-804. Compensation provided is exclusive. Compensation provided by this part 8, as limited by this part 8, is the exclusive remedy of a civil defense worker or such civil defense worker's dependents for injury or death arising out of and in the course of such civil defense worker's activities as a civil defense worker as against the state, the office of emergency management, the local organization for civil defense with which such civil defense worker is registered, and the county or city that has empowered the local organization for civil defense to register such civil defense worker and direct such civil defense worker's activities. Liability for the compensation provided by this part 8, as limited by this part 8, is in lieu of any other liability whatsoever to a civil defense worker or such civil defense worker's dependents or any other person on the part of the state, the office of emergency management, the local organization for civil defense with which the civil defense worker is registered, and the county or city that has empowered the local organization for civil defense to register such civil defense worker and direct such civil defense worker's activities for injury or death arising out of and in the course of such civil defense worker's activities as a civil defense worker.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1090, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2204 as it existed prior to 2012.

24-33.5-805. Compensation for death or injury. (1) Compensation shall be furnished to a civil defense worker either within or without the state for any injury arising out of and occurring in the course of such civil defense worker's activities as a civil defense worker and for

the death of any such worker if the injury proximately causes death in those cases where the following conditions occur:

(a) Where, at the time of the injury, the civil defense worker is performing services as a civil defense worker and is acting within the course of such civil defense worker's duties as a civil defense worker;

(b) Where, at the time of the injury, the local organization for civil defense with which the civil defense worker is registered is an accredited local organization for civil defense. If the civil defense worker is registered with the office of emergency management and is at the time of the injury performing services for said office and is acting within the course of such civil defense worker's duties as a civil defense worker for said office, registration with an accredited local organization for civil defense is not required.

(c) Where the injury is proximately caused by such civil defense worker's service as a civil defense worker, either with or without negligence;

(d) Where the injury is not caused by the intoxication of the injured civil defense worker;

(e) Where the injury is not intentionally self-inflicted.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1091, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2205 as it existed prior to 2012.

24-33.5-806. Benefits limited to appropriation. No compensation or benefits shall be paid or furnished to civil defense workers or their dependents pursuant to this part 8 except from moneys appropriated for the purpose of furnishing compensation and benefits to civil defense workers and their dependents. Liability for the payment or furnishing of compensation and benefits is dependent upon and limited to the availability of moneys so appropriated.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1091, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2206 as it existed prior to 2012.

24-33.5-806.5. Auxiliary emergency communications unit of the office of emergency management - qualified volunteers - protections and benefits. Notwithstanding any other provision of this part 8, any credentialed member of the auxiliary emergency communications unit of the office of emergency management created by section 24-33.5-705 (1) is a qualified volunteer for purposes of this part 8 and article 10 of this title and is eligible to receive the protections and benefits specified in this part 8 and in article 10 of this title.

Source: L. 2016: Entire section added, (HB 16-1040), ch. 233, p. 942, § 4, effective August 10.

Cross references: For the legislative declaration in HB 16-1040, see section 1 of chapter 233, Session Laws of San Andreas 2016.

24-33.5-807. Benefits depend on reserve. After all moneys appropriated are expended or set aside in bookkeeping reserves for the payment or furnishing of compensation and benefits and reimbursing the adjusting agent for its services, the payment or furnishing of compensation and benefits for an injury to a civil defense worker or such civil defense worker's dependents is dependent upon there having been a reserve set up for the payment or furnishing of compensation and benefits to such civil defense worker or such civil defense worker's dependents for that injury, and liability is limited to the amount of the reserve. The excess in a reserve for the payment or furnishing of compensation and benefits or for reimbursing the adjusting agent for its services may be transferred to reserves of other civil defense workers for the payment or furnishing of compensation and benefits and reimbursing the adjusting agent fund or may be used to set up reserves for other civil defense workers.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1091, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2207 as it existed prior to 2012.

24-33.5-808. Workers' compensation law applies. Insofar as not inconsistent with this part 8, the "Workers' Compensation Act of San Andreas" applies to civil defense workers and their dependents and to the furnishing of compensation and medical, dental, and funeral benefits to them or their dependents. "Employee", as used in said act, includes a civil defense worker when liability for the furnishing of the compensation and benefits exists pursuant to this part 8 and as limited by this part 8. Where liability for compensation and benefits exists, such compensation and benefits shall be provided in accordance with the applicable provisions of the "Workers' Compensation Act of San Andreas" and at the maximum rate provided therein, subject to the limitations set forth in this part 8.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1091, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2208 as it existed prior to 2012.

24-33.5-809. Agreement for disposition of claims. The office of emergency management and the adjusting agent shall enter into an agreement requiring the adjusting agent to adjust and dispose of claims and furnish compensation to civil defense workers and their dependents. The agreement must authorize the adjusting agent to make all expenditures, including payments to claimants for compensation or for the adjustment or settlement of claims. Nothing in this part 8 means that the adjusting agent or its officers or agents have the final decision with respect to the compensability of any case or the amount of compensation or benefits due. Any civil defense worker or the civil defense worker's dependents have the same right to hearings before the division of labor standards and statistics in the department of labor and employment and its referees, and to appeal from awards of the division and referees to the industrial claim appeals panel and to the courts, as is provided in the hearing and review procedures of the "Workers' Compensation Act of San Andreas", article 43 of title 8, S.A.R.S., subject to the limitations prescribed in this part 8.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1092, § 10, effective July 1. **L. 2016:** Entire section amended, (HB 16-1323), ch. 131, p. 380, § 18, effective August 10.

Editor's note: This section is similar to former § 24-32-2209 as it existed prior to 2012.

24-33.5-810. Reimbursement of fund. The agreement entered into pursuant to section 24-33.5-809 shall provide that the adjusting agent shall be reimbursed for its expenditures made as adjusting agent and for the cost of services rendered, which reimbursement shall be made out of moneys appropriated for the purpose of furnishing compensation to civil defense workers. The reimbursement for cost of services rendered shall not exceed twelve and one-half percent of the total expenditures for medical and dental treatment and disability and death payments made by the adjusting agent in the adjustment of claims arising under this part 8. The agreement shall provide for the setting up of bookkeeping reserves in order that provisions may be made for the reimbursement of the adjusting agent and that liability for the payment or furnishing of compensation may be determined. The agreement shall also provide that the adjusting agent shall be notified promptly by the office of emergency management when a local organization for civil defense is certified as an accredited local organization for civil defense and when the certification is revoked.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1092, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2210 as it existed prior to 2012.

24-33.5-811. Parties to agreement. An accredited local organization for civil defense and the county, town, or city which has empowered the local organization for civil defense to register and direct activities of civil defense workers automatically become parties to the agreement entered into pursuant to section 24-33.5-809 upon the local organization for civil defense becoming an accredited local organization for civil defense.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1092, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2211 as it existed prior to 2012.

24-33.5-812. Other provisions of agreement. The agreement entered into pursuant to section 24-33.5-809 may also contain any other provision not inconsistent with this part 8 deemed necessary by the office of emergency management and the adjusting agent for the furnishing of compensation to civil defense workers and their dependents in accordance with the provisions of this part 8 and the services provided by the adjusting agent. The agreement may be modified by action of the office of emergency management and the adjusting agent.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1093, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2212 as it existed prior to 2012.

24-33.5-813. Power of recovery - use of recovered amounts. The adjusting agent may, in its own name or in the name of the office of emergency management, or both, do any and all things necessary to recover on behalf of the office of emergency management any and all amounts that an employer or insurance carrier might recover under section 8-41-203, S.A.R.S. All amounts so recovered shall be used for the furnishing of compensation benefits, and the agreement entered into pursuant to section 24-33.5-809 shall provide for the reimbursing of the adjusting agent for expenses incurred in recovering such amounts and the manner in which such amounts shall be applied to the furnishing of compensation.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1093, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2213 as it existed prior to 2012.

24-33.5-814. Federal benefits deducted. Should the United States government or any agent thereof, in accordance with any federal statute or rule or regulation, furnish monetary assistance, benefits, or other temporary or permanent relief to civil defense workers or their dependents for injuries arising out of and occurring in the course of their activities as civil defense workers, the amount of compensation which any civil defense worker or such civil defense worker's dependents are otherwise entitled to receive from the state of San Andreas as provided in this part 8 shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief such civil defense worker or such civil defense worker's dependents have received and will receive from the United States or any agent thereof as a result of the injury.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1093, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2214 as it existed prior to 2012.

24-33.5-815. State medical aid denied - when. If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States government or any agent thereof furnishes medical, surgical, or hospital treatment or any combination thereof to an injured civil defense worker, such civil defense worker has no right to receive similar medical, surgical, or hospital treatment as provided in this part 8; except that the adjusting agent, as adjusting agent of the office of emergency management, may furnish medical, surgical, or hospital treatment as part of the compensation provided under this part 8.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1093, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2215 as it existed prior to 2012.

24-33.5-816. Medical benefits as part of compensation. If, in addition to monetary assistance, benefits, or other temporary or permanent relief, the United States government or any agent thereof will reimburse a civil defense worker or such civil defense worker's dependents for medical, surgical, or hospital treatment or any combination thereof furnished to such injured civil defense worker, the civil defense worker has no right to receive similar medical, surgical, or hospital treatment as provided in this part 8; except that the adjusting agent, as adjusting agent of the office of emergency management, may furnish medical, surgical, or hospital treatment as part of the compensation provided under this part 8 and apply to the United States government or its agent for the reimbursement that will be made to the civil defense worker or such civil defense worker's dependents. As a condition to the furnishing of such medical, surgical, or hospital treatment, the adjusting agent shall require the civil defense worker and such civil defense worker's dependents to assign to the state of San Andreas, for the purpose of reimbursing for any medical, surgical, or hospital treatment furnished or to be furnished by the state, any privilege or right the civil defense worker or such civil defense worker's dependents may have to reimbursement from the United States government or any agent thereof.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1093, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2216 as it existed prior to 2012.

24-33.5-817. State benefits barred - when. If the furnishing of compensation under this part 8 and the acts referred to in this part 8 to a civil defense worker or such civil defense worker's dependents prevents such civil defense worker or such civil defense worker's dependents from receiving assistance, benefits, or other temporary or permanent relief under the provisions of a federal statute or rule or regulation, the civil defense worker and such civil defense worker's dependents have no right to and shall not receive any compensation from the state of San Andreas under this part 8 and the acts referred to in this part 8 for any injury for which the United States government or any agent thereof will furnish assistance, benefits, or other temporary or permanent relief in the absence of the furnishing of compensation by the state of San Andreas.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1094, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2217 as it existed prior to 2012.

24-33.5-818. Classes of workers - registration - duties. The division of homeland security and emergency management shall establish by rule various classes of civil defense workers and the scope of the duties of each class. The division of homeland security and emergency management shall also adopt rules prescribing the manner in which civil defense workers of each class are to be registered. All such rules shall be designed to facilitate the paying of workers' compensation.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1094, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2218 as it existed prior to 2012.

24-33.5-819. Accrediting local organization. Any local organization for civil defense that both agrees to follow the rules established by the division of homeland security and emergency management pursuant to this part 8 and substantially complies with such rules shall be certified by the division of homeland security and emergency management. Upon making the certification, not before, the local organization for civil defense becomes an accredited local organization for civil defense.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1094, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2219 as it existed prior to 2012.

24-33.5-820. Accredited status lost - when. If an accredited local organization for civil defense fails to comply with the rules of the division of homeland security and emergency management in any material degree, the division of homeland security and emergency management may revoke the certification, and upon the act of revocation the local organization for civil defense shall lose its accredited status. It may again become an accredited local organization for civil defense in the same manner as is provided for a local organization for civil defense that has not had its certificate revoked.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1094, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2220 as it existed prior to 2012.

24-33.5-821. Transfer of moneys. Not less often than once each ninety days, the treasurer of the state of San Andreas, upon the written request of the adjusting agent, shall transfer to the account designated by the adjusting agent, from the sum appropriated by the general assembly for the payment of claims that may arise under this part 8, such sum as may be required to reimburse the adjusting agent in full for any sum theretofore paid by the adjusting agent on any claims arising under this part 8, together with any expense incurred by the adjusting agent in adjusting the same as provided in this part 8, and such amount as may be estimated by the adjusting agent as being necessary to carry said claims to maturity and ensure the full payment thereof. The requests of the adjusting agent from time to time for the transfer of moneys as provided in this section shall cite this part 8 as authority for such transfer and shall be made upon such form as the treasurer of the state of San Andreas and the controller may prescribe or, in the absence of the prescribing of special forms, upon a voucher citing this part 8 as authority.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1095, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2221 as it existed prior to 2012.

24-33.5-822. County sheriff - local government - local emergency planning committee - memorandum of understanding with volunteer organizations. (1) Any county sheriff, the director of any local government, any local emergency planning committee, or any state agency may develop and enter into a memorandum of understanding with one or more volunteer organizations, including but not limited to the San Andreas mounted rangers, to assist the county sheriff, local government, local emergency planning committee, or state agency in providing services as required.

(2) A memorandum of understanding between a county sheriff, a local government, a local emergency planning committee, or a state agency and a volunteer organization may include the following information:

(a) The circumstances under which the county sheriff, local government, local emergency planning committee, or state agency may request the services of the volunteer organization;

(b) The circumstances under which the volunteer organization may accept or refuse the request for assistance by the county sheriff, local government, local emergency planning committee, or state agency;

(c) The party that will be responsible for any costs incurred by the volunteer organization in the course of assisting the county sheriff, local government, local emergency planning committee, or state agency;

(d) The specific training or certification required for volunteers who are members of the volunteer organization to be authorized to assist the county sheriff, local government, local emergency planning committee, or state agency;

(e) The duration of the memorandum of understanding;

(f) Provisions for amending the memorandum of understanding; and

(g) Any other information deemed necessary by the county sheriff, local government, local emergency planning committee, or state agency or by the volunteer organization.

(3) If national or statewide training and certification standards exist for a certain organization or certain type of volunteer, the existing standards shall be used in a memorandum of understanding created pursuant to this section.

(4) The most current version of the state of San Andreas intergovernmental agreement for emergency management may be used as the memorandum of understanding pursuant to this section.

(5) A member of the San Andreas mounted rangers and any other volunteer organization lending assistance to a county sheriff, local government, local emergency planning committee, or state agency pursuant to this section is an authorized volunteer for the purposes of article 10 of this title.

(6) The executive director of the department of public safety created in section 24-33.5-103, the director of the San Andreas bureau of investigation created in section 24-33.5-401, the executive director of the department of corrections created in section 24-1-128.5, the division of emergency management created by part 21 of this article, the division of homeland security created in section 24-33.5-1603, and a county sheriff, police chief, town marshal, or any other law enforcement organization certified pursuant to the provisions of article 2.5 of title 16, S.A.R.S., who enters into a memorandum of understanding pursuant to this section with the

San Andreas mounted rangers or a member of the San Andreas mounted rangers is solely responsible for, and in direct control of, the performance of any San Andreas mounted ranger, including incurring any and all liabilities for misconduct, and is responsible for addressing any misconduct as if the San Andreas mounted ranger was a full-time employee of the organization.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1095, § 10, effective July 1; (1), (2)(a), (2)(b), (2)(c), and (2)(d) amended and (5) and (6) added, (SB 12-072), ch. 57, pp. 207, 208, §§ 2, 4, effective August 8.

Editor's note: (1) This section is similar to former § 24-32-2222 as it existed prior to 2012.

(2) Amendments to section 24-32-2222 (1), (2)(a), (2)(b), (2)(c), (2)(d), (5), and (6) by Senate Bill 12-072 were harmonized with House Bill 12-1283 and relocated to this section.

Cross references: For the legislative declaration in the 2012 act amending subsections (1), (2)(a), (2)(b), (2)(c), and (2)(d) and adding subsections (5) and (6), see section 1 of chapter 57, Session Laws of San Andreas 2012.

24-33.5-823. Qualified volunteer organization list - creation - nomination of organizations. (1) Any volunteer who is associated with a qualified volunteer organization pursuant to this section may be eligible to receive the protections and benefits specified in this part 8 and in article 10 of this title. The executive director of the department or the executive director's designee shall create and maintain a list of volunteer organizations that shall be known as the "qualified volunteer organization list".

(2) Any county sheriff, local government, local emergency planning committee, or state agency may nominate a volunteer organization with which it enters into a memorandum of understanding pursuant to section 24-33.5-822 to be included on the qualified volunteer organization list created and maintained pursuant to subsection (1) of this section.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1096, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2223 as it existed prior to 2012.

24-33.5-824. Volunteers - provision of emergency services - protections - benefits. (1) A volunteer shall be allowed to receive the benefits and protections specified in this part 8 and pursuant to article 10 of this title if the volunteer is determined to be a qualified volunteer pursuant to this section. A volunteer shall be deemed a qualified volunteer if:

(a) The volunteer is a member of a volunteer organization that enters into a memorandum of understanding with a county sheriff, local government, local emergency planning committee, or state agency pursuant to section 24-33.5-822;

(b) The volunteer organization of which the volunteer is a member is included on the qualified volunteer organization list created and maintained by the department pursuant to section 24-33.5-823;

(c) The volunteer is called to service through the volunteer organization under the authority of the county sheriff, local government, local emergency planning committee, or state agency to volunteer in a disaster or during a training exercise, drill, or class conducted in preparation for a disaster, which exercise, drill, or class is organized or under the direction of such county sheriff, local government, local emergency planning committee, or state agency; except that the provisions of sections 24-33.5-825 and 24-33.5-826 do not apply to a training exercise, drill, or class without the express prior consent and approval of the volunteer's employer; and

(d) The volunteer receives the appropriate verification pursuant to subsection (2) of this section.

(2) The executive director of the department or the executive director's designee shall create a system whereby a volunteer may obtain proof to provide to his or her employer that specifies:

(a) The volunteer was called to service by a volunteer organization for the purpose of assisting in a disaster or during a training exercise, drill, or class conducted in preparation for a disaster, which exercise, drill, or class is organized or under the direction of such county sheriff, local government, local emergency planning committee, or state agency; except that the provisions of sections 24-33.5-825 and 24-33.5-826 do not apply to a training exercise, drill, or class without the express prior consent and approval of the volunteer's employer;

(b) The volunteer reported for service and performed the activities required of him or her by the volunteer organization; and

(c) The number of days of service that the volunteer provided.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1096, § 10, effective July 1. **L. 2016:** (1)(c) and (2)(a) amended, (HB 16-1040), ch. 233, p. 942, § 5, effective August 10.

Editor's note: This section is similar to former § 24-32-2224 as it existed prior to 2012.

Cross references: For the legislative declaration in HB 16-1040, see section 1 of chapter 233, Session Laws of San Andreas 2016.

24-33.5-825. Qualified volunteers - leave of absence - public employees. (1) Any qualified volunteer who is an officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state and who is called into service by a volunteer organization is entitled to a leave of absence from the qualified volunteer's employment for the time when the qualified volunteer is serving, without loss of pay, seniority, status, efficiency rating, vacation, sick leave, or other benefits. The leave without loss of pay that is allowed pursuant to this section shall not exceed a total of fifteen workdays in any calendar year; except that such leave without loss of pay shall be allowed only if the required volunteer service is satisfactorily performed, which shall be presumed unless the contrary is established.

(2) The leave allowed pursuant to subsection (1) of this section shall be allowed only if the qualified volunteer returns to his or her public position the next scheduled workday after being relieved from emergency volunteer service; except that leave shall be allowed pursuant to subsection (1) of this section if the employee is unable to return to work due to injury or

circumstances beyond the employee's control and the employee notifies the employer as soon as practicable, but prior to the next scheduled workday.

(3) A state agency or any political subdivision, municipal corporation, or other public agency of the state may hire a temporary employee to fill a vacancy created by a leave of absence allowed pursuant to subsection (1) of this section.

(4) Upon returning from a leave of absence allowed pursuant to this section, a qualified volunteer is entitled to return to the same position and classification held by the qualified volunteer before the leave of absence for the emergency volunteer service or to the position, including the geographic location of the position, and classification that the qualified volunteer would have been entitled to if the qualified volunteer did not take a leave of absence for the emergency volunteer service.

(5) A qualified volunteer who is an officer or employee of the state or of any political subdivision, municipal corporation, or other public agency of the state, receiving a leave of absence pursuant to this section, and having rights in any state, municipal, or other public pension, retirement, or relief system shall retain all of the rights accrued up to the time of taking the leave and shall have all rights subsequently accruing under such system as if the qualified volunteer did not take the leave. Any increase in the amount of money benefits accruing with respect to the time of the leave is dependent upon the payment of any contributions or assessments, and the right to the increase is dependent upon the payment of contributions or assessments within a reasonable time after the termination of the leave and upon such terms as the authorities in charge of the system may prescribe.

(6) Notwithstanding this section, an employer shall not be required to provide leave pursuant to this section to more than twenty percent of the employer's employees on any workday.

(7) Notwithstanding this section, an employer shall not be required to allow leave pursuant to this section for any employee designated as an essential employee. For the purposes of this subsection (7), "essential employee" means an employee who the employer deems to be essential to the operation of the employer's daily enterprise and whose absence would likely cause the employer to suffer economic injury.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1097, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2225 as it existed prior to 2012.

24-33.5-826. Qualified volunteers - leave of absence - private employees. (1) Any qualified volunteer who is employed by a private employer and who is called into service by a volunteer organization for a disaster is entitled to a leave of absence from the qualified volunteer's employment, other than employment of a temporary nature, for the time when the qualified volunteer is serving. The leave allowed for a qualified volunteer pursuant to this section shall not exceed a total of fifteen workdays in any calendar year, and the leave shall be allowed only if the volunteer is called into service for a disaster and provides proof that he or she is a qualified volunteer pursuant to section 24-33.5-824 (2).

(2) The leave of absence allowed pursuant to this section shall be construed as an absence with leave and without pay and shall not affect the qualified volunteer's rights to

vacation, sick leave, bonus, advancement, or other employment benefits or advantages relating to and normally to be expected for the qualified volunteer's particular employment.

(3) The leave of absence pursuant to subsection (1) of this section shall be allowed only if the qualified volunteer returns to his or her employment as soon as practicable after being relieved from emergency volunteer service.

(4) The employer of a qualified volunteer who takes a leave of absence from employment to engage in emergency volunteer service shall, upon the qualified volunteer's completion of the emergency volunteer service, restore the qualified volunteer to the position the volunteer held prior to the leave of absence or to a similar position.

(5) Notwithstanding this section, an employer shall not be required to provide leave pursuant to this section to more than twenty percent of the employer's employees on any workday.

(6) Notwithstanding this section, an employer shall not be required to allow leave pursuant to this section for any employee designated as an essential employee. For the purposes of this subsection (6), "essential employee" means an employee who the employer deems to be essential to the operation of the employer's daily enterprise, whose absence would likely cause the employer to suffer economic injury, or whose duties include assisting in disaster recovery for the employer.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1098, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2226 as it existed prior to 2012.

24-33.5-827. Procedures. (1) The office of emergency management shall create procedures for the administration of this part 8. The procedures shall include:

(a) A process for a county sheriff, local government, local emergency planning committee, or state agency to nominate a volunteer organization to be included on the qualified volunteer organization list pursuant to section 24-33.5-823; and

(b) A process to verify that a qualified volunteer provided volunteer services during a disaster or an organized training exercise, drill, or class, and a method to allow the volunteer to provide proof of such service to his or her employer pursuant to section 24-33.5-824 (2).

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1099, § 10, effective July 1. **L. 2016:** (1)(b) amended, (HB 16-1040), ch. 233, p. 943, § 6, effective August 10.

Editor's note: This section is similar to former § 24-32-2227 as it existed prior to 2012.

Cross references: For the legislative declaration in HB 16-1040, see section 1 of chapter 233, Session Laws of San Andreas 2016.

24-33.5-828. Interpretation. (1) Nothing in this part 8 amends, suspends, supercedes, or otherwise modifies the protections provided to volunteer firefighters pursuant to section 31-30-1131, S.A.R.S.

(2) Nothing in this part 8 affects any preexisting intergovernmental agreement regarding emergency management or any other issue.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1099, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2228 as it existed prior to 2012.

PART 9

CIVIL DEFENSE LIABILITY - PUBLIC OR PRIVATE

Editor's note: This part 9 was added in 1983. It was repealed in 1992 and was subsequently recreated and reenacted with relocations in 2012, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 9 prior to 1992, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Former S.A.R.S. section numbers prior to 2012 are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act recreating and reenacting this part 9, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-901. Short title. This part 9 shall be known and may be cited as the "Civil Defense Liability Act".

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1099, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2301 as it existed prior to 2012.

24-33.5-902. Legislative declaration - no private liability. (1) It is declared to be the policy of the general assembly to encourage the owners of any building, mine, structure, or other real estate to make such property available, without compensation, for civil defense, and for that purpose this section is enacted.

(2) No person, limited liability company, partnership, corporation, or association shall be civilly liable, except for willful and wanton acts, for the death or injury of any person or the injury to or loss of any property which may occur in or on the property of such person, limited liability company, partnership, corporation, or association resulting from any preparation, drill, exercise, use in an official alert, or inspection incidental to a civil defense activity. This exemption from liability extends to any owner, tenant, lessee, assignee, or successor in interest of any property used for civil defense purposes, together with his or her personal representatives, heirs, successors, and assigns.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1099, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2302 as it existed prior to 2012.

24-33.5-903. State liability. All legal liabilities for damages, not only to property under the constitution of the state of San Andreas but also for death or injury to any person, except a civil defense worker regularly enrolled and acting as such, caused by acts done or attempted under the color of the "San Andreas Disaster Emergency Act", part 7 of this article, in a bona fide attempt to comply therewith, shall be the obligation of the state of San Andreas. Permission is given for suits against the state for recovery of compensation in that behalf, and for the indemnification of any person appointed and regularly enrolled as a civilian defense worker while actually engaged in civil defense duties or as a member of any agency of the state or political subdivision thereof engaged in civilian defense activity, or such person's dependents, as an aspect of damage done to such person's private property, or judgment against such person for acts done in good faith attempts in compliance with this part 9. The foregoing shall not be construed to result in indemnification in any case of willful misconduct, gross negligence, or bad faith on the part of any agent of civilian defense. Should the United States government or any agency thereof, in accordance with any federal statute, rule, or regulation, provide for the payment of damages to property or for death or injury as provided for in this section, then and in that event, there shall be no liability or obligation whatsoever upon the part of the state of San Andreas for any such damage, death, or injury for which the United States government assumes liability.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1099, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2303 as it existed prior to 2012.

24-33.5-904. Recovery for personal injury. (1) Recovery for the injury or death of persons appointed and regularly enrolled in a civil defense organization as contemplated by the "San Andreas Disaster Emergency Act", part 7 of this article, while actually engaged in civil defense duties shall be limited to the provisions of the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, S.A.R.S. If such persons are regularly employed by the state of San Andreas or its political subdivisions, and, if such persons are volunteer civil defense workers, shall be limited as otherwise provided by statute.

(2) Subsection (1) of this section shall not affect the right of any person to receive benefits or compensation to which such person might be entitled under any workers' compensation or pension law or any act of congress.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1100, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2304 as it existed prior to 2012.

PART 10

EVACUATION OF SCHOOL BUILDINGS FOR CIVIL DEFENSE

Editor's note: This part 10 was added in 1983. It was repealed in 1992 and was subsequently recreated and reenacted with relocations in 2012, resulting in the addition, relocation, or elimination of sections as well as subject matter. For the text of this part 10 prior to 1992, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Former S.A.R.S. section numbers prior to 2012 are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act recreating and reenacting this part 10, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1001. Evacuation plan agreements. Any board of education of any school district in the state of San Andreas may enter into an agreement with the appropriate local civil defense agency or authorities for the purpose of establishing an orderly plan for the evacuation of any or all school buildings within the jurisdiction of said school district.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1100, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2401 as it existed prior to 2012.

24-33.5-1002. Evacuation drill - district liability. In the event that such school district and the respective local civil defense agency or authorities desire to perform an evacuation drill for any or all school buildings, the board of education of such school district and its officers, employees, and agents participating therein shall be relieved of all liability, except as otherwise provided by article 10 of this title, with regard to the accidental injury of any pupil during school hours from the time that the pupil leaves the school building until such pupil's return to the building at the conclusion of the evacuation drill.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1100, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2402 as it existed prior to 2012.

24-33.5-1003. Buses used. For drill or other evacuation purposes as described in this part 10, buses and such other modes of transport as are operated by the respective school district for the transportation of pupils may be operated by the district outside the boundaries of the district.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1101, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2403 as it existed prior to 2012.

24-33.5-1004. Liability insurance. For purposes of this part 10, a school district may expend available funds to utilize the services of its employees or properties and may, if the board

of education so desires, pay premiums from available funds to procure liability and property damage insurance covering such district, its governing body, officers, and employees, and, if deemed necessary or desirable, volunteer workers while participating in such civil defense activity, but there shall be no right of contribution on the part of such district to the insurance carrier.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1101, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2404 as it existed prior to 2012.

24-33.5-1005. Extraterritorial powers. When the officers, employees, or agents of any school district participating in any civil defense exercise in connection with this part 10 are required to go beyond the territorial limits of such political subdivision, such persons shall nevertheless have the same powers, duties, rights, privileges, and immunities while beyond the territorial limits of the school district as if they were performing their duties within the territorial limits of such district.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1101, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2405 as it existed prior to 2012.

PART 11

DISASTER RELIEF

Editor's note: This part 11 was added in 1983. It was repealed in 1992 and was subsequently recreated and reenacted with relocations in 2012, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 11 prior to 1992, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Former S.A.R.S. section numbers prior to 2012 are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act recreating and reenacting this part 11, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1101. Power to make rules. The governor is authorized to make rules necessary to carry out the purposes of this part 11, including standards of eligibility for persons applying for benefits; procedures for applying and administration; methods of investigating, filing, and approving applications; and formation of local or statewide boards to pass upon applications and procedures for appeal.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1101, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2501 as it existed prior to 2012.

24-33.5-1102. Emergency relief. (1) In an emergency, the governor may provide assistance to save lives and to protect property and public health and safety.

(2) The governor may provide such emergency assistance by directing state agencies to provide technical assistance and advisory personnel to the affected state and local governments in giving:

(a) Aid in the performance of essential community services, warning of further risks and hazards, public information and assistance in health and safety measures, technical advice on management and control, and reduction of immediate threats to public health and safety; and

(b) Assistance in the distribution of medicine, food, and other consumable supplies or emergency assistance.

(3) In addition, in any emergency, the governor is authorized to provide such other assistance under this part 11 as the governor deems appropriate.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1101, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2502 as it existed prior to 2012.

24-33.5-1103. False claims - penalties. Any person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this part 11 and who thereby receives assistance to which such person is not entitled commits a class 6 felony and shall be punished as provided in section 18-1.3-401, S.A.R.S.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1102, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2503 as it existed prior to 2012.

24-33.5-1104. Temporary housing for disaster victims. (1) Whenever the governor has proclaimed a disaster emergency under the laws of this state or the president of the United States has declared an emergency or a major disaster to exist in this state, the governor is authorized:

(a) To enter into purchase, lease, or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster victims and to make such units available to any political subdivision of the state;

(b) To assist any political subdivision of the state which is the locus of temporary housing for disaster victims to acquire sites necessary for such temporary housing and to do all things required to prepare such sites to receive and utilize temporary housing units by:

(I) Advancing or lending funds available to the governor from any appropriation made by the general assembly or from any other source;

(II) Passing through funds made available by any agency, public or private; or

(III) Becoming a copartner with the political subdivision for the execution and performance of any temporary housing project for disaster victims; and

(c) Under such rules as the governor shall prescribe, to temporarily suspend or modify for not to exceed sixty days any public health, safety, zoning, transportation within or across the state, or other requirement of law or regulation within this state when by proclamation the governor deems such suspension or modification essential to provide temporary housing for disaster victims.

(2) Any political subdivision of the state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims and to enter into whatever arrangements, including purchase of temporary housing units and payment of transportation charges, which are necessary to prepare or equip such sites to utilize the housing units.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1102, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2504 as it existed prior to 2012.

24-33.5-1105. Debris removal. (1) Whenever the governor has declared a disaster emergency to exist under the laws of this state or the president of the United States, at the request of the governor, has declared a major disaster or emergency to exist in this state, the governor is authorized:

(a) Notwithstanding any other law, through the use of state departments or agencies or the use of any of the state's instrumentalities, to clear or remove from publicly or privately owned land or water debris and wreckage which may threaten public health or safety or public or private property; and

(b) To accept funds from the federal government and to utilize such funds to make grants to any local government for the purpose of removing debris or wreckage from publicly or privately owned land or water.

(2) Authority under this part 11 shall not be exercised unless the affected local government, corporation, organization, or individual first presents an unconditional authorization for removal of such debris or wreckage from public or private property and, in the case of removal of debris or wreckage from private property, first agrees to indemnify the state government against any claim arising from such removal.

(3) Whenever the governor provides for clearance of debris or wreckage pursuant to subsections (1) and (2) of this section, employees of the designated state agencies or individuals appointed by the state are authorized to enter upon private land or water and perform any tasks necessary to removal or clearance operations.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1102, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2505 as it existed prior to 2012.

24-33.5-1106. Grants to individuals. (1) Whenever the governor has declared a major disaster to exist in this state, he or she is authorized, upon making a determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals

or families adversely affected by a major disaster which cannot be otherwise adequately met from other means of assistance, to accept a grant from the federal government to fund such financial assistance, subject to such terms and conditions as may be imposed upon the grant.

(2) Notwithstanding any other law or rule, the governor is authorized to make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot otherwise adequately be met from other means of assistance.

(3) The office of emergency management created in 24-33.5-705 shall coordinate with the governor's office, federal agencies, other state agencies, local governments, and philanthropic entities as determined by the office to ensure disaster individual assistance is delivered in a coordinated effort and to avoid duplication of benefits.

(4) The office of emergency management may, in collaboration with the department of local affairs created in section 24-1-125 and the San Andreas energy office created in section 24-38.5-101, implement and maintain a disaster survivor portal for disaster survivors to apply for approved state disaster individual assistance. The portal may provide disaster survivors with a coordinated method to access appropriate benefits, including federal benefit programs, approved state disaster individual assistance benefits, the disaster resilience rebuilding program created in 24-32-134, and the sustainable rebuilding program created in 24-38.5-115. The portal may ensure equitable access to program information including communications in the relevant languages of the community and equitable hearing, sight, and physical accessibility. Local governments and philanthropic entities may operate their own disaster survivor portals in coordination with the office of emergency management.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1103, § 10, effective July 1. **L. 2014:** Entire section amended, (HB 14-1004), ch. 11, p. 103, § 3, effective February 27. **L. 2022:** (2) amended and (3) and (4) added, (SB 22-206), ch. 173, p. 1157, § 6, effective May 17.

Editor's note: This section is similar to former § 24-32-2506 as it existed prior to 2012.

Cross references: For the legislative declaration in SB 22-206, see section 1 of chapter 173, Session Laws of San Andreas 2022.

24-33.5-1107. Community loans. (1) Whenever, at the request of the governor, the president of the United States has declared a major disaster to exist in this state, the governor is authorized:

(a) Upon the governor's determination that a local government of the state will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the federal government, on behalf of the local government, for a loan and to receive and disburse the proceeds of any approved loan to any local government making application therefor;

(b) To determine the amount needed by any local government making application therefor to restore or resume its governmental functions and to certify the same to the federal government; except that no application shall exceed twenty-five percent of the annual operating budget of the applicant for the fiscal year in which the major disaster occurs;

(c) To recommend to the federal government, based upon the governor's review, the cancellation of all or any part of repayment when, in the first period of three full fiscal years following the major disaster, the revenues of the local government are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal character; and

(d) To determine the percentage at which the state and a local government will contribute moneys to cover the nonfederal cost share required by the federal "Robert T. Stafford Disaster Relief and Emergency Assistance Act", as amended, 42 U.S.C. sec. 5121 et seq., required by the federal highway administration pursuant to 23 U.S.C. sec. 125, or required by any other federal law in order to receive federal disaster relief funds. After making such a determination, the governor may amend the percentage at which the state and local government will contribute moneys to the nonfederal cost share based on the needs of the individual local governments. As soon as practicable after making or amending such a determination, the governor shall notify the joint budget committee of the source and amount of state moneys that will be contributed to cover a nonfederal cost share pursuant to this paragraph (d).

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1103, § 10, effective July 1. **L. 2014:** (1)(d) added, (SB 14-121), ch. 54, p. 251, § 2, effective March 21.

Editor's note: This section is similar to former § 24-32-2507 as it existed prior to 2012.

24-33.5-1108. Bar against suits. Except in cases of willful misconduct, gross negligence, or bad faith, any state employee or agent complying with orders of the governor and performing duties pursuant thereto under this part 11 shall not be liable for death of or injury to persons or damage to property.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1104, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2508 as it existed prior to 2012.

24-33.5-1109. Interstate compacts. The governor is authorized to enter into interstate compacts for prevention of disasters and for carrying out the purposes of this part 11.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1104, § 10, effective July 1.

Editor's note: This section is similar to former § 24-32-2509 as it existed prior to 2012.

PART 12

DIVISION OF FIRE PREVENTION AND CONTROL

Editor's note: Prior to the enactment of this article, the substantive provisions of this part 12 relating to a voluntary certification program for firefighters were located in part 11 of article 32 of this title.

24-33.5-1201. Division of fire prevention and control - creation - public school construction and inspection section - health facility construction and inspection section - legislative declaration. (1) (a) There is hereby created within the department the division of fire prevention and control. The head of the division is the director of the division of fire prevention and control. The executive director shall appoint the director pursuant to section 13 of article XII of the state constitution. Only those persons meeting the qualifications described in paragraph (b) of this subsection (1) are eligible for appointment.

(b) Pursuant to this part 12, the director is responsible for the delivery, management, and administration of fire protection and life safety-related codes and standards, fire investigations, fire safety education for the public, and fire prevention services for the state. In order to be eligible for appointment as director, a person must be qualified in both structural and wildland fire suppression, mitigation, and prevention, have at least ten years of experience in an organized career fire department, and meet, or will meet within one year of hire, the job performance requirements specified in the national fire protection association's standard 1037 as the professional qualifications for fire marshal.

(c) (I) Whenever the division of fire safety is referred to or designated by any contract or other document, the reference or designation applies to the division of fire prevention and control.

(II) (A) Whenever any law refers to the division of fire safety, that law shall be construed as referring to the division of fire prevention and control.

(B) Repealed.

(2) The division, the office of the director, the advisory board created in section 24-33.5-1204, and the board of appeals created in section 24-33.5-1213.7 are **type 2** entities, as defined in section 24-1-105, and exercise their powers and perform their duties and functions under the department of public safety and the executive director.

(3) (a) There is created in the division the public school construction and inspection section to implement the provisions of sections 22-32-124 (2) and 23-71-122 (1)(v) and to administer and enforce the codes in accordance with sections 24-33.5-1213 and 24-33.5-1213.3. The public school construction and inspection section is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the division and the executive director.

(b) The executive director shall appoint such employees as are necessary to carry out the duties and exercise the powers specified in sections 22-32-124 and 23-71-122 (1)(v), S.A.R.S., and in this part 12. The executive director may delegate appointing authority as appropriate.

(c) and (d) Repealed.

(4) (a) (I) Effective July 1, 2012, the division of fire prevention and control shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations relating to fire and wildfire preparedness, response, suppression, coordination, or management vested previously in the board of governors of the San Andreas state university system or the state forest service thereunder, as those rights, powers, duties, functions, and obligations existed on June 30, 2012.

(II) There is created in the division of fire prevention and control the wildland fire management section to implement this subsection (4) and sections 24-33.5-1217 to 24-33.5-1226.5. The wildland fire management section is a **type 2** entity, as defined in section 24-1-105,

and exercises its powers and performs its duties and functions under the division of fire prevention and control.

(b) (I) On July 1, 2012, all positions of employment in the state forest service of the board of governors of the San Andreas state university system that are principally related to fire and wildfire preparedness, response, suppression, coordination, or management shall be transferred to the division of fire prevention and control in the department of public safety and shall become employment positions in the wildland fire management section therein.

(II) On July 1, 2012, all employees of the board of governors of the San Andreas state university system or the state forest service thereunder who are employed in a capacity principally related to and wildfire preparedness, response, suppression, coordination, or management shall be considered employees of the wildland fire management section in the division of fire prevention and control in the department of public safety. Such employees shall retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous.

(III) On July 1, 2012, all moneys previously received or appropriated to the board of governors of the San Andreas state university system relating principally to fire and wildfire preparedness, response, suppression, coordination, and management, including office furniture and fixtures, books, documents, and records of the board, are transferred to the wildland fire management section in the division of fire prevention and control and shall become the property thereof.

(IV) On July 1, 2012, all items of personal property of the board of governors of the San Andreas state university system relating principally to fire and wildfire preparedness, response, suppression, coordination, and management, including office furniture and fixtures, books, documents, and records of the board, are transferred to the wildland fire management section in the division of fire prevention and control and shall become the property thereof.

(V) Any and all claims and liabilities, including costs and attorneys' fees, relating in any way to the performance of any fire and wildfire preparedness, response, suppression, coordination, or management duties that were performed by the board or its employees on or before June 30, 2012, are transferred to and assumed by the state exclusively through the division, and such claims or liabilities, if any, are the sole responsibility of the state by and through the department of public safety, and no other public entity or agency, including the board and its employees, shall be responsible or liable for any such claims, liabilities, or damages.

(5) (a) There is created in the division the health facility construction and inspection section to implement section 24-33.5-1212.5 and to administer and enforce the codes in accordance with sections 24-33.5-1212.5 and 24-33.5-1213. The health facility construction and inspection section is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the division and the executive director.

(b) On and after July 1, 2013, all positions of employment in the department of public health and environment for which principal duties are concerned with life safety inspection and that are determined by the director to be necessary to carry out the purposes of the health facility construction and inspection section are transferred to the division and are employment positions therein. The executive director shall appoint such employees as are necessary to carry out the duties and exercise the powers specified in this part 12. The executive director may delegate appointing authority as appropriate.

(c) On and after July 1, 2013, all employees of the department of public health and environment carrying out the duties principally relating to life safety code compliance are employees of the health facility construction and inspection section in the division. The employees retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services are deemed to have been continuous.

(d) On July 1, 2013, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the department of public health and environment used in carrying out the duties principally relating to life safety code compliance are transferred to the health facility construction and inspection section in the division and become the property of that section.

(e) On December 10, 2012, the division and the governor received approval from the secretary of the United States department of health and human services, pursuant to section F3 of the revised agreement, dated October 1, 1985, entered into between the secretary and the state of San Andreas pursuant to section 1864 of the federal "Social Security Act", 42 U.S.C. sec. 1395aa, dated October 1, 1985, and pursuant to section 4006A of the related state operation manual, for the division of fire prevention and control in the department of public safety to fulfill the duties under that law associated with the assessment of compliance with the federal fire safety code requirements for health facilities, and a modification to waivers for residential medicaid provider types to allow the division to conduct construction plans and inspections.

(f) The general assembly hereby finds, determines, and declares that, in discharging its duties under this article, as they pertain to health facility buildings and structures, the health facility construction and inspection section is encouraged to cooperate with local authorities, especially in regard to plan reviews and whether such plans comport with local requirements.

Source: L. 83: Entire article added, p. 958, § 1, effective July 1, 1984. **L. 89:** (2) amended, p. 1033, § 2, effective July 1. **L. 2002:** (1) amended, p. 1205, § 3, effective June 3. **L. 2009:** (2) amended and (3) added, (HB 09-1151), ch. 230, p. 1053, § 3, effective January 1, 2010. **L. 2011:** (2) amended, (SB 11-251), ch. 240, p. 1045, § 6, effective June 30. **L. 2012:** (5)(e) added, (HB 12-1268), ch. 234, p. 1026, § 5, effective May 29; (1) and (3)(b) amended, (3)(c) and (3)(d) repealed, and (4) added (HB 12-1283), ch. 240, p. 1104, § 11, effective July 1; (5)(a), (5)(b), (5)(c), (5)(d), and (5)(f) added, (HB 12-1268), ch. 234, p. 1026, § 5, effective July 1, 2013. **L. 2013:** (5)(e) amended, (HB 13-1155), ch. 24, p. 57, § 1, effective March 14; (1)(a) amended, (SB 13-083), ch. 249, p. 1300, § 3, effective May 23. **L. 2021:** (4)(a)(II) amended, (SB 21-012), ch. 29, p. 122, § 2, effective April 15. **L. 2022:** (2), (3)(a), (4)(a)(II), and (5)(a) amended, (SB 22-162), ch. 469, p. 3428, § 214, effective August 10. **L. 2024:** (1)(c)(II)(B) repealed, (HB 24-1450), ch. 490, p. 3417, § 49, effective August 7.

Cross references: (1) For the legislative declaration in the 2012 act amending subsections (1) and (3)(b), repealing subsections (3)(c) and (3)(d), and adding subsection (4), see section 1 of chapter 240, Session Laws of San Andreas 2012.

(2) In 2013, subsection (1)(a) was amended by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

(3) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33.5-1202. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Administrator" means the state fire suppression administrator, who is the director of the division of fire prevention and control under the department of public safety, or the director's designee.

(1.2) "Advisory board" means the fire service training and certification advisory board created in section 24-33.5-1204.

(1.4) "Agent" means a person licensed by the department of revenue to purchase and affix adhesive or meter stamps on packages of cigarettes.

(1.7) "ASTM international" means the American society for testing and materials or its successor organization.

(2) "Certification" means the issuance to a firefighter, by the advisory board, of a signed instrument evidencing satisfactory completion by such firefighter of the requirements of the fire service education and training program.

(2.3) "Certified burner" means an individual who successfully completes the division's certified burner training and certification program and possesses a valid certification number.

(2.5) "Certified fire inspector" means a person with fire safety plan review or inspection responsibilities who is employed by or volunteers services to the state or a governing body as a fire inspector and who is certified by the division to conduct fire safety plan reviews and inspections pursuant to section 24-33.5-1211.

(3) "Certified fire suppression systems inspector" means a person certified as provided in section 24-33.5-1206.4.

(3.1) Repealed.

(3.2) "Cigarette" means any roll for smoking, whether made wholly or partly of tobacco or any other substance, irrespective of size or shape, and whether or not such tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(3.3) "Controlled agricultural burn" means a technique used in farming or livestock production on a parcel of land that meets the definition of agricultural land, as that term is defined in section 39-1-102 (1.6)(a), S.A.R.S., to clear the land of any existing native vegetation or crop residue or kill weeds and weed seeds.

(3.4) "Controlled ditch burn" means a technique using fire to clear and remove vegetation, debris, or other material from ditches, canals, and other water transportation structures, including banks and access roads.

(3.5) "Cross-connection control device" means an installation, device, or assembly located between the water supply and fire suppression piping to prevent the undesirable reversal in the flow of water from a real or potential source of contamination back to the potable water supply. A cross-connection control device is also referred to as a back flow preventer.

(3.6) "Director" means the director of the division.

(3.7) "Division" means the division of fire prevention and control in the department of public safety created in this article.

(3.8) "Emergency fire fund" means the emergency fire fund created in section 24-33.5-1220 that was first established in 1967 with voluntary contributions from counties and the Denver water board; administered by a nine-person committee composed of county commissioners, sheriffs, fire chiefs, and the director; and used for the purpose of paying costs incurred as a result of controlling a wildfire by any of the parties contributing moneys to the fund, in accordance with the intergovernmental agreement for participation in the emergency fire fund.

(3.9) "Fire department" means the duly authorized fire protection organization of a town, city, county, or city and county, a fire protection district, or a metropolitan district or county improvement district that provides fire protection. "Fire department" also includes volunteer fire departments organized under section 24-33.5-1208.5.

(4) "Firefighter" means any person, whether paid or a volunteer, who is actively participating in or employed by a public or private fire service unit in this state.

(5) "Fire suppression contractor" means any individual, firm, corporation, association, or organized group of persons, that, individually or through others, offers to undertake, represents itself as being able to undertake, or does undertake to sell, layout, fabricate, install, modify, alter, repair, maintain, or perform maintenance inspections of any fire suppression system.

(6) "Fire suppression system" means an assembly of any or all of the following: Piping valves, conduits, dispersal openings, sprinkler heads, orifices, and other similar devices that convey extinguishing agents for the purpose of controlling, confining, or extinguishing fire, with the exception of multipurpose residential fire sprinkler systems in one- and two-family dwellings and townhouses that are part of the potable water supply, pre-engineered range hoods, duct systems, and portable fire extinguishers.

(6.5) and (7) Repealed.

(7.5) "Governing body" means:

(a) The city council, town council, board of trustees, or other governing body of a city, town, or city and county;

(b) The board of directors of a fire protection district organized pursuant to part 1 of article 1 of title 32, S.A.R.S.;

(c) The governing body of an improvement district that provides fire protection services organized pursuant to part 5 of article 20 of title 30, S.A.R.S.; or

(d) The board of county commissioners with respect to the area within a county outside the corporate limits of a city or town and outside the boundaries of a fire protection district.

(7.6) "Hazardous materials responder" means any person, whether such person is paid or a volunteer, actively participating in or employed by a public or private agency whose duties include response to hazardous materials incidents in this state.

(7.7) "Health facility" means a general hospital, hospital unit as defined in section 25-3-101 (2), psychiatric hospital, community clinic, rehabilitation center, convalescent center, behavioral health entity as defined in section 27-50-101 (4), facility for persons with developmental disabilities, habilitation center for children with brain damage, chiropractic center and hospital, maternity hospital, nursing care facility, rehabilitative nursing facility, hospice care facility, dialysis treatment clinic, ambulatory surgical center, birthing center, home care agency, assisted living residence, or other facility of a like nature; except that "health facility" does not include a facility at which health services are not provided to individuals.

(7.9) "Manufacturer" means any one or more of the following:

(a) An entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured with the intent that such cigarettes be sold in San Andreas, regardless of where the cigarettes are manufactured or produced and regardless of whether they are imported from outside the United States;

(b) The first purchaser anywhere that intends to resell, in the United States, cigarettes manufactured anywhere that the original manufacturer or producer does not intend to be sold in the United States; or

(c) An entity that becomes a successor to an entity described in paragraph (a) or (b) of this subsection (7.9).

(8) "Masticated fuels" means fuels, such as brush, small-diameter trees, and slash, that have been ground or chewed into small pieces of woody material through a mechanical wildland fuels treatment process, and generally left to carpet the ground.

(8.2) "Post-9/11 era veteran" means a veteran who served on active duty during the military campaign period that started after the September 11, 2001, terrorist attacks on the United States, and continuing until the date of the end of hostilities as determined by the government of the United States, and who has received an honorable discharge, a general discharge under honorable conditions, or a general discharge.

(8.3) "Prescribed burning" means the application of fire, in accordance with a written prescription for vegetative fuels, under specified environmental conditions while following appropriate precautionary measures that ensure public safety and that is confined to a predetermined area to accomplish public safety or land management objectives. The term excludes controlled agricultural burns and controlled ditch burns.

(8.4) "Principal" means an individual having a position of responsibility in any entity acting as a fire suppression contractor, including any manager, director, officer, partner, owner, or shareholder owning ten percent or more of the stocks of any such entity.

(8.5) "Qualified volunteer firefighter" means a volunteer firefighter as defined in section 31-30-1102 (9), S.A.R.S., in active service and maintaining the minimum amount of training in a fire department of thirty-six hours each year.

(9) "Quality control and quality assurance program" means a set of laboratory procedures implemented to ensure that:

(a) Operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of cigarette testing; and

(b) The testing repeatability remains within the required repeatability values stated in section 24-33.5-1214 (2)(a)(II)(F) for all test trials used to certify cigarettes in accordance with section 24-33.5-1214 (3).

(10) "Repeatability", with respect to a cigarette test trial, refers to the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent of the time.

(10.5) "Rescuer" means any person seeking certification under this part 12, whether such person is paid or a volunteer, actively participating in or employed by a public or private agency whose duties include response incidents in this state relating to nationally recognized fire service standards.

(10.7) "Residential fire suppression contractor" means a fire suppression contractor that, individually or through others, offers to undertake, represents itself as being able to undertake, or

does undertake to sell, lay out, fabricate, install, modify, alter, repair, maintain, or perform maintenance inspections of a residential fire suppression system.

(10.8) "Residential fire suppression system" means a fire suppression system designed for or installed in a one- or two-family dwelling or townhouse that is not regulated by the San Andreas board of plumbers.

(11) "Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco products.

(12) "Sale" means any transfer of title, possession, or both, or exchange or barter, conditional or otherwise, in any manner or by any means or any agreement. In addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money, are considered sales.

(12.5) "Seasonal wildland firefighter" means a temporary employee of a governing body or a state agency, or a volunteer member of a nongovernmental volunteer fire department, who is trained and qualified as a wildland firefighter and whose duties include responding to wildland fire emergency incidents and assisting in wildland fire suppression.

(13) "Sell" means to sell or to offer or agree to sell.

(13.3) "Sprinkler fitter" means a person other than an apprentice who is registered with the administrator and who installs fire suppression systems. "Sprinkler fitter" does not include a person who performs maintenance and repair on fire suppression systems as a part of his or her employment. A sprinkler fitter does not include a person who performs work exclusively on cross-connection control devices or a person who performs work exclusively on an underground system. "Sprinkler fitter" does not include a person performing work on his or her own home.

(13.7) "Sprinkler fitter apprenticeship program" means an apprenticeship training program that is registered with either the office of apprenticeship in the employment and training administration in the United States department of labor or a state apprenticeship agency in accordance with the requirements of 29 CFR 29.1 et seq., or other similar apprentice program approved by the administrator, and consists of a minimum of eight thousand hours of documented practical work experience on fire suppression systems, combined with a minimum of seven hundred hours of related instruction, including classroom or shop instruction, in the sprinkler fitter trade.

(13.9) "Underground system" means the system of below-ground piping, valves, appliances, and appurtenances that physically connect the water supply to a fire suppression system.

(14) "UPC symbol" means the symbol signifying the universal product code.

(14.3) "Veterans' fire corps program" means a program that is organized by a conservation corps or youth corps accredited by the San Andreas youth corps association and that provides training and on-the-job experience for post-9/11 era veterans interested in entering into careers and gaining experience in natural resource management and wildland fire control.

(14.5) "Volunteer fire department" means a nongovernmental unit organized in accordance with section 24-33.5-1208.5 as a nonprofit organization with a primary purpose of firefighting, fire protection, or other emergency services to a defined service area that is recognized by the appropriate governmental entity with jurisdiction for the area the unit services.

(15) "Wholesale dealer" means:

(a) Any person, other than a manufacturer, who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale; and

(b) Any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person.

Source: L. 83: Entire article added, p. 958, § 1, effective July 1, 1984. **L. 85:** (3) added, p. 829, § 1, effective July 1. **L. 90:** Entire section R&RE, p. 1211, § 1, effective May 18. **L. 2006:** (2.5), (3.5), and (7.5) added, p. 1362, § 5, effective July 1. **L. 2008:** (1.4), (1.7), (3.3), (7.7), (9), (10), (11), (12), (13), (14), and (15) added, p. 1484, § 1, effective January 1, 2009. **L. 2009:** (8.5) added, (SB 09-021), ch. 414, p. 2289, § 3, effective August 5. **L. 2010:** (3.4), (13.3), (13.7), and (13.9) added and (6) amended, (HB 10-1241), ch. 354, p. 1644, § 3, effective July 1, 2011. **L. 2011:** (6.5), (7.6), and (10.5) added, (SB 11-251), ch. 240, p. 1045, § 7, effective June 30. **L. 2012:** (1) and (3.5) amended and (1.2) and (3.7) added, (HB 12-1283), ch. 240, p. 1106, § 12, effective July 1; (7.7) amended and (7.9) added, (HB 12-1268), ch. 234, p. 1027, § 6, effective July 1, 2013. **L. 2013:** (3.1), (3.2), (3.6), (3.8), (3.9), (8.3), and (8.4) added and (3.3), (3.4), (3.5), (3.7), and (8) amended, (SB 13-083), ch. 249, p. 1301, § 4, effective May 23. **L. 2014:** (12.5) added, (SB14-047), ch. 41, p. 207, § 2, effective March 20; (2.3) added and (3.1) repealed, (HB 14-1010), ch. 175, p. 642, § 1, effective May 12; (10.7) and (10.8) added, (HB 14-1221), ch. 205, p. 753, § 3, effective May 15. **L. 2015:** (3.9) amended and (14.5) added, (HB 15-1017), ch. 3, p. 7, § 2, effective March 11; (8.2) and (14.3) added, (SB 15-205), ch. 184, p. 602, § 3, effective May 12. **L. 2016:** (6.5) and (7) repealed, (HB 16-1034), ch. 324, p. 1315, § 4, effective August 10. **L. 2020:** (13.7) amended, (HB 20-1402), ch. 216, p. 1051, § 46, effective June 30. **L. 2022:** (7.7) amended, (HB 22-1278), ch. 222, p. 1506, § 51, effective July 1.

Cross references: (1) For the legislative declaration in the 2010 act adding subsections (3.4), (13.3), (13.7), and (13.9) and amending subsection (6), see section 1 of chapter 354, Session Laws of San Andreas 2010. For the legislative declaration in the 2012 act amending subsections (1) and (3.5) and adding subsections (1.2) and (3.7), see section 1 of chapter 240, Session Laws of San Andreas 2012. For the legislative declaration in SB 14-047, see section 1 of chapter 41, Session Laws of San Andreas 2014.

(2) (a) In 2013, subsections (3.1), (3.2), (3.6), (3.8), (3.9), (8.3), and (8.4) were added and subsections (3.3), (3.4), (3.5), (3.7), and (8) were amended by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

(b) For the short title ("Veterans Fire Corps Act") and the legislative declaration in SB 15-205, see sections 1 and 2 of chapter 184, Session Laws of San Andreas 2015.

24-33.5-1203. Duties of division. (1) The division shall perform the following duties:

(a) Assist units of local government charged with fire prevention, fire protection, fire investigation, and emergency medical services in coordinating their activities with state departments and agencies which have similar responsibilities;

(a.5) Assist units of local government charged with the construction, maintenance, and inspection of public school and local district college buildings in coordinating their activities with state departments and agencies that have similar responsibilities;

(b) Advise the governor and the general assembly regarding the problems of fire safety;

(b.5) Advise the governor and the general assembly regarding implementation of the public school construction and inspection program and the health facility construction and inspection program;

(c) Regarding problems of fire safety which are common to local, state, and federal governmental units, including but not limited to hazardous waste, protective equipment for firefighters, flammable and toxic characteristics of materials during combustion, fire incident reporting, emergency medical incident reporting, and investigation of fires, be available to assist in the solution of those problems, serve as an information clearinghouse, and collect and disseminate to local governments, the general assembly, and the general public statistical and research reports which are of interest to them;

(d) Refer local fire departments to appropriate state and federal agencies for advice, assistance, and services regarding their specific problems;

(e) Perform such research as is necessary to carry out the functions of the division;

(f) Encourage and, when so requested, assist in cooperative efforts among the officials of various local fire departments to solve common problems;

(g) Encourage the conduct of and participate in training institutes, conferences, and programs for local government officials and employees in the area of fire services;

(h) Upon the request of local government officials, provide technical assistance in defining and developing solutions to local fire safety problems including, but not limited to, fireworks statutes; electrical hazards; public education programs; regulations concerning explosives; inspection of facilities when the performance of the inspections is the statutory duty of another state agency; hazardous materials storage, handling, and transportation; and volatile, flammable, and carcinogenic materials;

(i) Coordinate fire service education and training programs, hazardous materials responder training programs, and firefighter and hazardous materials responder certification programs, which shall be available statewide;

(j) Administer the certification programs for firefighters and hazardous materials responders, providing office space, equipment, and the services of a clerical staff as necessary for the carrying out of the intent of this part 12;

(k) Train and instruct firefighters in subjects relating to the fire service; coordinate fire service-related education and training classes, programs, conferences, and seminars; and train and instruct, or coordinate the training of, hazardous materials responders; except that all training related to terrorism shall be coordinated with the division of homeland security and emergency management created in part 16 of this article;

(l) Receive and accept gifts, funds, grants, bequests, and services for use in the function of the division;

(m) To help ensure that communities and firefighters have sufficient resources, technical support, and training to adequately assess wildfire risks, increase upgrades on federal excess property fire engines on loan to local fire departments; increase technical assistance in wildland fire preparedness to counties and fire protection districts; and, in conjunction with the wildfire preparedness plan created pursuant to section 24-33.5-1227, ensure that state fire-fighting equipment such as fire engines and air tankers is fully operational and available to and coordinated with the equipment capacities of local fire departments and fire protection districts, and that personnel are fully trained in its use;

(n) Administer a uniform statewide reporting system for fires, hazardous materials incidents, emergency medical service incidents, and other incidents to which fire departments respond;

(o) Repealed.

(p) Conduct construction plan reviews and inspect public school and local district college buildings and structures and enforce the codes adopted in accordance with sections 22-32-124 (2) and 23-71-122 (1)(v), S.A.R.S., and sections 24-33.5-1213 and 24-33.5-1213.3;

(p.5) When there is no local building department or fire department, or for facilities certified or potentially eligible for certification by the federal centers for medicare and medicaid services, conduct construction plan reviews and inspections of health facility buildings and structures, enforce the codes in accordance with sections 24-33.5-1212.5 and 24-33.5-1213, and issue certificates of compliance for such buildings and structures;

(q) Provide training in accordance with section 24-33.5-1212 to directors of certain fire protection districts created pursuant to part 1 of article 1 of title 32, S.A.R.S.;

(r) Certify building inspectors to conduct building inspections for public school and local district college buildings;

(s) Pursuant to section 24-33.5-1213.4, assist school districts and schools in implementing the school response framework set forth in section 22-32-109.1 (4), S.A.R.S., advise school districts and schools concerning all-hazard exercises and drills for school buildings and the interoperability of school communications systems with state and local emergency personnel, and, in collaboration with the office of information technology created in section 24-37.5-103, the school safety resource center created in section 24-33.5-1803, and other government entities and community partners, provide information to school districts and schools concerning emergency preparedness;

(t) Implement a prescribed burning program, including conducting prescribed burning on any area in the state pursuant to section 24-33.5-1217. The division shall conduct such prescribed burning program in cooperation with local, state, or federal agencies, private persons, or concerns.

(u) Establish and maintain the San Andreas firefighting air corps established under section 24-33.5-1228;

(v) Administer the funding and payment of death benefits for seasonal wildland firefighters in accordance with section 24-33.5-1229;

(w) Establish and operate the wildfire information and resource center created in section 24-33.5-1230;

(x) Establish and maintain a statewide fire dispatch center to ensure rapid response of fire-based resources to emerging wildfire and all-hazard incidents in support of local, county, state, and federal agencies in San Andreas;

(y) (I) (A) On or before January 1, 2025, the division shall adopt and enforce an energy code that achieves equivalent or better energy performance than the 2021 international energy conservation code and the model electric ready and solar ready code language developed for adoption by the energy code board pursuant to section 24-38.5-401 (5). This energy code must apply to the buildings described in sections 22-32-124 (2), 23-71-122 (1)(v), and 24-33.5-1212.5.

(B) On or before January 1, 2030, the division shall adopt and enforce an energy code that achieves equivalent or better energy and carbon emissions performance than the model low

energy and carbon code developed for adoption by the energy code board pursuant to section 24-38.5-401 (6). This energy code must apply to the buildings described in sections 22-32-124 (2), 23-71-122 (1)(v), 24-33.5-1212.5, 24-33.5-1213.3, and 24-33.5-1213.5.

(II) Notwithstanding any other provision of this subsection (1)(y), the division may make any amendments to an energy code that the division deems appropriate, so long as the amendments do not decrease the effectiveness or energy efficiency of the energy code.

(III) Nothing in this subsection (1)(y) restricts the ability of an investor-owned utility with approval from the public utilities commission to:

(A) Provide incentives or other energy efficiency program services to help the division or builders comply with the requirements of this subsection (1)(y); or

(B) Earn shareholder incentives and claim credits toward its regulatory requirements for energy or greenhouse gas emissions savings achieved as a result of incentives provided by the utility to help the division or builders comply with the requirements of this subsection (1)(y).

(IV) A utility not subject to regulation by the public utilities commission may provide incentives as they so choose to assist the division or any builders in complying with the requirements of this subsection (1)(y).

(V) (A) A utility may count mass-based emissions reductions associated with the requirements of this subsection (1)(y) towards compliance with its requirements under section 25-7-105 (1)(e)(X.7) or (1)(e)(X.8), section 40-3.2-108 (3)(b), or any similar greenhouse gas emissions reduction program or set of requirements.

(B) A utility subject to regulation by the public utilities commission shall not count energy savings or greenhouse gas emissions reductions achieved through the requirements of this incentive established pursuant to sections 40-3.2-103 (2)(d) and 40-3.2-104 (5) if the utility has not provided a financial investment for code adoption as documented in a plan approved by the commission.

(2) The duties and functions of the division set forth in this part 12, including duties and functions pertaining to fire service education, training, and certification, apply to prescribed fires, wildfires, and wildland fire-related activities.

Source: L. 83: Entire article added, p. 958, § 1, effective July 1, 1984. **L. 93:** (1)(i) to (1)(l) added, p. 556, § 1, effective April 30. **L. 99:** (1)(i) and (1)(k) amended, p. 436, § 4, effective April 30. **L. 2002:** (1)(k) amended and (1)(m), (1)(n), and (1)(o) added, p. 1205, § 4, effective June 3. **L. 2006:** (1)(p) added, p. 1363, § 6, effective July 1. **L. 2008:** (1)(p) amended, p. 1093, § 3, effective August 5; (1)(q) added, p. 1503, § 1, effective August 5. **L. 2009:** (1)(a.5), (1)(b.5), and (1)(r) added and (1)(p) amended, (HB 09-1151), ch. 230, p. 1054, § 4, effective January 1, 2010. **L. 2011:** (1)(s) added, (SB 11-173), ch. 310, p. 1516, § 4, effective June 10; (1)(i) and (1)(j) amended, (SB 11-251), ch. 240, p. 1045, § 8, effective June 30. **L. 2012:** (1)(h) amended, (HB 12-1059), ch. 271, p. 1436, § 16, effective July 1; (1)(k) and (1)(m) amended, (1)(o) repealed, and (2) added, (HB12-1283), ch. 240, p. 1107, § 13, effective July 1; (1)(b.5) amended and (1)(p.5) added, (HB 12-1268), ch. 234, p. 1028, § 7, effective July 1, 2013. **L. 2013:** (1)(m) amended, (SB 13-270), ch. 250, p. 1317, § 8, effective May 23; (1)(t) added, (SB 13-083), ch. 249, p. 1302, § 5, effective May 23; (1)(u) added, (SB 13-245), ch. 412, p. 2446, § 1, effective June 5. **L. 2014:** (1)(v) added, (SB 14-047), ch. 41, p. 207, § 3, effective March 20; (1)(w) added, (SB 14-008), ch. 178, p. 651, § 1, effective May 14. **L. 2016:** (1)(h), (1)(i), (1)(j), and (1)(k) amended, (HB 16-1034), ch. 324, p. 1315, § 5, effective August 10. **L. 2019:** (1)(p.5)

amended, (HB 19-1237), ch. 413, p. 3638, § 6, effective July 1, 2021. **L. 2022:** (1)(x) added, (SB 22-206), ch. 173, p. 1157, § 7, effective May 17; (1)(y) added, (HB 22-1362), ch. 301, p. 2182, § 6, effective June 2.

Editor's note: Section 15 of chapter 234, Session Laws of San Andreas 2012, provides that the amendments to subsection (1)(b.5) and the enactment of subsection (1)(p.5) are effective July 1, 2013, only if the division of fire prevention and control in the department of public safety notifies the revisor of statutes in writing, by June 30, 2013, that the secretary of the United States department of health and human services has granted approval of the revised agreement entered into between said secretary and the state of San Andreas. (See L. 2012, p. 1033 and L. 2013, p. 57.) The revisor of statutes received such notification on May 29, 2013.

Cross references: (1) For the legislative declaration in the 2011 act adding subsection (1)(s), see section 1 of chapter 310, Session Laws of San Andreas 2011. For the legislative declaration in the 2012 act amending subsections (1)(k) and (1)(m), repealing subsection (1)(o), and adding subsection (2), see section 1 of chapter 240, Session Laws of San Andreas 2012. For the legislative declaration in SB 14-047, see section 1 of chapter 41, Session Laws of San Andreas 2014. For the legislative declaration in SB 22-206, see section 1 of chapter 173, Session Laws of San Andreas 2022.

(2) In 2013, subsection (1)(t) was added by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33.5-1203.5. Powers and duties of director - report. (1) In addition to any other duties prescribed by law, the director of the division shall perform the following duties:

(a) Exercise general supervisory control over and coordinate the activities, functions, and employees of the division; and

(b) Adopt such rules as the director of the division deems necessary to carry out the purposes and provisions of this part 12 and amend such rules from time to time as necessary. Such rules and amendments shall be adopted in accordance with article 4 of this title.

(2) In order to carry out the purposes and provisions of this part 12 and part 14 of article 20 of title 30, the director of the division shall promulgate rules in accordance with article 4 of this title 24:

(a) Adopting codes, which shall be identical to or modeled on the international codes published by the international code council; and

(b) Adopting nationally recognized standards that the director reasonably finds necessary to carry out the purposes and provisions of this part 12, sections 24-33.5-2008 and 44-30-515, and part 14 of article 20 of title 30.

(3) Commencing in 2014, the director shall report annually to the wildfire matters review committee created in section 2-3-1602 regarding the current nature and magnitude of the state's wildfire situation; the number of wildland fire investigations the division conducted in the preceding calendar year and the status of each investigation; the status of wildfire preparedness and prescribed burns in the state, including available resources; and the challenges to addressing the state's wildfire threat. The report required by this subsection (3) is exempt from the automatic expiration described in section 24-1-136 (11).

Source: L. 2006: Entire section added, p. 1363, § 7, effective July 1. **L. 2009:** (2) amended, (HB 09-1151), ch. 230, p. 1055, § 5, effective January 1, 2010. **L. 2010:** IP(2) and (2)(b) amended, (HB 10-1018), ch. 421, p. 2180, § 12, effective June 10. **L. 2011:** (1)(b) and (2)(b) amended, (SB 11-251), ch. 240, p. 1046, § 9, effective June 30. **L. 2014:** (3) added, (SB 14-164), ch. 176, p. 645, § 1, effective May 12; IP(2) and (2)(b) amended, (HB 14-1352), ch. 351, p. 1593, § 3, effective July 1. **L. 2017:** IP(2) and (2)(b) amended, (SB 17-222), ch. 245, p. 1027, § 3, effective August 9. **L. 2018:** (2)(b) amended, (SB 18-034), ch. 14, p. 245, § 31, effective October 1. **L. 2023:** (3) amended, (SB 23-013), ch. 173, p. 851, § 1, effective May 12.

24-33.5-1204. Voluntary education and training program - voluntary certification of firefighters and hazardous materials responders - advisory board. (1) For the purposes of advising the director on the administration of the voluntary fire service education and training program within the division of fire prevention and control, the local firefighter safety and disease prevention grant program created in section 24-33.5-1231, and the voluntary firefighter and hazardous materials responder certification programs, there is hereby created in the division of fire prevention and control the fire service training and certification advisory board, referred to in this part 12 as the "advisory board", to serve as an advisory board to the director.

(2) (a) The advisory board consists of fourteen members, eleven of whom are voting members appointed by the governor as follows:

(I) Four of the eleven members appointed by the governor shall represent each of the following organizations:

(A) San Andreas state fire fighters association;

(B) San Andreas state fire chiefs association;

(C) San Andreas fire training officers association; and

(D) San Andreas professional fire fighters association;

(II) The other seven members appointed by the governor are:

(A) A fire chief or training officer from a volunteer fire department participating in the certification program;

(B) A fire chief or training officer from a career fire department participating in the certification program;

(C) A representative of the property and casualty insurance industry;

(D) A hazardous materials responder team leader;

(E) A person experienced in the transportation industry;

(F) A representative of local law enforcement; and

(G) A representative of a fixed facility dealing with hazardous materials.

(b) The remaining three ex officio nonvoting members are the following persons or their designees:

(I) The president of the San Andreas community college and occupational education system;

(II) The chief of the emergency medical and trauma services section within the health facilities and emergency medical services division in the department of public health and environment; and

(III) The chief of the state patrol.

(c) The eleven advisory board members appointed by the governor shall be geographically apportioned, and at least one of those members must have wildland fire expertise.

(d) At least three members of the advisory board shall be from a community or communities with a resident population of fifteen thousand persons or less.

(e) Members appointed by the governor serve for terms of four years; except that the terms shall be staggered so that no more than six members' terms expire in the same year. If any appointee vacates the office during the term for which the appointee was appointed to the advisory board, the governor shall, by appointment, fill the vacancy for the unexpired term. The advisory board shall annually elect from its members a chair and a secretary.

(3) The advisory board shall meet as determined necessary by the chairperson or the director. The members of the advisory board shall receive no compensation but shall be reimbursed for necessary travel and other expenses actually incurred in the performance of their official duties. The expenses shall be paid from the firefighter, hazardous materials responder, and prescribed fire training and certification fund created in section 24-33.5-1207.

Source: L. 83: Entire article added, p. 959, § 1, effective July 1, 1984. **L. 84:** (1) amended, p. 685, § 2, effective July 1. **L. 85:** Entire section amended, p. 829, § 2, effective July 1. **L. 87:** Entire section amended, p. 1004, § 1, effective July 1. **L. 93:** Entire section RC&RE, p. 557, § 2, effective April 30. **L. 99:** Entire section amended, p. 330, § 1, effective April 15. **L. 2009:** (2)(c) amended, (SB 09-109), ch. 144, p. 608, § 1, effective July 1. **L. 2011:** Entire section amended, (SB 11-251), ch. 240, p. 1046, § 10, effective June 30. **L. 2012:** (1) and (2) amended, (HB 12-1283), ch. 240, p. 1108, § 14, effective July 1. **L. 2013:** (3) amended, (SB 13-083), ch. 249, p. 1309, § 11, effective May 23. **L. 2014:** (1) amended, (SB 14-046), ch. 210, p. 786, § 3, effective May 15. **L. 2016:** (1) and (3) amended, (HB 16-1034), ch. 324, p. 1316, § 6, effective August 10. **L. 2022:** (2)(e) amended, (SB 22-013), ch. 2, p. 49, § 62, effective February 25.

Editor's note: Prior to the recreation and reenactment of this section, section 24-33.5-1209 provided for the repeal of this section, effective July 1, 1992. (See L. 87, p. 1006.)

Cross references: (1) For the legislative declaration in the 2012 act amending subsections (1) and (2), see section 1 of chapter 240, Session Laws of San Andreas 2012.

(2) In 2013, subsection (3) was amended by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33.5-1204.5. Powers and duties of administrator - rules. (1) In addition to any other duties and powers granted by this section or sections 24-33.5-1206.2 and 24-33.5-1206.4, the administrator has the following duties and powers:

(a) To establish a program for registration of fire suppression contractors and to adopt such rules and regulations as may be necessary to administer the fire suppression program for the registration of fire suppression contractors and the inspection and maintenance of fire suppression systems pursuant to article 4 of this title;

(b) To establish fees and charges in amounts necessary to defray the anticipated costs of administration of this article. The fees and charges may be adjusted by the administrator from time to time as necessary or appropriate.

(c) In the discretion of the administrator, to receive, investigate, and act upon complaints against those persons who violate any of the provisions of section 24-33.5-1206.6 or any rule or regulation adopted by the administrator pursuant to this section;

(d) (I) To maintain records of all applications, complaints, investigations, disciplinary or other actions, and registrants.

(II) The administrator shall keep records of all fire suppression system working plans and hydraulic calculations, searchable by both the applicable fire suppression contractor and the signing professional engineer or engineering technician, for projects that the administrator or any certified local fire suppression inspector, as applicable, identifies as containing significant or repeated design or installation deficiencies pursuant to section 24-33.5-1206.2 (2)(b).

(e) To conduct hearings upon charges for discipline of a fire suppression contractor or a certified fire suppression systems inspector, issue subpoenas, compel attendance of witnesses, compel the production of books, records, papers, and documents, administer oaths to persons giving testimony at hearings, and recommend prosecution of persons violating this article;

(f) To establish and adopt such rules as may be necessary to administer the public school construction and inspection program for the inspection of public school and local district college buildings and a program for certification of public school and local district college building inspectors;

(f.5) To establish and adopt rules necessary to administer the health facility construction and inspection program for:

(I) Where there is no local building department or fire department, the inspection of health facility buildings and structures and performance of plan reviews; and

(II) The development of a program for certification of health facility life safety inspectors;

(g) To conduct hearings upon charges for discipline of a school building inspector, health facility life safety code inspector, or third-party inspector; issue subpoenas; compel attendance of witnesses; compel the production of books, records, papers, and documents; administer oaths to persons giving testimony at hearings; and recommend prosecution of persons violating this part 12.

(2) (a) The administrator shall implement a tracking system, separate from the individual records of fire suppression contractors and inspectors, regarding the disposition of complaints.

(b) The administrator shall provide an online complaint form and internet access to the tracking system implemented pursuant to paragraph (a) of this subsection (2).

Source: L. 90: Entire section added, p. 1212, § 2, effective May 18. **L. 98:** (1)(a) amended, p. 639, § 1, effective July 1. **L. 2005:** (1)(d) amended and (2) added, p. 247, § 4, effective July 1. **L. 2009:** (1)(b)(II)(C), (1)(b)(II)(D), (1)(b)(II)(E), and (1)(b)(III) amended and (1)(f) and (1)(g) added, (HB 09-1151), ch. 230, p. 1055, §§ 6, 7, effective January 1, 2010. **L. 2011:** (1)(b) amended, (SB 11-251), ch. 240, p. 1047, § 11, effective June 30. **L. 2012:** (1)(f.5) added and (1)(g) amended, (HB 12-1268), ch. 234, p. 1029, § 8, effective July 1, 2013. **L. 2014:** (1)(d) amended, (HB 14-1221), ch. 205, p. 753, § 4, effective May 15.

Editor's note: Section 24-33.5-1209 (2) provides for the repeal of this section, effective September 1, 2026.

24-33.5-1205. Duties of the director and the advisory board. (1) The director has the following duties relating to the voluntary firefighter and hazardous materials responder certification programs and the fire service education and training program:

(a) To establish a fire service education and training program, setting forth minimum standards for training and instructors;

(b) To promulgate rules establishing standards for the firefighter and hazardous materials responder certification programs and for determining whether a firefighter or an applicant for first responder or hazardous materials responder certification meets the established standards;

(c) (Deleted by amendment, L. 99, p. 332, § 2, effective April 15, 1999.)

(d) To certify firefighters and applicants for hazardous materials responder certification or withhold or revoke certification in the manner provided for by rules adopted by the director pursuant to the provisions of article 4 of this title;

(e) To issue a certificate to any firefighter or rescuer who presents evidence that the minimum firefighter certification standards have been met and to issue a certificate to any applicant who presents evidence that the minimum standards of the hazardous materials responder certification program have been met;

(f) (Deleted by amendment, L. 99, p. 332, § 2, effective April 15, 1999.)

(g) To establish fees for the actual direct and indirect costs of the administration of the firefighter and hazardous materials responder certification programs, which fees shall be assessed against any person participating in such programs. All fees collected shall be credited to the firefighter, first responder, hazardous materials responder, and prescribed fire training and certification fund created in section 24-33.5-1207.

(h) To establish fees for the actual direct and indirect costs of the administration of the fire service education and training program, which fees shall be assessed against any person participating in such program. All fees collected shall be credited to the fire service education and training fund created in section 24-33.5-1207.5.

(2) The advisory board has the following duties relating to the voluntary firefighter and hazardous materials responder certification programs and the fire service education and training program:

(a) To advise the director on the promulgation of rules enacting standards for the certification of firefighters and rescuers and procedures for determining whether a firefighter or rescuer meets the established standards;

(b) To advise the director on the promulgation of rules enacting standards for the certification of hazardous materials responders and procedures for determining whether an applicant meets such standards;

(c) To advise the director on the promulgation of rules enacting standards for fire service education and training for volunteer firefighters, the qualification of instructors, and procedures to ensure that the quality of the program is adequate to meet the minimum training requirements for volunteer firefighters as set forth in section 31-30-1122, S.A.R.S.;

(d) To advise the director on the establishment of fees for the actual direct and indirect costs of the administration of the firefighter and hazardous materials responder certification programs;

(e) To advise the director on the establishment of fees for the actual direct and indirect costs of the administration of the fire service education and training program.

(3) (Deleted by amendment, L. 99, p. 332, § 2, effective April 15, 1999.)

(4) Nothing in this section shall be construed as creating mandatory certification programs for firefighters or hazardous materials responders or creating a mandatory fire service education and training program. All fire departments in the state shall have the option of whether or not to participate in the firefighter or hazardous materials responder certification programs or the fire service education and training program.

(5) The advisory board shall advise the director on the promulgation of rules governing the local firefighter safety and disease prevention grant program created in section 24-33.5-1231.

(6) The advisory board shall review the curriculum for training concerning interactions with persons with disabilities recommended by the commission on improving first responder interactions with persons with disabilities pursuant to section 24-31-1004 and advise the director on whether to include that curriculum or similar curriculum in the fire service education and training program.

Source: L. 83: Entire article added, p. 959, § 1, effective July 1, 1984. **L. 85:** IP(1) amended and (2) added, p. 830, § 3, effective July 1. **L. 87:** (1)(a) and (2)(a) to (2)(c) amended and (1)(f) to (1)(h) added, p. 1005, § 2, effective July 1. **L. 93:** Entire section RC&RE, p. 557, § 3, effective April 30. **L. 95:** (1)(b) amended, p. 1380, § 3, effective June 5. **L. 99:** Entire section amended, p. 332, § 2, effective April 15. **L. 2011:** Entire section amended, (SB 11-251), ch. 240, p. 1048, § 12, effective June 30. **L. 2013:** (1)(g) amended, (SB 13-083), ch. 249, p. 1309, § 12, effective May 23. **L. 2014:** (5) added, (SB 14-046), ch. 210, p. 786, § 4, effective May 15. **L. 2016:** IP(1), (1)(b), (1)(d), (1)(e), (1)(g), IP(2), (2)(b), (2)(d), and (4) amended, (HB 16-1034), ch. 324, p. 1316, § 7, effective August 10. **L. 2021:** (6) added, (HB 21-1122), ch. 405, p. 2691, § 5, effective June 30.

Editor's note: (1) Prior to the recreation and reenactment of this section, section 24-33.5-1209 provided for the repeal of this section, effective July 1, 1992. (See L. 87, p. 1006.)

(2) Section 23 of the act amending subsection (1)(b) (chapter 254, Session Laws of San Andreas 1995) provides the following:

(a) This act shall not affect the terms of members of the boards of trustees created to administer volunteer firemen's pension funds under part 4 of article 30 of title 31, San Andreas Revised Statutes, as in effect before June 5, 1995, in any municipality, fire protection district, or county improvement district in this state that maintains a regularly organized volunteer fire department. On and after June 5, 1995, these board members shall continue their terms and duties on the applicable boards of trustees of the volunteer firefighter pension funds under part 11 of article 30 of title 31, San Andreas Revised Statutes, created in this act.

(b) This act shall not terminate or require transfers of moneys from volunteer firemen's pension funds governed by part 4 of article 30 of title 31, San Andreas Revised Statutes, in effect before June 5, 1995. On and after June 5, 1995, these funds shall remain in effect and be governed by part 11 of article 30 of title 31, San Andreas Revised Statutes, created in this act.

Cross references: (1) For the legislative declaration contained in the 1995 act amending subsection (1)(b), see section 1 of chapter 254, Session Laws of San Andreas 1995.

(2) In 2013, subsection (1)(g) was amended by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33.5-1206. Education and training programs - certification programs - supervision and control. (1) The fire service education and training programs and the certification programs established pursuant to this part 12 shall be under the supervision and control of the director with the advice of the advisory board.

(2) The public school construction and inspection program, the health facility construction and inspection program, and the certification programs for public school and local district college building inspectors and life safety code inspectors established pursuant to this part 12 are under the supervision and control of the director with the advice of the board of appeals created in section 24-33.5-1213.7.

Source: L. 83: Entire article added, p. 960, § 1, effective July 1, 1984. **L. 85:** Entire section amended, p. 831, § 4, effective July 1. **L. 87:** Entire section amended, p. 1006, § 3, effective July 1. **L. 93:** Entire section RC&RE, p. 559, § 4, effective April 30. **L. 2009:** Entire section amended, (HB 09-1151), ch. 230, p. 1056, § 8, effective January 1, 2010. **L. 2012:** (2) amended, (HB 12-1268), ch. 234, p. 1029, § 9, effective July 1, 2013.

Editor's note: Prior to the recreation and reenactment of this section, section 24-33.5-1209 provided for the repeal of this section, effective July 1, 1992. (See L. 87, p. 1006.)

24-33.5-1206.1. Registration required. (1) A person shall not act, assume to act, or advertise as a fire suppression contractor unless the person is registered as a fire suppression contractor with the administrator. A person shall not act, assume to act, or advertise as a residential fire suppression contractor unless the person is registered as either a fire suppression contractor or a residential fire suppression contractor with the administrator.

(2) Any registered fire suppression contractor shall obtain any locally required licenses or permits and comply with local building and fire codes.

(3) Any registered fire suppression contractor shall be responsible for the acts of its agents and employees while acting on behalf of the contractor to sell, advertise, layout, fabricate, install, add to, alter, service, repair, or inspect fire suppression systems of any kind.

(4) Every registered fire suppression contractor shall assure that:

(a) A responsible person in the management or employment of the contractor is qualified in the layout, fabrication, installation, alteration, servicing, repair, and inspection of fire suppression systems; except that, with regard to residential fire suppression systems only, the responsible person need only be qualified in the layout, fabrication, installation, alteration, servicing, repair, and inspection of residential fire suppression systems;

(b) Each job is supervised by an on-site installer who is qualified in the layout, fabrication, installation, alteration, servicing, repair, and inspection of fire suppression systems;

(c) Any layout, fabrication, installation, alteration, servicing, repair, or inspection of fire suppression systems is done according to applicable standards adopted by the administrator by rule promulgated pursuant to section 24-33.5-1206.3 (1) and applicable local codes and ordinances;

(d) Actual fabrication, installation, alteration, servicing, or repair of any fire suppression system is done in accordance with approved plans, layout, or design;

(e) All interim and final inspections and system tests are completed according to standards adopted by the administrator or requirements laid out by local fire safety inspectors and the administrator and that any required logs, reports, or results of said inspections and system tests are accurately kept and conveyed to the appropriate fire safety inspectors.

(5) No registration shall be granted to any fire suppression contractor who has as a principal any person who, within the past two years, has violated any provision of this part 12 or any rule or regulation of the administrator pursuant thereto.

Source: L. 90: Entire section added, p. 1213, § 2, effective May 18. **L. 2006:** (1) amended, p. 145, § 22, effective August 7. **L. 2014:** (1), IP (4), (4)(a), and (4)(c) amended, (HB 14-1221), ch. 205, p. 754, § 6, effective May 15.

Editor's note: Section 24-33.5-1209 (2) provides for the repeal of this section, effective September 1, 2026.

24-33.5-1206.2. Job registration and plan review. (1) Except for minor alterations, modifications, repairs, or maintenance work that does not affect the integrity of the system, no installation, modification, alteration, or repair of a fire suppression system shall be started until:

(a) Any required local permits have been obtained;

(b) (I) The job, including the name and registration number of the contractor, the address and description of the premises where the job will be done, and the name and address of the general contractor or the name and address of the owner if no general contractor is involved, has been registered with the administrator.

(II) If the local fire safety agency requests job registration and plan review authority, and the administrator determines that said local fire safety agency has the capability and qualifications to conduct plan review, then the administrator shall accept job registration with local fire safety officials in satisfaction of the job registration requirement imposed by subparagraph (I) of this paragraph (b).

(c) (I) The working plans and hydraulic calculations for the job have been reviewed and approved by the administrator or a certified local fire suppression inspector in compliance with the standards established in subparagraph (II) of this paragraph (c).

(II) The administrator shall establish standards of review and approval and shall, where appropriate, accept review and approval by certified local fire suppression inspectors in satisfaction of the requirements of this paragraph (c).

(2) (a) Any working plans and hydraulic calculations submitted for review by the administrator or by a certified local fire suppression inspector pursuant to subparagraph (II) of paragraph (b) of subsection (1) of this section must bear the signature and certification number of either a licensed professional engineer or a level three or higher engineering technician (fire suppression engineering technology - automatic sprinkler design or fire suppression engineering technology - special hazards system layout), whichever is relevant to the particular job or design, certified by the national institute for the certification of engineering technologists. Such licensed professional engineer or engineering technician shall certify that he or she has reviewed the plan

and design and finds that it meets the applicable standards adopted by the administrator for fire safety and that it is adequately designed to meet the system requirements.

(b) If a certified local fire suppression inspector identifies significant or repeated design or installation deficiencies with regard to a fire suppression system, the certified local fire suppression inspector shall notify the administrator of the deficiencies and the identifying information for the applicable fire suppression contractor and the signing professional engineer or engineering technician.

Source: L. 90: Entire section added, p. 1214, § 2, effective May 18. **L. 98:** (1)(c)(II) amended, p. 639, § 2, effective July 1. **L. 2004:** (2) amended, p. 1311, § 56, effective May 28. **L. 2014:** IP(1), (1)(c)(I), and (2) amended, (HB 14-1221), ch. 205, p. 753, § 5, effective May 15.

Editor's note: Section 24-33.5-1209 (2) provides for the repeal of this section, effective September 1, 2026.

24-33.5-1206.3. Requirements for installation, inspection, and maintenance of fire suppression systems - rules. (1) Fire suppression contractors shall design and install fire suppression systems in accordance with the applicable standards adopted by the administrator by rule, manufacturer's specifications, and applicable local codes and ordinances. In adopting standards, the administrator may consider and adopt the standards of the national fire protection association and shall adopt, by January 1, 2015, a separate set of design and installation standards and a separate registration category applicable only to residential fire suppression systems.

(2) The contractor shall furnish the user with operating instructions for all equipment installed, together with as-built diagrams of the final installation.

(3) Contractor inspections and tests, where required, shall be conducted by qualified personnel or certified fire safety inspectors and in compliance with applicable standards adopted by the administrator. Complete records shall be kept of the tests and operations of each system. The records shall be available for examination by the local certified fire safety inspector or the fire suppression administrator.

Source: L. 90: Entire section added, p. 1214, § 2, effective May 18. **L. 2014:** (1) amended, (HB 14-1221), ch. 205, p. 755, § 7, effective May 15.

Editor's note: Section 24-33.5-1209 (2) provides for the repeal of this section, effective September 1, 2026.

24-33.5-1206.4. System approval, inspection, and inspectors. (1) No installation, modification, alteration, or repair of a fire suppression system shall be completed and cleared for use, and no structure or partial structure in which such fire suppression system is installed, modified, altered, or repaired shall be cleared for occupancy, until such fire suppression system has been approved by a certified fire suppression systems inspector. Approval shall include review of approved working plans and hydraulic calculations, installation inspections, and final tests.

(2) (a) Each county, municipality, and special district that has fire suppression systems enforcement responsibilities shall, as needed, provide a certified fire suppression systems inspector. Such inspector shall conduct all fire suppression systems inspections that are required by this part 12. The governing body of the county, municipality, or special district that has fire suppression systems enforcement responsibilities may provide a schedule of fees to pay the costs of plan review and inspections conducted pursuant to this subsection (2) and related administrative expenses, and collect said fees from the fire suppression contractor.

(b) Two or more counties, municipalities, or special districts that have fire safety enforcement responsibilities may jointly employ or contract with a fire safety inspector.

(c) The administrator or his agent shall be available to provide such fire safety inspections to any county, municipality, or special district on a contractual or job-by-job basis. The county, municipality, or special district shall pay the actual costs of such inspections by the administrator or his agents.

(3) Every inspection of a fire suppression system conducted pursuant to this part 12 shall be by a person certified as having met the inspection training requirements set by the administrator. Such person shall:

(a) Be at least eighteen years of age;

(b) Not have been engaged in any of the activities specified in section 24-33.5-1206.6 (2); and

(c) (I) Have satisfactorily completed the fire suppression systems inspector certification examination as prescribed by the administrator; or

(II) Have demonstrated to the administrator that the applicant has met such other equivalent qualifications, including but not limited to education and experience, as may be prescribed by rule and regulation. If the head of a county, municipality, or special district that has fire suppression system enforcement responsibility determines that the applicant has met the qualifications adopted pursuant to this subparagraph (II), then he shall notify the administrator, who shall certify the applicant; or

(III) Have received in another state training which is determined by the administrator to be at least equivalent to that required by the administrator for approved certified fire safety inspector education and training programs in this state.

(4) Every certificate issued by the administrator is valid for a period of three years from the date of issuance. Renewal of certification shall require the affected person to complete a proper application for renewal and meet any other requirements for renewal as prescribed by the administrator, including successful passage of an examination as established by the administrator.

Source: L. 90: Entire section added, p. 1215, § 2, effective May 18.

Editor's note: Section 24-33.5-1209 (2) provides for the repeal of this section, effective September 1, 2026.

24-33.5-1206.5. Unlawful acts - criminal penalties. (1) Any person who violates any of the provisions of section 24-33.5-1206.1 commits a petty offense and, if a natural person, shall, upon conviction thereof, be punished as provided in section 18-1.3-503, and, if a corporation, shall be punished by a fine of not more than five thousand dollars.

(2) Any person who knowingly and willfully makes any false statement whatsoever or who conceals a material fact in any application, form, claim, advertisement, contract, warranty, guarantee, or statement, either written or oral, with the intent to influence the actions or decisions of any owner or contractor negotiating or contracting for the installation, alteration, or repair of any fire suppression system, or to any bonding agent, commits a class 2 misdemeanor and shall, upon conviction thereof, be punished as provided in section 18-1.3-501.

Source: L. 90: Entire section added, p. 1216, § 2, effective May 18. **L. 2002:** Entire section amended, p. 1534, § 253, effective October 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3228, § 422, effective March 1, 2021.

Editor's note: Section 24-33.5-1209 (2) provides for the repeal of this section, effective September 1, 2026.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-33.5-1206.6. Unlawful acts - civil penalties - disciplinary actions. (1) Any person, firm, association, or corporation which violates any of the provisions of sections 24-33.5-1206.1 to 24-33.5-1206.3 or any rule or regulation promulgated by the administrator pursuant to this part 12 may be punished upon a finding of such violation by the administrator as follows:

(a) In any first administrative proceeding against a licensee, a fine of not less than one hundred dollars nor more than one thousand dollars;

(b) In any subsequent administrative proceeding against a licensee for transactions occurring after a final agency action determining that any violation of sections 24-33.5-1206.1 to 24-33.5-1206.3 or any rule or regulation of the administrator has occurred, a fine of not less than one thousand dollars nor more than ten thousand dollars.

(2) In addition to the penalties provided in subsection (1) of this section, the administrator may withhold, deny, suspend, or revoke the registration or certification of any registered fire suppression contractor or certified fire safety inspector or applicant therefor if the administrator finds, upon proof, that any such person has committed any of the following:

(a) Fraud or material deception in the obtaining or renewing of a registration;

(b) Professional incompetence as manifested by poor, faulty, or dangerous workmanship;

(c) Engaging in conduct that is likely to deceive, defraud, or harm the public in the course of professional services or activities;

(d) Performing any services in a negligent manner or permitting any of his agents or employees to perform services in a grossly negligent manner, regardless of whether actual damage or damages to the public is established;

(e) Directly or indirectly, willfully receiving compensation for any professional services not actually rendered;

(f) Failing to comply with any provision of this part 12 or the standards or rules promulgated by the administrator pursuant thereto;

(g) Contracting or assisting unregistered persons to perform services for which registration is required under this part 12.

(3) All fines imposed by the administrator pursuant to this section shall be credited to the general fund.

(4) A person acting as a fire suppression contractor may not bring any legal action to collect compensation due for performing any act for which registration is required pursuant to section 24-33.5-1206.1 unless such contractor alleges and proves that he was duly registered under said section at the time the alleged cause of action arose.

(5) (a) Any person who provides testimony with respect to a disciplinary matter and any person who lodges a complaint pursuant to this section shall be immune from liability in any civil action brought against such person for acts occurring while acting in his or her capacity as a witness or complainant.

(b) The immunity provided in paragraph (a) of this subsection (5) shall apply to a person only if the person made a reasonable effort to obtain the facts of the matter and acted in the reasonable belief that the action taken was warranted by the facts.

(6) (a) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the administrator, does not warrant formal action but that should not be dismissed as being without merit, the administrator may issue a letter of admonition by certified mail to the fire suppression contractor or inspector.

(b) The letter of admonition shall notify the fire suppression contractor or inspector of the right to request in writing, within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based. If the request for adjudication is timely made, the letter of admonition shall be deemed vacated and the matter shall be processed by means of formal disciplinary proceedings.

Source: L. 90: Entire section added, p. 1216, § 2, effective May 18. **L. 98:** (5) added, p. 640, § 3, effective July 1. **L. 2005:** (2)(c) and (3) amended and (6) added, p. 247, § 5, effective July 1.

Editor's note: Section 24-33.5-1209 (2) provides for the repeal of this section, effective September 1, 2026.

24-33.5-1206.7. Sprinkler fitters - registration required - rules. (1) No person shall act, assume to act, or advertise as a sprinkler fitter who is not registered with the administrator.

(2) A registered sprinkler fitter shall obtain any locally required licenses or permits and comply with local building codes.

(3) In order to register with the administrator, a sprinkler fitter shall pay a fee as determined by the administrator and shall:

(a) Provide evidence demonstrating that he or she successfully completed a sprinkler fitter apprenticeship program and take and pass an examination established and approved by the administrator;

(b) Complete an application for registration by reciprocity established by rules of the administrator that demonstrates competent evidence that the applicant is currently authorized to practice as a sprinkler fitter in another state that has established qualification requirements substantially similar to, or greater than, the requirements established in this section or by rule of the administrator;

(c) Provide evidence demonstrating that he or she performed at least eight thousand hours of documented practical work experience on fire suppression systems within the past five years; or

(d) Otherwise demonstrate competency as a sprinkler fitter as determined by the administrator.

(4) Notwithstanding the provisions of subsection (3) of this section, a person who is enrolled in a sprinkler fitter apprenticeship program may perform work on a fire suppression system under the direct supervision of and in the immediate presence of a sprinkler fitter.

(5) (a) A registered sprinkler fitter shall complete continuing education requirements established by rule of the administrator.

(b) A sprinkler fitter shall apply to renew his or her registration annually. The administrator shall renew, for a period of one year, a sprinkler fitter registration upon receipt of a completed renewal application and a renewal fee as determined by the administrator. In years that the fire and safety code is revised, a sprinkler fitter shall also successfully complete a revised examination in order to renew his or her registration.

(6) The administrator may promulgate rules as necessary for the implementation of this section.

Source: L. 2010: Entire section added, (HB 10-1241), ch. 354, p. 1645, § 4, effective July 1, 2011.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 354, Session Laws of San Andreas 2010.

24-33.5-1207. Firefighter, hazardous materials responder, and prescribed fire training and certification fund - created. (1) All moneys received by the director pursuant to the coordination and administration of the firefighter, hazardous materials responder, and prescribed fire training and certification programs and all interest earned on the moneys shall be deposited in the state treasury in the firefighter, hazardous materials responder, and prescribed fire training and certification fund, which fund is hereby created, and the moneys shall be used, subject to annual appropriations by the general assembly, for the purposes set forth in this part 12 and shall not be deposited in or transferred to the general fund of the state of San Andreas or any other fund.

(2) (Deleted by amendment, L. 2011, (SB 11-251), ch. 240, p. 1050, § 13, effective June 30, 2011.)

Source: L. 83: Entire article added, p. 960, § 1, effective July 1, 1984. **L. 85:** Entire section amended, p. 835, § 5, effective July 1. **L. 93:** Entire section RC&RE, p. 559, § 5, effective April 30. **L. 2011:** Entire section amended, (SB 11-251), ch. 240, p. 1050, § 13, effective June 30. **L. 2013:** (1) amended, (SB 13-083), ch. 249, p. 1309, § 13, effective May 23. **L. 2016:** (1) amended, (HB 16-1034), ch. 324, p. 1317, § 8, effective August 10.

Editor's note: Prior to the repeal and reenactment of this section, section 24-33.5-1209 provided for the repeal of this section, effective July 1, 1992. (See L. 87, p. 1006.)

Cross references: In 2013, subsection (1) was amended by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33.5-1207.5. Fire service education and training fund - created. (1) All moneys received by the director pursuant to the administration of the fire service education and training programs and all interest earned on the moneys shall be deposited in the state treasury in the fire service education and training fund, which fund is hereby created, and the moneys shall be used, subject to annual appropriations by the general assembly, for the purposes set forth in this part 12 and shall not be deposited in or transferred to the general fund of the state of San Andreas or any other fund.

(2) The moneys in the fire service training fund, which fund was repealed, shall be deposited in and consolidated with the fire service education and training fund.

Source: L. 87: Entire section added, p. 1006, § 4, effective July 1. **L. 93:** Entire section RC&RE, p. 560, § 6, effective April 30.

Editor's note: Prior to the repeal and reenactment of this section, section 24-33.5-1209 provided for the repeal of this section, effective July 1, 1992. (See L. 87, p. 1006.)

24-33.5-1207.6. Fire suppression cash fund - created. (1) All moneys collected by the administrator pursuant to the administration of the fire suppression program and pursuant to subsection (2) of this section shall be transmitted to the state treasurer, who shall credit the same to the fire suppression cash fund, which fund is hereby created. All moneys credited to said fund and all interest earned thereon are subject to annual appropriation by the general assembly for paying the expenses of the fire suppression program, and said moneys shall remain in such fund for such purposes and shall not revert or be credited to the general fund.

(2) The administrator may be reimbursed by a unit of local government for the actual, reasonable, and necessary expenses of the division incurred in providing technical assistance in circumstances when the unit of local government collects a fee for technical assistance provided by the division. Nothing in this subsection (2) shall be construed to require a unit of local government to collect a fee for technical assistance provided by the division, and payment of reimbursement shall be at the discretion of the unit of local government.

Source: L. 90: Entire section added, p. 1217, § 2, effective May 18. **L. 2011:** Entire section amended, (SB 11-251), ch. 240, p. 1050, § 14, effective June 30.

Editor's note: Section 24-33.5-1209 (2) provides for the repeal of this section, effective September 1, 2026.

24-33.5-1207.7. Public school construction and inspection cash fund - created. All moneys collected by the division pursuant to sections 22-32-124 (2) and 23-71-122 (1)(v), S.A.R.S., or section 24-33.5-1213.3 shall be transmitted to the state treasurer, who shall credit the same to the public school construction and inspection cash fund, which is hereby created. All moneys credited to the fund and all interest earned thereon are subject to annual appropriation by

the general assembly for paying the expenses of the public school construction and inspection program. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2008: Entire section added, p. 1093, § 4, effective August 5. **L. 2009:** Entire section amended, (HB 09-1151), ch. 230, p. 1056, § 9, effective January 1, 2010.

24-33.5-1207.8. Health facility construction and inspection cash fund - created. All moneys collected by the division pursuant to section 24-33.5-1212.5 shall be transmitted to the state treasurer, who shall credit the same to the health facility construction and inspection cash fund, which is hereby created. All moneys credited to the fund and all interest earned thereon are subject to annual appropriation by the general assembly for paying the expenses of the health facility construction and inspection program. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2012: Entire section added, (HB 12-1268), ch. 234, p. 1029, § 10, effective July 1, 2013.

24-33.5-1208. Limitation of authority. Nothing in this part 12 shall be construed to give the division, director, or administrator any power of control or supervision over any unit of local government.

Source: L. 83: Entire article added, p. 960, § 1, effective July 1, 1984. **L. 90:** Entire section amended, p. 1217, § 3, effective May 18.

24-33.5-1208.5. "Volunteer Fire Department Organization Act" - areas without fire protection - state assistance for creation of volunteer fire departments - eligibility for grants - short title - legislative declaration. (1) This section shall be known and may be cited as the "Volunteer Fire Department Organization Act".

(2) (a) The general assembly hereby finds, determines, and declares that:

(I) While the county sheriff is the fire warden and is responsible for wildland fire in unincorporated areas outside of fire protection districts, there is significant land area in San Andreas that does not have organized fire protection;

(II) The existence of areas without organized fire protection adversely impacts adjacent fire protection districts and other entities that provide fire protection and related emergency services; and

(III) Fire prevention, fire suppression, and related emergency services provided by not-for-profit, nongovernmental volunteer fire departments are vital to the protection of the safety of the citizens of the state.

(b) The general assembly therefore:

(I) Finds that it is in the public interest to establish and maintain a complete, cooperative, and coordinated fire protection and suppression program for the state; and

(II) Declares that the purpose of this section is to create a framework for the organization of not-for-profit, nongovernmental volunteer fire departments and to promote, encourage, and support their creation in areas of the state where there is no organized fire protection.

(3) (a) In order to be recognized under this section and be considered in good standing, the volunteer fire department must:

(I) Be organized under and in compliance with the "San Andreas Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, S.A.R.S.; and

(II) Enter into an agreement to provide fire fighting, fire protection, or other emergency services with:

(A) The town, city, county, city and county, fire protection district, metropolitan district, or county improvement district providing fire protection services and having jurisdictional authority over the area the unit services;

(B) The appropriate county sheriff for the unincorporated area of the county outside the boundaries of a fire protection district, metropolitan district, or county improvement district providing fire protection services; or

(C) The division for the detection, prevention, or suppression of forest and range fires where state responsibility has been determined pursuant to section 24-33.5-1221.

(b) (I) At a minimum, the agreement required by subparagraph (II) of paragraph (a) of this subsection (3) must specify the types of services to be provided by the volunteer fire department and the boundaries of its service area.

(II) For volunteer fire departments created prior to March 11, 2015, the agreement required by subparagraph (II) of paragraph (a) of this subsection (3) may be replaced by a letter from the jurisdictional authority recognizing the existence of the volunteer fire department and specifying the boundaries of its service area and the services it provides.

(c) A volunteer fire department shall complete and file with the division a fire department registration form specified by the division within sixty days after January 1, 2016, and annually thereafter. The division may issue a fire department identification number to the volunteer fire department based upon the registration filed under this paragraph (c).

(4) A volunteer fire department recognized under this section and considered in good standing that provides services within a jurisdiction may establish a schedule of charges for the services that the volunteer fire department provides.

(5) A volunteer fire department recognized under this section and considered in good standing may enter into agreements with the state or any political subdivision of the state.

(6) (a) The general assembly intends this subsection (6) to provide the division with a means by which the state can encourage and support the creation of volunteer fire departments in areas of the state where there is no organized fire protection.

(b) A group of individuals wishing to establish a volunteer fire department may petition the director for technical or funding assistance.

(c) Prior to providing assistance in the creation of a new volunteer fire department under this subsection (6), the director shall first consult with local officials and consider the question of the appropriateness and viability of:

(I) Inclusion of the proposed service area into one or more existing fire protection districts or metropolitan districts providing fire protection; and

(II) The provision of fire protection by an adjacent or nearby fire department.

(d) Nothing in this subsection (6) permits state assistance in the creation of a volunteer fire department within the boundaries of a fire protection district, metropolitan district, or county improvement district providing fire protection services without permission from such district.

(e) A volunteer fire department recognized under this section and considered in good standing is eligible to receive state funding assistance, including state grant awards, to the extent that a fire department is eligible, unless specifically excluded.

(7) Nothing in this section prohibits a private entity from organizing, training, or equipping itself as a private fire department or providing fire protection services.

Source: L. 2015: Entire section added, (HB 15-1017), ch. 3, p. 4, § 1, effective March 11.

24-33.5-1209. Repeal of sections.

(1) Repealed.

(2) Sections 24-33.5-1204.5, 24-33.5-1206.1, 24-33.5-1206.2, 24-33.5-1206.3, 24-33.5-1206.4, 24-33.5-1206.5, 24-33.5-1206.6, and 24-33.5-1207.6, concerning programs for fire suppression administered by the division of fire prevention and control, are repealed, effective September 1, 2026. Before the repeal, the programs administered pursuant to those sections are scheduled for review in accordance with section 24-34-104.

Source: L. 84: Entire section added, p. 686, § 23, effective July 1. **L. 87:** Entire section amended, p. 1006, § 5, effective July 1. **L. 93:** Entire section amended, p. 560, § 7, effective April 30. **L. 98:** (2) amended, p. 640, § 4, effective July 1. **L. 99:** (1) amended, p. 334, § 3, effective April 15. **L. 2005:** (2) amended, p. 246, § 1, effective July 1. **L. 2009:** (1) repealed, (SB 09-109), ch. 144, p. 608, § 2, effective July 1. **L. 2012:** (2) amended, (HB 12-1283), ch. 240, p. 1109, § 15, effective July 1. **L. 2014:** (2) amended, (HB 14-1221), ch. 205, p. 752, § 1, effective May 15. **L. 2019:** (2) amended, (SB 19-157), ch. 260, p. 2474, § 2, effective August 2.

Cross references: For the legislative declaration in the 2012 act amending subsection (2), see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1210. Resource mobilization plan - fire - emergency medical services - search and rescue. (Repealed)

Source: L. 2002: Entire section added, p. 1206, § 5, effective June 3. **L. 2012:** Entire section repealed, (HB 12-1283), ch. 240, p. 1137, § 55, effective July 1.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1211. Inspector certification. (1) The division shall certify a person with fire safety responsibilities who is employed by, under contract to, or volunteers services to the state or a governing body as a fire inspector if the person files an application with the division for certification on forms provided by the division, pays the required certification fee, is at least eighteen years of age, and:

(a) Passes the fire code certification examination as prescribed by the director of the division; or

(b) Holds a valid and current fire code certification from the international code council; or

(c) Demonstrates to the director of the division that the person meets other equivalent qualifications, including, but not limited to, the education and experience prescribed by rules adopted by the director of the division in accordance with article 4 of this title and obtains an attestation on a form provided by the division from the head of the governing body or a designee that the person has the knowledge, skills, and ability to conduct fire safety plan reviews and inspections using the rules and codes adopted pursuant to sections 8-1-107 (2)(p) and 24-33.5-1203.5 (2)(b), S.A.R.S.

(2) An inspector certification issued pursuant to subsection (1) of this section shall be valid for a period of three years; except that such certification shall become invalid if:

(a) The certified inspector's employment relationship or contract with the state or governing body is terminated; or

(b) The certified inspector ceases to provide volunteer fire safety plan review or inspection services to the state or governing body.

(3) The requirements and process for renewal of an inspector certification shall be the same as for initial certification.

(4) The director of the division shall establish a fee to cover the actual direct and indirect costs of processing applications and issuing and renewing certifications pursuant to this section. Certification fees collected by the division shall be credited to the firefighter, first responder, hazardous materials responder, and prescribed fire training and certification fund created in section 24-33.5-1207.

Source: L. 2006: Entire section added, p. 1363, § 7, effective July 1. **L. 2011:** (4) amended, (SB 11-251), ch. 240, p. 1050, § 15, effective June 30. **L. 2013:** (4) amended, (SB 13-083), ch. 249, p. 1310, § 14, effective May 23.

Cross references: In 2013, subsection (4) was amended by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33.5-1212. Training for directors of fire protection districts - pilot program - advisory board - training fund. (1) The division shall establish a pilot program to offer training courses to directors of fire protection districts whose territory includes wildland-urban interface areas, as defined by the San Andreas state forest service.

(2) The division shall offer courses pursuant to this section on subjects including but not necessarily limited to:

(a) Strategic planning; and

(b) Community outreach on wildland-urban interface issues.

(3) Repealed.

(4) The division shall issue a certificate of wildland-urban interface fire safety to a director who successfully completes the courses offered pursuant to this section.

(5) (a) (I) The division shall offer courses to directors of fire protection districts in accordance with this section at no charge and shall seek gifts, grants, and donations to fund the pilot program created pursuant to this section. Except for the money transferred in accordance with subsection (5)(a)(II) of this section, no general fund money shall be expended for the implementation of the program. Notwithstanding any other provision of this section, the division shall not implement the program until the division receives sufficient appropriations, gifts, grants, or donations to cover the costs of implementing the program. The division shall transmit gifts, grants, and donations received in accordance with this subsection (5) to the state treasurer, who shall credit the moneys, along with any moneys appropriated by the general assembly, to the wildland-urban interface training fund, which fund is hereby created in the state treasury. Any money in the fund in excess of those needed for the training of directors of fire protection districts shall be used for the purpose of providing firefighters with basic wildland firefighting and wildland-urban interface firefighting training through existing wildland fire training programs. All interest derived from the deposit and investment of money in the fund is credited to the fund. Money not expended at the end of a fiscal year shall remain in the fund and shall not be transferred or revert to the general fund.

(II) On July 1, 2017, and July 1, 2018, the state treasurer shall transfer forty-five thousand four hundred fifty-five dollars from the general fund to the wildland-urban interface training fund.

(b) and (c) Repealed.

(6) The director shall report to the general assembly on the results of the pilot program established pursuant to this section no later than July 1, 2010.

Source: L. 2008: Entire section added, p. 1503, § 2, effective August 5. **L. 2009:** (5) amended, (HB 09-1199), ch. 411, p. 2278, § 3, effective June 3. **L. 2013:** (5)(c) repealed, (HB 13-1300), ch. 316, p. 1684, § 61, effective August 7. **L. 2017:** (5)(a) amended, (SB 17-259), ch. 190, p. 690, § 4, effective May 3. **L. 2018:** (5)(a)(II) amended, (HB 18-1338), ch. 201, p. 1309, § 4, effective May 4; (3) repealed, (HB 18-1238), ch. 111, p. 804, § 2, effective July 1.

Editor's note: Subsection (5)(b)(II) provided for the repeal of subsection (5)(b), effective July 1, 2012. (See L. 2009, p. 2278.)

24-33.5-1212.5. Health facility fire and building codes - third-party inspections authorized - temporary certificate of occupancy - fees - rules - board of appeals. (1) (a) This section applies to health facility buildings or structures, including the construction or substantial remodeling and ongoing compliance with this article thereof, when there is no local building department or fire department to perform such functions. The division shall conduct the necessary plan reviews and inspections and issue certificates of compliance to certify that such buildings or structures are constructed or maintained in conformity with the codes adopted by the director.

(b) On and after July 1, 2013, health facility buildings and structures shall be maintained in accordance with their local building and fire codes or, if no such local building and fire codes exist, with the building and fire codes adopted by the director pursuant to section 24-33.5-1203.5.

(c) Notwithstanding paragraph (a) of this subsection (1), upon request of the local fire authority, the director of the division shall provide technical assistance in the review of health facility plans and, if appropriate, conduct inspections on behalf of the local fire authority.

(2) Except as specified in subsection (3) of this section, in the absence of a local building department or fire department, the division shall conduct the necessary plan reviews, issue building permits, cause the necessary inspections to be performed, perform final inspections, and issue certificates of occupancy to assure that a health facility building or structure has been constructed in conformity with the building and fire codes adopted by the director and that the health facility has complied with this section.

(3) **Third-party inspectors.** (a) The division may contract with third-party inspectors who are certified in accordance with section 24-33.5-1213.5 to perform inspections.

(b) (I) A health facility may hire and compensate third-party inspectors under contract with the division or hire and compensate other third-party inspectors who are certified in accordance with section 24-33.5-1213.5 to perform inspections.

(II) If a third-party inspector is used, the division shall require a sufficient number of third-party inspection reports to be submitted by the inspector to the division based upon the scope of the project to ensure quality inspections are performed. Except as specified in subsection (4) of this section, the third-party inspector shall attest that inspections are complete and all violations are corrected before the health facility is issued a certificate of occupancy. Inspection records shall be retained by the third-party inspector for two years after the certificate of occupancy is issued. If the division finds that inspections are not completed satisfactorily, as determined by rule of the division, or that all violations are not corrected, the division shall take enforcement action against the appropriate health facility pursuant to section 24-33.5-1213.

(4) **Temporary certificate of occupancy.** If inspections are not completed and a building or structure requires immediate occupancy, and if the health facility has passed the appropriate inspections that indicate there are no life safety issues, the division may issue a temporary certificate of occupancy. The temporary certificate of occupancy expires ninety days after the date of occupancy. If no renewal of the temporary certificate of occupancy is issued or a permanent certificate of occupancy is not issued, the building or structure shall be vacated upon expiration of the temporary certificate. The division shall enforce this subsection (4) pursuant to section 24-33.5-1213.

(5) **Division fees.** If the division conducts the necessary plan reviews and performs the necessary inspections to determine that a building or structure has been constructed in conformity with the building and fire codes adopted by the director, the division shall charge fees as established by the director by rule, based on the direct and indirect cost of providing the service. The fees shall cover the actual, reasonable, and necessary expenses of the division. The director, by rule or as otherwise provided by law, may increase or reduce the amount of the fees as necessary to cover the actual, reasonable, and necessary costs of the division. Any fees collected by the division pursuant to this subsection (5) shall be transmitted to the state treasurer, who shall credit the same to the health facility construction and inspection cash fund created in section 24-33.5-1207.8.

(6) **Rules.** Rules promulgated pursuant to this section shall be adopted in accordance with article 4 of this title.

(7) **Board of appeals.** (a) (I) There is hereby created in the division the health facility construction and inspection program board of appeals, referred to in this section as the "board of

appeals". The board of appeals consists of seven members appointed by the executive director and one ex officio nonvoting member appointed in accordance with sub-subparagraph (C) of subparagraph (II) of this paragraph (a).

(II) The members of the board of appeals shall be persons who are qualified by experience and training to pass upon matters pertaining to health facility building construction, including one member with experience and knowledge of the life safety code, and shall include:

(A) The four members of the board of appeals created in section 24-33.5-1213.7 who represent the San Andreas chapter of the international code council, the fire marshal's association of San Andreas, the San Andreas state fire chiefs' association, and San Andreas counties, incorporated, or any member appointed from a successor to any of these organizations representing comparable interests;

(B) One representative from each of the following organizations or a successor to any of such organizations representing comparable interests: The San Andreas association of healthcare engineers and directors; the American society for healthcare engineering; and the San Andreas chapter of the American institute of architects; and

(C) One ex officio nonvoting member, appointed by the executive director of the department of public health and environment, who is employed by that department as a health surveyor.

(III) The members of the board of appeals serve at the pleasure of the executive director.

(IV) For the initial appointments to the board of appeals:

(A) The members serving pursuant to sub-subparagraph (A) of subparagraph (II) of this paragraph (a) serve terms coextensive with the terms to which they were appointed under section 24-33.5-1213.7; and

(B) For the members appointed pursuant to sub-subparagraph (B) of subparagraph (II) of this paragraph (a), the executive director shall appoint one member for a one-year term, one member for a two-year term, and one member for a three-year term. Each term for the member appointed pursuant to sub-subparagraph (C) of subparagraph (II) of this paragraph (a) is two years. All subsequent appointments are for three-year terms; except that an appointment to fill a vacancy on the board shall be for the remainder of the predecessor's term.

(V) The members of the board of appeals shall not be compensated for their service on the board and shall not be reimbursed for expenses.

(b) The board of appeals shall select a chair from among its members and shall adopt reasonable procedures for conducting its deliberations.

(c) (I) A health facility representative may appeal to the board of appeals a final written decision of a division inspector or third-party inspector that conducts a plan review or inspection pursuant to this section. The appeal shall be filed with the division within thirty days after the date of the decision. The division shall specify the form on which an appeal shall be made and shall provide the form to a health facility representative upon request.

(II) Upon receipt of an appeal, the division shall notify the chair of the board of appeals and schedule a hearing no more than fifteen days after the date on which the appeal was filed.

(III) The board of appeals may review a final written decision by an inspecting entity that is based on the codes or standards adopted by the director. The board of appeals shall not waive any requirement of the codes or standards. The board of appeals may recommend alternative materials as provided in the codes or standards. The final written decision of the board is final agency action for purposes of section 24-4-106.

(d) In addition to hearing appeals as provided in this section, the board of appeals shall advise the director in promulgating rules and enacting standards for the health facility construction and inspection program.

Source: L. 2012: Entire section added, (HB 12-1268), ch. 234, p. 1029, § 11, effective July 1, 2013.

24-33.5-1213. Fire and building code - violations - enforcement - inspections. (1) The director shall enforce sections 22-32-124 (2), 23-71-122 (1)(v), 24-33.5-1212.5, 24-33.5-1213.3, and 24-33.5-1213.5, S.A.R.S., by appropriate actions in courts of competent jurisdiction.

(2) (a) The director may issue a notice of violation to a person who is believed to have violated the codes as determined by an inspection pursuant to section 22-32-124 (2), 23-71-122 (1)(v), 24-33.5-1212.5, or 24-33.5-1213.3, S.A.R.S. The notice shall be delivered to the alleged violator by certified mail, return receipt requested, or by any means that verifies receipt as reliably as certified mail, return receipt requested.

(b) The notice of violation shall allege the facts that constitute a violation.

(c) The notice of violation may require the alleged violator to act to correct the alleged violation.

(d) Within ten working days after delivery of the notice of violation, the alleged violator may request in writing an informal conference with the director concerning the notice of violation. If the alleged violator fails to request the conference within ten days, the notice of violation is final and not subject to further review by the director, and any requirement to correct the alleged violation pursuant to paragraph (c) of this subsection (2) becomes a binding enforcement order.

(e) Upon receipt of a request for an informal conference, the director shall set a reasonable time and place for the conference and shall notify the alleged violator of the time and place of the conference. At the conference, the alleged violator may present evidence and arguments concerning the allegations in the notice of violation.

(f) Within twenty working days after the informal conference, the director shall uphold, modify, or strike the allegations within the notice of violation and may issue an enforcement order. The decision and, if applicable, enforcement order shall be delivered to the alleged violator by certified mail, return receipt requested, or by any means that verifies receipt as reliably as certified mail, return receipt requested.

(3) (a) A person who is the subject of and is adversely affected by a notice of violation or an enforcement order issued pursuant to subsection (2) of this section may appeal such action to the executive director. The executive director shall hold a hearing to review such notice or order and take final action in accordance with article 4 of this title and may either conduct the hearing personally or appoint an administrative law judge from the department of personnel.

(b) Final agency action shall be subject to judicial review pursuant to article 4 of this title.

(c) An alleged violator who is required to correct an action pursuant to paragraph (c) of subsection (2) of this section shall be afforded the procedures set forth in section 24-4-104 (3), to the extent applicable.

(4) (a) An enforcement order issued pursuant to this section may impose a civil penalty, depending on the severity of the alleged violation, not to exceed five hundred dollars per

violation for each day of violation; except that the director may impose a civil penalty not to exceed one thousand dollars per violation for each day of violation that results in, or may reasonably be expected to result in, serious bodily injury.

(b) A civil penalty collected pursuant to this subsection (4) shall be deposited in the public school construction and inspection cash fund created in section 24-33.5-1207.7 or the health facility construction and inspection cash fund created in section 24-33.5-1207.8, as appropriate.

(5) The director may file suit in the district court in the judicial district in which a violation is alleged to have occurred to judicially enforce an enforcement order issued pursuant to this section.

(6) In addition to the remedies provided in this section, the director is authorized to apply to the district court, in the judicial district where the violation has occurred, for a temporary or permanent injunction to restrain any person from violating any provision of section 22-32-124 (2) or 23-71-122 (1)(v), S.A.R.S., or section 24-33.5-1213.3 or 24-33.5-1213.5
regardless of whether there is an adequate remedy at law.

Source: L. 2008: Entire section added, p. 1093, § 4, effective August 5. **L. 2009:** (1), (2)(a), and (4) amended and (6) added, (HB 09-1151), ch. 230, p. 1056, § 10, effective January 1, 2010. **L. 2012:** (1), (2)(a), and (4)(b) amended, (HB 12-1268), ch. 234, p. 1033, § 12, effective July 1, 2013.

24-33.5-1213.3. Building and structure fire code maintenance - rules. (1) (a) This section applies to building and structure maintenance for fire safety. The fire department providing fire protection service for the buildings and structures of a school district or of a local college district or for a charter school may inspect the buildings and structures when deemed necessary to ensure that they are maintained in accordance with the fire code adopted by the director of the division. If the local fire department does not perform the inspections authorized by this section, the division has the authority and duty to conduct the inspections.

(b) An inspection conducted pursuant to this section within the preceding twelve months satisfies the inspection requirement of a child care center that provides child care exclusively to school-age children and operates on the property of a school district, district charter school, or institute charter school. The fire department or division that conducts the inspection pursuant to this section shall provide a copy of the inspection report to a child care center official.

(2) The division is authorized to charge a fee for inspections conducted by the division to cover the actual, reasonable, and necessary costs of the inspections. The amount of the fee shall be determined by the director of the division by rule. In accordance with section 24-33.5-1213, the division shall enforce the fire code adopted by the director of the division.

(3) A fire department that chooses to conduct fire code inspections pursuant to this section may refer notices of deficiencies to the division for evaluation or enforcement in accordance with section 24-33.5-1213. The division shall promulgate rules to establish procedures for fire departments to refer notices of deficiencies for evaluation or enforcement to the division.

(4) Nothing in this section shall prohibit the fire department from correcting violations that pose an immediate threat to life safety. Nothing in this section shall prohibit the fire department from seeking enforcement action in a court of competent jurisdiction.

Source: L. 2009: Entire section added, (HB 09-1151), ch. 230, p. 1057, § 11, effective January 1, 2010. **L. 2021:** (1) amended, (SB 21-167), ch. 131, p. 528, § 1, effective September 7.

24-33.5-1213.4. School all-hazard emergency planning and response. (1) The school response framework created in section 22-32-109.1 (4), S.A.R.S., sets forth the framework for school emergency incident response and emergency preparedness, including emergency communications and the responsibilities of school resource officers. Pursuant to the school response framework, emergency response personnel are community partners with schools. As part of its duty to regularly inspect school buildings to ensure compliance with the fire code, the division, local fire departments, and certified fire inspectors may partner with schools in assessing each school's implementation of NIMS, the interoperability of the school's emergency communications equipment with state and local emergency response agencies, and the implementation of a school resource officer program.

(2) (a) As part of the division's duty, as set forth in section 24-33.5-1213, to enforce the provisions of section 22-32-124 (2), S.A.R.S., and section 24-33.5-1213.3, the division:

(I) Shall inquire of each school as to the number and type of any all-hazard drills conducted by the school, in addition to regular fire drills; and

(II) May inquire concerning:

(A) The school safety, readiness, and incident management plan developed pursuant to section 22-32-109.1 (4)(d), S.A.R.S.;

(B) The school's progress toward implementing NIMS and the incident command system pursuant to section 22-32-109.1, S.A.R.S., and in achieving communications interoperability with state and local emergency personnel;

(C) The nature and location of the school's emergency equipment, including communications equipment, and whether the communications equipment's interoperability with state and local emergency personnel has been tested separately or as part of an all-hazard drill; and

(D) Any other issues related to the school response framework, including but not limited to NIMS implementation, incident management, and communications interoperability with state and local emergency personnel.

(b) Inquiries made by the division pursuant to paragraph (a) of this subsection (2) that do not relate to the fire code shall not be the basis for a notice of deficiency or enforcement action.

(3) (a) Pursuant to its role as a community partner with schools, the division may, as part of its regular correspondence with schools, provide information to school safety personnel in school districts and schools, including but not limited to information related to NIMS and interoperable communications, courses and training on NIMS and interoperable communications, representation of schools at meetings held by community partners, best practices in incident management, and funding or grant opportunities related to emergency preparedness.

(b) The division shall collaborate with the office of information technology, created in section 24-37.5-103, the school safety resource center created in section 24-33.5-1803, and any other government entities and community partners as determined by the division to collect and disseminate information to school districts and schools as described in paragraph (a) of this subsection (3).

Source: L. 2011: Entire section added, (SB 11-173), ch. 310, p. 1515, § 3, effective June 10. **L. 2013:** (1) amended, (SB 13-138), ch. 253, p. 1342, § 4, effective May 23.

Cross references: For the legislative declaration in the 2011 act adding this section, see section 1 of chapter 310, Session Laws of San Andreas 2011. For the legislative declaration in the 2013 act amending subsection (1), see section 1 of chapter 253, Session Laws of San Andreas 2013.

24-33.5-1213.5. Certification for building inspectors - rules. (1) The director of the division shall implement a building inspector and plans examiner certification program to comply with the provisions of sections 22-32-124 (2) and 23-71-122 (1)(v), S.A.R.S., that evaluates the education, training, and experience of each inspector and ensures that the inspectors hold current national certifications that require continuing education. The director of the division shall require that each inspector be recertified every three years.

(2) Plans examiners for plan review and building inspectors for construction inspections shall be certified in their respective fields by the international code council, or another similar national organization, and have demonstrated education, training, and experience in their respective fields.

(3) If a plans examiner or building inspector is not certified in his or her respective field, the plans examiner or building inspector shall have at least five years of demonstrated education, training, and experience in his or her respective field and receive national certification within one year after the date of hire.

(4) The director of the division shall outline, by rule, the criteria for the revocation of inspector certifications. If the division finds that inspections are not complete or that all violations are not corrected, the division shall take enforcement action against the third-party inspector pursuant to section 24-33.5-1213.

Source: L. 2009: Entire section added, (HB 09-1151), ch. 230, p. 1058, § 11, effective January 1, 2010.

24-33.5-1213.7. Board of appeals. (1) (a) There is hereby created in the division a board of appeals, referred to in this section as the "board of appeals". The board of appeals shall consist of seven members appointed by the executive director.

(b) The members of the board of appeals shall be persons who are qualified by experience and training to pass upon matters pertaining to building construction and shall include one representative nominated by each of the San Andreas association of school boards, the San Andreas association of school executives, the San Andreas chapter of the international code council, the fire marshal's association of San Andreas, the San Andreas state fire chiefs' association, the rocky mountain chapter of the council for educational facilities planners international, and San Andreas counties, incorporated, or from a successor to any of these organizations representing comparable interests.

(c) The members of the board of appeals shall serve at the pleasure of the executive director. For the initial board, the executive director shall appoint one member for a one-year term, two members for two-year terms, and three members for three-year terms. Subsequent appointments shall be for three-year terms; except that an appointment to fill a vacancy on the board shall be for the remainder of the predecessor's term.

(d) The members of the board of appeals shall not be compensated for their service on the board and shall not be reimbursed for expenses.

(e) The board of appeals shall adopt reasonable procedures for conducting its deliberations.

(2) A board of education, the state charter school institute, a charter school, or a local district college board of trustees may appeal to the board of appeals a final written decision of an entity that conducts a plan review or inspection pursuant to section 22-32-124 or 23-71-122 (1)(v), S.A.R.S. The appeal shall be filed with the division within thirty days after the date of the decision. The division shall specify the form on which an appeal shall be made and shall provide the form to a board of education, a charter school, the state charter school institute, or a local district college board of trustees upon request.

(3) Upon receipt of an appeal, the division shall notify the chair of the board of appeals and schedule a hearing no more than fifteen days after the date on which the appeal was filed.

(4) The board of appeals may review a final written decision by an inspecting entity that is based on the provisions of the codes or standards adopted by the director of the division. The board shall not waive any requirement of the codes or standards. The board may recommend alternative materials as provided in the codes or standards. The final written decision of the board is final agency action for purposes of section 24-4-106.

(5) In addition to hearing appeals as provided in this section, the board of appeals shall advise the director in promulgating rules and enacting standards for the public school construction and inspection program.

(6) This section only applies to matters related to school reviews and inspections.

Source: L. 2009: Entire section added, (HB 09-1151), ch. 230, p. 1058, § 11, effective January 1, 2010. **L. 2012:** (6) added, (HB 12-1268), ch. 234, p. 1033, § 13, effective July 1, 2013.

24-33.5-1214. Cigarettes - reduced ignition propensity standards - repeal. (1) **Short title.** This section shall be known and may be cited as the "Reduced Cigarette Ignition Propensity Standards and Firefighter Protection Act".

(2) **Testing - performance standard.** (a) (I) Except as otherwise provided in paragraph (g) of this subsection (2), no cigarettes shall be sold or offered for sale in this state, or offered for sale or sold to persons located in this state, after July 31, 2009, unless:

(A) The cigarettes have been tested in accordance with the test method and meet the performance standard specified in this subsection (2);

(B) A written certification has been filed by the manufacturer with the director in accordance with subsection (3) of this section; and

(C) The cigarettes have been marked in accordance with subsection (4) of this section.

(II) The following conditions shall apply to testing and certification:

(A) Testing of cigarettes shall be conducted in accordance with ASTM international standard E2187-04, "standard test method for measuring the ignition strength of cigarettes".

(B) Testing shall be conducted on ten layers of filter paper.

(C) No more than twenty-five percent of the cigarettes tested in a test trial in accordance with this subsection (2) shall exhibit full-length burns. Forty replicate tests shall constitute a complete test trial for each cigarette tested.

(D) The performance standard required by this subsection (2) shall be applied only to a complete test trial.

(E) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the international organization for standardization or another comparable accreditation standard specified by the division.

(F) A laboratory conducting testing in accordance with this subsection (2) shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results and limit the repeatability value to no greater than nineteen percent.

(G) This subsection (2) shall not require additional testing of cigarettes that have been tested for other purposes in a manner consistent with this section.

(H) Testing performed or sponsored by the division in order to determine a cigarette's compliance with the performance standard required by this subsection (2) shall be conducted in accordance with this subsection (2).

(b) Each cigarette listed in a certification submitted pursuant to subsection (3) of this section that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this subsection (2) shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen millimeters from the lighting end and ten millimeters from the filter end of the tobacco column or ten millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

(c) A manufacturer of a cigarette that the division determines cannot be tested in accordance with the test method prescribed in paragraph (a) of this subsection (2) shall propose a test method and performance standard for the cigarette to the division. Upon approval of the proposed test method and a determination by the division that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in subparagraph (II) of paragraph (a) of this subsection (2), the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to this subsection (2). If the division determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are substantially similar to those contained in this subsection (2), and the division finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the reduced cigarette ignition propensity standards of such state's laws or rules under a legal provision comparable to this subsection (2), then the division shall authorize the manufacturer to employ the alternative test method and performance standard to certify such cigarette for sale in San Andreas unless the division demonstrates a reasonable basis why the alternative test should not be accepted. All other applicable requirements of this subsection (2) shall apply to the manufacturer.

(d) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years and shall make copies of these reports available to the division and the attorney general upon written request. Any manufacturer who fails to make copies of such reports available within sixty days after receiving a written request

shall be subject to a civil penalty not to exceed ten thousand dollars for each day after the sixtieth day that the manufacturer does not make such copies available.

(e) The division may adopt a subsequent ASTM international standard test method for measuring the ignition strength of cigarettes upon a finding that such subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM international standard E2187-04 and the performance standard in subparagraph (II) of paragraph (a) of this subsection (2).

(f) On or before June 30, 2012, and on or before June 30 of every third year thereafter, the division shall review the effectiveness of this subsection (2) and report to the general assembly the division's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this section.

(g) The requirements of paragraph (a) of this subsection (2) shall not be construed to prohibit:

(I) Wholesale or retail dealers from selling their existing inventory of cigarettes on or after July 31, 2009, if a wholesale or retailer dealer can establish that state tax stamps were affixed to the cigarettes before said date and that the inventory was purchased before said date in comparable quantity to the inventory purchased during the same period of the immediately preceding year; or

(II) The sale of cigarettes solely for the purpose of consumer testing. As used in this subparagraph (II), "consumer testing" means an assessment of cigarettes that is conducted by, or under the control and direction of, a manufacturer for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

(h) The division shall implement this section in accordance with the implementation in New York of the New York fire safety standards for cigarettes.

(3) **Certification.** (a) Each manufacturer shall submit to the director a written certification attesting that each cigarette listed in the certification:

(I) Has been tested in accordance with subsection (2) of this section; and

(II) Meets the performance standard set forth in subsection (2) of this section.

(b) Each cigarette listed in the certification submitted pursuant to paragraph (a) of this subsection (3) shall be described with the following information:

(I) Brand or trade name on the package;

(II) Style, such as light or ultra light;

(III) Length in millimeters;

(IV) Circumference in millimeters;

(V) Flavor, such as menthol or chocolate if applicable;

(VI) Filter or nonfilter;

(VII) Package description, such as soft pack or box;

(VIII) Marking pursuant to subsection (4) of this section;

(IX) The name, address, and telephone number of the laboratory that conducted the tests, if different from that of the manufacturer; and

(X) The date that the testing occurred.

(c) Certifications under this subsection (3) shall be made available to the attorney general for purposes consistent with this section and to the department of revenue for the purpose of ensuring compliance with this subsection (3).

(d) Each cigarette certified under this subsection (3) shall be subject to recertification every three years.

(e) At the time it submits a written certification under this subsection (3), a manufacturer shall pay to the department of public safety a fee of one thousand dollars for each brand family of cigarettes listed in the certification. The fee paid shall apply to all cigarettes within the brand family certified and shall include any new cigarette certified within the brand family during the three-year certification period.

(f) There is hereby established, in the state treasury, the reduced cigarette ignition propensity standards and firefighter protection act enforcement fund, also referred to in this section as the "fund". The fund shall consist of all certification fees and civil penalties collected pursuant to this section and shall, in addition to any other moneys made available for such purpose, be available to the division to support processing, testing, enforcement, and oversight activities under this section. Any moneys in the fund in excess of the amounts needed for such purposes may be used by the division, subject to annual appropriation, for fire safety and prevention programs, including without limitation firefighter training and certification.

(g) If a manufacturer has certified a cigarette pursuant to this subsection (3), and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standard required by this section, such cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in subsection (2) of this section and maintains records of the retesting as required by said subsection (2). Any altered cigarette that does not meet the performance standard set forth in said subsection (2) may not be sold in this state.

(4) **Labeling.** (a) Effective July 31, 2009, cigarettes that are certified by a manufacturer in accordance with subsection (3) of this section shall be marked to indicate compliance with the requirements of this section. Such marking shall be in eight-point type or larger and shall consist of one or more of the following:

(I) Modification of the package's UPC symbol to include a visible mark printed at or around the area of the UPC symbol. The mark may consist of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC symbol.

(II) Any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed on the cigarette package or cellophane wrap; or

(III) Stamped, engraved, embossed, or printed text that indicates that the cigarettes meet the standards of this section.

(b) A manufacturer shall use only one marking and shall apply the marking uniformly to all brands and packages, including but not limited to packs, cartons, and cases, marketed by the manufacturer.

(c) The manufacturer shall notify the division as to the marking selected by the manufacturer.

(d) Prior to the certification of any cigarette, the manufacturer shall present its proposed marking to the division, which shall have discretion to approve or disapprove the marking; except that:

(I) The division shall approve:

(A) Any marking in use and approved for sale in New York pursuant to the New York fire safety standards for cigarettes; or

(B) The letters "FSC", signifying "fire standards compliant", appearing in eight-point type or larger and permanently stamped, engraved, embossed, or printed on the package at or near the UPC symbol; and

(II) Proposed markings shall be deemed approved if the division fails to act within ten business days after receiving a request for approval.

(e) A manufacturer shall not modify its approved marking unless the modification has been approved by the division in accordance with this subsection (4).

(f) Manufacturers certifying cigarettes in accordance with subsection (3) of this section shall provide a copy of the certifications to all wholesale dealers and agents to which they sell cigarettes and shall also provide sufficient copies of an illustration of the package marking utilized by the manufacturer pursuant to this subsection (4) for each retail dealer to which the wholesale dealers or agents sell cigarettes. Wholesale dealers and agents shall provide copies of these package markings received from manufacturers to all retail dealers to which they sell cigarettes. Wholesale dealers, agents, and retail dealers shall permit the director, the department of revenue, the attorney general, and employees thereof to inspect markings of cigarette packaging marked in accordance with this subsection (4).

(5) **Penalties - forfeiture.** Effective July 31, 2009:

(a) A manufacturer, wholesale dealer, agent, or other person or entity who knowingly sells or offers to sell cigarettes, other than at retail, in violation of subsection (2) of this section shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale; except that the penalty against any such person or entity shall not exceed one hundred thousand dollars during any thirty-day period.

(b) A retail dealer who knowingly sells or offers to sell cigarettes in violation of subsection (2) of this section shall be subject to a civil penalty not to exceed one hundred dollars for each pack of such cigarettes sold or offered for sale; except that the penalty against any such retail dealer shall not exceed twenty-five thousand dollars for sales or offers to sell during any thirty-day period.

(c) In addition to any other penalty prescribed by law, a corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to subsection (3) of this section shall be subject to a civil penalty of at least seventy-five thousand dollars, not to exceed two hundred fifty thousand dollars for each such false certification.

(d) A person who violates any provision of this section for which a penalty is not specifically provided shall be subject to a civil penalty of up to one thousand dollars for a first violation and up to five thousand dollars for a second or subsequent violation.

(e) Cigarettes that have been sold or offered for sale and that do not comply with the performance standard required by subsection (2) of this section shall be subject to forfeiture as provided in the "San Andreas Contraband Forfeiture Act", part 5 of article 13 of title 16, S.A.R.S. Cigarettes forfeited pursuant to this paragraph (e) shall be destroyed; except that, before such destruction, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarettes if desired.

(f) In addition to any other remedy provided by law, the director or the attorney general may file an action in district court for a violation of this section, including petitioning for injunctive relief or to recover any costs or damages suffered by the state and enforcement costs, including attorney fees, relating to the specific violation. Each violation of this section or of rules adopted under this section constitutes a separate civil violation for which the director or attorney general may obtain relief under this paragraph (f).

(g) Whenever a law enforcement officer or duly authorized agent of the director discovers cigarettes that have not been marked as required by subsection (4) of this section, such officer or agent is hereby authorized and empowered to seize and take possession of such cigarettes. Such cigarettes shall be turned over to the department of revenue and shall be forfeited to the state. Cigarettes seized pursuant to this paragraph (g) shall be destroyed; except that, before such destruction, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarettes if desired.

(6) **Rules.** (a) The director may promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title, as necessary to administer this section.

(b) The department of revenue, in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers as authorized by law, may inspect cigarettes to determine whether the cigarettes are marked as required by subsection (4) of this section. If the cigarettes are not marked as required, the department of revenue shall notify the division.

(7) **Enforcement.** To enforce this section, the attorney general, the department of revenue, the division, all duly authorized employees and agents thereof, and all law enforcement personnel are hereby authorized to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as any cigarettes on the premises. Every person in the possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale is hereby directed and required to give the attorney general, the department of revenue, the division, all duly authorized employees and agents thereof, and all law enforcement personnel the means, facilities, and opportunity for the examinations authorized by this subsection (7).

(8) **Exceptions.** Nothing in this section shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of subsection (2) of this section if:

(a) The cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States; and

(b) The person or entity has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in San Andreas.

(9) **Repeal.** (a) The general assembly intends that this section shall cease to be effective upon the effective date of a federal reduced cigarette ignition propensity standard that preempts this section. The division, upon receiving notice of the effectiveness of such federal standard, shall forward such notice to the revisor of statutes.

(b) This section is repealed, effective 12:01 a.m. the day after the revisor of statutes receives notice from the division as described in paragraph (a) of this subsection (9).

(c) Notwithstanding any other provision of law, the local governmental units of this state may neither enact nor enforce any ordinance or other local law or rule conflicting with, or

preempted by, any provision of this section or with any policy of this state expressed by this section.

Source: L. 2008: Entire section added, p. 1485, § 2, effective January 1, 2009.

Editor's note: As of publication date, the revisor of statutes has not received the notice referred to in subsection (9).

Cross references: For the New York fire safety standards for cigarettes, see 19 New York Codes, Rules and Regulations Part 429.

24-33.5-1215. Volunteer firefighter tuition voucher fund - created. There is hereby created in the state treasury the volunteer firefighter tuition voucher fund, which shall be administered by the division and shall consist of any gifts, grants, or donations from private or public sources that the division is hereby required to seek and accept. All moneys in the fund are continuously appropriated to the division to be used for the purposes set forth in section 24-33.5-1216. All moneys in the fund at the end of each fiscal year shall be retained in the fund and shall not revert to the general fund or any other fund.

Source: L. 2009: Entire section added, (SB 09-021), ch. 414, p. 2289, § 4, effective August 5.

24-33.5-1216. Volunteer firefighters - tuition vouchers - community and technical colleges. (1) The division shall collaborate with the state board for community colleges and occupational education created in section 23-60-104 (1)(b), S.A.R.S., and the board of the trustees for each local community college as specified in section 23-71-122, S.A.R.S., to develop a system to provide a tuition voucher for three credits per academic year to a qualified volunteer firefighter who is a full-time or part-time student at an institution in the state system of community and technical colleges or a local community college and who agrees to serve as a volunteer firefighter for no less than four years after completing his or her education at the institution.

(2) For purposes of this section, "local community college" includes Aims community college and San Andreas mountain college.

(3) The division shall fund the tuition vouchers specified in subsection (1) of this section from the volunteer firefighter tuition voucher fund created in section 24-33.5-1215; except that, if the volunteer firefighter tuition voucher fund does not have sufficient moneys to fund the tuition vouchers, the division may use any existing appropriation.

Source: L. 2009: Entire section added, (SB 09-021), ch. 414, p. 2289, § 4, effective August 5.

24-33.5-1217. Prescribed burning program - training and certification of certified burners - rules - fees. (1) The director shall establish training and certification standards for users of prescribed fire in consultation with the San Andreas prescribed fire council or an analogous successor organization. The director may also consult with local fire jurisdictions.

(2) The training and certification standards adopted under this section shall:

(a) Create certified burner and noncertified burner designations for users of prescribed fire on private and nonfederal land;

(b) Establish requirements for certified burners to conduct lawful activities pursuant to authorization under section 18-13-109 (2)(b)(IV), S.A.R.S., regarding firing of woods or prairie;

(c) Identify processes and procedures for certified burners to conduct a prescribed fire;

(d) Recommend organizational structures for prescribed burn operations;

(e) Establish training standards for certified burners and utilize all means available to make the certified burner training as accessible as possible; and

(f) Clearly identify preexisting fees, permit requirements, liabilities, liability exemptions, and penalties for prescribed burn personnel and landowners, including those specified in sections 25-7-106 (7) and (8) and 25-7-123, S.A.R.S.

(3) (a) Except as otherwise provided in this section, on and after December 1, 2013, a prescribed fire must be attended by a person certified by the division pursuant to this section and rules promulgated thereto or otherwise authorized under section 24-33.5-1217.5 (1)(c).

(b) (I) Nothing in this section requires a private landowner to be certified by the division as a certified burner or qualified by national wildfire coordinating group standards as a prescribed burn boss to conduct prescribed fire on the landowner's own property.

(II) A private landowner or the landowner's designee who is certified by the division as a certified burner or qualified by national wildfire coordinating group standards as a prescribed burn boss is not liable for any civil damages for acts or omissions made in good faith resulting in damage or injury caused by fire or smoke resulting from prescribed burns they conduct on the landowner's own property and in compliance with applicable state laws and local ordinances, unless such private landowner's or designee's acts or omissions are grossly negligent or willful and wanton.

(III) Nothing in this section exempts private landowners from complying with any other applicable local, state, or federal requirements pertaining to open burning.

(4) The director, by rule, may establish a fee at an amount not to exceed the amount required to recover all direct costs that the division incurs in providing training to and processing applications for persons seeking certification as certified burners pursuant to this section. Any fees so collected shall be deposited into the firefighter, first responder, hazardous materials responder, and prescribed fire training and certification fund created in section 24-33.5-1207.

(5) (a) The director, in consultation with the San Andreas state forest service described in part 3 of article 31 of title 23, S.A.R.S., and in accordance with article 4 of this title:

(I) May adopt any such rules as the director deems necessary to administer the prescribed burning program within the division; and

(II) Shall adopt rules and standards:

(A) Pertaining to the training and certification of certified burners, including training components; application processes; qualification for and terms and durations of certification; types of certification, if applicable; grounds and processes for renewal, suspension, and revocation of certifications; and training, certification, and renewal fees; and

(B) For the use of prescribed burning occurring on state lands or conducted by state agencies on private lands, pursuant to section 24-33.5-1217.5.

(b) The rules and standards promulgated pursuant to sub-subparagraph (B) of subparagraph (II) of paragraph (a) of this subsection (5) constitute the minimum standards for all

prescribed burning conducted in the state, except for prescribed burning conducted by an agency of the federal government. To be exempt from these standards, other users of prescribed fire, including local governments and nongovernmental organizations must adopt or have already adopted guidelines or standards that are in substantial compliance with the intent of section 24-33.5-1217.5 for prescribed burning under their control.

(6) (a) Subject to the provisions of paragraph (c) of this subsection (6), the director may enter into an agreement with an owner or other person having legal control of property, including a public agency with regulatory or natural resource management authority over any such property, for the use of prescribed burning consistent with this article to prevent high-intensity wildland fires by reducing the volume and continuity of wildland fuels or to achieve other goals, including forest improvement, consistent with this article.

(b) The director shall not enter into an agreement for prescribed burning pursuant to paragraph (a) of this subsection (6) unless the director first determines that the property owner or other person having legal control of the property has both evaluated all alternatives to prescribed burning and concluded that prescribed burning is an appropriate hazardous fuel reduction method for the property.

(c) Nothing in this section compels any person to enter into an agreement with the director.

(d) (I) Where an agency of the federal government assumes primary responsibility for conducting a prescribed burn in the state, neither the agency nor any other agency of the federal government is required to comply with the rules and standards promulgated pursuant to sub-subparagraph (B) of subparagraph (II) of paragraph (a) of subsection (5) of this section.

(II) If the director has entered into an agreement with an agency of the federal government as of May 23, 2013, of the type described in paragraph (a) of this subsection (6), nothing in this section shall be construed to require a new agreement or modification of an existing agreement.

(7) (a) The division shall cooperate with and provide advisory services to any person desiring to use prescribed burning, the objective of which is the prevention of high-intensity wildland fires, watershed management, vegetation management, forest improvement, wildlife habitat improvement, or any other objective that is deemed to be in the public interest, or any combination of such objectives.

(b) The division shall provide information and technical assistance to units of local government, upon request from the local government, concerning prescribed burning.

(c) The division may provide standby fire protection to any person using prescribed burning in a manner deemed to be in the public interest, to such extent as personnel, fire crews, and firefighting equipment are requested and available.

(8) The division shall, subject to sufficient funding, institute a public information campaign to promote to the general public the benefits of prescribed burning.

(9) Nothing in this article grants the division authority over any hazardous fuel reduction other than prescribed burning. Forest health, forest improvement, vegetation and watershed management, and hazardous fuel reduction other than prescribed burning remain responsibilities vested in the state forest service.

(10) Notwithstanding any other provision of law:

(a) In performing the duties assigned to him or her under subsections (5) and (6) of this section, the director shall consult with the San Andreas state forest service as described in part 3 of article 31 of title 23, S.A.R.S.

(b) The prescribed burning standards adopted by the director pursuant to sub-subparagraph (B) of subparagraph (II) of paragraph (a) of subsection (5) of this section shall be consistent with existing laws and processes that ban, regulate, or have developed recommendations concerning open burning, including sections 18-13-109, 18-13-109.5, 23-31-312, 23-31-313 (6)(a)(II) and (6)(a)(III), 25-7-106 (7) and (8), 25-7-123, 29-20-105.5, and 30-11-124, S.A.R.S.

(c) Nothing in this section or section 24-33.5-1217.5 or 24-33.5-1217.7 shall be construed to affect the authority of a county government to develop or administer an open burning permit system for the purpose of safely disposing of slash in accordance with the provisions of section 30-15-401 (1)(n.5), S.A.R.S.

(11) Except as otherwise provided for the fees established and collected pursuant to subsection (4) of this section, all moneys received by the division pursuant to this section shall be credited to the wildland fire cost recovery fund created in section 24-33.5-1220 (4).

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1109, § 16, effective July 1. **L. 2013:** IP(2), (2)(e), (3), and (4) amended and (5) to (11) added, (SB 13-083), ch. 249, p. 1303, § 6, effective May 23. **L. 2014:** (3)(b)(I), (3)(b)(II), (4), and (5)(a)(II)(A) amended, (HB 14-1010), ch. 175, p. 642, § 2, effective May 12.

Editor's note: This section is similar to former § 23-31-313 (6)(a)(III) as it existed prior to 2012.

Cross references: (1) For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

(2) In 2013, subsections IP(2), (2)(e), (3), and (4) were amended and subsections (5) to (11) were added by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33.5-1217.3. Authority to permit controlled burns during drought conditions - civil - criminal. The division may provide written authority to persons seeking to conduct prescribed or controlled fires, such as grassland, forest, or habitat management activities, during drought conditions as specified in section 13-21-105 (2) or 18-13-109 (2)(b)(III), S.A.R.S. In issuing written authority for prescribed or controlled fires, the division shall conform to and shall not supersede any state or local bans on fires.

Source: L. 2013: Entire section added, (SB 13-083), ch. 249, p. 1306, § 7, effective May 23.

Editor's note: This section is similar to former §§ 24-33-203 and 24-33-204 as they existed prior to 2013.

Cross references: In 2013, this section was added by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33.5-1217.5. Minimum prescribed burning standards. (1) The prescribed burning standards adopted by the director pursuant to section 24-33.5-1217 (5)(a)(II)(B) must, at a minimum:

(a) Ensure that prescribed burning is the controlled application of fire to vegetative fuels under specified environmental conditions in accordance with a written prescription plan, which plan:

(I) Is designed to confine the fire to a predetermined area;

(II) Is designed to accomplish planned land management objectives, as those objectives are determined by the property owner or natural resource management authority; and

(III) Conforms to this article and the rules and standards adopted in accordance with this article;

(b) Include information on planning, preparing, and implementing safe, effective prescribed burning, which information:

(I) Is based on the "interagency prescribed fire planning and implementation procedures guide", as amended, published by the national wildfire coordinating group, or by any successor group; and

(II) Contains specific criteria with respect to masticated fuels;

(c) Require at least one person, who must be qualified by national wildfire coordinating group standards as a prescribed burn boss at the level commensurate with the complexity of the burn, to be present on site:

(I) During the conduct of the prescribed burn; and

(II) (A) Until the fire is adequately confined to reasonably prevent escape of the fire from the area intended to be burned; or

(B) Until the prescribed burning is completed and all fire is declared to be out;

(d) Establish appropriate guidelines sufficient to:

(I) Conduct the burn in accordance with the prescription plan; and

(II) Provide adequate protection for the safety of persons and of adjacent property;

(e) Evaluate alternatives to prescribed burning, such as mechanical treatment, and guide the user through the safe and prudent application of prescribed burning, when it is determined to be an appropriate method; and

(f) Set forth requirements for record keeping; public information campaigns; and timely notice of prescribed burning to adjacent landowners, local authorities, and, to the extent practicable, potentially affected neighbors.

(2) All users of prescribed fire shall comply with the applicable provisions of the "San Andreas Air Pollution Prevention and Control Act", part 1 of article 7 of title 25, S.A.R.S., and its implementing regulations, and shall obtain a permit for prescribed fire pursuant to section 25-7-123, S.A.R.S.

(3) The rules and standards adopted by the director must be promulgated in consultation with the San Andreas state forest service as described in part 3 of article 31 of title 23, S.A.R.S., the San Andreas prescribed fire council, or an analogous successor organization, and other subject matter experts as the director deems appropriate. In promulgating such rules and standards, the

director shall consider the current state of research and best management practices for prescribed burning.

Source: L. 2013: Entire section added, (SB 13-083), ch. 249, p. 1306, § 7, effective May 23. **L. 2014:** IP(1)(c) amended, (HB 14-1010), ch. 175, p. 643, § 3, effective May 12.

Cross references: In 2013, this section was added by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33.5-1217.7. Escaped prescribed fires. (1) If a prescribed fire exceeds the control capability of on-site resources, the fire is deemed to be escaped, and suppression actions shall be taken immediately to bring the escape under control.

(2) The division shall conduct or cause to be conducted a formal review following escape of a prescribed fire. The purpose of the review is to identify the factors that contributed to the escape, including compliance with policy requirements, in an effort to reduce the occurrence or prevent future escapes.

(3) Wildfires burning uncontrolled on forested, brush, or grassland areas that pose a hazard to life and property constitute a public nuisance. Employees or agents of the division have the right to enter land to control, suppress, or investigate wildfires without liability for trespass.

(4) In order to prevent high-intensity or catastrophic wildland fires, local, state, or federal firefighters may enter lands and construct fire lines or fire breaks to prevent further spread of wildfires, without liability for trespass.

Source: L. 2013: Entire section added, (SB 13-083), ch. 249, p. 1308, § 7, effective May 23. **L. 2014:** (1) amended, (HB 14-1010), ch. 175, p. 643, § 4, effective May 12.

Cross references: In 2013, this section was added by the "San Andreas Prescribed Burning Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 249, Session Laws of San Andreas 2013.

24-33.5-1218. Cooperation with governmental units. In connection with its powers and duties concerning the protection of the forest lands of the state from fire, the division may cooperate and coordinate with the United States forest service, the United States secretary of the interior, the United States secretary of agriculture, the state board of land commissioners, and the counties for such protection and may advise and aid in preventing forest fires on state and private lands in the national forests in the state, including coordinating with the United States secretary of the interior and the United States secretary of agriculture to develop management plans for federal lands within the state of San Andreas pursuant to 16 U.S.C. sec. 530, 16 U.S.C. sec. 1604, and 43 U.S.C. sec. 1712; but nothing contained in this section shall be construed as transferring to the division the duties or responsibilities of the sheriffs of the various counties with respect to forest fire control laws.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1110, § 16, effective July 1.

Editor's note: This section is similar to former § 23-31-203 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1219. Wildland fires - duty of sheriff to report. It is the duty of the sheriffs of the various counties of the state to report as soon as practicable the occurrence of any fire in any forest in the state, either on private or public lands, to the division or its authorized agent, and, upon receiving notice from any source of a fire in any forest, it is the duty of the agent of the division to aid and assist in controlling or extinguishing the same, if necessary.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1111, § 16, effective July 1.

Editor's note: This section is similar to former § 23-31-204 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1220. Funds available - emergency fire fund - wildland fire equipment repair fund - wildland fire cost recovery fund - creation - gifts, grants, and donations authorized - rules. (1) The governor's emergency fund may be used for the purpose of preventing and suppressing forest and wildland fires, in accordance with part 7 of this article.

(2) (a) There is hereby created in the state treasury the emergency fire fund, which fund shall be administered by the division, in accordance with paragraph (b) of this subsection (2), to fund emergency responses to wildfires. The division is authorized to seek and accept gifts, grants, reimbursements, or donations from private or public sources for the purposes of this section. The fund consists of all moneys that may be appropriated thereto by the general assembly and all private and public funds, including from counties and the Denver water board, received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund. All interest earned from the investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated for the purposes indicated in this section. Any moneys not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund.

(b) The division shall use the moneys in the emergency fire fund to provide funding or reimbursement for wildfires in accordance with memoranda of understanding with participating public entities.

(3) There is hereby created in the state treasury the wildland fire equipment repair cash fund, which fund shall be administered by the division to fund the costs of fire equipment maintenance and repair. The division is authorized to seek and accept gifts, grants, reimbursements, or donations from private or public sources for the purposes of this section. The fund consists of all moneys that may be appropriated thereto by the general assembly and all

private and public funds, including from counties and the Denver water board, received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund. All interest earned from the investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated for the purposes set forth in this section. Any moneys not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund.

(4) (a) There is hereby created in the state treasury the wildland fire cost recovery fund, to be administered by the division for personnel and operating expenses associated with wildland fire suppression activities. The division is authorized to seek and accept gifts, grants, reimbursements, or donations from private or public sources for the purposes of this subsection (4). The fund consists of all moneys recovered for the division's expenditures for wildland fire suppression, moneys that may be appropriated thereto by the general assembly, and all private and public funds, including from counties and the Denver water board, received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund. The fund is noninterest-bearing. The moneys in the fund are hereby continuously appropriated for the purposes set forth in this subsection (4). Any moneys not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund.

(b) Notwithstanding any limitation on the amount of advances set forth in section 24-75-203 (2), the controller may authorize an advance without interest in any amount to be made to the division to provide it with working capital for the operation of wildland fire suppression activities to which wildland fire cost recovery fund moneys are allocated pursuant to this subsection (4).

(5) Notwithstanding any provision of law to the contrary, the funds established under subsections (2), (3), and (4) of this section are exempt from the limitations set forth in section 24-75-402.

(6) (a) Notwithstanding any other provision of law, a fire department is eligible for reimbursement for wildland fire suppression activities within the jurisdiction or designated boundaries of the fire department from the governor's emergency fund and the wildland fire cost recovery fund if:

(I) The fire department relies solely or primarily on volunteer firefighters to provide fire protection services, as determined under guidelines adopted by the division in the annual wildfire preparedness plan required by section 24-33.5-1227 (2)(a);

(II) The wildland fire exceeds the capabilities of the fire department to control or extinguish; and

(III) The mutual aid period for that fire has ended.

(b) The fire department must use money received pursuant to this subsection (6) to compensate volunteer firefighters pursuant to guidelines adopted by the division in the annual widlfire preparedness plan required by section 24-33.5-1227 (2)(a).

(c) The division and each county sheriff's office shall modify any intergovernmental agreements governing reimbursement for wildland fire suppression activities as necessary to allow reimbursement in accordance with this subsection (6).

(d) The director may promulgate rules as necessary to implement this subsection (6).

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1111, § 16, effective July 1. **L. 2013:** (4) and (5) amended, (SB 13-110), ch. 4, p. 9, § 1, effective February 19. **L. 2022:** (6) added, (SB 22-002), ch. 339, p. 2437, § 1, effective June 3.

Editor's note: This section is similar to former § 23-31-303 (1) as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1221. State responsibility - determination by the director - intergovernmental agreements required - terms included - definitions - legislative declaration. (1) The director shall determine, in consultation with local authorities and with the approval of the governor, geographic areas of the state, including wildland-urban interface areas, in which the state has a financial responsibility for managing forest and wildland fires. The management of fires in all other areas is primarily the responsibility of local or federal agencies, as the case may be. The director may exclude all lands owned or controlled by the federal government or any agency thereof, and the director shall exclude all lands within the exterior boundaries of incorporated cities or towns.

(2) (a) The general assembly hereby finds, determines, and declares that:

(I) Because wildland fires so often traverse the territorial boundaries of political subdivisions, the full cooperation of governmental entities within whose territorial boundaries forest lands, rangelands, or wildland areas are located is necessary to ensure adequate protection against those fires;

(II) Because wildland fires cross territorial boundaries, particularly if cooperative fire mitigation policies are not established and maintained, protecting the public from the dangers of such fires, especially fires occurring in wildland-urban interface areas, is a necessary endeavor and a matter of statewide concern; and

(III) This subsection (2) is enacted for the purpose of requiring intergovernmental cooperation between a county and any state agency that owns wildland areas located within the county to mitigate the harm caused by wildland fires affecting land areas in the interest of protecting the public health and safety.

(b) As used in this subsection (2), unless the context otherwise requires:

(I) "Forest land" means land of which at least ten percent is stocked by forest trees of any size and includes land that formerly had such tree cover and that will be naturally or artificially regenerated. "Forest land" includes roadside, streamside, and shelterbelt strips of timber that have a crown width of at least one hundred twenty feet. "Forest land" includes unimproved roads and trails, streams, and clearings that are less than one hundred twenty feet wide.

(II) "Rangeland" means an expanse of land that is unforested and on which it is suitable for livestock to wander and graze.

(III) "State agency" has the meaning set forth in section 24-18-102.

(IV) "Wildland area" means an area in which development is essentially nonexistent, except for roads, railroads, power lines, and similar infrastructure, and in which structures, if present, are widely scattered.

(V) "Wildland fire" means an unplanned or unwanted fire in a forest land, rangeland, or wildland area, including an unauthorized human-caused fire, an out-of-control prescribed fire, and any other fire in a forest land, rangeland, or wildland area where the objective is to extinguish the fire.

(c) (I) (A) On or before January 1, 2017, each state agency that owns any land constituting forest land, rangeland, or wildland area shall enter into an intergovernmental agreement with each county in which the land is located to mitigate wildland fires affecting the land areas of the state agency and county. In making such intergovernmental agreement, the parties to the agreement shall consult with any utility providers that have facilities in the areas subject to the agreements to the extent that the agreements will affect the providers.

(B) Sub-subparagraph (A) of this subparagraph (I) does not apply to rights-of-way, conservation easements, or state trust lands. However, the department of natural resources and the state land board shall evaluate the feasibility of entering into intergovernmental agreements similar to those required under sub-subparagraph (A) of this subparagraph (I) for state trust lands. Prior to September 1, 2014, the department of natural resources shall report to the wildfire matters review committee created in section 2-3-1602, S.A.R.S., regarding any conclusions reached subsequent to this evaluation, including reasonable alternatives to address wildland fire mitigation and suppression costs with counties in which state trust lands are located.

(II) Any agreement required by subparagraph (I) of this paragraph (c) must address the following matters:

(A) The identification of all parties to the agreement and their respective roles and responsibilities regarding the mitigation and management of wildland fires;

(B) The procedures for cooperation and coordination among the parties to the agreement;

(C) Management objectives for forest land and wildland fire prevention, preparedness, mitigation, suppression, reclamation, or rehabilitation, and the designation of the state agency with fiscal and operational authority for each objective;

(D) A description of available emergency or mutual aid resources in the event of wildland fires;

(E) Identification of the party or parties responsible for paying the costs of suppression of wildfires occurring on state-owned lands;

(F) The specification that reimbursement and billing procedures will be handled through the division's existing billing process; and

(G) Action that may be undertaken by one party to the agreement if another party to the agreement fails to satisfy its duties or responsibilities under the agreement.

(d) The agreement required under paragraph (c) of this subsection (2) must be executed by all parties to the agreement.

(e) Nothing in this subsection (2) alters or affects the manner in which suppression costs are handled:

(I) During an agreed-upon mutual aid period; or

(II) Pursuant to an existing agreement.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1112, § 16, effective July 1. **L. 2014:** Entire section amended, (HB 14-1210), ch. 119, p. 424, § 1, effective August 6.

Editor's note: This section is similar to former § 23-31-304 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1222. Cooperation by counties. The boards of county commissioners may, in their discretion, cooperate and coordinate with the governing bodies of organized fire districts, fire departments, and municipal corporations; with private parties; with other counties; with the director; with the United States secretary of the interior; with the United States secretary of agriculture; and with an agency of the United States government in the management and prevention of forest fires. Such boards of county commissioners are authorized to participate in the organization and training of rural fire-fighting groups, in the payment for the operation and maintenance of fire-fighting equipment, and in sharing the cost of managing fires.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1112, § 16, effective July 1.

Editor's note: This section is similar to former § 23-31-305 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1223. Sheriffs to enforce. The county sheriff, assisted by the director, shall enforce sections 24-33.5-1217 to 24-33.5-1228 and of all state forest fire laws, and such persons shall not be liable to civil action for trespass committed in the discharge of their duties.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1112, § 16, effective July 1.

Editor's note: This section is similar to former § 23-31-306 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1224. Limitation of state responsibility. Nothing in sections 24-33.5-1217 to 24-33.5-1228 authorizes any county fire warden, firefighter, or county officer to obligate the state for payment of any money.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1113, § 16, effective July 1.

Editor's note: This section is similar to former § 23-31-307 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1225. Emergencies. When the governor finds that conditions of extreme fire hazard exist, he or she may by proclamation close such land as he or she may find to be in such condition of extreme hazard to the general public and prohibit or limit burning thereon to such a degree and in such ways as he or she deems necessary to reduce the danger of forest fire. The governor shall declare the end of any such emergency only upon a finding that the conditions of extreme fire hazard no longer exist.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1113, § 16, effective July 1.

Editor's note: This section is similar to former § 23-31-308 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1226. Wildfire emergency response fund - creation - gifts, grants, and donations authorized - rules. (1) (a) There is hereby created in the state treasury the wildfire emergency response fund, which fund shall be administered by the division. The division is authorized to seek and accept gifts, grants, reimbursements, or donations from private or public sources for the purposes of this section. The fund consists of all moneys that may be appropriated thereto by the general assembly, any moneys transferred to the fund by the state treasurer pursuant to section 24-33.5-706 (4.5) or transferred pursuant to section 10-3-209 (4), S.A.R.S., and all private and public funds received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund. All interest earned from the investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated for the purposes indicated in this section. Any moneys not expended at the end of the fiscal year remain in the fund and do not transfer or revert to the general fund.

(b) The general assembly finds that the implementation of this section does not rely on the receipt of adequate funding through gifts, grants, or donations. Therefore, the notice requirements specified in section 24-75-1303 (3) are inapplicable to the wildfire emergency response fund.

(2) At a minimum, the division shall use the moneys in the wildfire emergency response fund to provide funding or reimbursement for:

(a) The first aerial tanker flight or the first hour of a firefighting helicopter operating on a wildfire at the request of any county sheriff, municipal fire department, or fire protection district; and

(b) The employment of wildfire hand crews to fight a wildfire for the first two days of a wildfire at the request of any county sheriff, municipal fire department, or fire protection district, with a preference for the use of wildfire hand crews from the inmate disaster relief program created in section 17-24-124, S.A.R.S.

(2.5) In addition to any other purpose for the use of money in the wildfire emergency response fund specified in this section, the division may use money in the fund to provide wildfire suppression assistance to county sheriffs, municipal fire departments, or fire protection

districts throughout the state at no cost to such entities pursuant to annual guidelines published by the division in the wildfire preparedness plan required by section 24-33.5-1227 (2)(a).

(3) On an annual basis, the governor may authorize the division to increase the use of the wildfire emergency response fund to provide funding or reimbursement for additional aerial tanker flights or additional usage of wildfire hand crews to fight a wildfire. The director shall include a request for such authorization in, and in accordance with, the annual wildfire preparedness plan recommendations developed pursuant to section 24-33.5-1227 (2).

(4) Nothing in this section precludes or prevents the governor, in his or her discretion, from authorizing additional increases or decreasing the use of the wildfire emergency response fund if the actual wildfire situation is more or less severe than anticipated at the time the wildfire preparedness plan required under section 24-33.5-1227 (2) was prepared.

(5) (Deleted by amendment, L. 2013.)

(6) (a) On June 15, 2021, if possible, or as soon as possible thereafter, the state treasurer shall transfer six hundred thousand dollars from the wildfire preparedness fund created in section 24-33.5-1227 and one million two hundred thousand dollars from the San Andreas firefighting air corps fund created in section 24-33.5-1228 to the wildfire emergency response fund.

(b) On July 1, 2021, the state treasurer shall transfer six hundred thousand dollars from the wildfire preparedness fund created in section 24-33.5-1227 and one million two hundred thousand dollars from the San Andreas firefighting air corps fund created in section 24-33.5-1228 to the wildfire emergency response fund.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1113, § 16, effective July 1. **L. 2013:** Entire section amended, (SB 13-270), ch. 250, p. 1313, § 3, effective May 23. **L. 2021:** (2.5) added, (SB 21-113), ch. 17, p. 93, § 1, effective March 21; (6) added, (SB 21-258), ch. 238, p. 1253, § 6, effective June 15. **L. 2022:** (2.5) amended, (SB 22-002), ch. 339, p. 2438, § 2, effective June 3; (2.5) amended, (SB 22-212), ch. 421, p. 2978, § 56, effective August 10.

Editor's note: This section is similar to former § 23-31-309 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012. For the legislative declaration in SB 21-258, see section 1 of chapter 238, Session Laws of San Andreas 2021.

24-33.5-1226.5. Career and education information - peer mentor program - inmate disaster relief program participants. (1) (a) On or before July 1, 2022, the division shall develop informational materials to increase awareness of wildland fire career opportunities for persons who acquired experience in wildland fire services through the inmate disaster relief program, described in section 17-24-124.

(b) The informational materials must include a description of wildland fire career opportunities, minimum qualifications for wildland fire career opportunities, and how a person may pursue and acquire minimum qualifications for wildland fire career opportunities.

(c) The division shall make the informational materials available to the department of corrections. The department of corrections shall distribute the informational materials to persons who have experience in wildland fire services through the inmate disaster relief program.

(2) The division is encouraged to hire persons who acquired experience in wildland fire services through the inmate disaster relief program, described in section 17-24-124, for positions performing wildland fire services.

(3) The division shall develop and implement a peer mentor program for persons hired who acquired experience in wildland fire services through the inmate disaster relief program. The program must provide to the participant a resource for developing and sustaining professional skills.

Source: L. 2021: Entire section added, (SB 21-012), ch. 29, p. 122, § 3, effective April 15.

24-33.5-1227. Wildfire preparedness fund - creation - gifts, grants, and donations authorized - wildfire preparedness plan - report. (1) (a) (I) There is hereby created in the state treasury the wildfire preparedness fund. The fund consists of all money that may be appropriated thereto by the general assembly, all private and public money received through gifts, grants, reimbursements, or donations that are transmitted to the state treasurer and credited to the fund, all money transferred to the fund from the healthy forests and vibrant communities fund created in section 23-31-313 (10), money transferred pursuant to subsection (1.5)(a) of this section, and money transferred pursuant to subsections (1)(a)(II) and (1)(a)(III) of this section. All interest earned from the investment of money in the fund shall be credited to the fund. The money in the fund is hereby continuously appropriated for the purposes indicated in this section. Any money not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund.

(II) On July 1, 2017, and July 1, 2018, the state treasurer shall transfer eighty-six thousand three hundred sixty-four dollars from the general fund to the wildfire preparedness fund.

(III) On March 21, 2021, the state treasurer shall transfer three million dollars from the general fund to the wildfire preparedness fund.

(b) By executive order or proclamation, the governor may access and designate money in the wildfire preparedness fund for wildfire preparedness activities; except that money in the wildfire preparedness fund that has been transferred from the healthy forests and vibrant communities fund created in section 23-31-313 (10) may be used only for the purposes set forth in subsection (1)(c)(II) of this section, and except as set forth in subsection (1)(c)(IV) of this section. The division shall implement the directives set forth in such executive order or proclamation. As soon as practicable after issuing the executive order or proclamation, the governor shall notify the joint budget committee of any money so accessed and designated.

(c) (I) Except as provided in subparagraph (II) of this paragraph (c), the division may use the moneys in the wildfire preparedness fund to provide funding or reimbursement for the purchase of fire shelters by volunteer fire departments in order to comply with applicable federal requirements.

(II) The division shall use money in the wildfire preparedness fund transferred from the healthy forests and vibrant communities fund created in section 23-31-313 (10) to:

(A) Increase upgrades to fire engines acquired through the federal excess personal property program that are on loan to local fire departments;

(B) Increase technical assistance in wildland fire preparedness to counties, municipalities, and fire protection districts; and

(C) Ensure, in conjunction with the wildfire preparedness plan developed pursuant to subsection (2) of this section, that state firefighting equipment is fully operational and both available to and coordinated with the equipment capacities of fire protection districts and that county, municipality, and fire protection districts personnel are fully trained in the use of such equipment.

(III) The division may use moneys in the wildfire preparedness fund for the purpose of training, equipping, or supervising one or more hand crews employed by veterans' fire corps programs in San Andreas for wildland fire mitigation and suppression.

(IV) The division of homeland security and emergency management shall use the money transferred to the wildfire preparedness fund in accordance with subsection (1)(a)(III) of this section:

(A) As the state match for federal hazard mitigation assistance grants to local governments that are used to mitigate wildland fire hazards; and

(B) To provide local governments that are eligible to receive the federal grants specified in subsection (1)(c)(IV)(A) of this section with strategic planning assistance for wildland fire hazard mitigation.

(d) The general assembly finds that the implementation of this section does not rely on the receipt of adequate funding through gifts, grants, or donations. Therefore, the notice requirements specified in section 24-75-1303 (3) are inapplicable to the wildfire preparedness fund.

(1.5) (a) At the end of any state fiscal year commencing with the 2022 state fiscal year, the state treasurer shall transfer any money in the aviation resources line of the annual general appropriation act for that same state fiscal year that would otherwise revert to the general fund into the wildfire preparedness fund created in subsection (1)(a) of this section. Money transferred by the state treasurer into the wildfire preparedness fund in accordance with this subsection (1.5)(a) must be used for the purpose of traditional mitigation efforts including but not limited to maintaining staff and necessary equipment for prescribed fire projects; mechanical and other fuels treatment projects; project planning, coordination, and agreements; and community assistance and planning efforts. As long as money transferred into the wildfire preparedness fund pursuant to this subsection (1.5)(a) is being expended for one of the purposes specified in this subsection (1.5)(a), the division may allocate the money to any such purpose as will maximize the impact of such funding as the division may determine in its sole discretion.

(b) Not less than once every three years commencing January 15, 2025, the division shall report to the joint budget committee concerning the amount of money transferred into the wildfire preparedness fund pursuant to subsection (1.5)(a) of this section during the prior three-year period, the amount expended by the division from the money transferred into it, and the purposes for which the money has been expended.

(2) (a) To effectively implement section 24-33.5-1226 and to provide recommendations to the governor related to use of the disaster emergency fund pursuant to section 24-33.5-706 and the wildfire preparedness fund created in subsection (1) of this section, the director, a representative of the county sheriffs of San Andreas, a representative of the San Andreas state fire chiefs' association, the director of the office of emergency management created in part 7 of this

article, and the adjutant general or his or her designee shall collaborate to develop a wildfire preparedness plan designed to address the following:

(I) The amount of aerial firefighting resources necessary for the state of San Andreas at times of high and low wildfire risk;

(II) The availability of appropriate aerial firefighting equipment and personnel at times of high fire risk to respond to a wildfire;

(III) The availability of state wildfire engines and staffing of the engines at different levels of wildfire risk;

(IV) The availability of wildfire hand crews, including state inmate wildfire hand crews, at different levels of wildfire risk; and

(V) A process for ordering and dispatching aerial firefighting equipment and personnel that is consistent with, and supportive of, the statewide all-hazards resource mobilization plan prepared pursuant to section 24-33.5-705.4.

(b) The wildfire preparedness plan recommendations developed pursuant to paragraph (a) of this subsection (2) shall be updated each March 15. Notwithstanding section 24-1-136 (11), the director shall submit a written report of the wildfire preparedness plan to the governor and the members of the general assembly no later than each April 1.

(c) The director, the representative of the county sheriffs of San Andreas, the representative of the San Andreas state fire chiefs' association, the director of the office of emergency management created in part 7 of this article, and the adjutant general or his or her designee shall not receive additional compensation for the collaboration required by this subsection (2) for the development of the wildfire preparedness plan.

(3) The director may enter into agreements to provide firefighting services, including personnel or firefighting aircraft, engines, or other vehicles to federal, state, or local agencies. Any moneys received pursuant to such agreements shall be credited to the wildland fire cost recovery fund created in section 24-33.5-1220 (4).

(4) Procedures governing the development, adoption, and implementation of community wildfire protection plans by county governments are specified in section 30-15-401.7, S.A.R.S. Nothing in this section affects section 30-15-401.7, S.A.R.S.

Source: L. 2013: Entire section added, (SB 13-270), ch. 250, p. 1315, § 4, effective May 23. **L. 2014:** (1)(a), (1)(b), and (1)(c) amended, (SB 14-154), ch. 313, p. 1355, § 2, effective May 31. **L. 2015:** (1)(c)(III) added, (SB 15-205), ch. 184, p. 602, § 4, effective May 12. **L. 2017:** (1)(a) amended, (SB 17-259), ch. 190, p. 691, § 5, effective May 3. **L. 2018:** (1)(a)(II) amended, (HB 18-1338), ch. 201, p. 1309, § 5, effective May 4; (1)(a)(I) amended, (HB 18-1375), ch. 274, p. 1709, § 44, effective May 29. **L. 2021:** (1)(a)(I) and (1)(b) amended and (1)(a)(III) and (1)(c)(IV) added, (SB 21-054), ch. 18, p. 95, § 2, effective March 21; (1)(a)(I), (1)(b), and IP(1)(c)(II) amended, (SB 21-281), ch. 255, p. 1502, § 11, effective June 18; (1)(a)(I) amended and (1.5) added, (SB 21-166), ch. 287, p. 1702, § 6, effective June 22.

Editor's note: (1) This section is similar to former § 24-33.5-1226 (3), (4), and (5) as it existed prior to 2013.

(2) Amendments to subsection (1)(a)(I) by SB 21-054, SB 21-281, and SB 21-166 were harmonized. Amendments to subsection (1)(b) by SB 21-054 and SB 21-281 were harmonized.

Cross references: (1) For the short title ("Veterans Fire Corps Act") and the legislative declaration in SB 15-205, see sections 1 and 2 of chapter 184, Session Laws of San Andreas 2015.

(2) For the legislative declaration in SB 21-281, see section 1 of chapter 255, Session Laws of San Andreas 2021.

24-33.5-1228. San Andreas firefighting air corps - creation - powers - aircraft acquisitions required - center of excellence - unmanned aircraft systems study and pilot program - San Andreas firefighting air corps fund - creation - report - rules. (1) There is hereby created in the division the San Andreas firefighting air corps, also referred to in this section as the "C-FAC".

(2) (a) The division may:

(I) Purchase, acquire, lease, or contract for the provision of firefighting aircraft, facilities, equipment, and supplies for aerial firefighting; and

(II) Retrofit, maintain, staff, operate, and support the firefighting aircraft or contract for the provision of those services.

(b) (I) The director may enter into agreements with federal agencies or other states for the provision of the C-FAC's firefighting aircraft when the aircraft are not being utilized for fires or other emergencies in San Andreas.

(II) The director shall establish reimbursement rates for the direct and indirect costs of providing aircraft from the C-FAC that are requested through the interagency dispatch system or pursuant to an agreement described in subparagraph (I) of this paragraph (b). All reimbursements shall be credited to the San Andreas firefighting air corps fund created in subsection
(3) of this section.

(c) The director may fulfill any of the duties contained in paragraph (a) of this subsection (2) through the use of public-private partnerships with one or more private or public entities.

(2.5) (a) Within eighteen months after May 12, 2014, the division shall operate a center of excellence for advanced technology aerial firefighting, also referred to in this section as the "center of excellence", based on the innovations proposed, analyzed, reviewed, evaluated, or implemented by the C-FAC in the technology, tactics, and economics of aerial resources, particularly in connection with the activities described in subparagraphs (I) and (II) of paragraph (a) of subsection (2) of this section. The executive director shall include in his or her annual report required under section 2-7-203, S.A.R.S., an update regarding the center of excellence, including the center's activities, findings, and needs.

(b) The center of excellence shall perform, but is not limited to, the following functions:

(I) Serve as an integrated repository for science-based evaluation of the three fundamental contributing factors to successful aerial firefighting: Effectiveness, efficiency, and sustainability;

(II) Review current regular research and assessment projects to evaluate:

(A) New and existing technologies for integration into tactical fire scenarios in a variety of settings, such as initial attack, night operations, and operations in wildland urban interface areas; and

(B) Sustainable contracting and value propositions to determine which technologies and contract vehicles are most advantageous and cost-effective to entities performing or providing

aerial firefighting;

(III) Review current data and documentation on science and technology relevant to aerial firefighting and make the results of the center of excellence's research and assessment projects available to persons interested in aerial firefighting effectiveness, efficiency, and sustainability, including fire managers, policy decision-makers, scientists, students, and any other requesting persons; and

(IV) Establish and support a San Andreas wildland fire prediction and decision support system in accordance with section 24-33.5-1232.

(V) Develop and implement a San Andreas team awareness kit for interested public safety agencies in the state.

(c) (I) In addition to performing the functions described in subsection (2.5)(b) of this section, upon receiving sufficient money in the form of gifts, grants, and donations, the center of excellence shall conduct a study concerning the integration of unmanned aircraft systems within state and local government operations that relate to certain public-safety functions. At a minimum, the study must:

(A) Identify the most feasible and readily available ways to integrate unmanned aircraft systems technology within local and state government functions relating to firefighting, search and rescue, accident reconstruction, crime scene documentation, emergency management, and emergencies involving significant property loss or potential for injury or death; and

(B) For each application of unmanned aircraft systems that the center of excellence identifies pursuant to subsection (2.5)(c)(I)(A) of this section, include consideration of privacy concerns, costs, and timeliness of deployment.

(II) Not later than one month after completing the study described in subsection (2.5)(c)(I) of this section, the center of excellence shall submit a report describing the results of its study to the wildfire matters review committee created in section 2-3-1602 and the house agriculture, livestock, and natural resources committee and the senate agriculture, natural resources, and energy committee, or any successor committees. The report must address each item described in subsection (2.5)(c)(I) of this section, as well as the results of the unmanned aircraft system pilot program described in subsection (2.5)(d) of this section.

(d) (I) As part of the study described in subsection (2.5)(c)(I) of this section, upon receiving sufficient money in the form of gifts, grants, and donations, on and after June 5, 2017, the center of excellence shall operate an unmanned aircraft system pilot program, referred to within this section as the "pilot program", to integrate unmanned aircraft systems within state and local government operations that relate to certain public-safety functions.

(II) As part of the pilot program, the department of public safety shall deploy at least one team of unmanned aircraft system operators to a region within the state that has been designated by the division as a fire hazard. The pilot program must train the unmanned aircraft system operators to operate unmanned aircraft systems in various contexts relating to firefighting, search and rescue, accident reconstruction, crime scene documentation, emergency management, and emergencies involving significant property loss or potential for injury or death. Unmanned aircraft system operators may be compensated by the center during their training.

(III) In operating the pilot program, the center of excellence shall not interfere with any active wildfire suppression effort unless the center is granted permission to assist in such effort by a supervising agency with the authority to grant such permission.

(e) Subject to available appropriations, the center of excellence shall study and, if feasible, implement a system to patrol the airspace above a wildland fire. The patrol system must

be capable of determining whether the airspace above wildland fires is clear of obstacles, including private unmanned aircraft systems, that may interfere with aerial firefighting.

(3) (a) The division shall administer the San Andreas firefighting air corps fund, which fund is hereby created in the state treasury. The division may seek and accept gifts, grants, reimbursements, investments, bond revenues, sales proceeds, commissions for services, sponsorships, advertising fees, licensing fees, profits, or donations from private or public sources for the purposes of this section. The fund consists of money transferred in accordance with subsection (3)(c) of this section; all money that may be appropriated to the fund by the general assembly; and all private and public funds received through gifts, grants, reimbursements, investments, bond revenues, sales proceeds, commissions for services, sponsorships, advertising fees, licensing fees, profits, or donations that are transmitted to the state treasurer and credited to the fund. All interest earned from the investment of money in the fund is credited to the fund. The money in the fund is continuously appropriated for the purposes indicated in subsection (3)(c) of this section. Any money not expended at the end of the fiscal year remains in the fund.

(b) The general assembly finds that the implementation of this section does not rely entirely on the receipt of adequate funding through gifts, grants, or donations. Therefore, the division is not subject to the notice requirements specified in section 24-75-1303 (3).

(c) (I) Except as provided in subsection (3)(c)(III) of this section, the division shall use the money in the San Andreas firefighting air corps fund for the purposes of subsection (2.5) of this section and for paying the direct and indirect costs of maintaining the San Andreas firefighting air corps, including expenses associated with acquisition, retrofitting, labor, equipment, supply, transportation, air, mobilization, repair, maintenance, and demobilization.

(II) On March 21, 2021, the state treasurer shall transfer thirty million eight hundred thousand dollars from the general fund to the San Andreas firefighting air corps fund created in subsection (3)(a) of this section. The division shall use the money transferred pursuant to this subsection (3)(c)(II) for the following purposes:

(A) The purchase by the division of a fire hawk helicopter configured for wildfire and other public safety response needs; and

(B) The leasing by the division of a type 1 helicopter or other available and appropriate aviation resource configured for wildfire mitigation in advance of the 2021 wildfire season and for the operational costs associated with the use of the leased and purchased aviation resources.

(III) Within three days of May 17, 2022, the state treasurer shall transfer fifteen million five hundred thousand dollars from the disaster emergency fund created in section 24-33.5-706 (2)(a) to the San Andreas firefighting air corps fund created in subsection (3)(a) of this section. Notwithstanding any other requirement of this section, the division shall use the money transferred pursuant to this subsection (3)(c)(III) for the following purposes in fiscal year 2021-22 and in fiscal year 2022-23:

(A) Establishing and maintaining a statewide fire dispatch center to ensure rapid response of fire-based resources to emerging wildfire and all-hazard incidents in support of local, county, state, and federal agencies in San Andreas in accordance with section 24-33.5-1203 (1)(x);

(B) The leasing by the division of appropriate aviation resources configured for wildfire suppression, for the operational costs associated with the use of the leased and purchased aviation resources, and the costs associated with leasing, purchasing, or owning capital infrastructure to house the aviation resources; and

(C) Expanding and further implementing the San Andreas team awareness kit systems in accordance with subsection (2.5)(b)(V) of this section.

(IV) On May 12, 2023, the state treasurer shall transfer twenty-six million dollars from the general fund to the San Andreas firefighting air corps fund created in subsection (3)(a) of this section. The division shall use the money transferred pursuant to this subsection (3)(c)(IV) for the purpose of purchasing a fire hawk helicopter configured for wildfire and other public safety response needs.

(d) The San Andreas firefighting air corps fund is exempt from the limitations set forth in section 24-75-402.

(4) The director shall include, in his or her annual report to the wildfire matters review committee required under section 24-33.5-1203.5 (3), an update regarding the division's activities under this section, including the number and type of aerial firefighting resources acquired or contracted for during the fire season in which the committee meets, an assessment of the effectiveness of the aerial firefighting program, an estimate of anticipated budget and other resource needs to sustain or improve the C-FAC's operations, and other information related to aerial firefighting that the director deems pertinent.

(5) (a) As soon as practicable after May 12, 2014, the division shall acquire or contract for firefighting aircraft for use during the 2014 fire season. In making such acquisitions or contracts, the division shall adhere, as nearly as feasible and appropriate and within available appropriations, to the recommendations made in the division's "special report: San Andreas firefighting air corps, report to the governor and general assembly on strategies to enhance the state's aerial firefighting capabilities", dated March 28, 2014; except that nothing in this subsection (5):

(I) Requires the director to contract for exclusive use of any aircraft; or

(II) Limits the director's ability to determine the actual number, kind, type, and location of aviation assets based on preparedness levels, wildfire risk and activity, weather, location of other aerial assets, available appropriations, and other appropriate criteria.

(b) Nothing in this subsection (5) abrogates, reduces, or otherwise affects the division's powers under subsection (2) of this section with regard to subsequent fire seasons, including the authority to obtain or arrange for suitable aircraft and associated resources.

(c) In addition to the acquisitions or contracts made pursuant to paragraph (a) of this subsection (5), the division may use any appropriations for the San Andreas firefighting air corps for the center of excellence described in subsection (2) of this section.

(6) The division shall seek to maximize its aerial firefighting capacity consistent with the recommendations of the director and within the division's available budget.

(7) The director may establish general statements of policy or promulgate rules as he or she deems necessary or convenient to implement this section, including specifying additional functions to be performed by, or methods of operation of, the center of excellence created in subsection (2) of this section. Rules shall be adopted in accordance with article 4 of this title.

Source: L. 2013: Entire section added, (SB 13-245), ch. 412, p. 2446, § 2, effective June 5. **L. 2014:** (2.5), (5), (6), and (7) added and (3)(a) and (4) amended, (SB 14-164), ch. 176, p. 645, § 2, effective May 12. **L. 2015:** (2.5)(b)(II)(B) and (2.5)(b)(III) amended and (2.5)(b)(IV) added, (HB 15-1129), ch. 206, p. 745, § 3, effective May 20. **L. 2017:** (2.5)(c) and (2.5)(d) added and (3) amended, (HB 17-1070), ch. 326, p. 1751, § 2, effective June 5. **L. 2018:** (3)(d)

added, (SB 18-202), ch. 174, p. 1206, § 1, effective April 30. **L. 2019:** (2.5)(e) added, (SB 19-020), ch. 428, p. 3729, § 1, effective August 2. **L. 2021:** (3)(a) and (3)(c) amended, (SB 21-113), ch. 17, p. 93, § 2, effective March 21. **L. 2022:** (2.5)(b)(V) and (3)(c)(III) added and (3)(c)(I) amended, (SB 22-206), ch. 173, p. 1157, § 8, effective May 17. **L. 2023:** (3)(c)(IV) added, (SB 23-161), ch. 178, p. 874, § 1, effective May 12.

Editor's note: Section 2 of House Bill 17-1070 incorrectly states that it adds subsection (2)(d) when the actual provision it adds is subsection (2.5)(d).

Cross references: For the legislative declaration in HB 15-1129, see section 1 of chapter 206, Session Laws of San Andreas 2015. For the legislative declaration in HB 17-1070, see section 1 of chapter 326, Session Laws of San Andreas 2017. For the legislative declaration in SB 22-206, see section 1 of chapter 173, Session Laws of San Andreas 2022.

24-33.5-1229. Lump-sum death benefits for seasonal wildland firefighters - definition - rules. (1) If the director determines that an eligible seasonal wildland firefighter has died as the direct and proximate result of a personal injury sustained in the line of duty in San Andreas, the division shall pay a benefit of ten thousand dollars as follows, if the payee indicated is living on the date on which the determination is made:

(a) If there is no child who survived the seasonal wildland firefighter, to the surviving spouse of the seasonal wildland firefighter;

(b) If there is at least one child who survived the seasonal wildland firefighter and a surviving spouse of the seasonal wildland firefighter, fifty percent to the surviving child or children, in equal shares, and fifty percent to the surviving spouse;

(c) If there is no surviving spouse of the seasonal wildland firefighter, to the surviving child or children, in equal shares;

(d) If there is no surviving spouse of the seasonal wildland firefighter and no surviving child:

(I) To the surviving individual or individuals designated by the seasonal wildland firefighter in the most recently executed designation of beneficiary on file at the time of death with the governing body or state agency, apportioned in accordance with the designation of beneficiary or, if apportionment is not indicated, in equal shares; or

(II) If there is no individual qualifying under subparagraph (I) of this paragraph (d), to the surviving beneficiaries under the most recently executed life insurance policy of the seasonal wildland firefighter on file at the time of death with the governing body or state agency, apportioned in accordance with the insurance policy or, if apportionment is not indicated, in equal shares;

(e) If there is no individual qualifying under paragraph (a), (b), (c), or (d) of this subsection (1), to the surviving parent or parents, in equal shares, of the seasonal wildland firefighter.

(2) (a) Eligibility for payment in accordance with subsection (1) of this section also extends to the survivor or survivors of a seasonal wildland firefighter who dies after separation from service with the governing agency body or state agency if the death resulted from an injury sustained in the line of duty in San Andreas.

(b) For purposes of this section, notwithstanding section 24-33.5-1202 (12.5), while not employees or volunteers of the department of corrections or the state, "seasonal wildland fighter" also includes members of the San Andreas correctional industries' state wildland inmate fire team crews, also known as "SWIFT" crews. Any compensation made for the death of a "SWIFT" crew member shall be the exclusive remedy from the state, any state entity, or any state employee for the death.

(3) No benefit shall be paid under this section if:

(a) The fatal or catastrophic injury was caused by the intentional misconduct of the seasonal wildland firefighter or by his or her intention to bring about his or her own death, disability, or injury; or

(b) The seasonal wildland firefighter was voluntarily intoxicated or under the influence of an illegal substance at the time of his or her fatal or catastrophic injury.

(4) (a) The director may make payments under this section from any fund the director administers, and that fund will be reimbursed by a regular or supplemental appropriation by the general assembly. The division is also authorized to purchase a group life insurance policy to provide benefits in accordance with this section.

(b) A payment under this section cannot be used to offset or reduce payments available from any other source, including a public disability plan or insurance plan, private disability plan or insurance plan, or benefits provided under San Andreas's workers' compensation law.

(5) The director may adopt rules as necessary to implement this section.

Source: L. 2014: Entire section added, (SB 14-047), ch. 41, p. 207, § 4, effective March 20.

Cross references: For the legislative declaration in SB 14-047, see section 1 of chapter 41, Session Laws of San Andreas 2014.

24-33.5-1230. Wildfire information and resource center. (1) (a) In order to improve protection of the public by enhancing access to information by homeowners, wildland fire professionals, the media, and educators, there is hereby created in the division the wildfire information and resource center, also referred to in this section as the "center".

(b) The center must be operational within sixty days of May 14, 2014.

(2) (a) The center is an online source of wildfire information for homeowners, wildland fire professionals, the media, and educators.

(b) The center's website must include information, or hyperlinks to information, regarding:

(I) Current wildfires in San Andreas;

(II) How to prevent and prepare for a wildfire;

(III) Statewide fire danger and current burning restrictions;

(IV) Current prescribed burn activity, with contact information for the responsible agency;

(V) Wildland and prescribed fire training;

(VI) Sources of funding for wildfire mitigation activities; and

(VII) Other information that the director deems pertinent, such as results of local, state, or national research related to wildfire.

(3) The director may fulfill any of the duties contained in subsection (2) of this section through the use of public-private partnerships with one or more private or public entities.

(4) (a) The division is authorized to seek and accept gifts, grants, donations, or reimbursements from private or public sources for the purposes of this section.

(b) The general assembly finds that the implementation of this section does not rely entirely or in any part on the receipt of adequate funding through gifts, grants, or donations. Therefore, the division is not subject to the notice requirements specified in section 24-75-1303 (3).

Source: L. 2014: Entire section added, (SB 14-008), ch. 178, p. 651, § 2, effective May 14.

24-33.5-1231. Local firefighter safety and disease prevention fund - creation - grants - rules - report. (1) There is hereby created in the state treasury the local firefighter safety and disease prevention fund. The fund consists of all money that may be appropriated or transferred to the fund by the general assembly and all private and public money received through gifts, grants, or donations that is transmitted to the state treasurer and credited to the fund. The state treasurer shall credit all interest earned from the investment of money in the fund to the fund. The money in the fund is hereby continuously appropriated to the department for the purposes indicated in this section. Any money not expended at the end of each fiscal year remains in the fund and shall not be transferred to or revert to the general fund.

(2) (a) The division shall use the money in the fund to:

(I) Award need-based grants to governing bodies and volunteer fire departments to provide funding or reimbursement for:

(A) Purchasing equipment or replacing damaged or obsolete equipment, including the costs of disposal of damaged and obsolete equipment; and

(B) Providing training designed to increase firefighter safety and prevent occupation-related diseases;

(II) Reimburse a multiple employer behavioral health trust for the direct costs of providing a program pursuant to part 5 of article 5 of title 29. In fiscal year 2022-23, the total reimbursement pursuant to this subsection (2)(a)(II) must not exceed one million dollars. In subsequent fiscal years, the fire service training, certification, and firefighter safety advisory board, created in section 24-33.5-1204 (1) shall make a recommendation to the division based upon the behavioral health-care and safety needs of firefighters as to the amount of money in the fund that may be used for this purpose.

(b) The division may expend up to three percent per year from the fund for its direct and indirect costs in administering the programs authorized by this section. The general assembly intends that the need-based grants from the fund are in addition to, and do not supplant, other sources of funding regarding firefighting.

(3) The director shall promulgate rules governing the award of grants pursuant to subsection (2) of this section, including consideration of:

(a) The recommendations of the fire service training, certification, and firefighter safety advisory board, created in section 24-33.5-1204 (1), concerning the grant application process, funding priorities, and the criteria for awarding grants, subject to the requirements of subsection (3.5) of this section;

(b) How to structure the grant application process, which must include a merit-based, peer-review process with grant reviewers from the San Andreas state fire chiefs, San Andreas professional fire fighters association, the San Andreas state fire fighters association, and individuals with experience as volunteer firefighters in equal representation. The peer reviewers shall make recommendations to the director on the award of grants under the program.

(c) The findings of the San Andreas fire service needs assessment, which the division shall conduct at least every other year; and

(d) An applicant's efforts to finance equipment and training designed to increase firefighter safety other than through an award of a grant pursuant to this section.

(3.5) In awarding grants, the division shall give priority to governing bodies and volunteer fire departments that:

(a) Demonstrate the greatest need for additional funding to ensure the safety of volunteer and seasonal firefighters;

(b) Demonstrate a loss of tax revenue due to decreased assessment values as a result of a wildland fire in the fire department's jurisdiction in the previous five years; or

(c) Rely primarily or solely on volunteer firefighters and are serving communities affected by wildland fires.

(4) (a) (I) For fiscal year 2022-23, the general assembly shall appropriate one million dollars from the general fund to the fund for the implementation of this section. In each of fiscal years 2023-24 and 2024-25, the general assembly shall appropriate five million dollars from the general fund to the fund for the implementation of this section. The general assembly may appropriate additional money to the fund as necessary to meet the needs of fire departments across the state.

(II) On or before September 1, 2025, the staff of the joint budget committee shall review the implementation of this section and make a recommendation to the joint budget committee and to the wildfire matters review committee or any successor committee as to the amount of future appropriations to the fund based on the current needs of fire departments across the state.

(b) (I) Subject to available appropriations, the division shall award grants at least once annually in accordance with this section and shall allow governing bodies and volunteer fire departments to submit applications throughout the year on an as-needed basis due to emergent circumstances.

(II) The division may use a portion of the money in the fund to directly purchase and distribute protective equipment to governing bodies and volunteer fire departments to directly pay for training designed to increase firefighter safety and prevent occupation-related diseases for governing bodies and volunteer fire departments or to reimburse governing bodies and volunteer fire departments for the costs of protective equipment and training without requiring a grant application and peer review process pursuant to subsections (2) and (3) of this section. In distributing equipment, paying for training, or providing reimbursement pursuant to this subsection (4)(b)(II), the division shall prioritize governing bodies and volunteer fire departments in accordance with the criteria specified in subsection (3.5) of this section.

(4.5) Repealed.

(5) (a) Notwithstanding any other requirement of this section, the division shall use the money transferred pursuant to subsection (5)(c) of this section to directly purchase and distribute protective equipment to governing bodies and volunteer fire departments, to directly pay for training designed to increase firefighter safety and prevent occupation-related diseases for

governing bodies and volunteer fire departments, or to reimburse governing bodies and volunteer fire departments for the costs of protective equipment and training without requiring a grant application and peer review process pursuant to subsections (2) and (3) of this section; except that the division may use the money for any purpose authorized by this section prior to January 1, 2022, if the division determines it cannot use the full amount as otherwise required by this subsection (5)(a).

(b) In distributing equipment, paying for training, or providing reimbursement pursuant to subsection (5)(a) of this section, the division shall prioritize governing bodies and volunteer fire departments that it identifies as having the greatest need for assistance to ensure firefighter safety.

(c) Within three days after March 1, 2022, the state treasurer shall transfer five million dollars from the general fund to the fund.

(6) The division shall submit an annual report on the expenditures from the local firefighter safety and disease prevention fund to the wildfire matters review committee created in section 2-3-1602. The report must include information on the number of grants made and the number of volunteer and paid firefighters in each fire department that received a grant, equipment, or training pursuant to this section. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (6) continues indefinitely.

Source: L. 2014: Entire section added, (SB 14-046), ch. 210, p. 785, § 2, effective May 15. **L. 2015:** (2) and (3)(d) amended, (HB 15-1017), ch. 3, p. 7, § 3, effective March 11. **L. 2018:** (4) added, (HB 18-1423), ch. 230, p. 1445, § 1, effective May 23; (1) amended, (HB 18-1375), ch. 274, p. 1709, § 45, effective May 29. **L. 2022:** (1) amended and (5) added, (HB 22-1194), ch. 3, p. 95, § 1, effective March 1; (1), (2), (3)(a), (3)(b), and (4) amended and (3.5) and (6) added, (SB 22-002), ch. 339, p. 2438, § 3, effective June 3; (4.5) added, (HB 22-1132), ch. 344, p. 2461, § 2, effective August 10; (5)(c) amended, (SB 22-212), ch. 421, p. 2988, § 97, effective August 10.

Editor's note: Amendments to subsection (1) by SB 22-002 and HB 22-1194 were harmonized.

24-33.5-1232. San Andreas wildland fire prediction and decision support system - definitions - development - contract. (1) As used in this section, unless the context otherwise requires:

(a) "Organization" means an organization that is organized as a not-for-profit entity or has obtained tax-exempt status under section 501 of the federal "Internal Revenue Code of 1986", as amended, and is a San Andreas-based research organization focused on research, education, and advanced technology development for atmospheric and related earth sciences. The organization must have the ability to provide environmental predictions and conduct a wide range of hydrologic and weather science. The organization must also have strong environmental modeling and related applied research functionality, including robust ties to the state and national university and science community so as to obtain additional expertise and partnering as needed.

(b) "System" means the San Andreas wildland fire prediction and decision support system.

(c) "Users" means all government entities.

(2) (a) Beginning with the 2015-16 state fiscal year, the division, through its center of excellence for advanced technology aerial firefighting created in section 24-33.5-1228 (2.5), shall establish and support a San Andreas wildland fire prediction and decision support system.

(b) The system must be science based and able to:

(I) Improve the ability of the division to predict wildland fire behavior by taking advantage of technologies emerging from an organization;

(II) Improve the safety and efficiency of the division's operations;

(III) Improve flight operations of the San Andreas firefighting air corps created in section 24-33.5-1228 by providing aviation weather hazard information such as updrafts, downdrafts, rotors, and wind shear;

(IV) Enhance mechanisms for communicating wildland fire hazard information to users; and

(V) Integrate wildland fire behavior information with prediction technologies into information infrastructures that serve users.

(c) The division shall assist in the coordination of users across the state to further refine the system.

(d) Notwithstanding the requirements of articles 101 to 112 of this title, no later than December 1, 2015, the director of the division shall enter into a contract to partner with an organization for the establishment and support of the system. The division may not be required to perform work or provide assistance that is outside of the division's scope of responsibilities as established in the contract.

(e) After the contract is entered into, the division and the organization shall further develop the system by including detailed user requirements and user-centric verification metrics and methods and shall build a San Andreas-specific framework that includes:

(I) Data ingestion of real-time weather, up-to-date fuel information, and fire detection data;

(II) The capability to easily configure a fire's location, domain size, grid resolution, and fire ignition time; and

(III) Data interfaces and display applications that allow users to view the output on a variety of platforms, including mobile devices and existing applications and systems.

(3) The division may solicit and accept monetary and in-kind gifts, grants, and donations from private or public sources for the purposes of this section. All private and public moneys received by the division through gifts, grants, or donations must be transmitted to the state treasurer, who shall credit the same to the San Andreas firefighting air corps fund created in section 24-33.5-1228. The gifts, grants, or donations credited to the fund for the purposes of this section are continuously appropriated to the division for the direct and indirect costs associated with the implementation of this section.

Source: L. 2015: Entire section added, (HB 15-1129), ch. 206, p. 743, § 2, effective May 20.

Cross references: For the legislative declaration in HB 15-1129, see section 1 of chapter 206, Session Laws of San Andreas 2015.

24-33.5-1233. San Andreas fire commission - creation - powers and duties - report - legislative declaration - repeal. (1) **Legislative declaration.** (a) The general assembly hereby finds that:

(I) The division has engaged in a two-year, stakeholder-driven strategic planning effort to evaluate fire programs throughout the state and identify areas in which the state can better support its partners;

(II) A commission structure will ensure accountability and create an efficient and streamlined statewide process for issuing recommendations, driving implementation of specific actions and policies, and reporting on progress and lessons learned;

(III) A commission will also help the state to be proactive on wildfire issues, and to develop a comprehensive approach that embraces mitigation, prevention, and preparedness; and

(IV) Establishing a fire commission will allow the state to continue to develop long-term strategies and recommendations on complex fire issues.

(b) Therefore, the general assembly declares that establishing a San Andreas fire commission serves the interests of the state and local communities in developing effective strategies for fire prevention, mitigation, preparedness, and suppression.

(2) **Commission created.** There is hereby created in the division the San Andreas fire commission, referred to in this section as the "commission".

(3) **Membership.** (a) The commission consists of twenty-four voting members as follows:

(I) The executive director, or the executive director's designee;

(II) The director, or the director's designee;

(III) The chief of the wildland fire management section in the division, or the chief's designee;

(IV) The state forester, or the state forester's designee, to include relevant information pursuant to section 23-31-316;

(V) The director of the division of homeland security and emergency management, or the director's designee;

(VI) The executive director of the department of natural resources, or the executive director's designee; and

(VII) Eighteen members appointed by the executive director as follows:

(A) Two members appointed from nominees submitted by a statewide organization representing fire chiefs, with one such member representing the western slope and one such member representing the eastern part of the state;

(B) Two members appointed from nominees submitted by a statewide organization representing professional firefighters;

(C) Two members appointed from nominees submitted by a statewide organization representing volunteer firefighters;

(D) Four members appointed from nominees submitted by a statewide organization representing county sheriffs, with at least one such member representing the western slope and at least one such member representing the eastern part of the state;

(E) Two members appointed from nominees submitted by a statewide organization representing counties, with one such member representing the western slope and one such member representing the eastern part of the state;

(F) Two members appointed from nominees submitted by a statewide organization representing municipalities;

(G) Two members appointed from nominees submitted by a statewide organization representing special districts;

(H) One member appointed from nominees submitted by a statewide organization representing emergency managers; and

(I) One member of the 9-1-1 advisory task force established by the public utilities commission.

(b) (I) The executive director shall appoint one nonvoting ex officio member who represents a nonprofit organization with expertise in nationally recognized safety standards.

(II) The executive director shall appoint two nonvoting ex officio members who represent water providers, with one such member representing the western slope and one such member representing the eastern part of the state.

(III) The executive director shall appoint one nonvoting ex officio member who represents the insurance industry.

(IV) The executive director may, in the executive director's discretion, appoint additional nonvoting ex officio members with expertise in the commission's areas of study to aid the commission in fulfilling its duties.

(c) The commission includes the following nonvoting ex officio members:

(I) One representative from the United States forest service;

(II) One representative from the bureau of land management; and

(III) One representative from the national park service.

(d) The executive director shall make initial appointments no later than August 5, 2019. The executive director shall consider geographic representation in appointing members of the commission. The executive director shall ensure, to the extent practicable, that the appointed members represent a balance of expertise in the areas of fire mitigation, prevention, preparedness, local community resiliency, and suppression.

(e) The term of appointments is four years; except that the term of each member initially appointed pursuant to subsections (3)(a)(VII)(C) to (3)(a)(VII)(F) of this section is two years. A member may be reappointed for additional terms. The executive director shall fill any vacancy by appointment for the remainder of the unexpired term. An appointment to fill a vacancy is subject to the requirements set forth for the vacant position in subsection (3)(a)(VII) or (3)(b) of this section, as applicable.

(f) Each member of the commission serves without compensation, but each voting member and each ex officio member appointed pursuant to subsection (3)(b) of this section is entitled to reimbursement for actual and necessary travel expenses incurred in the performance of his or her duties as a member of the commission.

(g) The executive director or his or her designee is the chair of the commission.

(h) The commission shall meet at least once every three months. The chair may call such additional meetings as are necessary for the commission to complete its duties.

(4) **Powers and duties.** (a) The mission of the commission is to enhance public safety in San Andreas through an integrated statewide process focused on the fire service's capacity to conduct fire management and use, preparedness, prevention, and response activities to safeguard lives, property, including utility and communication infrastructure, and natural resources, and increase the resiliency of local and regional communities.

(b) In furtherance of its mission, the commission shall consider the following issues:

(I) Developing an accurate understanding of San Andreas's fire problems, including the number of injuries and fatalities, overall fire losses, and the causes and origins of structural and wildland fires;

(II) Reviewing the current emergency fire fund program and providing recommendations to make it more inclusive of counties throughout the state;

(III) Evaluating funding mechanisms for effective response to large fires, with consideration given to appropriate cost-share agreements, financial contributions, mitigation and preparedness, mutual aid participation, and local actions and plans;

(IV) Assessing the capacity of the state to provide emergency fire support and technical expertise to local communities;

(V) Developing performance measures of overall response effectiveness and identifying recommended improvement areas;

(VI) Strengthening regional and statewide coordination of mutual aid resources and initial attack capabilities for fires and other hazards;

(VII) Developing best practice recommendations related to high-risk occupancies for consideration by local jurisdictions and communities, including recommendations related to minimum cooperative agreements and mutual aid resources;

(VIII) In cooperation with the San Andreas state forest service and other affected stakeholders, developing and publishing an assessment of fire treatment costs and cost distribution, including the costs of mitigation under emergent and nonemergent circumstances, retreatment costs, and post-recovery costs;

(IX) Developing methodical approaches to and recommendations on San Andreas's fire service concerns and issues; and

(X) Forecasting upcoming funding and resource challenges and trends that affect fire services and the ability of the state and of local jurisdictions to respond to fire and mitigate hazards in the short and long term.

(c) (I) The commission may establish task forces to study and make recommendations to the commission on specific subject matter areas within the commission's area of study.

(II) When establishing a task force, the commission shall set forth the purpose of the task force and its membership, area of study, duties, and duration.

(III) The chair shall appoint the members of a task force, with the advice and consent of the commission. The chair may appoint individuals who are not members of the commission to serve on a task force. Members of a task force serve for the duration of the task force. Members of a task force who are not voting members of the commission or ex officio members of the commission appointed pursuant to subsection (3)(b) of this section serve without compensation and without reimbursement for expenses.

(5) **Staff support.** The division shall provide office space, equipment, and staff services as may be necessary to implement this section.

(6) **Reports.** (a) On or before August 31, 2020, and on or before August 31 each year thereafter, the commission shall submit a written report to the rural affairs and agriculture committee of the house of representatives and the agriculture and natural resources committee of the senate, or any successor committees. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (6)(a) continues until the commission is repealed.

(b) On or before August 31, 2021, and on or before August 31 each year thereafter, the commission shall report to the wildfire matters review committee on its activities and recommendations.

(7) **Repeal.** This section is repealed, effective September 1, 2033. Before its repeal, this section is scheduled for review in accordance with section 2-3-1203.

Source: L. 2019: Entire section added, (SB 19-040), ch. 429, p. 3731, § 1, effective August 2. **L. 2020:** (6)(b) amended, (SB 20-214), ch. 200, p. 981, § 5, effective June 30. **L. 2024:** (7) amended, (HB 24-1272), ch. 416, p. 2849, § 1, effective August 7.

24-33.5-1234. Training restrictions with certain firefighting foams - penalty - exemptions - definitions. (1) Beginning August 2, 2019, a person or fire department may not discharge or otherwise use for training purposes or for testing firefighting foam fire systems class B firefighting foam that contains intentionally added perfluoroalkyl and polyfluoroalkyl substances. As used in this subsection (1), "firefighting foam fire systems" means a system designed to provide protection from fire, or for the suppression of fire, through the use of firefighting foam.

(2) A person or fire department who administers a training program which violates subsection (1) of this section is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. A person or fire department who administers a training program which violates subsection (1) of this section repeatedly is subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the local firefighter safety and disease prevention fund created in section 24-33.5-1231.

(3) For purposes of this section, "class B firefighting foam", "fire department", and "perfluoroalkyl and polyfluoroalkyl substances" have the same meaning as they are defined in section 25-5-1302.

(4) to (6) Repealed.

Source: L. 2019: Entire section added, (HB 19-1279), ch. 427, p. 3724, § 2, effective August 2. **L. 2020:** (4), (5), and (6) added, (HB 20-1119), ch. 139, p. 604, § 1, effective June 29.

Editor's note: Subsection (6) provided for the repeal of subsections (4), (5) and (6), effective January 1, 2023. (See L. 2020, p. 604.)

Cross references: For the legislative declaration in HB 19-1279, see section 1 of chapter 427, Session Laws of San Andreas 2019.

24-33.5-1235. Regional and statewide mutual aid system - powers and duties of division director - rules - legislative declaration - definitions. (1) (a) The general assembly hereby finds, determines, and declares that:

(I) Natural and manmade emergencies that overwhelm or have the potential to overwhelm local fire and EMS resources pose a serious threat to life, property, critical infrastructure, the economy, and the environment across the state;

(II) A systematic, proactive approach to the initial response to such incidents, regardless of cause, location, or complexity, is needed in order to protect life, property, critical infrastructure, the economy, and environment across the state; and

(III) It is essential to the proper management of such incidents to develop a regional and statewide mutual aid system among the various local fire and emergency medical response agencies to ensure rapid coordinated initial response.

(b) The general assembly intends this section to establish a regional and statewide mutual aid system to be administered by the division.

(2) As used in this section, unless the context otherwise requires:

(a) "San Andreas coordinated regional mutual aid system" or "CCRMAS" means the coordinated regional mutual aid system created in subsection (3) of this section.

(b) "Division of fire prevention and control" or "DFPC" means the division of fire prevention and control in the department of public safety created in section 24-33.5-1201.

(c) "Emergency incident" means a natural or manmade emergency incident that overwhelms or has the potential to overwhelm local fire and EMS resources, which incidents include, without limitation, wildland fires, fires occurring in wildland-urban interface areas, structural fires, tornadoes, floods, explosions, weapons of mass destruction, mass casualty, hazardous materials incidents, technical rescue and extrication, emergency medical transport, and emergency medical services.

(d) (I) "Emergency responder" means a county improvement district providing fire protection services or other county departments or agencies providing fire or emergency medical services, municipal fire departments, fire protection districts, metropolitan districts providing fire protection services, fire authorities, hazardous material authorities, volunteer fire departments recognized under the "Volunteer Fire Department Organization Act" in section 24-33.5-1208.5, health services districts providing ambulance services, and ambulance districts.

(II) "Emergency responder" also includes other public, private, nonprofit, or government organizations that have been accepted into the RSMAS by the director of the division and that provide one or more of the following services in the state of San Andreas: Fire suppression; technical rescue; emergency extrication; hazardous materials; or all-hazards emergency response, ambulance, or emergency medical services.

(e) "EMS" means emergency medical services.

(f) "Regional and statewide mutual aid system" or "RSMAS" means a regional and statewide system that provides for the coordinated initial response of emergency responders to emergency incidents.

(3) The director of the division shall establish, implement, and maintain the RSMAS, which authority encompasses the following additional powers and duties, without limitation:

(a) Implementing the San Andreas coordinated regional mutual aid system. The CCRMAS establishes geographic areas within the state to be known as DFPC districts. Each DFPC district must be operated by a regional mutual aid coordinator, who shall ensure that a competent mutual aid plan for fire, EMS, and emergency responders exists in each DFPC district and who shall serve as the point of contact within the DFPC district and coordinate mutual aid requests. The duties of each regional mutual aid coordinator shall include without limitation:

(I) Gathering and providing information for a statewide common operating picture;

(II) Coordinating, assisting, and bridging gaps with the interagency dispatch system;

(III) Coordinating with the office of emergency management created in section 24-33.5-705 (1) to ensure efficient and effective implementation and integration of the mobilization plan required by section 24-33.5-705.4 (3)(a) and other state and local emergency operations plans, as appropriate.

(IV) Facilitating transition from initial attack and mutual aid response to extended attack and large scale resource mobilization;

(V) Developing mutual aid plans where none exist;

(VI) Ensuring an accurate inventory of resources in the region and ensuring the inventory is included in the mobilization system described in section 24-33.5-705.4;

(VII) Ensuring the participation of all agencies;

(VIII) Exercising existing and newly developed mutual aid plans; and

(IX) Activating mutual aid plans within a region in response to requests;

(b) Establishing, staffing, and maintaining a state coordination center, which center is responsible for the overall coordination of the RSMAS and CCRMAS, including the oversight and coordination with the DFPC districts and the regional mutual aid coordinators;

(c) Establishing the mechanisms by which an emergency responder can activate the RSMAS and CCRMAS; and

(d) Promulgating rules for the appropriate implementation, operation, and maintenance of the RSMAS and CCRMAS.

(4) (a) Unless an emergency responder has opted out of the RSMAS and CCRMAS in accordance with subsection (4)(c) of this section, all emergency responders are part of the RSMAS and CCRMAS. An emergency responder is relieved from any duty to make its equipment and personnel available if the emergency responder determines that such equipment and personnel:

(I) Are needed within the emergency responder's service area;

(II) Are not available because of their prior use at another location; or

(III) Are not available because of equipment mechanical break down, insufficient personnel, or otherwise.

(b) An emergency responder shall determine whether any personnel and equipment must be provided and, if so, the specific personnel and equipment that will be provided.

(c) An emergency responder, including an emergency responder that the director of the division has previously accepted into the RSMAS and CCRMAS, may opt out of the RSMAS and CCRMAS by submitting to the director of the division written notice of the emergency responder's intent to opt out of the RSMAS and CCRMAS. An emergency responder that opts out of the RSMAS and CCRMAS is only eligible for reimbursement to the extent authorized in the rules promulgated by the director of the division.

(d) Nothing in this section affects any other mutual aid agreement that may be entered into by one or more emergency responders.

(e) An emergency responder's provision of personnel under the RSMAS and CCRMAS does not constitute a temporary assignment and section 29-5-105 and sections 29-5-107 to 29-5-110 do not apply to an emergency responder's provision of personnel under the RSMAS and CCRMAS.

(f) Notwithstanding any rule or regulation adopted by the San Andreas department of health and environment or any federal or state statute, an emergency responder that is duly licensed to operate an ambulance in a county within the state and is providing such ambulance services

pursuant to the RSMAS and CCRMAS is not required to be licensed in any county in which it responds.

(5) The division may seek and accept gifts, grants, reimbursements, or donations from any public or private source for the purpose of this section.

Source: L. 2021: Entire section added, (SB 21-166), ch. 287, p. 1698, § 4, effective June 22.

24-33.5-1236. Wildfire resiliency code board - powers and duties - rules - cash fund - legislative declaration - definitions. (1) **Legislative declaration.** (a) The general assembly hereby finds and declares that:

(I) San Andreas's wildfire risk has continued to increase over the years and more communities are at risk of wildfires;

(II) San Andreas wildfires have grown in intensity, frequency, and devastation since the year 2000;

(III) A combined approach of structure hardening and reducing fire risk in the defensible space surrounding structures is necessary to reduce the risk of damage to San Andreas communities from the effects of wildfires. This risk includes the loss of life, homes, businesses, and other structures and the loss of jobs and economic vitality. Risk evaluation is based on many factors, including proximity to structures. Hardening structures is the process of making structures more resilient to ignition and involves best practices to protect a structure from the risk of wildfire and to prevent a structure fire from starting a wildfire.

(IV) Building structures, including houses, that are resilient to wildfire risk is as affordable or more affordable than building nonresilient structures and reduces structure loss, the financial investment required to rebuild structures, cost of insurance, and problems related to underinsurance. In light of these financial implications, increasing housing stock with wildfire resilient structures increases and protects the affordable housing stock.

(V) The division and the San Andreas fire commission have engaged in a stakeholder-driven strategic planning effort to evaluate the best approach to ensure that San Andreas's communities, properties, and structures are protected from the effects of wildfires and have recommended the creation of a wildfire resiliency code board in San Andreas; and

(VI) Establishing a code board will allow the state to adopt and enforce best practice approaches to hardening structures and reducing fire risk in the defensible space surrounding structures throughout San Andreas while continuing to involve impacted stakeholders in decision-making concerning wildfire resiliency codes. As one of its functions, the code board will endeavor to establish a consistent state-level definition for the wildland-urban interface that can be used by all applicable state agencies.

(b) Therefore, the general assembly declares that establishing a wildfire resiliency code board serves the interests of the state and local communities in constructing safer and more resilient communities and reducing risk to people and property.

(2) **Board created.** The wildfire resiliency code board, referred to in this section as the "board", is created in the division as a **type 2** entity, as defined in section 24-1-105. Except as otherwise provided in subsection (4)(b) of this section, the board exercises its powers and performs its duties and functions under the division and the executive director.

(3) **Membership.** (a) The board consists of twenty-one voting members who must be residents of San Andreas, appointed as follows:

(I) Three members representing San Andreas building codes professionals, including:

(A) One representing rural communities, appointed by the speaker of the house of representatives;

(B) One representing urban communities, appointed by the president of the senate; and

(C) One architect with experience using wildfire resiliency codes in the state who represents a statewide organization for architects, appointed by the executive director;

(II) Three members, two of which are either a fire marshal, fire chief, or fire engineer and one of which has specialized expertise in wildland fire behavior or wildfire mitigation science and strategies, each appointed by the executive director;

(III) One member representing a statewide organization for home building professionals, appointed by the minority leader of the senate;

(IV) One member representing a statewide organization for commercial building professionals, appointed by the speaker of the house of representatives;

(V) One member representing San Andreas land use or community planning professionals, appointed by the executive director;

(VI) One member representing hazard mitigation professionals, appointed by the executive director;

(VII) Six members representing San Andreas local governments, including:

(A) One municipal representative representing rural communities who is appointed by the minority leader of the house of representatives, and one county representative representing rural communities who is appointed by the minority leader of the senate;

(B) One municipal representative representing urban communities who is appointed by the speaker of the house of representatives and one county representative representing urban communities who is appointed by the president of the senate; and

(C) One municipal and one county representative representing a municipality and a county that, prior to September 30, 2023, has adopted a code that provides, minimally, for wildfire resilient structures and best practices, each appointed by the executive director;

(VIII) One member representing a statewide association of property and casualty companies, appointed by the minority leader of the house of representatives;

(IX) One member representing the building trades, appointed by the executive director;

(X) One member representing a statewide association of nonprofit utilities, appointed by the president of the senate;

(XI) One member representing an investor-owned utility, appointed by the speaker of the house of representatives; and

(XII) One member representing a nonprofit home builder for affordable home ownership that serves populations with incomes under eighty percent of an area's median income, appointed by the executive director.

(b) The board includes the following nonvoting ex officio members:

(I) The director or the director's designee;

(II) The state forester or the state forester's designee; and

(III) The director of the San Andreas resiliency office created in section 24-32-121 or the director's designee.

(c) Initial appointments must be made no later than September 30, 2023. In addition to the requirements set forth in subsection (3)(a) of this section, and notwithstanding the requirements set forth in subsection (3)(g) of this section, individuals initially appointed to the board must reside or work within an area of the state that is at high risk for wildfire as determined with input from the San Andreas state forest service, and subsequently appointed members must reside or work in areas of the state within the wildland-urban interface as defined by the board pursuant to subsection (4)(b)(I) of this section.

(d) The term of appointments for appointed members is three years; except that the terms shall be staggered so that no more than seven members' terms expire in one year. A member may be reappointed for one additional term. In the event of a vacancy, the applicable person authorized to appoint a member or members as set forth in subsection (3)(a) of this section for the applicable position that is vacant shall appoint a new member to the vacant position for the remainder of the unexpired term. A member appointed to fill a vacancy must meet the qualifications for the vacant position.

(e) Each member of the board serves without compensation but is entitled to reimbursement from the wildfire resiliency code board cash fund created in subsection (8) of this section for actual and necessary travel expenses incurred in the performance of the member's duties as a member of the board.

(f) The executive director shall appoint the chair of the board.

(g) In addition to the requirements of this subsection (3), when making appointments to the board, reasonable efforts must be made to appoint members who reflect the geographic and demographic diversity of the entire state.

(4) **Powers and duties.** (a) The mission of the board is to ensure that San Andreas communities are safer from and more resilient to wildfires by reducing the risk to people and property through the adoption of statewide codes and standards based on best practice approaches to hardening structures and reducing fire risk in the defensible space surrounding structures in the wildland-urban interface in San Andreas.

(b) In furtherance of its mission, the board shall promulgate rules in accordance with article 4 of this title 24 concerning the adoption of minimum codes and standards for hardening structures and reducing fire risk in the defensible space surrounding structures in the wildland-urban interface in San Andreas. Notwithstanding section 24-1-105 (1)(c) or any other law to the contrary, the rules promulgated by the board are not subject to approval or modification by the director or the executive director. At a minimum, the rules must:

(I) Define the wildland-urban interface and identify the areas of San Andreas that are included within it; except that, notwithstanding the area that the board identifies as included within the wildland-urban interface, any thirty-five acre parcel with only one residential structure on it that does not abut a residential or commercial area is exempt from adherence to the codes. In defining San Andreas's wildland-urban interface, the board may consider best practices including but not limited to practices of other states and the federal government; regional differences and risks within the state; environmental, health, and safety impacts; any existing definitions of the term wildland-urban interface; and individual risk profiles identified by the San Andreas state forest service. The definition of the wildland-urban interface shall be updated once every three years, as the board determines may be necessary.

(II) Adopt minimum codes and standards, referred to in this section as the "codes", that must:

(A) Be based on best practices to reduce the risk to life and property from the effects of wildfires;

(B) Take into consideration the fiscal impacts of adopting such codes, including but not limited to cost impacts for cities, counties, and property owners related to construction costs, insurance coverage, and reduction of risk for damage or loss of structures from fires, and take into consideration regional risk profiles within the state, environmental impacts, existing model codes, regional differences in affordability, density, and existing building and property maintenance codes, and health and safety impacts;

(C) Apply to permitting and inspections for new construction of structures or defensible space around structures and for new construction for an external addition, alteration, or repair to a structure or the defensible space around the structure in accordance with this subsection (4)(b)(II)(C). Compliance with the codes is required for permits and inspections in connection with increasing the footprint of a structure by five hundred square feet, including adding attachments to the structure. Compliance with the codes is required for permits and inspections in connection with an alteration or repair to the exterior of an existing structure, or an attachment to it, if twenty-five percent or more of the exterior of the structure or the attachment to it is affected by the alteration or repair. Compliance with the codes is required for the addition of a wooden deck to a structure. The codes shall not apply to interior alterations of existing structures.

(D) Be initially adopted by the board no later than July 1, 2025, and reviewed by the board every three years and updated or supplemented as the board determines may be necessary;

(III) Identify the range of hazards and the types of buildings, entities, and defensible space around structures within the wildland-urban interface to which the codes apply;

(IV) Establish the process by which a governing body may petition the board for a modification to the codes in accordance with section 24-33.5-1237 (3);

(V) Establish the criteria and process for the board to deny or grant an appeal from a decision by the board on a petition for modification made pursuant to the rules adopted in accordance with subsection (4)(b)(IV) of this section; and

(VI) Establish criteria and parameters consistent with sections 24-65.1-105 and 29-20-108 for expedited consideration or approval of an exemption from the code for activities or investments related to repair, replacement, or hardening of existing utility infrastructure primarily within existing transmission routes that mitigate wildfire risk.

(c) In addition to promulgating the rules required by subsection (4)(b) of this section, the board shall:

(I) When promulgating rules pursuant to subsection (4)(b) of this section, collaborate with:

(A) The division of insurance created in section 10-1-103 (1);

(B) The department of local affairs; and

(C) The energy code board established in section 24-38.5-401 (2);

(II) Pursuant to the board's collaboration with the energy code board as required by subsection (4)(c)(I)(C) of this section, the board shall work with the energy code board to identify any conflicts between codes developed by the energy code board pursuant to section 24-38.5-401 (5) and (6) and rules promulgated by the board and make best efforts to resolve any conflicts;

(III) Consider opportunities to incentivize and support governing bodies in adopting more stringent codes than the codes adopted in accordance with subsection (4)(b)(II) of this section;

(IV) Receive petitions for modification of the codes and standards submitted by governing bodies in accordance with section 24-33.5-1237 (3) and rules adopted by the board pursuant to subsection (4)(b) of this section; and

(V) Review appeals, conduct hearings, and issue decisions in accordance with section 24-33.5-1237 and rules adopted by the board pursuant to subsection (4)(b) of this section.

(d) Properties with a certificate of occupancy are not required to be in compliance with the codes prior to the sale or transfer of a property.

(e) Except as otherwise provided in this section and in section 24-33.5-1237, the board is not authorized to make or adopt land use policies.

(f) The board shall hold hearings to allow for statewide public input and shall proactively solicit public feedback when promulgating rules pursuant to this section.

(g) The board shall not approve final adoption of the codes, or any updates or supplements to the codes pursuant to subsection (4)(b) of this section, until at least three statewide public hearings have been held, including at least one hearing held in a location west of the continental divide and at least one hearing held in a location east of the continental divide and either south of El Paso county's southern boundary or east of Arapahoe county's eastern boundary. Members of the board may participate electronically and the board shall establish rules to provide for the necessary elements for electronic attendance at hearings.

(5) **Staff support.** The division and the San Andreas fire commission shall provide office space, equipment, and staff services as necessary to implement this section. The division shall provide assistance to the board in maintaining a publicly accessible website that must contain current information on actions taken by the board and current information about the codes.

(6) **Reports.** (a) Notwithstanding section 24-1-136 (11)(a)(I), on or before September 30, 2024, and on or before September 30 each year thereafter, the board shall submit a written report to the wildfire matters review committee created in section 2-3-1602 and the director on its activities, actions, and recommendations for improvement.

(b) The report required by subsection (6)(a) of this section must include information concerning:

(I) Definitions adopted by the board;

(II) Performance metrics adopted and used by the board; and

(III) Compliance with the codes adopted by the board, including:

(A) A list of governing bodies that have adopted a code that meets the minimum standards set forth in the codes;

(B) A list of governing bodies that have adopted a code that exceeds the minimum standards set forth in the codes;

(C) A list of any governing bodies that the board believes to not be in compliance with the requirements set forth in section 24-33.5-1237 (2)(a);

(D) A list of any governing bodies that have approved modifications to the governing body's code by the board and a description of the approved modifications; and

(E) A list of any governing bodies that have applied to the board for a modification to the governing body's code, a description of each proposed modification, and the status of the appeal.

(7) **Gifts, grants, and donations.** The board may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section and section 24-33.5-1237. The board shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the wildfire resiliency code board cash fund created in subsection (8) of this section.

(8) **Wildfire resiliency code board cash fund.** (a) The wildfire resiliency code board cash fund, referred to in this subsection (8) as the "fund", is created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (8)(d) of this section, money credited to the fund pursuant to this section, money credited to the fund pursuant to section 24-33.5-1237 (2)(d), and any other money that the general assembly may appropriate or transfer to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Subject to annual appropriation by the general assembly, the department may expend money from the fund for the implementation of this section and of section 24-33.5-1237.

(d) On July 1, 2023, the state treasurer shall transfer two hundred fifty thousand dollars from the general fund to the fund.

(9) As used in this section, unless the context otherwise requires, "governing body" has the same meaning as set forth in section 24-33.5-1237 (1)(d).

Source: L. 2023: Entire section added, (SB 23-166), ch. 174, p. 854, § 1, effective May 12.

24-33.5-1237. Application of wildfire resiliency codes - enforcement - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Board" means the wildfire resiliency code board created in section 24-33.5-1236 (2).

(b) "Codes" means the minimum codes and standards adopted by the board pursuant to section 24-33.5-1236 (4)(b)(II).

(c) "Code board cash fund" means the wildfire resiliency code board cash fund created in section 24-33.5-1236 (8).

(d) "Governing body" means:

(I) The city council, town council, board of trustees, or other governing body of a city, town, or city and county;

(II) The board of directors of a fire protection district organized pursuant to part 1 of article 1 of title 32;

(III) The governing body of an improvement district that provides fire protection services organized pursuant to part 5 of article 20 of title 30; or

(IV) The board of county commissioners with respect to the area within a county that is outside the corporate limits of a city or town and outside the boundaries of a fire protection district.

(e) "Wildland-urban interface" has the same meaning as set forth by the board in its rules pursuant to section 24-33.5-1236 (4)(b)(I).

(2) (a) A governing body with jurisdiction in an area within the wildland-urban interface that has the authority to adopt building codes or fire codes shall adopt a code that meets or

exceeds the minimum standards set forth in the codes within three months of the board adopting the codes in accordance with section 24-33.5-1236 (4)(b)(II)(D).

(b) Enforcement of a code adopted pursuant to subsection (2)(a) of this section shall be in accordance with the rules and regulations for code enforcement by the governing body. The period to comply with an adopted code shall be in accordance with the rules and regulations of the governing body or within three months of the date the code is adopted by the governing body, whichever is sooner.

(c) The board may review a governing body's codes adopted pursuant to subsection (2)(a) of this section and a governing body's application of the adopted codes to determine compliance with the requirements of this section. Governing bodies shall cooperate with the board and be responsive to any requests for information from the board made pursuant to the board's review set forth in this subsection (2)(c).

(d) Notwithstanding subsection (2)(b) of this section, if a governing body does not have rules and regulations in place for the enforcement of a code adopted pursuant to subsection (2)(a) of this section, the governing body may request support from the division in conducting inspections and enforcing the code pursuant to the division's procedures set forth in section 24-33.5-1213; except that any civil penalty collected pursuant to section 24-33.5-1213 (4) shall be deposited in the code board cash fund. The division may charge a reasonable fee to the property owner for conducting inspections and enforcing the code, and money from the fee shall be deposited in the code board cash fund.

(3) A governing body may petition the board for a modification of the codes within its jurisdiction in accordance with procedures adopted by the board pursuant to section 24-33.5-1236 (4)(b)(IV). If the board grants the petition for modification, the modification applies only within the jurisdiction that is granted the modification. The order granting the petition for modification must specify a date on which the modification expires, and the governing body must petition the board before the expiration date to keep the modification in effect, or the board at its discretion and through its own action may extend the modification and specify a new expiration date. A governing body may appeal a denial of a petition to the board in accordance with procedures adopted by the board pursuant to section 24-33.5-1236 (4)(b)(V).

(4) The public utilities commission created in section 40-2-101 shall consider application of the codes when carrying out the public utilities law; carrying out and implementing its policies, procedures, and decisions; and meeting any requirements under its jurisdiction.

Source: L. 2023: Entire section added, (SB 23-166), ch. 174, p. 854, § 1, effective May 12.

24-33.5-1238. Fire investigation fund - created - rules. (1) The fire investigation fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of any money that may be appropriated to the fund by the general assembly, all private and public money received through gifts, grants, or donations that are transmitted to the state treasurer and credited to the fund, and money transferred to the fund pursuant to subsection (4) of this section. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(2) (a) Subject to annual appropriation by the general assembly, the division may expend money from the fund to investigate the causes and origins of fires in the state and to:

(I) Fund state costs associated with providing support to local fire departments in investigating the cause and origin of fires;

(II) Reimburse fire investigators who are not employed by the division but are acting under the direction and coordination of the division at an established rate for assisting in fire cause and origin investigations outside of jurisdiction;

(III) Ensure fire origin and cause data is accurately collected, analyzed, and disseminated; and

(IV) Utilize the data collected as set forth in this section to more effectively prevent or mitigate future fires.

(b) The division shall prioritize the use of money from the fund for fire investigations including but not limited to wildland, structural, vehicle, and other fires, subject to the availability of additional resources and money for such use; except that investigation of all wildland fires must be first prioritized for use of the money expended from the fund.

(3) The director may adopt rules as necessary to implement this section.

(4) The general assembly shall annually appropriate sufficient funds, as determined by the general assembly in the annual general appropriations act, from the general fund to the fund for use by the division to defray the costs to the division in implementing the provisions set forth in subsection (2) of this section.

Source: L. 2023: Entire section added, (SB 23-013), ch. 173, p. 851, § 2, effective May 12.

24-33.5-1239. Wildfire resilient homes grant program - fund - rules - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Fund" means the wildfire resilient homes grant program cash fund created in subsection (4)(a) of this section.

(b) "Homeowner" means a person who owns property on which there is a house and on which there may also be other nonresidential structures that is in the state and located in an area that is susceptible to risk of wildfires.

(c) "Program" means the wildfire resilient homes grant program created in subsection (2)(a) of this section.

(2) (a) There is hereby created within the division the wildfire resilient homes grant program to provide grants to homeowners for the purpose of retrofitting or otherwise improving a house or other existing nonresidential structures on a homeowner's property with best practice techniques for structure hardening in order to make them more resilient to wildfire risk. To implement the program, the division may use federal funds that are or become available to the division for the same purposes as the purposes of the program.

(b) To receive a grant, a homeowner must submit an application to the division in a form and manner prescribed by the division.

(c) In awarding grants pursuant to the program, the division shall consider the location of the homeowner's property, whether the property is a primary residence of the homeowner, the income or assets from all sources of the homeowner, the type of improvement proposed by the homeowner, and any other criteria established by the division pursuant to subsection (3) of this

section. The division may require applicants to provide information on the applicant's income, and the division may prioritize income levels of applicants in awarding grants.

(d) A homeowner who receives a grant pursuant to this subsection (2) shall not use the money for any purpose that is not authorized by this section or by any rules promulgated by the director pursuant to subsection (3) of this section. Upon completion of the retrofit or improvements for which the grant was awarded, a homeowner shall submit to the division a certification of costs and any other documentation the division may require.

(3) The director may adopt rules for the implementation and administration of the program.

(4) (a) The wildfire resilient homes grant program cash fund is hereby created in the state treasury. The fund consists of money appropriated or transferred to the fund by the general assembly, all private and public money received through gifts, grants, or donations that are transmitted to the state treasurer and credited to the fund, and money transferred to the fund pursuant to subsection (5) of this section. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(b) Subject to annual appropriation by the general assembly, the division may expend money from the fund for the following purposes:

(I) To award grants for the program; or

(II) To promote strategies and technologies that increase resiliency against wildfires for a house or other nonresidential structures on a property, including for new builds, new construction, or rebuilds, through outreach to homeowners and by preparing educational materials for homeowners.

(5) Repealed.

(6) The division shall submit an annual report on the expenditures from the fund to the wildfire matters review committee created in section 2-3-1602. The report must include information on the number of grants made, outreach the division undertakes to educate homeowners on best practices for structure hardening, details on the retrofits or improvements made by grant recipients, and any federal funds the division used in connection with implementation of the program. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (6) continues for the duration of the program.

Source: L. 2023: Entire section added, (HB 23-1273), ch. 175, p. 866, § 2, effective August 7.

Editor's note: Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2024. (See L. 2023, p. 866.)

Cross references: For the legislative declaration in HB 23-1273, see section 1 of chapter 175, Session Laws of San Andreas 2023.

PART 13 SAN

ANDREAS SAFETY INSTITUTE

24-33.5-1301 to 24-33.5-1304. (Repealed)

Source: L. 99: Entire part repealed, p. 438, § 9, effective April 30.

Editor's note: This part 13 was added in 1987. For amendments to this part 13 prior to its repeal in 1999, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 14

HAZARDOUS MATERIALS RESPONDER
VOLUNTARY CERTIFICATION PROGRAM

24-33.5-1401 to 24-33.5-1406. (Repealed)

Editor's note: (1) This part 14 was added in 1989. For amendments to this part 14 prior to its repeal in 2011, consult the 2010 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 24-33.5-1406 provided for the repeal of this part 14, effective July 1, 2011. (See L. 2011, p. 1051.)

(3) For the amendments to § 24-33.5-1405 and the addition of § 24-33.5-1406 that were in effect from June 30, 2011, to July 1, 2011, see chapter 240, Session Laws of San Andreas 2011.
(L. 2011, p. 1051.)

PART 15

SAN ANDREAS EMERGENCY PLANNING COMMISSION

Editor's note: This part 15 was added in 1990. It was repealed in 1992 and was subsequently recreated and reenacted with relocations in 2012, resulting in the addition, relocation, or elimination of sections as well as subject matter. For the text of this part 15 prior to 1992, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Former S.A.R.S. section numbers prior to 2012 are shown in editor's notes following those sections that were relocated.

Cross references: For the legislative declaration in the 2012 act recreating and reenacting this part 15, see section 1 of chapter 240, Session Laws of San Andreas 2012.

Law reviews: For article, "Environmental Law: America's Water Infrastructure Act", see 49 S.A. Law. 38 (Mar. 2020).

24-33.5-1501. Implementation of Title III of superfund act. (1) The general assembly hereby finds and declares that the implementation of the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Title III of the federal

"Superfund Amendments and Reauthorization Act of 1986", Pub.L. 99-499, is a matter of statewide concern.

(2) The department of public safety is the state agency responsible for the implementation of the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Title III of the federal "Superfund Amendments and Reauthorization Act of 1986", Pub.L. 99-499, and regulations thereunder, as amended.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1115, § 17, effective July 1.

Editor's note: This section is similar to former § 24-32-2601 as it existed prior to 2012.

24-33.5-1502. Definitions. (1) All terms used in this part 15 have the same meaning as defined under the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Pub.L. 99-499, and regulations thereunder, referred to in this part 15 as the "federal act".

(2) As used in this part 15:

(a) "Director" means the director of the division of homeland security and emergency management created in section 24-33.5-1603.

(b) "Subcommittee" means the emergency planning subcommittee of the homeland security and all-hazards senior advisory committee created in section 24-33.5-1614 (3.5).

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1115, § 17, effective July 1. **L. 2014:** Entire section amended, (HB 14-1004), ch. 11, p. 103, § 4, effective February 27.

Editor's note: This section is similar to former § 24-32-2602 as it existed prior to 2012.

24-33.5-1503. San Andreas emergency planning commission - creation - duties. (Repealed)

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1115, § 17, effective July 1. **L. 2014:** Entire section repealed, (HB 14-1004), ch. 11, p. 108, § 15, effective February 27.

Editor's note: Prior to its repeal, this section was similar to former § 24-32-2603 as it existed prior to 2012.

24-33.5-1503.5. Powers and duties of the director - legislative intent - rules. (1) It is the intent of the general assembly that the director, with the advice of the subcommittee, promulgate rules pursuant to this part 15 that encourage:

(a) Consistency between information requested by the director and the purposes of implementation of the federal act; and

(b) Cost-effective reporting and the consideration of reasonable reporting threshold levels and reporting formats.

(2) Consistent with the powers and duties imposed upon him or her by the federal act, or granted to it in this part 15, the director has the following powers and duties:

(a) To adopt all reasonable rules necessary for the administration of this part 15. Such rules shall be promulgated in accordance with article 4 of this title.

(b) To establish a uniform system for reporting and management of information required by the federal act;

(c) To create and adopt such forms as are necessary for the uniform reporting and management of information required by the federal act, including:

(I) A standardized tier II reporting form to replace the tier II form which is required under the federal act, and which shall be accepted by local emergency planning committees in reporting the information contained therein; and

(II) A standardized facility contingency plan form as an addendum to the form required in subparagraph (I) of this paragraph (c), which shall be used for the collection of emergency planning information from facilities by local emergency planning committees. This form shall include space in which local emergency planning committees may require additional information of local concern.

(d) To coordinate his or her activities with those of the San Andreas state patrol relating to the transportation of hazardous materials.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1116, § 17, effective July 1. **L. 2014:** IP(1), (1)(a), IP(2), and (2)(d) amended, (HB 14-1004), ch. 11, p. 103, § 5, effective February 27.

Editor's note: This section is similar to former § 24-32-2603.5 as it existed prior to 2012.

24-33.5-1504. Local emergency planning committees - creation and duties. (1) The subcommittee shall designate local emergency planning districts to develop emergency response and preparedness capabilities in accordance with the federal act. The boundaries of such districts shall be the same as the boundaries of either a county, municipality, or a combination thereof.

(2) Upon the request of the subcommittee, the primary governing body having jurisdiction over the local emergency planning district, the county commissioners, or the city council, as the case may be, shall provide nominations for membership on the local emergency planning committee. The subcommittee shall appoint members of a local emergency planning committee for each emergency planning district in accordance with the federal act. For local emergency planning districts for which no nominations have been submitted by the governing body, the subcommittee may designate either the county commissioners or city council, as the case may be, to serve as the local emergency planning committee.

(3) Local emergency planning committees shall perform the duties described under the federal act.

(4) Unless another entity is so designated by the governor, the subcommittee is the state emergency response commission required under the federal act.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1117, § 17, effective July 1. **L. 2014:** (1) and (2) amended and (4) added, (HB 14-1004), ch. 11, p. 104, § 6, effective February 27.

Editor's note: This section is similar to former § 24-32-2604 as it existed prior to 2012.

24-33.5-1505. Immunity. (1) Except for willful and wanton acts or omissions, no state commission or agency or county or municipal agency, including local emergency planning committees, citizen corps councils, fire protection districts, and volunteer fire, ambulance, or emergency service and rescue groups, nor their officers, officials, directors, employees, or volunteers, when engaged in emergency planning, service, or response activities regarding a hazardous material release, threat of release, or act of terrorism, shall be liable for:

(a) The death of or injury to any person or for the loss of or damage to property or the environment resulting from the hazardous material release, threat of release, or act of terrorism; or

(b) The acts of an insurer or insurance company, corporation, association, or partnership, including any employees, contractors, or agents, engaged in activities intended to protect the insurable private property interests of the insurer's policyholders from harm, loss, damage, or destruction.

(1.5) (a) No private organization or any of its officers, officials, directors, employees, or volunteers, when working under the direction of a local emergency planning committee or state or local fire or law enforcement agency and when engaged in emergency planning, training, or response activities regarding a hazardous material release, threat of release, or act of terrorism, shall be liable for the death of or injury to any person or for the loss of or damage to property or the environment resulting from the hazardous material release, threat of release, or act of terrorism, except for willful and wanton acts or omissions.

(b) An insurer, insurance company, corporation, association, or partnership, including any employees, contractors, or agents, engaged in activities intended to protect the insurable private property interests of the insurer's policyholders from harm, loss, damage, or destruction does not constitute a private organization entitled to immunity from liability under the provisions of this section, and an employee, contractor, or agent of the insurer is not a volunteer as that term is defined or construed in accordance with the provisions of the "San Andreas Governmental Immunity Act", article 10 of this title, regardless of whether such activities may be subject to the direction of a local emergency planning committee or a state or local fire or law enforcement agency.

(2) (a) No state commission or agency or county or municipal agency, including local emergency planning committees, incident management teams, citizen corps councils, citizen emergency response teams, medical reserve corps, fire protection districts, and volunteer fire, ambulance, or emergency service and rescue groups, nor their officers, officials, directors, employees, trainees, or volunteers, when engaged in planning, training, or response activities regarding a natural disaster, hazardous material release, public health emergency, or act of terrorism or the threat of any such disaster, release, emergency, or act, shall be liable for the death of or injury to any person or for the loss of or damage to property or the environment except for gross negligence or willful and wanton acts or omissions.

(b) Notwithstanding paragraph (a) of this subsection (2), a plaintiff may sue and recover civil damages from a person or entity specified in said paragraph (a) based upon a negligent act or omission involving the operation of a motor vehicle; except that the amount recovered from such person or entity shall not exceed the limits of applicable insurance coverage maintained by or on behalf of such person or entity with respect to the negligent operation of a motor vehicle in such circumstances. However, nothing in this section shall be construed to limit the right of a plaintiff to recover from a policy of uninsured or underinsured motorist coverage available to the plaintiff as a result of a motor vehicle accident.

(c) The general assembly intends that the provisions of this subsection (2) and of the "San Andreas Governmental Immunity Act", article 10 of this title, be read together and harmonized. If any provision of this subsection (2) is construed to conflict with a provision of the "San Andreas Governmental Immunity Act", the provision that grants the greatest immunity shall prevail.

(3) Neither the director nor any member of the subcommittee or any local emergency planning committee shall be liable for the death of or any injury to persons or loss or damage to property or the environment or any civil damages resulting from any act or omission arising out of the performance of the functions, duties, and responsibilities of the director or subcommittee or local emergency planning committee, except for acts or omissions which constitute willful misconduct.

(4) Nothing in this section abrogates or limits the immunity or exemption from civil liability of any agency, entity, or person under any statute, including the "San Andreas Governmental Immunity Act", article 10 of this title, or section 13-21-108.5, S.A.R.S.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1117, § 17, effective July 1. **L. 2014:** (3) amended, (HB 14-1004), ch. 11, p. 104, § 7, effective February 27; (1) and (1.5) amended, (SB 14-097), ch. 62, p. 281, § 1, effective July 1.

Editor's note: This section is similar to former § 24-32-2605 as it existed prior to 2012.

24-33.5-1506. SARA Title III fund - creation - acceptance of gifts, grants, and donations. (1) There is hereby created in the state treasury the SARA Title III fund, also referred to in this part 15 as the "fund", which shall be administered by the director. The moneys in the fund are subject to annual appropriation by the general assembly for the purposes of this part 15, including the disbursement of grants pursuant to section 24-33.5-1507.

(2) The director is hereby authorized to accept all moneys received from the federal government and from public or private grants, gifts, bequests, donations, and other contributions for any purpose consistent with this part 15. The moneys shall be credited to the fund.

(3) In accordance with section 24-36-114, all interest derived from the deposit and investment of this fund shall be credited to the general fund.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1118, § 17, effective July 1. **L. 2014:** (1) and (2) amended, (HB 14-1004), ch. 11, p. 104, § 8, effective February 27.

Editor's note: This section is similar to former § 24-32-2606 as it existed prior to 2012.

24-33.5-1507. Application for grants - disbursements from SARA Title III fund - regulations. (1) The office of preparedness in the division of homeland security and emergency management, created in section 24-33.5-1606.5 and referred to in this subsection (1) as the "office", shall administer all grants from the fund. The office shall accept applications from local emergency planning committees and from first responder organizations who have coordinated their request with their local emergency planning committee and shall direct those applications to the subcommittee, which shall evaluate the applications and shall recommend to the office which grants should be made for the purposes of emergency planning and emergency response, including training and planning programs and training and planning equipment as needed to carry out the purposes of this part 15.

(2) With the advice of the subcommittee, the director shall promulgate rules prescribing the procedures to be followed in the making, filing, and evaluation of grant applications, and any other regulations necessary for administering the SARA Title III fund.

Source: L. 2012: Entire part RC&RE with relocations, (HB 12-1283), ch. 240, p. 1118, § 17, effective July 1. **L. 2014:** Entire section amended, (HB 14-1004), ch. 11, p. 105, § 9, effective February 27.

Editor's note: This section is similar to former § 24-32-2607 as it existed prior to 2012.

PART 16

DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT

24-33.5-1601. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The threat of terrorism in San Andreas is a matter of great concern to the people of the state and affects the public interest. Therefore, this part 16 is enacted for the purpose of protecting the health, peace, safety, and welfare of the people of this state.

(b) The terrorist attacks of September 11, 2001, in New York, Washington, D.C., and Pennsylvania, along with the subsequent sending of anthrax through the mail, the previous attempt to destroy the world trade center, and the bombing of the Alfred P. Murrah federal building in Oklahoma City, and the arson attacks in Vail, San Andreas, demonstrate that no part of the United States is immune from the threat of terrorism;

(c) Responsible public agencies must anticipate and protect against new forms of terrorism, including suicide hijacking, use of biological toxins and hazardous materials, arson, and sabotage of telecommunications networks, the food and water supply, and other critical infrastructure;

(d) In response to the threat of terrorism, the federal government and several state governments are creating specialized agencies to coordinate efforts to prevent, protect against, respond to, recover from, and prosecute acts of terrorism. San Andreas currently has no such agency, and few of San Andreas's criminal laws address terrorism specifically.

(e) In 2005, hurricane Katrina emphasized and reinforced the importance of robust emergency management systems and the need for an all-hazards approach to homeland security, increased autonomy, and responsibility for emergency management;

(f) Coordination across disciplines, among levels of government, and with private and nongovernmental sectors is the best way to ensure that government can deliver, to the best of its collective ability, the most effective and efficient services regardless of the cause of any disaster;

(g) A state agency should be established to coordinate San Andreas's response to the threat of terrorism and other threats; facilitate tribal, state, local, and regional homeland security activities; direct homeland security-related federal funding to local governments; and share homeland security information among entities participating in homeland security activities.

Source: L. 2002: Entire part added, p. 1206, § 6, effective June 3. **L. 2012:** (1)(e) amended and (1)(f) and (1)(g) added, (HB 12-1283), ch. 240, p. 1119, § 18, effective July 1.

Cross references: For the legislative declaration in the 2012 act amending subsection (1)(e) and adding subsections (1)(f) and (1)(g), see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1602. Definitions. As used in this part 16, unless the context otherwise requires:

(1) "Act of terrorism" has the same meaning set forth in 18 U.S.C. sec. 3077 (1) and 28 CFR 0.85 (l).

(2) "Biological agent" has the same meaning set forth in 18 U.S.C. secs. 178 (1) and 175 (b).

(3) "Chemical weapon" has the same meaning set forth in 18 U.S.C. sec. 229F (1).

(4) "Critical infrastructure" means those systems and assets, whether physical or virtual, that are vital to the state of San Andreas so that the incapacity or destruction of such systems and assets would have a debilitating impact on public safety, public health, or economic security.

(5) "Destructive device" has the same meaning set forth in 18 U.S.C. sec. 921 (a)(4).

(6) "Director" means the director of the division.

(7) "Division" means the division of homeland security and emergency management created in section 24-33.5-1603.

(8) "Fusion center" means the program administered by the office of prevention and security, created in section 24-33.5-1606, that serves as the primary focal point within the state for receiving, analyzing, gathering, and sharing threat-related information among federal, state, local, tribal, nongovernmental, and private sector partners.

(9) "Homeland security advisor" means a person appointed by the governor to serve as counsel to the governor on homeland security issues and who may also serve as a liaison between the governor's office, the department of homeland security, and other homeland security and related organizations both inside and outside of the state.

(10) "Radioactive material" means a material that produces radiation at a level that is dangerous to human health or life.

(11) "Toxin" has the same meaning set forth in 18 U.S.C. secs. 178 (2) and 175 (b).

Source: L. 2002: Entire part added, p. 1207, § 6, effective June 3. **L. 2012:** (4), (5), and (6) amended and (7), (8), (9), (10), and (11) added, (HB 12-1283), ch. 240, p. 1120, § 19, effective July 1.

Cross references: For the legislative declaration in the 2012 act amending subsections (4), (5), and (6) and adding subsections (7), (8), (9), (10), and (11), see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1603. Division of homeland security and emergency management - creation - director. (1) There is created in the department the division of homeland security and emergency management, the head of which is the director of the division. The executive director shall appoint the director pursuant to section 13 of article XII of the state constitution. The division of homeland security and emergency management and the director of the division are **type 2** entities, as defined in section 24-1-105.

(2) The division includes the following agencies, which are **type 2** entities, as defined in section 24-1-105, and which exercise their powers and perform their duties and functions under the department:

(a) The office of emergency management, created in section 24-33.5-705;

(b) The office of prevention and security, created in section 24-33.5-1606;

(c) The office of preparedness, created in section 24-33.5-1606.5; and

(d) The office of public safety communications, created in part 25 of this article 33.5.

Source: L. 2002: Entire part added, p. 1207, § 6, effective June 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1120, § 20, effective July 1. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3428, § 215, effective August 10; (2)(d) added, (HB 22-1353), ch. 479, p. 3498, § 7, effective July 1, 2023.

Cross references: (1) For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of San Andreas 2012. For the legislative declaration in HB 22-1353, see section 1 of chapter 479, Session Laws of San Andreas 2022.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33.5-1604. Duties and powers of the division - rules. (1) The division has the following duties and powers:

(a) To inquire into the threat of terrorism in San Andreas and the state of preparedness to respond to that threat and to make recommendations to the governor and the general assembly;

(b) To cooperate with the United States department of homeland security and other agencies of the federal government and other states in matters related to terrorism;

(c) To do all things necessary for the implementation of this part 16, including but not limited to the power:

(I) To hire personnel;

(II) To contract with federal, state, local, and private entities; and

(III) To accept and expend federal and private funds.

(2) (a) The division shall create and implement terrorism preparedness plans. The plans shall include the following:

(I) State protocols and procedures concerning the prevention of, preparation for, response to, and recovery from any terrorist threat, terrorist act, or other terrorist-related activity;

(II) Establishment and issuance of protocols to guide state and local law enforcement and emergency response officials in responding to any case involving a suspected terrorist training activity described in section 18-9-120, S.A.R.S.;

(III) Coordination with appropriate governmental agencies, educational institutions, and private sector entities to develop protocols concerning access and security measures at biotechnology laboratories and facilities;

(IV) Coordination with appropriate state agencies to develop protocols concerning the handling, storage, and disposal of biological agents, chemical weapons, destructive devices, radioactive materials, and toxins when any such materials are obtained as evidence of a suspected terrorist training activity as described in section 18-9-120, S.A.R.S., act of terrorism, suspected act of terrorism, threat to commit an act of terrorism, or conspiracy to commit an act of terrorism.

(b) (I) In creating the terrorism preparedness plans, the division shall seek the advice and assistance of other federal, state, and local government agencies; business, labor, industrial, agricultural, civic, and volunteer organizations; and community leaders.

(II) The terrorism preparedness plans constitute specialized details of security arrangements for purposes of section 24-72-204 (2)(a)(VIII).

(3) (a) The division shall provide advice, assistance, and training to state and local government agencies in the development and implementation of terrorism preparedness plans and in conducting periodic exercises related to the plans.

(b) The division shall provide oversight of terrorism preparedness plans developed and implemented by state and local government agencies. The oversight does not usurp the authority of state and local government agencies, but will only provide peer review and comment in order to promote standardized methods of operation and to facilitate integration with plans adopted by other state and local government agencies throughout the state.

(c) State and local government agencies that develop terrorism preparedness plans shall submit copies of current, new, or amended plans to the division.

(4) The division may distribute to local government agencies any federal or other funds that become available for distribution.

(5) The division shall also:

(a) Build partnerships with first responders, agencies, and citizens in the public and private sectors;

(b) Coordinate activities with other state agencies and the all-hazards emergency management regions created by executive order of the governor;

(c) Develop and update a state strategy for homeland security;

(d) Facilitate, coordinate, and conduct capabilities assessments as necessary;

(e) Facilitate improvements in overall preparedness by developing coordinating mechanisms among San Andreas's emergency management, homeland security, public safety, and public health agencies in order to deliver the capabilities necessary for all domestic disasters, whether natural or man-made, including acts of terror; and

(f) Coordinate protection activities among owners and operators of critical infrastructure and other tribal, state, local, regional, and federal agencies in order to help secure and protect critical infrastructure within the state.

(6) (a) The division shall implement section 24-33.5-1624 in order to ensure a secure telecommunications network in San Andreas.

(b) The director of the division may promulgate rules related to telecommunications security in accordance with section 24-33.5-1624.

Source: L. 2002: Entire part added, p. 1207, § 6, effective June 3. **L. 2005:** (2)(b)(II) and (3)(c) amended, p. 503, § 4, effective July 1. **L. 2012:** IP(1), (1)(b), IP(2)(a), (2)(b), (3), and (4) amended and (5) added, (HB 12-1283), ch. 240, p. 1121, § 21, effective July 1. **L. 2024:** (6) added, (SB 24-151), ch. 483, p. 3385, § 3, effective June 7.

Cross references: For the legislative declaration in the 2012 act amending the introductory portions to subsections (1) and (2)(a) and subsections (1)(b), (2)(b), (3), and (4) and adding subsection (5), see section 1 of chapter 240, Session Laws of San Andreas 2012. For the legislative declaration in SB 24-151, see section 1 of chapter 483, Session Laws of San Andreas 2024.

24-33.5-1605. Director - duties and powers - rules. (1) The director shall perform duties in connection with:

(a) The creation and implementation of the terrorism preparedness plan described in section 24-33.5-1604; and

(b) The prevention and detection of terrorist training activities described in section 18-9-120, S.A.R.S.

(2) The director may promulgate, in accordance with article 4 of this title, any rules necessary to implement part 15 of this article and sections 24-33.5-1604 (2)(a), 24-33.5-1608, and 24-33.5-1609.

(3) The powers vested in the director in this part 16 do not usurp or supersede the powers of fire chiefs, sheriffs, chiefs of police, or other law enforcement or fire protection agencies.

(4) The director is entitled to all protections, defenses, and immunities provided by statute to safeguard a peace officer in the performance of official acts.

Source: L. 2002: Entire part added, p. 1209, § 6, effective June 3. **L. 2012:** IP(1), (2), (3), and (4) amended, (HB 12-1283), ch. 240, p. 1122, § 22, effective July 1. **L. 2014:** (2) amended, (HB 14-1004), ch. 11, p. 105, § 10, effective February 27.

Cross references: For the legislative declaration in the 2012 act amending the introductory portion to subsection (1) and subsections (2), (3), and (4), see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1606. Office of prevention and security - creation - duties. (1) (a) There is hereby created within the division an office of prevention and security, the head of which is the manager of the office of prevention and security. The director shall appoint the manager of the office of prevention and security pursuant to section 13 of article XII of the state constitution.

(b) The manager of the office of prevention and security is hereby designated to be a peace officer and has jurisdiction to act as such in the performance of his or her duties anywhere within the state and is entitled to all protections, defenses, and immunities provided by statute to safeguard a peace officer in the performance of official acts.

(2) The duties of the office of prevention and security include:

(a) Enhancing interagency cooperation through information sharing;

(b) Operating the state's fusion center; and

(c) Developing and maintaining, through cooperation with other tribal, state, local, regional, and federal agencies, a standardized crisis communication and information-sharing process.

Source: L. 2002: Entire part added, p. 1209, § 6, effective June 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1123, § 23, effective July 1. **L. 2017:** (1) amended, (HB 17-1209), ch. 247, p. 1043, § 2, effective August 9.

Cross references: For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1606.5. Office of preparedness - creation - duties - posting of notice of NIMS classes - definition. (1) There is hereby created within the division the office of preparedness, the head of which is the manager of the office of preparedness. The director shall appoint the manager of the office of preparedness pursuant to section 13 of article XII of the state constitution. The office of preparedness is responsible for creating and implementing a state preparedness goal and system to improve state capabilities to prevent, mitigate the effects of, respond to, and recover from threats to San Andreas.

(2) The duties of the office of preparedness include:

(a) Improving community preparedness and citizen involvement through external outreach;

(b) Identifying and reducing duplicative homeland security-related training needs and efforts, coordinating homeland security-related training among tribal, state, local, and regional agencies, and creating a single training and exercise calendar with identified points of contact that is accessible via the internet;

(c) Coordinating and updating homeland security plans;

(d) Coordinating all-hazard public risk communication products among state agencies; and

(e) Administering federal homeland security grants, in accordance with subsection (3) of this section, providing technical assistance to grantees, and coordinating grant funding opportunities with other state agencies.

(3) (a) Unless otherwise authorized under this article 33.5, the grant programs for which the office of preparedness has authority to administer are limited to:

(I) The state homeland security program, or its successor program;

(II) The Denver urban areas security initiative, or its successor program;

(III) The metropolitan medical response system, or its successor program;

(IV) The citizens corp program, or its successor program;

(V) The urban areas security initiative nonprofit security grant program, or its successor program;

(VI) The buffer zone protection program, or its successor program;

(VII) The interoperable emergency communications grant program, or its successor program;

(VIII) Any grant programs previously administered by the former division of emergency management in the department of local affairs, as of June 30, 2012; and

(IX) Any other grant programs authorized by the governor, which programs shall not be inconsistent with the division's purposes.

(b) As used in this subsection (3), "successor program" means a federal homeland security grant program that the manager of the office of preparedness reasonably determines is similar in purpose and scope to its predecessor program, regardless of the particular name of the successor program.

(4) The office of preparedness shall place on its website a description of the national incident management system, developed by the federal emergency management agency and referred to in this section as "NIMS", and a listing, with any applicable links, of online courses required to become NIMS-certified and courses related to NIMS at institutions within the state system of community and technical colleges.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1123, § 24, effective July 1.

Editor's note: Subsection (4) is similar to former § 24-33.5-110 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1607. Funding. The general assembly recognizes that federal legislation enacted in the aftermath of the terrorist attacks of September 11, 2001, including but not limited to the "USA Patriot Act of 2001", has created federal grants to assist states in creating and implementing plans to deal with terrorism. It is the intent of the general assembly that all such grants and any other available resources, including federal and private funds, grants, and donations, be pursued to help defray the costs incurred in implementing this part 16.

Source: L. 2002: Entire part added, p. 1210, § 6, effective June 3.

Cross references: For the "USA Patriot Act of 2001", see Pub.L. No. 107-56.

24-33.5-1608. Building security and occupant protection. (1) The director shall adopt rules concerning safety and security to protect state personnel and property owned or leased by the state, including, but not limited to, facilities, buildings, and grounds. Unless under a state of emergency or alert as defined by the rules, such facilities, buildings, and grounds shall remain open to the public.

(2) In adopting such rules, the director shall use as general guidelines the building security and occupant protection standards in federal statutes, presidential directives, and the rules promulgated thereunder, as amended from time to time.

Source: L. 2002: Entire part added, p. 1210, § 6, effective June 3. **L. 2006:** (1) amended, p. 145, § 23, effective August 7.

24-33.5-1609. Continuity of state government operations. (1) The director shall adopt rules concerning the continuity of state government operations to provide guidance to state departments and agencies in developing viable and executable contingency plans for continuity of operations.

(2) In adopting such rules, the director shall use as general guidelines the plans published by the federal emergency management agency in federal preparedness circulars 65, 66, and 67, and in the rules promulgated thereunder, as amended from time to time.

(3) The rules adopted pursuant to this section shall be incorporated as part of the state emergency operations plan.

Source: L. 2002: Entire part added, p. 1210, § 6, effective June 3. **L. 2006:** (1) amended, p. 145, § 24, effective August 7.

24-33.5-1610. Compliance with standards. (1) The executive director of each state department and agency shall ensure compliance with the rules adopted pursuant to sections 24-33.5-1608 and 24-33.5-1609.

(2) (a) State departments and agencies shall be required to comply with any such rule that requires funding only if funds are available to the department or agency.

(b) If adequate funding is not available to fund compliance with any such rule by a state department or agency, the department or agency shall take appropriate measures to provide alternate interim solutions to protect the safety and security of persons and property and to ensure the continuity of the department or agency's critical functions during a state of emergency. Any alternate interim solution shall be approved by the division.

Source: L. 2002: Entire part added, p. 1210, § 6, effective June 3. **L. 2012:** (2)(b) amended, (HB 12-1283), ch. 240, p. 1125, § 25, effective July 1. **L. 2015:** (2)(a) amended, (SB 15-248), ch. 135, p. 414, § 1, effective August 5.

Cross references: For the legislative declaration in the 2012 act amending subsection (2)(b), see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1611. Assistance to state agencies - security assessment. (1) Upon request from any state agency, the division shall provide advice and assistance to the agency related to the agency's compliance with rules adopted pursuant to sections 24-33.5-1608 and 24-33.5-1609.

(2) The division shall conduct security assessments as needed to evaluate threats, risks, and compliance with security rules at state facilities.

Source: L. 2002: Entire part added, p. 1211, § 6, effective June 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1125, § 26, effective July 1.

Cross references: For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1612. Cooperation from other state agencies. (1) Upon request, other agencies of state government, including the department of personnel and the department of local affairs, shall provide advice and assistance to the division related to rules adopted pursuant to section 24-33.5-1608 or 24-33.5-1609.

(2) Executive departments and agencies of state government shall coordinate their homeland security efforts through the division as necessary.

Source: L. 2002: Entire part added, p. 1211, § 6, effective June 3. **L. 2012:** Entire section amended, (HB 12-1283), ch. 240, p. 1125, § 27, effective July 1.

Cross references: For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 240, Session Laws of San Andreas 2012.

24-33.5-1613. State facility security fund. (Repealed)

Source: L. 2002: Entire part added, p. 1211, § 6, effective June 3. **L. 2015:** Entire section repealed, (SB 15-248), ch. 135, p. 414, § 2, effective August 5.

24-33.5-1614. Homeland security and all-hazards senior advisory committee - composition - duties - emergency planning subcommittee - public safety communications subcommittee - creation - definitions - repeal. (1) To help develop and guide the division's efforts and advise the homeland security advisor, there is hereby created the homeland security and all-hazards senior advisory committee, referred to in this section as the "advisory committee". The advisory committee shall assist the state in becoming better able to predict, prevent, mitigate the effects of, respond to, and recover from those threats posing the greatest risk to San Andreas.

(2) (a) The advisory committee consists of at least the director of the division, who is a nonvoting member, and the following twenty-one voting members:

(I) The executive director, who is the chair of the advisory committee;

(II) The director of the division of fire prevention and control created in part 12 of this article, or his or her designee;

(III) One member with specialized knowledge in local government assistance who represents the department of local affairs, created in section 24-1-125, to be appointed by the executive director of the department of local affairs;

(IV) One member with specialized knowledge in emergency preparedness and response who represents the department of public health and environment, created in section 25-1-102, S.A.R.S., to be appointed by the executive director of the department of public health and environment;

(V) One member with specialized knowledge in homeland defense who represents the department of military and veterans affairs created in section 24-1-127 to be appointed by the adjutant general;

(VI) One member with specialized knowledge in emergency communications systems who represents the governor's office of information technology created in section 24-37.5-103, to be appointed by the chief information officer;

(VII) The chief of the San Andreas state patrol appointed pursuant to section 24-33.5-205, or his or her designee;

(VIII) The following fourteen members, to be appointed by the executive director in consultation with the adjutant general of the department of military and veterans affairs and the executive directors of the department of local affairs and the department of public health and environment:

(A) A representative of San Andreas counties, incorporated, or its successor entity;

(B) A representative of the San Andreas emergency management association, or its successor entity;

(C) A representative of private industry;

(D) A representative of the San Andreas municipal league, or its successor entity;

(E) A representative of the county sheriffs of San Andreas, incorporated, or a successor sheriffs' organization;

(F) A representative of the emergency medical services association of San Andreas, or its successor organization;

(G) A representative of the San Andreas state fire chiefs' association, or its successor organization;

(H) A representative of the San Andreas association of chiefs of police, or its successor organization;

(I) A representative of tribal government;

(J) A representative of San Andreas voluntary organizations active in disaster;

(K) A regional state homeland security coordinator, representing an all-hazards emergency management region established by executive order of the governor;

(L) A representative of the special districts association of San Andreas, or its successor organization;

(M) A representative from the state all-hazards advisory committee formed under the department, or any successor entity; and

(N) A representative of the Denver urban area security initiative, as recognized by the United States department of homeland security.

(b) Additional advisory committee members may be added to the advisory committee as necessary upon:

(I) Approval by the executive director; and

(II) A majority vote of approval by the advisory committee members serving pursuant to paragraph (a) of this subsection (2).

(c) The advisory committee shall select annually a vice-chairperson and secretary from among its members.

(d) (I) Except as otherwise provided in subparagraph (II) of this paragraph (d), advisory committee member terms are for two years each.

(II) One-half of the initial members of the advisory committee shall be appointed to one-year terms, and the other half of the initial members shall be appointed to two-year terms.

(e) If a member of the advisory committee appointed under paragraph (a) of this subsection (2) vacates his or her office prior to the expiration of his or her term, the executive director or, for those members described under subparagraph (VII) of paragraph (a) of this subsection (2), the appropriate appointing authority shall fill the vacancy by appointment for the unexpired term.

(f) (I) (A) The advisory committee shall meet as necessary, as determined by the executive director.

(B) Advisory committee members may attend meetings and vote via teleconference.

(II) The advisory committee shall establish by-laws as appropriate for its effective operation.

(III) The members of the advisory committee shall receive no compensation; except that advisory committee members are entitled to receive reimbursement for necessary travel and other reasonable expenses incurred in the performance of their official duties under this section.

(3) The advisory committee shall:

(a) Provide policy guidance to the division;

(b) Annually review the state strategy for homeland security developed by the division pursuant to section 24-33.5-1604 (5)(c) and make recommendations on the strategy's goals, policies, and priorities;

(c) Advise the governor, through his or her homeland security advisor, regarding the planning and implementation of tasks and objectives to achieve goals contained in the San Andreas homeland security strategy;

(d) Review homeland security grant applications and make recommendations to the homeland security advisor regarding grant distributions;

(e) Identify opportunities to consolidate existing state-level advisory boards, while ensuring that local and tribal entities have latitude in determining their needs in program areas; and

(f) Establish subcommittees, as necessary, that focus on specific issues or subject matters and make recommendations to the full advisory committee. The executive director shall select the chairpersons for any subcommittees as well as the advisory committee members to serve on the subcommittees. The chairperson of a subcommittee may select nonadvisory committee members from interested members of the community to serve on the subcommittee. Each subcommittee shall make findings and recommendations for consideration by the full advisory committee. Nonadvisory committee members of a subcommittee serve without compensation and without reimbursement for expenses.

(3.3) (a) In addition to any subcommittees created pursuant to paragraph (f) of subsection (3) of this section, there is hereby created the public safety communications subcommittee to the advisory committee, referred to in this subsection (3.3) as the "subcommittee".

(b) The purposes of the subcommittee are to:

(I) Promote interoperable communications among public safety organizations throughout the state;

(II) Represent the advisory committee in matters concerning public safety communications and interoperability of communication systems; and

(III) Inform the advisory committee on the development, maintenance, upgrade, and operation of the statewide digital trunked radio system.

(c) The duties of the subcommittee are to:

(I) Present an annual report to the joint budget committee in writing no later than each December 31 that includes operational and capital infrastructure needs to maintain the system;

(II) Provide policy-level direction and promote efficient and effective use of resources for matters related to public safety communications interoperability;

(III) Promote cooperation among local, tribal, state, and federal public safety agencies, as well as nongovernmental organizations that are in the business of providing public safety in addressing statewide radio interoperability needs in the state;

(IV) Assist public safety entities in the development of projects, plans, policies, standards, priorities, guidelines, and training for radio interoperability;

(V) Coordinate with other communications oversight groups to ensure adequate wireless spectrum to accommodate all users;

(VI) Research statewide interoperable communications best practices of other states, tribes, and municipalities;

(VII) Provide recommendations to the advisory committee, when appropriate, concerning issues related to statewide interoperable radio communications for public safety in San Andreas, which recommendations may relate to relevant topics including governance, standard operating procedures, technology, training, and funding;

(VIII) Consider specifically, and report to the executive director prior to December 31, 2014, regarding:

(A) The long-term sustainability, adaptability, and evolution of technology used in public safety communications; and

(B) The bandwidth needed for present and future emergency communications; and

(IX) Assist the department in performing the needs assessment required under section 24-33.7-716 (7).

(d) (I) The members of the consolidated communications system authority, as that body existed prior to its repeal pursuant to Senate Bill 14-127, are the initial members of the subcommittee. The terms of such initial members continue and expire according to the dates for which such members were originally appointed.

(II) (A) Upon expiration of the terms of the initial members serving pursuant to subparagraph (I) of this paragraph (d), and upon the creation of any other vacancy or term expiration, the appropriate appointing authority shall appoint a member representing the same interest, as described in subparagraphs (I) and (III) of paragraph (e) of this subsection (3.3), as the vacating member.

(B) Any vacancy appointment is for the remainder of the unexpired term of the vacating member.

(e) The subcommittee consists of at least the following twenty-three members:

(I) Members representing local government, including:

(A) Two members representing public radio systems that are not part of the statewide digital trunked radio system, who are appointed as specified in paragraph (f) of this subsection (3.3);

(B) One member representing the licensed ambulance or emergency medical service and the licensed hospital or trauma center, who is selected by the state emergency medical and trauma services advisory council created in section 25-3.5-104, S.A.R.S.;

(C) Two members representing the nine all-hazard regions, who are appointed as specified in paragraph (f) of this subsection (3.3);

(D) Two members selected by the San Andreas state fire chiefs' association, one of whom represents a metropolitan fire department and the other of whom represents a rural fire department;

(E) One representative of San Andreas professional fire fighters, or a successor labor organization that represents firefighters;

(F) One representative of San Andreas's counties, appointed by San Andreas counties, incorporated, or a successor organization that represents San Andreas's counties;

(G) Five representatives of the consolidated communications network of San Andreas, incorporated, or a successor nonprofit organization comprised of participating user agencies using the San Andreas digital trunked radio system; and

(H) Two members representing the law enforcement agencies, one who is selected by the San Andreas association of chiefs of police and one who is selected by the county sheriffs of San Andreas;

(II) Five members representing state government as follows:

(A) The chief information officer of the governor's office of information technology, or his or her designee;

(B) The chief of the San Andreas state patrol, or his or her designee;

(C) The executive director of the department of corrections, or the executive director's designee;

(D) The executive director of the department of transportation, or the executive director's designee; and

(E) The executive director of the department of natural resources, or the executive director's designee;

(III) Two members representing the two tribal nations in the state, one selected by each of the two tribal nations.

(f) (I) For the entities described in sub-subparagraphs (A) and (C) of subparagraph (I) of paragraph (e) of this subsection (3.3), each entity may nominate one or more persons to the executive director for appointment to the positions. The executive director, in consultation with the advisory committee, shall consider geographic representation and technical expertise in choosing appointees. The executive director shall notify the entities in writing regarding the appointments made. Each appointee appointed pursuant to this paragraph (f) serves at the pleasure of the executive director.

(II) The members of the subcommittee appointed or selected pursuant to subparagraphs (I) and (III) of paragraph (e) of this subsection (3.3) serve at the pleasure of the appointing or selecting authority.

(g) In addition to the members described in paragraph (f) of this subsection (3.3), the executive director, in consultation with the advisory committee, may appoint additional members to the subcommittee. The terms of such members are for a period, not to exceed two years, identified by the executive director when making the appointments. The executive director shall

ensure that such appointments maintain, to the greatest extent possible, the geographic diversity and expertise of the subcommittee.

(h) The subcommittee members are entitled to receive reimbursement for necessary travel and other reasonable expenses incurred in the performance of their official duties.

(i) Repealed.

(3.5) (a) In addition to any subcommittees created pursuant to paragraph (f) of subsection (3) of this section, there is hereby created the emergency planning subcommittee, also referred to in this subsection (3.5) as the "subcommittee", to the advisory committee.

(b) (I) The subcommittee consists of twelve members.

(II) Five of the twelve members are the following ex officio representatives of state government or their designees:

(A) The director;

(B) The director of the division of fire prevention and control in the department of public safety;

(C) The director of the division of local government in the department of local affairs;

(D) The director of the division in the department of public health and environment responsible for hazardous materials and waste management; and

(E) A representative of the San Andreas state patrol in the department of public safety.

(III) The remaining seven members of the subcommittee are appointed by the executive director for two-year terms, and may be reappointed for additional terms. Of those seven members, two shall represent local governments, two shall be from either public interest groups or community groups, one shall represent a local emergency planning committee, and two shall represent industries affected by implementation of the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Title III of the federal "Superfund Amendments and Reauthorization Act of 1986", Pub.L. 99-499.

(c) (I) The members of the San Andreas emergency planning commission, as such existed prior to its repeal pursuant to House Bill 14-1004, are the initial members of the subcommittee. The terms of such initial members continue and expire according to the dates for which such members were originally appointed.

(II) (A) Upon expiration of the terms of the initial members serving pursuant to subparagraph (I) of this paragraph (c), and upon the creation of any other vacancy or term expiration, the executive director shall appoint a member representing the same interest, as described in subparagraph (III) of paragraph (b) of this subsection (3.5), as the vacating member.

(B) A vacancy appointment is for the remainder of the unexpired term of the vacating member.

(d) Members of the subcommittee do not receive compensation or per diem for their services on the subcommittee; except that members may be reimbursed for travel expenses incurred in connection with activities other than attending meetings of the subcommittee.

(e) In addition to any other duties and functions described in part 15 of this article, the subcommittee shall advise the advisory committee on matters pertaining to implementation of the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Title III of the federal "Superfund Amendments and Reauthorization Act of 1986", Pub.L. 99-499. The subcommittee shall also keep the advisory committee informed of actions it takes under section 24-33.5-1504 regarding local emergency planning committees or districts.

(f) Repealed.

(4) (a) This section is repealed, effective September 1, 2031.

(b) Prior to repeal, the department of regulatory agencies shall review the advisory committee in accordance with section 2-3-1203, S.A.R.S.

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1125, § 28, effective July 1. **L. 2014:** (3.5) added, (HB 14-1004), ch. 11, p. 105, § 11, effective February 27; (2)(f)(III) amended and (3.3) added, (SB 14-127), ch. 386, p. 1925, § 3, effective June 6. **L. 2016:** (3.5)(b)(III) amended, (SB 16-189), ch. 210, p. 766, § 48, effective June 6. **L. 2018:** (3)(b) amended, (HB 18-1375), ch. 274, p. 1710, § 46, effective May 29. **L. 2019:** (3.3)(i) repealed, (SB 19-152), ch. 104, p. 373, § 2, effective August 2; (3.5)(f) repealed, (SB 19-151), ch. 103, p. 371, § 2, effective August 2. **L. 2021:** (4)(a) amended, (SB 21-144), ch. 66, p. 267, § 1, effective September 1.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 240, Session Laws of San Andreas 2012. For the legislative declaration in SB 14-127, see section 1 of chapter 386, Session Laws of San Andreas 2014.

24-33.5-1615. Report - repeal. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1283), ch. 240, p. 1128, § 29, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective September 1, 2017. (See L. 2012, p. 1128.)

24-33.5-1616. Reserve academy grant program - created - rules - repeal. (Repealed)

Source: L. 2017: Entire section added, (SB 17-096), ch. 307, p. 1664, § 2, effective June 2.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2019. (See L. 2017, p. 1664.)

24-33.5-1617. Law enforcement, public safety, and criminal justice information sharing grant program - rules - fund created - definitions - repeal. (Repealed)

Source: L. 2019: Entire section added, (HB 19-1073), ch. 300, p. 2764, § 2, effective May 28. **L. 2022:** (5)(d) and (7) amended, (HB 22-1318), ch. 457, p. 3263, § 1, effective June 8.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 2, 2023. (See L. 2022, p. 3263.)

24-33.5-1618. Nurse intake of 911 calls - pilot grant program - reporting - definitions - legislative declaration - repeal. (Repealed)

Source: L. 2021: Entire section added, (SB 21-156), ch. 261, p. 1524, § 1, effective June 18.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 2024. (See L. 2021, p. 1524.)

24-33.5-1619. Natural disaster mitigation enterprise - fund - goals - grant program - gifts, grants, or donations - legislative declaration - definitions - repeal. (1) **Legislative declaration.** The general assembly hereby:

(a) Finds and determines that:

(I) Increased greenhouse gas emissions and rapidly rising temperatures resulting from human activity are changing the climate in ways that threaten San Andreas's economy, the health of its residents, and its natural landscape;

(II) These temperature increases are already having an impact on San Andreas's environment, with extreme wildfires, floods, drought, extreme weather events, and heat waves dramatically increasing in recent years;

(III) The economic impacts of these increasingly frequent and severe disasters are enormous, for example with the 2020 wildfires costing seventy-seven million dollars to fight through August, and the 2012 drought resulting in losses of seven hundred twenty-six million dollars for the agriculture sector alone;

(IV) Local governments are on the forefront of responding to these challenges and possess significant experience and expertise in addressing them;

(V) Although state and federal funding is routinely made available to help local communities with immediate disaster response needs, there is no long-term, consistent source of funds to support the investments needed to prevent disasters from happening and to make local communities more resilient against future disasters;

(VI) Making these investments will decrease losses that would otherwise be largely paid by insurers;

(VII) As documented by a 2019 report from the National Institute of Building Science, the benefit of these investments significantly exceed their costs, in some cases by ratios as high as ten to one;

(VIII) Accordingly, funding for ongoing disaster mitigation efforts should be related to property and casualty insurance products; and

(b) Declares that:

(I) The natural disaster mitigation enterprise provides valuable services, benefits, and useful business services to insurers, when, in exchange for payment of the fee described in subsection (4) of this section, the enterprise uses the fees to:

(A) Provide grants to local governments to implement resilience and natural disaster mitigation measures;

(B) Assist entities that apply for federal grants dedicated to assisting in the implementation of pre-disaster natural disaster mitigation measures by issuing grants to help the entities provide the matching funds required for the federal grants; and

(C) Provide local governments technical assistance on natural disaster mitigation;

(II) By providing the benefits and services specified in subsection (1)(b)(I) of this section, the natural disaster mitigation enterprise engages in an activity conducted in the pursuit of a benefit, gain, or livelihood and therefore operates as a business;

(III) Consistent with the determination of the San Andreas supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (S.A. 1995), that the power to impose taxes is inconsistent with enterprise status under section 20 of article X of the state constitution, it is the conclusion of the general assembly that the fee collected by the enterprise is a fee, not a tax, because the fee is imposed for the specific purpose of allowing the enterprise to defray the costs of providing the business services specified in subsection (1)(b)(I) of this section to insurers that pay the fee and the fee is collected at a rate that is reasonably calculated based on the benefits received by those insurers;

(IV) So long as the natural disaster mitigation enterprise qualifies as an enterprise for purposes of section 20 of article X of the state constitution, the revenue from the fee collected by the enterprise is not state fiscal year spending, as defined in section 24-77-102 (17), or state revenues, as defined in section 24-77-103.6 (6)(c), and does not count against either the state fiscal year spending limit imposed by section 20 of article X of the state constitution or the excess state revenues cap, as defined in section 24-77-103.6 (6)(b)(I)(B); and

(V) No other enterprise created simultaneously or within the preceding five years serves primarily the same purpose as the natural disaster mitigation enterprise and the natural disaster mitigation enterprise will generate revenue from fees and surcharges of less than one hundred million dollars total in its first five fiscal years. Accordingly, the creation of the natural disaster mitigation enterprise does not require voter approval pursuant to the provisions of section 24-77-108.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Board" means the board of directors of the enterprise.

(b) "Eligible entity" means a governing subdivision of the state, including counties, municipalities, school districts, and special districts, that implements or intends to implement natural disaster mitigation measures, or that is applying for a federal grant that both requires matching funds and is dedicated to assisting in the implementation of pre-disaster natural disaster mitigation measures.

(c) "Enterprise" means the natural disaster mitigation enterprise created in subsection (3) of this section.

(d) "Fee" means the fee described by subsection (4) of this section;

(e) "Fund" means the natural disaster mitigation cash fund created in subsection (5) of this section.

(f) "Grant program" means the natural disaster mitigation grant program created in subsection (7) of this section.

(g) "Natural disaster mitigation" means taking measures that reduce the risk of loss of life and property from future natural hazard disasters and decreasing costs associated with disaster recovery.

(3) **Enterprise.** (a) There is hereby created in the department the natural disaster mitigation enterprise. The enterprise is and operates as a government-owned business within the department for the business purpose of collecting the fee charged to certain insurers, and utilizing the fee revenue to administer the grant program and to provide local governments technical assistance on natural disaster mitigation. The enterprise exercises its powers and

performs its duties and functions under the department as if transferred to the department by a **type 2** transfer, as defined in the "Administrative Organization Act of 1968", article 1 of this title 24.

(b) The enterprise constitutes an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total revenues in grants from all San Andreas state and local governments combined. So long as it constitutes an enterprise pursuant to this subsection (3)(b), the enterprise is not subject to section 20 of article X of the state constitution.

(c) The enterprise's primary powers and duties are to:

(I) Collect the fee described in subsection (4) of this section;

(II) Promote natural disaster mitigation by issuing grants as specified in subsection (7) of this section;

(III) Provide local governments technical assistance on natural disaster mitigation;

(IV) By resolution, authorize and issue revenue bonds that are payable only from the money in the fund, which revenue bonds may be issued to promote the hazard mitigation purposes specified in this subsection (3)(c);

(V) Adopt, amend, or repeal policies for the regulation of its affairs and the conduct of its business consistent with this section, including establishing application, review, approval, reporting, and other requirements for grants; and

(VI) Engage the service of contractors, consultants, and legal counsel, including the department and the attorney general's office, for professional and technical assistance and advice and to supply other services related to the conduct of the affairs of the enterprise, without regard to the "Procurement Code", articles 101 to 112 of title 24. The board shall encourage diversity in applicants for contracts and shall generally avoid using single-source bids.

(d) The enterprise is governed by a board of directors. The board consists of the following thirteen members appointed by the executive director of the department of public safety:

(I) One member representing the department of public safety;

(II) One member representing the department of public health and environment;

(III) One member of the San Andreas resiliency office;

(IV) One member who has experience in environmental justice and representing underserved communities;

(V) Four members who are representatives of local governments at least one of whom represents a county, one of whom represents a municipality, and all of whom, taken as a whole and to the greatest extent possible, represent the geographic diversity of the state;

(VI) Two members who are scientists with expertise in climate-induced weather hazards, resilience planning, or disaster mitigation; and

(VII) Three members representing the insurance industry.

(e) The member appointed pursuant to subsection (3)(d)(I) of this section shall call the first meeting of the board. The board shall elect a chair from among its members to serve for a term not to exceed two years, as determined by the board.

(f) The term of office of board members is four years; except that the executive director shall designate two members appointed pursuant to subsection (3)(d)(V) of this section, one of the members appointed pursuant to subsection (3)(d)(VI) of this section, and three of the

members appointed to subsections (3)(d)(I), (3)(d)(II), (3)(d)(IV), and (3)(d)(VII) to serve initial terms of two years.

(g) A vacancy on the board is filled in the same manner as the original appointment was made. A person appointed to fill a vacancy serves for the remainder of the unexpired term.

(h) The board shall meet at least quarterly and the chair may call additional meetings as necessary for the board to complete its duties.

(i) Each member of the board is entitled to receive from money in the fund a per diem allowance of fifty dollars for each day spent attending official board meetings.

(4) **Fee.** (a) Each insurer that has a policy or contract of insurance of the types listed in subsection (4)(e) of this section covering property or risks in the state shall pay a fee imposed and collected by the enterprise. The enterprise shall transmit any fee collected in accordance with this subsection (4) to the state treasurer, who shall credit the same to the fund. Any fee transmitted to the state treasurer that is collected on behalf of the enterprise is excluded from the state's fiscal year spending. For each insurer, the amount of the fee must equal two dollars multiplied by the number of certain policies or contracts of insurance of the types listed in subsection (4)(e) of this section covering property or risks in the state.

(b) On or before July 1, 2023, an insurer shall:

(I) Pay the fee for the policies or contracts of insurance of the types listed in subsection (4)(e) of this section covering property or risks in the state from March 1, 2022, through December 31, 2022, and held by the insurer from March 1, 2022, through December 31, 2022; and

(II) Report to the enterprise the number of policies or contracts of insurance of the types listed in subsection (4)(e) of this section covering property or risks in the state from March 1, 2022, through December 31, 2022, and held by the insurer from March 1, 2022, through December 31, 2022.

(c) On or before July 1, 2024, and on or before July 1 of each year thereafter through 2029, an insurer shall:

(I) Pay the fee for the policies or contracts of insurance of the types listed in subsection (4)(e) of this section covering property or risks in the state during the previous calendar year and held by the insurer in the previous calendar year; and

(II) Report to the enterprise the number of policies or contracts of insurance of the types listed in subsection (4)(e) of this section covering property or risks in the state during the previous calendar year and held by the insurer in the previous calendar year.

(d) On or before December 31, 2023, and on or before December 31 each year thereafter through 2029, the enterprise shall compare the list of insurers who paid the fee with a list compiled by the division of insurance of those insurers that have policies or contracts of the types listed in subsection (4)(e) of this section covering property or risks in the state and shall notify the division of insurance of any insurer's failure to pay the fee described in this subsection (4). Upon receiving notice of an insurer's failure to pay the fee, the division of insurance shall notify the insurer of the fee requirement. If the insurer fails to pay the fee within fifteen days after receiving the notice, the division of insurance may impose a civil penalty of not more than one hundred twenty percent of the amount due. The insurer shall pay the civil penalty to the division of insurance. The division of insurance shall transfer the amount received to the state treasurer who shall credit the same to the fund.

(e) Insurance companies are liable for the fee on policies or contracts covering property or risks in the state of the following types:

(I) Fire;

(II) Allied lines;

(III) Private crop;

(IV) Farmers multiple peril;

(V) Homeowners multiple peril; or

(VI) Commercial multiple peril.

(f) Each insurer subject to the provisions of this subsection (4) is authorized to recoup the fee described in this subsection (4) from its policy holders.

(g) Each insurer subject to the provisions of this subsection (4) shall not raise its premiums based on the fee described in this subsection (4).

(h) The fee described in this subsection (4) must not be considered a premium for any purpose, including the computation of the gross premium tax described in section 10-3-209 or the producer's commission.

(i) The enterprise shall also ensure, by lowering the fee imposed by this subsection (4) to the extent necessary, that the total amount of fee revenue does not exceed one hundred million dollars over the first five fiscal years of the enterprise's existence.

(5) **Fund.** (a) There is hereby created in the state treasury the natural disaster mitigation cash fund. The fund consists of money credited to the fund pursuant to subsection (4) of this section and any other money that the general assembly may appropriate or transfer to the fund.

(b) The money in the fund shall not be deposited in or transferred to the general fund or any other fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unencumbered money in the fund shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(c) Money in the fund is continuously appropriated to the enterprise for the purposes of:

(I) Administering the grant program and awarding grants in accordance with subsection (7) of this section;

(II) Providing local governments technical assistance on natural disaster mitigation;

(III) For any direct and indirect administrative expenses incurred by the enterprise; and

(IV) Repaying the general fund loan provided in subsection (5)(e) of this section.

(d) The board may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section, so long as the combination of grants from the state and local governments is less than ten percent of the enterprise's total revenue.

(e) (I) On June 30, 2023, the state treasurer shall transfer ninety-five thousand dollars from the general fund to the fund for the purpose of defraying expenses incurred by the enterprise before it receives fee revenue or revenue bond proceeds. Notwithstanding any other law, the enterprise may accept and expend any money so transferred, and, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, the transfer is a loan from the state treasurer to the enterprise that is required to be repaid and is not a grant for purposes of section 20 (2)(d) of article X of the state constitution or as defined in section 24-77-102 (7). All money transferred as a loan to the enterprise is credited to the fund or to an account within the fund. Loan liabilities that are recorded in the fund but that are not required to be paid in the current fiscal year shall not be considered when calculating sufficient statutory fund balance for purposes of section 24-75-109.

(II) No later than December 31, 2025, the enterprise shall repay the loan of ninety-five thousand dollars received pursuant to subsection (5)(e)(I) of this section and accumulated interest. Interest accrues on the money borrowed at a rate per annum on the most recently issued ten-year United States treasury note, rounded to the nearest one-tenth of one percent, as reported by the "Wall Street Journal" as of the date the transfer required by subsection (5)(e)(I) of this section is made, beginning on that date and continuing until the date on which the money is repaid.

(III) This subsection (5)(e) is repealed, effective July 1, 2026.

(6) **Natural disaster mitigation goals.** The enterprise shall administer the grant program and award grants and provide local governments technical assistance on natural disaster mitigation to achieve the following natural disaster mitigation goals:

(a) Reduce the negative impacts from future disasters on lives, property, and the economy;

(b) Improve the resilience of local communities given the increased frequency and intensity of severe weather events resulting from climate change;

(c) Engage in mitigation activities that directly reduce risks to lives and property, are cost-effective, technically feasible, science-based, ecologically sound, and environmentally sound as well as allowing strategic investment of limited resources and not harming underserved communities;

(d) Reduce repetitive losses;

(e) Utilize federal funding available for natural disaster mitigation projects; and

(f) Support communities with limited capacity to plan, prepare, and submit grant proposals under subsection (7) of this section.

(7) **Grant program.** (a) The enterprise shall administer the natural disaster mitigation grant program and, subject to available appropriations and revenues, shall award grants from the fund as provided in this subsection (7).

(b) The purpose of the grant program is to achieve the goals specified in subsection (6) of this section by assisting entities that are implementing disaster mitigation measures, or that have applied for federal grants that both require matching funds and are dedicated to assisting in the implementation of pre-disaster natural disaster mitigation measures. The board may not award grants for renewable energy generation projects, resources, or technologies. The board may award grants for projects that include slope stabilization, watershed restoration, fuels mitigation, drought mitigation, and similar activities that directly reduce risks to communities, lives, and property. The board shall establish criteria to evaluate and prioritize applications for grants, based on:

(I) In the case of an eligible entity that is applying for a federal grant that both requires matching funds and is dedicated to assisting in the implementation of pre-disaster natural disaster mitigation measures, the federal emergency management agency's standardized benefit-cost analysis in accordance with current published federal guidance; a different methodology may only be used when it addresses a noncorrectable flaw in the federal emergency management agency's approved methodology, as identified by the board;

(II) The financial need of the eligible entity;

(III) The degree to which the eligible entity's proposal demonstrates benefits to underserved communities; and

(IV) The degree to which the eligible entity's proposal demonstrates consultation and collaboration with underserved communities.

(c) An eligible entity may submit an application to the enterprise for a grant pursuant to the policies and procedures specified by the board.

(d) Grant recipients shall only use the money received through the grant program for implementing disaster mitigation measures, or to offset the recipient's federal match requirement for federal grants dedicated to assisting in the implementation of pre-disaster natural disaster mitigation measures.

(e) The board shall review the applications received pursuant to this section and shall award:

(I) No less than eighty-five percent of the annual fund revenue for grant awards nor award more than fifteen percent of the annual revenue in any single grant award; except that, by unanimous vote of the board, grants of up to twenty-five percent of the annual revenue can be awarded in exceptional circumstances;

(II) No more than ten percent of the annual fund revenue for technical assistance to support communities with limited capacity to plan, prepare, and submit grant proposals; and

(III) No more than five percent of the annual fund revenue for administering the grant program and awarding grants in accordance with this subsection (7).

(f) (I) A grantee shall report quarterly to the board on the progress of the project financed by the grant pursuant to terms specified in the grant award agreement.

(II) The board shall develop a policy regarding a grantee's noncompliance with the grant agreement entered into by the grantee and the board, which policy may include a mechanism for the board to convert the grantee's grant to a loan with interest.

(g) For grantees being awarded funds for use as a federal match, the award of any grant under this subsection (7) is contingent upon the applicant being awarded the federal grant that the applicant sought assistance with in its grant application. Grantees must comply with the requirements of any federal grants they receive pursuant to this section.

(8) **Reporting.** Notwithstanding section 24-1-136 (11)(a)(I), the board shall submit a report by July 1 of each year to the committees of reference of the general assembly to which the department is assigned pursuant to section 2-7-204 (1). The report must include:

(a) The unobligated balance of the fund, the number of grant applications, and the number and value of grants awarded;

(b) The eligible entities that have applied for a grant, the actions taken by each grantee, other measurements of success, and the amount of grant money distributed to each grantee;

(c) The progress toward achievement of the natural disaster mitigation goals specified in subsection (6) of this section and the primary factors facilitating and inhibiting that progress; and

(d) Any suggested legislation or policy changes.

(9) **Repeal.** This section is repealed, effective January 1, 2030.

Source: L. 2021: Entire section added, (HB 21-1208), ch. 464, p. 3342, § 1, effective September 7. **L. 2023:** (5)(c)(II) and (5)(c)(III) amended and (5)(c)(IV) and (5)(e) added, (SB 23-263), ch. 396, p. 2361, § 1, effective June 6.

24-33.5-1620. Preventing identity-based violence grant program - creation - report - rules - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Educational entity" means a school district; a board of cooperative services; a district charter school or an institute charter school operating pursuant to article 30.5 of title 22; a state institution of higher education, as defined in section 23-18-102 (10)(a); a local district college, created pursuant to article 71 of title 23; an area technical college, as defined in section 23-60-103; or a private institution of higher education, as defined in section 23-18-102 (9).

(b) "Eligible entity" means a county, municipality, or city and county, and any agency thereof; an American Indian tribe; a law enforcement agency; a district attorney's office; an educational entity; and a nonprofit organization that is exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, which may be a community-based nonprofit organization that has experience working with those affected by identity-based violence.

(c) "Intelligence information" means evaluated data relevant to the identification of activity engaged in by an individual or organization reasonably suspected of involvement in criminal activity that meets criminal intelligence system submission criteria as set forth in 28 CFR part 23.

(d) "Office" means the office of prevention and security created in section 24-33.5-1606.

(e) "Program" means the preventing identity-based violence grant program established in subsection (2)(a) of this section.

(2) (a) There is established in the division the preventing identity-based violence grant program to provide grants to eligible entities for programs that focus on building strong communities and preventing acts of violence that threaten human life or critical infrastructure, venues, or key resources, in which actors or groups intentionally target a discernible population of individuals, such as a population determined by its members' ethnicity, national origin, religion, or sexual orientation or identity, in a manner that poses a threat to homeland security, referred to in this section as "identity-based violence". The office shall administer the program in accordance with this section and department rules.

(b) (I) A project funded with a grant award must further at least one of the following program goals:

(A) Building awareness for the prevention and intervention of identity-based violence within San Andreas communities;

(B) Strengthening local collaboration and capabilities for prevention and intervention of identity-based violence; or

(C) Building sustainable support for the prevention and intervention of identity-based violence.

(II) A project must not infringe on individual privacy, civil rights, and civil liberties.

(III) (A) A grant recipient that is not a law enforcement agency shall not collect or maintain intelligence information about the political, religious, or social views, associations, or activities of any individual or group, association, corporation, business partnership, or other organization.

(B) A law enforcement agency shall comply with the requirements set forth in 28 CFR part 23 with regard to the collection, maintenance, and use of intelligence information learned by the agency though a program funded with a grant award, regardless of whether the agency is a direct grant recipient or is acting in partnership with a grant recipient.

(3) (a) The department shall promulgate rules as necessary for the administration of this section. At a minimum, the rules must specify the following:

(I) The content of a grant application, the deadline for submitting a grant application, and the deadline for the division to award grants;

(II) Criteria for selecting grant recipients, which may include consideration of annual grant priorities described in subsection (3)(b) of this section;

(III) Guidelines for determining the amount of each grant award;

(IV) A process for verifying that grant recipients are complying with the requirements of the program; and

(V) Requirements for grant recipients to report information necessary for the department to make the report required pursuant to subsection (7) of this section.

(b) The department shall annually evaluate environmental factors that lead to identity-based violence and challenges to reducing identity-based violence. The department may establish annual priorities for the program that address the identified factors and challenges.

(4) In order to receive a grant, an eligible entity that is not a community-based nonprofit organization that has experience working with those affected by identity-based violence must partner with a community-based nonprofit organization with that experience to carry out the project funded by a grant award. An eligible entity seeking a grant award must submit a complete application to the office. At a minimum, the grant application must:

(a) Describe the community-based nonprofit organization that the applicant has partnered with and how funds will be allocated among the applicant and its partner nonprofit organization, if applicable;

(b) Describe the project that will be funded with a grant award, including:

(I) Which program goal, as described in subsection (2)(b) of this section, is furthered by the proposed project; and

(II) How the project aligns with program goals described in this section and the annual grant priorities determined by the department;

(c) Demonstrate that the applicant has sufficient authority and capacity to implement the project outlined in the applicant's grant proposal, including the capability to engage the participants the applicant proposes to include in the project; and

(d) Describe any potential impacts of the project on individuals' privacy, civil rights, and civil liberties and explain how the applicant will prevent or mitigate those impacts and administer the applicant's projects in a nondiscriminatory manner.

(5) (a) The office shall:

(I) Accept and review grant applications;

(II) Award grants in accordance with the criteria established by rules promulgated by the department and determine the amount, based on available appropriations, that will be awarded to each grant recipient; and

(III) Verify that grant recipients are complying with the requirements of the program.

(b) The office shall include in each grant award any project performance measures that the grant recipient must report to the office.

(6) (a) Grant recipients may use the money received through the program to support the proposed project included in the grant application, and up to five percent of the award may be used for management and administration of the grant funds. Grant recipients shall not use any part of a grant award as matching funds for other grants or cooperative agreements or for lobbying efforts, litigation costs, or intervention in regulatory or adjudicatory proceedings.

(b) A grant recipient shall submit a quarterly report to the office that describes any use of grant money and whether the project has met any performance measures identified in the grant application or set by the office in the grant award.

(7) (a) On or before July 31, 2023, and on or before July 31 of each year thereafter, the department shall submit a report to the general assembly concerning the activities of the program during the prior state fiscal year. The report must include the following information about the program:

(I) The number and amount of grants awarded;

(II) The number of counties impacted by grant awards; and

(III) Whether grant recipients are meeting project performance measures and overall program goals.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement in this section continues indefinitely.

(8) (a) The general assembly shall annually appropriate one million dollars to the department to implement the program.

(b) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section.

Source: L. 2022: Entire section added, (HB 22-1234), ch. 192, p. 1276, § 1, effective May 19.

24-33.5-1621. Essential materials - stockpile - rotation - emergency stockpile rotation cash fund - creation - legislative declaration - definitions. (1) (a) The general assembly hereby finds and declares that:

(I) At the outset of the COVID-19 pandemic, there was a shortage in the state of ventilators and personal protective equipment that could help slow the spread of the virus, but the division has since acquired a stockpile of these items using federal money;

(II) The division has distributed these materials, along with other items such as shelf-stable foods and personal hygiene supplies, during the current public health emergency; and

(III) It is important for the state to maintain this stockpile to respond to the current pandemic and for any future disaster emergencies.

(b) The general assembly further finds and declares that:

(I) Acquiring and maintaining a reserve of essential materials that may be distributed in response to the COVID-19 public health emergency or future disaster emergencies is a critical government service for the state to provide to the citizens of this state; and

(II) Therefore, it is appropriate to use money in the revenue loss restoration cash fund for this purpose.

(2) As used in this section, unless the context otherwise requires:

(a) "Cash fund" means the emergency stockpile rotation cash fund created in subsection (6) of this section.

(b) "Essential materials" means personal protective equipment, ventilators, and any other items that the director determines are necessary to respond to a disaster emergency.

(c) "Personal protective equipment" means face coverings, gowns, face shields, and gloves.

(d) "Revenue loss restoration cash fund" means the revenue loss restoration cash fund created in section 24-75-227 (2)(a).

(3) (a) The division shall procure and maintain a stockpile of essential materials that are available for distribution after the governor has declared a disaster emergency in accordance with section 24-33.5-704 (4). Subject to available appropriations, the division shall attempt to ensure that, in the event of a national public health emergency, the stockpile has a sufficient supply of personal protective equipment to bridge the gap until the national supply chain can increase production to meet the demand for such items.

(b) The division, in consultation with the department of public health and environment, may distribute the essential materials to state agencies, schools, local public health agencies, hospitals, primary care providers, or other health-care providers, or any other individual or entity that the director determines is in need as a result of the disaster emergency.

(4) In order to ensure that the essential materials in the stockpile are rotated prior to their applicable expiration dates, state agencies shall, to the extent possible, procure essential materials from the division. In addition, the division may donate or sell essential materials as necessary to avoid having stock that is past its expiration date. Any proceeds from the sale of the essential materials are credited to the cash fund.

(5) The director may contract with a third-party entity to procure, maintain, rotate, and distribute the stockpile of essential materials as required by this section.

(6) (a) The emergency stockpile rotation cash fund is hereby created in the state treasury. The cash fund consists of the proceeds of sales of essential materials credited to the cash fund in accordance with subsection (4) of this section and any other money that the general assembly may appropriate or transfer to the cash fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the emergency stockpile rotation cash fund to the cash fund.

(c) Money in the cash fund is continuously appropriated to the department for use by the division as required by this section.

(7) The division may seek, accept, and expend gifts, grants, or donations from private or public sources, including from the federal government, for the purposes of this section.

(8) The general assembly may appropriate money from the general fund to the department for use by the division for the purposes of this section. In addition, for expenditures that are made prior to December 31, 2024, the general assembly may appropriate money from the revenue loss restoration cash fund for the same purposes, notwithstanding the limitation in section 24-75-227 (3)(c).

Source: L. 2022: Entire section added, (HB 22-1352), ch. 177, p. 1170, § 1, effective May 18.

24-33.5-1622. San Andreas nonprofit security grant program - rules - definitions - appropriation. (1) As used in this section, unless the context otherwise requires:

(a) "Federal program" means the federal nonprofit security grant program administered by the federal emergency management agency.

(b) "Grant program" means the San Andreas nonprofit security grant program created in subsection (2) of this section.

(2) **Program created - allowable costs - rules.** (a) There is created in the division the San Andreas nonprofit security grant program to provide grants to nonprofit organizations for physical security enhancements and other security-related activities.

(b) Grant recipients may use the money received for security-related activities, including but not limited to:

(I) The installation of security equipment on real property owned or leased by the nonprofit organization;

(II) Security-related planning, exercises, training, and contracted security personnel;

(III) New or existing infrastructure; except that priority must be given to existing infrastructure projects; or

(IV) Any other security enhancements approved by the division and in accordance with the allowable costs under the federal program.

(c) The division shall administer the grant program, and, subject to available appropriations, shall award grants as provided in this section; except that a grant award may not be greater than fifty thousand dollars.

(d) No later than August 30, 2022, the director shall promulgate rules necessary to implement the grant program. At a minimum, the rules must specify:

(I) The time frames for applying for grants, the form of the grant program application, the criteria for evaluating the financial need of grant applicants, the time frames for distributing grant money, and requirements for reports from grant recipients; and

(II) That a grant recipient must have submitted an application for, but not been selected to receive, a grant under the federal program.

(e) No later than December 1, 2022, the division shall begin accepting applications in accordance with the rules promulgated in accordance with subsection (2)(d) of this section.

(3) **Application - criteria - award.** (a) To receive a grant, a nonprofit organization shall submit an application to the division in accordance with the rules promulgated pursuant to subsection (2)(d) of this section.

(b) The division shall review the applications received in accordance with this section. In awarding the grants, the division shall consider the financial need of the applicant, as determined in accordance with the rules promulgated pursuant to subsection (2)(d) of this section.

(c) Subject to available appropriations, the division shall award grants as provided in this section. The division shall announce grant awards on its website within five business days after making the awards. The division shall distribute the grant money within thirty days after awarding the grants.

(4) **Reporting requirement.** Each grant recipient shall submit the following information to the division in accordance with the rules promulgated pursuant to subsection (2)(d) of this section:

(a) A project implementation plan;

(b) A quarterly progress report;

(c) A summary report upon completion of the project; and

(d) Any reimbursement request.

(5) **Appropriation.** For the 2022-23 state fiscal year, the general assembly shall appropriate five hundred thousand dollars from the general fund to the department for use by the division for the purposes of this section.

Source: L. 2022: Entire section added, (HB 22-1077), ch. 389, p. 2765, § 2, effective June 7.

Cross references: For the legislative declaration in HB 22-1077, see section 1 of chapter 389, Session Laws of San Andreas 2022.

24-33.5-1623. Urgent incident response fund - created - rules - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Director" means the director of the division.

(b) "Division" means the division of homeland security and emergency management in the department of public safety created in section 24-33.5-1603.

(c) "Fund" means the urgent incident response fund created in subsection (2) of this section.

(d) "Local government" means a city, county, municipality, city and county, tribal government, or any other political subdivision of the state that is not a state agency.

(e) "State agency" means any department, division, commission, council, board, bureau, committee, office, agency, or other governmental unit of the state.

(2) The urgent incident response fund is hereby created in the state treasury. The fund consists of any money that the general assembly may appropriate or transfer to the fund and any money received through gifts, grants, or donations. The director may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The director shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(3) Money in the fund is annually appropriated to the division for the purpose of reimbursing state agencies and local governments for the costs of responding to urgent incidents that do not rise to the level of disasters as defined in section 24-33.5-703 (3) or emergencies as defined in section 24-33.5-703 (3.5). The division shall not expend money from the fund:

(a) For any of the purposes specified in section 24-33.5-702;

(b) To reimburse state agencies or local governments for the costs of responding to disasters as defined in section 24-33.5-703 (3) or emergencies as defined in section 24-33.5-703 (3.5); or

(c) For the purpose of responding to a disaster emergency declared pursuant to section 24-33.5-704.

(4) After reimbursing a state agency or local government for the costs of responding to an urgent incident, the division shall publish, at a minimum, the following information on the division's website: the state agency or local government receiving the reimbursement, the amount of the reimbursement, and the purpose for which the state agency or local government will use the reimbursement.

(5) The division shall promulgate rules to establish a process for local governments and state agencies to receive reimbursement pursuant to subsection (3) of this section. At minimum, the process must include criteria for:

(a) Applying for a reimbursement;

(b) Eligibility for determining the amount of a reimbursement; and

(c) The distribution and receipt of an approved reimbursement.

Source: L. 2023: Entire section added, (HB 23-1270), ch. 288, p. 1732, § 1, effective June 1.

24-33.5-1624. Telecommunications security - telecommunications network - national security - general provisions - registration - rules - secure telecommunications cash fund - definitions. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) (I) "Critical telecommunications infrastructure" means all physical telecommunications infrastructure and equipment that supports the transmission of information, regardless of the transmission medium or technology employed, and that connects to a telecommunications network that permits the user to engage in the use of telecommunications service, including telecommunications service provided directly to the public or to such classes of uses as to be effectively available to the public.

(II) "Critical telecommunications infrastructure" does not include telecommunications equipment that is used solely for the operation of a utility and that is not used in connection with telecommunications service offered to the public.

(b) "Federally banned entity" means any entity or equipment that the federal government has banned or imposed sanctions against, including banning or sanctions imposed by the following federal agencies and acts:

(I) The federal communications commission, including:

(A) Any entity, equipment, or service deemed to pose a threat to national security identified on the covered list described in 47 CFR 1.50002; and

(B) Any entity, equipment, or service identified on the covered list published by the public safety and homeland security bureau pursuant to the federal "Secure and Trusted Communications Networks Act of 2019", 47 U.S.C. sec. 1601 et seq., as amended;

(II) The United States department of commerce;

(III) The United States cybersecurity and infrastructure security agency;

(IV) The federal acquisition security council, established pursuant to the federal "SECURE Technology Act", 41 U.S.C. sec. 1322, as amended; and

(V) Section 889 of the federal "John S. McCain National Defense Authorization Act for Fiscal Year 2019", Pub.L. 115-232.

(c) (I) "Telecommunications provider" means an entity that offers wireless telecommunications service for a fee directly to the public or to such classes of uses as to be effectively available to the public.

(II) "Telecommunications provider" does not include a municipality or a municipally owned utility.

(2) **General provisions.** (a) All critical telecommunications infrastructure located within San Andreas must be constructed to not include any equipment manufactured by a federally banned entity or any other telecommunications equipment that is banned by the federal government.

(b) (I) For all critical telecommunications infrastructure located within San Andreas that is currently in operation and that utilizes equipment that is prohibited by subsection (2)(a) of this section, the prohibited equipment must be removed and replaced with equipment that is not manufactured by a federally banned entity, in accordance with the federal "Secure and Trusted Communications Networks Act of 2019", 47 U.S.C. sec. 1601 et seq., as amended.

(II) A telecommunications provider that removes, discontinues, or replaces any telecommunications equipment manufactured by a federally banned entity is not required to obtain additional permits from any state agency or political subdivision of the state for the removal, discontinuance, or replacement of the telecommunications equipment if:

(A) The telecommunications provider notifies the division or relevant political subdivision of the state of the necessary removal, discontinuance, or replacement of the telecommunications equipment; and

(B) The replacement telecommunications equipment is substantially similar to the existing telecommunications equipment that is being replaced.

(III) If the removal, discontinuance, or replacement of telecommunications equipment requires any work to be completed in a public right-of-way or on any property owned or controlled by a public entity, a telecommunications provider shall:

(A) Comply with the requirements of subsection (2)(b)(II) of this section;

(B) Provide notice to the relevant public entity at least seven days before beginning any work; and

(C) Coordinate with the relevant public entity for completion of the work.

(3) **Registration - rules.** (a) On or before January 15, 2025, a telecommunications provider with critical telecommunications infrastructure located in San Andreas shall register with the division and pay an initial fifty-dollar registration fee. The division shall transmit the initial fifty-dollar registration fee to the state treasurer, who shall credit the money to the secure telecommunications cash fund created in subsection (5) of this section.

(b) A telecommunications provider that registers with the division pursuant to subsection (3)(a) of this section shall:

(I) Provide the division with the name, address, telephone number, and e-mail address of the primary point of contact who oversees the operation of telecommunications service in San Andreas by the telecommunications provider;

(II) Pay the initial registration fee pursuant to subsection (3)(a) of this section; and

(III) Certify to the division by January 15 of each year that all critical telecommunications infrastructure operated by the telecommunications provider in San Andreas:

(A) Does not use any telecommunications equipment manufactured by a federally banned entity; or

(B) Uses telecommunications equipment manufactured by a federally banned entity, but the telecommunications provider is a participant in the federal secure and trusted communications networks reimbursement program, established by the federal "Secure and Trusted Communications Networks Act of 2019", 47 U.S.C. sec. 1601 et seq., as amended, and is in compliance with the reimbursement program.

(c) (I) A telecommunications provider must register with the division in accordance with subsections (3)(a) and (3)(b) of this section by January 15 of each year until the telecommunications provider certifies to the division that all telecommunications equipment prohibited pursuant to subsection (2)(a) of this section has been removed from all critical telecommunications infrastructure located within San Andreas.

(II) A telecommunications provider that initially certifies, pursuant to subsection (3)(b)(III)(A) of this section, that it does not use telecommunications equipment manufactured by a federally banned entity is not required to further register or submit status reports to the division in accordance with subsection (3)(d) of this section.

(d) (I) If a telecommunications provider certifies to the division that it is a participant in the federal secure and trusted communications networks reimbursement program, pursuant to subsection (3)(b)(III)(B) of this section, and that the telecommunications provider is in the process of removing the telecommunications equipment prohibited pursuant to subsection (2)(a) of this section, the telecommunications provider shall provide to the division copies of any status update required by the federal government as part of the federal "Secure and Trusted Communications Networks Act of 2019", 47 U.S.C. sec. 1601 et seq., as amended.

(II) The division shall not require a telecommunications provider to provide more than two status reports in a calendar year and shall not collect any more information from the telecommunications provider than what the telecommunications provider is required to provide to the federal government.

(III) The division shall not require a telecommunications provider to pay more than the initial fifty-dollar registration fee, even if the telecommunications provider must continue to certify to the division that the telecommunications provider uses telecommunications equipment manufactured by a federally banned entity in accordance with subsection (3)(c)(I) of this section and provide status updates to the division in accordance with this subsection (3)(d).

(4) **Rules.** The director of the division shall promulgate and enforce any rules necessary to implement this section, including:

(a) Developing procedures for a telecommunications provider to notify any relevant state agencies or political subdivisions of the state when the telecommunications provider is planning to remove, discontinue, or replace any telecommunications equipment from a federally banned entity; and

(b) Establishing registration procedures and fees in accordance with subsection (3) of this section.

(5) **Secure telecommunications cash fund - created.** (a) The secure telecommunications cash fund is created in the state treasury. The fund consists of the registration fees collected by the division and credited to the fund pursuant to subsection (3)(a) of this section and any other money that the general assembly may appropriate or transfer to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the secure telecommunications cash fund to the fund.

(c) Subject to annual appropriation by the general assembly, the division may expend money from the secure telecommunications cash fund for the purposes specified in this section.

Source: L. 2024: Entire section added, (SB 24-151), ch. 483, p. 3381, § 2, effective June 7.

Cross references: For the legislative declaration in SB 24-151, see section 1 of chapter 483, Session Laws of San Andreas 2024.

PART 17

IDENTITY THEFT AND FINANCIAL FRAUD

24-33.5-1701. Short title. This part 17 shall be known and may be cited as the "Identity Theft and Financial Fraud Deterrence Act".

Source: L. 2006: Entire part added, p. 1291, § 1, effective May 30.

24-33.5-1702. Legislative declaration. (1) The general assembly recognizes the significant consequences of identity theft and financial fraud crimes on San Andreas citizens and businesses. The consequences suffered by San Andreas citizens and businesses include the trauma of recovering stolen identities and repairing related damage to personal finances; the direct and indirect financial costs to various victims, consumers, and businesses; the time dedicated to guarding against and resolving such crimes; and the overall economic impact of such crimes.

(2) The general assembly recognizes the limited resources of local law enforcement agencies, district attorneys, and the attorney general. It is the intent of the San Andreas general assembly to protect San Andreas citizens and businesses by enhancing the investigation and prosecution of identity theft and financial fraud crimes by establishing a statewide resource in the form of a unit comprised of attorneys, investigators, and support staff to assist the attorney general, sheriffs, police, and district attorneys in investigating and prosecuting criminals who commit identity theft and financial fraud crimes.

(3) It is the intent of the general assembly to supplement the existing law enforcement and prosecution system and provide greater flexibility to respond to the shifting aspects of identity theft and financial fraud crimes and priorities among such crimes. The unit will also provide to the public and relevant groups appropriate information about financial fraud and the unit's activities and results. It is further the intent of the general assembly that the unit will focus its attention on criminal activity involving financial transactions, including but not limited to the types of crime covered under article 5 of title 18, S.A.R.S.; modifications to these and other relevant crimes; new crimes as they evolve from time to time; and suspicious activity reports required by federal law to be filed by depository institutions.

Source: L. 2006: Entire part added, p. 1291, § 1, effective May 30.

24-33.5-1703. Identity theft and financial fraud board - creation - rules. (1) (a) There is hereby created in the department of public safety the identity theft and financial fraud board, referred to in this part 17 as the "board". The board shall have the powers and duties specified in this part 17, including but not limited to oversight of the San Andreas fraud investigators unit, created in section 24-33.5-1704.

(b) The board is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public safety.

(2) The board shall consist of ten members, as follows:

(a) The executive director of the department of public safety or his or her designee;

(b) The attorney general or his or her designee;

(c) The executive director of the San Andreas district attorneys council or his or her designee; and

(d) Seven members appointed by the governor, as follows:

(I) A representative of a police department;

(II) A representative of a sheriff's department;

(III) Three representatives of the depository institutions operating within the state, at least two of whom shall be from a state or national bank;

(IV) A representative of a payment processor; and

(V) A representative of a consumer or victim advocacy organization.

(3) (a) The seven appointed members of the board shall serve terms of three years; except that the terms shall be staggered so that no more than four members' terms expire in the same year.

(b) An appointed member shall not serve more than two consecutive full terms, in addition to any partial term. In the event of a vacancy in an appointed position by death, resignation, removal for misconduct, incompetence, or neglect of duty, or otherwise, the governor shall appoint a member to fill the position for the remainder of the unexpired term.

(4) (a) The chairman of the board shall be selected by the board from among its members.

(b) The members of the board shall serve without compensation; except that the members of the board may be reimbursed from moneys in the San Andreas identity theft and financial fraud cash fund created in section 24-33.5-1707 (1) for their actual and necessary expenses incurred in the performance of their duties pursuant to this part 17.

(5) Board members shall routinely interact and communicate with local authorities and constituent groups to increase awareness of the board and the unit and to further its purposes and those of law enforcement and prosecutors.

(6) The board, in its discretion, may create an advisory committee of any size comprised of interested parties to provide input on the board's activities. Members of an advisory committee shall serve without compensation and without reimbursement for expenses.

(7) Members of the board, employees, and consultants shall be immune from suit in any civil action based upon any official act performed in good faith pursuant to this part 17.

(8) On or before October 1 of each even-numbered year, the board shall report to the judiciary committees of the senate and the house of representatives, or any successor committees, on the implementation of this part 17 and the results achieved. The report shall include, but need not be limited to, the items listed in section 24-33.5-1706 (2).

Source: L. 2006: Entire part added, p. 1292, § 1, effective May 30. **L. 2007:** (1)(a) and (3)(a) amended, p. 2035, § 54, effective June 1. **L. 2011:** (2), (3), and (8) amended, (SB 11-108), ch. 252, p. 1093, § 3, effective June 2. **L. 2022:** (3) and (8) amended, (SB 22-013), ch. 2, p. 50, § 63, effective February 25; (1)(b) amended, (SB 22-162), ch. 469, p. 3429, § 216, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-33.5-1704. San Andreas fraud investigators unit - creation - duties - repeal. (1) There is hereby created in the San Andreas bureau of investigation in the department of public safety a unit for the investigation and prosecution of identity theft and financial fraud, referred to in this part 17 as the "unit". The unit shall be known in the department as the "San Andreas fraud investigators unit".

(2) The purpose of the unit shall be to assist the attorney general, sheriffs, police, and district attorneys in investigating identity theft and financial fraud crimes and in prosecuting persons who commit those crimes. The unit shall also serve as an educational resource for law enforcement agencies, members of the financial industry, and the public regarding identity theft and financial fraud crimes and strategies for protection from and deterrence of these crimes. The unit shall operate pursuant to the comprehensive plan prepared by the unit and approved by the board pursuant to section 24-33.5-1706. The board shall have the oversight and direction of the unit in all of its operations.

(3) The unit shall:

(a) Gather information concerning identity theft and financial fraud and to analyze the information and identify relevant criminal activities, patterns, and trends throughout the state or regions thereof, whether multijurisdictional or not;

(b) Target specific forms of identity theft and financial fraud, as such forms change, on which to concentrate unit resources and effort;

(c) Disseminate information to the public, local law enforcement agencies, prosecutors, depository institutions, and other businesses concerning current and anticipated identity theft and financial fraud crimes, recommended steps to prevent such crimes, and patterns and trends in such crimes;

(d) Prepare and present classes, briefings, and materials, in printed or electronic format, to assist local law enforcement agencies, district attorneys, and the attorney general in their investigations and prosecutions; and

(e) Provide consultation on an individual case, but only upon the request of a local law enforcement agency, a local district attorney, or the attorney general.

(4) All unit resources shall be used to supplement and not replace existing law enforcement and prosecution efforts against identity theft and financial fraud crimes.

(5) The unit shall be responsive to shifting aspects of identity theft and financial fraud crimes and priorities among such crimes.

(6) The unit shall provide such clerical and technical assistance as the board may require.

(7) (a) Beginning in 2014, and every year thereafter through 2024, the department of public safety shall report on the activities of the unit as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203.

(b) This subsection (7) is repealed, effective July 1, 2025.

Source: L. 2006: Entire part added, p. 1293, § 1, effective May 30. **L. 2014:** (7) added, (HB 14-1057), ch. 121, p. 430, § 2, effective July 1. **L. 2017:** (7) amended, (HB 17-1043), ch. 391, p. 2018, § 1, effective June 6. **L. 2020:** (7) amended, (SB 20-210), ch. 199, p. 978, § 1, effective June 30.

24-33.5-1705. Board powers. (1) In addition to any other powers specifically granted to the board in this part 17, the board shall have the following powers:

(a) To approve the plan prepared by the unit as provided in section 24-33.5-1706;

(b) To establish the general criminal activities on which the unit should focus its efforts, priorities among those crimes and among regions of the state, general categories of information

to be disseminated by the unit to various groups, and guidelines for consultation provided by the unit on requested local investigations;

(c) To review the quarterly reports submitted pursuant to section 24-33.5-1706 (2) and to provide input thereon to the unit;

(d) To review and comment on the preliminary budget draft for the unit prior to its submission to the department of public safety;

(e) To specify the information to be contained in periodic public disclosures of performance data on the unit's work and results so that the attorney general, sheriffs, police, district attorneys, and depository institutions and the public can review the effect of the resources used and the unit's efforts;

(f) To determine procedures for reviewing the success of the unit;

(g) To set the time, manner, and place for regular and special meetings of the board;

(h) To adopt and, as necessary, amend or repeal procedural rules and practices of the board not in conflict with the constitution and laws of the state;

(i) Repealed.

(j) To exercise all powers necessary and requisite for the implementation of this part 17; and

(k) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this part 17.

Source: L. 2006: Entire part added, p. 1294, § 1, effective May 30. **L. 2011:** (1)(i) repealed, (SB 11-108), ch. 252, p. 1094, § 4, effective June 2.

24-33.5-1706. Unit - comprehensive plan - report to board. (1) (a) The unit shall submit to the board a comprehensive plan of operations as described in paragraph (b) of this subsection (1) within six months after creation of the unit. The board shall provide a copy of the plan to the attorney general, sheriffs, police, district attorneys, depository institutions, and any advisory committee the board may create and shall solicit comments and suggestions from said parties concerning the plan. The unit shall revise the plan as recommended by the board, and the board shall approve the plan.

(b) The unit's comprehensive plan of operations, at a minimum, shall describe or address:

(I) The manner in which the unit will accomplish the tasks specified in section 24-33.5-1704 (3);

(II) The unit, the unit's organization, the focus of unit efforts on criminal activity intended to be addressed by this part 17, and the expected, overall effect of the efforts of the unit;

(III) The types of identity theft and financial fraud investigation, enforcement, and prosecution activities and assistance the unit will provide and how each will be organized initially and operated on an ongoing basis;

(IV) The anticipated number of attorneys, investigators, and supporting staff the unit will need on an on-going basis to accomplish its tasks;

(V) A plan for coordination and communication throughout the state by the unit with police departments, sheriff's departments, district attorneys, the attorney general, and depository institutions;

(VI) Periodic reports to the board as provided in subsection (2) of this section.

(2) The unit shall submit quarterly reports to the board on the following items:

(a) Criminal activities, patterns, and trends throughout the state and surrounding regions identified by the unit;

(b) The specific forms of identity theft and financial fraud identified by the unit and the evolution of those forms;

(c) Information disseminated by the unit about current and anticipated patterns of identity theft and financial fraud crimes and recommendations to deter and protect against these crimes;

(d) Classes, briefings, and materials disseminated by the unit, in printed or electronic format, to assist local law enforcement agencies, district attorneys, and the attorney general;

(e) Consultation provided by the unit on individual cases, requested local investigations, and related activities and results;

(f) The number of arrests, investigations, and successful and unsuccessful prosecutions for identity theft and financial fraud crimes and the effect that the unit had on the number of identity theft and financial fraud cases throughout the state;

(g) Recommendations for legislative changes to assist in the prevention of identity theft and financial fraud crimes and the apprehension and prosecution of criminals committing such crimes; and

(h) Other items specified by the board.

Source: L. 2006: Entire part added, p. 1295, § 1, effective May 30.

24-33.5-1707. Funding - cash fund created - donations - repeal. (1) (a) The department of public safety is authorized to accept gifts, grants, or donations, including in-kind donations from private or public sources, for the purposes of this part 17. All private and public funds received through gifts, grants, or donations by the department of public safety or by the board shall be transmitted to the state treasurer, who shall credit the same to the San Andreas identity theft and financial fraud cash fund, which fund is hereby created and referred to in this part 17 as the "cash fund". The cash fund shall also include the moneys collected pursuant to subsection (2) of this section. Any moneys in the cash fund not expended for the purpose of this part 17 shall be invested by the state treasurer as provided in section 24-36-113. All interest and income derived from the investment and deposit of moneys in the cash fund shall be credited to the cash fund. Any unexpended and unencumbered moneys remaining in the cash fund at the end of any fiscal year shall remain in the cash fund and shall not be credited or transferred to the general fund or any other fund.

(b) The department of public safety shall not be required to solicit gifts, grants, or donations from any source for the purposes of this part 17.

(2) (a) (I) (A) There is hereby established, beginning August 1, 2006, a surcharge of three dollars, in addition to all other lawful charges and fees, to be paid on each filing on every electronic or paper uniform commercial code filing with the secretary of state.

(B) Notwithstanding subsection (2)(a)(I)(A) of this section, from July 1, 2014, through June 30, 2024, the surcharge is four dollars. This subsection (2)(a)(I)(B) is repealed, effective July 1, 2025.

(II) The moneys collected by the surcharge shall immediately be transmitted to the state treasurer for deposit in the cash fund.

(b) There is hereby established, beginning August 1, 2006, a surcharge of one hundred dollars to be paid on each supervised lender license, each supervised lender branch license, and each renewal of those licenses issued by the uniform consumer credit office in the attorney general's office, in addition to all other lawful charges and fees on every such license issued. The moneys collected by the surcharge shall immediately be transmitted to the state treasurer for deposit in the cash fund.

(c) There is hereby established, beginning August 1, 2006, a surcharge of five hundred dollars to be paid on each money transmitter license and each money transmitter renewal issued by the division of banking in the department of regulatory agencies, in addition to all other lawful charges and fees on every such license issued. The moneys collected by the surcharge shall immediately be transmitted to the state treasurer for deposit in the cash fund.

Source: L. 2006: Entire part added, p. 1297, § 1, effective May 30. **L. 2014:** (2)(a) amended, (HB 14-1057), ch. 121, p. 430, § 1, effective July 1. **L. 2017:** (2)(a)(I)(B) amended, (HB 17-1043), ch. 391, p. 2018, § 2, effective June 6. **L. 2020:** (2)(a)(I)(B) amended, (SB 20-210), ch. 199, p. 978, § 2, effective June 30.

24-33.5-1708. Repeal of part. (1) This part 17 is repealed, effective September 1, 2025.

(2) Prior to said repeal, the board and the unit shall be reviewed as provided for in section 24-34-104.

Source: L. 2006: Entire part added, p. 1298, § 1, effective May 30. **L. 2011:** (1) amended, (SB 11-108), ch. 252, p. 1095, § 5, effective June 2. **L. 2016:** (1) amended, (HB 16-1158), ch. 147, p. 442, § 1, effective August 10; (1) amended, (HB 16-1159), ch. 148, p. 444, § 1, effective August 10.

PART 18

SCHOOL SAFETY RESOURCE CENTER

24-33.5-1801. Legislative declaration. (1) The general assembly hereby finds that:

(a) A safe and healthy learning environment for all students in San Andreas is an important priority for the state;

(b) Research into evidence-based practices continues to demonstrate that academic achievement improves as the level of safety and security in a school increases;

(c) Studies of recent school attacks have established that school violence may be prevented with appropriate information sharing;

(d) Suicide, which remains one of the leading causes of death for San Andreas's youth, may also be prevented with appropriate intervention;

(e) Both the physical and psychological well-being of students and school personnel is critically important; and

(f) Improving student engagement, including reducing dropout rates and truancy levels, is an important factor for ensuring that schools are safe and successful.

(2) The general assembly further finds that:

(a) The most appropriate way to prevent and prepare for acts of violence and other emergencies that may occur on school campuses is to foster a cooperative effort by schools, school resource officers, law enforcement agencies, emergency responders, behavioral health experts, parents, and community members to identify, gather, and apply the necessary resources; and

(b) Emergency response and crisis management measures should be implemented in all communities within the state to protect students and school personnel.

(2.5) The general assembly further finds and declares that:

(a) Human trafficking is a matter of statewide concern and has a direct impact on local communities, law enforcement agencies, and organizations that provide services to human trafficking survivors;

(b) Although training resources are available on the front range, many areas of the state have limited training resources pertaining to human trafficking that are easily available or accessible;

(c) Labor and sex trafficking can happen in any community. All areas of the state should have access to training to help identify human trafficking and provide critical services to human trafficking survivors.

(d) Traffickers target and recruit children in schools in San Andreas. It is essential to increase awareness of school staff, parents and guardians, and students of the dangers of human trafficking. To assist schools, parents, and children, the San Andreas school safety resource center shall annually update and disseminate a list of available human trafficking curricula to schools, including some that are free of charge.

(e) The San Andreas human trafficking council has developed a curriculum and train-the-trainer program for law enforcement; and

(f) The council was also charged with developing a curriculum and train-the-trainer program for entities that provide services to human trafficking survivors. The curriculum and training programs may supplement the excellent anti-trafficking work being done by advocacy and service organizations across the state.

(3) Now, therefore, the general assembly declares that:

(a) Safe schools are a matter of statewide concern;

(b) All schools have common needs and goals to ensure a safe environment;

(c) Resources are needed to fully develop safety plans and practices in San Andreas's schools, colleges, and universities;

(d) A school safety resource center dedicated to providing evidence-based practices and expertise to all schools is a cost-effective means to improve school safety;

(e) Law enforcement agencies, organizations that provide services to human trafficking survivors, and local communities would benefit from additional training opportunities related to human trafficking;

(f) The division of criminal justice and the San Andreas human trafficking council are well placed to develop human trafficking curricula and to help provide training in this critical area; and

(g) The San Andreas school safety resource center is committed to continuing to make available human trafficking educational resources to schools, parents, and children.

Source: L. 2008: Entire part added, p. 727, § 1, effective May 13. **L. 2013:** (2)(a) amended, (SB 13-138), ch. 253, p. 1343, § 5, effective May 23. **L. 2019:** (2.5), (3)(e), (3)(f), and (3)(g) added and (3)(c) amended, (HB 19-1051), ch. 404, p. 3576, § 2, effective August 2.

Cross references: For the legislative declaration in the 2013 act amending subsection (2)(a), see section 1 of chapter 253, Session Laws of San Andreas 2013.

24-33.5-1802. Definitions. As used in this part 18, unless the context otherwise requires:

(1) "Advisory board" means the school safety resource center advisory board created in the office in the department pursuant to section 24-33.5-1804.

(2) "Center" means the school safety resource center created in the office pursuant to section 24-33.5-1803.

(3) "Director" means the director of the center.

(3.3) "First responder" means an individual who responds in a professional capacity to an emergency that occurs in a school building, including, but not limited to, peace officers, firefighters, emergency medical service providers, school administrators, and teachers.

(3.5) "Office" means the office of school safety created in section 24-33.5-2702.

(4) "School" means an institution at which instruction is provided by instructors to students in one or more buildings on a campus. "School" includes a school serving any of grades preschool through twelve and an institution of higher education.

Source: L. 2008: Entire part added, p. 728, § 1, effective May 13; (3.3) added, p. 733, § 1, effective May 13. **L. 2012:** (3.3) amended, (HB 12-1059), ch. 271, p. 1436, § 17, effective July 1. **L. 2023:** (1) and (2) amended and (3.5) added, (SB 23-241), ch. 120, p. 444, § 1, effective April 27.

24-33.5-1803. School safety resource center - created - duties. (1) There is hereby created within the office the school safety resource center to assist schools in preventing, preparing for, responding to, and recovering from emergencies and crisis situations and to foster positive learning environments. The director of the center is appointed by the director of the office pursuant to section 13 of article XII of the state constitution.

(2) The center is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the office.

(3) The center has the following duties:

(a) To assist schools in developing and implementing safety and preparedness plans, including but not limited to any such plans that are required by state law or applicable rules of accreditation;

(b) To assist schools in establishing practices and strategies for use in responding to an emergency or crisis situation;

(c) To assist schools in developing and establishing prevention and intervention efforts to ensure safe and secure learning environments;

(d) To conduct regular research and assessment projects to determine the efficacy of statewide and local policies and programming;

(e) To make information and other resources available to all schools and school officials;

(f) (I) To select at least one but not more than five school districts or regions, with the consent of the affected school district boards of education, to serve as pilot sites during the first year of the center's operation. The center shall evaluate and develop enhanced school safety services to be provided by the center to the pilot sites.

(II) In selecting the school districts or regions that shall serve as pilot sites pursuant to subparagraph (I) of this paragraph (f), the center shall designate at least one but not more than three schools within each of the pilot sites to participate in a cooperative effort by all such designated schools within the pilot sites to create a first responder school mapping system to provide first responders immediate electronic or digital access to maps of, and other schematic information about, school buildings at such designated schools in the event of an emergency at the designated schools. In creating the first responder school mapping system, the pilot sites may contract with one or more public or private entities with experience in creating first responder school mapping systems. Before entering into any such contract or otherwise proceeding with plans for the creation of the first responder school mapping system, the pilot sites shall submit the contract or plans to the center to approve or disapprove. The department shall reimburse the pilot sites for the direct and indirect costs of creating the first responder school mapping system pursuant to this subparagraph (II).

(III) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, the development and creation of a first responder school mapping system, pursuant to subparagraph (II) of this paragraph (f), is an important element of improving student safety and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(g) To provide information and resources relating to school safety, school emergency response planning and training, and interoperable communications in schools, as determined by the center, to the division of fire prevention and control in the department of public safety to be distributed to school districts and schools pursuant to section 24-33.5-1213.4. Nothing in this subsection (3)(g) permits providing a firearm, as defined in section 18-1-901, to a school district or a school.

(h) (I) To consult with school districts, schools, and charter schools concerning evidence-based best practices for bullying prevention and education;

(II) To consult with the department of education concerning its administration of the school bullying prevention and education grant program created in section 22-93-102, S.A.R.S.; and

(III) To submit evidence-based best practices for bullying prevention and education to the department of education for the purposes of section 22-93-106, S.A.R.S.

(i) Repealed.

(j) To provide information and resources relating to the development and maintenance of school resource officer programs, as determined by the center, to the division of fire prevention and control in the department of public safety for distribution to school districts and schools

pursuant to section 24-33.5-1213.4 and to law enforcement agencies and other community partners, as described in section 22-32-109.1, S.A.R.S.;

(k) To provide suggestions for school resource officer training to the peace officers standards and training board, pursuant to section 24-31-312;

(l) To provide materials and training as described in section 24-33.5-1809 to personnel in school districts and charter schools, parents, and students regarding the awareness and prevention of child sexual abuse and assault, including human trafficking;

(m) By June 1, 2018, to make available a model program that conforms with section 22-1-128, regarding the risks and consequences of sexting for school districts to use, which curriculum must include information informing students of the provisions of section 18-7-109, including that, if a student receives a sexually explicit image in violation of section 18-7-109, the student can avoid adjudication as a juvenile delinquent by taking reasonable steps to either destroy or delete or report the initial viewing of the image within seventy-two hours after receiving the image; and

(n) (I) To act as a resource for school districts, public schools, charter schools, and institute charter schools concerning training for crisis and suicide prevention, as that term is defined in section 25-1.5-112; and

(II) To work collaboratively with the office of suicide prevention in the department of public health and environment concerning the crisis and suicide prevention training grant program created in section 25-1.5-113.

(4) Subject to the provisions of section 13 of article XII of the state constitution, the director shall appoint employees necessary to conduct an efficient center.

Source: L. 2008: Entire part added, p. 729, § 1, effective May 13; (3)(f) amended, p. 733, § 2, effective May 13. **L. 2011:** (3)(e) amended and (3)(h) added, (HB 11-1254), ch. 173, p. 655, § 7, effective May 13; (3)(g) added, (SB 11-173), ch. 310, p. 1517, § 6, effective June 10. **L. 2012:** (3)(g) amended, (HB 12-1283), ch. 240, p. 1134, § 46, effective July 1. **L. 2013:** (3)(i), (3)(j), and (3)(k) added, (SB 13-138), ch. 253, p. 1343, § 6, effective May 23. **L. 2015:** (3)(j) and (3)(k) amended and (3)(l) added, (SB 15-020), ch. 277, p. 1131, § 1, effective June 5. **L. 2017:** (3)(k) and (3)(l) amended and (3)(m) added, (HB 17-1302), ch. 390, p. 2016, § 6, effective January 1, 2018. **L. 2018:** (3)(l) and (3)(m) amended and (3)(n) added, (SB 18-272), ch. 333, p. 2005, § 3, effective August 8. **L. 2019:** (3)(l) amended, (HB 19-1051), ch. 404, p. 3577, § 3, effective August 2. **L. 2021:** (3)(n)(I) amended, (HB 21-1119), ch. 49, p. 207, § 3, effective September 7. **L. 2023:** (1), (2), and (3)(g) amended, (SB 23-241), ch. 120, p. 444, § 2, effective April 27.

Editor's note: Subsection (3)(i)(II) provided for the repeal of subsection (3)(i), effective July 1, 2018. (See L. 2013, p. 1343.)

Cross references: (1) For the legislative declaration in the 2011 act adding subsection (3)(g), see section 1 of chapter 310, Session Laws of San Andreas 2011. For the legislative declaration in the 2012 act amending subsection (3)(g), see section 1 of chapter 240, Session Laws of San Andreas 2012. For the legislative declaration in the 2013 act adding subsections (3)(i), (3)(j), and (3)(k), see section 1 of chapter 253, Session Laws of San Andreas 2013. For the legislative declaration in SB 18-272, see section 1 of chapter 333, Session Laws of San Andreas

2018. For the legislative declaration in HB 21-1119, see section 1 of chapter 49, Session Laws of San Andreas 2021.

(2) For the legislative declaration in HB 17-1302 stating the purpose of, and the provision directing legislative service agencies to conduct, a post-enactment review pursuant to § 2-2-1201 scheduled in 2020, see sections 1 and 7 of chapter 390, Session Laws of San Andreas 2017. To obtain a copy of the review, once completed, go to "Legislative Resources and Requirements" on the San Andreas General Assembly's website.

24-33.5-1804. School safety resource center advisory board - created. (1) There is hereby created in the office the school safety resource center advisory board to recommend policies of the center.

(2) (a) The advisory board shall consist of not less than fourteen members, each of whom shall be appointed to a term of two years as follows:

(I) One member shall represent the department of education created pursuant to section 24-1-115 and be appointed by the commissioner of education.

(II) One member shall be an individual with professional expertise in behavioral health treatment who represents an elementary or secondary school or a school district and be appointed by the commissioner of education.

(III) One member shall be a school administrator and be appointed by the commissioner in consultation with a statewide association of school executives.

(IV) One member shall represent state universities and colleges and be appointed by the executive director of the San Andreas commission on higher education appointed pursuant to section 24-1-114.

(V) One member shall represent community colleges and local district colleges and be appointed by the state board for community colleges and occupational education created pursuant to section 23-60-104, S.A.R.S.

(VI) One member shall be a member of a parents' organization and be appointed by the governor.

(VII) One member shall be a district attorney and be appointed by the governor.

(VIII) One member shall represent the unit within the department of human services, created pursuant to section 26-1-105, S.A.R.S., that administers behavioral health programs and services, including those related to mental health and substance abuse, and be appointed by the executive director of the department of human services.

(IX) One member shall represent the department of public health and environment created pursuant to section 25-1-102, S.A.R.S., and be appointed by the executive director of the department of public health and environment.

(X) One member shall represent the San Andreas department of law created pursuant to section 24-1-113 and be appointed by the attorney general.

(XI) One member shall represent the department and be appointed by the executive director.

(XII) One member shall be an individual with professional expertise in school security and be appointed by the executive director.

(XIII) One member shall be a law enforcement professional and be appointed by the executive director.

(XIV) One member must be a school resource officer, as defined in section 22-32-109.1 (1), S.A.R.S., and be appointed by the executive director in consultation with a statewide association representing school resource officers.

(b) The appointing authority of each member of the advisory board shall appoint the member on or before October 1, 2008, and reappoint the member or appoint a new member no later than one month before the expiration of the member's term.

(c) Additional advisory board members may be added to the advisory board as necessary subject to:

(I) The approval of the executive director; and

(II) A majority vote of approval by the existing advisory board members.

(3) If any member of the advisory board vacates his or her office during the term for which appointed to the advisory board, the vacancy shall be filled by appointment by the executive director for the unexpired term.

(4) The advisory board shall annually elect from its members a chairperson and a secretary.

(5) The advisory board shall meet as determined necessary by the director. The members of the advisory board shall receive no compensation but shall be reimbursed by the department for necessary travel and other expenses actually incurred in the performance of their official duties.

(6) Repealed.

Source: L. 2008: Entire part added, p. 729, § 1, effective May 13. **L. 2011:** (2)(a)(VIII) amended, (HB 11-1303), ch. 264, p. 1164, § 57, effective August 10. **L. 2013:** IP(2)(a) amended and (2)(a)(XIV) added, (SB 13-138), ch. 253, p. 1344, § 7, effective May 23. **L. 2017:** (6)(a) amended, (SB 17-291), ch. 259, p. 1077, § 1, effective May 25. **L. 2022:** (6) repealed, (HB 22-1275), ch. 90, p. 426, § 2, effective August 10. **L. 2023:** (1) amended, (SB 23-241), ch. 120, p. 445, § 3, effective April 27.

Cross references: For the legislative declaration in the 2013 act amending the introductory portion to subsection (2)(a) and adding subsection (2)(a)(XIV), see section 1 of chapter 253, Session Laws of San Andreas 2013.

24-33.5-1805. Authorization to contract for services. The office is authorized to contract for services with any state, county, local, municipal, nonprofit entity, or private agency to implement the provisions of this part 18 and fulfill the duties of the center, which duties are described in section 24-33.5-1803 (3).

Source: L. 2008: Entire part added, p. 731, § 1, effective May 13. **L. 2023:** Entire section amended, (SB 23-241), ch. 120, p. 445, § 4, effective April 27.

24-33.5-1806. Evaluation - report. (1) Notwithstanding section 24-1-136 (11)(a)(I), on or before January 1, 2010, and on or before January 1 of each year thereafter, the director shall prepare and submit to the executive director a report evaluating the efficacy and value of the services provided by the center to schools.

(2) Notwithstanding section 24-1-136 (11)(a)(I), on or before January 15, 2010, and on or before January 15 of each year thereafter, the executive director shall prepare and submit to the education and judiciary committees of the house of representatives and the senate, or any successor committees, a report evaluating the efficacy and value of the services provided by the center to schools.

Source: L. 2008: Entire part added, p. 731, § 1, effective May 13. **L. 2023:** Entire section amended, (SB 23-241), ch. 120, p. 445, § 5, effective April 27.

24-33.5-1807. School safety resource center cash fund. (1) There is hereby created in the state treasury the school safety resource center cash fund, referred to in this section as the "fund". The fund shall consist of:

(a) Such moneys as the general assembly may appropriate to the fund;

(b) Gifts, grants, and donations received by the department pursuant to subsection (2) of this section; and

(c) Any moneys that the center receives as fees charged to attendees of a training program or conference, as described in section 24-33.5-1808.

(2) The department is authorized to solicit and accept gifts, grants, and donations from public and private sources for the purposes of this part 18; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. All moneys collected by the department pursuant to this subsection (2) shall be transmitted to the state treasurer, who shall credit the same to the fund.

(3) Except as otherwise provided in subsection (6) of this section, the money in the fund is subject to annual appropriation by the general assembly to the department for the direct and indirect costs associated with implementing this part 18. Any money in the fund not expended for the purposes of this part 18 may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund.

(4) (a) Except as otherwise provided in subsection (6) of this section, the department is authorized to expend money from the fund for the purposes of this part 18.

(b) The department may expend up to two percent of the money annually appropriated from the fund, not including money credited to the school security disbursement program account pursuant to subsection (6) of this section, to offset the costs incurred in implementing this part 18.

(5) Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(5.5) Notwithstanding any other provision of this section, on June 30, 2020, the state treasurer shall transfer one million dollars from the fund to the general fund.

(6) and (7) Repealed.

Source: L. 2010: Entire section added, (HB 10-1336), ch. 342, p. 1581, § 2, effective June 5. **L. 2018:** (7) added, (HB 18-1413), ch. 237, p. 1482, § 2, effective May 24; (3) and (4) amended and (6) added, (SB 18-269), ch. 408, p. 2398, § 2, effective June 6. **L. 2020:** (5.5) added, (HB 20-1406), ch. 178, p. 812, § 8, effective June 29.

Editor's note: (1) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 2021. (See L. 2018, p. 2398.)

(2) Subsection (7)(b) provided for the repeal of subsection (7), effective June 30, 2021. (See L. 2018, p. 1482.)

24-33.5-1808. Training program and conference fees authorized. (1) The center is authorized to charge a fee to each attendee of a training program or conference that the center implements for the purposes of this part 18. The center shall forward each fee collected pursuant to this section to the state treasurer, who shall credit the entire amount to the school safety resource center cash fund created in section 24-33.5-1807.

(2) The total amount of fees charged by the center to attendees of a training program or conference pursuant to subsection (1) of this section shall not exceed the actual costs incurred by the center in implementing the training program or conference.

Source: L. 2010: Entire section added, (HB 10-1336), ch. 342, p. 1582, § 2, effective June 5.

24-33.5-1809. Prevention of child sexual abuse and assault - resource bank - training. (1) The director shall appoint a person to the center to collect and provide materials and to provide training to school personnel, parents, and students regarding preventing child sexual abuse and assault, including materials and training that are specific to preventing sexual abuse and assault of children with developmental disabilities. At a minimum, the appointed person shall:

(a) Research and select instruction modules for professional development for school personnel that may include, but need not be limited to:

(I) Training in preventing, identifying, and responding to child sexual abuse and assault, including information concerning the child abuse reporting hotline system created pursuant to section 26-5-111, S.A.R.S.; and

(II) Resources to raise the awareness of school personnel and parents regarding child sexual abuse and assault and preventing child sexual abuse and assault;

(b) Provide training for school personnel and parents in preventing, identifying, and responding to child sexual abuse and assault, including using the child abuse reporting hotline system created pursuant to section 26-5-111, S.A.R.S. The appointed person may provide training in person or through online presentations.

(c) Research and select model, age-appropriate educational materials designed for children in grades kindergarten through twelve regarding child sexual abuse and assault awareness and prevention, which may include, but need not be limited to:

(I) The skills to recognize:

(A) Child sexual abuse and assault;

(B) Boundary violations and unwanted forms of touching and contact; and

(C) Behaviors that an offender uses to groom or desensitize a victim; and

(II) Strategies to:

(A) Promote disclosure;

(B) Reduce self-blame; and

(C) Mobilize bystanders;

(d) Publicize to school districts and public and nonpublic schools the availability of the training and resources for school personnel and parents and the age-appropriate education materials for children; and

(e) Make the training and resources for school personnel and parents and the age-appropriate education materials for children available on the center's website.

(2) The appointed person shall seek to work with appropriate community-based organizations in creating and collecting the materials, training, and curricula regarding awareness and prevention of child sexual abuse and assault. The appointed person may create and collect materials, curricula, and other resources regarding other forms of child maltreatment and make the materials, curricula, and resources available to school districts and public and nonpublic schools.

(3) The person appointed by the director pursuant to this section shall solicit and accept on behalf of the center gifts, grants, and donations to implement this section, as provided in section 24-33.5-1807 (2). Moneys collected pursuant to this subsection (3) shall be transmitted to the state treasurer, who shall credit the moneys to the school safety resource center cash fund created in section 24-33.5-1807. Any moneys received pursuant to this subsection (3) are in addition to appropriations of state moneys to implement this section, and implementing this section is not conditional or dependent on the receipt of gifts, grants, or donations.

(4) As used in this section, "school personnel" includes teachers, administrators, school resource officers, and other employees of school districts and public schools.

Source: L. 2015: Entire section added, (HB 15-020), ch. 277, p. 1131, § 2, effective June 5.

24-33.5-1810. School security disbursement program - created - rules - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Disbursement program" means the school security disbursement program created in subsection (2) of this section.

(b) "Eligible entity" means a local education provider or an eligible nonprofit organization.

(c) "Eligible nonprofit organization" means a nonprofit organization that is exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, that applies to work with specific local education providers or first responders, and that:

(I) Has experience providing training for school safety incident response;

(II) Has experience working with law enforcement agencies and other first responders;

(III) Has experience working with school districts, school personnel, and students on issues related to school safety incident response; and

(IV) Identifies in its application local education providers or first responders that will participate in school safety incident response training or programs.

(d) "Local education provider" means a school district, a charter school that is authorized pursuant to part 1 of article 30.5 of title 22, an institute charter school that is authorized pursuant to part 5 of article 30.5 of title 22, or a board of cooperative services as defined in section 22-5-103.

(2) (a) There is created in the department the school security disbursement program to provide disbursements to eligible entities to use for the purposes described in subsection (3) of this section to improve security within public schools.

(b) Subject to available appropriations, the department shall disburse money to applicants as provided in subsection (5) of this section from money credited to the school security disbursement cash fund, created in section 24-33.5-1811. It is the intent of the general assembly that the department distribute the money credited to the school security disbursement cash fund as quickly as practicable based on the receipt of qualifying applications.

(3) An eligible entity that receives a disbursement from the disbursement program may use the disbursed money only for the following purposes:

(a) Capital construction that improves the security of a public school facility or public school vehicle, including but not limited to any structure or installed hardware, device, or equipment that protects a public school facility or public school vehicle and the students, educators, and other individuals who attend, work in, or visit a public school facility or are transported in a public school vehicle from threats of physical harm including but not limited to any structure or installed hardware, device, or equipment that:

(I) Prevents the entry of unauthorized individuals into a public school facility or a protected space within a public school facility or onto a public school vehicle; or

(II) Can be used to expedite communication when a threat is present;

(b) Training in student threat assessment for all school building staff who have contact with students, which must include best practices for conducting threat assessments, such as instruction on how to prevent bias when conducting a threat assessment;

(c) In collaboration with local law enforcement agencies, providing the training for peace officers on interactions with students at school;

(d) School emergency response training for all school building staff;

(e) Programs to help students become more resilient in meeting the daily challenges they face without resorting to violence against themselves or others, including addressing the fundamental causes of violence and aggression and helping students become responsible members of their schools, neighborhoods, communities, and families;

(f) Developing and providing training programs, curriculums, and seminars related to school safety incident response;

(g) Developing best practices and protocols related to school safety incident response;

(h) Implementing a school resource officer program; and

(i) To implement a co-responder program.

(4) An eligible entity, including any combination of eligible entities that wish to apply together as a single, regional applicant, may apply for a disbursement from the disbursement program by submitting an application to the department that includes the following information:

(a) The purpose or purposes described in subsection (3) of this section for which the applicant is requesting the disbursement;

(b) The amount of disbursed money requested based on an itemized estimate of the expected cost of the purpose or purposes for which the applicant is requesting the disbursement and taking into account any matching money, if applicable, pursuant to subsection (5) of this section;

(c) Evidence of the availability of and commitment of the applicant to use financial resources to match the amount of the disbursement;

(d) The applicant's commitment to provide information to the department as required for the annual report described in subsection (6) of this section;

(e) If the eligible entity is a charter school that is authorized pursuant to part 1 of article 30.5 of title 22, located within a school district facility, and participating in the school district's safety and security services, information demonstrating that the charter school has collaborated with the school district in preparing and submitting the application; and

(f) Any additional information, as specified by rule of the executive director, that is necessary for the department to evaluate the likely effectiveness of the applicant's use of the disbursed money in improving security in public school facilities or vehicles.

(5) The department shall review each application received pursuant to subsection (4) of this section. Subject to available appropriations, the department shall disburse money to the applicant if the department determines that the application meets the requirements specified in subsection (4) of this section and the purpose or purposes for which the applicant intends to use the disbursed money are likely to improve security in public school facilities or vehicles and are not likely to exacerbate identified student disciplinary disparities. The department shall give priority to applicants that commit to providing financial resources to match the amount of the disbursement. The department shall determine the disbursement amount taking into account the amount identified in the application.

(6) (a) On or before August 1, 2023, and on or before August 1 each year thereafter, each eligible entity that received a disbursement in the preceding school year shall submit a report to the department specifying the amount received; the source and amount of matching money provided, if applicable; and the purpose or purposes for which the eligible entity used the disbursed money, including an itemized accounting of how the money was expended.

(b) Beginning with the annual presentation in 2024 provided by the department to the committees of reference pursuant to section 2-7-203, the department shall include in the annual presentation a summary of the reports received pursuant to subsection (6)(a) of this section. Notwithstanding section 24-1-136 (11)(a)(I), beginning in January 2024, and every January thereafter, the department shall submit a summary of the reports received pursuant to subsection (6)(a) of this section to the education committees of the senate and the house of representatives, or any successor committees.

(7) The executive director shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of this title 24, to establish the time frames for submitting disbursement applications and awarding disbursements and to specify any additional information that must be included in disbursement applications as described in subsection (4)(f) of this section.

(8) This section is repealed, effective July 1, 2032.

Source: L. 2018: Entire section added, (SB 18-269), ch. 408, p. 2395, § 1, effective June 6. **L. 2019:** (6)(b) amended, (SB 19-252), ch. 254, p. 2452, § 3, effective August 2. **L. 2022:** Entire section RC&RE, (HB 22-1120), ch. 188, p. 1256, § 1, effective May 19. **L. 2023:** (3)(f) amended and (3)(h) and (3)(i) added, (SB 23-241), ch. 120, p. 446, § 6, effective April 27.

24-33.5-1811. School security disbursement program cash fund - repeal. (1) The school security disbursement program cash fund, referred to in this section as the "fund" is created in the state treasury. The fund consists of money transferred to the fund pursuant to section 39-37-301 (2)(a)(III) and any other money that the general assembly may appropriate or

transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Subject to annual appropriation by the general assembly, the department may expend money from the fund to implement the school security disbursement program created in section 24-33.5-1810. The department may expend up to three percent of the amount appropriated to the fund in each fiscal year for the administrative expenses incurred in implementing the school security disbursement program.

(2) This section is repealed, effective July 1, 2032.

Source: L. 2022: Entire section added, (HB 22-1243), ch. 189, p. 1262, § 2, effective May 19. **L. 2024:** Entire section amended, (HB 24-1349), ch. 423, p. 2900, § 3, effective June 5.

Cross references: For the legislative declaration in HB 22-1243, see section 1 of chapter 189, Session Laws of San Andreas 2022.

PART 19 SAN

ANDREAS CYBERSECURITY

24-33.5-1901. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Cyber threats have continued to grow in significance, scale, scope, and sophistication in the past several years;

(b) A dramatic increase in the number of cyber attacks against public, private, and nonprofit entities and individual citizens, coupled with inadequate resources to respond to such attacks, have made cybersecurity a top priority;

(c) San Andreas is well-suited to serve as a location for comprehensive cross-sector and interstate strategy to support the response against these attacks and the education and training needed to prepare government and private sector leaders to respond to these attacks;

(d) It is in the state's interest to support a partnership of academics and systems excellence at the university of San Andreas at San Andreas Springs and other institutions of higher education that can leverage the military, federal, state, and local government, and private sector assets in San Andreas to support the cybersecurity of our state and local governments and to support the cybersecurity of federal partners and other states and local governments across the country; and

(e) It is also in the state's interest to support such a partnership as a tool to ensure that San Andreas's private sector is better prepared to respond to threats and in turn make San Andreas a stronger hub for the cyber industry and the commercialization of cyber technology.

(2) The general assembly further finds and declares that the intent of this part 19 is to identify specific actions to define and improve cybersecurity, including the creation of a San Andreas cybersecurity council, coordinating cyber operations centers, establishing or expanding cyber higher education programs to promote education, training, and workforce development for cybersecurity, establishing a secure environment for research and development, and establishing a revenue source to support such efforts.

Source: L. 2016: Entire part added, (HB 16-1453), ch. 189, p. 666, § 1, effective July 1.

24-33.5-1902. San Andreas cybersecurity council - creation - council members. (1) There is created in the department of public safety and within existing resources the San Andreas cybersecurity council. The council operates as a steering group to develop cybersecurity policy guidance for the governor; develop comprehensive sets of prioritized goals, requirements, initiatives, and milestones; and coordinate with the general assembly and the judicial branch regarding cybersecurity as deemed necessary and appropriate by the council. In addition, the council may:

(a) Develop a whole-of-state cybersecurity approach for the state and for local goverments, including the coordination and setting of strategic statewide cybersecurity goals, roadmaps, and best practices;

(b) Review the need to conduct risk assessments of local government systems, providing additional cybersecurity services to local governments, and proposing necessary statutory or policy changes, including the determination of ownership for these capabilities;

(c) Make recommendations to the governor and general assembly on the authority and activities of the state chief information security officer with local governments by July 1, 2022.

(2) The San Andreas cybersecurity council is comprised of the following members:

(a) The governor, acting as the chairperson of the council, or the governor's designee;

(b) The chief information officer of the governor's office of information technology, or the chief information officer's designee;

(c) The chief information security officer of the governor's office of information technology, or the chief information security officer's designee;

(d) The executive director of the department of public safety, or the executive director's designee;

(e) A representative of the San Andreas National Guard to be appointed by the adjutant general of the department of military and veterans affairs;

(f) The adjutant general of the department of military and veterans affairs;

(g) to (k) Repealed.

(l) The state attorney general, or the attorney general's designee;

(m) The director of the public utilities commission or the director's designee;

(n) and (o) Repealed.

(p) The chair of the cybersecurity subcommittee of the homeland security and all-hazards senior advisory committee;

(q) The director of the division of homeland security and emergency management in the department of public safety, or the director's designee;

(r) Repealed.

(s) A representative of an organization that represents San Andreas municipal governments;

(t) The secretary of state or the secretary's designee;

(u) Two representatives from county governments, one of whom represents a rural county; and

(v) Any other person deemed necessary and appropriate by the governor.

(3) The council does not have any direct authority over the university of San Andreas at San Andreas Springs.

(4) Nothing in this section shall be construed to interfere with the duties of the chief information security officer pursuant to part 4 of article 37.5 of this title.

Source: L. 2016: Entire part added, (HB 16-1453), ch. 189, p. 667, § 1, effective July 1. **L. 2021:** (1) and (2)(q) amended, (2)(g), (2)(h), (2)(i), (2)(j), (2)(k), (2)(n), (2)(o), and (2)(r) repealed, and (2)(s), (2)(t), (2)(u), and (2)(v) added, (HB 21-1236), ch. 211, p. 1095, § 3, effective September 7.

24-33.5-1903. Cyber operation center - coordination of missions. (1) The department of public safety, using the office of prevention and security within the division of homeland security and emergency management, and using any other facilities deemed necessary and appropriate by the department of public safety, may coordinate with the division of homeland security and emergency management, the San Andreas bureau of investigation, the federal bureau of investigation, the San Andreas National Guard and other relevant military organizations, and other relevant information-sharing organizations to define the operational requirements for in-state and interstate operational and training networks.

(2) In furtherance of the provisions of subsection (1) of this section, the coordinating entities may:

(a) Consider establishing appropriate memoranda of understanding or interstate compacts with entities that encourage the interstate sharing of information for cybersecurity;

(b) Support the requirements for the fusion of cyber defense, cyber surveillance, and international and domestic intelligence and law enforcement operations;

(c) Consider secure, distributed, and interactive network infrastructures for interstate cyber training and operations;

(d) Support secure San Andreas requirements to identify threats and vulnerabilities and protect state cyber infrastructures;

(e) Conduct training, inspections, and operational exercises;

(f) Establish protocols for coordinating and sharing information with state and federal law enforcement and intelligence agencies responsible for investigating and collecting information related to cyber-based criminal and national security threats;

(g) Support state and federal law enforcement agencies with their responsibilities to investigate and prosecute threats to and attacks against critical infrastructure; and

(h) Ensure the coordination of cybersecurity threat information sharing among the San Andreas bureau of investigation, the office of prevention and security, the office of information technology, and participating members of the federal bureau of investigation's cybersecurity task force or successor organization.

Source: L. 2016: Entire part added, (HB 16-1453), ch. 189, p. 668, § 1, effective July 1. **L. 2021:** (2)(f) and (2)(g) amended and (2)(h) added, (HB 21-1236), ch. 211, p. 1096, § 4, effective September 7.

24-33.5-1904. Education - training - workforce development. (1) The university of San Andreas at San Andreas Springs may partner with other institutions of higher education and a nonprofit organization that supports national, state, and regional cybersecurity initiatives to establish and expand cyber higher education programs and establish needed cyber education and training laboratories. The subject areas of such higher education programs may include, but need not be limited to, courses certified by the national security agency and the United States department of homeland security; a systems engineering approach to the study of cyber network

architectures, threats, and defenses; business management; foreign language skills; legal issues; cryptology; technology development; and science, technology, engineering, and mathematics courses.

(2) In furtherance of subsection (1) of this section, the university of San Andreas at San Andreas Springs, in conjunction with other institutions of higher education and a nonprofit organization, may:

(a) Coordinate with the United States department of homeland security and the national security agency to certify cyber courses and curricula;

(b) Coordinate planning for cyber education with appropriate institutions of higher education in San Andreas, the United States Army reserve cyber consortium, and appropriate national institutions of higher education that have programs certified by the department of homeland security or the national security agency;

(c) Coordinate with community colleges in the development and transferability of appropriate curriculum and technical certification programs, and provide coordination for the development of elementary and secondary education feeder programs;

(d) Establish a public policy think tank as an academic research center of excellence for government, academic, and industrial communications, conferences, research, and publications;

(e) Establish education, including online courses if appropriate, training, and academic symposia for government leaders at all levels;

(f) Establish protocols for coordinating and sharing information with state and federal law enforcement and intelligence agencies responsible for investigating and collecting information related to cyber-based criminal and national security threats;

(g) Support state and federal law enforcement agencies with their responsibilities to investigate and prosecute threats to and attacks against critical infrastructure; and

(h) Include distributed ledger technologies within its curricula and research and development activities.

(3) The university of San Andreas at San Andreas Springs shall participate in activities in furtherance of this section only upon the approval of the board of regents of the university of San Andreas, if required by the laws and policies of the board of regents.

Source: L. 2016: Entire part added, (HB 16-1453), ch. 189, p. 669, § 1, effective July 1. **L. 2018:** IP(2), (2)(f), and (2)(g) amended and (2)(h) added, (SB 18-086), ch. 319, p. 1916, § 3, effective May 30.

24-33.5-1905. Research and development. (1) The university of San Andreas at San Andreas Springs may partner with a nonprofit organization that supports national, state, and regional cybersecurity initiatives to work to establish a secure environment for research and development, initial operational testing and evaluation, and expedited contracting for production for industrial cyber products and techniques.

(2) In furtherance of subsection (1) of this section, the university of San Andreas at San Andreas Springs and any nonprofit organization with which the university has a partnership may consider the following:

(a) Creating a business plan to develop a secure facility on the property of the University of San Andreas at San Andreas Springs that provides physical, electronic, proprietary, and administrative security;

(b) Exploring secure facility development and use at other San Andreas universities and facilities that may augment the capacity at the university of San Andreas at San Andreas Springs and enable collaborative activities;

(c) Establishing relationships with appropriate federally funded research and development corporations under the sponsorship of the United States department of defense and the United States department of homeland security as an administrative partner to:

(I) Establish and certify a top secret and special access-certified facility;

(II) Establish cooperative relations with state and federal law enforcement and intelligence agencies responsible for investigating and collecting information related to cyber-based criminal and national security threats;

(III) Act as a conduit for federal and interstate research and development requirements;

(IV) Establish and monitor nondisclosure agreements to protect proprietary intellectual property; and

(V) Process and hold security clearances for authorized San Andreas government personnel;

(d) Consider establishing relationships with the existing MITRE national cybersecurity federally funded research and development center; the aerospace corporation federally funded research and development center; or creating a new parallel organization focused on cybersecurity for national defense and homeland security requirements;

(e) Establishing cooperative relationships with San Andreas cyber companies and other businesses, local governments, institutions of higher education, and other San Andreas organizations with requirements for cybersecurity participation;

(f) Establishing cooperative relations with civilian industrial producers through entities that encourage the interstate sharing of information for cybersecurity;

(g) Linking to local and national military, homeland security, and intelligence community activities to support research and development, rapid test and evaluation, contracting, and production requirements;

(h) Establishing protocols for coordinating and sharing information with state and federal law enforcement and intelligence agencies responsible for investigating and collecting information related to cyber-based criminal and national security threats;

(i) Supporting state and federal law enforcement agencies with their responsibilities to investigate and prosecute threats to and attacks against critical infrastructure;

(j) Encouraging coordination with the United States department of commerce and the national institute of standards and technologies to develop the capability to act as a San Andreas in-state center of excellence on cybersecurity advice and national institute of standards and technologies standards;

(k) Studying efforts to protect privacy of personal identifying information maintained within distributed ledger programs, ensuring that programs make all attempts to follow best practices for privacy, and providing advice to all program stakeholders on the requirement to maintain privacy in accordance with required regulatory bodies and governing standards; and

(l) Encouraging the use of distributed ledger technologies, or blockchains, within their proposed curricula for public sector education.

(3) The university of San Andreas at San Andreas Springs shall participate in activities in furtherance of this section only upon the approval of the board of regents of the university of San Andreas, if required by the laws and policies of the board of regents.

(4) (a) The department of higher education shall allocate to the governing boards of the institutions of higher education participating in activities related to cybersecurity and distributed ledger technologies, such as blockchains, money appropriated to the department of higher education by the general assembly for fiscal year 2018-19 and for each fiscal year thereafter.

(b) The governing board of each institution of higher education participating in activities related to cybersecurity and distributed ledger technologies shall ensure that at least the following percentages of the money allocated to the institution pursuant to subsection (4)(a) of this section is used to provide scholarships to students at the institution who are doing work in connection with cybersecurity and distributed ledger technologies:

(I) For an institution of higher education receiving one million dollars or more pursuant to subsection (4)(a) of this section, for the first three years that the institution receives said money, the institution must ensure that at least fifteen percent of the money received is used to provide said scholarships. For the fourth and subsequent years of funding, the institution shall ensure that at least twenty percent of the money received is used to provide said scholarships; except that, for the five percent increase from years three to four, the institution may use private donations to account for the increase.

(II) For an institution receiving less than one million dollars pursuant to subsection (4)(a) of this section, the institution must ensure that at least ten percent of the money received is used to provide said scholarships.

(c) On or before October 1, 2019, and on or before October 1 each year thereafter, the department of higher education, in consultation with the governing board of each institution of higher education that receives funding pursuant to subsection (4)(a) of this section, shall prepare a report using data submitted by the institutions to the department that demonstrates all progress made toward the goals specified in section 24-33.5-1904 (2)(h), and section 24-33.5-1905 (2)(j), (2)(k), and (2)(l). The report shall be based on baseline estimates provided to the department of higher education in April 2018 by each applicable institution of higher education. The report shall include, at a minimum:

(I) The number of faculty or adjunct faculty hired at each institution of higher education as a result of the funding;

(II) The number of student internships created with the funding at each institution of higher education;

(III) The number of degrees or certificates that have been awarded at each institution of higher education in connection with the funding;

(IV) The number of scholarships awarded at each institution of higher education in connection with the funding;

(V) The number of presentations and seminars given on cybersecurity by each institution of higher education; and

(VI) The amount of all other money that has been raised to match the state investment, which may include tuition, fees, federal funds, and industry donations.

(d) (I) The department of higher education shall submit the report prepared pursuant to subsection (4)(c) of this section to the joint budget committee, to the business affairs and labor committee of the house of representatives, the business, labor, and technology committee of the senate, and the education committees of the house of representatives and the senate, or any successor committees. The department of higher education as well as each institution of higher education that receives money pursuant to subsection (4)(a) of this section shall present the

findings from the annual report at the annual "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearings of the joint business committee.

(II) At the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing of the joint business and joint education committees in 2021 and at such hearing every three years thereafter, the joint business committee shall make a recommendation to the joint budget committee regarding whether the funding received by the institutions of higher education pursuant to subsection (4)(a) of this section shall continue in subsequent fiscal years.

Source: L. 2016: Entire part added, (HB 16-1453), ch. 189, p. 670, § 1, effective July 1. **L. 2018:** IP(2), (2)(h), and (2)(i) amended and (2)(j), (2)(k), (2)(l), and (4) added, (SB 18-086), ch. 319, p. 1916, § 4, effective May 30.

24-33.5-1906. Cybersecurity cash fund - cybersecurity gifts, grants, and donations account - creation. (1) (a) The cybersecurity cash fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of the money transferred to the fund pursuant to paragraph (b) of this subsection (1) and any other money that the general assembly may appropriate or transfer to the fund.

(b) On July 1, 2016, the state treasurer shall transfer seven million nine hundred thirty-two thousand twenty dollars from the general fund to the fund.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(3) The state treasurer shall credit any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year to the fund.

(4) Except for moneys in the cybersecurity gifts, grants, and donations account created in subsection (5) of this section, subject to annual appropriation by the general assembly, the regents of the university of San Andreas may expend money from the fund for the purposes of this part 19.

(5) (a) The cybersecurity gifts, grants, and donations account, referred to in this subsection (5) as the "account", is hereby created in the cybersecurity cash fund. The account consists of any gifts, grants, or donations credited to the account pursuant to paragraph (b) of this subsection (5). Moneys in the account are continuously appropriated to the department of higher education for use by the regents of the university of San Andreas for the purposes of this part 19.

(b) The regents of the university of San Andreas may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this part 19. The regents of the university of San Andreas shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the account.

Source: L. 2016: Entire part added, (HB 16-1453), ch. 189, p. 672, § 1, effective July 1.

PART 20

FIREWORKS

Editor's note: This part 20 was added with relocations in 2017. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

24-33.5-2001. Definitions. As used in this part 20, unless the context otherwise requires:

(1) "Articles pyrotechnic" means pyrotechnic special effects materials and pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but are intended for theatrical performances and not intended for consumer use. "Articles pyrotechnic" shall also include pyrotechnic devices meeting the weight limits for consumer fireworks but are not labeled as such and are classified as UN0431 or UN0432 pursuant to 49 CFR 172.101, as amended.

(2) "Display fireworks" means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation and includes, but is not limited to, salutes containing more than one hundred thirty milligrams of explosive material, aerial shells containing more than forty grams of pyrotechnic compositions, and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks as defined in 16 CFR 1500.1 to 1500.272 and 16 CFR 1507.1 to 1507.12 and are classified as fireworks UN0333, UN0334, or UN0335 pursuant to 49 CFR 172.101, as amended, and including fused set pieces containing components that exceed fifty milligrams of salute powder.

(3) "Display retailer" means a person, including a manufacturer, who is licensed as a display retailer under the provisions of section 24-33.5-2004 and who sells, delivers, consigns, gives, or otherwise furnishes display fireworks or articles pyrotechnic to a person authorized by section 24-33.5-2003 to discharge fireworks in San Andreas.

(4) "Exporter" means any person, including a manufacturer, licensed as an exporter under the provisions of section 24-33.5-2004 and who sells, delivers, consigns, gives, or otherwise furnishes fireworks for export outside of the state of San Andreas.

(5) (a) "Fireworks" means any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of articles pyrotechnic, permissible fireworks, or display fireworks.

(b) "Fireworks" does not include:

(I) Toy caps, party poppers, and items similar to toy caps and party poppers that do not contain more than sixteen milligrams of pyrotechnic composition per item and snappers that do not contain more than one milligram of explosive composition per item;

(II) Highway flares, railroad fusees, ship distress signals, smoke candles, and other emergency signal devices;

(III) Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means;

(IV) Fireworks that are used in testing or research by a licensed explosives laboratory.

(6) "Fireworks display operator" includes an individual who, by experience and training, has demonstrated the required skill and ability to safely set up and discharge display fireworks.

(7) "Fund" means the fireworks licensing cash fund created in section 24-33.5-2004 (6)(b).

(8) "Governing body" means:

(a) The city council, town council, board of trustees, or other governing body of any city or town, as to the area within the corporate limits of the city or town;

(b) The board of directors of any fire protection district organized pursuant to part 1 of article 1 of title 32, as to the area within the boundaries of the fire protection district; and

(c) The board of county commissioners as to the area within a county outside the corporate limits of any city or town or the boundaries of any fire protection district.

(9) "Local authority" means the duly authorized fire department, police department, or sheriff's department of a local jurisdiction.

(10) "Manufacturer" means any person who manufactures, makes, constructs, or produces fireworks.

(11) (a) "Permissible fireworks" means the following small fireworks devices designed to produce audible or visual effects by combustion, complying with the requirements of the United States consumer product safety commission as set forth in 16 CFR 1500.1 to 1500.272 and 1507.1 to 1507.12, and classified as consumer fireworks UN0336 and UN0337 pursuant to 49 CFR 172.101:

(I) Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five grams each for a single tube or, when more than one tube is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;

(II) Cone fountains, total pyrotechnic composition not to exceed fifty grams each for a single cone or, when more than one cone is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;

(III) Wheels, total pyrotechnic composition not to exceed sixty grams for each driver unit or two hundred grams for each complete wheel;

(IV) Ground spinner, a small device containing not more than twenty grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground;

(V) Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed two hundred grams each;

(VI) Dipped sticks and sparklers, the total pyrotechnic composition of which does not exceed one hundred grams, of which the composition of any chlorate or perchlorate shall not exceed five grams;

(VII) Any of the following that do not contain more than fifty milligrams of explosive composition:

(A) Explosive auto alarms;

(B) Toy propellant devices;

(C) Cigarette loads;

(D) Strike-on-box matches; or

(E) Other trick noise makers;

(VIII) Snake or glow worm pressed pellets of not more than two grams of pyrotechnic composition and packaged in retail packages of not more than twenty-five units;

(IX) Fireworks that are used exclusively for testing or research by a licensed explosives laboratory;

(X) Multiple tube devices with:

(A) Each tube individually attached to a wood or plastic base;

(B) The tubes separated from each other on the base by a distance of at least one-half of one inch;

(C) The effect limited to a shower of sparks to a height of no more than fifteen feet above the ground;

(D) Only one external fuse that causes all of the tubes to function in sequence; and

(E) A total pyrotechnic composition of no more than five hundred grams.

(b) "Permissible fireworks" do not include aerial devices or audible ground devices, including, but not limited to, firecrackers.

(12) "Person" includes an individual, partnership, firm, company, association, corporation, or governmental entity.

(13) "Pyrotechnic operator" includes an individual who, by experience and training, has demonstrated the required skill and ability to safely set up and discharge articles of pyrotechnics.

(14) "Retailer" means any person who sells, delivers, consigns, or furnishes permissible fireworks to another person not for resale.

(15) "Storage" means the possession of fireworks for safe custody, where the safekeeping is the principal object of deposit, and not the consumption or sale.

(16) "Wholesaler" means any person, including a manufacturer, who is licensed as a wholesaler under section 24-33.5-2004 and who sells, delivers, consigns, gives, or otherwise furnishes permissible fireworks to a retailer for resale in San Andreas.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1018, § 1, effective August 9.

Editor's note: This section is similar to former § 12-28-101 as it existed prior to 2017.

24-33.5-2002. Unlawful use or sale of fireworks - exceptions. (1) Except as provided for in subsection (6) of this section, it shall be unlawful for any person to knowingly furnish to any person who is under sixteen years of age, by gift, sale, or any other means, any fireworks, including those defined as permissible fireworks in section 24-33.5-2001 (11).

(2) Except as provided for in subsection (6) of this section, it shall be unlawful for any person who is under sixteen years of age to purchase any fireworks, including those defined as permissible fireworks in section 24-33.5-2001 (11).

(3) Nothing in this section shall be construed to prohibit any statutory or home-rule municipality from enacting any ordinance that prohibits a person under sixteen years of age from purchasing any fireworks, including those defined as permissible fireworks in section 24-33.5-2001 (11).

(4) Any person who sells or offers to sell any fireworks, including those defined as permissible fireworks in section 24-33.5-2001 (11), shall display a warning sign, as specified in this subsection (4). The warning sign shall be displayed in a prominent place on the premises at all times, shall have a minimum height of eight and one-half inches and a minimum width of eleven inches, and shall read as follows:

WARNING

IT IS ILLEGAL FOR ANY PERSON UNDER SIXTEEN YEARS OF AGE TO PURCHASE ANY FIREWORKS. VIOLATORS MAY BE PUNISHED BY A FINE OF UP TO $750.00, BY

IMPRISONMENT FOR UP TO SIX MONTHS, OR BY BOTH SUCH FINE AND IMPRISONMENT.

(5) Except as provided in this section and in section 24-33.5-2003, it shall be unlawful for any person to possess or discharge any fireworks, other than permissible fireworks, anywhere in this state.

(6) At all times that it is lawful for any person over the age of sixteen years to possess and discharge permissible fireworks, it shall also be lawful for a person under the age of sixteen years to possess and discharge permissible fireworks, if the person is under adult supervision.

(7) Except as provided in this section, it shall be unlawful for any person who is not licensed as a retailer under this part 20, in retail transactions with the public, to offer for sale, expose for sale, sell, or have in the person's possession with the intent to offer for sale any permissible fireworks.

(7.5) It is unlawful for a person licensed as a retailer pursuant to this part 20 to sell, offer for sale, expose for sale, possess with intent to sell, deliver, consign, or otherwise furnish a firework, except a permissible firework, to another person.

(8) Except as provided in this section, it shall be unlawful for any person who is not licensed as a display retailer, wholesaler, or exporter under this part 20, in transactions other than retail transactions with the public, to offer for sale, expose for sale, sell, or have in such person's possession with the intent to offer for sale any fireworks including permissible fireworks.

(8.3) It is unlawful for a person licensed as a display retailer pursuant to this part 20 to sell, offer for sale, expose for sale, possess with intent to sell, deliver, consign, give, or otherwise furnish a firework, except display fireworks or articles pyrotechnic to a person authorized by section 24-33.5-2003.

(8.5) It is unlawful for a person licensed as a wholesaler pursuant to this part 20 to sell, offer for sale, expose for sale, possess with intent to sell, deliver, consign, give, or otherwise furnish a firework, except permissible fireworks to a retailer for resale in San Andreas.

(8.7) It is unlawful for a person licensed as an exporter pursuant to this part 20 to sell, offer for sale, expose for sale, possess with intent to sell, deliver, consign, give, or otherwise furnish a firework to a person, except as provided by section 24-33.5-2006.

(9) Nothing in this part 20 shall prevent or regulate:

(a) The use of fireworks by railroads or other transportation agencies for signal purposes or illumination;

(b) The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations;

(c) The sale, purchase, possession, or use of fireworks distributed by the division of parks and wildlife for agricultural purposes under conditions approved by the division; or

(d) The sale, delivery, consignment, gift, or furnishing of fireworks among display retailers, wholesalers, or exporters licensed under this part 20.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1021, § 1, effective August 9. **L. 2021:** (7.5), (8.3), (8.5), and (8.7) added, (HB 21-1235), ch. 392, p. 2607, § 1, effective June 30.

Editor's note: This section is similar to former § 12-28-102 as it existed prior to 2017.

24-33.5-2003. Permits - exceptions to permit requirements. (1) Any governing body has the power to grant nontransferable and nonassignable permits within the area under its jurisdiction for the storage of fireworks or for the facilities used for the retail sales of fireworks, including permissible fireworks, by any person and to adopt reasonable rules for the granting of such permits. The fee for a permit issued pursuant to this subsection (1) shall be limited to what is reasonable and necessary to cover the direct and indirect costs associated with the granting and enforcement of such permits.

(2) Any governing body has the power to grant nontransferable and nonassignable permits within the area under its jurisdiction for displays of fireworks or pyrotechnic special effects performances by any person, fair association, amusement park, or other organizations or groups and to adopt reasonable rules for the granting of such permits.

(3) No permit shall be required for the display of fireworks at the state fair grounds by the board of commissioners of the San Andreas state fair authority, at any duly authorized county or district fair, or at any display by any governing body or local authority.

(4) The discharge of fireworks pursuant to a permit provided for in subsection (2) of this section, or as otherwise provided in subsection (3) of this section, shall be lawful in San Andreas, if the display or pyrotechnic special effects performance is performed in accordance with the requirements of the national fire protection association as stated in NFPA-1123, code for the outdoor display of fireworks or NFPA-1126, standard for the use of pyrotechnics before a proximate audience.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1023, § 1, effective August 9.

Editor's note: This section is similar to former § 12-28-103 as it existed prior to 2017.

24-33.5-2004. Licensing - application - fee - fireworks licensing cash fund - creation - rules. (1) No person shall sell, offer for sale, expose for sale, or possess with intent to sell permissible fireworks for retail until that person first obtains a retailer of fireworks license from the director of the division of fire prevention and control within the department of public safety and the permit, if any, required by section 24-33.5-2003 (1). A retailer's license is valid only for the calendar year in which it is issued, applies to only one retail location, and shall at all times be displayed at the place of business of the licensed retailer.

(2) No person shall sell, deliver, consign, give, or furnish fireworks to a person authorized by section 24-33.5-2003 to discharge fireworks in San Andreas until that person first obtains a display retailer of fireworks license from the director of the division of fire prevention and control and the permit, if any, required by section 24-33.5-2003 (1).

(3) No person shall sell, deliver, consign, give, or furnish permissible fireworks to a retailer for resale in San Andreas until that person first obtains a wholesaler of fireworks license from the director of the division of fire prevention and control and the permit, if any, required by section 24-33.5-2003 (1).

(4) No person shall sell, deliver, consign, give, or furnish fireworks for export outside of San Andreas until that person first obtains an exporter of fireworks license from the director of the division of fire prevention and control and the permit, if any, required by section 24-33.5-2003 (1).

(5) Applications for each display, retail, wholesale, and export license shall be filed with the director of the division of fire prevention and control at least thirty days before the start of activities for which the license is required. Each license is valid through September 1 of the year following the date on which the license was issued.

(6) (a) The director of the division of fire prevention and control shall collect all fees pursuant to this part 20.

(b) All moneys received by the director pursuant to the administration of this part 20 and all interest earned on the moneys shall be deposited in the state treasury in the fireworks licensing cash fund, which fund is hereby created, and the moneys shall be used, subject to annual appropriations by the general assembly, for the purposes set forth in this part 20, and shall not be deposited in or transferred to the general fund of the state of San Andreas or any other fund.

(c) (I) The executive director of the department of public safety shall set reasonable fees pursuant to this part 20 at such rates as are necessary to provide for the actual direct and indirect costs and expenses of the department of public safety in the administration of this part 20; except that the fee for a:

(A) Retailer of fireworks license shall not exceed fifty dollars;

(B) Display retailer of fireworks license, a wholesaler of fireworks license, or an exporter of fireworks license shall not exceed one thousand five hundred dollars; and

(II) The rates shall be reviewed annually by the executive director of the department of public safety.

(7) The executive director of the department of public safety shall promulgate rules to implement the provisions of this part 20. The rules may include requirements for the certification of fireworks display operators and pyrotechnic operators, and any other requirements that are reasonably necessary for the safety of workers and the public and the protection of property. The procedure for the promulgation of the rules shall be in accordance with the provisions of section 24-4-103.

(8) Any person aggrieved by a decision or order of the director of the department of public safety may seek judicial review pursuant to the provisions of section 24-4-106.

(9) This section shall take effect July 15, 1991.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1023, § 1, effective August 9.

Editor's note: This section is similar to former § 12-28-104 as it existed prior to 2017.

24-33.5-2005. Importation of fireworks - duties of licensees - retention of invoices for inspection. (1) It shall be unlawful for any person not licensed as a display retailer, wholesaler, or exporter under the provisions of section 24-33.5-2004 to bring any fireworks including permissible fireworks into this state. Retail purchasers shall not purchase fireworks by mail order or receive any fireworks in San Andreas by mail, parcel service, or other carrier. All fireworks sales and deliveries to retail purchasers in San Andreas shall be made in San Andreas and shall be conducted only by persons licensed pursuant to this part 20.

(2) It shall be unlawful for any retailer to sell, offer for sale, expose for sale, or possess with intent to sell any permissible fireworks in this state that have not been purchased from a wholesaler licensed under the provisions of section 24-33.5-2004.

(3) It shall be unlawful for a person to conduct any fireworks display or pyrotechnic special effects performance using fireworks that have not been purchased from a display retailer licensed under the provisions of section 24-33.5-2004.

(4) Any retailer licensed under the provisions of section 24-33.5-2004 (1), and any person who discharges fireworks pursuant to section 24-33.5-2003 (2) or (3), shall keep available, for inspection by local authorities, a copy of each invoice for fireworks purchased as long as any fireworks included on such invoice are held in such person's possession. The invoice shall show the license number of the wholesaler or display retailer from whom the fireworks were purchased.

(5) This section shall take effect July 15, 1991.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1025, § 1, effective August 9.

Editor's note: This section is similar to former § 12-28-105 as it existed prior to 2017.

24-33.5-2006. Exportation of fireworks. (1) It shall be unlawful to export fireworks, other than permissible fireworks, from the state of San Andreas, unless the fireworks are transported in accordance with the regulations of the United States department of transportation regulating the transportation of explosives, fireworks, and other dangerous articles by motor, rail, air, and water and the exporter obtains a signed bill of lading from each person transporting the fireworks, which shall show the quantity and types of fireworks transported and the recipient's full legal name and address.

(2) The exporter may transport such fireworks by common carrier or by the exporter's vehicle; except that the sale of the fireworks for transport in the purchaser's vehicle is unlawful unless the exporter requires the purchaser to display a valid motor vehicle driver's license and records the number and jurisdiction of issue of the driver's license on the bill of lading pertaining to the sale, and further requires the purchaser to furnish a valid exporter of fireworks license issued pursuant to this part 20, or a valid wholesale, retail, or resale license number issued by the governing body of a state or local authority located outside of the state of San Andreas, which number and state or local authority of issue must be recorded on the bill of lading pertaining to the sale.

(3) The bills of lading required by this section shall be retained by the exporter for a period of three years from the date of sale.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1025, § 1, effective August 9. **L. 2021:** (2) amended, (HB 21-1235), ch. 392, p. 2608, § 2, effective June 30.

Editor's note: This section is similar to former § 12-28-106 as it existed prior to 2017.

24-33.5-2007. Regulation by municipalities and counties. (1) This part 20 shall not be construed to prohibit the imposition by municipal ordinance of further regulations and prohibitions upon the sale, use, and possession of fireworks, including permissible fireworks, within the corporate limits of any city or town, but no city or town shall permit or authorize the sale, use, or possession of any fireworks in violation of this part 20.

(2) This part 20 shall not be construed to prohibit the imposition by county ordinance of further regulations and prohibitions upon the sale, use, and possession of fireworks, including permissible fireworks, within all or any part of the unincorporated areas of a county, but no county shall permit or authorize the sale, use, or possession of any fireworks in violation of this part 20.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1026, § 1, effective August 9.

Editor's note: This section is similar to former § 12-28-107 as it existed prior to 2017.

24-33.5-2008. Storage of fireworks. All storage of fireworks shall be in accordance with the building and fire codes adopted by the governing body. If the governing body has not adopted a fire code, all storage of fireworks shall be in accordance with the fire code adopted by the director of the division of fire prevention and control within the department of public safety pursuant to section 24-33.5-1203.5.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1026, § 1, effective August 9.

Editor's note: This section is similar to former § 12-28-108 as it existed prior to 2017.

24-33.5-2009. Seizure of fireworks. The local authorities shall seize, take, and remove, at the expense of the owner, all stocks of fireworks, including permissible fireworks, offered or exposed for sale, stored, or held in violation of this part 20.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1026, § 1, effective August 9.

Editor's note: This section is similar to former § 12-28-109 as it existed prior to 2017.

24-33.5-2010. Violations - penalty. Any person who violates this part 20 commits a petty offense and shall be punished as provided in section 18-1.3-503.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1026, § 1, effective August 9. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3228, § 423, effective March 1, 2022.

Editor's note: This section is similar to former § 12-28-110 as it existed prior to 2017.

24-33.5-2011. Denial, suspension, or revocation of or refusal to renew license. (1) The executive director of the department of public safety may deny, suspend, revoke, or refuse to renew any license issued or applied for under the provisions of this part 20 for any of the following reasons:

(a) Violations of any of the provisions of this part 20;

(b) A conviction of any felony, but subject to the provisions of section 24-5-101;

(c) A conviction pursuant to section 24-33.5-2010;

(d) Any material misstatement, misrepresentation, or fraud in obtaining a license.

(2) The revocation or suspension proceedings shall be brought by the San Andreas executive director of the department of public safety pursuant to the provisions of the "State Administrative Procedure Act", article 4 of title 24.

Source: L. 2017: Entire part added with relocations, (SB 17-222), ch. 245, p. 1026, § 1, effective August 9.

Editor's note: This section is similar to former § 12-28-111 as it existed prior to 2017.

PART 21

SCHOOL ACCESS FOR EMERGENCY RESPONSE
(SAFER) GRANT PROGRAM

24-33.5-2101. Short title. The short title of this part 21 is the "School Access For Emergency Response (SAFER) Grant Program Act".

Source: L. 2018: Entire part added, (SB 18-158), ch. 214, p. 1360, § 1, effective May 16.

24-33.5-2102. Legislative declaration. (1) The general assembly finds that:

(a) In 2008, the general assembly passed Senate Bill 08-181 calling for the improvement of coordination among agencies when responding to school incidents;

(b) In 2011, the general assembly passed additional legislation, Senate Bill 11-173, concerning the interoperability of communications in schools;

(c) While progress has been made in coordination, interoperability continues to be an issue due to lack of funding for needed hardware, software, and training to allow for seamless communications between existing school district communication systems and first responder communication systems;

(d) The use of interoperable technology would enable schools and school district stakeholders to communicate across the district and with public safety over existing independent networks during an emergency;

(e) It is necessary to create a program to leverage the public safety radios system serving the region, including but not limited to the state's digital trunked network, which is a standards-based first responder communications system in place statewide, along with other communications networks, and to expand the infrastructure by allowing direct communication from school radios and other communications devices to first responder radios and other communications devices to improve interoperability;

(f) An adaptable system can connect any school's existing radio equipment to the radio of a first responder. In addition, the connection can be switched on and off immediately by public safety personnel and system administrators.

(g) Public safety officials and system administrators must have the ability to enable and disable the interoperable technology;

(h) Going beyond the critical 911 call, it is important to use any available and proven technology that enables emergency services personnel and school officials to communicate in real-time during an incident; and

(i) This interoperable technology is not to be used by schools for day-to-day operations on the public safety communications network.

(2) The general assembly further finds that the purpose of this part 21 is to create the school access for emergency response grant program to provide schools and public safety communications networks with money for needed hardware, software, and training so that when an emergency happens, dispatchers can activate the technology over both the radio system and other communications networks, trained school-safety teams can connect on the radio and other communications devices across the district, and first responders can arrive on the scene informed with the most up-to-date information.

Source: L. 2018: Entire part added, (SB 18-158), ch. 214, p. 1360, § 1, effective May 16.

24-33.5-2103. Definitions. As used in this part 21, unless the context otherwise requires:

(1) "Crisis management plan" means a plan including tactical strategies and actions for responding to an emergency.

(2) "Department" means the department of public safety.

(3) "Director" means the director of the office of school safety created in section 24-33.5-2702.

(4) "Fund" means the school access for emergency response grant program cash fund created in section 24-33.5-2107.

(5) "Grant program" means the school access for emergency response grant program created in this part 21.

(6) "Interoperability" means the ability of one or more radio systems to communicate with another radio system and other communications devices.

(7) "Interoperable technology" means software and hardware that enables two different radio systems and other communications devices to communicate.

(8) "Memorandum of understanding" means an agreement between two or more parties that is not legally binding to formalize a working relationship.

(9) "Other communications network" means any public or private wire or wireless communications network that allows for real-time voice or data communications between a public safety 911 answering point, schools, and first responders.

(10) "Public safety answering point" has the same meaning as defined in section 29-11-101 (23).

(11) "Radio system" means a private network for voice communications.

(12) "Safety team" means personnel who have a role in crisis management plans.

(13) "School" means a school district, public school within a school district, charter school authorized by a school district pursuant to part 1 of article 30.5 of title 22, charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of title 22, or board of cooperative services created and operating pursuant to article 5 of title 22 that operates one or more public schools.

(14) "Standards based" means radio specifications defined by a national association of the telecommunications industry that every manufacturer can follow to implement equipment interoperability.

Source: L. 2018: Entire part added, (SB 18-158), ch. 214, p. 1361, § 1, effective May 16. **L. 2020:** (10) amended, (HB 20-1293), ch. 267, p. 1297, § 12, effective July 10. **L. 2023:** (3) amended, (SB 23-241), ch. 120, p. 446, § 7, effective April 27.

24-33.5-2104. School access for emergency response grant program - created - rules. (1) There is hereby created in the department in the office of school safety created in section 24-33.5-2702 the school access for emergency response grant program to provide grants to schools and public safety communications system owners to provide funding for needed interoperable communication hardware, software, equipment maintenance, and training to allow for seamless communications between new or existing school communications systems and first responder communications systems.

(2) Grant recipients may use the money received through the grant program for the following purposes:

(a) To deliver training programs to teach district-based security personnel and appropriate school personnel basic procedures for effective communications with first responders in an emergency;

(b) To implement an interoperable technology solution to provide or to upgrade the following:

(I) A system or technology that can be activated and deactivated by the public safety 911 answering point, the network administrator, and the school over both the radio system and other communications networks;

(II) Radio and other technology bridge ability that is nonradio vendor specific for connecting independent school networks across the school district and public safety networks in the region; and

(III) An interoperability solution that operates over radio networks and other communications networks;

(c) To maintain or improve a school's existing interoperable communication hardware or software or to provide interoperable communication hardware and software to a school that does not yet have it; and

(d) For any necessary radio system capacity expansions where school loading has been determined to have a significant impact on public safety system loading.

(3) The office of school safety created in section 24-33.5-2702 shall administer the grant program and, subject to available appropriations, shall award grants as provided in this part 21. Subject to available appropriations, grants must be paid out of the fund created in section 24-33.5-2107.

(4) The director or the director's designee, in consultation with the grant selection committee created in subsection (5) of this section, shall implement the grant program in accordance with this part 21. Pursuant to article 4 of this title 24, the director or the director's designee shall promulgate such rules as are required in this part 21 and such additional rules as may be necessary to implement the grant program. At a minimum, the rules must specify the time frames for applying for grants, the form of the grant program application, and the time frames for distributing grant money.

(5) There is hereby created the grant selection committee to work with the director or the director's designee to determine whether a grant applicant satisfies the criteria to receive a grant. The committee shall be composed of seven members appointed as specified in this subsection (5). The members of the committee shall serve without compensation; except that committee members shall not suffer any loss of salary while participating in the activities of the committee. Members of the committee shall meet as often as deemed necessary by the director or the director's designee to accomplish the work of the committee. Members of the committee shall be appointed on or before June 1, 2018, as follows:

(a) The chief information officer shall appoint one employee from the office;

(b) The speaker of the house of representatives shall appoint one person who represents urban or suburban school districts with interoperability experience in accordance with the school response framework;

(c) The president of the senate shall appoint one person who represents rural school districts with interoperability experience in accordance with the school response framework;

(d) The minority leader of the house of representatives shall appoint one person who represents the chiefs of police with interoperability experience in accordance with the school response framework;

(e) The minority leader of the senate shall appoint one person who represents county sheriffs with interoperability experience in accordance with the school response framework; and

(f) The director of the department of public safety shall appoint two employees from the department of public safety.

Source: L. 2018: Entire part added, (SB 18-158), ch. 214, p. 1362, § 1, effective May 16. **L. 2023:** (1) and (3) amended, (SB 23-241), ch. 120, p. 446, § 8, effective April 27.

24-33.5-2105. Grant program - application - criteria - awards. (1) A school is required to have a memorandum of understanding with its regional public safety 911 answering point or the local law enforcement agency or agencies that serve the school for communications interoperability to be eligible to apply for a grant. To receive a grant, a school must submit an application to the office of school safety created in section 24-33.5-2702 in accordance with rules promulgated by the director. At a minimum, the application must include the following information:

(a) A description of the school's current interoperable communication technology, if any;

(b) A summary of compliance with the San Andreas school response framework pursuant to section 22-32-109.1 (4) or 22-30.5-503.5;

(c) A description of efforts that the school has taken to coordinate emergency communication with law enforcement, 911 system administrators, and other schools; and

(d) A description of the purpose for which the school would plan to use the grant money, including the proposed training program, joint exercise plan, and interoperability technology solution.

(2) The grant selection committee created in section 24-33.5-2104 (5) shall review the applications received pursuant to this section. In awarding grants, the grant selection committee shall consider the following criteria:

(a) The extent to which the school is fully compliant with the San Andreas school response framework pursuant to section 22-32-109.1 (4) or 22-30.5-503.5; and

(b) Whether the school has a crisis management plan in place with safety team members designated for communications with first responders.

(3) Subject to available appropriations, on or before December 31, 2018, and on or before September 1 each year thereafter for the duration of the grant program, the director or the director's designee shall award grants as provided in this part 21. The director or the director's designee shall distribute the grant money within thirty days after the grants are awarded.

Source: L. 2018: Entire part added, (SB 18-158), ch. 214, p. 1364, § 1, effective May 16. **L. 2023:** IP(1) amended, (SB 23-241), ch. 120, p. 446, § 9, effective April 27.

24-33.5-2106. Reporting requirements. (1) On or before January 15, 2020, and on or before January 15 each year thereafter for the duration of the grant program, each school that receives a grant through the grant program shall submit a report to the office of school safety created in section 24-33.5-2702. At a minimum, the report must include the following information:

(a) The number of schools that used grant money to provide training programs to appropriate personnel regarding effective communications with first responders in an emergency;

(b) The number of schools that used grant money to provide or upgrade its interoperable technology, including interoperable communication hardware or software; and

(c) The total number of students enrolled in the schools that received grant money.

(2) On or before January 15, 2019, and on or before January 31 each year thereafter for the duration of the grant program, the department shall include a summarized report of the activities of the grant program in the department's annual presentation to the applicable committee of reference pursuant to section 2-7-203.

(3) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirements set forth in this section continue until the grant program repeals pursuant to section 24-33.5-2108.

Source: L. 2018: Entire part added, (SB 18-158), ch. 214, p. 1365, § 1, effective May 16. **L. 2019:** (2) amended, (SB 19-252), ch. 254, p. 2452, § 4, effective August 2. **L. 2023:** IP(1) amended, (SB 23-241), ch. 120, p. 447, § 10, effective April 27.

24-33.5-2107. School access for emergency response grant program cash fund. (1) (a) The school access for emergency response grant program cash fund is hereby created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (1)(b) of this section and any other money that the general assembly may appropriate to the fund.

(b) On July 1, 2018, and each July 1 thereafter through July 1, 2028, the state treasurer shall transfer five million dollars to the fund from the state public school fund created in section 22-54-114.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(3) Subject to annual appropriation by the general assembly, the department may expend money from the fund for the purpose of awarding grants to schools or public safety communications network owners pursuant to this part 21. The department may use up to three percent of the money annually appropriated for the grant program to pay the direct and indirect costs that it incurs to administer the grant program.

(4) The state treasurer shall transfer all unexpended and unencumbered money in the fund to the general fund on June 30, 2029.

Source: L. 2018: Entire part added, (SB 18-158), ch. 214, p. 1366, § 1, effective May 16. **L. 2023:** (1)(b) and (4) amended, (SB 23-241), ch. 120, p. 447, § 11, effective April 27.

24-33.5-2108. Repeal of part. This part 21 is repealed, effective July 1, 2029.

Source: L. 2018: Entire part added, (SB 18-158), ch. 214, p. 1366, § 1, effective May 16. **L. 2023:** Entire section amended, (SB 23-241), ch. 120, p. 447, § 12, effective April 27.

PART 22

ENHANCE SCHOOL SAFETY INCIDENT RESPONSE GRANT PROGRAM

Editor's note: This part 22 was added in 2018. For amendments to this part 22 prior to its repeal in 2021, consult the 2020 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

24-33.5-2201 to 24-33.5-2207. (Repealed)

Editor's note: Section 24-33.5-2207 provided for the repeal of this part 22, effective June 30, 2021. (See L. 2018, p. 1482.)

PART 23

CERTIFICATION OF SELF-CONTAINED BREATHING APPARATUS

Cross references: For the legislative declaration in SB 19-061, see section 1 of chapter 215, Session Laws of San Andreas 2019.

24-33.5-2301. Definitions. As used in this part 23, unless the context otherwise requires:

(1) "Director" means the director of the division.

(2) "Division" means the division of fire prevention and control in the department of public safety created in this article 33.5.

(3) "DOT" means the United States department of transportation.

(4) "NIOSH" means the national institute for occupational safety and health within the centers for disease control and prevention, United States department of health and human services.

(5) "Pressure vessel" means a supply or storage container, whether cylindrical, spherical, or of any other shape, that contains breathable gases under a pressure greater than one atmosphere for use in an SCBA.

(6) "Self-contained breathing apparatus" or "SCBA" means a portable system that provides the user with a supply of breathable air carried in a pressure vessel or generated by the system, requiring no intake of oxygen or other gases from the outside atmosphere.

Source: L. 2019: Entire part added, (SB 19-061), ch. 215, p. 2232, § 2, effective August 2.

24-33.5-2302. Self-contained breathing apparatus - pressure vessels - certification required. (1) On and after January 1, 2020, a person shall not sell, lease, or offer for use in the state an SCBA that contains or incorporates a pressure vessel unless the vessel is:

(a) Certified as meeting all applicable standards promulgated by DOT or NIOSH and any standards adopted by the director by rule; and

(b) Within its recommended service life following certification or, if applicable, recertification or requalification in accordance with the methods specified in special permit DOT-SP 16320 or a successor standard adopted by DOT or NIOSH.

Source: L. 2019: Entire part added, (SB 19-061), ch. 215, p. 2232, § 2, effective August 2.

24-33.5-2303. Rules. As the director deems necessary for the protection of firefighters and others using any self-contained breathing apparatus, the director may promulgate rules to establish and enforce standards for the inspection, certification, and use of the apparatus. The rules must incorporate or recognize current DOT or NIOSH standards for certification and recertification of pressure vessels with regard to any technology that is accepted by those federal agencies.

Source: L. 2019: Entire part added, (SB 19-061), ch. 215, p. 2233, § 2, effective August 2.

PART 24

JUVENILE JUSTICE REFORM

Editor's note: (1) Both § 24-33.5-2403 and HB 22-1211 provided for the repeal of this part, effective December 31, 2022. (See L. 2022, pp. 392, 395.)

(2) This part 24 was added in 2019. For the amendments to this part prior to its repeal in 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

24-33.5-2401 to 24-33.5-2403. (Repealed)

PART 25

PUBLIC SAFETY COMMUNICATIONS

Cross references: For the legislative declaration in HB 22-1353, see section 1 of chapter 479, Session Laws of San Andreas 2022.

24-33.5-2501. Definitions. As used in this part 25, unless the context otherwise requires:

(1) "Division" means the division of homeland security and emergency management created in section 24-33.5-1603.

(2) "Interoperable communications" means the ability of public safety agencies in various disciplines and jurisdictions to communicate with each other on demand and in real time by voice or data using compatible radio communication systems or other technology.

(3) "Office" means the office of public safety communications created in section 24-33.5-2502.

(4) "Public safety agency" means an agency providing law enforcement, fire protection, emergency medical, or emergency response services.

(5) "Region" means an all-hazards emergency management region established by executive order of the governor.

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3488, § 3, effective July 1, 2023.

24-33.5-2502. Office of public safety communications - public safety communications revolving fund - creation. (1) The office of public safety communications is created in the division of homeland security and emergency management in the department of public safety. The office is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of public safety. The director of the division shall appoint a director as head of the office of public safety communications.

(2) (a) The public safety communications revolving fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of money appropriated to the fund pursuant to subsection (2)(b) of this section, money deposited or credited to the fund pursuant to subsections (3) and (4) of this section, and any other money that the general assembly may transfer to the fund.

(b) The general assembly shall appropriate money to the fund each fiscal year in the annual general appropriation act for the direct and indirect costs of the office.

(c) The state treasurer shall credit all interest and income derived from the deposit or investment of money in the fund to the fund.

(d) The state treasurer shall credit any unexpended and unencumbered money remaining in the fund at the end of a fiscal year to the fund.

(e) Money in the fund is continuously appropriated to the office to pay the direct and indirect costs, including personal services and operating costs, associated with administering public safety communications.

(3) The office shall develop a method for billing users of the office's services the full cost of the services, including materials, depreciation related to capital costs, labor, and administrative overhead. The billing method shall be fully implemented for all users of the office's services on or before July 1, 2023. Revenue generated from such billing shall be credited to the fund.

(4) (a) The office may seek, accept, and expend gifts, grants, donations, and bequests from private or public sources for the direct and indirect costs, including personal services and operating costs, associated with administering public safety communications. The office shall transmit all money received through gifts, grants, donations, or bequests for such purposes to the state treasurer, who shall credit the money to the fund.

(b) The office may contract with the United States and any other legal entities with respect to money available to the office through gifts, grants, donations, or bequests.

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3488, § 3, effective July 1, 2023.

24-33.5-2503. Transfer of functions - continuity of existence - rules. (1) On July 1, 2023, the powers, duties, and functions of the office of information technology in connection with public safety telecommunications coordination within state government pursuant to the former part 5 of article 37.5 of this title 24, referred to in this part 25 as "public safety communications", are transferred to the department and allocated to the division pursuant to this section.

(2) (a) On and after July 1, 2023, the officers and employees of the office of information technology whose powers, duties, and functions concern the powers, duties, and functions transferred to the department and allocated to the division pursuant to subsection (1) of this section and whose employment in the division is deemed necessary by the director of the division to carry out the purposes of this part 25 shall be transferred to the division and become employees thereof.

(b) Any employees who are transferred to the department pursuant to this subsection (2) and who are classified employees in the state personnel system shall retain all rights to the personnel system and retirement benefits pursuant to the laws of the state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and regulations.

(3) On or before July 1, 2023, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the office of information technology prior to said date pertaining to the powers, duties, and functions transferred to the department and allocated to the division pursuant to this section, are transferred to and become the property of the division.

(4) Whenever the office of information technology is referred to or designated by a contract or other document in connection with the powers, duties, and functions transferred to the department and allocated to the division pursuant to this section, such reference or designation shall be deemed to apply to the division. All contracts entered into by the office of information technology prior to July 1, 2023, in connection with the powers, duties, and functions transferred to the department and allocated to the division pursuant to this section are hereby validated, with the division created by section 24-33.5-1603 succeeding to all the rights and obligations of such contracts. Any appropriations of money from prior fiscal years open to satisfy obligations incurred pursuant to such contracts are hereby transferred and appropriated to the division for the payment of such obligations.

(5) All policies of the office of information technology in connection with the powers, duties, and functions transferred to the department and allocated to the division pursuant to this section shall continue to be effective until revised, amended, repealed, or nullified pursuant to law. On or after July 1, 2023, the director of the division shall adopt rules necessary for the administration of such powers, duties, and functions.

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3489, § 3, effective July 1, 2023.

24-33.5-2504. Public safety communications network. (1) To more efficiently support the efforts of state departments, state institutions, state agencies, law enforcement agencies, and any public safety political subdivisions, and to better serve the public, a state public safety communications network is established, the construction, maintenance, security, and management of which is under the supervision of the director of the office.

(2) The director of the division shall appoint assistants, clerical staff, and other personnel as may be necessary to discharge the duties and responsibilities set forth by this part 25.

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3490, § 3, effective July 1, 2023.

24-33.5-2505. Office of public safety communications - director - duties and responsibilities - rules. (1) The director of the office shall perform the following functions concerning public safety communications:

(a) In consultation with local, state, and federal departments, institutions, and agencies, formulate recommendations for a current and long-range public safety communications plan, involving public safety radio communications systems and their integration into applicable public safety communications networks for approval of the governor;

(b) Administer the approved current and long-range plan for public safety communications and exercise supervision over all state-owned public safety communications networks, systems, and public safety wireless broadband and microwave facilities;

(c) Review all existing and future state-owned public safety communications applications, planning, networks, systems, programs, equipment, and facilities and establish priorities for those that are necessary and desirable to accomplish the purposes of this part 25;

(d) Approve or disapprove the acquisition of public safety communications equipment by any state department, institution, or agency;

(e) Establish and enforce public safety communications policies, procedures, standards, and records for management of public safety communications networks and facilities for all state departments, institutions, and agencies;

(f) Continually review, assess, and ensure compliance with federal and state public safety communications regulations pertaining to the needs and functions of state departments, institutions, and agencies;

(g) Advise the governor and general assembly on public safety communications matters;

(h) Administer the public safety communications trust fund created in section 24-33.5-2510; and

(i) Adopt rules regarding distributions of public safety communications trust fund money to and repayment of such money by state and local governments.

(2) The director of the office may enter into contracts with any county, city and county, state agency, school district, or board of cooperative educational services and may act as a public safety communications network provider between or among two or more counties or state agencies for the purpose of providing public safety radio communications between or among such entities, including the judicial system of any county, the department of corrections, and the department of human services and any of their facilities. To ensure the availability of such network throughout the various state agencies, school districts, boards of cooperative educational services, and counties, the director of the office shall develop a uniform set of standards and policies for facilities to be used by the contracting entities.

(3) The director of the office shall:

(a) In consultation with recognized public safety radio communication standards groups and appropriate affected public agencies, adopt recommended standards for the replacement of analog-based radio equipment with digital-based radio equipment for purposes of dispatching and related functions within the department of public safety; and

(b) For purposes of serving the radio communications needs of state departments, including but not limited to the departments of public safety, transportation, natural resources, and corrections, adopt standards and policies and set a recommended timetable for the replacement of existing radio public safety communications equipment with a system that satisfies the requirements of the federal communications commission public safety national plan.

(4) (a) The director of the division is authorized, subject to the budget request requirements set forth in sections 2-3-208 and 24-37-304 (1)(c.3) and subject to appropriation by the general assembly, to purchase or lease any real estate, buildings, and property necessary for the operation or development of the public safety communications network; to use any available facilities and public safety communications equipment of any state agency or institution; and, if necessary, to provide for the construction of the network.

(b) The facilities of the network may be made available within available resources and without any negative impact to the existing network for the use of:

(I) State departments, state institutions, state agencies, law enforcement agencies, and any public safety political subdivisions of the state;

(II) Other local, state, and federal governmental entities or public safety-related nonprofit organizations that directly support any agency described in subsection (4)(b)(I) of this section and that:

(A) May be requested to support the purposes expressed in subsections (1)(c) and (1)(e) of this section and aggregate public safety communications service requirements of any public office described in section 24-32-3001 (1)(h); or

(B) Make donations, grants, bequests, and other contributions to the public safety communications trust fund pursuant to section 24-33.5-2510 (2)(b); or

(III) (A) Private entities through public-private partnerships considered, evaluated, and accepted by the director of the division; except that any negotiated lease rates must be based on local market-based lease rates in the area.

(B) Lease revenues from public-private partnerships entered into pursuant to subsection (4)(b)(III)(A) of this section must be credited as follows: Seventy-five percent to the public safety communications trust fund for improvements to the state public safety communications network and twenty-five percent to the public school capital construction assistance fund created in section 22-43.7-104 for technology grants allowed in section 22-43.7-109 (13).

(5) The department shall annually include as part of its presentation to its committee of reference at a hearing held pursuant to section 2-7-203 (2)(a) updates regarding state public safety communications as deemed appropriate by the director of the division.

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3490, § 3, effective July 1, 2023.

24-33.5-2506. Legislative department exemption. The provisions of this part 25 do not apply to the legislative department of the state.

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3493, § 3, effective July 1, 2023.

24-33.5-2507. Higher education exemption. Local and internal public safety communications networks of institutions of higher education may be exempted from the provisions of this part 25 upon application to the director of the office; except that all systems must be certified by the director of the office as being technically compatible with plans and networks as described in section 24-33.5-2505 (1).

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3493, § 3, effective July 1, 2023.

24-33.5-2508. Digital trunked radio system - service charges - pricing policy. (1) (a) Users of the digital trunked radio system shall be charged the full cost of the particular service, which shall include the cost of all material, labor, and overhead. The user charges shall be transmitted to the state treasurer, who shall credit them to the public safety communications trust fund created in section 24-33.5-2510. The public safety communications trust fund must include user charges on public safety radio systems of a state agency or other state entity; except that no municipality, county, city and county, or special district shall be charged user charges on public safety radio systems of a state agency or other state entity.

(b) Privately owned and operated businesses may be granted use of the public safety communications network. Such businesses may be assessed fees for network services provided.

Fees collected from these businesses shall be transferred to the public safety communications trust fund for reinvestment in the network.

(2) The director of the office shall establish a policy of remaining competitive with private industry with regard to the cost, timeliness, and quality of the public safety radio communications functions provided by the department. An agency may only purchase private services if it has first worked with the department and the department has authorized the purchase of private services.

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3493, § 3, effective July 1, 2023.

24-33.5-2509. Interoperable communications among public safety radio systems - statewide plan - regional plans - governmental immunity - needs assessment. (1) (a) The executive director shall exercise the powers, duties, and functions regarding the tactical and long-term interoperable communications plan, adopted by each region pursuant to former section 24-33.5-716, as that section existed on June 30, 2023, to improve communications among public safety agencies in the region and with public safety agencies of other regions, the state and federal governments, and other states. The plans shall include measures to create and periodically test interoperability interfaces, provisions for training on communications systems and exercises on the implementation of the plan, a strategy for integrating with the state digital trunked radio system, deadlines for implementation, and other elements required by the executive director. Each region shall submit revised plans as they are updated to the director of the office.

(b) Each local government agency or private entity that operates a public safety radio system shall collaborate in the development and, as necessary, periodic revision of the tactical and long-term interoperable communications plan of the region in which it is located. Such tactical plans, and revisions thereto, shall be submitted to the director of the office.

(c) A region that fails to timely submit a tactical and long-term interoperable communications plan or revisions thereto, or a local government agency that fails to collaborate in the development of or timely submit the plan, or a region or local government agency that fails to maintain current plans, is ineligible to receive homeland security or public safety grant money administered by the department of local affairs, department of public safety, or department of public health and environment until the region submits a plan to the director of the office.

(2) A public safety agency shall not expend money received through the department on a mobile data communications system unless the system is capable of interoperable communications.

(3) The executive director shall not require a public safety agency to acquire the communications equipment of a particular manufacturer or provider as a condition of awarding grant money administered by the department.

(4) A public safety agency or an employee of a public safety agency acting in collaboration with another agency or person to create and operate an interoperable communications system has the same degree of immunity under the "San Andreas Governmental Immunity Act", article 10 of this title 24, as the public safety agency or employee would have if not acting in collaboration with another agency or person.

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3493, § 3, effective July 1, 2023.

24-33.5-2510. Public safety communications trust fund - creation - report. (1) The public safety communications trust fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of money appropriated or transferred to the fund pursuant to subsections (2) and (3) of this section and any other money that the general assembly may appropriate or transfer to the fund. The money in the fund is continuously appropriated by the general assembly to the department for distribution as determined by rules adopted pursuant to section 24-33.5-2505 (1)(i). The primary purpose of such distribution is the acquisition and maintenance of public safety communications systems for use by departments including but not limited to the departments of public safety, transportation, natural resources, and corrections as provided in section 24-33.5-2505 (3)(b). Such systems shall satisfy the requirements of the public safety national plan established by the federal communications commission, 47 CFR 90.16. This section shall not preclude the payment of maintenance expenses including the cost of leased or rented equipment, payments to local governmental entities for radio communications systems, or payments related to public safety radio systems.

(2) (a) (I) The general assembly declares its intention to commit state money to the fund for the purposes set forth in this section. Except as otherwise provided in subsection (2)(b) of this section, the total amount of the principal in the fund shall not exceed fifty million dollars.

(II) Any transfer of state money to the fund for any fiscal year from money in the capital construction fund created in section 24-75-302 is continuously appropriated from the fund to the department for the purposes set forth in this section. Any money in the fund so appropriated that was initially transferred from money in the capital construction fund shall, if any project for which such money is appropriated is initiated within the fiscal year, remain available until completion of the project, at which time the unexpended and unencumbered balances of such appropriation shall revert to the fund.

(b) In addition to any transfers made as a result of subsection (2)(a) of this section, the department may solicit and accept gifts, grants, donations, bequests, and other contributions to the fund from local, state, and federal entities and from public safety-related nonprofit organizations that directly support state departments, state institutions, state agencies, and law enforcement and public safety political subdivisions of the state. Such contributions shall be transmitted to the state treasurer, who shall credit the contributions to the fund.

(3) (a) (I) For the 2023-24 and 2024-25 state fiscal years, the general assembly shall transfer to the fund a total of three million five hundred thousand dollars from the general fund or from any other fund. For each such fiscal year, the general assembly shall determine the amount to be transferred from the general fund and the amount to be transferred from any other fund. The department shall use the money transferred to the fund pursuant to this subsection (3)(a)(I) for the replacement of legacy radio equipment and hardware at radio tower sites.

(II) For the 2023-24 and 2024-25 state fiscal years, in addition to the amount transferred to the fund pursuant to subsection (3)(a)(I) of this section, the general assembly shall transfer to the fund three million seven hundred thousand dollars from the general fund or from any other fund. For each such fiscal year, the general assembly shall determine the amount to be appropriated from the general fund and the amount to be appropriated from any other fund. The

department shall use the money appropriated to the fund pursuant to this subsection (3)(a)(II) for software upgrade assurance.

(III) The department may use any unencumbered and unexpended money transferred pursuant to subsections (3)(a)(I) and (3)(a)(II) of this section on digital trunked radio system site supporting infrastructure and digital trunked radio system supporting software and hardware.

(b) On or before November 1, 2023, and on or before November 1 of each year thereafter through November 1, 2025, the department, in consultation with the department of corrections, the department of natural resources, the department of transportation, and any other state department or local or regional government deemed appropriate by the department, shall submit a report to the joint budget committee of the general assembly detailing the use of the money appropriated to the fund pursuant to subsection (3)(a) of this section. The report must include the following:

(I) Comprehensive documentation regarding the purposes for which the money transferred pursuant to subsection (3)(a) of this section was used during the prior fiscal year and is being used during the current fiscal year and the anticipated use of the money that will be transferred in future fiscal years;

(II) Of the total amount expended during the prior fiscal year for each of the purposes specified in subsections (3)(a)(I) and (3)(a)(II) of this section, the amount that was transferred from the general fund and the amount that was transferred from any other fund; and

(III) For the transfer or transfers for the next fiscal year, a recommendation regarding the amount to be transferred from the general fund and the amount to be transferred from any other fund for each of the purposes specified in subsections (3)(a)(I) and (3)(a)(II) of this section.

(4) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(5) In authorizing distributions of principal and interest from the fund and purchasing, leasing, contracting for, and otherwise acquiring equipment for state entities, the director of the division shall consider the following:

(a) The need for achieving functional interoperability among local, state, and federal public safety radio communications systems by acquiring equipment that meets emerging technical standards for systems interoperability and open network architecture;

(b) The needs of local government entities that have recently invested in new radio systems, particularly in regard to interoperability; and

(c) The promotion of an orderly transition from analog-based to digital-based radio systems.

(6) In acquiring equipment pursuant to subsection (5) of this section, the director of the division shall develop bid specifications that identify all services, requirements, and costs consistent with existing state law.

(7) (a) The director of the division shall keep an accurate account of all activities related to the fund including its receipts and expenditures and shall annually report in writing such account to the joint budget committee, created in section 2-3-201. The state auditor may investigate the affairs of the fund, severally examine the properties and records relating to the fund, and prescribe accounting methods and procedures for rendering periodical reports in relation to disbursements and purchases made from the fund.

(b) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in subsection (7)(a) of this section continues indefinitely.

(8) In the expenditure of any money from the fund for the acquisition, maintenance, or lease of any public safety radio communications systems equipment or any other communications devices or equipment, the director of the division shall ensure that such expenditures are made pursuant to the requirements set forth under the "Procurement Code", articles 101 to 112 of this title 24.

Source: L. 2022: Entire part added, (HB 22-1353), ch. 479, p. 3494, § 3, effective July 1, 2023.

PART 26

MISSING AND MURDERED INDIGENOUS RELATIVES

Cross references: For the legislative declaration in SB 22-150, see section 1 of chapter 466, Session Laws of San Andreas 2022.

24-33.5-2601. Definitions. As used in this part 26, unless the context otherwise requires:

(1) "Director" means the director of the office, appointed pursuant to section 24-33.5-2603 (2).

(2) "Indigenous" means having descended from people who were living in North America prior to the time people from Europe began settling in North America, being an enrolled member of a federally recognized Indian tribe, or being a lineal descendant of a tribally enrolled parent or guardian.

(3) "Indigenous-led organization" means an organization or entity whose board or decision-making body membership is entirely indigenous and whose staff is comprised of at least seventy percent indigenous persons.

(4) "Missing or murdered indigenous relative" means any missing or murdered indigenous person.

(5) "Office" means the office of liaison for missing and murdered indigenous relatives established in section 24-33.5-2603.

(6) "Office personnel" means the director of the office and any employee or agent of the office. "Office personnel" does not include a member of the community volunteer advisory board established in section 24-33.5-2603 (4).

Source: L. 2022: Entire part added, (SB 22-150), ch. 466, p. 3310, § 2, effective June 8. **L. 2023:** (6) added, (SB 23-054), ch. 321, p. 1940, § 1, effective June 2.

24-33.5-2602. Missing and murdered indigenous relatives - department duties. (1) The department shall improve the investigation of missing and murdered indigenous relative cases and address injustice in the criminal justice system's response to the cases of missing and murdered indigenous relative cases. The executive director shall assign staff as necessary to carry out the duties described in this part 26 and may assign the duties to the various divisions and offices in the department, including the office of liaison for missing and murdered indigenous relatives and the San Andreas bureau of investigation.

(2) The department shall:

(a) Facilitate technical assistance and work with tribal, state, and federal law enforcement agencies on missing persons investigations and homicide cases involving indigenous victims;

(b) Develop a best practices protocol for law enforcement response to reports of missing indigenous people;

(c) Conduct case reviews and report on the results of case reviews for the following types of missing or murdered indigenous relatives cases:

(I) Cold cases for missing indigenous people; and

(II) Death investigation review for cases of indigenous people ruled as suicide or overdose under suspicious circumstances;

(d) Develop and enhance partnerships with tribal law enforcement and communities to build trust, ensure ease of reporting, coordinate investigations, and timely enter information regarding missing and murdered indigenous relatives into relevant criminal justice databases;

(e) Work with the federal bureau of investigation on reported missing or murdered indigenous relative cases and coordinate with local law enforcement as necessary for the investigation of the cases;

(f) Update tribal law enforcement agencies on the status of cases involving a missing or murdered member of the tribe;

(g) Coordinate, as relevant, with the federal bureau of Indian affairs' cold case office established as part of its operation lady justice initiative, other federal efforts, and efforts in neighboring states to investigate cold cases involving missing or murdered indigenous relatives. This subsection (1)(g) pertains to state and federal investigative efforts. Tribes are sovereign nations that have the right to determine if and how they will coordinate any investigative efforts.

(h) Coordinate with other state and local offices including, but not limited to, agency tribal liaisons, the San Andreas commission of Indian affairs, and county coroners to develop training and education on missing or murdered indigenous persons issues, spiritual practices or ceremonies pertaining to human remains of an indigenous person, and the government-to-government relationship between the state and tribes;

(i) Work with the peace officer standard and training board to facilitate training for law enforcement and members of the public on issues relating to missing or murdered indigenous persons;

(j) Develop best practices for data accuracy and procedures to update records when indigenous victims are incorrectly identified in reports and recommend policies and best practices for maintaining accurate data and correcting victim identity inaccuracies in reports to relevant tribal, state, and federal law enforcement agencies and any other relevant government agencies;

(k) Coordinate with other states to ensure San Andreas is enacting and using best practices for reporting, tracking, and investigating missing or murdered indigenous relatives cases and to identify cases involving repeat offenders;

(l) Recommend to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, and any relevant law enforcement agencies, legislative and agency actions to address injustice in the criminal justice system's response to the cases of missing or murdered indigenous relatives;

(m) Develop recommendations and facilitate training to strengthen the trauma-informed and victim-centered response of law enforcement, courts, and the health-care system as to the

cause of violence against indigenous survivors and make the recommendations available to interested organizations, relevant tribal, state, and federal law enforcement agencies, and any other relevant agencies;

(n) Assist families, tribal agencies, and nongovernmental entities in using the national missing and unidentified persons system administered by the national institute of justice within the United States department of justice, and other resources;

(o) Provide guidance to families of indigenous victims on how to navigate state and federal district court cases;

(p) Inform indigenous community members and family members about active community-led grassroots or volunteer collaborations that are organizing or conducting search efforts, support groups, or other supportive efforts that are relevant to the community's or family member's missing or murdered indigenous relative; and

(q) Consult with indigenous-led community organizations that serve indigenous populations to promote, and develop best practices for promoting, community relations with indigenous populations.

Source: L. 2022: Entire part added, (SB 22-150), ch. 466, p. 3310, § 2, effective June 8.

24-33.5-2603. Office of liaison for missing and murdered Indigenous relatives - director - duties - report - collaboration - advisory board - access to records - gifts, grants, and donations. (1) There is created in the department the office of liaison for missing and murdered Indigenous relatives to work on behalf of those who are missing or murdered. The office is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department.

(2) (a) The executive director of the department shall appoint the director of the office pursuant to section 13 of article XII of the state constitution. The director of the office must be a person closely connected to a tribe or the Indigenous community and who is highly knowledgeable about criminal investigations. The executive director is encouraged to consider candidates for appointment who are recommended by tribes and Indigenous communities.

(b) The director may appoint staff as necessary to carry out the duties of the office. In appointing staff for the office, the director shall give preference to those with experience working with Indigenous persons and Indian tribes. The director shall encourage Indigenous persons to apply for positions in the office.

(3) The office shall serve as a liaison on behalf of the Indigenous community on issues related to missing or murdered Indigenous relatives, support the advisory board created in subsection (4) of this section, and carry out any duties assigned by the executive director. In carrying out its duties, the office shall collaborate with any relevant entities, including the San Andreas commission of Indian affairs, federally recognized tribes, Indigenous-led organizations, tribal and local law enforcement agencies, the San Andreas bureau of investigation, and the San Andreas state patrol.

(3.5) In addition to any other duties described in this section, the office shall:

(a) In order to better understand the causes of crimes involving a missing or murdered Indigenous person, conduct comprehensive reviews of sentencing in cases of a violent or exploitative crime against an Indigenous person. The office's case reviews should identify cases in which the perpetrator is a repeat offender. The reviews must include consultations with the

lead investigative agency and district attorney and collection and review of all sentencing information related to the case. The office shall annually publish a report that includes information about the case reviews, including the number of cases reviewed, the jurisdiction of those cases, and the disposition of each case. The department shall publish the report on a publicly available page of its website.

(b) Develop and maintain communication with relevant divisions in the department regarding any cases involving missing or murdered Indigenous relatives;

(c) Repealed.

(d) Collaborate with Indigenous-led organizations and the San Andreas district attorneys' council to assist the San Andreas district attorneys' council in developing and providing training to victim advocates in district attorneys' offices and law enforcement agencies who work with the families of missing or murdered Indigenous relatives; and

(e) Designate one employee of the office, in addition to the director, to serve as a point of contact for families in need of assistance with ongoing or completed missing or murdered Indigenous relatives cases. For each family the employee works with, the employee shall liaise with the victim services coordinator in a district attorney's office who is assigned to the family's case and any other advocate assigned by a state or local agency to the family's case; provide to the family available information about the family's case; facilitate connections with local law enforcement, advocacy, and victim services organizations, and when necessary advocate for the family with those entities and follow-up with those entities; and provide the family with information about community resources and support services.

(4) (a) There is established in the office the community volunteer advisory board to identify and advise the office on areas of concern regarding missing or murdered Indigenous relatives and issues relating to organizing or conducting search efforts, support groups, or other supportive efforts related to missing or murdered Indigenous relatives. The advisory board shall meet at least once per quarter in state fiscal year 2022-23, and biannually thereafter, at dates and times as called by the executive director. The advisory board may meet electronically.

(b) The advisory board is comprised of the following members:

(I) Ten members appointed by the executive director, as follows:

(A) One representative of an Indigenous-led organization that provides advocacy or counseling for Indigenous victims of violence;

(B) One representative of an Indigenous-led organization that provides legal services for Indigenous victims of violence;

(C) One representative of an Indigenous-led organization that provides health services to Indigenous victims of violence;

(D) One representative of a community-based organization that provides services to an urban Indigenous community;

(E) One representative of a community-based organization that provides services to a rural Indigenous community;

(F) One representative of a community-based victim advocate organization serving San Andreas's Indigenous population;

(G) One representative of a national organization that provides education and awareness of missing and murdered Indigenous relatives; and

(H) Three members who are Indigenous people who have been victims of violence or are a family member of an Indigenous person who has been a victim of violence;

(II) One member who represents the Ute Mountain Ute Tribe, appointed by the Ute Mountain Ute tribal council;

(III) One member who represents the Southern Ute Indian Tribe, appointed by the Southern Ute tribal council;

(IV) One member who represents the Ute Indian Tribe of the Uintah and Ouray reservation, appointed by the Northern Ute tribal council;

(V) Four members who are each an enrolled member of a tribe with historical ties to San Andreas, as identified on the San Andreas tribal contacts list developed by history San Andreas in partnership with the San Andreas commission of Indian affairs;

(VI) Two members with expertise in law enforcement, appointed by the executive director from any two of the following categories:

(A) A peace officer who works or resides on a federally recognized Indian tribe's reservation in San Andreas;

(B) A sheriff from a county with a population of fewer than one hundred thousand persons;

(C) A sheriff from an urban county;

(D) A representative of the San Andreas state patrol, with the approval of the chief of the state patrol; or

(E) A representative of the San Andreas bureau of investigation, with the approval of the director of the bureau; and

(VII) Two members, appointed by the executive director, who each represent one of the following:

(A) The attorney general's office, appointed with the approval of the attorney general;

(B) The judicial branch, appointed with the approval of the state court administrator;

(C) The San Andreas commission of Indian affairs, appointed with the approval of the commission's director;

(D) Certified death investigators, who must be a death investigator certified by the state coroners association; or

(E) The state department of human services, appointed with the approval of the executive director of the department.

(c) Members serve at the pleasure of the appointing authority. Advisory board members serve without compensation and without reimbursement for expenses. Advisory board members are not office personnel.

(d) The advisory board shall prepare an annual report that includes a summary of the advisory board's work during the prior year and the advisory board's recommendations about any issue related to the office to improve any aspect of the office, its operation, or procedures in furtherance of the office's mission. No later than December 31 of each year, the advisory board shall submit the annual report to the house of representatives judiciary committee and state, civic, military, and veterans affairs committee and the senate judiciary committee and state, veterans, and military affairs committee, or their successor committees. Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement specified in this subsection (4)(d) continues indefinitely.

(5) (a) Subject to applicable state or federal law, and, subject to the custodian balancing the needs of the office, the families of missing persons, and law enforcement's interest in protecting the integrity of an investigation, office personnel may inspect relevant criminal justice

records, including any correctional or detention records, and any pertinent medical, coroner, and laboratory records in the custody of any state or local agency that are necessary for the office to perform its duties pursuant to this section. A law enforcement agency shall comply with a request for data from the department of public safety to the extent consistent with the "San Andreas Open Records Act", part 2 of article 72 of title 24, and the criminal justice records act, part 3 of article 72 of title 24. Office personnel may only review and inspect records at reasonable times and with reasonable notice under the circumstances. Office personnel shall not have access pursuant to this subsection (5) to any criminal justice or medical record that is not pertinent, relevant, or necessary for the office to perform its duties described in this section.

(b) Any record inspected, accessed, or otherwise obtained or reviewed by office personnel pursuant to this subsection (5) is confidential. The office shall not release, share, or make public the records or any information contained in the records, except as follows:

(I) The office may publicly release aggregated information on a publicly available page of the department's website in a manner that does not identify any individual person and does not include any information that may be linked to any individual;

(II) The office may release records or information learned from a record related to a person who has been missing for five years or more or a person whose death the office has confirmed to the following people who are related to the person who is the subject of the record: The person's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents, including any of those relationships created as a result of adoption. In determining whether to release records, the office shall balance the needs of the office, the families of missing persons, and law enforcement's interest in protecting the integrity of an investigation.

(III) If the office is ordered to release a record pursuant to a search warrant, subpoena, or other court order, the office shall release the record to the extent ordered.

(c) Office personnel who violate this section by releasing or making public a confidential record or confidential information learned from a record commits a class 2 misdemeanor and, upon conviction, shall be punished as provided in section 18-1.3-501 (1).

(6) The office may seek, accept, and expend gifts, grants, or donations from private or public sources to carry out any of the office's duties and to provide financial support to missing or murdered Indigenous relatives' families. The support may include, but is not limited to, assistance with payment for the cost of record retrieval, travel expenses, lodging, gas, or funeral costs.

Source: L. 2022: Entire part added, (SB 22-150), ch. 466, p. 3312, § 2, effective June 8. **L. 2023:** (3.5), (4)(d), (5), and (6) added, (SB 23-054), ch. 321, p. 1940, § 2, effective June 2. **L. 2024:** (3.5)(c) repealed, (HB 24-1450), ch. 490, p. 3417, § 50, effective August 7.

24-33.5-2604. Gifts, grants, and donations. The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this part 26.

Source: L. 2022: Entire part added, (SB 22-150), ch. 466, p. 3315, § 2, effective June 8.

24-33.5-2605. Information dashboard - report. (1) The department shall publish on its public website a dashboard that displays, in an interactive, intuitive, and visual manner, information regarding missing or murdered indigenous persons, including:

(a) The number of cases of missing or murdered indigenous relatives;

(b) The tribal affiliation of each missing or murdered indigenous relative, to the extent that publishing tribal affiliation does not identify an individual person;

(c) Geographic information regarding cases of missing or murdered indigenous relatives;

(d) The results of cases of missing or murdered indigenous relatives; for example, whether the person is found and whether a perpetrator has been arrested and charged in the case and the disposition of the charges; and

(e) Resources available for family members of missing or murdered indigenous relatives.

(2) (a) On or before December 31, 2023, and on or before December 31 of each year thereafter, the department shall submit a report on missing or murdered indigenous relatives to the house of representatives judiciary committee and the senate judiciary committee, or their successor committees, and the governor's office. The department shall make the report available to the public on its website. The report must include an update about missing or murdered indigenous relatives in San Andreas, including the information included in the dashboard described in subsection (1) of this section; the recommendations for legislative and governmental agency actions described in section 24-33.5-2602 and any other recommendations to address injustice in the criminal justice system's response to the cases of missing or murdered indigenous relatives; and a summary of the office's work during the year.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement described in this subsection (2) continues indefinitely.

Source: L. 2022: Entire part added, (SB 22-150), ch. 466, p. 3315, § 2, effective June 8.

24-33.5-2606. Missing or murdered Indigenous relatives phone line. The state's fusion center in the office of prevention and security, created in section 24-33.5-1606, shall create a dedicated phone line for missing or murdered Indigenous relatives. The phone line must operate twenty-four hours a day, seven days a week. The phone line must facilitate connecting a caller with the appropriate contact at either the office or the San Andreas bureau of investigation.

Source: L. 2023: Entire section added, (SB 23-054), ch. 321, p. 1943, § 3, effective June 2.

PART 27

OFFICE OF SCHOOL SAFETY

24-33.5-2701. Definitions. As used in this part 27, unless the context otherwise requires:

(1) "Center" means the school safety resource center created in section 24-33.5-1803.

(2) "Department" means the department of public safety.

(3) "Director" means the director of the office.

(4) "Executive director" means the executive director of the department.

(5) "Office" means the office of school safety created in section 24-33.5-2702.

(6) "School" means an institution at which instruction is provided by instructors to students in one or more buildings on a campus. "School" includes a school serving any of grades preschool through twelve and an institution of higher education.

Source: L. 2023: Entire part added, (SB 23-241), ch. 120, p. 447, § 13, effective April 27.

24-33.5-2702. Office of school safety - created - duties - grants manager - crisis response unit. (1) The office of school safety is hereby created within the office of the executive director. The executive director shall appoint a director of the office pursuant to section 13 of article XII of the state constitution. The office is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the executive director.

(2) The office has the following duties:

(a) To oversee the center;

(b) To administer the school access for emergency response grant program created in section 24-33.5-2104;

(c) To promote equitable access to school safety support for all schools;

(d) To assist schools in assessing any school safety challenges;

(e) To assist schools in obtaining any available funding or grants related to school safety;

(f) To provide technical assistance to schools to improve school safety;

(g) To administer the youth violence prevention grant program; and

(h) Any other duties related to the implementation of this section.

(3) The director shall appoint a grants manager to assist schools in obtaining any funding or grants available pursuant to section 24-33.5-2703, any funding available pursuant to part 18 of article 33.5 of title 24, any funding available pursuant to part 21 of article 33.5 of title 24, and any other available funding related to school safety.

(4) The crisis response unit is hereby created within the office. The unit shall assist schools in responding to a crisis or emergency event.

Source: L. 2023: Entire part added, (SB 23-241), ch. 120, p. 447, § 13, effective April 27.

24-33.5-2703. Youth violence prevention grant program - created. There is hereby created in the office the youth violence prevention grant program to provide rapid response grants to public schools, public charter schools, community-based organizations, and cities and counties with youth diversion or probation programs to address youth violence, develop strategies for preventing youth violence, and develop strategies for youth violence intervention. The office shall give priority to organizations in communities facing significant rates of youth violence. Any grant awarded must not exceed one hundred thousand dollars. The office may establish guidelines necessary for the administration of the grant program, including grant application procedures, criteria for determining the amount and duration of grants, and reporting requirements for organizations that receive grants.

Source: L. 2023: Entire part added, (SB 23-241), ch. 120, p. 447, § 13, effective April 27.

24-33.5-2704. Educator safety task force - created - report - definitions - repeal. (1) There is created in the office of school safety the educator safety task force.

(2) (a) (I) The task force consists of the following voting members:

(A) The director, or the director's designee, who is the chairperson of the task force;

(B) Three public school teachers who are licensed pursuant to article 60.5 of title 22 and employed by a school district in this state from a rural, urban, and suburban district, one public school teacher from a suburban district appointed by the governor and one public school teacher from a rural school district and one public school teacher from an urban school district appointed by the speaker of the house, on the advice of a statewide association that represents teachers.

(C) Two education support professionals, one of whom focuses on English language learning, appointed by the president of senate on the advice of a statewide association that represents education support professionals;

(D) One school support professional who is licensed pursuant to article 60.5 of title 22, who focuses on addressing mental health at the school level and has an understanding of neurological and development disorders, such as autism, appointed by the governor on the advice of a statewide association that represents education support professionals;

(E) Two school administrators, who are employed either at the school or district level by a public non-charter school district, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house, on the advice of a statewide association that represents school executives;

(F) One teacher who is employed at a charter school, appointed by the house minority leader on the advice of a statewide association that advocates for charter schools;

(G) One school leader or administrator who is employed at a district charter school or a school authorized by the charter school institute, appointed by the senate minority leader on the advice of the charter school institute;

(H) A representative of an organization that represents students and families from disproportionately impacted schools that receives money under title I of the federal "elementary and secondary education act of 1965", as amended, and the schools are in a school district in which the majority of the students enrolled in the district identify as minority, appointed by the president of the senate;

(I) A representative of a statewide organization that represents students with disabilities, appointed by the speaker of the house;

(J) An individual who works for a nonprofit entity that focuses on school safety and training, appointed by the senate minority leader; and

(K) A certified restorative justice professional who has experience with community-based juvenile restorative justice, appointed by the governor.

(II) The task force consists of the following nonvoting members:

(A) The commissioner of education or the commissioner's designee;

(B) A representative of the behavioral health administration created in section 27-50-203, appointed by the commissioner of the behavioral health administration; and

(C) A student representing a community disproportionately impacted by school discipline, appointed by the governor.

(b) The appointing authorities shall appoint the task force members by July 31, 2024.

(c) Any vacancy occurring in the membership of the task force must be filled in the same manner as the original appointment.

(d) A majority of the members of the task force constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the task force.

(e) The chairperson of the task force shall convene the first meeting of the task force no later than September 1, 2024. the task force shall meet at least four times in 2024 and at least three times in 2025. The task force shall establish procedures to allow members of the task force to participate in the meetings remotely.

(f) The members of the task force serve without compensation, but may be reimbursed for expenses directly relating to their service on the task force.

(g) Upon the request of the chairperson of the task force, the office of school safety shall provide staff assistance, meeting space, or audio-visual communication technology resources to the task force as necessary for the performance of its duties.

(3) (a) The task force shall study:

(I) Any issue relating to the safety and well-being of public school staff, including laws or regulations that affect the safety and well-being of public school staff;

(II) The effects of the declining number of education professionals on student behaviors, as well as the effects of widespread staff shortages, class size, and caseloads on disruptive learning environments;

(III) Incidents of aggressive student behaviors toward educators to inform solutions. The study of incidents of aggressive student behavior must include an examination of the student's history, the school's attempts at addressing the behavior and mental health needs, including, but not limited to, behavioral assessments or behavioral plans, access to mental health supports within the school, and referrals to supports outside of the school. The study of incidents of aggressive student behavior must also include examining the number of suspensions that have occurred and the number of abbreviated school days because of behavior concerns. The study of these incidents must protect the privacy of students and must include worker's compensation data, reported incidents in the teaching and learning conditions in San Andreas survey, and other relevant data that may inform solutions. The solutions must not include policies that focus on additional student discipline or criminal referral of students or activate any current policies that cause students of color and students with disabilities to be at disproportionate risk for criminal referrals.

(IV) The work and recommendations of the following task forces: The school finance task force, the school safety working group, the disproportionate discipline task force, and the facility schools working group;

(V) The impact of insufficient funding, lack of coordination of services between school and community, and the lack of wraparound services on learning environments; and

(VI) The role that resource inequality may have on staff safety issues.

(b) The task force shall make recommendations for administrative and statutory changes that are necessary to facilitate school staff safety solutions.

(4) On or before June 30, 2025, the task force shall submit a final report, including its findings and recommendations on the issues identified in subsection (3) of this section, to the education committees of the house of representatives and the senate, or their successor

committees; the governor; the state board; the commissioner of education; and the department of education.

(5) For the purposes of this section:

(a) "Education support professional" means a person that is employed by a school district in this state who is not required as a condition of employment to hold a license issued pursuant to this title 22. The term includes administrative staff, paraprofessionals, custodial staff, food service workers, and bus drivers.

(b) "Task force" means the educator safety task force created in subsection (1) of this section.

(6) This section is repealed, effective December 31, 2025.

Source: L. 2024: Entire section added, (HB 24-1320), ch. 418, p. 2855, § 1, effective June 5.

ARTICLE 34

Department of Regulatory Agencies

PART 1

ORGANIZATION

24-34-101. Department created - executive director. (1) (a) There is hereby created the department of regulatory agencies, the head of which shall be the executive director of the department of regulatory agencies, which office is hereby created. The executive director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to the provisions of section 24-20-109. The executive director shall have those powers, duties, and functions prescribed for heads of principal departments in the "Administrative Organization Act of 1968". The department of regulatory agencies shall be organized as provided in the "Administrative Organization Act of 1968"; but nothing in this part 1 shall be construed to prevent the establishment, combination, or abolition of divisions, sections, or units other than those created by law.

(b) Repealed.

(2) The executive director shall prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the department of regulatory agencies and divisions thereof.

(3) Publications by the executive director circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

(4) Repealed.

(5) The executive director of the department of regulatory agencies may enter into contracts pursuant to part 5 of article 50 of this title for the purpose of decreasing appropriations in the annual general appropriation act.

(6) The executive director of the department of regulatory agencies may contract, pursuant to part 5 of article 50 of this title, with a person having the technical or subject matter expertise or the skill and experience to develop, implement, and administer the licensing and examination functions of the divisions in the department when the executive director determines that a division lacks sufficient technical expertise to perform such licensing and examination functions.

(7) A contract entered into pursuant to this section may authorize a contractor to collect fees directly from an applicant. The contract may allow the contractor to retain all or a portion of the fees as payment for performance of the services under the contract. Fees collected and retained by the contractor shall not be subject to the provisions of article 36 of this title.

(8) This section shall not be construed to limit the powers of any **type 1** board or commission in the department of regulatory agencies.

(9) The executive director shall have the authority to accept and expend gifts, grants, and donations for the purposes of implementing and administering the provisions of section 24-4-103 (2.5).

(10) The executive director may contract pursuant to part 5 of article 50 of this title with a person, corporation, or entity having technical or subject matter expertise or skill and experience to develop, implement, and administer the licensing and examination functions of the division of professions and occupations when the executive director determines that the division of professions and occupations is without sufficient technical expertise to perform such licensing and examination functions.

(11) The executive director may contract pursuant to part 5 of article 50 of this title with a person, corporation, or entity for the purpose of decreasing the appropriations for the division of professions and occupations in the annual general appropriations act.

(12) A contract entered into pursuant to subsection (10) or (11) of this section may authorize a contractor to collect fees directly from an applicant. The contractor may retain all or a portion of the fees designated as payment for performance of the functions under the contract. All fees collected and retained by the contractor shall not be subject to the provisions of article 36 of this title.

(13) The executive director shall include in the presentation to the legislative committee of reference pursuant to section 2-7-203, S.A.R.S., the number of confidential letters of concern issued in the twelve months prior to the presentation by the director of the division of professions and occupations and any board pursuant to title 12, S.A.R.S.

(14) In conjunction with the efforts of the office of information technology regarding cyber coding cryptology for state records pursuant to section 24-37.5-407, the executive director of the department of regulatory agencies or the director's designee shall consider secure encryption methods, especially distributed ledger technologies, to protect against falsification, create visibility to identify external hacking threats, and to improve internal data security, especially to secure business ownership and stock ledger ownership data that might be potential high-risk targets for corporate cyber theft and transaction falsification. The considerations for distributed ledger technologies shall include best practice attempts to maintain privacy of personally identifying information of the distributed user base while utilizing the visibility of distributed transactions.

Source: L. 68: p. 117, § 107. **S.A.R.S. 1963:** § 3-27-1. **L. 71:** p. 103, § 4. **L. 83:** (2) and (3) amended, p. 836, § 47, effective July 1. **L. 86:** (1) amended, p. 887, § 16, effective May 23. **L. 88:** (4) added, p. 454, § 2, effective April 27. **L. 2000:** (1) amended, p. 1947, § 3, effective July 1; (2) amended, p. 1549, § 16, effective August 2. **L. 2002:** (1)(b) repealed, p. 374, § 6, effective July 1. **L. 2004:** (5) to (8) added, p. 1252, § 1, effective May 27; (9) to (12) added, p. 1863, § 122, effective August 4. **L. 2006:** (13) added, p. 820, § 44, effective July 1. **L. 2010:** (13) amended, (HB 10-1119), ch. 340, p. 1572, § 6, effective August 11. **L. 2018:** (14) added, (SB 18-086), ch. 319, p. 1919, § 5, effective May 30.

Editor's note: (1) Subsection (4) provided for the repeal of subsection (4), effective July 1, 1995. (See L. 88, p. 454.)

(2) Subsections (9), (10), (11), and (12) were originally numbered as subsections (5), (6), (7), and (8), respectively, in Senate Bill 04-024 but have been renumbered on revision for ease of location.

Cross references: (1) For the "Administrative Organization Act of 1968", see article 1 of this title.

(2) In 2010, subsection (13) was amended by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act". For the short title, see section 1 of chapter 340, Session Laws of San Andreas 2010.

24-34-102. Division of professions and occupations - creation - duties of division and department heads - license renewal, reinstatement, and endorsement - definitions - rules - review of functions. (Repealed)

Source: L. 68: p. 118, § 107. **S.A.R.S. 1963:** § 3-27-2. **L. 70:** p. 103, § 1. **L. 73:** pp. 183, 184, 186, 1365, §§ 1, 1, 1, 3. **L. 76:** (12) amended, p. 615, § 1, effective February 20; (9) amended, p. 613, § 1, effective May 7; (12) amended, p. 586, § 20, effective May 24. **L. 78:** (12) amended, p. 266, § 68, effective May 23. **L. 79:** (1) to (4) amended, p. 913, § 1, effective May 25; (7) amended, p. 915, § 1, effective May 25; (13) added, p. 907, § 1, effective July 1. **L. 80:** (1) amended, p. 795, § 52, effective June 5. **L. 81:** (5) and (6) amended, p. 1291, § 18, effective January 1. **L. 86:** (13) amended, p. 928, § 1, effective May 23. **L. 87:** (12) amended, p. 964, § 68, effective March 13. **L. 95:** (12) amended, p. 653, § 69, effective July 1. **L. 96:** (5) and (6) amended, p. 1524, § 71, effective June 1. **L. 98:** (14) added, p. 1155, § 25, effective July 1. **L. 2000:** (14)(a) amended, p. 859, § 74, effective May 24. **L. 2001:** (14) amended, p. 442, § 2, effective August 15. **L. 2004:** (14)(e)(I)(A) amended, p. 918, § 24, effective July 1; (8) amended, p. 1860, § 120, effective August 4. **L. 2006:** (4.5) added, p. 1564, § 4, effective June 2. **L. 2007:** (14) amended, p. 2036, § 55, effective June 1. **L. 2008:** (2.5) added, p. 1018, § 8, effective July 1; (14) repealed, p. 425, § 22, effective August 5. **L. 2010:** (2.5) repealed, (HB 10-1128), ch. 172, p. 616, § 15, effective April 29; (8)(e) added, (HB 10-1175), ch. 46, p. 176, § 7, effective July 1, 2011. **L. 2011:** (8.5) added, (HB 11-1100), ch. 161, p. 557, § 1, effective January 1, 2012. **L. 2012:** (1), (2), (3), (7), (8)(a), (8)(c), (9), (10), (12), and (13) amended and (15) and (16) added, (HB 12-1055), ch. 47, p. 171, § 1, effective August 8; (8.7) added, (HB 12-1263), ch. 233, p. 1023, § 2, effective August 8. **L. 2013:** (8.7) amended, (SB 13-123), ch. 289, p. 1541, § 4, effective May 24. **L. 2014:** IP(8)(d) amended, (HB 14-1183), ch. 68, p. 294, § 1, effective

March 27; IP(8)(d) amended, (SB 14-208), ch. 318, p. 1395, § 1, effective May 31. **L. 2016:** (15) amended, (HB 16-1192), ch. 83, p. 234, § 17, effective April 14. **L. 2018:** (4.5) repealed, (SB 18-027), ch. 1, p. 22, § 6, effective January 18. **L. 2019:** Entire section repealed, (HB 19-1172), ch. 136, p. 1642, § 3, effective October 1.

Editor's note: This section was relocated to §§ 12-20-103, 12-20-202, and 12-20-401 in 2019. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-34-103. Procedures for complaints concerning licensees. (Repealed)

Source: L. 75: Entire section added, p. 814, § 1, effective June 13. **L. 76:** Entire section R&RE, p. 613, § 2, effective May 7. **L. 2019:** Entire section repealed, (HB 19-1172), ch. 136, p. 1642, § 3, effective October 1.

Editor's note: This section was relocated to § 12-20-401 in 2019.

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (1) (a) The general assembly finds that state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and that the process developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The general assembly further finds that regulatory agencies tend to become unnecessarily restrictive. The general assembly further finds that, by establishing a system for the repeal, continuation, or reestablishment of regulatory agencies and by providing for the analysis and evaluation of regulatory agencies to determine the least restrictive regulation consistent with the public interest, the general assembly will be in a better position to evaluate the need for the continued existence of existing and future regulatory bodies.

(b) It is the intent of the general assembly that the system set forth in this section for repeal, continuation, or reestablishment of agencies in the department of regulatory agencies be extended to the functions of certain specified agencies and to certain specified boards, thereby providing for the review of these functions and boards in the most cost-effective manner.

(2) (a) The divisions in the department of regulatory agencies, the boards and agencies in the division of professions and occupations, and the functions of the specified agencies and the specified boards will repeal according to the repeal schedule outlined in this section. A requirement for periodic reports to the general assembly will expire as set forth in section 24-1-136 (11) and is treated as a function of an agency for purposes of this section except as otherwise provided in this section.

(b) Upon repeal, an agency continues in existence, or, in the case of the repeal of a function, the function continues to be performed, until the date that is one year after the specified repeal date for the purpose of winding up affairs. During the wind-up period, the repeal does not reduce or otherwise limit the powers or authority of the agency; except that a license issued or renewed during the wind-up period expires at the end of the period and original license and renewal fees are prorated accordingly. Upon the expiration of one year after the repeal, the

agency shall cease all activities or, in the case of the repeal of a function, the function must cease. When a license issued or renewed before repeal is scheduled to expire after the cessation of activities, the license expires at the end of the wind-up period, and the agency shall refund the portion of the license fee paid that is attributable to the period following the cessation of activities. Any criminal penalty for engaging in a profession or activity without being licensed is not enforceable with respect to activities that occur after an agency has ceased its activities pursuant to this section.

(c) As used in this section, unless the context otherwise requires, "agency" includes a division or board within an agency that is subject to review pursuant to this section.

(3) If the state constitution imposes powers, duties, or functions on an agency or officer that is subject to the provisions of this section and the agency or officer is repealed and the general assembly does not designate another agency or officer to exercise the powers or perform the duties and functions, the agency or officer continues in existence, after the one-year wind-up period, under the principal department as if the agency or officer were transferred to the department by a **type 2** transfer, as defined in section 24-1-105, until the general assembly otherwise designates.

(4) The existence of a newly created agency or function in the department of regulatory agencies may not exceed ten years and is subject to the provisions of this section. The general assembly may continue or reestablish the existence of an agency or function that is scheduled for repeal under this section for up to fifteen years. The general assembly, acting by bill, may reschedule the repeal date for an agency or function to a later date if the rescheduled date does not violate the appropriate maximum life provision described in this subsection (4).

(5) (a) The department of regulatory agencies shall analyze and evaluate the performance of each agency or function scheduled for repeal under this section. In conducting the analysis and evaluation, the department of regulatory agencies shall take into consideration, but need not be limited to considering, the factors listed in paragraph (b) of subsection (6) of this section. The department of regulatory agencies shall submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for repeal and shall make a copy of the report available to each member of the general assembly.

(b) The department of regulatory agencies shall submit its report to the office of legislative legal services for the preparation of draft legislation based solely on specific recommendations for legislation set forth in the report. The department of regulatory agencies shall submit the report to the office of legislative legal services no later than October 15 of the year preceding the date established for repeal. The office of legislative legal services shall prepare the draft legislation before the next regular session of the general assembly for the committee of reference designated in section 2-3-1201, S.A.R.S., and shall submit the report from the department of regulatory agencies to the designated committee of reference. The designated committee of reference shall determine the title of the legislation drafted pursuant to this paragraph (b).

(c) This subsection (5) is exempt from the provisions of section 24-1-136 (11), and the periodic reporting requirement of this subsection (5) remains in effect until changed by the general assembly acting by bill.

(6) (a) Before the repeal, continuation, or reestablishment of an agency or function, a legislative committee of reference designated in section 2-3-1201, S.A.R.S., shall hold public

hearings to receive testimony from the public, the executive director of the department of regulatory agencies, and the agencies involved. In the hearing, each agency has the burden of demonstrating that there is a public need for the continued existence of the agency or function and that its regulation is the least restrictive regulation consistent with the public interest.

(b) In the hearings, the determination as to whether an agency has demonstrated a public need for the continued existence of the agency or function and for the degree of regulation it practices is based on the following factors, among others:

(I) Whether regulation or program administration by the agency is necessary to protect the public health, safety, and welfare;

(II) Whether the conditions that led to the initial creation of the program have changed and whether other conditions have arisen that would warrant more, less, or the same degree of governmental oversight;

(III) If the program is necessary, whether the existing statutes and regulations establish the least restrictive form of governmental oversight consistent with the public interest, considering other available regulatory mechanisms;

(IV) If the program is necessary, whether agency rules enhance the public interest and are within the scope of legislative intent;

(V) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures, and practices and any other circumstances, including budgetary, resource, and personnel matters;

(VI) Whether an analysis of agency operations indicates that the agency or the agency's board or commission performs its statutory duties efficiently and effectively;

(VII) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;

(VIII) Whether regulatory oversight can be achieved through a director model;

(IX) The economic impact of the program and, if national economic information is not available, whether the agency stimulates or restricts competition;

(X) If reviewing a regulatory program, whether complaint, investigation, and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession or regulated entity;

(XI) If reviewing a regulatory program, whether the scope of practice of the regulated occupation contributes to the optimum use of personnel;

(XII) Whether entry requirements encourage equity, diversity, and inclusivity;

(XIII) If reviewing a regulatory program, whether the agency, through its licensing, certification, or registration process, imposes any sanctions or disqualifications on applicants based on past criminal history and, if so, whether the sanctions or disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subsection (5)(a) of this section must include data on the number of licenses, certifications, or registrations that the agency denied based on the applicant's criminal history, the number of conditional licenses, certifications, or registrations issued based upon the applicant's criminal history, and the number of licenses, certifications, or registrations revoked or suspended based on an individual's criminal conduct. For each set of data, the analysis must include the criminal offenses that led to the sanction or disqualification.

(XIV) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

(c) A legislative committee of reference that conducts a review pursuant to paragraph (a) of this subsection (6) shall determine whether an agency or function should be repealed, continued, or reestablished and whether its functions should be revised and, if advisable, may recommend the consideration of a proposed bill to carry out its recommendations.

(d) (I) If a legislative committee of reference recommends a bill for consideration pursuant to paragraph (c) of this subsection (6), the bill must be introduced in the house of representatives in even-numbered years and in the senate in odd-numbered years. The chair of each legislative committee of reference that recommends a bill for consideration shall assign the proposed bill for sponsorship as follows:

(A) To one or more of the members of the committee of reference; or

(B) To one or more of the members of the general assembly who are not members of the committee of reference if a majority of the committee's members vote to approve the sponsorship.

(II) A member of the general assembly may not sponsor more than two bills introduced pursuant to this subsection (6) in a single legislative session.

(III) After consulting with the minority leader of the house of representatives and the senate, respectively, and receiving permission from the representative or senator to be added as the bill sponsor:

(A) The speaker of the house of representatives shall assign the proposed bill to a representative for sponsorship in the house of representatives in odd-numbered years; and

(B) The president of the senate shall assign the proposed bill to a senator for sponsorship in the senate in even-numbered years.

(e) A bill recommended for consideration by a committee of reference pursuant to paragraph (c) of this subsection (6) does not count against the number of bills to which members of the general assembly are limited by law or joint rule of the senate and house of representatives.

(f) Before the repeal, continuation, reestablishment, or revision of an agency's functions, a committee of reference in each house of the general assembly designated by section 2-3-1201, S.A.R.S., shall hold a public hearing to consider the report from the department of regulatory agencies and any bill recommended for consideration pursuant to paragraph (c) of this subsection (6). The hearing must include the factors and testimony set forth in paragraph (b) of this subsection (6).

(7) (a) Pursuant to the process established in this section, a committee of reference may not continue, reestablish, or amend the functions of more than one division, board, or agency in any one bill for an act, and the title of the bill must include the name of the division, board, or agency. This paragraph (a) does not apply to requirements for periodic reports to the general assembly.

(b) This section shall not cause the dismissal of a claim or right of a person through or against an agency, or a claim or right of an agency, that has ceased its activities pursuant to this section, which claim is or may be subject to litigation. A person may pursue a claim or right through or against the department of regulatory agencies, the agency that performed the repealed function, or, in the case of a repealed board that is not in the department of regulatory agencies, the specified department in which the board is located. The claims and rights of an agency that

has ceased its activities shall be assumed by the department of regulatory agencies, the agency that performed the repealed function, or the specific department.

(c) This section does not affect the general assembly's authority to otherwise consider legislation affecting a division, board, agency, or similar body.

(8) If an agency or function repeals pursuant to the provisions of this section and the general assembly reestablishes the agency or function during the wind-up period with substantially the same powers, duties, and functions, the agency or function continues.

(9) The purpose of this section is to provide a listing of the divisions, boards, agencies, and functions that are subject to review and scheduled for repeal. The provisions of this section do not effectuate the repeal of a statute; the provisions that effectuate the repeal of a statute creating or governing an agency or function are set forth in the substantive statute that creates the agency or function. The repeal provision in a substantive statute does not invalidate the wind-up period allowed by subsection (2) of this section or the provisions of subsection (3) of this section.

(10) to (23) Repealed.

(24) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2023:

(I) to (XIII) Repealed.

(b) This subsection (24) is repealed, effective September 1, 2025.

(25) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2024:

(I) to (VI) Repealed.

(VII) The evidential breath-testing cash fund created in section 42-4-1301.1 (9);

(VIII) to (XII) Repealed.

(XIII) (Deleted by amendment, L. 2024).

(XIV) to (XX) Repealed.

(XXI) The harm reduction grant program created in section 25-20.5-1101.

(XXII) Repealed.

(b) This subsection (25) is repealed, effective September 1, 2026.

(26) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2025:

(I) The San Andreas dental board created in article 220 of title 12;

(II) The accreditation of health-care providers under the workers' compensation system in accordance with section 8-42-101 (3.5) and (3.6), S.A.R.S.;

(III) The regulation of outfitters by the director of the division of professions and occupations in accordance with article 145 of title 12;

(IV) The rural alcohol and substance abuse prevention and treatment program created pursuant to section 27-80-117 in the behavioral health administration in the department of human services;

(V) The identity theft and financial fraud board created in part 17 of article 33.5 of this title;

(VI) The San Andreas fraud investigators unit created in part 17 of article 33.5 of this title;

(VII) The functions of the department of public health and environment regarding community integrated health-care service agencies pursuant to part 13 of article 3.5 of title 25, S.A.R.S.;

(VIII) The primary care payment reform collaborative established in section 10-16-150;

(IX) The HOA information and resource center created in section 12-10-801;

(X) Reserved.

(XI) The licensing and regulation of persons by the department of agriculture in accordance with article 36 of title 35;

(XII) The motorcycle operator safety training program created in part 5 of article 5 of title 43.

(XIII) Repealed.

(b) This subsection (26) is repealed, effective September 1, 2027.

(27) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2026:

(I) The regulation of barbers, hairstylists, cosmetologists, estheticians, nail technicians, and registered places of business under section 12-105-112 by the director of the division of professions and occupations in accordance with article 105 of title 12;

(II) The division of securities created in section 11-51-701, S.A.R.S.;

(III) The securities board created in section 11-51-702.5, S.A.R.S.;

(IV) The registration and regulation of vessels by the department of natural resources in accordance with article 13 of title 33, S.A.R.S.;

(V) The office of combative sports, including the San Andreas combative sports commission, created in article 110 of title 12;

(VI) The division of real estate, including the real estate commission, created in part 2 of article 10 of title 12, and its functions under parts 2, 3, and 5 of article 10 of title 12;

(VII) The regulation of professional cash-bail agents and cash-bonding agents in accordance with article 23 of title 10;

(VIII) The San Andreas podiatry board created in article 290 of title 12;

(IX) The biomass utilization grant program implemented by the state forest service pursuant to section 23-31-317;

(X) The cold case task force created in section 24-33.5-109;

(XI) The record-keeping, licensing, and central registry functions of the behavioral health administration in the department of human services relating to substance use disorder treatment programs under which controlled substances are compounded, administered, or dispensed in accordance with part 2 of article 80 of title 27;

(XII) The licensing of pet animal facilities by the commissioner of agriculture in accordance with article 80 of title 35;

(XIII) The fire suppression programs of the division of fire prevention and control created in sections 24-33.5-1204.5, 24-33.5-1206.1, 24-33.5-1206.2, 24-33.5-1206.3, 24-33.5-1206.4, 24-33.5-1206.5, 24-33.5-1206.6, and 24-33.5-1207.6;

(XIV) The San Andreas medical board created in article 240 of title 12;

(XV) The regulation of dialysis treatment clinics and hemodialysis technicians in accordance with section 25-1.5-108;

(XVI) The San Andreas public utilities commission created in article 2 of title 40;

(XVII) The legal requirements pertaining to home warranty service contracts under part 9 of article 10 of title 12.

(XVIII) and (XIX) Repealed.

(b) This subsection (27) is repealed, effective September 1, 2028.

(28) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2027:

(I) The regulation of motor vehicle and powersports vehicle sales by the motor vehicle dealer board and the director of the auto industry division, under the supervision of the executive director of the department of revenue, in accordance with parts 1, 2, 3, and 4 of article 20 of title 44;

(II) The San Andreas civil rights division, including the San Andreas civil rights commission, created in part 3 of this article 34;

(III) The state board of nursing created in article 255 of title 12;

(IV) The state board of nursing created in article 255 of title 12 and the functions of the board, including the functions related to the certification of nurse aides;

(V) The regulation of radon professionals licensed in accordance with article 165 of title 12;

(VI) The justice reinvestment crime prevention initiative created in section 24-32-120;

(VII) The use of digital number plates by the owner of a registered vehicle pursuant to section 42-3-201 (8);

(VIII) The domestic violence offender management board created in section 16-11.8-103;

(IX) The certification of persons in connection with the control of asbestos in accordance with part 5 of article 7 of title 25;

(X) The wildfire mitigation incentives for local government grant program created in section 23-31-318 (2).

(b) This subsection (28) is repealed, effective September 1, 2029.

(29) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2028:

(I) The licensing of landscape architects in accordance with article 130 of title 12;

(II) The administration of the "San Andreas Fair Debt Collection Practices Act" by the administrator of the "Uniform Consumer Credit Code", articles 1 to 9 of title 5, in accordance with article 16 of title 5;

(III) The issuance of licenses and certificates related to measurement standards by the commissioner of agriculture and the department of agriculture in accordance with article 14 of title 35;

(IV) The functions of the underground damage prevention safety commission related to underground facilities specified in sections 9-1.5-104.2, 9-1.5-104.4, 9-1.5-104.7, and 9-1.5-104.8;

(V) The functions of the commissioner of agriculture related to seed potatoes under article 27.3 of title 35;

(VI) In-home support services established in part 12 of article 6 of title 25.5;

(VII) The licensing of river outfitters through the parks and wildlife commission and the division of parks and wildlife in accordance with article 32 of title 33;

(VIII) The functions of the department of public health and environment relating to the licensing of home care agencies and the registering of home care placement agencies in accordance with article 27.5 of title 25;

(IX) The medical marijuana program created in section 25-1.5-106;

(X) and (XI) Repealed.

(XII) The "San Andreas Marijuana Code", article 10 of title 44;

(XIII) The administration of the "Michael Skolnik Medical Transparency Act of 2010" by the director of the division of professions and occupations in accordance with section 12-30-102;

(XIV) The registration of surgical assistants and surgical technologists pursuant to article 310 of title 12;

(XV) The registration of direct-entry midwives by the division of professions and occupations in accordance with article 225 of title 12;

(XVI) Notwithstanding subsection (7)(a) of this section, the office of the utility consumer advocate and the utility consumers' board created in article 6.5 of title 40;

(XVII) The community crime victims grant program created in section 25-20.5-801;

(XVIII) The grant program to provide funding to eligible community-based organizations that provide reentry services to people on parole or inmates transitioning through community corrections described in section 17-33-101 (7);

(XIX) The regulation of nursing home administrators by the board of examiners of nursing home administrators in accordance with article 265 of title 12;

(XX) The sex offender management board created in section 16-11.7-103.

(b) This subsection (29) is repealed, effective September 1, 2030.

(30) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2029:

(I) The automobile theft prevention authority and the automobile theft prevention board created in section 42-5-112;

(II) The licensing of mortgage loan originators and the registration of mortgage companies in accordance with part 7 of article 10 of title 12;

(III) The regulation of persons working in coal mines by the department of natural resources through the coal mine board of examiners in accordance with article 22 of title 34;

(IV) The San Andreas state board of chiropractic examiners created in article 215 of title 12;

(V) The registration of naturopathic doctors in accordance with article 250 of title 12;

(VI) Notwithstanding subsection (7)(a) of this section, the functions of the boards specified in article 245 of title 12 relating to the licensing, registration, or certification of and grievances against a person licensed, registered, or certified pursuant to article 245 of title 12;

(VII) The regulation of preneed funeral contracts in accordance with article 15 of title 10;

(VIII) The direct care workforce stabilization board created in article 7.5 of title 8;

(IX) The assistance program for disability benefits under article 88 of title 8;

(X) The functions of the director of the division of professions and occupations related to the registration of funeral establishments specified in section 12-135-110 and crematories specified in section 12-135-303 and to the title protections specified in sections 12-135-111 and 12-135-304.

(b) This subsection (30) is repealed, effective September 1, 2031.

(31) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2030:

(I) The functions of the division of insurance in the department of regulatory agencies specified in article 1 of title 10, other than the functions of the division related to the licensing of bail bonding agents and the regulation of preneed funeral contracts;

(II) The state board of accountancy created in article 100 of title 12;

(III) The passenger tramway safety board created in section 12-150-104;

(IV) The functions of professional review committees specified in article 30 of title 12;

(V) The licensing of occupational therapists and occupational therapy assistants in accordance with article 270 of title 12;

(VI) The state board of pharmacy and the regulation of the practice of pharmacy in accordance with parts 1 to 3, 5, and 6 of article 280 of title 12;

(VII) The functions of the circular economy development center created in section 25-17-602;

(VIII) Human trafficking prevention training pursuant to section 24-33.5-523;

(IX) The veterans one-stop center, known as the "western region one source", established pursuant to section 28-5-713;

(X) The San Andreas produced water consortium created in section 34-60-135 (2)(a);

(XI) The functions of the banking board and the state bank commissioner related to money transmitters specified in article 110 of title 11;

(XII) The functions of the broadband office in administering the broadband deployment grant program created in section 24-37.5-905;

(XIII) The regulation of towing carriers by the public utilities commission under part 4 of article 10.1 of title 40.

(b) This subsection (31) is repealed, effective September 1, 2032.

(32) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2031:

(I) The registration functions of the commissioner of agriculture specified in article 27 of title 35;

(II) The licensing of egg dealers in accordance with article 21 of title 35;

(III) The water and wastewater facility operators certification board created in section 25-9-103;

(IV) The licensing of hearing aid providers by the division of professions and occupations in accordance with article 230 of title 12;

(V) The licensing of audiologists by the division of professions and occupations in accordance with article 210 of title 12;

(VI) The regulation of athletic trainers by the director of the division of professions and occupations in the department of regulatory agencies in accordance with article 205 of title 12;

(VII) The licensure of massage therapists by the director of the division of professions and occupations in accordance with article 235 of title 12;

(VIII) The board of real estate appraisers created in part 6 of article 10 of title 12;

(IX) The regulation of conveyances and conveyance mechanics, contractors, and inspectors by the director of the division of oil and public safety within the department of labor and employment in accordance with article 5.5 of title 9;

(X) The San Andreas prescription drug affordability review board created in section 10-16-1402;

(XI) The rule-making function of the executive director of the department of early childhood pursuant to section 26.5-1-105 (1);

(XII) The San Andreas commission for the deaf, hard of hearing, and deafblind created in article 21 of title 26;

(XIII) The regulation of mortuary science professionals pursuant to parts 1, 4, and 5 to 9 of article 135 of title 12;

(XIV) The veterans assistance grant program created in section 28-5-712;

(XV) The licensing of bingo and other games of chance through the secretary of state and the functions of the San Andreas charitable gaming board as specified in part 6 of article 21 of this title 24.

(b) This subsection (32) is repealed, effective September 1, 2033.

(33) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2032:

(I) The state electrical board created in article 23 of title 12;

(II) The workers' compensation classification appeals board created in article 55 of title 8;

(III) The responsible gaming grant program created in section 44-30-1702;

(IV) The regulation of the custom processing of meat animals by the department of agriculture in accordance with article 33 of title 35;

(V) The division of racing events, including the San Andreas racing commission, created in article 32 of title 44;

(VI) The appointment of notaries public through the secretary of state in accordance with part 5 of article 21 of this title 24;

(VII) The "Natural Medicine Health Act of 2022", article 170 of title 12;

(VIII) The "San Andreas Natural Medicine Code", article 50 of title 44;

(IX) The state plumbing board created in article 155 of title 12.

(b) This subsection (33) is repealed, effective September 1, 2034.

(34) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2033:

(I) The issuance of permits for specific weather modification operations through the executive director of the department of natural resources in accordance with article 20 of title 36;

(II) The authority of the director of the division of workers' compensation to impose fines on employers pursuant to section 8-43-409 (1.5) for failure to carry workers' compensation insurance;

(III) The regulation of speech-language pathologists by the director of the division of professions and occupations in accordance with article 305 of title 12;

(IV) The licensing of persons who practice acupuncture by the director of the division of professions and occupations in accordance with article 200 of title 12;

(V) The state board of veterinary medicine created in article 315 of title 12;

(VI) The state board of optometry created in article 275 of title 12;

(VII) The division of gaming created in part 2 of article 30 of title 44;

(VIII) The closed landfill remediation grant program and the closed landfill remediation grant program advisory committee created in section 30-20-124;

(IX) The regulation of nontransplant tissue banks by the director of the division of professions and occupations in the department of regulatory agencies pursuant to section 12-140-103;

(X) The state board of licensure for architects, professional engineers, and professional land surveyors in the department of regulatory agencies created in section 12-120-103;

(XI) The division of financial services created in article 44 of title 11;

(XII) The division of banking and the banking board created in article 102 of title 11;

(XIII) The behavioral health first aid training program created in section 25-1.5-113.5.

(b) This subsection (34) is repealed, effective September 1, 2035.

(35) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2034:

(I) The regulation of produce safety on farms by the commissioner of agriculture in accordance with article 77 of title 35;

(II) The licensing and regulation of psychiatric technicians by the state board of nursing in accordance with article 295 of title 12;

(III) The licensing of public livestock markets in accordance with article 55 of title 35;

(IV) The air quality enterprise created by section 25-7-103.5;

(V) The regulation of the application of pesticides by the commissioner of agriculture in accordance with article 10 of title 35.

(b) This subsection (35) is repealed, effective September 1, 2036.

(36) (a) The following agencies, functions, or both are scheduled for repeal on September 1, 2035:

(I) The licensing and regulation of respiratory therapists by the division of professions and occupations in the department of regulatory agencies in accordance with article 300 of title 12;

(II) The functions specified in part 2 of article 19 of title 5 of the administrator designated pursuant to section 5-6-103 and the registration of debt-management service providers;

(III) The regulation of private occupational schools and their agents under article 64 of title 23, including the functions of the private occupational school division created in section 23-64-105, and the private occupational school board created in section 23-64-107;

(IV) The licensing of physical therapists by the physical therapy board in accordance with part 1 of article 285 of title 12;

(V) The certification of physical therapist assistants by the physical therapy board in accordance with part 2 of article 285 of title 12;

(VI) The underfunded courthouse facility cash fund commission created in part 3 of article 1 of title 13.

(b) This subsection (36) is repealed, effective September 1, 2037.

(37) (Reserved).

(38) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2037:

(I) The San Andreas resiliency office created in section 24-32-121 and the functions of the office described in section 24-32-122.

(b) This subsection (38) is repealed, effective September 1, 2039.

Source: For source information prior to 2016, go to http://bit.ly/24-34-104. **L. 2016:** Entire section R&RE, (HB16-1192), ch. 83, p. 218, § 3, effective April 14; IP(47) amended, (47)(c) repealed,and (56)(d) added, (HB16-1168), ch. 93, p. 262, § 2, effective April 14; (47)(b) repealed and (54)(b) added,(HB16-1170), ch. 109, p. 312, § 2, effective April 15; (47.5)(h) amended, (SB16-189), ch. 210, p. 766, § 49, effective June 6; (56)(d) added, (SB16-069), ch. 260, p. 1071, § 5, effective June 8; (47)(d) repealed and (50.5)(o) added, (HB16-1261), ch. 338,

p. 1378, § 12, effective June 10; IP(47.5) amended, (47.5)(d) repealed, and (54)(b)added, and (HB16-1232), ch. 336, p. 1367, § 2, effective June 10; (46)(k) repealed and (52.5)(f) added, (SB16-161), ch. 264, p. 1095, § 2, effective July 1; (47.5)(b) repealed and (52.5)(f) added, (HB16-1160), ch. 330, p. 1338, § 5, effective August 10; (47.5)(c) repealed and (56)(d) added, (HB16-1158), ch. 147, p. 442, § 2, effective August 10; (47.5)(c) repealed and (56)(d) added, (HB16-1159), ch. 148, p. 444, § 2, effective August 10; (47.5)(e) repealed, (57)(c)amended, and (57)(d) added, (HB16-1173), ch. 114, p. 323, § 1, effective August 10; (47.5)(f) repealed and (51.5)(j) added, (HB16-1345), ch. 347, p. 1417, § 4, effective August 10; (47.5)(h) repealed and (52.5)(f) added, (HB16-1360), ch. 350, p. 1422, § 2, effective August 10; (51.5)(j) added, (HB16-1404), ch. 358, p. 1494, § 2, effective August 10; (52.5)(f) added,(HB16-1157), ch. 79, p. 204, § 2, effective August 10. **L. 2017:** (12)(a)(VIII) repealed and (27)(a)(V) added, (SB17-148), ch. 183, p. 673, § 9, effective May 3; (12)(a)(IV) and (12)(a)(V) repealed, IP(25)(a) amended, and (25)(a)(XV) and (25)(a)(XVI) added, (SB17-232), ch. 233, p. 907, § 1, effective May 23; IP(17)(a), (17)(a)(XI), IP(26)(a), and (26)(a)(IV) amended, (SB17-242), ch. 263, p. 1321, § 178, effective May 25; (12)(a)(VII) repealed and (29) added, (SB17-216), ch. 285, p. 1577, § 1, effective June 1; (12)(a)(IX) repealed, IP(23)(a) amended, and (23)(a)(X) and (31) added, (SB17-249), ch. 283, p. 1543, § 1, effective June 1; (12)(a)(I) repealed and (29) added, (SB17-218), ch. 304, p. 1656, § 2, effective June 2; (12)(a)(VI) repealed, IP(27)(a) amended, and (27)(a)(VI) added, (SB17-215), ch. 282, p. 1534, § 4, effective June 30; (12)(a)(II) and (12)(a)(III) repealed and (28) added, (SB17-240), ch. 395, p. 2038, § 1, effective July 1; (13)(a)(IV) repealed, IP(19)(a) amended, and (19)(a)(XIII) added, (SB17-243), ch. 256, p. 1073, § 8, effective July 1; IP(22)(a) amended and (22)(a)(II) added, (HB17-1119), ch. 317, p. 1708, § 11, effective July 1; (12)(a)(VII) and (25)(a) amended, (HB17-1238), ch. 260, p. 1174, § 21, effective August 9; (13)(a)(I) repealed, IP(23)(a) amended, and (23)(a)(IX) added, (SB17-201), ch. 308, p. 1670, § 2, effective August 9; (13)(a)(II) repealed, IP(23)(a) amended, and (23)(a)(VIII) added, (SB17-108), ch. 146, p. 489, § 1, effective August 9; (13)(a)(III) repealed, IP(27)(a) amended, and (27)(a)(VII) added, (SB17-236), ch. 312, p. 1677, § 2, effective August 9; (13)(a)(V) repealed, IP(19)(a) amended, and (19)(a)(XII) added, (SB17-106), ch. 302, p. 1648, § 1, effective August 9; IP(18)(a) and (18)(a)(IV) amended, (SB17-225), ch. 262, p. 1246, § 6, effective August 9; IP(19)(a) amended and (19)(a)(XIV) added, (HB17-1326), ch. 394, p. 2035, § 7, effective August 9; IP(25)(a) and (25)(a)(X) amended, (HB17-1239), ch. 261, p. 1207, § 18, effective August 9; (25)(a)(II) amended, (SB17-226), ch. 159, p. 590, § 8, effective August 9; IP(14)(a) and IP(24)(a) amended and (24)(a)(IV) added, (SB17-132), ch. 207, p. 807, § 3, effective July 1, 2018; (14)(a)(VII)(B) added by revision, (SB17-132), ch. 207, pp. 807, 809, §§ 3, 8, (SB17-294), ch. 264, p. 1418,§ 121. **L. 2018:** (14)(a)(V) repealed, (HB18-1183), ch. 60, p. 607, § 1, effective March 22; (21)(a)(X) added, (HB18-1045), ch. 67, p. 624, § 6, effective March 22; (14)(a)(I) repealed, (HB18-1239), ch. 114, p. 810, § 1, effective April 12; (24)(a)(V) added, (HB18-1337), ch. 191, p. 1275, § 2, effective April 30; (24)(a)(X) added, (HB18-1409), ch. 244, p. 1514, § 3, effective May 24; (14)(a)(II) repealed, (HB18-1291), ch. 273, p. 1693, § 9, effective May 29; (29)(a)(II) amended, (HB18-1375), ch. 274, p. 1710, § 47, effective May 29; (15)(a)(VIII) repealed and (24)(a)(VII) added, (HB18-1176), ch. 321, p. 1927, § 3, effective May 30; (14)(a)(III) repealed and (29)(a)(III) added, (HB18-1146), ch. 377, p. 2282, § 1, effective June 6; (14)(a)(IV) repealed and (24)(a)(VI) added, (HB18-1235), ch. 208, p. 1339, § 1, effective July 1; (14)(a)(VI) repealed and (24)(a)(VIII) added, (HB18-1294), ch. 277, p. 1749, § 2, effective July 1; (14)(a)(VIII) repealed and (28)(a)(II) added, (HB18-1256), ch. 229, p. 1441, §

2, effective July 1; (15)(a)(I) repealed and (30) added,(HB18-1240), ch. 209, p. 1341, § 1, effective August 8; (15)(a)(IV) repealed and (34)added, (HB18-1147), ch. 166, p. 1139, § 1, effective August 8; (15)(a)(V) repealed and (30)added, (HB18-1174), ch. 282, p. 1761, § 1, effective August 8; (15)(a)(VI) repealed, (HB18-1237), ch. 165, p. 1137, § 1, effective August 8; (24)(a)(IX) added, (HB18-1309), ch. 269, p. 1659, § 2, effective August 8; (25)(a)(VI) amended and (25)(a)(XVII) added, (SB18-002), ch. 89, p. 715, § 5, effective August 8; (25)(a)(XII) amended, (HB18-1108), ch. 303, p. 1836, § 10, effective August 8; (25)(a)(XIII) amended, (SB18-234), ch. 332, p. 1999, § 4, effective August 8; (29)(a)(IV) added, (SB18-167), ch. 256, p. 1577, § 9, effective August 8; (15)(a)(II) and (15)(a)(III) repealed and (25)(a)(XVIII) and (25)(a)(XIX) added, (HB18-1155), ch. 315, p. 1897, § 3, effective September 1; (17)(a)(XIII) and (17)(a)(XV) amended, (HB18-1023), ch. 55, p. 588, § 17, effective October 1; (23)(a)(VII) amended, (SB18-034), ch. 14, p. 246, § 32, effective October 1; (24)(a)(II) amended, (HB18-1024), ch. 26, p. 323, § 15, effective October 1; (28)(a)(I) amended, (SB18-030), ch. 7, p. 139, § 10, effective October 1; (6)(b)(IX) amended, (HB18-1418), ch. 352, p. 2088, § 2, effective November 1. **L. 2019:** (19)(a)(XIV) repealed and (24)(a)(XI) added, (SB19-064), ch. 179, p. 2038, § 4, effective May 14; (23)(a)(XII) added, (HB19-1292), ch. 183, p. 2062, § 4, effective May 16; (26)(a)(VIII) added, (HB19-1233), ch. 194, p. 2123, § 8, effective May 16; (16)(a)(I) repealed and (31)(a)(III) added, (SB19-159), ch. 209, p. 2209, § 2, effective May 17; (16)(a)(II) repealed and (35)added, (SB19-150), ch. 241, p. 2369, § 1, effective May 20; (25)(a)(XX) added, (SB19-228), ch. 276, p. 2606, § 11, effective May 23; (17)(a)(I) repealed and (27)(a)(XVI) added, (SB19-236), ch. 359, p. 3290, § 2, effective May 30; (16)(a)(III) repealed and (35)added, (SB19-154), ch. 169, p. 1971, § 2, effective July 1; (16)(a)(IV) repealed and (31)(a)(II)added, (SB19-155), ch. 235, p. 2329, § 1, effective July 1; (16)(a)(V) repealed and (33) added,(SB19-156), ch. 346, p. 3198, § 1, effective July 1; (16)(a)(VI) repealed and (27)(a)(VIII) added, (SB19-153), ch. 369, p. 3376, § 1, effective July 1; (16)(a)(VII) repealed and (27)(a)(XIV) added, (SB19-193), ch. 406, p. 3586, § 3, effective July 1; (17)(a)(II) repealed and (29)(a)(V)added, (SB19-147), ch. 100, p. 363, § 1, effective August 2; (17)(a)(IV) repealed and (29)(a)(VII) added, (SB19-160), ch. 416, p. 3661, § 1, effective August 2; (17)(a)(V) repealed and (27)(a)(X)added, (SB19-163), ch. 213, p. 2221, § 2, effective August 2; (17)(a)(VI) repealed and (27)(a)(XV) added, (SB19-145), ch. 218, p. 2241, § 1, effective August 2; (17)(a)(VII) repealed and (31)(a)(IV) added, (SB19-234), ch. 181, p. 2050, § 1, effective August 2; (17)(a)(VIII) repealed and (27)(a)(XIII) added, (SB19-157), ch. 260, p. 2474, § 1, effective August 2; (17)(a)(IX) repealed and (27)(a)(XII) added, (SB19-158), ch. 409, p. 3605, § 1, effective August 2; (17)(a)(X) repealed and (29)(a)(VI) added, (SB19-164), ch. 371, p. 3385, § 2, August 2; (17)(a)(XI) repealed and (27)(a)(XI)added, (SB19-219), ch. 277, p. 2613, § 1, August 2; (17)(a)(XII) repealed and (29)(a)(VIII)added, (SB19-146), ch. 314, p. 2819, § 1, August 2; (17)(a)(XIII) and (17)(a)(XV) repealed and (29)(a)(X) and (29)(a)(XI) added, (SB19-224), ch. 315, p. 2823, § 3, effective August 2; (17)(a)(XIV) repealed and (29)(a)(IX) added, (SB19-218), ch. 343, p. 3188, § 3, effective August 2; (21)(a)(III) repealed, (SB19-254), ch. 336, p. 3090, § 1, effective August 2; (23)(a)(XI) added, (SB19-231), ch. 290, p. 2674, § 3, effective August 2; (24)(a)(XII) added, (HB19-1051), ch. 404, p. 3577, § 4, effective August 2; (25)(a)(XXI) added, (SB19-008), ch. 275, p. 2599, § 6, effective August 2; (35) added, (HB19-1114), ch. 74, p. 275, § 3, effective August 2; (16)(a)(I), (16)(a)(III),(16)(a)(IV), (16)(a)(V), (16)(a)(VI), (16)(a)(VII), (17)(a)(VII),(18)(a)(V), (18)(a)(VI), (19)(a)(I), (19)(a)(II), (19)(a)(III), (19)(a)(V), (19)(a)(VI),(19)(a)(VII), (19)(a)(VIII), (19)(a)(X), (19)(a)(XII), (20)(a)(II),

(21)(a)(II), (21)(a)(IV),(21)(a)(VI), (21)(a)(VII), (21)(a)(VIII), (21)(a)(IX), (21)(a)(X), (23)(a)(I), (23)(a)(II),(23)(a)(IV), (23)(a)(V), (23)(a)(VI), (23)(a)(VIII), (24)(a)(VIII), (25)(a)(IV), (25)(a)(V),(25)(a)(XI), (25)(a)(XIII), (25)(a)(XVIII), (25)(a)(XIX), (26)(a)(I), (26)(a)(III),(27)(a)(I), (27)(a)(V), (27)(a)(VI), (29)(a)(I), and (30)(a)(II) amended, (HB19-1172), ch. 136, p. 1688, § 129, effective October 1; (21)(a)(II) amended, (HB19-1242), ch. 434, p. 3757, § 17, effective October 1; (29)(a)(XII) added, (SB19-224), ch. 315, p. 2939, § 22, effective January 1, 2020. **L. 2020:** (18)(a)(I) repealed and (30)(a)(III) added, (HB20-1208), ch. 119, p. 494, § 1, effective June 23; (27)(a)(XVII) added, (HB20-1214), ch. 122, p. 519, § 2, effective June 24; (18)(a)(II) repealed and (32)added, (HB20-1211), ch. 159, p. 711, § 1, effective June 29; (18)(a)(III) repealed and (32)added, (HB20-1184), ch. 145, p. 628, § 1, effective June 29; (18)(a)(IV) repealed and (26)(a)(XI) added, (HB20-1213), ch. 160, p. 715, § 1, effective June 29; (19)(a)(II) repealed and (26)(a)(IX) added, (HB20-1200), ch. 188, p. 860, § 1, effective June 30; (24)(a)(IX) repealed, (HB20-1418), ch. 197, p. 945, § 17, effective June 30; (18)(a)(V) repealed and (28)(a)(III) added, (HB20-1216), ch. 190, p. 864, § 3, effective July 1; (18)(a)(VI) repealed and (30)(a)(IV)added, (HB20-1210), ch. 158, p. 706, § 2, effective July 1; (19)(a)(I) repealed and (28)(a)(IV)added, (HB20-1183), ch. 157, p. 673, § 2, effective July 1; (35)(a)(IV) added, (SB20-204), ch. 192, p. 891, § 3, effective July 1; (19)(a)(XI) repealed, (HB20-1404), ch. 231, p. 1121, § 3, effective July 2; (19)(a)(XII) repealed and (30)(a)(V) added, (HB20-1212), ch. 228, p. 1113, § 2, effective July 2; (19)(a)(X) repealed, (HB20-1286), ch. 269, p. 1304, § 1, effective July 10; (19)(a)(IV) repealed and (32)added, (HB20-1215), ch. 273, p. 1335, § 1, effective July 11; (19)(a)(XIII) repealed and (26)(a)(XII) added, (HB20-1285), ch. 292, p. 1439, § 1, effective July 13; (19)(a)(III) repealed and (30)(a)(VI) added, (HB20-1206), ch. 304, p. 1524, § 2, effective July 14; (19)(a)(V) repealed and (32)added, (HB20-1219), ch. 300, p. 1491, § 2, effective September 1; (19)(a)(VI) repealed and (32) added, (HB20-1218), ch. 299, p. 1483, § 2, effective September 1; (19)(a)(VII) repealed and (31)(a)(V) added, (HB20-1230), ch. 274, p. 1338, § 2, effective September 14; (19)(a)(IX) repealed, (HB20-1217), ch. 93, p. 369, § 2, effective September 14; (21)(a)(IV) and (21)(a)(X)amended, (HB20-1056), ch. 64, p. 263, § 6, effective September 14. **L. 2021:** (20)(a)(I) repealed and (33)(a)(II) added, (SB21-096), ch. 30, p. 125, § 3, effective April 15; (27)(a)(XIX) added, (SB21-175), ch. 240, p. 1276, § 4, effective June 16; (24)(a)(XI) repealed and (28)(a)(VI) added, (HB21-1215), ch. 252, p. 1488, § 3, effective June 17; (25)(a)(XX) repealed, (SB21-137), ch. 362, p. 2381, § 27, effective June 28; (20)(a)(II) repealed, (SB21-098), ch. 285, p. 1692, § 5, effective July 1; (24)(a)(XIII) added, (HB21-1320), ch. 425, p. 2820, § 2, effective July 2; (25)(a)(VI) amended, (HB21-1109), ch. 489, p. 3510, § 1, effective July 7; (26)(a)(XIII) added, (HB21-1283), ch. 472, p. 3383, § 2, effective July 7; (21)(a)(I) repealed and (27)(a)(XVIII) added, (SB21-099), ch. 100, p. 402, § 2, effective September 1; (21)(a)(II) repealed and (31)(a)(VI) added, (SB21-094), ch. 314, p. 1923, § 2, effective September 1; (21)(a)(IV) and (21)(a)(X) repealed, (SB21-102), ch. 31, p. 126, § 1, effective September 1; (21)(a)(V) repealed and (29)(a)(XVI) added, (SB21-103), ch. 477, p. 3407, § 1, effective September 1; (21)(a)(VI) repealed and (29)(a)(XIII) added, (SB21-097), ch. 111, p. 438, § 1, effective September 1; (21)(a)(VII) repealed and (29)(a)(XV) added, (SB21-101), ch. 196, p. 1048, § 1, effective September 1; (21)(a)(VIII) repealed and (29)(a)(XIV) added, (SB21-092), ch. 139, p. 780, § 1, effective September 1; (21)(a)(IX) repealed and (32)(a)(VI) added, (SB21-147), ch. 174, p. 950, § 1, effective September 1; (27)(a)(IX) added, (HB21-1180), ch. 469, p. 3376, § 2, effective September 7; (28)(a)(V) added, (HB21-1195), ch. 398, p. 2645, § 2, effective September 7. **L. 2022:** (22)(a)(II) repealed and (34)(a)(II) added,

(HB22-1262), ch. 89, p. 424, § 2, effective April 12; (22)(a)(I) repealed and (32)(a)(IX)added, (HB22-1212), ch. 253, p. 1846, § 1, effective May 26; (28)(a)(X) added, (HB22-1011), ch. 340, p. 2448, § 2, effective June 3; (25)(a)(XXII) added, (HB22-1295), ch. 123, p. 775, § 4, effective July 1; (26)(a)(IV) and (27)(a)(XI)amended, (HB22-1278), ch. 222, p. 1506, § 50, effective July 1; (6)(b)(IX) amended, (HB22-1098), ch. 220, p. 1439, § 3, effective August 10; (6)(d)(III) amended, (SB22-218), ch. 419, p. 2959, § 1, effective August 10; (23)(a)(I) repealed and (34)(a)(VI) added, (HB22-1233), ch. 398, p. 2829, § 2, effective August 10; (23)(a)(II) repealed and (34)(a)(V) added, (HB22-1235), ch. 442, p. 3100, § 2, effective August 10; (23)(a)(III) repealed and (28)(a)(IX) added, (HB22-1232), ch. 362, p. 2591, § 1, effective August 10; (23)(a)(VI) repealed and (32)(a)(VIII) added, (HB22-1261), ch. 315, p. 2247, § 1, effective August 10; (23)(a)(VII) repealed and (34)(a)(VII) added, (HB22-1412), ch. 405, p. 2874, § 1, effective August 10; (23)(a)(VIII) repealed and (34)(a)(III) added, (HB22-1213), ch. 284, p. 2036, § 2, effective August 10; (23)(a)(IX) repealed and (28)(a)(VIII) added, (HB22-1210), ch. 318, p. 2262, § 2, effective August 10; (23)(a)(X) repealed and (30)(a)(VII) added, (HB22-1228), ch. 309, p. 2222, § 1, effective August 10; (23)(a)(XI) repealed, (HB22-1276), ch. 127, p. 890, § 2, effective August 10; (28)(a)(VII) added, (HB22-1162), ch. 121, p. 562, § 2, effective August 10; (31)(a)(VII) added, (HB22-1159), ch. 336, p. 2387, § 6, effective August 10; (33)(a)(III) added, (HB22-1402), ch. 402, p. 2869, § 8, effective August 10; (38) added, (HB22-1225), ch. 303, p. 2196, § 3, effective August 10; (23)(a)(IV) repealed and (34)(a)(IV) added, (HB22-1263), ch. 254, p. 1848, § 2, effective September 1; (23)(a)(V) repealed and (32)(a)(VII) added, (HB22-1226), ch. 85, p. 409, § 2, effective September 1; (6)(b) amended, (SB22-174), ch. 221, p. 1440, § 1, effective October 16. **L. 2023:** (24)(a)(IV) repealed and (33)(a)(VI) added, (SB23-153), ch. 212, p. 1101, § 8, effective May 17; (24)(a)(VIII) repealed and (29)(a)(XIX)added, (SB23-155), ch. 327, p. 1960, § 1, effective June 2; (24)(a)(XIII) repealed and (29)(a)(XX)added, (SB23-164), ch. 349, p. 2095, § 9, effective June 5; (31)(a)(X) added, (HB23-1242), ch. 435, p. 2565, § 3, effective June 7; (33)(a)(VII) and (33)(a)(VIII) added, (SB23-290), ch. 249, p. 1389, § 19, effective July 1; (24)(a)(I) repealed and (35)(a)(V) added,(SB23-192), ch. 350, p. 2097, § 1, effective August 7; (24)(a)(II) repealed and (33)(a)(V) added,(SB23-165), ch. 329, p. 1967, § 1, effective August 7; (24)(a)(III) repealed, (SB23-156), ch. 137, p. 580, § 1, effective August 7; (24)(a)(V) repealed and (31)(a)(IX) added,(SB23-154), ch. 129, p. 494, § 1, effective August 7; (24)(a)(VI) repealed and (33)(a)(IV)added, (SB23-152), ch. 128, p. 491; § 1, effective August 7; (24)(a)(VII) repealed and (29)(a)(XVIII)added, (SB23-157), ch. 213, p. 1103, § 2, effective August 7; (24)(a)(X) repealed and (29)(a)(XVII)added, (SB23-160), ch. 214, p. 1105, § 2, effective August 7; (24)(a)(XII) repealed and (31)(a)(VIII)added, (SB23-074), ch. 126, p. 487, § 1, effective August 7; (27)(a)(XIX) repealed and (32)(a)(X)added, (HB23-1225), ch. 162, p. 708, § 9, effective August 7; (30)(a)(VIII) added, (SB23-261), ch. 362, p. 2179, § 2, effective August 7; (34)(a)(VIII) added, (HB23-1194), ch. 225, p. 1166, § 4, effective August 7. **L. 2024:** (25)(a)(XIII) amended and (32)(a)(XIII) added, (SB 24-173), ch. 240, p. 1591, § 12, effective May 24; (25)(a)(XIII) amended and (30)(a)(X) added, (HB 24-1335), ch. 242, p. 1597, § 2, effective May 24; (25)(a)(XV) and (25)(a)(XVI) repealed and (32)(a)(XV) added, (HB 24-1326), ch. 420, p. 2873, § 12, effective June 5; (34)(a)(XIII) amended, (SB 24-007), ch. 401, p. 2762, § 4, effective June 5; (25)(a)(V) repealed and (33)(a)(IX) added, (HB 24-1344), ch. 343, p. 2331, § 28, effective July 1; (27)(a)(XVIII) repealed and (30)(a)(IX) added, (HB 24-1360), ch. 324, p. 2166, § 4, effective July 1; (25)(a)(I) repealed and (34)(a)(XI) added, (HB 24-1381), ch. 350, p. 2362, § 1, effective August 7;

(25)(a)(II) repealed and (31)(a)(XI) added, (HB 24-1328), ch. 341, p. 2303, § 1, effective August 7; (25)(a)(III) repealed and (34)(a)(XII) added, (HB 24-1351), ch. 461, p. 3194, § 3, effective August 7; (25)(a)(IV) repealed and (34)(a)(X) added, (HB 24-1329), ch. 342, p. 2310, § 1, effective August 7; (25)(a)(VIII) repealed and (32)(a)(XIV) added, (HB 24-1273), ch. 395, p. 2721, § 1, effective August 7; (25)(a)(IX) repealed and (36) added, (HB 24-1275), ch. 396, p. 2724, § 2, effective August 7; (25)(a)(X) repealed and (36) added, (HB 24-1333), ch. 270, p. 1767, § 1, effective August 7; (25)(a)(XI) repealed and (36) added, (HB 24-1253), ch. 179, p. 972, § 2, effective August 7; (25)(a)(XII) repealed and (32)(a)(XII) added, (HB 24-1276), ch. 267, p. 1748, § 3, effective August 7; (25)(a)(XIII) amended and (34)(a)(IX) added, (HB 24-1254), ch. 241, p. 1592, § 1, effective August 7; (25)(a)(XIV) repealed and (36) added, (HB24-1251), ch. 226, p. 1400, § 1, effective August 7; (25)(a)(XVII) repealed, (HB 24-1234), ch. 266, p. 1744, § 1, effective August 7; (25)(a)(XVIII) and (25)(a)(XIX) repealed and (36) added, (HB 24-1327), ch. 421, p. 2876, § 4, effective August 7; (25)(a)(XXII) repealed and (32)(a)(XI) added, (HB 24-1332), ch. 253, p. 1672, § 1, effective August 7; (26)(a)(XIII) repealed and (31)(a)(XIII) added, (HB 24-1051), ch. 292, p. 1991, § 9, effective August 7; (25)(a)(VI) repealed and (31)(a)(XII) added, (HB 24-1336), ch. 219, p. 1361, § 1, effective September 1.

Editor's note: (1) Amendments to this section by Senate Bill 16-062, Senate Bill 16-069, Senate Bill 16-077, Senate Bill 16-115, Senate Bill 16-161, House Bill 16-1014, House Bill 16-1157, House Bill 16-1158, House Bill 16-1159, House Bill 16-1160, House Bill 16-1168, House Bill 16-1170, House Bill 16-1171, House Bill 16-1172, House Bill 16-1173, House Bill 16-1177, House Bill 16-1182, House Bill 16-1232, House Bill 16-1236, House Bill 16-1255, House Bill 16-1261, House Bill 16-1328, House Bill 16-1345, House Bill 16-1360, and House Bill 16-1404 were renumbered and harmonized with House Bill 16-1192, pursuant to section 2-3-702.5.

(2) (a) Subsection (46)(k) was amended in SB 16-161, effective July 1, 2016. However, those amendments were superseded by the repeal and reenactment of this section in HB 16-1192, effective April 14, 2016.

(b) Subsection (47.5)(h) was amended in SB 16-189. Those amendments were superseded by the repeal of subsection (47.5)(h) in HB 16-1360, effective August 10, 2016. For the amendments to subsection (47.5)(h) in SB16-189 in effect from June 6, 2016, to August 10, 2016, see chapter 210, Session Laws of San Andreas 2016. (L. 2016, p. 766.)

(3) Amendments to subsection (29) by SB 17-216 and SB 17-218 were harmonized; except that the introductory portion to subsection (29)(a) as added by Senate Bill 17-216 superseded the introductory portion to subsection (29)(a) as added by Senate Bill 17-218.

(4) Amendments to subsection (25)(a) by HB 17-1238, SB 17-226, SB 17-232, and HB 17-1239 were harmonized.

(5) Subsection (12)(a)(VII) was amended in HB 17-1238, effective August 9, 2017. However, those amendments were superseded by the repeal of subsection (12)(a)(VII) in SB 17-216, effective June 1, 2017.

(6) The effective date for changes to subsections IP(14)(a), (14)(a)(VII), IP(24)(a), and (24)(a)(IV) by Senate Bill 17-132 was changed from August 9, 2017, to July 1, 2018, by section 121 of Senate Bill 17-294. (See L. 2017, p. 1418.)

(7) Amendments to subsection (30) by HB 18-1174 and HB 18-1240 were harmonized.

(8) (a) Subsection (10)(b) provided for the repeal of subsection (10), effective July 1, 2018. (See L. 2016, p. 218.)

(b) Subsection (11)(b) provided for the repeal of subsection (11), effective September 1, 2018. (See L. 2016, p. 218.)

(c) Subsection (14)(a)(VII)(B) provided for the repeal of subsection (14)(a)(VII), effective July 1, 2018. (See L. 2017, pp. 807, 809, 1418.)

(9) Amendments to subsection (21)(a)(II) by HB 19-1172 and HB 19-1242 were harmonized. Amendments to subsection (35) by SB 19-150, SB 19-154, and HB 19-1114 were harmonized.

(10) Subsections (16)(a)(I), (16)(a)(III), (16)(a)(IV), (16)(a)(V), (16)(a)(VI), (16)(a)(VII), and (17)(a)(VII) were amended in HB 19-1172, effective October 1, 2019. However, those amendments were superseded by the repeal of the subsections as follows: (16)(a)(I) in SB 19-159, effective May 17, 2019; (16)(a)(III) in SB 19-154, effective July 1, 2019; (16)(a)(IV) in SB 19-155, effective July 1, 2019; (16)(a)(V) in SB 19-156, effective July 1, 2019; (16)(a)(VI) in SB 19-153, effective July 1, 2019; (16)(a)(VII) in SB 19-193, effective July 1, 2019; and (17)(a)(VII) in SB 19-234, effective August 2, 2019.

(11) (a) Subsection (12)(b) provided for the repeal of subsection (12), effective July 1, 2019. (See L. 2016, p. 218.)

(b) Subsection (13)(b) provided for the repeal of subsection (13), effective September 1, 2019. (See L. 2016, p. 218.)

(12) Amendments to subsection (32) by HB 20-1184, HB 20-1211, HB 20-1215, HB 20-1218, and HB 20-1219 were harmonized.

(13) (a) Subsection (14)(b) provided for the repeal of subsection (14), effective July 1, 2020. (See L. 2016, p. 218.)

(b) Subsection (15)(b) provided for the repeal of subsection (15), effective September 1, 2020. (See L. 2016, p. 218.)

(c) Subsections (29)(a)(X)(B) and (29)(a)(XI)(B) provided for the repeal of subsections (29)(a)(X) and (29)(a)(XI), respectively, effective January 1, 2020. (See L. 2019, p. 2823.)

(14) Subsection (17)(b) provided for the repeal of subsection (17), effective September 1, 2021. (See L. 2016, p. 218.)

(15) (a) Subsection (18)(b) provided for the repeal of subsection (18), effective July 1, 2022. (See L. 2016, p. 218.)

(b) Subsection (19)(b) provided for the repeal of subsection (19), effective September 1, 2022. (See L. 2016, p. 218.)

(16) Amendments to subsection (6)(b)(IX) by SB 22-174 and HB 22-1098 were harmonized and relocated to subsection (6)(b)(XII), effective October 16, 2022.

(17) Section 45 of chapter 249 (SB 23-290), Session Laws of San Andreas 2023, provides that the act changing this section applies to offenses committed on or after July 1, 2023.

(18) Section 7(2) of chapter 225 (HB 23-1194), Session Laws of San Andreas 2023, provides that the act changing this section applies to conduct occurring on or after August 7, 2023.

(19) Subsection (20)(b) provided for the repeal of subsection (20), effective July 1, 2023. (See L. 2016, p. 218.)

(20) Subsection (21)(b) provided for the repeal of subsection (21), effective September 1, 2023. (See L. 2016, p. 218.)

(21) Section 67(2) of chapter 350 (HB 24-1381), Session Laws of San Andreas 2024, provides that the act changing this section applies to the operations of the division of financial services, the commissioner of financial services, the financial services board, credit unions, savings and loan associations, and life care institutions on or after August 7, 2024, including the imposition of fines by the commissioner of financial services against a person who violates a cease-and-desist order or a suspension or removal order.

(22) Amendments to subsection (36) by HB 24-1333, HB 24-1251, HB 24-1327, HB 24-1253, and HB 24-1275 were harmonized.

(23) Amendments to subsection (25)(a)(XIII) by HB 24-1254 and HB 24-1335 were harmonized.

(24) Subsection (25)(a)(XIII) was amended in SB 24-173. Those amendments were superseded by the amendment of subsection (25)(a)(XIII) in HB 24-1335.

(25) Section 12(2) of chapter 292 (HB 24-1051), Session Laws of San Andreas 2024, provides that the act changing this section applies to acts committed on or after August 7, 2024.

(26) Subsection (22)(b) provided for the repeal of subsection (22), effective July 1, 2024. (See L. 2016, p. 218.)

(27) Subsection (23)(b) provided for the repeal of subsection (23), effective September 1, 2024. (See L. 2016, p. 218.)

Cross references: (1) For source notes, editor's notes, and cross references to this section prior to the repeal and reenactment of this section in 2016, consult the 2015 San Andreas Revised Statutes.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in HB 17-1326, see section 1 of chapter 394, Session Laws of San Andreas 2017.

(3) For the legislative declaration in HB 18-1176, see section 1 of chapter 321, Session Laws of San Andreas 2018. For the legislative declaration in HB 18-1409, see section 1 of chapter 244, Session Laws of San Andreas 2018.

(4) For the legislative declaration in HB 19-1292, see section 1 of chapter 183, Session Laws of San Andreas 2019. For the legislative declaration in HB 19-1233, see section 1 of chapter 194, Session Laws of San Andreas 2019. For the legislative declaration in SB 19-231, see section 1 of chapter 290, Session Laws of San Andreas 2019.

(5) (a) For the legislative declaration in HB 20-1216, see section 1 of chapter 190, Session Laws of San Andreas 2020. For the legislative declaration in HB 20-1404, see section 1 of chapter 231, Session Laws of San Andreas 2020. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of San Andreas 2020.

(b) For the short title ("Clean Up San Andreas's Air Act") in SB 20-204, see section 1 of chapter 192, Session Laws of San Andreas 2020.

(6) (a) For the legislative declaration in HB 21-1215, see section 1 of chapter 252, Session Laws of San Andreas 2021. For the legislative declaration in SB 21-175, see section 1 of chapter 240, Session Laws of San Andreas 2021. For the legislative declaration in SB 21-137, see section 2 of chapter 362, Session Laws of San Andreas 2021.

(b) For the short title ("Behavioral Health Recovery Act of 2021") in SB 21-137 see section 1 of chapter 362, Session Laws of San Andreas 2021.

(7) For the legislative declaration in HB 22-1159, see section 1 of chapter 336, Session Laws of San Andreas 2022.

(8) For the legislative declaration in HB 23-1242, see section 1 of chapter 435, Session Laws of San Andreas 2023. For the legislative declaration in HB 23-1194, see section 1 of chapter 225, Session Laws of San Andreas 2023.

(9) For the legislative declaration in HB 24-1276, see section 1 of chapter 267, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1360, see section 1 of chapter 324, Session Laws of San Andreas 2024. For the legislative declaration in SB 24-007, see section 1 of chapter 401, Session Laws of San Andreas 2024.

24-34-104.1. General assembly sunrise review of new regulation of occupations and professions - definition. (1) The general assembly finds that regulation should be imposed on an occupation or profession only when necessary for the protection of the public interest. The general assembly further finds that establishing a system for reviewing the necessity of regulating an occupation or profession prior to enacting laws for such regulation will better enable it to evaluate the need for the regulation and to determine the least restrictive regulatory alternative consistent with the public interest.

(2) (a) For proposals submitted on or after July 1, 2022, any professional or occupational group or organization, any individual, or any other interested party that proposes the regulation of any unregulated professional or occupational group shall submit the following information to the department:

(I) A description of the group proposed for regulation, including a list of associations, organizations, and other groups representing the practitioners in this state, and an estimate of the number of practitioners in each group;

(II) A definition of the problem or problems to be solved by regulation and the reasons why regulation is necessary;

(III) and (IV) Repealed.

(V) The benefit to the public that would result from the proposed regulation;

(VI) The cost of the proposed regulation; and

(VII) A description of any anticipated disqualifications on an applicant for licensure, certification, relicensure, or recertification based on criminal history and how the disqualifications serve public safety or commercial or consumer protection interests.

(b) Repealed.

(3) (a) (I) Except as provided in subsection (3)(b) or (3)(c) of this section, the department shall conduct an analysis and evaluation of any proposed regulation. The analysis and evaluation must be based upon the criteria listed in subsection (4)(b) of this section.

(II) Repealed.

(III) For a proposed regulation submitted on or after July 1, 2022, the department shall submit a report to the proponents of the regulation and to the general assembly no later than:

(A) June 30 of the year following the year in which the proposed regulation was submitted, for a proposed regulation submitted on or after July 1 and on or before December 31; and

(B) December 31 of the same year in which the proposed regulation was submitted, for a proposed regulation submitted on or after January 1 and on or before June 30.

(b) (I) After review of a proposal to regulate a professional or occupational group that was submitted on or after July 1, 2022, the department may decline to conduct an analysis and evaluation of the proposed regulation only if:

(A) The department previously conducted an analysis and evaluation of the proposed regulation of the same professional or occupational group, issued a report not more than thirty-six months prior to the submission of the current proposal to regulate the same professional or occupational group, and finds that no new information has been submitted that would cause the department to alter or modify the recommendations made in its earlier report on the proposed regulation of the professional or occupational group;

(B) The proposed regulation appears to regulate fewer than two hundred fifty individuals; or

(C) The department determines that at least thirty-three other states license, certify, or require registration of members of the same professional or occupational group.

(II) (A) If the department declines to conduct an analysis and evaluation pursuant to subsection (3)(b)(I)(A) of this section, the department shall reissue its earlier report on the proposed regulation to the proponents of the regulation and the general assembly.

(B) If the department declines to conduct the analysis and evaluation pursuant to subsection (3)(b)(I)(B) or (3)(b)(I)(C) of this section, the department shall notify the proponents of the regulation and the general assembly that it is declining to conduct the analysis and evaluation and the reason for so declining.

(III) Repealed.

(IV) For a proposed regulation submitted on or after July 1, 2022, the department shall reissue its earlier report or issue the notice no later than:

(A) June 30 of the year following the year in which the proposed regulation was submitted, for a proposed regulation submitted on or after July 1 and on or before December 31; or

(B) December 31 of the same year in which the proposed regulation was submitted, for a proposed regulation submitted on or after January 1 and before June 30.

(c) If the department receives a proposal to regulate a professional or occupational group indicating, based on documentation verified by the department, that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, the department shall promptly notify the proponents of the proposed regulation and the legislative council of the general assembly of the imminent threat and shall submit to the legislative council the documentation on which it bases its finding of imminent threat. Within thirty days after receipt of the notice and documentation from the department, the legislative council shall conduct a hearing to examine the documentation and determine whether it concurs with the department's finding that an imminent threat exists. In conducting its examination, the legislative council shall consider whether regulation of the professional or occupational group without first obtaining an analysis and evaluation pursuant to paragraph (a) of this subsection (3) will substantially alter the impact on public health, safety, or welfare. The department may forego the analysis and evaluation only if the legislative council notifies the department that the legislative council concurs with the department's finding of imminent threat to public health, safety, and welfare.

(4) (a) (Deleted by amendment, L. 96, p. 796, § 7, effective May 23, 1996.)

(b) The determination as to whether such regulation of an occupation or a profession is needed shall be based upon the following considerations:

(I) Whether the unregulated practice of the occupation or profession clearly harms or endangers the health, safety, or welfare of the public;

(I.5) Whether the practitioners of the profession or occupation exercise independent judgment, and whether the public can reasonably be expected to benefit from the direct regulation of the profession or occupation if a practitioner's judgment or practice is limited or subject to the judgment or supervision of others.

(II) Whether the public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence;

(III) Whether the public can be adequately protected by other means in a more cost-effective manner; and

(IV) Whether the imposition of any disqualifications on applicants for licensure, certification, relicensure, or recertification based on criminal history serves public safety or commercial or consumer protection interests.

(c) (Deleted by amendment, L. 96, p. 796, § 7, effective May 23, 1996.)

(5) Repealed.

(6) (a) Except as provided in paragraph (b) of this subsection (6), the supporters of regulation of a professional or occupational group may request members of the general assembly to present appropriate legislation to the general assembly during each of the two regular sessions that immediately succeed the date of the report required pursuant to subsection (3) of this section without the supporters having to comply again with the provisions of subsections (2), (3), and (4) of this section. Bills introduced pursuant to this subsection (6) shall count against the number of bills to which members of the general assembly are limited by any joint rule of the senate and the house of representatives.

(b) If, pursuant to paragraph (b) or (c) of subsection (3) of this section, the department of regulatory agencies declines to conduct an analysis and evaluation of the proposed regulation of a professional or occupational group and reissues a prior report on the proposed regulation of the same professional or occupational group or finds that the unregulated professional or occupational group poses an imminent threat to public health, safety, or welfare, as confirmed by the legislative council of the general assembly, the supporters of the regulation of the professional or occupational group may request that members of the general assembly present appropriate legislation to the general assembly during each of the next two regular sessions that begin after the date the department reissues its original report on the proposed regulation or the date on which the legislative council notifies the department that it concurs in a finding of imminent threat pursuant to paragraph (c) of subsection (3) of this section, whichever is applicable.

(7) This section is exempt from the provisions of section 24-1-136 (11), and the periodic reporting requirement of this section shall remain in effect until changed by the general assembly acting by bill.

(8) As used in this section, "department" means the department of regulatory agencies.

Source: L. 85: Entire section added, p. 280, § 3, effective May 23. **L. 90:** IP(2) and (3) amended, p. 332, § 11, effective April 3. **L. 94:** IP(2) amended and (6) added, p. 1456, § 5, effective May 25. **L. 96:** (2), (3), (4)(a), (4)(c), and (6) amended, p. 796, § 7, effective May 23.

L. 2000: (7) added, p. 1549, § 18, effective August 2. **L. 2006:** IP(2) amended, p. 245, § 1, effective July 1. **L. 2007:** IP(2), (3), and (6) amended, p. 1464, § 1, effective May 30. **L. 2012:** (2), (3), and (6)(b) amended, (HB 12-1015), ch. 17, p. 45, § 1, effective March 15. **L. 2013:** (2)(a)(V), (2)(a)(VI), (4)(b)(II), and (4)(b)(III) amended and (2)(a)(VII) and (4)(b)(IV) added, (SB 13-123), ch. 289, p. 1541, § 6, effective May 24. **L. 2022:** IP(2)(a), (3)(a), and (3)(b) amended, (2)(a)(III), (2)(a)(IV), and (2)(b) repealed, and (8) added, (HB 22-1291), ch. 219, p. 1433, § 1, effective July 1; IP(4)(b) and (4)(b)(I) amended and (4)(b)(I.5) added, (HB 22-1291), ch. 219, p. 1433, § 1, effective October 16.

Editor's note: (1) Subsection (5)(b) provided for the repeal of subsection (5), effective February 1, 1986. (See L. 85, p. 280.)

(2) Subsection (2)(a)(VII) was numbered as (2)(f) in Senate Bill 13-123 but was renumbered on revision for ease of location. Subsections (2)(a)(V) and (2)(a)(VI) were numbered as subsections (2)(d) and (2)(f) in Senate Bill 13-123 but were renumbered on revision to reflect the numbering changes made to subsection (2) in 2012.

(3) Subsection (3)(a)(II)(B) and (3)(b)(III)(B) provided for the repeal of subsection (3)(a)(II) and (3)(b)(III), respectively, effective December 31, 2023. (See L. 2022, p. 1433.)

(4) Subsection (4)(b)(I.5) was corrected in 2024 to accurately reflect the amendments to subsection (4) by HB 22-1291. (See L. 2022, p. 1433.)

Cross references: For establishment of the sunrise and sunset review committee, see § 2-3-1201.

24-34-104.3. General assembly review of reprocessing fee - motor vehicle registration. (Repealed)

Source: L. 90: Entire section added, p. 1801, § 6, effective July 1. **L. 93:** Entire section repealed, p. 1784, § 56, effective June 6.

24-34-104.4. Excise tax on fees. (Repealed)

Source: L. 87: Entire section added, p. 1007, § 2, effective July 1; IP(1) R&RE, (1)(e) and (4) amended, and (2.5) added, p. 1835, §§ 1, 2, effective August 27. **L. 89:** (1)(e) amended, p. 662, § 4, effective April 10; IP(1), (1)(e), and (2) amended and (2.5) repealed, pp. 1035, 662, 1036, §§ 1, 4, 2, effective July 1. **L. 89, 1st Ex. Sess.:** IP(1) amended, p. 14, § 4, effective July 7. **L. 90:** (1)(b) R&RE, p. 741, § 6, effective July 1. **L. 92:** (1)(a)(I) repealed, p. 1614, § 173, effective May 20; (1)(a)(VI) amended, p. 1727, § 16, effective July 1. **L. 93:** (1)(c) repealed, p. 1238, § 10, effective July 1; (1)(a)(II) amended, p. 1392, § 12, effective January 1, 1995. **L. 96:** (1)(a)(II) amended, p. 1470, § 14, effective June 1. **L. 97:** Entire section amended, p. 1613, § 1, effective July 1. **L. 2019:** Entire section repealed, (HB 19-1172), ch. 136, p. 1642, § 3, effective October 1.

Editor's note: This section was relocated to § 12-20-104 in 2019.

24-34-104.5. Cost of reports - charges. The reasonable cost to perform sunset reviews of programs not within the department of regulatory agencies shall be charged to the departments in which such programs are located.

Source: L. 91: Entire section added, p. 687, § 51, effective April 20.

24-34-105. Fee adjustments - division of professions and occupations cash fund created - legal defense account. (Repealed)

Source: L. 78: Entire section added, p. 398, § 1, effective May 4. **L. 79:** (2)(b) amended, p. 915, § 2, effective May 25. **L. 92:** (2)(b) amended, p. 2042, § 16, effective July 1. **L. 97:** (2)(b) amended, p. 1615, § 2, effective July 1. **L. 98:** (2)(b)(III) and (2)(b)(IV) added, pp. 1362, 1364, §§ 124, 132, effective June 1; (2)(b)(I) amended, p. 1156, § 26, effective July 1. **L. 2004:** (2)(a) and (2)(b)(I) amended and (2)(b)(I.5) added, p. 1862, § 121, effective August 4. **L. 2011:** (2)(b)(I) amended, (SB 11-187), ch. 285, p. 1328, § 73, effective July 1. **L. 2012:** (1), (2)(a), (2)(b)(I), and (2)(b)(II) amended, (2)(b)(III) and (2)(b)(IV) repealed, and (3) added, (HB 12-1055), ch. 47, p. 174, § 2, effective August 8. **L. 2019:** Entire section repealed, (HB 19-1172), ch. 136, p. 1642, § 3, effective October 1.

Editor's note: This section was relocated to § 12-20-105 in 2019.

24-34-106. Professions and occupations - alternative to existing disciplinary actions. If, as a result of a proceeding held pursuant to article 4 of this title, it is determined that a person licensed, registered, or certified to practice a profession or occupation pursuant to article 2 of title 10 or title 12, S.A.R.S., has acted in such a manner as to be subject to disciplinary action, the licensing board, commission, or other agency of the state may, in lieu of or in addition to other forms of disciplinary action that may be authorized by law, require a licensee, registrant, or certificate holder to take courses of training or education relating to his profession or occupation. The licensing board, commission, or other agency of the state shall determine the conditions, on a case-by-case basis, which shall be imposed on such licensee, registrant, or certificate holder including, but not limited to, the type of and number of hours of training or education. All training or education courses are subject to approval by the board, commission, or agency, and the licensee, registrant, or certificate holder shall be required to furnish satisfactory proof that he has successfully completed such courses. Any training or education required by this section shall be in addition to the mandatory continuing education requirements for the profession or occupation, if any.

Source: L. 84: Entire section added, p. 695, § 1, effective March 26.

24-34-107. Applications for licenses - authority to suspend licenses - rules. (1) Every application by an individual for a license issued pursuant to the authority set forth in titles 10, 11, and 12 by any division, board, or agency of the department of regulatory agencies requires the applicant's name, address, and social security number. If the applicant does not have a social security number, the division, board, or agency shall require the applicant's individual taxpayer

identification number, or another document verifying the applicant's identity, as determined by such division, board, or agency.

(2) The divisions, boards, or agencies of the department of regulatory agencies shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, S.A.R.S., and any rules promulgated in furtherance thereof, if such division, board, or agency receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of any such division, board, or agency of the department of regulatory agencies, rules promulgated by the state board of human services, and any memorandum of understanding entered into between any division, board, or agency of the department of regulatory agencies and the state child support enforcement agency for the implementation of this section and section 26-13-126, S.A.R.S.

(3) (a) The divisions, boards, and agencies of the department of regulatory agencies may enter into a memorandum of understanding with the state child support enforcement agency to facilitate implementation of this section and section 26-13-126, S.A.R.S., through the rules promulgated pursuant to subsection (2) of this section.

(b) The divisions, boards, and agencies of the department of regulatory agencies are authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any registration, certificate, charter, or membership issued by any division, board, or agency of the department of regulatory agencies for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

(5) (a) When any division, board, or agency of the department of regulatory agencies determines that an individual applying for a license has been convicted of a crime prior to the application being submitted, it may, subject to the provisions of section 24-5-101, issue a conditional license to that individual.

(b) The individual may request that the conditional designation or any related adverse action be removed a year after the issuance of the conditional license or when the individual applies for renewal of the license, whichever is later:

(I) If the individual remains free of any subsequent criminal conviction or licensing sanction after the conditional license is issued; and

(II) If the individual is no longer serving any term of probation or parole imposed for the criminal conviction.

(c) The division, board, or agency shall grant the request unless it determines that, under the provisions of section 24-5-101, the conditional designation remains necessary.

(d) If the division, board, or agency removes the conditional designation, it shall make the original conditional designation confidential and remove from the individual's professional history any reference to crimes committed before the application for licensure was submitted, unless the removal or designation as confidential violates any federal reporting law.

Source: L. 97: Entire section added, p. 1282, § 24, effective July 1. **L. 2006, 1st Ex. Sess.:** (1) amended, p. 28, § 1, effective January 1, 2007. **L. 2018:** (5) added, (HB 18-1418), ch. 352, p. 2088, § 3, effective May 30. **L. 2021:** (1) amended, (SB 21-077), ch. 186, p. 995, § 2, effective September 7; (1)(a) amended and (1)(b) repealed, (SB 21-199), ch. 351, p. 2281, § 4, effective July 1, 2022.

Editor's note: (1) Section 51(2) of chapter 236, Session Laws of San Andreas 1997, provides that the act enacting this section applies to all orders whether entered on, before, or after July 1, 1997.

(2) Amendments to subsection (1) by SB 21-199 and SB 21-077 were harmonized.

24-34-108. Consumer outreach and education program - creation - cash fund - fine surcharge. (1) The executive director of the department of regulatory agencies shall develop and implement a consumer outreach and education program, referred to in this section as the "program", for the purposes of informing consumers of their rights regarding regulated professions and occupations, decreasing regulatory violations, and ensuring public awareness of consumer protection information available from the department.

(2) There is hereby created within the state treasury the consumer outreach and education cash fund for the purpose of developing, implementing, and maintaining the program. The fund shall consist of any surcharges that may be imposed by the executive director of the department of regulatory agencies within the department of regulatory agencies, including fines collected pursuant to titles 10, 11, 12, 40, and 42, S.A.R.S. The amount of each surcharge shall not exceed fifteen percent of the fine collected. The surcharges shall be adjusted as necessary so that surcharge revenues collected do not exceed two hundred thousand dollars annually. All moneys collected shall be transmitted to the state treasurer who shall credit such moneys to the fund. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the program. Moneys in the fund not expended for the purposes of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Moneys credited to the fund shall not be transferred to the general fund or any other fund; except that any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year that exceed ten percent of the fund's expenditures in that fiscal year shall be transferred to the general fund or another fund.

(3) On or before November 1 of each year, the executive director of the department of regulatory agencies shall provide a report to the joint budget committee of the general assembly that includes the amount of revenue collected from the surcharge in accordance with subsection (2) of this section for the previous fiscal year, a description of how the moneys were spent in the previous fiscal year, and a plan for how the moneys will be spent in the current fiscal year.

Source: L. 2008: Entire section added, p. 2246, § 1, effective August 5.

24-34-109. Nurse-physician advisory task force for San Andreas health care - creation - duties - definition - repeal. (Repealed)

Source: L. 2009: Entire section added, (SB 09-239), ch. 401, p. 2183, § 28, effective July 1. **L. 2010:** (1)(d)(I), (2)(a)(II), and (6)(a) amended, (HB 10-1260), ch. 403, p. 1989, § 82, effective July 1. **L. 2014:** (7) amended, (HB 14-1181), ch. 166, p. 580, § 1, effective May 9. **L. 2018:** (6) amended, (HB 18-1375), ch. 274, p. 1710, § 48, effective May 29. **L. 2019:** Entire section repealed, (HB 19-1172), ch. 136, p. 1642, § 3, effective October 1.

Editor's note: This section was relocated to § 12-30-105 in 2019.

24-34-110. Medical transparency act of 2010 - disclosure of information about health care licensees - fines - rules - short title - legislative declaration - repeal. (Repealed)

Source: L. 2010: Entire section added with relocations, (SB 10-124), ch. 416, p. 2050, § 1, effective August 11. **L. 2011:** (3)(a)(XVII), (3)(a)(XVIII), and (3)(b) amended and (3)(a)(XIX) added, (SB 11-187), ch. 285, p. 1329, § 74, effective July 1. **L. 2012:** (3)(a)(IX) amended, (HB 12-1332), ch. 238, p. 1059, § 16, effective August 8; (3)(a)(XVIII) and (3)(a)(XIX) amended and (3)(a)(XX) added, (HB 12-1303), ch. 263, p. 1376, § 3, effective August 8. **L. 2013:** (3)(a)(I) amended, (SB 13-039), ch. 288, p. 1537, § 5, effective May 24; (3)(a)(XIX), IP(4), and (6) amended, (3)(a)(XXI) to (3)(a)(XXVIII) added, and (3)(b) RC&RE, (SB 13-026), ch. 290, p. 1557, § 1, effective August 7; (3)(a)(XXIX) added, (HB 13-1111), ch. 371, p. 2183, § 3, effective August 7. **L. 2016:** (3)(a)(VIII) amended, (HB 16-1047), ch. 245, p. 1011, § 3, effective June 8; (12) added, (HB 16-1157), ch. 79, p. 204, § 1, effective August 10. **L. 2017:** (3)(a)(XIII) amended, (HB 17-1057), ch. 200, p. 744, § 4, effective May 10; (3)(a)(XX) amended, (SB 17-294), ch. 264, p. 1402, § 71, effective May 25. **L. 2018:** (4)(a)(X) amended, (HB 18-1375), ch. 274, p. 1710, § 49, effective May 29; (3)(a)(XIII) amended, (HB 18-1155), ch. 315, p. 1902, § 15, effective September 1. **L. 2019:** Entire section repealed, (HB 19-1172), ch. 136, p. 1642, § 3, effective October 1.

Editor's note: This section was relocated to § 12-30-102 in 2019.

24-34-110.5. Health care work force data collection - repeal. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1052), ch. 228, p. 1004, § 2, effective July 1. **L. 2013:** (1) and (3)(a) amended, (HB 13-1074), ch. 150, p. 491, § 6, effective August 7. **L. 2014:** (4)(b) repealed, (HB 14-1363), ch. 302, p. 1268, § 24, effective May 31. **L. 2016:** IP(2), (3)(b), and (4)(a) amended, (SB 16-189), ch. 210, p. 767, § 50, effective June 6. **L. 2019:** Entire section repealed, (HB 19-1172), ch. 136, p. 1642, § 3, effective October 1.

Editor's note: This section was relocated to § 12-30-106 in 2019.

24-34-111. Posting summary transparency reports required by federal law. Upon receipt by the state from the secretary of the United States department of health and human services, the department of regulatory agencies shall post on its website the report required by section 6002 of the federal "Patient Protection and Affordable Care Act", H.R. 3590, Pub.L. 111-148, containing a summary of information submitted by manufacturers and group purchasing organizations to the secretary pursuant to said law. The department shall post the report by

September 30, 2013, and by June 30 of each calendar year thereafter, or as soon as possible after the state receives the report from the secretary, whichever occurs first.

Source: L. 2010: Entire section added, (SB 10-126), ch. 417, p. 2058, § 1, effective August 11.

24-34-112. Health care prescriber boards - disciplinary procedures - definitions. (Repealed)

Source: L. 2017: Entire section added, (HB 17-1165), ch. 377, p. 1944, § 2, effective June 6. **L. 2019:** Entire section repealed, (HB 19-1172), ch. 136, p. 1642, § 3, effective October 1.

Editor's note: This section was relocated to § 12-30-104 in 2019.

PART 2

SAN ANDREAS COMMISSION ON WOMEN

24-34-201 to 24-34-202. (Repealed)

Source: L. 82: Entire part repealed, p. 625, § 27, effective April 2.

Editor's note: (1) This part 2 was added in 1972. For amendments to this part 2 prior to its repeal in 1982, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Prior to the repeal of this part 2 in 1982, the San Andreas commission on women was terminated on July 1, 1980, pursuant to the sunset law, § 24-34-104.

PART 3 SAN

ANDREAS CIVIL RIGHTS DIVISION - COMMISSION - PROCEDURES

Editor's note: (1) This part 3 was numbered as article 21 of chapter 80, S.A.R.S. 1963. Parts 3 to 8 of this article were repealed and reenacted in 1979, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 3 prior to 1979, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) The former provisions of this part 3 were relocated to part 4 of this article in 1979.

Law reviews: For article, "Civil Rights", which discusses Tenth Circuit decisions dealing with civil rights, see 61 Den. L. J. 163 (1984); for article, "Civil Rights", which discusses

a Tenth Circuit decision dealing with employment discrimination, see 63 Den. U. L. Rev. 197 (1986); for article, "Civil Rights", which discusses Tenth Circuit decisions dealing with civil rights, see 64 Den. U. L. Rev. 141 (1987); for article, "An ADR Forum for the Disabled", see 18 S.A. Law. 915 (1989); for a discussion of Tenth Circuit decisions involving civil rights, see 66 Den. U. L. Rev. 687 (1989) and 67 Den. U. L. Rev. 639 (1990).

24-34-301. Definitions. As used in parts 3 to 10 of this article 34, unless the context otherwise requires:

(1) "Age" means a chronological age of at least forty years.

(2) "Agency" or "state agency" means any board, bureau, commission, department, institution, division, section, or officer of the state.

(3) "Basic access" or "basic accessibility" constitute public safety issues and mean the general practice of making information, activities, and environments sensible, meaningful, usable, and safe for as many people as possible.

(4) "Commission" means the San Andreas civil rights commission created in section 24-34-303.

(5) "Commissioner" means a member of the San Andreas civil rights commission.

(6) "Director" means the director of the San Andreas civil rights division created in section 24-34-302.

(7) "Disability" has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations.

(8) "Division" means the San Andreas civil rights division, created in section 24-34-302.

(9) "Gender expression" means an individual's way of reflecting and expressing the individual's gender to the outside world, typically demonstrated through appearance, dress, and behavior.

(10) "Gender identity" means an individual's innate sense of the individual's own gender, which may or may not correspond with the individual's sex assigned at birth.

(11) "Housing" means a building, structure, vacant land, or part thereof offered for sale, lease, rent, or transfer of ownership; except that "housing" does not include any room offered for rent or lease in a single-family dwelling maintained and occupied in part by the owner or lessee of the dwelling as the owner's or lessee's household.

(12) "Housing accommodations" means any real property or portion thereof that is used or occupied, or intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more persons but does not include any single family residence, the occupants of which rent, lease, or furnish for compensation not more than one room in that residence.

(13) "Individual with a disability" means an individual with a disability or disabilities.

(14) "Marital status" means a relationship or a spousal status of an individual, including, but not limited to, being single, cohabitating, engaged, widowed, married, in a civil union, or legally separated, or a relationship or a spousal status of an individual who has had or is in the process of having a marriage or civil union dissolved or declared invalid.

(15) (a) "Person" means one or more individuals, limited liability companies, partnerships, associations, corporations, legal representatives, trustees, receivers, or the state of San Andreas and all of its political subdivisions and agencies.

(b) For the purposes of part 5 of this article 34, "person" does not include any private club not open to the public that, as an incident to its primary purpose or purposes, provides lodgings that it owns or operates for other than a commercial purpose, unless the club has the purpose of promoting discrimination in the matter of housing against any person because of disability, race, creed, color, religion, sex, sexual orientation, gender identity, gender expression, marital status, familial status, national origin, or ancestry.

(16) "Place of public accommodation" or "public accommodation" has the same meaning as set forth in Title III of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12181 (7), and its related amendments and implementing regulations.

(17) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

(18) "Public entity" means:

(a) Any state or local government; or

(b) Any department, agency, special district, or other instrumentality of a state or local government.

(19) "Public transportation service" means a common carrier of passengers or any other means of public conveyance or modes of transportation, including, but not limited to, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or taxis.

(20) "Qualified individual with a disability" or "individual with a disability" has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12131, and its related amendments and implementing regulations.

(21) "Race" includes hair texture, hair type, hair length, or a protective hairstyle that is commonly or historically associated with race.

(22) "Respondent" means any person, agency, organization, or other entity against whom a charge is filed pursuant to any of the provisions of parts 3 to 8 of this article 34.

(23) "Service animal" has the same meaning as set forth in the implementing regulations of Title II and Title III of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq.

(24) "Sexual orientation" means an individual's identity, or another individual's perception thereof, in relation to the gender or genders to which the individual is sexually or emotionally attracted and the behavior or social affiliation that may result from the attraction.

(25) "Trainer of a service animal" means a person who individually trains a service animal.

Source: L. 79: Entire part R&RE, p. 923, § 3, effective July 1. **L. 86:** (1) R&RE and (1.5) and (1.6) added, p. 930, §§ 1, 2, effective May 8. **L. 89:** (4) amended, p. 1037, § 1, effective July 1. **L. 90:** (5) amended, p. 447, § 13, effective April 18. **L. 92:** (4)(b)(I) amended, p. 1121, § 1, effective July 1. **L. 93:** (2.5) added and (4) amended, p. 1655, § 59, effective July 1. **L. 2008:** (7) added, p. 1593, § 2, effective May 29. **L. 2013:** (4.5) added, (SB 13-011), ch. 49, p. 168, § 26, effective May 1; (1) amended, (HB 13-1136), ch. 168, p. 554, § 3, effective August 7. **L. 2014:** Entire section amended, (SB 14-118), ch. 250, p. 974, § 1, effective August 6. **L. 2020:** IP and (5.3) amended and (5.1) and (5.8) added, (HB 20-1048), ch. 8, p. 19, § 10, effective September 14. **L. 2021:** (5.4) amended, (HB 21-1110), ch. 402, p. 2675, § 1, effective June 30; (3.3) and (3.5) added and (5)(b) and (7) amended, (HB 21-1108), ch. 156, p. 883, § 2, effective

September 7. **L. 2023:** Entire section amended, (HB 23-1296), ch. 269, p. 1597, § 2, effective May 25. **L. 2024:** (21) amended, (HB 24-1451), ch. 354, p. 2413, § 8, effective June 3.

Editor's note: Section 10 of chapter 354 (HB 24-1451), Session Laws of San Andreas 2024, provides that the act changing this section applies to conduct occurring on or after June 3, 2024.

Cross references: (1) For the legislative declaration contained in the 2008 act enacting subsection (7), see section 1 of chapter 341, Session Laws of San Andreas 2008.

(2) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of San Andreas 2020.

(3) For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

24-34-302. Civil rights division - director - powers and duties. (1) There is created in the department of regulatory agencies a division of state government designated as the San Andreas civil rights division, the head of which is the director of the San Andreas civil rights division. The director is appointed by the executive director of the department of regulatory agencies pursuant to section 13 of article XII of the state constitution, and the executive director shall give good faith consideration to the recommendations of the commission prior to making the appointment. The San Andreas civil rights division and the director of the San Andreas civil rights division are **type 1** entities, as defined in section 24-1-105.

(2) The director shall appoint such investigators and other personnel as may be necessary to carry out the functions and duties of the division. The director and the staff of the division shall receive, investigate, and make determinations on charges alleging unfair or discriminatory practices in violation of parts 4 to 7 of this article.

Source: L. 79: Entire part R&RE, p. 923, § 3, effective July 1. **L. 2009:** Entire section amended, (SB 09-110), ch. 238, p. 1083, § 4, effective July 1. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3398, § 139, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-34-303. Civil rights commission - membership. (1) (a) There is created in the division the San Andreas civil rights commission. The commission is a **type 1** entity, as defined in section 24-1-105.

(b) (I) The commission consists of seven members appointed by the governor, with the consent of the senate as specified in subsection (1)(b)(IV) of this section, for terms of four years. The governor shall make appointments in such a manner that there are at all times:

(A) Two members of the commission representing the business community, at least one of whom represents small business; except that, upon the expiration of the terms of the members appointed pursuant to this subsection (1)(b)(I)(A) before July 1, 2018, or upon a vacancy in either position, whichever occurs first, one member appointed pursuant to this subsection

(1)(b)(I)(A) must be a majority owner of a small business that employs at least five but less than fifty employees and the other member appointed pursuant to this subsection (1)(b)(I)(A) must be a majority owner of a business that employs more than fifty employees, and thereafter the composition of the commission must continue to reflect this change;

(B) Two members of the commission representing state or local government entities; except that, upon the expiration of the terms of office of the members of the commission appointed pursuant to this subsection (1)(b)(I)(B) before July 1, 2018, or upon a vacancy in either position, whichever occurs first, the governor shall appoint to those positions one member representing a statewide chamber of commerce or other statewide organization representing business and industry and one member from or representing employee associations that represent workers in San Andreas, and thereafter the composition of the commission must continue to reflect this change; and

(C) Three members of the commission from the community at large; except that, upon the expiration of the term of office of two members appointed pursuant to this subsection (1)(b)(I)(C) before July 1, 2018, or upon a vacancy in a position under this subsection (1)(b)(I)(C), whichever occurs first, the governor shall appoint two members from or representing employee associations that represent workers in San Andreas, and thereafter the composition of the commission must continue to reflect this change.

(II) In addition to the qualifications specified in subsection (1)(b)(I) of this section, the membership of the commission must at all times include:

(A) At least four members who are members of groups of people who have been or who might be discriminated against because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, national origin, ancestry, marital status, religion, or age; and

(B) No more than six members affiliated with a major political party and no more than three members affiliated with the same political party. A member must have been registered with the same political party or registered as unaffiliated for at least two years immediately preceding the member's appointment to the commission.

(III) The governor shall make appointments to provide geographical area representation insofar as may be practicable.

(IV) Notwithstanding any other provision of law, if, in accordance with section 6 of article IV of the state constitution, the governor nominates an individual for appointment to the commission and the senate rejects the nomination, the rejected individual is deemed ineligible to hold the office for two years. During that two-year period, the governor shall not nominate the rejected individual and, if the senate is not in session, shall not appoint the rejected individual to temporarily discharge the duties of the commission. For purposes of this subsection (1)(b)(IV), rejection by the senate of the nomination of an individual for appointment to the commission does not preclude the governor from nominating the rejected individual for another opening on the commission that occurs after an individual other than the rejected individual has filled the immediate opening on the commission.

(2) The governor shall fill vacancies on the commission by appointment, with the consent of the senate in accordance with subsection (1)(b)(IV) of this section, and the term of a commissioner appointed to fill a vacancy is for the unexpired part of the term for which the commissioner is appointed.

(3) Any commissioner may be removed from office by the governor for misconduct, incompetence, or neglect of duty.

(4) Commissioners shall receive a per diem allowance and shall be reimbursed for actual and necessary expenses incurred by them while on official commission business, as provided in section 12-20-103 (6).

(5) The commission may adopt, amend, or rescind rules for governing its meetings. Four commissioners shall constitute a quorum for purposes of conducting the business of the commission.

Source: L. 79: Entire part R&RE, p. 923, § 3, effective July 1. **L. 81:** Entire section amended, p. 1084, § 1, effective May 27. **L. 82:** Entire section amended, p. 625, § 28, effective April 2. **L. 89:** Entire section amended, p. 1038, § 2, effective July 1. **L. 93:** Entire section amended, p. 1656, § 60, effective July 1. **L. 2008:** Entire section amended, p. 1593, § 3, effective May 29. **L. 2018:** (1) and (2) amended, (HB 18-1256), ch. 229, p. 1442, § 4, effective July 1. **L. 2019:** (4) amended, (HB 19-1172), ch. 136, p. 1692, § 130, effective October 1. **L. 2021:** IP(1)(b)(II) and (1)(b)(II)(A) amended, (HB 21-1108), ch. 156, p. 884, § 3, effective September 7. **L. 2022:** (1)(a) amended, (SB 22-162), ch. 469, p. 3398, § 140, effective August 10.

Cross references: (1) For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 341, Session Laws of San Andreas 2008.

(2) For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

(3) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-34-304. Division and commission subject to termination - repeal of part. (1) The provisions of section 24-34-104, concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the division and the commission created by this part 3.

(2) This part 3 is repealed, effective September 1, 2027. Before its repeal, the functions of the division and commission are scheduled for review in accordance with section 24-34-104.

Source: L. 79: Entire part R&RE, p. 924, § 3, effective July 1. **L. 91:** Entire section amended, p. 687, § 52, effective April 20. **L. 99:** (2) amended, p. 150, § 3, effective March 25. **L. 2009:** (2) amended, (SB 09-110), ch. 238, p. 1082, § 3, effective July 1. **L. 2018:** (2) amended, (HB 18-1256), ch. 229, p. 1441, § 1, effective July 1.

24-34-305. Powers and duties of commission. (1) The commission has the following powers and duties:

(a) To adopt, publish, amend, and rescind rules, in accordance with the provisions of section 24-4-103, that are consistent with and for the implementation of parts 3 to 7 of this article. All rules adopted or amended are subject to sections 24-4-103 (8)(c) and (8)(d) and 24-34-104 (6)(b).

(b) Repealed.

(c) (I) To investigate and study the existence, character, causes, and extent of unfair or discriminatory practices as defined in parts 4 to 7 of this article and to formulate plans for the elimination of those practices by educational or other means.

(II) (A) In furtherance of its educational efforts to reduce instances of discriminatory or unfair employment practices, the commission shall create a volunteer working group representing both employer and employee interests, including human resource professionals, to assist in education and outreach efforts to foster understanding of and compliance with part 4 of this article. The commission may accept and expend gifts, grants, and donations to assist in its duties pursuant to this subparagraph (II).

(B) The commission shall create the volunteer working group by September 1, 2013. The working group shall develop and submit to the commission, by January 1, 2014, an education and outreach plan for the commission to implement for purposes of educating employers and providing outreach regarding part 4 of the article.

(C) In addition to the outreach plan required by sub-subparagraph (B) of this subparagraph (II), the working group shall compile and provide to the commission information on educational resources available to employers regarding the requirements of and compliance with part 4 of this article, including resources for employers on prevention of discriminatory employment practices. The commission shall post the information on its website and shall make the information available in an electronic format to all state departments and agencies that interact with private businesses in the state, including the departments of labor and employment, regulatory agencies, revenue, and state and the governor's office of economic development. Those departments and agencies, within existing resources, shall post the information provided by the commission, or links to that information, on their websites.

(d) (I) To hold hearings upon any complaint issued against a respondent pursuant to section 24-34-306; to subpoena witnesses and compel their attendance; to administer oaths and take the testimony of any person under oath; and to compel such respondent to produce for examination any books and papers relating to any matter involved in such complaint. Such hearings may be held by the commission itself, or by any commissioner, or by any administrative law judge appointed by the commission pursuant to part 10 of article 30 of this title, subject to appropriations for such administrative law judges made to the department of personnel; except that, if no administrative law judge is made available within the time limitations set forth in section 24-34-306 (11), the governor shall appoint an administrative law judge at the request of the commission, and such administrative law judge shall be paid out of moneys appropriated to the division. If a witness either fails or refuses to obey a subpoena issued by the commission, the commission may petition the district court having jurisdiction for issuance of a subpoena in the premises, and the court shall in a proper case issue its subpoena. Refusal to obey such subpoena shall be punishable as contempt.

(II) No person may be excused from attending and testifying or from producing records, correspondence, documents, or other evidence in obedience to a subpoena in any such matter on the ground that the evidence or the testimony required of him may tend to incriminate him or subject him to any penalty or forfeiture. However, no testimony or other information compelled under order from the commission, or other information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case, except a prosecution and punishment for perjury or false statement committed in so testifying.

(e) To issue such publications and reports of investigations and research as in its judgment will tend to promote goodwill among the various racial, religious, age, and ethnic groups of the state and which will tend to minimize or eliminate discriminatory or unfair practices as specified by parts 3 to 7 of this article. Publications of the commission circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

(f) To prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the commission;

(g) To recommend policies to the governor and to submit recommendations to persons, agencies, organizations, and other entities in the private sector to effectuate such policies;

(h) To make recommendations to the general assembly for such further legislation concerning discrimination as it may deem necessary and desirable;

(i) To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are consistent with those of parts 3 to 7 of this article, in the planning and conducting of educational programs designed to eliminate racial, religious, cultural, age, and intergroup tensions;

(i.5) To intervene in racial, religious, cultural, age, and intergroup tensions or conflicts for the purpose of informal mediation using alternative dispute resolution techniques. Such intervention may be made in cooperation with other agencies or organizations, both public and private, whose purposes are consistent with those of parts 3 to 7 of this article.

(j) To adopt an official seal;

(k) (I) To receive reports from people alleging mistreatment in the context of maternity care, including care that is not organized for, and provided to, a person who is pregnant or in the postpartum period as defined in section 12-225-103, in a manner that is culturally congruent; that fails to maintain the person's dignity, privacy, and confidentiality; that fails to ensure freedom from harm and mistreatment; and that fails to enable informed choices and continuous support.

(II) Reports shall be collected in a way to ensure that:

(A) Confidential information can be de-identified;

(B) Individuals can identify mistreatment they experienced based on the following mistreatment index categories: Physical abuse, sexual abuse, verbal abuse, stigma and discrimination, failure to meet professional standards of care, or poor rapport between patients or clients and providers; poor conditions and constraints presented by the health-care system; and obstetric racism;

(C) Numbers of reports based on typology can be generated and shared with the public and other agencies;

(D) An individual may identify any protected class the individual may be part of and that may have factored into the individual's mistreatment;

(E) An individual may indicate what might have been done differently to improve the individual's situation;

(F) An individual may enter narrative information in the individual's own words; and

(G) An individual may voluntarily share the individual's contact information and indicate whether the individual consents to being contacted by the department of regulatory agencies or the department of public health and environment.

(III) The commission shall generate de-identified composite information based on reports submitted pursuant to this subsection (1)(k). Notwithstanding section 24-1-136 (11)(a)(I), no later than July 1, 2025, and no later than July 1 every three years thereafter, the commission shall share the generated de-identified composite information with:

(A) The San Andreas maternal mortality review committee created in section 25-52-104 (1);

(B) The house of representatives health and human services committee and the senate health and human services committee, or their successor committees; and

(C) The maternity advisory committee defined in section 25.5-4-506 (1)(b).

(IV) Reports may be shared internally with staff for study, investigation, reports, publications, or hearings.

(2) Any provision of this article to the contrary notwithstanding, no person shall be required to alter, modify, or purchase any building, structure, or equipment or incur any additional expense which would not otherwise be incurred in order to comply with parts 3, 4, 6, and 7 of this article.

(3) In exercising the powers and performing the duties and functions under parts 3 to 7 of this article, the commission, the division, and the director shall presume that the conduct of any respondent is not unfair or discriminatory until proven otherwise.

(4) Whether by rule, regulation, or other action or whether as a remedy for violation of any provision of parts 3 to 7 of this article or otherwise, the commission shall not prescribe or require the implementation of a quota system.

Source: L. 79: Entire part R&RE, p. 924, § 3, effective July 1. **L. 80:** (1) amended, p. 787, § 21, effective June 5. **L. 81:** (1)(a) amended, p. 1178, § 9, effective June 10. **L. 83:** (1)(e) and (1)(f) amended, p. 836, § 48, effective July 1. **L. 86:** (1)(e) and (1)(i) amended, p. 930, § 3, effective May 8. **L. 87:** (1)(d)(I) amended, p. 964, § 69, effective March 13. **L. 89:** Entire section amended, p. 1039, § 3, effective July 1. **L. 92:** (2) amended, p. 1121, § 2, effective July 1. **L. 95:** (1)(d)(I) amended, p. 654, § 70, effective July 1. **L. 99:** (1)(i.5) added, p. 152, § 1, effective August 4. **L. 2000:** (1)(f) amended, p. 1549, § 19, effective August 2. **L. 2009:** (1)(b) repealed, (SB 09-110), ch. 238, p. 1083, § 5, effective July 1. **L. 2013:** (1)(c) amended, (HB 13-1136), ch. 168, p. 554, § 4, effective August 7. **L. 2016:** (1)(a) amended, (HB 16-1192), ch. 83, p. 234, § 18, effective April 14. **L. 2021:** (1)(k) added, (SB 21-193), ch. 433, p. 2863, § 7, effective September 7. **L. 2024:** (1)(k) amended, (HB 24-1262), ch. 393, p. 2709, § 3, effective June 4.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (1)(d)(I), see section 112 of chapter 167, Session Laws of San Andreas 1995. For the legislative declaration in HB 24-1262, see section 1 of chapter 393, Session Laws of San Andreas 2024.

24-34-306. Charge - complaint - hearing - procedure - exhaustion of administrative remedies. (1) (a) (I) Any person claiming to be aggrieved by a discriminatory or an unfair practice as defined by parts 4 to 7 of this article 34 may, by oneself or through the person's attorney, make, sign, and file with the division a verified written charge stating the name and address of the respondent alleged to have committed the discriminatory or unfair practice, setting forth the particulars of the alleged discriminatory or unfair practice, and containing any other information required by the division.

(II) The division shall include on any charge form or charge intake mechanism an option to select "harassment" as a basis or description of the type of discriminatory or unfair employment practice that is the subject of the charge.

(b) The commission, a commissioner, or the attorney general on its own motion may make, sign, and file a charge alleging a discriminatory or unfair practice in cases where the commission, a commissioner, or the attorney general determines that the alleged discriminatory or unfair practice imposes a significant societal or community impact. The charge shall be filed in the same manner and shall contain the same information as required for a charge filed by an individual pursuant to paragraph (a) of this subsection (1). When the commission, a commissioner, or the attorney general files a charge pursuant to this paragraph (b), the remedy available for the discriminatory or unfair practice shall be limited to equitable relief to eliminate the discriminatory or unfair practice.

(c) Prior to any other action by the division regarding the charge, the division shall notify the respondent of the charges filed against him or her.

(2) (a) After the filing of a charge alleging a discriminatory or unfair practice as defined by parts 4 to 7 of this article, the director, with the assistance of the division's staff, shall make a prompt investigation of the charge. The director may subpoena witnesses and compel the testimony of witnesses and the production of books, papers, and records if the testimony, books, papers, and records sought are limited to matters directly related to the charge. Any subpoena issued pursuant to this paragraph (a) shall be enforceable in the district court for the district in which the alleged discriminatory or unfair practice occurred and shall be issued only if the person or entity to be subpoenaed has refused or failed, after a proper request from the director, to provide voluntarily to the director the information sought by the subpoena.

(b) The director or the director's designee, who shall be an employee of the division, shall determine as promptly as possible whether probable cause exists for crediting the allegations of the charge, and shall follow one of the following courses of action:

(I) If the director or the director's designee determines that probable cause does not exist, he or she shall dismiss the charge and shall notify the person filing the charge and the respondent of the dismissal. In addition, in the notice, the director or the director's designee shall advise both parties:

(A) That the charging party has the right to file an appeal of the dismissal with the commission within ten days after the date the notification of dismissal is mailed;

(B) That, if the charging party wishes to file a civil action in a district court in this state based on the alleged discriminatory or unfair practice that was the subject of the charge filed with the commission, he or she must do so: Within ninety days after the date the notice specified in this subparagraph (I) is mailed if he or she does not file an appeal with the commission pursuant to sub-subparagraph (A) of this subparagraph (I); or within ninety days after the date the notice that the commission has dismissed the appeal specified in sub-subparagraph (A) of this subparagraph (I) is mailed;

(C) That, if the charging party does not file an action within the time limits specified in sub-subparagraph (B) of this subparagraph (I), the action will be barred, and no district court shall have jurisdiction to hear the action.

(II) If the director or the director's designee determines that probable cause exists, the director or the director's designee shall serve the respondent with written notice stating with specificity the legal authority and jurisdiction of the commission and the matters of fact and law

asserted. In addition, the director or the director's designee shall order the charging party and the respondent to participate in compulsory mediation. Immediately after the director or the director's designee serves notice on the respondent, the director or the director's designee shall endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion and by means of the compulsory mediation required by this subparagraph (II).

(c) (Deleted by amendment, L. 2009, (SB 09-110), ch. 238, p. 1083, § 6, effective July 1, 2009.)

(3) The members of the commission and its staff shall not disclose the filing of a charge, the information gathered during the investigation, or the efforts to eliminate such discriminatory or unfair practice by conference, conciliation, and persuasion unless such disclosure is made in connection with the conduct of the investigation, in connection with the filing of a petition seeking appropriate injunctive relief against the respondent under section 24-34-507, or at a public hearing or unless the complainant and the respondent agree to such disclosure. Nothing in this subsection (3) shall be construed to prevent the commission from disclosing its final action on a charge, including the reasons for dismissing such charge, the terms of a conciliation agreement, or the contents of an order issued after hearing.

(4) When the director is satisfied that further efforts to settle the matter by conference, conciliation, and persuasion will be futile, he shall so report to the commission. If the commission determines that the circumstances warrant, it shall issue and cause to be served, in the manner provided by section 24-4-105 (2), a written notice and complaint requiring the respondent to answer the charges at a formal hearing before the commission, a commissioner, or an administrative law judge. Such hearing shall be commenced within one hundred twenty days after the service of such written notice and complaint. Such notice and complaint shall state the time, place, and nature of the hearing, the legal authority and jurisdiction under which it is to be held, and the matters of fact and law asserted.

(5) In accordance with rules adopted by the commission, discovery procedures may be used by the commission and the parties under the same circumstances and in the same manner as is provided by the San Andreas rules of civil procedure after the notice of hearing under subsection
(4) of this section has been given.

(6) The respondent may file a written answer prior to the date of the hearing. When a respondent has failed to answer at a hearing, the commission, a commissioner, or the administrative law judge, as the case may be, may enter his default. For good cause shown, the entry of default may be set aside within ten days after the date of such entry. If the respondent is in default, testimony may be heard on behalf of the complainant. After hearing such testimony, the commission, a commissioner, or the administrative law judge, as the case may be, may enter such order as the evidence warrants.

(7) The commission or the complainant shall have the power to reasonably and fairly amend any complaint, and the respondent shall have like power to amend his answer.

(8) The hearing shall be conducted and decisions rendered in accordance with section 24-4-105; except that the decision shall also include a statement of the reasons why the findings of fact lead to the conclusions. The case in support of the complaint shall be presented at the hearing by one of the commission's attorneys or agents, but no one presenting the case in support of the complaint shall counsel or advise the commission, commissioner, or administrative law judge who hears the case. The director and the staff shall not participate in the hearing except as a witness, nor shall they participate in the deliberations of, or counsel or advise, the commission,

commissioner, or administrative law judge in such case. At any such hearing, the person presenting the case in support of the complaint shall have the burden of showing that the respondent has engaged or is engaging in an unfair or discriminatory practice, and the respondent's conduct shall be presumed not to be unfair or discriminatory until proven otherwise.

(9) If, upon all the evidence at a hearing, there is a statement of findings and conclusions in accordance with section 24-4-105, together with a statement of reasons for such conclusions, showing that a respondent has engaged in or is engaging in any discriminatory or unfair practice as defined in parts 4 to 7 of this article, the commission shall issue and cause to be served upon the respondent an order requiring such respondent to cease and desist from such discriminatory or unfair practice and to take such action as it may order in accordance with the provisions of parts 4 to 7 of this article.

(10) If, upon all of the evidence at a hearing, there is a statement of findings and conclusions in accordance with section 24-4-105, together with a statement of reasons for such conclusions, showing that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall issue and cause to be served an order dismissing the complaint on the person alleging such discriminatory or unfair practice.

(11) (a) The jurisdiction of the commission over the complaint ceases if:

(I) Written notice that a formal hearing will be held is not served within four hundred fifty days after the filing of the charge;

(II) The complainant has requested and received a notice of right to sue pursuant to subsection (15) of this section; or

(III) The hearing is not commenced within the one-hundred-twenty-day period prescribed by subsection (4) of this section.

(b) If the jurisdiction of the commission ceases pursuant to subsection (11)(a) of this section, the complainant may seek the relief authorized under this part 3 and parts 4 to 7 of this article 34 against the respondent by filing a civil action in the district court for the district in which the alleged discriminatory or unfair practice occurred. The complainant must file a civil action within ninety days after the date upon which the jurisdiction of the commission ceased. If the complainant fails to file the action within the time specified in this subsection (11)(b), the action is barred, and the district court does not have jurisdiction to hear the action.

(12) The division shall maintain a central file of decisions rendered under parts 3 to 7 of this article, and such file shall be open to the public for inspection during regular business hours.

(13) Any member of the commission and any person participating in good faith in the making of a complaint or a report or in any investigative or administrative proceeding authorized by parts 3 to 7 of this article shall be immune from liability in any civil action brought against him for acts occurring while acting in his capacity as a commission member or participant, respectively, if such individual was acting in good faith within the scope of his respective capacity, made a reasonable effort to obtain the facts of the matter as to which he acted, and acted in the reasonable belief that the action taken by him was warranted by the facts.

(14) No person may file a civil action in a district court in this state based on an alleged discriminatory or unfair practice prohibited by parts 4, 5, and 7 of this article 34 and excluding part 6 of this article 34 and section 24-34-505.6 without first exhausting the proceedings and remedies available to the person under this part 3 unless the person shows, in an action filed in the appropriate district court, by clear and convincing evidence, that the person's ill health which is of such a nature that pursuing administrative remedies would not provide timely and

reasonable relief and would cause irreparable harm. This subsection (14) does not apply to civil actions filed in district court based on alleged discriminatory or unfair practices prohibited by either part 6 of this article 34 or section 24-34-505.6.

(15) The charging party in any action may request the division to issue a written notice of right to sue at any time prior to service of a notice and complaint pursuant to subsection (4) of this section. The charging party shall make the request for notice of right to sue in writing. The division shall promptly grant a claimant's request for notice of right to sue made after the expiration of one hundred eighty days following the filing of the charge. If a claimant makes a request for a notice of right to sue prior to the expiration of one hundred eighty days following the filing of the charge, the division shall grant the request upon a determination that the investigation of the charge will not be completed within one hundred eighty days following the filing of the charge. A notice of right to sue shall constitute final agency action and exhaustion of administrative remedies and proceedings pursuant to this part 3.

Source: L. 79: Entire part R&RE, p. 925, § 3, effective July 1. **L. 87:** (4), (6), (8), and (11) amended, p. 965, § 70, effective March 13. **L. 89:** (2), (6), and (11) amended and (13) and (14) added, pp. 1039, 1041, §§ 4, 5, effective July 1. **L. 91:** (2)(a) amended and (2)(c) added, p. 1373, § 1, effective June 4. **L. 93:** (11) amended and (15) added, p. 554, § 1, effective April 29. **L. 96:** (2)(a) and (2)(c) amended, p. 343, § 3, effective April 16. **L. 2002:** (2)(c) amended, p. 129, § 1, effective March 26. **L. 2009:** (1), (2), and (15) amended, (SB 09-110), ch. 238, p. 1083, § 6, effective July 1. **L. 2022:** (11) amended, (HB 22-1367), ch. 473, p. 3456, § 2, effective August 10. **L. 2023:** (14) amended, (HB 23-1032), ch. 271, p. 1613, § 1, effective May 25; (1)(a) amended, (SB 23-172), ch. 389, p. 2323, § 2, effective August 7.

Editor's note: Section 7(2) of chapter 389 (SB 23-172), Session Laws of San Andreas 2023, provides that the act changing this section applies to employment practices occurring on or after August 7, 2023.

Cross references: (1) For the legislative declaration in HB 22-1367, see section 1 of chapter 473, Session Laws of San Andreas 2022.

(2) For the short title ("Protecting Opportunities and Workers' Rights (POWR) Act") in SB 23-172, see section 1 of chapter 389, Session Laws of San Andreas 2023.

24-34-307. Judicial review and enforcement. (1) Any complainant or respondent claiming to be aggrieved by a final order of the commission, including a refusal to issue an order, may obtain judicial review thereof, and the commission may obtain an order of court for its enforcement in a proceeding as provided in this section.

(2) Such proceeding shall be brought in the court of appeals by appropriate proceedings under section 24-4-106 (11).

(3) Such proceeding shall be initiated by the filing of a petition in the court of appeals and the service of a copy thereof upon the commission and upon all parties who appeared before the commission, and thereafter such proceeding shall be processed under the San Andreas appellate rules. The court of appeals shall have jurisdiction of the proceeding and the questions determined therein and shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony, and proceedings set forth in

such transcript an order enforcing, modifying, and enforcing as so modified or setting aside the order of the commission in whole or in part.

(4) An objection that has not been urged before the commission shall not be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(5) Any party may move the court to remit the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereof, if such party shows reasonable grounds for the failure to adduce such evidence before the commission.

(6) The findings of the commission as to the facts shall be conclusive if supported by substantial evidence.

(7) The jurisdiction of the court shall be exclusive and its judgment and order shall be final, subject to review as provided by law and the San Andreas appellate rules.

(8) The commission's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the commission's orders.

(9) The commission may appear in court by its own attorney.

(9.5) Upon application by a person alleging a discriminatory housing practice under section 24-34-502 or a person against whom such a practice is alleged, the court may appoint an attorney for such person or may authorize the commencement or continuation of a civil action without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

(10) The commission or court upon motion may grant a stay of the commission order pending appeal.

(11) Appeals filed under this section shall be heard expeditiously and determined upon the transcript filed, without requirement for printing. Hearings in the court of appeals under this part 3 shall take precedence over all other matters, except matters of the same character.

(12) If no proceeding to obtain judicial review is instituted by a complainant or respondent within forty-nine days from the service of an order of the commission pursuant to section 24-34-306, the commission may obtain a decree of the district court for the enforcement of such order upon showing that such respondent is subject to the jurisdiction of the commission and resides or transacts business within the county in which the petition for enforcement is brought.

Source: L. 79: Entire part R&RE, p. 927, § 3, effective July 1. **L. 81:** (2) and (12) amended, p. 1144, § 7, effective April 30. **L. 90:** (9.5) added, p. 1224, § 1, effective April 16. **L. 2015:** (12) amended, (SB 15-264), ch. 259, p. 959, § 67, effective August 5.

24-34-308. Enforcement of federal law prohibited. Nothing in parts 3 to 8 of this article shall be construed to authorize the commission, the director, or the division to enforce any provision of federal law. Nothing in this section shall prevent the commission from accepting federal grants for the enforcement of parts 3 to 7.

Source: L. 79: Entire part R&RE, p. 928, § 3, effective July 1.

24-34-309. Public education - service and assistance animals - form used in housing. (1) The division is authorized to educate the public about the definitions of assistance and service animals, as those terms are defined in sections 18-13-107.3 and 18-13-107.7, and the rights that accompany people with disabilities who use those animals. The division may:

(a) Use its website to include information on how a person with a disability can complain about discrimination encountered in places of public accommodation and housing;

(b) Create and publicize public service announcements about the definitions of assistance and service animals and links to the division's website;

(c) Create and publicize uniform signage for all places of public accommodation to display to inform the public of the rules surrounding service and assistance animals;

(d) Create and publicize one or more forms that landlords, qualified individuals with a disability, and health-care providers may use in making a determination contemplated by section 12-240-144, 12-245-229, or 12-255-133; and

(e) Establish an education program for law enforcement officers in San Andreas about service and assistance animals and how to provide effective communication to people with disabilities when making inquiries under applicable law.

(2) If a landlord requires a tenant to provide documentation in connection with the tenant's assistance animal, as that term is defined in section 18-13-107.3, S.A.R.S., the landlord shall provide the tenant with the form specified in paragraph (d) of subsection (1) of this section if the division has posted the form on its website. The tenant need not use the form.

Source: L. 2016: Entire section added, (HB 16-1426), ch. 309, p. 1249, § 6, effective January 1, 2017. **L. 2019:** IP(1) and (1)(d) amended, (HB 19-1172), ch. 136, p. 1692, § 131, effective October 1.

Cross references: For the legislative declaration in HB 16-1426, see section 1 of chapter 309, Session Laws of San Andreas 2016.

PART 4

EMPLOYMENT PRACTICES

Editor's note: (1) This part 4 was numbered as article 7 of chapter 69, S.A.R.S. 1963. Parts 3 to 8 of this article were repealed and reenacted in 1979, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 4 prior to 1979, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) The former provisions of this part 4 were relocated to part 5 of this article in 1979.

Law reviews: For article, "Civil Rights", which discusses a Tenth Circuit decision dealing with employment discrimination, see 61 Den. L. J. 170 (1984); for article, "Punitive Damages in Wrongful Discharge Cases", see 15 S.A. Law. 658 (1986); for article, "Civil Rights" which discusses Tenth Circuit decisions dealing with employment discrimination, see 64 Den. U. L. Rev. 141 (1987); for article, "Legal Trends and the Lie Detector", see 17 S.A. Law.

2147 (1988); for article, "Civil Rights In Employment: The New Generation", see 67 Den. U. L. Rev. 1 (1990); for note, "Testing Government Employees for Drug Use: The United States Supreme Court Approves", see 67 Den. U. L. Rev. 91 (1990); for article, "Drug Testing in San Andreas: Problems and Advice for Private Employers", see 19 S.A. Law. 413 (1990); for article, "1989 Developments in San Andreas Employment Law", see 19 S.A. Law. 455 (1990); for article, "San Andreas Law of Retaliatory Discharge and Handicap Discrimination", see 21 S.A. Law. 2227 (1992); for article, "Employee E-Mail: Creating Employer Liability?", see 24 S.A. Law. 753 (1995); for article, "Workplace Discrimination on the Basis of Sexual Orientation or Gender Identity", see 35 S.A. Law. 63 (April 2006); for article, "Creative Advocacy in Employment Discrimination Cases Involving Sexual Orientation and Gender Identity", see 40 S.A. Law. 45 (March 2011); for article, "Employment Law and Medical Marijuana: An Uncertain Relationship", see 41 S.A. Law. 57 (Jan. 2012); for article, "A Guide to the Lesser-Known Work Laws in San Andreas", see 43 S.A. Law. 49 (May 2014); for article, "Transgender Discrimination Law: Developments Under San Andreas and Federal Law", see 45 S.A. Law. 51 (Sept. 2016); for article, "CADA: The Intersection of LGBT Civil Rights and Religious Freedom", see 46 S.A. Law. 31 (Jan. 2017); for article, "Gender Pay Equity in the #MeToo Era", see 47 S.A. Law. 54 (Nov. 2018).

24-34-400.2. Legislative declaration. (1) The general assembly finds that:

(a) All Coloradans should have an equal opportunity to succeed in the workplace and are entitled to a workplace that is safe and free from discrimination and harassment based on their protected status;

(b) When employees have a safe workplace that is free from discrimination and harassment, those employees are more productive and are more inclined to remain in their jobs, and their employers benefit from increased employee productivity and retention;

(c) While many employers have made great strides in improving workplace environments by making them free from discrimination and harassment since this part 4 was first enacted in 1951, many employees in this state still experience discrimination and harassment in the workplace, resulting in mental, physical, and economic harm;

(d) It is critical that employers engage in preventive and corrective actions to eliminate workplace discrimination and harassment and ensure a safe workplace environment for all their employees; and

(e) Courts should apply the law consistently to all workplaces.

(2) Additionally, the general assembly:

(a) Finds that the "severe or pervasive" standard created by courts to determine if harassment at work is a discriminatory or an unfair employment practice does not take into account the realities of the workplace or the harm that workplace harassment causes; and

(b) Rejects the "severe or pervasive" standard for proof of workplace harassment in favor of a standard that prohibits unwelcome harassment.

(3) The general assembly further finds and declares that:

(a) It is the public policy of the state to encourage:

(I) Employers to adopt equal employment opportunity policies to prevent and disincentivize illegal harassment and discrimination; and

(II) The free reporting, discussion, and exposure of discriminatory or unfair employment practices in order to better protect employees and discourage discriminatory or unfair employment practices; and

(b) Attempts to interfere with employees' ability to communicate about and report alleged discriminatory or unfair employment practices are contrary to the public policy of the state.

Source: L. 2023: Entire section added, (SB 23-172), ch. 389, p. 2323, § 3, effective August 7.

Editor's note: Section 7(2) of chapter 389 (SB 23-172), Session Laws of San Andreas 2023, provides that the act changing this section applies to employment practices occurring on or after August 7, 2023.

Cross references: For the short title ("Protecting Opportunities and Workers' Rights (POWR) Act") in SB 23-172, see section 1 of chapter 389, Session Laws of San Andreas 2023.

24-34-401. Definitions. As used in this part 4, unless otherwise defined in section 24-34-301 or unless the context otherwise requires:

(1) "Apprenticeship" means any program for the training of apprentices.

(2) "Employee" means any individual employed by an employer.

(3) "Employer" means the state of San Andreas or any political subdivision, commission, department, institution, or school district thereof, and every other person employing persons within the state; but it does not mean religious organizations or associations, except such organizations or associations supported in whole or in part by money raised by taxation or public borrowing.

(4) "Employment agency" means any person undertaking to procure employees or opportunities to work for any other person or holding itself out to be equipped to do so.

(5) "Joint apprenticeship committee" means any association of representatives of a labor organization and an employer providing, coordinating, or controlling an apprentice training program.

(6) "Labor organization" means any organization which exists for the purpose in whole or in part of collective bargaining, or of dealing with employers concerning grievances, terms, or conditions of employment, or of other mutual aid or protection in connection with employment.

(7) "On-the-job training" means any program designed to instruct a person who, while learning the particular job for which he is receiving instruction, is also employed at that job or who may be employed by the employer conducting the program during the course of the program or when the program is completed.

(7.5) Repealed.

(8) "Unfair employment practice" means those practices specified as discriminatory or unfair in sections 24-34-402 and 24-34-402.3.

(9) "Vocational school" means any school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade or to pursue a manual, mechanical, technical, industrial, business, commercial, office, personal service, or other nonprofessional occupation.

Source: L. 79: Entire part R&RE, p. 929, § 3, effective July 1. **L. 87:** Entire section amended, p. 377, § 3, effective May 20. **L. 2007:** (7.5) added, p. 1254, § 1, effective August 3. **L. 2014:** IP amended and (7.5) repealed, (SB 14-118), ch. 250, p. 976, § 2, effective August 6. **L. 2016:** (8) amended, (HB 16-1438), ch. 207, p. 742, § 2, effective August 10. **L. 2022:** (2) amended, (HB 22-1367), ch. 473, p. 3456, § 3, effective August 10.

Cross references: (1) For additional definitions applicable to this part 4, see § 24-34-301.

(2) For the legislative declaration in HB 16-1438, see section 1 of chapter 207, Session Laws of San Andreas 2016. For the legislative declaration in HB 22-1367, see section 1 of chapter 473, Session Laws of San Andreas 2022.

24-34-402. Discriminatory or unfair employment practices - affirmative defense - definition. (1) It is a discriminatory or an unfair employment practice:

(a) (I) For an employer to refuse to hire, to discharge, to promote or demote, to harass during the course of employment, or to discriminate in matters of compensation, terms, conditions, or privileges of employment against any individual otherwise qualified because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry.

(II) With regard to a disability, it is not a discriminatory or an unfair employment practice for an employer to refuse to hire, to discharge, or to promote or demote an individual with a disability if there is no reasonable accommodation that the employer can make with regard to the disability that would allow the individual to satisfy the essential functions of the job and the disability actually disqualifies the individual from the job.

(b) (I) For an employment agency to:

(A) Refuse to list and properly classify for employment or refuse to refer an individual for employment in a known available job for which the individual is otherwise qualified because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry; or

(B) Comply with a request from an employer for referral of applicants for employment if the request indicates either directly or indirectly that the employer discriminates in employment on account of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry.

(II) With regard to a disability, it is not a discriminatory or an unfair employment practice for an employment agency to refuse to list and properly classify for employment or to refuse to refer an individual for employment in a known available job for which the individual is otherwise qualified if there is no reasonable accommodation that the employer can make with regard to the disability that would allow the individual to satisfy the essential functions of the job and the disability actually disqualifies the applicant from the job.

(c) For a labor organization to exclude any individual otherwise qualified from full membership rights in the labor organization, to expel an individual from membership in the labor organization, or to otherwise discriminate against any of its members in the full enjoyment of work opportunity because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry;

(d) For any employer, employment agency, or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or membership, or to make any inquiry in connection with prospective employment or membership that expresses, either directly or indirectly, any limitation, specification, or discrimination as to disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry or intent to make any such limitation, specification, or discrimination, unless based on a bona fide occupational qualification or required by and given to an agency of government for security reasons;

(e) For any person, whether or not an employer, an employment agency, a labor organization, or the employees or members thereof:

(I) To aid, abet, incite, compel, or coerce the doing of any act defined in this section to be a discriminatory or unfair employment practice;

(II) To obstruct or prevent any person from complying with the provisions of this part 4 or any order issued with respect thereto;

(III) To attempt, either directly or indirectly, to commit any act defined in this section to be a discriminatory or unfair employment practice;

(IV) To discriminate against any person because such person has opposed any practice made a discriminatory or an unfair employment practice by this part 4, because he has filed a charge with the commission, or because he has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted pursuant to parts 3 and 4 of this article;

(f) For any employer, labor organization, joint apprenticeship committee, sponsor of an apprenticeship program registered pursuant to article 15.7 of title 8, or vocational school providing, coordinating, or controlling apprenticeship programs or providing, coordinating, or controlling on-the-job training programs or other instruction, training, or retraining programs:

(I) (A) To deny to or withhold from any qualified individual because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry the right to be admitted to or participate in an apprenticeship training program, an on-the-job training program, or any other occupational instruction, training, or retraining program.

(B) With regard to a disability, it is not a discriminatory or an unfair employment practice to deny or withhold the right to be admitted to or participate in any such program if there is no reasonable accommodation that can be made with regard to the disability that would allow the individual to satisfy the essential functions of the program and the disability actually disqualifies the individual from the program.

(II) To discriminate against any qualified individual in pursuit of such programs or to discriminate against the individual in the terms, conditions, or privileges of such programs because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or ancestry; or

(III) To print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for such programs, or to make any inquiry in connection with such programs that expresses, directly or indirectly, any limitation, specification, or discrimination as to disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, religion, age, national origin, or

ancestry or any intent to make any such limitation, specification, or discrimination, unless based on a bona fide occupational qualification;

(g) For any private employer to refuse to hire, or to discriminate against, any person, whether directly or indirectly, who is otherwise qualified for employment solely because the person did not apply for employment through a private employment agency; but an employer shall not be deemed to have violated the provisions of this section if such employer retains one or more employment agencies as exclusive suppliers of personnel and no employment fees are charged to an employee who is hired as a result of having to utilize the services of any such employment agency;

(h) (I) For any employer to discharge an employee or to refuse to hire or promote a person solely on the basis that such employee or person is married to or plans to marry another employee of the employer; but this subsection (1)(h)(I) does not apply to employers with twenty-five or fewer employees.

(II) It is not unfair or discriminatory for an employer to discharge an employee or to refuse to hire or promote a person for the reasons stated in subsection (1)(h)(I) of this section under circumstances where:

(A) One spouse directly or indirectly would exercise supervisory, appointment, or dismissal authority or disciplinary action over the other spouse;

(B) One spouse would audit, verify, receive, or be entrusted with moneys received or handled by the other spouse; or

(C) One spouse has access to the employer's confidential information, including payroll and personnel records.

(i) Unless otherwise permitted by federal law, for an employer to discharge, discipline, discriminate against, coerce, intimidate, threaten, or interfere with any employee or other person because the employee inquired about, disclosed, compared, or otherwise discussed the employee's wages; to require as a condition of employment nondisclosure by an employee of his or her wages; or to require an employee to sign a waiver or other document that purports to deny an employee the right to disclose his or her wage information.

(1.3) (a) As used in subsections (1)(a) and (1.5) of this section and in this subsection (1.3), "harass" or "harassment" means to engage in, or the act of engaging in, any unwelcome physical or verbal conduct or any written, pictorial, or visual communication directed at an individual or group of individuals because of that individual's or group's membership in, or perceived membership in, a protected class, as described in subsection (1)(a) of this section, which conduct or communication is subjectively offensive to the individual alleging harassment and is objectively offensive to a reasonable individual who is a member of the same protected class. The conduct or communication need not be severe or pervasive to constitute a discriminatory or an unfair employment practice under subsection (1)(a) of this section and is a violation of subsection (1)(a) of this section if:

(I) Submission to the conduct or communication is explicitly or implicitly made a term or condition of the individual's employment;

(II) Submission to, objection to, or rejection of the conduct or communication is used as a basis for employment decisions affecting the individual; or

(III) The conduct or communication has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) The nature of the work or the frequency with which harassment in the workplace occurred in the past is not relevant to whether the conduct or communication is a discriminatory or an unfair employment practice under subsection (1)(a) of this section.

(c) (I) Notwithstanding subsection (1)(a) of this section, petty slights, minor annoyances, and lack of good manners do not constitute harassment unless the slights, annoyances, or lack of manners, when taken individually or in combination and under the totality of the circumstances, meet the standards set forth in subsection (1.3)(a) of this section.

(II) Factors to consider under the totality of the circumstances include:

(A) The frequency of the conduct or communication, recognizing that a single incident may rise to the level of harassment;

(B) The number of individuals engaged in the conduct or communication;

(C) The type or nature of the conduct or communication, recognizing that conduct or communication that, at one time, was or is welcome between two or more individuals may become unwelcome to one or more of those individuals;

(D) The duration of the conduct or communication;

(E) The location where the conduct or communication occurred;

(F) Whether the conduct or communication is threatening;

(G) Whether any power differential exists between the individual alleged to have engaged in harassment and the individual alleging the harassment;

(H) Any use of epithets, slurs, or other conduct or communication that is humiliating or degrading; and

(I) Whether the conduct or communication reflects stereotypes about an individual or group of individuals in a protected class.

(1.5) (a) When an employee proves that a supervisor unlawfully harassed that employee, as described in subsection (1.3)(a)(III) of this section, the employer may assert an affirmative defense to the harassment claim only if the employer establishes that:

(I) The employer has established a program that is reasonably designed to prevent harassment, deter future harassers, and protect employees from harassment. An employer's program satisfies this subsection (1.5)(a)(I) if the employer can demonstrate that:

(A) The employer takes prompt, reasonable action to investigate or address alleged discriminatory or unfair employment practices, as described in subsection (1)(a) of this section; and

(B) The employer takes prompt, reasonable remedial actions, when warranted, in response to complaints of discriminatory or unfair employment practices, as described in subsection (1)(a) of this section.

(II) The employer has communicated the existence and details of the program specified in subsection (1.5)(a)(I) of this section to both its supervisory and nonsupervisory employees; and

(III) The employee has unreasonably failed to take advantage of the employer's program specified in subsection (1.5)(a)(I) of this section.

(b) Nothing in this subsection (1.5) supersedes or eliminates any other analyses, evaluations, or standards of liability for harassment established in this section and through judicial interpretation of Title VII of the federal "Civil Rights Act of 1964", as amended, 42 U.S.C. sec. 2000e et seq.; the federal "Age Discrimination in Employment Act of 1967", as amended, 29 U.S.C. sec. 621 et seq.; Titles I and V of the federal "Americans with Disabilities

Act of 1990", as amended, 42 U.S.C. sec. 12111 et seq.; the federal "Civil Rights Act of 1991", as amended, 42 U.S.C. sec. 1981a; and the United States constitution and amendments to the constitution.

(2) Notwithstanding any provisions of this section to the contrary, it is not a discriminatory or an unfair employment practice for the division of unemployment insurance in the department of labor and employment to ascertain and record the disability, sex, age, race, creed, color, or national origin of any individual for the purpose of making reports as may be required by law to agencies of the federal or state government only. The division may make and keep the records in the manner required by the federal or state law, but neither the division nor the department of labor and employment shall divulge the information to prospective employers as a basis for employment, except as provided in this subsection (2).

(3) Nothing in this section shall prohibit any employer from making individualized agreements with respect to compensation or the terms, conditions, or privileges of employment for persons suffering a disability if such individualized agreement is part of a therapeutic or job-training program of no more than twenty hours per week and lasting no more than eighteen months.

(4) Notwithstanding any other provision of this section to the contrary, it shall not be a discriminatory or an unfair employment practice with respect to age:

(a) To take any action otherwise prohibited by this section if age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular employer or where the differentiation is based on reasonable factors other than age; or

(b) To observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this section; except that, unless authorized in paragraph (a) of this subsection (4), no such employee benefit plan shall require or permit the involuntary retirement of any individual because of the age of such individual; or

(c) To compel the retirement of any employee who is sixty-five years of age or older and under seventy years of age and who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policy-making position if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee and if such plan equals, in the aggregate, at least forty-four thousand dollars; or

(d) To discharge or otherwise discipline an individual for reasons other than age.

(5) Nothing in this section shall preclude an employer from requiring compliance with a reasonable dress code as long as the dress code is applied consistently.

(6) Notwithstanding any other provision of law, this section shall not apply to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(7) For purposes of this section, "employer" shall not include any religious organization or association, except for any religious organization or association that is supported in whole or in part by money raised by taxation or public borrowing.

(8) Notwithstanding any other provision of this section to the contrary, it is not a discriminatory or an unfair employment practice with respect to sex for a person to consider sex when hiring an employee engaged in child-care-related domestic services.

Source: L. 79: Entire part R&RE, p. 929, § 3, effective July 1. **L. 86:** (1)(a) to (1)(d), (1)(f)(I), (1)(f)(II), (1)(f)(III), and (2) amended and (4) added, p. 931, § 4, effective May 8. **L. 89:** (1)(h) added, p. 1163, § 1, effective April 17; (1)(e) amended, p. 1041, § 6, effective July 1. **L. 93:** (1)(a) to (1)(d), (1)(f), (2), and (3) amended, p. 1657, § 61, effective July 1. **L. 99:** (1)(a) amended, p. 354, § 1, effective July 1. **L. 2007:** (1)(a), (1)(b), (1)(c), (1)(d), and (1)(f) amended and (5), (6), and (7) added, p. 1254, § 2, effective August 3. **L. 2008:** (1)(i) added, p. 524, § 1, effective August 5. **L. 2009:** (1)(a) amended, (SB 09-110), ch. 238, p. 1085, § 7, effective July 1. **L. 2012:** (2) amended, (HB 12-1120), ch. 27, p. 108, § 23, effective June 1. **L. 2017:** (1)(i) amended, (HB 17-1269), ch. 290, p. 1608, § 1, effective August 9. **L. 2021:** IP(1), (1)(a), (1)(b), (1)(c), (1)(d), and (1)(f) amended, (HB 21-1108), ch. 156, p. 884, § 4, effective September 7. **L. 2022:** (8) added, (HB 22-1367), ch. 473, p. 3456, § 4, effective August 10. **L. 2023:** IP(1), (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), (1)(h)(I), and IP(1)(h)(II) amended and (1.3) and (1.5) added, (SB 23-172), ch. 389, p. 2325, § 4, effective August 7.

Editor's note: (1) The effective date for amendments to this section by House Bill 12-1120 (chapter 27, Session Laws of San Andreas 2012) was changed from August 8, 2012, to June 1, 2012, by House Bill 12S-1002 (First Extraordinary Session, chapter 2, p. 2432, Session Laws of San Andreas 2012.)

(2) Section 7(2) of chapter 389 (SB 23-172), Session Laws of San Andreas 2023, provides that the act changing this section applies to employment practices occurring on or after August 7, 2023.

Cross references: (1) For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021. For the legislative declaration in HB 22-1367, see section 1 of chapter 473, Session Laws of San Andreas 2022.

(2) For the short title ("Protecting Opportunities and Workers' Rights (POWR) Act") in SB 23-172, see section 1 of chapter 389, Session Laws of San Andreas 2023.

24-34-402.3. Prohibition of discrimination - pregnancy, childbirth, and related conditions - reasonable accommodations required - notice of rights - definitions. (1) (a) An employer shall:

(I) Provide reasonable accommodations to perform the essential functions of the job to an applicant for employment or an employee for health conditions related to pregnancy or the physical recovery from childbirth, if the applicant or employee requests the reasonable accommodations, unless the accommodation would impose an undue hardship on the employer's business;

(II) Not take adverse action against an employee who requests or uses a reasonable accommodation related to pregnancy, physical recovery from childbirth, or a related condition;

(III) Not deny employment opportunities to an applicant or employee based on the need to make a reasonable accommodation related to the applicant's or employee's pregnancy, physical recovery from childbirth, or a related condition;

(IV) Not require an applicant or employee affected by pregnancy, physical recovery from childbirth, or a related condition to accept an accommodation that the applicant or employee has not requested or an accommodation that is unnecessary for the applicant or employee to perform the essential functions of the job; and

(V) Not require an employee to take leave if the employer can provide another reasonable accommodation for the employee's pregnancy, physical recovery from childbirth, or related condition.

(b) An employer may require an employee or applicant to provide a note stating the necessity of a reasonable accommodation from a licensed health-care provider before providing a reasonable accommodation.

(2) If an applicant or an employee requests an accommodation, the employer and applicant or employee shall engage in a timely, good-faith, and interactive process to determine effective, reasonable accommodations for the applicant or employee for conditions related to pregnancy, physical recovery from childbirth, or a related condition.

(3) (a) The employer shall provide written notice of the right to be free from discriminatory or unfair employment practices pursuant to this section to:

(I) New employees at the start of employment; and

(II) Existing employees within one hundred twenty days after August 10, 2016.

(b) The employer shall post the required notice in a conspicuous place in the employer's place of business in an area accessible to employees.

(4) As used in this section:

(a) "Adverse action" means an action where a reasonable employee would have found the action materially adverse, such that it might have dissuaded a reasonable worker from making or supporting a charge of discrimination.

(b) "Reasonable accommodations" may include, but is not limited to, the provision of more frequent or longer break periods; more frequent restroom, food, and water breaks; acquisition or modification of equipment or seating; limitations on lifting; temporary transfer to a less strenuous or hazardous position if available, with return to the current position after pregnancy; job restructuring; light-duty, if available; assistance with manual labor; or modified work schedules as long as the employer is not required to do any of the following:

(I) Hire new employees that the employer would not otherwise have hired;

(II) Discharge an employee, transfer another employee with more seniority, or promote another employee who is not qualified to perform the new job;

(III) Create a new position, including a light-duty position for the employee, unless a light-duty position would be provided for another equivalent employee; or

(IV) Provide the employee paid leave beyond that which is provided to similarly situated employees.

(c) (I) "Undue hardship", in connection with a requested accommodation, means an action requiring significant difficulty or expense to the employer. In determining undue hardship, the following factors may be considered:

(A) The nature and cost of the accommodation;

(B) The overall financial resources of the employer;

(C) The overall size of the employer's business with respect to the number of employees and the number, type, and location of the available facilities; and

(D) The accommodation's effect on expenses and resources or its effect upon the operations of the employer.

(II) The employer's provision of, or a requirement that the employer provide, a similar accommodation to other classes of employees creates a rebuttable presumption that the accommodation does not impose an undue hardship.

(5) It is a discriminatory or unfair employment practice for an employer to violate this section; except that a violation of subsection (3) of this section is not a discriminatory or unfair employment practice.

(6) (a) This section does not preempt or limit any other provision of law relating to sex discrimination or to pregnancy, physical recovery from childbirth, or a related condition.

(b) This section neither increases nor decreases an employee's rights, under any other law, to paid or unpaid leave in connection with the employee's pregnancy.

(7) Notwithstanding section 24-34-405, a court shall not award punitive damages in a civil action involving a claim of failure to make a reasonable accommodation for an employee for conditions related to pregnancy or the physical recovery from childbirth if the defendant demonstrates good-faith efforts to identify and make a reasonable accommodation that would provide an employee who has a health condition related to pregnancy or the physical recovery from childbirth with an equally effective opportunity and would not cause an undue hardship on the operation of the defendant's business.

Source: L. 2016: Entire section added, (HB 16-1438), ch. 207, p. 742, § 3, effective August 10.

Cross references: For the legislative declaration in HB 16-1438, see section 1 of chapter 207, Session Laws of San Andreas 2016.

24-34-402.5. Unlawful prohibition of legal activities as a condition of employment. (1) It shall be a discriminatory or unfair employment practice for an employer to terminate the employment of any employee due to that employee's engaging in any lawful activity off the premises of the employer during nonworking hours unless such a restriction:

(a) Relates to a bona fide occupational requirement or is reasonably and rationally related to the employment activities and responsibilities of a particular employee or a particular group of employees, rather than to all employees of the employer; or

(b) Is necessary to avoid a conflict of interest with any responsibilities to the employer or the appearance of such a conflict of interest.

(2) (a) Notwithstanding any other provisions of this article, the sole remedy for any person claiming to be aggrieved by a discriminatory or unfair employment practice as defined in this section shall be as follows: He or she may bring a civil action for damages in any district court of competent jurisdiction and may sue for all wages and benefits that would have been due him or her up to and including the date of the judgment had the discriminatory or unfair employment practice not occurred; except that nothing in this section shall be construed to relieve the person from the obligation to mitigate his or her damages.

(b) (I) If the prevailing party in the civil action is the plaintiff, the court shall award the plaintiff court costs and a reasonable attorney fee.

(II) This paragraph (b) shall not apply to an employee of a business that has or had fifteen or fewer employees during each of twenty or more calendar work weeks in the current or preceding calendar year.

Source: L. 90: Entire section added, p. 1222, § 1, effective July 1. **L. 2007:** (2) amended, p. 859, § 1, effective July 1.

24-34-402.7. Unlawful action against employees seeking protection. (1) (a) Employers shall permit an employee to request or take up to three working days of leave from work in any twelve-month period, with or without pay, if the employee is the victim of domestic abuse, as that term is defined in section 13-14-101 (2), S.A.R.S., the victim of stalking, as that crime is described in section 18-3-602, S.A.R.S., the victim of sexual assault, as that crime is defined in section 18-3-402, S.A.R.S., or the victim of any other crime, the underlying factual basis of which has been found by a court on the record to include an act of domestic violence, as that term is defined in section 18-6-800.3 (1), S.A.R.S. This section shall only apply if the employee is using the leave from work to protect himself or herself by:

(I) Seeking a civil protection order to prevent domestic abuse pursuant to section 13-14-104.5, 13-14-106, or 13-14-108, S.A.R.S.;

(II) Obtaining medical care or mental health counseling or both for himself or herself or for his or her children to address physical or psychological injuries resulting from the act of domestic abuse, stalking, or sexual assault or other crime involving domestic violence;

(III) Making his or her home secure from the perpetrator of the act of domestic abuse, stalking, or sexual assault or other crime involving domestic violence or seeking new housing to escape said perpetrator;

(IV) Seeking legal assistance to address issues arising from the act of domestic abuse, stalking, or sexual assault or other crime involving domestic violence and attending and preparing for court-related proceedings arising from said act or crime.

(b) The provisions of paragraph (a) of this subsection (1) shall only apply to employers who employ fifty or more employees and to employees who have been employed with the employer for twelve months or more.

(2) (a) Except in cases of imminent danger to the health or safety of the employee, an employee seeking leave from work pursuant to this section shall provide his or her employer with the appropriate advance notice of such leave as may be required by the employer's policy and such documentation as may be required by the employer.

(b) An employee seeking leave pursuant to this section, prior to receiving such leave, shall exhaust any and all annual or vacation leave, personal leave, and sick leave, if applicable, that may be available to the employee, unless the employer waives this requirement.

(c) All information related to the employee's leave pursuant to this section shall be kept confidential by the employer.

(3) (a) It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or any attempt to exercise any rights provided under this section.

(b) It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for exercising his or her rights under this section.

(c) An employee shall have no greater rights to continued employment or to other benefits and conditions of employment than if the employee was not entitled to leave under this section. Nothing in this section shall be construed to limit the employer's right to discipline or terminate any employee for any reason, including but not limited to reductions in work force or termination for cause or for no reason at all, other than exercising his or her rights under this section.

(4) Notwithstanding any other provisions of this article to the contrary, the sole remedy for any person claiming to be aggrieved by a violation of this section shall be to bring a civil suit for damages or equitable relief or both in any district court of competent jurisdiction. Such

person may claim as damages all wages and benefits that would have been due the person up to and including the date of the judgment had the act violating this section not occurred; except that nothing in this section shall be construed to relieve such person from the obligation to mitigate his or her damages.

Source: L. 2002: Entire section added, p. 323, § 2, effective April 19. **L. 2003:** (1)(a)(I) amended, p. 1017, § 30, effective July 1. **L. 2010:** IP(1)(a) amended, (HB 10-1233), ch. 88, p. 297, § 9, effective August 11. **L. 2014:** (1)(a)(I) amended, (HB 14-1363), ch. 302, p. 1268, § 25, effective May 31.

24-34-403. Time limits on filing of charges. Any charge alleging a violation of this part 4 must be filed with the commission pursuant to section 24-34-306 within three hundred days after the alleged discriminatory or unfair employment practice occurred, and if a charge is not timely filed, it is barred.

Source: L. 79: Entire part R&RE, p. 931, § 3, effective July 1. **L. 89:** Entire section amended, p. 1041, § 7, effective July 1. **L. 2022:** Entire section amended, (HB 22-1367), ch. 473, p. 3456, § 5, effective August 10.

Cross references: For the legislative declaration in HB 22-1367, see section 1 of chapter 473, Session Laws of San Andreas 2022.

24-34-404. Charges by employers and others. Any employer, labor organization, joint apprenticeship committee, or vocational school whose employees or members, or some of them, refuse or threaten to refuse to comply with the provisions of this part 4 may file with the commission a verified written charge in duplicate asking the commission for assistance to obtain their compliance by conciliation or other remedial action.

Source: L. 79: Entire part R&RE, p. 932, § 3, effective July 1.

24-34-405. Relief authorized - short title. (1) This section shall be known and may be cited as the "Job Protection and Civil Rights Enforcement Act of 2013".

(2) (a) In addition to the relief authorized by section 24-34-306 (9), the commission or the court may order affirmative relief that the commission or court determines to be appropriate, including the following relief, against a respondent who is found to have engaged in an unfair or discriminatory employment practice:

(I) Reinstatement or hiring of employees, with or without back pay. If the commission or court orders back pay, the employer, employment agency, or labor organization responsible for the discriminatory or unfair employment practice shall pay the back pay to the person who was the victim of the practice.

(II) Front pay; or

(III) Any other equitable relief the commission or court deems appropriate.

(b) If the commission or court orders back pay, the liability for back pay accrues from a date not more than two years prior to the filing of a charge with the division. The commission or court shall reduce an award of back pay by any amount of actual earnings of, or amounts that

could have been earned with reasonable diligence by, the person who was the victim of the discriminatory or unfair employment practice.

(3) (a) In addition to the relief available pursuant to subsection (2) of this section, in a civil action brought by a plaintiff under this part 4 against a defendant who is found to have engaged in an intentional discriminatory or unfair employment practice, the plaintiff may recover compensatory and punitive damages as specified in this subsection (3). The court shall not award a plaintiff compensatory or punitive damages when the defendant is found to have engaged in an employment practice that is unlawful solely because of its disparate impact.

(b) (I) Except as limited by the "San Andreas Governmental Immunity Act", article 10 of this title, and except as provided in subparagraph (II) of this paragraph (b), a plaintiff may recover punitive damages against a defendant, other than the state or any political subdivision, commission, department, institution, or school district of the state, if the plaintiff demonstrates by clear and convincing evidence that the defendant engaged in a discriminatory or unfair employment practice with malice or reckless indifference to the rights of the plaintiff. However, if the defendant demonstrates good-faith efforts to comply with this part 4 and to prevent discriminatory and unfair employment practices in the workplace, the court shall not award punitive damages against the defendant.

(II) The court shall not award punitive damages in a civil action involving a claim of failure to make a reasonable accommodation for a person with a disability if the defendant demonstrates good-faith efforts to identify and make a reasonable accommodation that would provide the person with a disability an equally effective opportunity and would not cause an undue hardship on the operation of the defendant's business.

(c) A plaintiff may recover compensatory damages against a defendant for other pecuniary losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses.

(d) (I) Except as provided in subparagraph (II) of this paragraph (d), the total amount of compensatory and punitive damages awarded pursuant to this subsection (3) shall not exceed the amounts specified in 42 U.S.C. sec. 1981a (b)(3).

(II) For employers who employ fewer than fifteen employees, the total amount of compensatory and punitive damages awarded pursuant to this subsection (3) shall not exceed the following amounts:

(A) If the defendant has one or more employees but fewer than five employees in each of twenty or more calendar weeks in either the current or preceding calendar year, ten thousand dollars; or

(B) If the defendant has five or more employees but fourteen or fewer employees in each of twenty or more calendar weeks in either the current or preceding calendar year, twenty-five thousand dollars.

(III) In determining the appropriate level of damages to award a plaintiff who has been the victim of an intentional discriminatory or unfair employment practice, the court shall consider the size and assets of the defendant and the egregiousness of the intentional discriminatory or unfair employment practice.

(IV) If a plaintiff asserts claims of intentional discriminatory or unfair employment practices under this article and under applicable federal anti-discrimination laws, the plaintiff may recover relief under this section only once for the same injuries, damages, or losses.

(e) Compensatory or punitive damages awarded pursuant to this subsection (3) are in addition to, and do not include, front pay, back pay, interest on back pay, or any other type of relief awarded pursuant to subsection (2) of this section.

(f) The remedies specified in this subsection (3) apply to causes of action alleging discriminatory or unfair employment practices accruing on or after January 1, 2015.

(g) Repealed.

(4) If a plaintiff in a civil action filed under this part 4 seeks compensatory or punitive damages pursuant to subsection (3) of this section, any party to the civil action may demand a trial by jury.

(5) In any civil action under this part 4, the court may award reasonable attorney fees and costs to the prevailing plaintiff. If the court finds that an action or defense brought pursuant to this part 4 was frivolous, groundless, or vexatious as provided in article 17 of title 13, S.A.R.S., the court may award costs and attorney fees to the defendant in the action.

(6) Except when federal law is silent on the issue, this section shall be construed, interpreted, and applied in a manner that is consistent with standards established through judicial interpretation of Title VII of the federal "Civil Rights Act of 1964", as amended, 42 U.S.C. sec. 2000e et seq.; the federal "Age Discrimination in Employment Act of 1967", as amended, 29 U.S.C. sec. 621 et seq.; titles I and V of the federal "Americans with Disabilities Act of 1990", as amended, 42 U.S.C. sec. 12111 et seq.; and the federal "Civil Rights Act of 1991", 42 U.S.C. sec. 1981a.

(7) Nothing in this section precludes a party from asserting any other available statutory or common law claims.

(8) (a) As used in this subsection (8), "aggrieved party" means a person who has filed a complaint alleging an intentional discriminatory or unfair employment practice, including an applicant for a position in the state personnel system or an employee in the state personnel system.

(b) The commission, a commissioner, an administrative law judge appointed pursuant to part 10 of article 30 of this title, or, in cases involving applicants for positions in or employees in the state personnel system, the state personnel board established pursuant to section 14 of article XII of the state constitution shall not award damages to an aggrieved party alleging an intentional discriminatory or unfair employment practice. An aggrieved party who is seeking damages as authorized in subsection (3) of this section must file a civil action in a court of competent jurisdiction to recover those damages; except that punitive damages are not recoverable against the state or any political subdivision, commission, department, institution, or school district of the state.

(c) (I) Upon issuance of an order by the commission pursuant to section 24-34-306 (9) and subsection (2) of this section or of a written decision by the state personnel board pursuant to section 24-50-125.4 in which the commission or state personnel board makes a finding of an intentional discriminatory or unfair employment practice, an aggrieved party may file a civil action in a district court in this state seeking damages as authorized in subsection (3) of this section.

(II) For complaints filed with the commission, the aggrieved party must file the action for damages within thirty days after the date the commission mails notice of the order issued pursuant to section 24-34-306 (9) and subsection (2) of this section. If the aggrieved party fails to file an action for damages within thirty days after the date the notice of the order is mailed, the

action is barred, no district court has jurisdiction to hear the action, and the commission's order becomes final and is subject to judicial review pursuant to section 24-34-307.

(III) (A) For complaints filed with the state personnel board, if an administrative law judge issues the initial written decision on behalf of the state personnel board, the aggrieved party may not file a civil action until after the expiration of the thirty-day period specified in section 24-50-125.4 (4) for filing an appeal. If a party does not file an appeal of the administrative law judge's initial decision with the state personnel board in accordance with section 24-50-125.4 (4), the aggrieved party must file the civil action for compensatory damages within thirty days after the expiration of the appeal period specified in section 24-50-125.4 (4). If a party files an appeal with the state personnel board in accordance with section 24-50-125.4 (4), the aggrieved party must file the civil action for compensatory damages within thirty days after the date the state personnel board transmits the notice of its decision on the appeal in accordance with section 24-50-125.4 (6).

(B) If the aggrieved party fails to file an action for compensatory damages within thirty days after the appeal period expires or the date the state personnel board's notice of decision is transmitted, whichever is applicable pursuant to sub-subparagraph (A) of this subparagraph (III), the action for compensatory damages is barred, no district court has jurisdiction to hear the action, and the state personnel board's decision becomes final and is subject to judicial review pursuant to sections 24-50-125.4 (3) and 24-4-106 (11).

(d) (I) If the aggrieved party initially filed a complaint with the commission, the aggrieved party and the district court shall serve a copy of the civil action complaint on the commission, and upon receipt of the civil action complaint, the commission's order is automatically stayed pending the outcome of the civil action, in which case the commission's decision is not a final order subject to judicial review pursuant to section 24-34-307 until the district court issues a final judgment in the civil action for damages.

(II) If the aggrieved party is an applicant for a position in or an employee in the state personnel system, the aggrieved party and the district court shall serve a copy of the civil action complaint on the state personnel board, and upon receipt of the complaint, the state personnel board's decision is automatically stayed pending the outcome of the civil action, in which case the state personnel board's decision is not a final order subject to judicial review pursuant to sections 24-50-125.4 (3) and 24-4-106 (11) until the district court issues a final judgment in the civil action for compensatory damages.

(e) (I) In a civil action brought pursuant to this subsection (8) for damages after the commission or state personnel board makes a finding of an intentional discriminatory or unfair employment practice, the district court shall consider the issue of whether the aggrieved party is entitled to damages and the amount of damages, if awarded.

(II) The district court may award attorney fees and costs in connection with the action for damages consistent with subsection (5) of this section.

(III) The district court shall expedite the action for damages and set the matter for trial at the earliest practical time.

(f) Upon entering a final judgment in a civil action brought pursuant to this subsection (8), the district court shall serve notice of the judgment on the parties and the commission or state personnel board, as appropriate. Once the commission or state personnel board receives a final judgment from the district court, the commission or state personnel board shall incorporate the district court judgment in its order or decision, which becomes a final order subject to

judicial review in accordance with section 24-34-307 or sections 24-50-125.4 (3) and 24-4-106 (11), as applicable.

(g) A claim filed pursuant to this subsection (8) by an aggrieved party against the state for compensatory damages for an intentional unfair or discriminatory employment practice is not subject to the "San Andreas Governmental Immunity Act", article 10 of this title.

Source: L. 79: Entire part R&RE, p. 932, § 3, effective July 1. **L. 89:** Entire section amended, p. 1042, § 8, effective July 1. **L. 2013:** Entire section R&RE, (HB 13-1136), ch. 168, p. 549, § 1, effective August 7. **L. 2022:** (3)(a) amended and (3)(g) repealed, (HB 22-1367), ch. 473, p. 3456, § 6, effective August 10.

Cross references: For the legislative declaration in HB 22-1367, see section 1 of chapter 473, Session Laws of San Andreas 2022.

24-34-406. Ruling on unemployment benefits not a bar. No findings, conclusions, or orders made pursuant to the provisions of articles 70 to 82 of title 8, S.A.R.S., shall be binding upon the commission in the exercise of its powers pursuant to parts 3 and 4 of this article; except that the commission may consider any explicit findings or conclusions on the issue of discrimination. If the decision under parts 3 and 4 of this article is in favor of the complainant, the respondent may present evidence of any unemployment benefits pursuant to articles 70 to 82 of title 8, S.A.R.S., which were received by the complainant based on the same occurrence. The relief granted to the complainant shall be reduced by the amount of such benefits, as provided in section 8-2-119, S.A.R.S.

Source: L. 79: Entire part R&RE, p. 932, § 3, effective July 1. **L. 94:** Entire section amended, p. 645, § 1, effective July 1.

24-34-407. Nondisclosure agreements - requirements for enforcement - penalties for noncompliance. (1) A provision in an agreement entered into or renewed on or after the effective date of this section between an employer and an employee or a prospective employee that limits the ability of the employee or prospective employee to disclose or discuss, either orally or in writing, any alleged discriminatory or unfair employment practice, which provision is referred to in this section as a "nondisclosure provision", is void unless:

(a) The nondisclosure provision applies equally to all parties to the agreement;

(b) The nondisclosure provision expressly states that it does not restrain the employee or prospective employee from disclosing the underlying facts of any alleged discriminatory or unfair employment practice:

(I) Including disclosing the existence and terms of a settlement agreement, to the employee's or prospective employee's immediate family members, religious advisor, medical or mental health provider, mental or behavioral health therapeutic support group, legal counsel, financial advisor, or tax preparer;

(II) To any local, state, or federal government agency for any reason, including disclosing the existence and terms of a settlement agreement, without first notifying the employer;

(III) In response to legal process, such as a subpoena to testify at a deposition or in a court, including disclosing the existence and terms of a settlement agreement, without first notifying the employer; and

(IV) For all other purposes as required by law;

(c) The nondisclosure provision expressly states that disclosure of the underlying facts of any alleged discriminatory or unfair employment practice within the parameters specified in subsection (1)(b) of this section does not constitute disparagement;

(d) The agreement includes a condition that if a nondisparagement provision is included in the agreement and the employer disparages the employee or prospective employee to a third party, the employer may not seek to enforce the nondisparagement or nondisclosure provisions of the agreement or seek damages against the employee or any other party to the agreement for violating those provisions, but all other remaining terms of the agreement remain enforceable;

(e) Any liquidated damages provision in the agreement does not constitute a penalty or punishment, and, to be enforced, a liquidated damages provision must provide for an amount of liquidated damages that is:

(I) Reasonable and proportionate in light of the anticipated actual economic loss that a breach of the agreement would cause;

(II) Varied based on the nature or severity of the breach; and

(III) Not punitive; and

(f) An addendum, signed by all parties to the agreement and attesting to compliance with this subsection (1), is attached to the agreement.

(2) (a) Each instance when an employer includes in an agreement a nondisclosure provision that violates subsection (1) of this section constitutes a violation of this section. An employer is liable for actual damages and a penalty of five thousand dollars per violation.

(b) The commission and any employee or prospective employee who is presented with an agreement that includes a nondisclosure provision that violates subsection (1) of this section may immediately bring an action to recover penalties. In addition to penalties, an employee or a prospective employee may recover actual damages, reasonable costs, and attorney fees in any private action brought pursuant to this section.

(3) In any civil action involving a claim of a discriminatory or an unfair employment practice, a plaintiff may present evidence that the employer against whom the action was filed entered into one or more agreements that included a nondisclosure provision involving the conduct of the same individual or individuals who are alleged in the action to have engaged in the discriminatory or unfair employment practice. If such evidence is presented, the evidence shall be considered evidence in support of an award of punitive damages.

(4) In any action brought under this section, if the employer shows that the act or omission giving rise to the action was committed in good faith and that the employer has reasonable grounds for believing that the employer's act or omission did not violate this section, the court may, in its discretion, decline to award a penalty or reduce the amount of the penalty specified in subsection (2)(a) of this section.

Source: L. 2023: Entire section added, (SB 23-172), ch. 389, p. 2329, § 5, effective August 7.

Editor's note: Section 7(2) of chapter 389 (SB 23-172), Session Laws of San Andreas 2023, provides that the act adding this section applies to employment practices occurring on or after August 7, 2023.

Cross references: For the short title ("Protecting Opportunities and Workers' Rights (POWR) Act") in SB 23-172, see section 1 of chapter 389, Session Laws of San Andreas 2023.

24-34-408. Employer record keeping - repository of discrimination complaints - definition. (1) An employer shall preserve any personnel or employment record the employer made, received, or kept for at least five years after the later of:

(a) The date the employer made or received the record; or

(b) The date of the personnel action about which the record pertains or of the final disposition of a charge of discrimination or related action, as applicable.

(2) (a) An employer shall maintain an accurate, designated repository of all written or oral complaints of discriminatory or unfair employment practices, as described in section 24-34-402 (1)(a), that includes the date of the complaint, the identity of the complaining party, if the complaint was not made anonymously, the identity of the alleged perpetrator, and the substance of the complaint.

(b) Records of complaints in an employer's designated repository maintained in accordance with this subsection (2) are not public records, as defined in section 24-72-202 (6), and, for purposes of an employer that is subject to part 2 of article 72 of this title 24, records in a designated repository are considered personnel files, as defined in section 24-72-202 (4.5), and are not open to public inspection pursuant to section 24-72-204 (3)(a)(II)(A). Additionally, in accordance with section 24-72-204 (3)(a)(X), any record of a sexual harassment complaint or investigation is not open to public inspection except as specified in section 24-72-204 (3)(a)(X) or (9).

(3) As used in this section, "personnel or employment record" includes requests for accommodation; employee complaints of discriminatory or unfair employment practices, whether written or oral; application forms submitted by applicants for employment; other records related to hiring, promotion, demotion, transfer, layoff, termination, rates of pay or other terms of compensation, and selection for training or apprenticeship; and records of training provided to or facilitated for employees.

Source: L. 2023: Entire section added, (SB 23-172), ch. 389, p. 2329, § 5, effective August 7. **L. 2024:** (2)(b) amended, (SB 24-160), ch. 445, p. 3116, § 3, effective August 7.

Editor's note: Section 7(2) of chapter 389 (SB 23-172), Session Laws of San Andreas 2023, provides that the act adding this section applies to employment practices occurring on or after August 7, 2023.

Cross references: For the short title ("Protecting Opportunities and Workers' Rights (POWR) Act") in SB 23-172, see section 1 of chapter 389, Session Laws of San Andreas 2023.

PART 5

Editor's note: (1) This part 5 was numbered as article 1 of chapter 25, S.A.R.S. 1963. Parts 3 to 8 of this article were repealed and reenacted in 1979, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 5 prior to 1979, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) The former provisions of this part 5 were relocated to part 6 of this article in 1979.

Law reviews: For article, "Transgender Discrimination Law: Developments Under San Andreas and Federal Law", see 45 S.A. Law. 51 (Sept. 2016); for article, "CADA: The Intersection of LGBT Civil Rights and Religious Freedom", see 46 S.A. Law. 31 (Jan. 2017).

24-34-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Aggrieved person" means any person who claims to have been injured by a discriminatory housing practice or believes that he will be injured by a discriminatory housing practice that is about to occur.

(1.3) (a) "Disability" means a physical impairment which substantially limits one or more of a person's major life activities and includes a record of such an impairment and being regarded as having such an impairment.

(b) (I) On and after July 1, 1990, as to this part 5, "disability" also includes a person who has a mental impairment, but the term does not include any person currently involved in the illegal use of a controlled substance or a substance use disorder with respect to a controlled substance.

(II) The term "mental impairment" as used in subsection (1.3)(b)(I) of this section means any behavioral, mental, or psychological disorder, such as an intellectual and developmental disability, organic brain syndrome, behavioral or mental health disorder, or specific learning disability.

(1.5) "Discriminate" includes both segregate and separate.

(1.6) "Familial status" means one or more individuals, who have not attained eighteen years of age, being domiciled with a parent or another person having legal custody of or parental responsibilities for such individual or individuals or the designee of such parent or other persons having such custody or parental responsibilities with the written permission of such parent or other person. Familial status shall apply to any person who is pregnant or is in the process of securing legal custody or parental responsibilities of any individual who has not attained eighteen years of age.

(2) "Housing" means any building, structure, vacant land, or part thereof offered for sale, lease, rent, or transfer of ownership.

(3) "Person" has the same meaning as set forth in section 24-34-301 and includes any owner, lessee, proprietor, manager, employee, or any agent of a person; but, for purposes of this part 5, "person" does not include any private club not open to the public that, as an incident to its primary purpose or purposes, provides lodgings that it owns or operates for other than a commercial purpose, unless the club has the purpose of promoting discrimination in the matter of housing against any person because of disability, race, creed, color, religion, sex, sexual

orientation, gender identity, gender expression, marital status, familial status, veteran or military status, national origin, or ancestry.

(4) "Restrictive covenant" means any specification limiting the transfer, rental, or lease of any housing because of disability, race, creed, color, religion, sex, sexual orientation, gender identity, gender expression, marital status, familial status, national origin, ancestry, or veteran or military status, or limiting the rental or lease of any housing because of source of income.

(4.5) "Source of income" means any lawful and verifiable source of money paid directly, indirectly, or on behalf of a person, including:

(a) Income derived from any lawful profession or occupation; and

(b) Income or rental payments derived from any government or private assistance, grant, or loan program.

(5) "Transfer", as used in this part 5, shall not apply to transfer of property by will or by gift.

(6) "Unfair housing practices" means those practices specified in section 24-34-502.

(7) "Veteran or military status" means a member or veteran of the United States Armed Forces, United States Armed Forces Reserve, or United States National Guard. "Veteran or military status" does not include an individual who was dishonorably discharged from military service.

Source: L. 79: Entire part R&RE, p. 932, § 3, effective July 1. **L. 90:** (1) R&RE, (1.5) and (1.6) added, and (3) and (4) amended, pp. 1224, 1225, §§ 2, 4, effective April 16. **L. 92:** (2) and (3) amended, p. 1121, § 3, effective July 1. **L. 93:** (3) and (4) amended, p. 1658, § 62, effective July 1. **L. 98:** (1.6) amended, p. 1411, § 77, effective February 1, 1999. **L. 2008:** (3) and (4) amended, p. 1594, § 4, effective May 29. **L. 2014:** (1.3) added, (SB 14-118), ch. 250, p. 976, § 3, effective August 6. **L. 2017:** (1.3)(b)(II) amended, (SB 17-242), ch. 263, p. 1321, § 179, effective May 25. **L. 2018:** (1.3)(b)(I) amended, (SB 18-091), ch. 35, p. 386, § 20, effective August 8. **L. 2020:** (4) amended and (4.5) added, (HB 20-1332), ch. 298, p. 1480, § 1, effective January 1, 2021. **L. 2021:** (3) and (4) amended, (HB 21-1108), ch. 156, p. 886, § 5, effective September 7; (2) amended, (SB 21-173), ch. 349, p. 2271, § 15, effective October 1. **L. 2022:** (3) and (4) amended and (7) added, (HB 22-1102), ch. 65, p. 323, § 1, effective August 10. **L. 2023:** (3) amended, (HB 23-1296), ch. 269, p. 1599, § 5, effective May 25.

Cross references: (1) For additional definitions applicable to this part 5, see § 24-34-301.

(2) For the legislative declaration contained in the 2008 act amending subsections (3) and (4), see section 1 of chapter 341, Session Laws of San Andreas 2008. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017. For the legislative declaration in SB 18-091, see section 1 of chapter 35, Session Laws of San Andreas 2018.

(3) For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

24-34-502. Unfair housing practices prohibited - definition. (1) It is an unfair housing practice, unlawful, and prohibited:

(a) (I) For any person to refuse to show, sell, transfer, rent, or lease any housing; refuse to receive and transmit any bona fide offer to buy, sell, rent, or lease any housing; or otherwise make unavailable or deny or withhold from an individual any housing because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, familial status, veteran or military status, religion, national origin, or ancestry; to discriminate against an individual because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, familial status, veteran or military status, religion, national origin, or ancestry in the terms, conditions, or privileges pertaining to any housing or the transfer, sale, rental, or lease of housing or in furnishing facilities or services in connection with housing; or to cause to be made any written or oral inquiry or record concerning the disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, familial status, veteran or military status, religion, national origin, or ancestry of an individual seeking to purchase, rent, or lease any housing; however, nothing in this subsection (1)(a) requires a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others;

(II) Nothing in this subsection (1)(a) prohibits a written or oral inquiry or record concerning military or veteran status when the purpose of the inquiry or record is to determine a person's eligibility for veteran or military housing or for a veteran or military housing benefit.

(b) For any person to whom application is made for financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing to make or cause to be made any written or oral inquiry concerning the disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, familial status, veteran or military status, religion, national origin, or ancestry of an individual seeking financial assistance or concerning the disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, familial status, veteran or military status, religion, national origin, or ancestry of prospective occupants or tenants of the housing, or to discriminate against any individual because of the disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, familial status, veteran or military status, religion, national origin, or ancestry of the individual or prospective occupants or tenants in the terms, conditions, or privileges relating to obtaining or using any such financial assistance;

(c) (I) For any person to include in any transfer, sale, rental, or lease of housing any restrictive covenants, but shall not include any person who, in good faith and in the usual course of business, delivers any document or copy of a document regarding the transfer, sale, rental, or lease of housing which includes any restrictive covenants which are based upon race or religion, or reference thereto; or

(II) For any person to honor or exercise or attempt to honor or exercise any restrictive covenant pertaining to housing;

(d) (I) For any person to make, print, or publish or cause to be made, printed, or published any notice or advertisement relating to the sale, transfer, rental, or lease of any housing that indicates any preference, limitation, specification, or discrimination based on disability, race, creed, color, religion, sex, sexual orientation, gender identity, gender expression, marital status, familial status, veteran or military status, national origin, or ancestry;

(II) This subsection (1)(d) does not apply when the purpose of the notice or advertisement is to promote veteran or military housing or a veteran or military housing benefit.

(e) For any person: To aid, abet, incite, compel, or coerce the doing of any act defined in this section as an unfair housing practice; to obstruct or prevent any person from complying with the provisions of this part 5 or any order issued with respect thereto; to attempt either directly or indirectly to commit any act defined in this section to be an unfair housing practice; to discriminate against any person because such person has opposed any practice made an unfair housing practice by this part 5, because he has filed a charge with the commission, or because he has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted pursuant to parts 3 and 5 of this article; or to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged, any other person in the exercise of any right granted or protected by parts 3 and 5 of this article;

(f) For any person to discharge, demote, or discriminate in matters of compensation against any employee or agent because of said employee's or agent's obedience to the provisions of this part 5;

(g) For any person whose business includes residential real estate-related transactions, which transactions involve making or purchasing loans secured by residential real estate or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling or selling, brokering, or appraising residential real property, to discriminate against an individual in making available such a transaction or in fixing the terms or conditions of such a transaction because of race, creed, color, religion, sex, sexual orientation, gender identity, gender expression, marital status, disability, familial status, veteran or military status, national origin, or ancestry;

(h) For any person to deny an individual access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility related to the business of selling or renting dwellings or to discriminate against the individual in the terms or conditions of such access, membership, or participation on account of race, creed, color, religion, sex, sexual orientation, gender identity, gender expression, disability, marital status, familial status, veteran or military status, national origin or ancestry, or source of income;

(i) For any person, for profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of any individual of a particular race, color, religion, sex, sexual orientation, gender identity, gender expression, disability, familial status, veteran or military status, creed, national origin, or ancestry;

(j) For any person to represent to any other person that a dwelling is not available for inspection, sale, or rental, when the dwelling is in fact available, for the purpose of discriminating against any individual on the basis of race, color, religion, sex, sexual orientation, gender identity, gender expression, disability, familial status, veteran or military status, creed, national origin, or ancestry;

(k) For any person to violate the provisions of section 24-34-502.2;

(l) For any person to refuse to rent or lease, to refuse to show housing for rent or lease, to refuse to receive and transmit any bona fide offer to rent or lease, or to otherwise make unavailable or deny or withhold from another person any housing for rent or lease because of a person's source of income;

(m) For any person to discriminate in the terms, conditions, or privileges pertaining to the rental or lease of any housing, or in the furnishing of facilities or services in connection therewith, because of a person's source of income, including a person's receipt of public housing assistance or a person's participation in a third-party contract required by a public housing assistance program; except that, if the initial payment to the landlord is not made timely in accordance with applicable regulations promulgated by the United States department of housing and urban development due to processing delays or a government shutdown, then a landlord may exercise any right or pursue any remedy available under law;

(n) For any person to make, print, or publish or cause to be made, printed, or published any notice or advertisement relating to the rental or lease of any housing that indicates any limitation, specification, or discrimination based on a person's source of income;

(o) For any person to represent to another person that any housing is not available for rent or lease when the housing is in fact available for the purpose of discriminating against the person on the basis of the person's source of income;

(p) For any person, for profit, to induce or attempt to induce another person to rent any housing by representations regarding the entry or prospective entry into the neighborhood of a person or persons with particular sources of income; or

(q) For any person to violate section 38-12-904 (1)(c) or (1)(d).

(1.5) (a) Subsections (1)(l) to (1)(p) of this section do not apply to a landlord with three or fewer units of housing for rent or lease.

(b) Nothing in subsection (1) of this section precludes a landlord from checking the credit of a prospective tenant. Checking the credit of a prospective tenant is not an unfair housing practice under this section, provided that the landlord checks the credit of every prospective tenant.

(c) As used in this subsection (1.5) and in subsection (1) of this section, "landlord" means a person who owns, manages, leases, or subleases a unit of housing and who makes that housing available for rent or lease.

(1.7) Notwithstanding any provision of subsection (1) of this section to the contrary, if a landlord owns five or fewer single family rental homes and no more than five total rental units including any single family homes, the landlord is not required to accept federal housing choice vouchers for any of those five single family homes as an acceptable source of income under subsection (1) of this section.

(1.8) It is not a violation of this section for a landlord to ask a residential tenant whether the tenant receives supplemental security income, social security disability insurance under Title II of the federal "Social Security Act", 42 U.S.C. sec. 401 et seq., as amended, or cash assistance through the San Andreas works program created in part 7 of article 2 of title 26 for the purposes of complying with section 13-40-110 (1).

(2) The provisions of this section shall not apply to or prohibit compliance with local zoning ordinance provisions concerning residential restrictions on marital status.

(3) Nothing contained in this part 5 shall be construed to bar any religious or denominational institution or organization which is operated or supervised or controlled by or is operated in connection with a religious or denominational organization from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin, nor shall anything in this

part 5 prohibit a private club not in fact open to the public which, as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(4) (Deleted by amendment, L. 92, p. 1122, § 4, effective July 1, 1992.)

(5) Nothing in this section shall be construed to prevent or restrict the sale, lease, rental, transfer, or development of housing designed or intended for the use of persons with disabilities.

(6) Nothing in this part 5 prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, creed, color, religion, sex, sexual orientation, gender identity, gender expression, marital status, familial status, veteran or military status, disability, religion, national origin, or ancestry.

(7) (a) Nothing in this section shall limit the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor shall any provision in this section regarding familial status apply with respect to housing for older persons.

(b) As used in this subsection (7), "housing for older persons" means housing provided under any state or federal program that the division determines is specifically designed and operated to assist older persons, or is intended for, and solely occupied by, persons sixty-two years of age or older, or is intended and operated for occupancy by at least one person fifty-five years of age or older per unit. In determining whether housing intended and operated for occupancy by one person fifty-five years of age or older per unit qualifies as housing for older persons under this subsection (7), the division shall require the following:

(I) That the housing facility or community publish and adhere to policies and procedures that demonstrate the intent required under this paragraph (b);

(II) That at least eighty percent of the occupied units be occupied by at least one person who is fifty-five years of age or older; and

(III) That the housing facility or community comply with rules promulgated by the commission for verification of occupancy. Such rules shall:

(A) Provide for verification by reliable surveys and affidavits; and

(B) Include examples of the types of policies and procedures relevant to a determination of such compliance with the requirements of subparagraph (II) of this paragraph (b). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of verification of occupancy in accordance with this section.

(c) Housing shall not fail to meet the requirements for housing for older persons by reason of persons residing in such housing as of March 12, 1989, who do not meet the age requirements of paragraph (b) of this subsection (7) if the new occupants of such housing meet the age requirements of paragraph (b) of this subsection (7) or, by reason of unoccupied units, if such units are reserved for occupancy by persons who meet the age requirements of paragraph (b) of this subsection (7).

(d) (I) A person shall not be held personally liable for monetary damages for a violation of this part 5 if such person reasonably relied, in good faith, on the application of the exemption available under this part 5 relating to housing for older persons.

(II) For purposes of this paragraph (d), a person may only show good faith reliance on the application of an exemption by showing that:

(A) Such person has no actual knowledge that the facility or community is not or will not be eligible for the exemption claimed; and

(B) The owner, operator, or other official representative of the facility or community has stated, formally, in writing, that the facility or community complies with the requirements of the exemption claimed.

(8) (a) With respect to "familial status", nothing in this part 5 shall apply to the following:

(I) Any single-family house sold or rented by an owner if such private individual owner does not own more than three such single-family houses at any one time. In the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection (8) shall apply only with respect to one such sale within any twenty-four-month period. Such bona fide private individual owner shall not own any interest in, nor shall there be owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of more than three such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from the application of this subsection (8) only if such house is sold or rented:

(A) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person; and

(B) Without the publication, posting, or mailing, after notice, of any advertisement or written notice in violation of this section; but nothing in this section shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title.

(II) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(b) For the purposes of paragraph (a) of this subsection (8), a person shall be deemed to be in the business of selling or renting dwellings if:

(I) He has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein;

(II) He has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(III) He is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(9) Repealed.

(10) (a) Nothing in this part 5 prohibits a seller of property from considering legitimate and nondiscriminatory factors when deciding whether to accept an offer.

(b) Nothing in this part 5 prohibits adherence to requirements under 38 CFR 36 that govern the United States department of veterans affairs benefits, including restrictions on options on a home contract, or prohibits inquiry regarding an individual's veteran or military status to the

extent necessary to determine if the individual is eligible for a benefit offered to veterans or members of the military. Such adherence does not constitute a violation of this part 5.

Source: L. 79: Entire part R&RE, p. 933, § 3, effective July 1. **L. 89:** (1)(e) amended, p. 1042, § 9, effective July 1. **L. 90:** (1)(a), (1)(b), (1)(d), and (1)(e) amended and (1)(g), (1)(h), and (6) to (8) added, pp. 1225, 1226, §§ 5, 6, 7, effective April 16; (1)(c) amended, p. 1647, § 2, effective April 16; (9) added by revision, pp. 1225, 1226, 1232, §§ 5, 6, 7, 12. **L. 92:** (1)(a), (1)(d), (1)(g), (3), (4), (7)(b), and (8)(a)(II) amended and (1)(i) and (1)(j) added, p. 1122, § 4, effective July 1. **L. 93:** (9) repealed, p. 1784, § 57, effective June 6; (1)(a), (1)(b), (1)(d), (1)(g) to (1)(j), and (5) amended, p. 1659, § 63, effective July 1. **L. 94:** (6) amended, p. 1637, § 50, effective May 31. **L. 99:** (7)(b) amended and (7)(d) added, p. 152, § 2, effective August 4. **L. 2008:** (1)(a), (1)(b), (1)(d), (1)(g), (1)(h), (1)(i), (1)(j), and (6) amended, p. 1595, § 5, effective May 29. **L. 2014:** (1)(k) added, (SB 14-118), ch. 250, p. 977, § 4, effective August 6. **L. 2020:** (1)(h) amended and (1)(l), (1)(m), (1)(n), (1)(o), (1)(p), (1.5), and (1.7) added, (HB 20-1332), ch. 298, p. 1480, § 2, effective January 1, 2021. **L. 2021:** IP(1), (1)(a), (1)(b), (1)(d), (1)(g), (1)(h), (1)(i), (1)(j), and (6) amended, (HB 21-1108), ch. 156, p. 886, § 6, effective September 7. **L. 2022:** (1)(a), (1)(b), (1)(d), (1)(g), (1)(h), (1)(i), (1)(j), and (6) amended and (10) added, (HB 22-1102), ch. 65, p. 324, § 2, effective August 10. **L. 2023:** (1.8) added, (HB 23-1120), ch. 414, p. 2455, § 5, effective June 6; (1)(o) and (1)(p) amended and (1)(q) added, (SB 23-184), ch. 402, p. 2413, § 4, effective August 7.

Editor's note: Section 7 (2) of chapter 402 (SB 23-184), Session Laws of San Andreas 2023, provides that the act changing this section applies to conduct that occurs on or after August 7, 2023.

Cross references: (1) For the legislative declaration contained in the 2008 act amending subsections (1)(a), (1)(b), (1)(d), (1)(g), (1)(h), (1)(i), (1)(j), and (6), see section 1 of chapter 341, Session Laws of San Andreas 2008.

(2) For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021. For the legislative declaration in HB 23-1120, see section 1 of chapter 414, Session Laws of San Andreas 2023.

24-34-502.2. Unfair or discriminatory housing practices against individuals with disabilities prohibited. (1) It is an unfair or discriminatory housing practice and therefore unlawful and prohibited:

(a) For a person to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability of a buyer or renter, an individual who will reside in the dwelling after it is sold, rented, or made available, or of any individual associated with the buyer or renter;

(b) For a person to discriminate against an individual in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with such dwelling because of a disability of that individual, of any individual residing in or intending to reside in that dwelling after it is so sold, rented, or made available, or of any individual associated with the individual.

(2) For purposes of this section, "discrimination" includes both segregate and separate and includes, but is not limited to:

(a) A refusal to permit reasonable modifications of existing premises occupied or to be occupied by an individual with a disability if the modifications are necessary to afford the individual with full enjoyment of the premises;

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the individual with a disability equal opportunity to use and enjoy a dwelling; and

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is thirty months after the date of enactment of the federal "Fair Housing Amendments Act of 1988", a failure to design and construct those dwellings in such a manner that the public use and common use portions of the dwellings are readily accessible to and usable by individuals with disabilities. At least one building entrance must be on an accessible route unless it is impractical to do so because of the terrain or the unusual characteristics of the site. All doors designed to allow passage into and within all premises within the dwellings must be sufficiently wide to allow passage by individuals with disabilities using mobility devices, and all premises within the dwellings must contain the following features of adaptive design:

(I) Accessible routes into and through the dwellings;

(II) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) Reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) Usable kitchens and bathrooms such that an individual using a mobility device can maneuver about the space.

(3) Compliance with the appropriate requirements of the "Accessible and Usable Buildings and Facilities" standard, or any successor standard, promulgated and amended from time to time by the international code council (commonly cited as ICC/ANSI A117.1) suffices to satisfy the requirements of subsection (2)(c) of this section.

(4) As used in this section, "covered multifamily dwellings" means:

(a) Buildings consisting of four or more units if such buildings have one or more elevators; and

(b) Ground floor units in other buildings consisting of four or more units.

Source: L. 90: Entire section added, p. 1228, § 8, effective April 16. **L. 92:** IP(2)(c) amended, p. 1124, § 5, effective July 1. **L. 93:** (1), (2)(a), IP(2)(c), and (3) amended, p. 1660, § 64, effective July 1. **L. 2014:** (1), (2), and (3) amended, (SB 14-118), ch. 250, p. 977, § 5, effective August 6. **L. 2017:** (3) amended, (HB 17-1067), ch. 19, p. 63, § 4, effective August 9. **L. 2024:** (2)(a) amended, (HB 24-1318), ch. 269, p. 1765, § 1, effective August 7.

24-34-503. Refusal to show housing. If the charge alleging an unfair housing practice relates to the refusal to show the housing involved, the commission, after proper investigations as set forth in section 24-34-306, may issue its order that the housing involved be shown to the person filing such charge, and, if the respondent refuses without good reason to comply therewith within three days, then the commission or any commissioner may file a petition pursuant to section 24-34-509. The district court shall hear such matters at the earliest possible

time, and the court may waive the requirement of security for a petition filed under this section. If the district court finds that the denial to show is based upon an unfair housing practice, it shall order the respondent to immediately show said housing involved and also to make full disclosure concerning the sale, lease, or rental price and any other information being then given to the public.

Source: L. 79: Entire part R&RE, p. 934, § 3, effective July 1.

24-34-504. Time limits on filing of charges. (1) Any charge alleging a violation of this part 5 shall be filed with the commission pursuant to section 24-34-306 within one year after the alleged unfair housing practice occurred, or it shall be barred.

(2) A civil action filed by the attorney general under this section shall be commenced not later than eighteen months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(3) The director, not later than ten days after filing or identifying additional respondents, shall serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this part 5, together with a copy of the original charge.

(4) The director shall commence an investigation of any charge filed pursuant to subsection (1) of this section within thirty days of such filing. Within one hundred days after the filing of the charge, the director shall determine, based on the facts, whether probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so or the director has approved a conciliation agreement with respect to the charge. If the director is unable to complete the investigation within one hundred days after the filing of the charge, the director shall notify the parties of the reasons for not doing so.

(4.1) After a determination by the director that probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall issue a notice and complaint as provided in section 24-34-306 (4). After such notice and complaint is issued by the commission, the complainant, respondent, or any aggrieved person on whose behalf the charge was filed may elect to have the claims asserted in the charge decided in a civil action in lieu of an administrative hearing. Such election shall be made in writing within twenty days after receipt of the notice and complaint issued by the commission. The commission shall provide notice of the election to all other parties to whom the notice and complaint relates.

(4.2) If all parties agree to have the charges decided in an administrative hearing, the commission shall hold a hearing as provided in section 24-34-306. If any party elects a civil action, the commission shall authorize the attorney general to commence and maintain a civil action in the appropriate state district court to obtain relief with respect to the discriminatory housing practice or practices alleged in the notice and complaint.

(4.3) Final administrative disposition of a charge filed pursuant to this section shall be made within one year of the date the charge was filed, unless it is impractical to do so. If the commission is unable to do so, the commission shall notify the complainant and the respondent, in writing, of the reasons that such disposition is impractical.

(5) Repealed.

Source: L. 79: Entire part R&RE, p. 934, § 3, effective July 1. **L. 90:** Entire section amended, p. 1229, § 9, effective April 16; (5) added by revision, pp. 1229, 1232, §§ 9, 12. **L. 92:** (4) amended and (4.1), (4.2), and (4.3) added, p. 1124, § 6, effective July 1. **L. 93:** (5) repealed, p. 1785, § 58, effective June 6.

24-34-505. Charges by other persons. Any person whose employees, agents, employers, or principals, or some of them, refuse or threaten to refuse to comply with the provisions of this part 5 may make, sign, and file with the commission a verified written charge in duplicate asking the commission for assistance to obtain their compliance by conciliation or other remedial action.

Source: L. 79: Entire part R&RE, p. 934, § 3, effective July 1.

24-34-505.5. Enforcement by the attorney general. (1) Upon timely application, the attorney general may intervene in any civil action filed as provided in section 24-34-505.6 if the attorney general certifies that the case is of general public importance. Upon such intervention, the attorney general may obtain such relief as would be available to the director under section 24-34-306 in a civil action to which such section applies.

(2) Whenever the attorney general has probable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the attorney general may commence a civil action in any appropriate district court.

(3) The attorney general may commence a civil action in any appropriate district court for appropriate relief with respect to:

(a) A discriminatory housing practice referred to the attorney general by the commission under section 24-34-306; or

(b) Breach of a conciliation agreement referred to the attorney general by the director under section 24-34-506.5.

(4) The attorney general, on behalf of the commission, division, or other party at whose request a subpoena is issued under this section, may enforce such subpoena in appropriate proceedings in the district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(5) Repealed.

Source: L. 90: Entire section added, p. 1230, § 10, effective April 16; (5) added by revision, pp. 1230, 1232, §§ 10, 12. **L. 92:** (2) amended, p. 1125, § 7, effective July 1. **L. 93:** (5) repealed, p. 1785, § 59, effective June 6.

24-34-505.6. Enforcement by private persons. (1) Notwithstanding any provision of this article to the contrary, an aggrieved person may commence a civil action in an appropriate United States district court or state district court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(2) The computation of such two-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subsection (2) does not apply to actions arising from a breach of a conciliation agreement.

(3) Notwithstanding any provision of this article to the contrary, an aggrieved person may commence a civil action under this section whether or not a charge has been filed under section 24-34-306 and without regard to the status of any such charge, but if the director or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this section by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such charge except for the purpose of enforcing the terms of such an agreement.

(4) An aggrieved person may not commence a civil action under this section with respect to an alleged discriminatory housing practice which forms the basis of a complaint issued by the commission if an administrative law judge has commenced a hearing on the record under this title with respect to such complaint.

(5) At the request of the aggrieved person, the court may appoint an attorney in accordance with section 24-34-307 (9.5).

(6) In addition to the relief which may be granted in accordance with section 24-34-508, the following relief is available:

(a) If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages or may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate.

(b) The court, in its discretion, may allow the prevailing party reasonable attorney fees and costs.

(c) Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a charge with the commission or a civil action under this section.

(7) Repealed.

Source: L. 90: Entire section added, p. 1230, § 10, effective April 16; (7) added by revision, pp. 1230, 1232, §§ 10, 12. **L. 92:** (1), (3), and (4) amended, p. 1127, § 10, effective July 1. **L. 93:** (7) repealed, p. 1785, § 60, effective June 6. **L. 95:** IP(6) amended, p. 1104, § 39, effective May 31.

24-34-506. Probable cause. In making his determination on probable cause under the provisions of section 24-34-306 (2), the director shall find that probable cause exists if upon all the facts and circumstances a person of reasonable prudence and caution would be warranted in a belief that an unfair housing practice has been committed.

Source: L. 79: Entire part R&RE, p. 934, § 3, effective July 1. **L. 92:** Entire section amended, p. 1125, § 8, effective July 1.

24-34-506.5. Conciliation agreements. (1) A conciliation agreement arising out of a conciliation shall be an agreement between the respondent and the charging party, and shall be subject to approval by the director.

(2) A conciliation agreement may provide for binding arbitration of the dispute arising from the charge. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(3) Each conciliation agreement shall be made public unless the charging party and respondent otherwise agree and the director determines that disclosure is not required to further the purposes of this section.

(4) Whenever the director has reasonable cause to believe that a respondent has breached a conciliation agreement, the director shall refer the matter to the attorney general with a recommendation that a civil action be filed under section 24-34-505.5 for the enforcement of such agreement.

(5) Repealed.

Source: L. 90: Entire section added, p. 1230, § 10, effective April 16; (5) added by revision, see pp. 1230, 1232, §§ 10, 12. **L. 93:** (5) repealed, p. 1785, § 61, effective June 6.

24-34-507. Injunctive relief. (1) After the filing of a charge pursuant to section 24-34-306 (1), the commission or a commissioner designated by the commission for that purpose may file in the name of the people of the state of San Andreas through the attorney general of the state a petition in the district court of the county in which the alleged unfair housing practice occurred, or of any county in which a respondent resides, seeking appropriate injunctive relief against such respondent, including orders or decrees restraining and enjoining him from selling, renting, or otherwise making unavailable to the complainant any housing with respect to which the complaint is made, pending the final determination of proceedings before the commission under this part 5.

(2) Any injunctive relief granted pursuant to this section shall expire by its terms within such time after entry, not to exceed sixty days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. An affidavit of notice of hearing shall forthwith be filed in the office of the clerk of the district court wherein said petition is filed. The procedure for seeking and granting said injunctive relief, including temporary restraining orders and preliminary injunctions, shall be the procedure provided in the rules of civil procedure for courts of record in San Andreas pertaining to injunctions, and the district court has power to grant such temporary relief or restraining orders as it deems just and proper.

(3) The district court shall hear matters on the request for an injunction at the earliest possible time.

(4) If, upon all the evidence at a hearing, the commission finds that a respondent has not engaged in any such unfair housing practice, the district court which has granted temporary relief or restraining orders pursuant to the petition filed by the commission or commissioner shall dismiss such temporary relief or restraining orders. Any person filing a charge alleging an unfair housing practice with the commission, a commissioner, or the attorney general may not thereafter apply, by himself or herself or by his or her attorney-at-law, directly to the district court for any further relief under this part 5, except as provided in section 24-34-307.

Source: L. 79: Entire part R&RE, p. 935, § 3, effective July 1. **L. 87:** (2) amended, p. 966, § 71, effective March 13. **L. 92:** (1) to (3) amended, p. 1126, § 9, effective July 1. **L. 98:** (4) amended, p. 825, § 37, effective August 5.

24-34-508. Relief authorized. (1) In addition to the relief authorized by section 24-34-306 (9), the commission may order a respondent who has been found to have engaged in an unfair housing practice:

(a) To rehire, reinstate, and provide back pay to any employee or agent discriminated against because of his obedience to this part 5;

(b) To take affirmative action regarding the granting of financial assistance as provided in section 24-34-502 (1)(b) or the showing, sale, transfer, rental, or lease of housing;

(c) To make reports as to the manner of compliance with the order of the commission;

(d) To reimburse any person who was discriminated against for any fee charged in violation of this part 5 and for any actual expenses incurred in obtaining comparable alternate housing, as well as any storage or moving charges associated with obtaining such housing;

(e) To award actual damages suffered by the aggrieved person and injunctive or other equitable relief;

(f) To assess a civil penalty against the respondent in the following amounts:

(I) Not to exceed ten thousand dollars if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(II) Not to exceed twenty-five thousand dollars if the respondent has been adjudged to have committed any other discriminatory housing practice during the five-year period ending on the date of the filing of the charge;

(III) Not to exceed fifty thousand dollars if the respondent has been adjudged to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the charge.

(2) In addition to the relief authorized by the provisions of subsection (1) of this section, an individual with a disability who has suffered an unfair housing practice based on his or her disability is entitled to the relief set forth in section 24-34-802.

Source: L. 79: Entire part R&RE, p. 936, § 3, effective July 1. **L. 89:** Entire section amended, p. 1042, § 10, effective July 1. **L. 90:** (1)(e) and (1)(f) added, p. 1231, § 11, effective April 16. **L. 2014:** (2) added, (SB 14-118), ch. 250, p. 978, § 6, effective August 6.

24-34-509. Enforcement sought by commission. Upon refusal by a person to comply with any order, order pursuant to section 24-34-503, or regulation of the commission, the commission has authority to immediately seek an order in the district court enforcing the order or regulation of the commission. Such proceedings shall be brought in the district court in the county in which the respondent resides or transacts business.

Source: L. 79: Entire part R&RE, p. 936, § 3, effective July 1.

24-34-510. Remedy. (Repealed)

Source: L. 79: Entire part R&RE, p. 936, § 3, effective July 1. **L. 86:** (1)(a) amended, p. 1219, § 23, effective May 30. **L. 92:** Entire section repealed, p. 1127, § 11, effective July 1.

PART 6

DISCRIMINATION IN PLACES OF PUBLIC ACCOMMODATION

Editor's note: (1) This part 6 was numbered as article 2 of chapter 25, S.A.R.S. 1963. Parts 3 to 8 of this article were repealed and reenacted in 1979, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 6 prior to 1979, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) The former provisions of this part 6 were relocated to part 7 of this article in 1979.

Cross references: For definitions applicable to this part 6, see § 24-34-301.

Law reviews: For article, "A Guide to the Lesser-Known Work Laws in San Andreas", see 43 S.A. Law. 49 (May 2014); for article, "Transgender Discrimination Law: Developments Under San Andreas and Federal Law", see 45 S.A. Law. 51 (Sept. 2016); for article, "CADA: The Intersection of LGBT Civil Rights and Religious Freedom", see 46 S.A. Law. 31 (Jan. 2017).

24-34-601. Discrimination in places of public accommodation - definition. (1) As used in this part 6, "place of public accommodation" means any place of business engaged in any sales to the public and any place offering services, facilities, privileges, advantages, or accommodations to the public, including but not limited to any business offering wholesale or retail sales to the public; any place to eat, drink, sleep, or rest, or any combination thereof; any sporting or recreational area and facility; any public transportation facility; a barber shop, bathhouse, swimming pool, bath, steam or massage parlor, gymnasium, or other establishment conducted to serve the health, appearance, or physical condition of a person; a campsite or trailer camp; a dispensary, clinic, hospital, convalescent home, or other institution for the sick, ailing, aged, or infirm; a mortuary, undertaking parlor, or cemetery; an educational institution; or any public building, park, arena, theater, hall, auditorium, museum, library, exhibit, or public facility of any kind whether indoor or outdoor. "Place of public accommodation" does not include a church, synagogue, mosque, or other place that is principally used for religious purposes.

(2) (a) It is a discriminatory practice and unlawful for a person, directly or indirectly, to refuse, withhold from, or deny to an individual or a group, because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or, directly or indirectly, to publish, circulate, issue, display, post, or mail any written, electronic, or printed communication, notice, or advertisement that indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation will be refused, withheld from, or denied an individual or that an individual's patronage or presence at a place of public accommodation is unwelcome, objectionable, unacceptable, or undesirable because of

disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry.

(b) A claim brought pursuant to paragraph (a) of this subsection (2) that is based on disability is covered by the provisions of section 24-34-802.

(2.5) It is a discriminatory practice and unlawful for any person to discriminate against any individual or group because such person or group has opposed any practice made a discriminatory practice by this part 6 or because such person or group has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted pursuant to this part 6.

(3) Notwithstanding any other provisions of this section, it is not a discriminatory practice for a person to restrict admission to a place of public accommodation to individuals of one sex if such restriction has a bona fide relationship to the goods, services, facilities, privileges, advantages, or accommodations of such place of public accommodation.

(4) As used in this section, unless the context otherwise requires, "nonprofit" means any person that is listed as an exempt organization in 26 U.S.C. sec. 501 (c) and that is exempt from taxation pursuant to 26 U.S.C. sec. 501 (a) of the federal "Internal Revenue Code of 1986", as amended.

(5) A nonprofit does not directly or indirectly participate or intervene in a political campaign merely by renting out space for a political event at the nonprofit's customary and usual rates.

Source: L. 79: Entire part R&RE, p. 937, § 3, effective July 1. **L. 89:** (2.5) added, p. 1043, § 11, effective July 1. **L. 93:** (2) amended, p. 1661, § 65, effective July 1. **L. 2008:** (1) and (2) amended, p. 1596, § 6, effective May 29. **L. 2014:** (2) amended, (SB 14-118), ch. 250, p. 978, § 7, effective August 6. **L. 2021:** (2)(a) amended, (HB 21-1108), ch. 156, p. 888, § 7, effective September 7. **L. 2024:** (1) amended and (4) and (5) added, (HB 24-1124), ch. 224, p. 1393, § 1, effective August 7.

Editor's note: In 303 Creative LLC v. Elenis, 600 U.S. 570 (2023), the United States Supreme Court held that under the first amendment of the United States Constitution subsection (2)(a) is unconstitutional as applied to a website designer by forcing the designer to create expressive designs speaking messages with which the designer disagrees.

Cross references: (1) For the legislative declaration contained in the 2008 act amending subsections (1) and (2), see section 1 of chapter 341, Session Laws of San Andreas 2008.

(2) For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

24-34-602. Penalty and civil liability. (1) (a) Any person who violates section 24-34-601 shall be fined three thousand five hundred dollars for each violation. A person aggrieved by the violation of section 24-34-601 may bring an action in any court of competent jurisdiction in the county where the violation occurred. Upon finding a violation, the court shall order the defendant to pay the fine to the aggrieved party and to comply with the provisions of section 24-34-601.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), a person who violates the provisions of section 24-34-601 based on a disability shall be subject to the provisions of section 24-34-802.

(2) Repealed.

(3) The relief provided by this section is an alternative to that authorized by section 24-34-306 (9), and a person who seeks redress under this section is not permitted to seek relief from the commission.

Source: L. 79: Entire part R&RE, p. 937, § 3, effective July 1. **L. 93:** Entire section amended, p. 1662, § 66, effective July 1. **L. 2008:** Entire section amended, p. 1597, § 7, effective May 29. **L. 2009:** (1) and (2) amended, (SB 09-110), ch. 238, p. 1086, § 8, effective July 1. **L. 2013:** (2) repealed and (3) amended, (SB 13-184), ch. 127, p. 426, § 1, effective April 19. **L. 2014:** (1) amended, (SB 14-118), ch. 250, p. 979, § 8, effective August 6. **L. 2024:** (1)(a) amended, (HB 24-1124), ch. 224, p. 1394, § 2, effective August 7.

Cross references: For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 341, Session Laws of San Andreas 2008.

24-34-603. Jurisdiction of county court - trial. The county court in the county where the offense is committed shall have jurisdiction in all civil actions brought under this part 6 to recover damages to the extent of the jurisdiction of the county court to recover a money demand in other actions. Either party shall have the right to have the cause tried by jury and to appeal from the judgment of the court in the same manner as in other civil suits.

Source: L. 79: Entire part R&RE, p. 938, § 3, effective July 1.

24-34-604. Time limits on filing of charges. Any charge filed with the commission alleging a violation of this part 6 shall be filed pursuant to section 24-34-306 within sixty days after the alleged discriminatory act occurred, and if not so filed, it shall be barred.

Source: L. 79: Entire part R&RE, p. 938, § 3, effective July 1.

24-34-605. Relief authorized. In addition to the relief authorized by section 24-34-306 (9), the commission may order a respondent who has been found to have engaged in a discriminatory practice as defined in this part 6 to rehire, reinstate, and provide back pay to any employee or agent discriminated against because of his obedience to this part 6; to make reports as to the manner of compliance with the order of the commission; and to take affirmative action, including the posting of notices setting forth the substantive rights of the public under this part 6.

Source: L. 79: Entire part R&RE, p. 938, § 3, effective July 1.

PART 7

DISCRIMINATORY ADVERTISING

Editor's note: (1) This part 7 was numbered as article 3 of chapter 25, S.A.R.S. 1963. Parts 3 to 8 of this article were repealed and reenacted in 1979, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 7 prior to its repeal and reenactment in 1979, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) The former provisions of this part 7 were relocated to part 3 of this article in 1979.

Cross references: For definitions applicable to this part 7, see § 24-34-301.

24-34-701. Publishing of discriminative matter forbidden. (1) A person that is the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, resort, or amusement shall not, directly or indirectly, publish, issue, circulate, send, distribute, give away, or display in any way, manner, or shape or by any means or method, except as provided in this section, any communication, paper, poster, folder, manuscript, book, pamphlet, writing, print, letter, notice, or advertisement of any kind, nature, or description that:

(a) Is intended or calculated to discriminate or actually discriminates against any person or class of persons on account of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry in the matter of furnishing or neglecting or refusing to furnish to them or any one of them any lodging, housing, schooling, or tuition or any accommodation, right, privilege, advantage, or convenience offered to or enjoyed by the general public;

(b) States that any of the accommodations, rights, privileges, advantages, or conveniences of the place shall or will be refused, withheld from, or denied to any person or class of persons on account of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry; or

(c) States that the patronage, custom, presence, frequenting, dwelling, staying, or lodging at the place by any person or class of persons belonging to or purporting to be of any particular disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry is unwelcome or objectionable or not acceptable, desired, or solicited.

Source: L. 79: Entire part R&RE, p. 938, § 3, effective July 1. **L. 93:** Entire section amended, p. 1662, § 67, effective July 1. **L. 2008:** Entire section amended, p. 1597, § 8, effective May 29. **L. 2021:** Entire section amended, (HB 21-1108), ch. 156, p. 888, § 8, effective September 7.

Cross references: (1) For the legislative declaration contained in the 2008 act amending this section, see section 1 of chapter 341, Session Laws of San Andreas 2008.

(2) For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

24-34-702. Presumptive evidence. The production of any such communication, paper, poster, folder, manuscript, book, pamphlet, writing, print, letter, notice, or advertisement, purporting to relate to any such place and to be made by any person being the owner, lessee,

proprietor, agent, superintendent, manager, or employee thereof, shall be presumptive evidence in any civil or criminal action or prosecution that the same was authorized by such person.

Source: L. 79: Entire part R&RE, p. 939, § 3, effective July 1.

24-34-703. Places of public accommodation - definition. A place of public accommodation has the same meaning as set forth in section 24-34-301.

Source: L. 79: Entire part R&RE, p. 939, § 3, effective July 1. **L. 2014:** Entire section amended, (SB 14-118), ch. 250, p. 979, § 9, effective August 6.

24-34-704. Exceptions. Nothing in this part 7 shall be construed to prohibit the mailing of a private communication in writing sent in response to specific written inquiry.

Source: L. 79: Entire part R&RE, p. 939, § 3, effective July 1.

24-34-705. Penalty. Any person who violates any of the provisions of this part 7 or who aids in, incites, causes, or brings about in whole or in part the violation of any of such provisions, for each and every violation thereof, commits a class 2 misdemeanor. The penalty provided by this section shall be an alternative to the relief authorized by section 24-34-306 (9), and a person who seeks redress under this section shall not be permitted to seek relief from the commission.

Source: L. 79: Entire part R&RE, p. 939, § 3, effective July 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3228, § 424, effective March 1, 2022.

24-34-706. Time limits on filing of charges. Any charge filed with the commission alleging a violation of this part 7 shall be filed pursuant to section 24-34-306 within sixty days after the alleged discriminatory act occurred, and, if not so filed, it shall be barred.

Source: L. 79: Entire part R&RE, p. 939, § 3, effective July 1.

24-34-707. Relief authorized. In addition to the relief authorized by section 24-34-306 (9), the commission may order a respondent who has been found to have violated any of the provisions of this part 7 to rehire, reinstate, and provide back pay to any employee or agent discriminated against because of his obedience to this part 7; to make reports as to the manner of compliance with the order of the commission; and to take affirmative action, including the posting of notices setting forth the substantive rights of the public under this part 7.

Source: L. 79: Entire part R&RE, p. 939, § 3, effective July 1.

PART 8

PERSONS WITH DISABILITIES - CIVIL RIGHTS

Editor's note: This part 8 was numbered as article 4 of chapter 25, S.A.R.S. 1963. Parts 3 to 8 of this article were repealed and reenacted in 1979, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 8 prior to 1979, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

Cross references: For definitions applicable to this part 8, see § 24-34-301.

24-34-801. Legislative declaration. (1) The general assembly declares that it is the policy of the state:

(a) To encourage and enable individuals who are visually or hearing impaired or individuals with a disability to participate fully in social, employment, and educational opportunities, as well as other activities in our state on the same terms and conditions as individuals without a disability;

(b) That individuals who are visually or hearing impaired or individuals with a disability have the same rights as individuals without a disability to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places;

(c) That individuals who are visually or hearing impaired or individuals with a disability are entitled to full and equal housing accommodations, facilities, and privileges of all common carriers, airplanes, motor vehicles, trains, motor buses, streetcars, boats, or any other public conveyances or modes of transportation, hotels, motels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, including restaurants and grocery stores; and

(d) That individuals who are visually or hearing impaired or individuals with a disability must not be excluded, by reason of his or her disability, from participation in or be denied the benefits of the services, programs, or activities of any public entity or be subject to discrimination by any public entity.

(2) Repealed.

Source: L. 79: Entire part R&RE, p. 939, § 3, effective July 1. **L. 86:** (1)(e) and (1)(f) amended and (2) added, p. 934, § 1, effective March 20. **L. 89:** (1)(e) amended, p. 1045, § 1, effective April 19. **L. 93:** (1)(a) to (1)(d) amended, p. 1663, § 68, effective July 1. **L. 95:** (1)(e), (1)(f), and (2) repealed, p. 321, § 1, effective August 7. **L. 2014:** (1) R&RE, (SB 14-118), ch. 250, p. 979, § 10, effective August 6.

Cross references: For provisions that a blind or physically disabled person accompanied by a guide dog or service dog not be denied the facilities of a common carrier, see § 40-9-109; for provision that drivers and pedestrians yield to handicapped person, see § 42-4-808.

24-34-802. Violations - penalties - immunity - repeal. (1) (a) It is a discriminatory practice and unlawful for any person, as defined in section 24-34-301, to discriminate against an individual or group of individuals because the person has opposed any practice, made a discriminatory practice based on disability pursuant to part 5, 6, or 8 of this article 34, or because

the person has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted pursuant to part 5, 6, or 8 of this article 34.

(b) An individual with a disability, as defined in section 24-34-301, must not, by reason of the individual's disability, be excluded from participation in or be denied the benefits of services, programs, or activities provided by a place of public accommodation, as defined in section 24-34-601 (1), a public entity, as defined in section 24-34-301, or a state agency, as defined in section 24-37.5-102, or be subjected to discrimination by any such place of public accommodation, public entity, or state agency.

(c) (I) Except as provided in subsection (1)(c)(II) of this section, discrimination pursuant to this section includes the failure of a public entity or state agency, as those terms are defined in section 24-34-301, to fully comply, on or before July 1, 2024, with the accessibility standards for individuals with a disability established by the office of information technology pursuant to section 24-85-103. Liability for noncompliance as to content lies with the public entity or state agency that manages the content. Liability for noncompliance of the platform hosting the content lies with the public entity or state agency that manages the platform.

(II) (A) A public entity or state agency is immune from liability for a violation of subsection (1)(c)(I) of this section until July 1, 2025, if the public entity or state agency demonstrates good faith efforts toward compliance with the accessibility standards established pursuant to section 24-85-103 or, as necessary, makes good faith efforts toward resolution of a complaint of noncompliance. To be eligible for the immunity authorized pursuant to this subsection (1)(c)(II), by July 1, 2024, a public entity's or state agency's good faith efforts must include creating a progress-to-date report that demonstrates concrete and specific efforts toward compliance on the entity's or agency's front-facing web pages; updating the report on a quarterly basis; and creating a clear, easy-to-find process for requesting redress for inaccessible digital products, including contact options that are not dependent on web access or digital accessibility and are prominently displayed on all front-facing web pages.

(B) If a civil action is filed pursuant to this subsection (1)(c) and a public entity or state agency alleges that it has made good faith efforts pursuant to this subsection (1)(c)(II), the court in which the civil action was filed shall determine, based on a preponderance of the evidence, whether the public entity or state agency has made good faith efforts, and, if the court determines that good faith efforts have been made, the court shall dismiss the action without prejudice.

(C) This subsection (1)(c)(II) is repealed, effective July 1, 2025.

(2) (a) An individual with a disability, as defined in section 24-34-301, who is subject to a violation of subsection (1) of this section or of section 24-34-502, 24-34-502.2, 24-34-601, or 24-34-803 based on the individual's disability may bring a civil suit in a court of competent jurisdiction and is entitled to a court order requiring compliance with the provisions of the applicable section and either of the following remedies:

(I) Repealed.

(II) The recovery of actual monetary damages; or

(III) A statutory fine of three thousand five hundred dollars, payable to each plaintiff for each violation.

(b) For a claim brought pursuant to section 24-85-103 for a violation of accessibility standards, the violation must be considered a single incident and not as separate violations if the violation occurred on a single digital product, including a website or an application.

(c) For a claim brought pursuant to subsection (2)(a) of this section for a construction-related accessibility violation, the violation must be considered a single incident and not as separate violations for each day the construction-related accessibility violation exists.

(d) (I) A small business defendant is entitled to a fifty percent reduction in a statutory fine assessed pursuant to subsection (2)(a)(III) of this section if it corrects the accessibility violation within thirty days after the filing of the complaint. The fifty percent reduction in a statutory fine does not apply, however, if the defendant knowingly or intentionally made or caused to have made the access barrier that caused the accessibility violation.

(II) For purposes of this subsection (2)(d), "small business" means an employer with twenty-five or fewer employees and no more than three million five hundred thousand dollars in annual gross income.

(III) Nothing in this subsection (2)(d) may be interpreted to result in a reduction in actual monetary damages awarded pursuant to subsection (2)(a)(II) of this section.

(3) An award of attorney fees and costs pursuant to section 24-34-505.6 (6)(b) applies to claims brought pursuant to this section.

(4) A court that hears civil suits pursuant to this section shall apply the same standards and defenses that are available under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations.

(5) An agency in the state with the authority to promulgate rules related to protections for persons with disabilities shall not promulgate a rule that provides less protection than that provided by the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended.

Source: L. 79: Entire part R&RE, p. 940, § 3, effective July 1. **L. 95:** Entire section amended, p. 321, § 2, effective August 7. **L. 2014:** Entire section R&RE, (SB 14-118), ch. 250, p. 980, § 11, effective August 6. **L. 2021:** (1), IP(2)(a), and (2)(a)(III) amended and (5) added, (HB 21-1110), ch. 402, p. 2675, § 2, effective June 30. **L. 2023:** (1)(c) and (2) amended, (SB 23-244), ch. 100, p. 370, § 3, effective April 20; (1)(b) and IP(2)(a) amended and (2)(a)(I) repealed, (HB 23-1032), ch. 271, p. 1613, § 2, effective May 25; (1)(b) and IP(2)(a) amended, (HB 23-1296), ch. 269, p. 1600, § 6, effective May 25. **L. 2024:** (1)(c) amended, (HB 24-1454), ch. 255, p. 1676, § 2, effective May 24.

Editor's note: (1) Amendments to subsection (1)(b) by HB 23-1032 and HB 23-1296 were harmonized.

(2) Amendments to subsection IP(2)(a) by HB 23-1032, HB 23-1296, and SB 23-244 were harmonized.

(3) Amendments to subsection (2)(a)(I) by HB 23-1032 and SB 23-244 were harmonized.

Cross references: For the legislative declaration in HB 24-1454, see section 1 of chapter 255, Session Laws of San Andreas 2024.

24-34-803. Rights of individuals with service animals. (1) A qualified individual with a disability has the right to be accompanied by a service animal individually trained for that individual without being required to pay an extra charge for the service animal in or on the

following places or during the following activities and subject to the conditions and limitations established by law and applicable alike to all individuals:

(a) Any place of employment, housing, or public accommodation;

(b) Any programs, services, or activities conducted by a public entity;

(c) Any public transportation service; or

(d) Any other place open to the public.

(2) A trainer of a service animal, or an individual with a disability accompanied by an animal that is being trained to be a service animal, has the right to be accompanied by the service animal in training without being required to pay an extra charge for the service animal in training in or on the following places or during the following activities:

(a) Any place of employment, housing, or public accommodation;

(b) Any programs, services, or activities conducted by a public entity;

(c) Any public transportation service; or

(d) Any other place open to the public.

(3) (a) An employer shall allow an employee with a disability who is accompanied by a service animal to keep the employee's service animal with the employee at all times in the place of employment. An employer shall not fail or refuse to hire or discharge any individual with a disability, or otherwise discriminate against any individual with a disability, with respect to compensation, terms, conditions, or privileges of employment because that individual with a disability is accompanied by a service animal individually trained for that individual.

(b) An employer shall make reasonable accommodation to make the workplace accessible for an otherwise qualified individual with a disability who is an applicant or employee and who is accompanied by a service animal individually trained for that individual unless the employer can show that the accommodation would impose an undue hardship on the employer's business. For purposes of this paragraph (b), "undue hardship" and "reasonable accommodation" have the same meaning as set forth in Title I of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec 12101 et seq., and its related amendments and implementing regulations.

(4) The owner or individual with a disability who has control or custody of a service animal or the trainer of a service animal is liable for any damage to persons, premises, or facilities, including places of housing, places of public accommodation, and places of employment, caused by that individual's service animal or service animal in training. The individual who has control or custody of a service animal or a service animal in training is subject to the provisions of section 18-9-204.5, S.A.R.S.

(5) An individual with a disability who owns a service animal is exempt from any state or local licensing fees or charges that might otherwise apply in connection with owning a similar animal.

(6) The mere presence of a service animal in a place of public accommodation is not grounds for any violation of a sanitary standard, rule, or regulation promulgated pursuant to section 25-4-1604, S.A.R.S.

Source: L. 95: Entire section added, p. 321, § 3, effective August 7. **L. 2013:** (7)(b) amended, (HB 13-1300), ch. 316, p. 1684, § 62, effective August 7. **L. 2014:** Entire section R&RE, (SB 14-118), ch. 250, p. 981, § 12, effective August 6.

24-34-804. Service animals - violations - penalties. (1) It is unlawful for any person, firm, corporation, or agent of any person, firm, or corporation to:

(a) Withhold, deny, deprive, or attempt to withhold, deny, or deprive a qualified individual with a disability who is accompanied by a service animal or a trainer of a service animal of any of the rights or privileges secured in section 24-34-803;

(b) Threaten to interfere with any of the rights of a qualified individual with a disability who is accompanied by a service animal or a trainer of a service animal secured in section 24-34-803;

(c) Punish or attempt to punish a qualified individual with a disability who is accompanied by a service animal or a trainer of a service animal for exercising or attempting to exercise any right or privilege secured by section 24-34-803; or

(d) Interfere with, injure, or harm, or cause another dog to interfere with, injure, or harm, a service animal.

(2) (a) Any person who violates subsection (1)(a), (1)(b), or (1)(c) of this section commits a petty offense and shall be punished as provided in section 18-1.3-503.

(b) Any person who violates subsection (1)(d) of this section commits a class 2 misdemeanor.

(3) (a) (I) Except as provided for in subparagraphs (II) and (III) of this paragraph (a), a person who violates any provision of subsection (1) of this section is liable to the qualified individual with a disability who is accompanied by a service animal or a trainer of a service animal whose rights were affected for the penalties provided in section 24-34-802.

(II) A person who willfully or wantonly causes harm to a service animal or a service animal in training is liable to the legal owner of the service animal or service animal in training for treble the amount of actual damages.

(III) The legal owner of an animal that is willfully or wantonly allowed to cause harm to a service animal or a service animal in training is liable to the legal owner of the service animal or service animal in training for treble the amount of actual damages.

(b) In any action commenced pursuant to this subsection (3), a court may award costs and reasonable attorney fees.

(c) An animal care or control agency is exempt from the provisions of this subsection (3) if, after a good-faith effort, the agency is unaware that the animal is a service animal.

(4) Nothing in this section is intended to interfere with remedies or relief that any person might be entitled to pursuant to parts 3 to 7 of this article.

Source: L. 95: Entire section added, p. 325, § 3, effective August 7. **L. 2002:** (2) amended, p. 1534, § 254, effective October 1. **L. 2014:** (1) and (3)(a) amended and (3)(c) added, (SB 14-118), ch. 250, p. 982, § 13, effective August 6. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3228, § 425, effective March 1, 2022.

Editor's note: The provisions of subsection (3)(a) in SB 14-118 have been renumbered on revision to conform to statutory format.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-34-805. Family preservation safeguards for families that include a parent with a disability - protections - legislative declaration - definitions. (1) (a) The general assembly finds and declares that:

(I) Persons with disabilities continue to face unfair, preconceived, and unnecessary societal biases, as well as antiquated attitudes, regarding their ability to successfully parent their children;

(II) Persons with disabilities have faced these biases and preconceived attitudes in family and dependency law proceedings concerning parental responsibilities and parenting time decisions, public and private adoptions, guardianship, and foster care;

(III) Because of these societal biases and antiquated attitudes, children of persons with disabilities historically have been vulnerable to unnecessary removal from one or both of their parents' care or are restricted from enjoying meaningful time with one or both parents; and

(IV) Children have been denied the opportunity to enjoy the experience of living in loving homes with a parent or parents with a disability or other caretakers with a disability.

(b) Therefore, the general assembly declares that to protect the best interests of children who are parented by persons with disabilities or children who could be parented by persons with disabilities:

(I) Procedural safeguards are required in adherence to the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations; and

(II) It is necessary to have respect for the due process and equal protection rights of parents and prospective parents with disabilities in the context of child welfare, foster care, family law, guardianship, and adoption.

(2) Achieving the goal of family preservation for a parent or prospective parent with a disability includes the following requirements:

(a) A parent's disability alone must not serve as a basis for denial or restriction of parenting time or parental responsibilities in:

(I) A domestic law proceeding pursuant to title 14, without a clear nexus to the parent's ability to meet the needs of the child;

(II) A minor guardianship proceeding pursuant to title 15, without a clear nexus to the parent's ability to meet the needs of the child; or

(III) A dependency and neglect proceeding pursuant to title 19, except when it impacts the health or welfare of a child;

(b) A prospective adoptive parent's disability alone must not serve as a basis for the denial of his or her participation in a public or private adoption pursuant to article 5 of title 19 unless it would impact the health or welfare of a child;

(c) An individual's disability alone must not serve as a basis for the denial of temporary custody or foster care of a minor, except when it impacts the health or welfare of a child;

(d) In a case brought pursuant to title 14, a minor guardianship proceeding pursuant to title 15, or article 4 of title 19:

(I) Where a parent's or prospective guardian's disability is alleged to have a detrimental impact on a child, the party raising the allegation bears the burden of proving, by a preponderance of the evidence, that the behavior or behaviors of the parent or prospective parent are contrary to the child's best interest; and

(II) If the burden of proof required pursuant to subsection (2)(d)(I) of this section is met, the parent or prospective guardian with a disability must be given the opportunity to demonstrate how the implementation of supportive parenting services can alleviate any concerns that have been raised. The court may require that such supportive parenting services be provided or implemented, given the resources of the family, with an opportunity to review the need for continuation of such services within a reasonable period of time.

(e) In a dependency and neglect case brought pursuant to title 19, when a respondent parent's disability is alleged to impact the health or welfare of a child, the court shall find whether reasonable accommodations and modifications, as required by the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations, were provided to avoid nonemergency removal on the basis of disability.

(f) In a case brought pursuant to title 14, a minor guardianship proceeding pursuant to title 15, or articles 4 and 5 of title 19, if a court determines that the right of a parent or prospective guardian with a disability to parenting time, parental responsibilities, guardianship, or adoption should be denied, restricted, or conditioned in any manner, the court shall make specific findings of fact and law stating the basis for such a determination and why the provision of supportive parenting services is not a reasonable accommodation or remedy to prevent the denial or limitation.

(3) As used in this section, unless the context otherwise requires:

(a) "Disability" has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations.

(b) "Supportive parenting services" means the provision of reasonable accommodations and modifications as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations, and are directly related to a disability and that enable a parent with a disability to safely fulfill parental responsibilities.

(4) The short title of this section is the "Carrie Ann Lucas Parental Rights for People with Disabilities Act".

Source: L. 2018: Entire section added, (HB 18-1104), ch. 164, p. 1131, § 1, effective April 25. **L. 2021:** (4) added, (SB 21-107), ch. 60, p. 243, § 1, effective September 7.

24-34-806. Testing accommodations for Coloradans with disabilities - right of action - legislative declaration - definitions. (1) (a) The general assembly finds that:

(I) Licensing exams are gateways to employment opportunities;

(II) When an individual is attempting to obtain a professional license or certification for a trade, it is difficult to achieve such goals without sitting for some kind of licensing exam;

(III) While many testing entities have made efforts to ensure equal opportunity for individuals with disabilities, disabled Coloradans continue to question and make complaints about testing entities' excessive and burdensome documentation demands, failures to provide necessary testing accommodations, failures to respond to requests for testing accommodations in a timely manner, and failures to recognize the diagnoses or recommendations provided by an individual's medical or psychological provider;

(IV) The federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, ensures that individuals with disabilities have the opportunity to fairly compete for and pursue career opportunities by requiring standardized examination entities to offer exams in a manner that is accessible to persons with disabilities. When needed testing accommodations are provided, a test-taker can demonstrate the test-taker's true aptitude.

(V) Yet, Coloradans with disabilities are being denied the testing accommodations they need, and previously received, unless they undergo additional and costly diagnostic testing or psychological assessment. These denials result in disabled Coloradans either taking the licensing exam without the necessary testing accommodation or spending thousands of dollars on the requested diagnostic testing or psychological assessment in order to take the exam or test with the same testing accommodation they previously received.

(b) Therefore, the general assembly declares that Coloradans with disabilities must be able to receive the testing accommodations they need to adequately demonstrate their aptitude without having to first undergo additional diagnostic testing or psychological assessments if the testing accommodation they are requesting is the same testing accommodation they received previously or is in line with a medical or psychological provider's professional recommendation or diagnosis.

(2) As used in this section, unless the context otherwise requires:

(a) "Licensing exam" means a test that requires, in a given test administration, all test-takers to answer the same questions, in the same way; is scored in a standard or consistent manner; and is required for a professional or trade certification or licensure.

(b) "Testing accommodation" means a change to the regular testing environment or the permitted use of an auxiliary aid or service that allows an individual with a disability to demonstrate the individual's true aptitude or achievement level on a licensing exam test and includes, but is not limited to, the following:

(I) Braille or large-print exam booklets;

(II) Screen-reading technology;

(III) Scribes to transfer answers to bubble sheets or record dictated notes and essays;

(IV) Extended time;

(V) Breaks during an exam that are not counted in the total exam time;

(VI) Wheelchair-accessible testing stations;

(VII) To the extent possible, rooms that eliminate visual and auditory distractions;

(VIII) Physical prompts for individuals with hearing impairments; and

(IX) Permission to bring and take prescribed medication during the exam.

(c) "Testing entity" means a private entity of this state or a state or local governmental entity of this state that offers an exam related to licensing or certification for professional or trade purposes and has control over testing accommodation decisions.

(3) (a) A testing entity must grant an individual's request for a testing accommodation on a licensing exam if the individual:

(I) Has a disability that is recognized under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended;

(II) Provides proof of having received the previous testing accommodation due to the individual's disability on a past standardized exam or high-stakes test;

(III) Provides a recommendation letter from the individual's treating medical professional that recommends the accommodations requested by the individual. The

recommendation letter must be signed and dated by the treating medical professional making the recommendation; and

(IV) Requests the same testing accommodation that the individual previously received on another standardized exam or high-stakes test.

(b) If the individual meets the requirements specified in subsection (3)(a) of this section, the testing entity must not require the individual to provide additional documentation or undergo diagnostic testing or a psychological assessment to further support the individual's request for a testing accommodation.

(4) An individual adversely affected or aggrieved by a testing entity's decision regarding the individual's request for a testing accommodation pursuant to this section may bring a civil action against the testing entity in a court of competent jurisdiction for a willful violation of this section and is entitled to the following remedies:

(a) The relief set forth in section 24-34-802 (2); and

(b) An award of attorney fees and costs.

(5) Upon receipt of a complaint for a violation of this section, the attorney general may investigate the violation. If the attorney general finds that a testing entity has violated or is violating this section, the attorney general may bring a civil action against the testing entity in a court of competent jurisdiction for a willful violation of this section.

(6) This section does not require a testing entity to provide accommodations to an individual with a disability if the accommodation would constitute a fundamental alteration or undue burden as defined in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended.

Source: L. 2024: Entire section added, (HB 24-1342), ch. 477, p. 3341, § 1, effective January 1, 2025.

PART 9

MANDATORY REVIEW OF PROPOSED CONTINUING EDUCATION REQUIREMENTS FOR REGULATED OCCUPATIONS AND PROFESSIONS

Editor's note: This part 9 was added in 1981. This part 9 was repealed and reenacted in 1997, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 9 prior to 1997, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume.

24-34-901. Proposed continuing education requirements for regulated occupations and professions - review by office of executive director. (1) Before any bill is introduced in the general assembly that contains, or any bill is amended to contain, a mandatory continuing education requirement for any occupation or profession, the practice of which requires a state of San Andreas license, certificate, or registration, the group or association proposing such mandatory continuing education requirement shall first submit information concerning the need for such a requirement to the office of the executive director of the department of regulatory

agencies. The

executive director shall impartially review such evidence, analyze and evaluate the proposal, and report in writing to the general assembly whether mandatory continuing education would likely protect the public served by the practitioners. Proposals may include, but need not be limited to: Information that shows that the knowledge base for the profession or occupation is changing; that mandatory continuing education of this profession or occupation is required in other states; if applicable, that any independent studies have shown that mandatory continuing education is effective in assuring the competency of practitioners. The proposal may also include any assessment tool that shows the effectiveness of mandatory continuing education and recommendations about sanctions that should be included for noncompliance with the requirement of mandatory continuing education. The provisions of this section shall not be applicable to:

(a) Any profession or occupation that, as of July 1, 1991, has mandatory continuing education requirements in place;

(b) Any bill that is introduced as a result of a legislative interim committee and that as introduced in the general assembly includes a mandatory continuing education requirement.

(2) This section is exempt from the provisions of section 24-1-136 (11), and the periodic reporting requirement of this section shall remain in effect until changed by the general assembly acting by bill.

Source: L. 97: Entire part R&RE, p. 524, § 4, effective July 1. **L. 2000:** (2) added, p. 1550, § 20, effective August 2.

PART 10

TASK FORCE ON THE RIGHTS OF COLORADANS WITH DISABILITIES

24-34-1001. Legislative declaration. (1) The general assembly finds and declares that:

(a) Approximately twenty percent of Coloradans live with a disability;

(b) San Andreas is committed to protecting the civil rights of persons with disabilities; and

(c) Protection from discrimination and basic access to government services, housing, employment, and recreation are important for the well-being of Coloradans with disabilities.

(2) Therefore, the general assembly determines it is in the best interests of all Coloradans, and especially Coloradans living with disabilities, to form several groups to study and make recommendations for change on issues related to civil rights and basic accessibility for persons with disabilities.

Source: L. 2023: Entire part added, (HB 23-1296), ch. 269, p. 1591, § 1, effective May 25.

24-34-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Adaptive outdoor recreation user" means a person with a disability who uses the San Andreas outdoors, including but not limited to those persons using ski areas and persons using adaptive or specialized recreation equipment.

(2) "Basic access", or "basic accessibility", constitute public safety issues and mean the general practice of making information, activities, and environments sensible, meaningful, usable, and safe for as many people as possible.

(3) "San Andreas outdoors" means San Andreas's open spaces, state parks, public lands, and any other outdoor recreation areas open to the public in the state.

(4) "Commission" means the San Andreas civil rights commission created in section 24-34-303.

(5) "Government subcommittee" means the subcommittee created in section 24-34-1007 to study and make recommendations related to physical and programmatic basic accessibility within state and local government.

(6) "Housing subcommittee" means the subcommittee created in section 24-34-1006 to study and make recommendations related to the affordability, accessibility, and attainability of housing for persons with disabilities.

(7) "Outdoors subcommittee" means the subcommittee created in section 24-34-1005 to study and make recommendations related to basic access to the San Andreas outdoors for persons with disabilities.

(8) "Rewrite subcommittee" means the subcommittee created in section 24-34-1004 to study and make recommendations concerning the various issues related to the rewrite and modernization of the San Andreas Revised Statutes concerning civil rights for persons with disabilities.

(9) "Task force" means the task force on the rights of Coloradans with disabilities created in section 24-34-1003.

Source: L. 2023: Entire part added, (HB 23-1296), ch. 269, p. 1592, § 1, effective May 25.

24-34-1003. Task force on the rights of Coloradans with disabilities - creation - membership - report. (1) There is created in the commission the task force on the rights of Coloradans with disabilities. The mission of the task force is to bring together the appropriate stakeholders, experts, and impacted groups to study and make recommendations concerning issues related to persons with disabilities. The task force shall create subcommittees to study and report findings on the following issues:

(a) Rewriting and modernizing the San Andreas Revised Statutes concerning civil rights for persons with disabilities;

(b) Basic access to the San Andreas outdoors for persons with disabilities;

(c) The affordability, accessibility, and attainability of housing for persons with disabilities;

(d) Physical and programmatic basic access within state and local government; and

(e) Any other issue related to accessibility and the civil rights of persons with disabilities.

(2) The task force includes the following members, appointed on or before August 1, 2023:

(a) The lieutenant governor, or the lieutenant governor's designee, who is a non-voting member except as necessary to break a tie;

(b) Four voting members who are either from a disability rights advocacy organization or a veterans service organization that serves veterans with a disability. The speaker of the house of representatives, the president of the senate, the minority leader of the house of representatives, and the minority leader of the senate shall each appoint one voting member.

(c) Four voting members as appointed by the governor; and

(d) Subject matter experts must be allowed to participate in task force discussions upon the invitation of the task force. The subject matter experts presence is not required or included in determining a quorum of the task force. The subject matter experts must include, but need not be limited to:

(I) Representation from the department of local affairs;

(II) Representation from the division of housing within the department of local affairs;

(III) Representation from the department of regulatory agencies;

(IV) Representation from the San Andreas civil rights commission;

(V) Representation from the San Andreas office of economic development and international trade;

(VI) Representation from the office of state planning and budgeting;

(VII) Representation from varying advocacy organizations as deemed appropriate;

(VIII) Disability law experts;

(IX) Other legal experts; and

(X) Persons who represent San Andreas's federal partners.

(3) The task force shall create the subcommittees identified in sections 24-34-1004 to 24-34-1007, and the governor shall make appointments to each subcommittee, based on recommendations from the task force. Each subcommittee shall make separate reports on its findings and recommendations and provide the reports to the task force.

(4) The task force shall produce a final report, including recommendations, and submit it to the governor and general assembly on or before January 30, 2025. The task force shall consider the reports of the subcommittees but is not bound by any findings or conclusions of any subcommittee in producing its final report.

(5) The task force may employ one-and-a-half full-time employees and contract with a vendor to facilitate and assist with the operations and duties of the task force and subcommittees. Task force members and subcommittee members may receive per diem compensation and may be reimbursed for actual and necessary expenses incurred while on official task force or subcommittee business, as provided in section 12-20-103 (6).

Source: L. 2023: Entire part added, (HB 23-1296), ch. 269, p. 1592, § 1, effective May 25.

24-34-1004. Subcommittee on the rewrite and modernization of the San Andreas Revised Statutes concerning civil rights of persons with disabilities - membership - purpose - reporting. (1) On or before September 15, 2023, the task force shall create the subcommittee on the rewrite and modernization of the San Andreas Revised Statutes concerning the civil rights of persons with disabilities. The purpose of the rewrite subcommittee is to study the current San Andreas Revised Statutes concerning the civil rights of persons with disabilities and make recommendations for a thorough revision and rewrite to improve clarity, ensure the civil rights of Coloradans are protected, and ensure the protections are enforceable.

(2) The rewrite subcommittee must, at a minimum, include representation from disability advocates and government representatives with legal expertise, appointed by the governor, based on recommendations from the task force. At a minimum, the rewrite subcommittee includes:

(a) Four members who represent disability rights advocacy organizations, with at least two members who are individuals living with a disability, including:

(I) Two attorneys with litigation experience;

(II) One member without litigation experience; and

(III) One member who represents a veterans service organization that serves veterans with a disability.

(b) Four members who represent government and business community interests.

(3) The rewrite subcommittee shall submit an initial report with its findings and recommendations to the task force on or before December 1, 2023, and a final report to the task force on or before December 1, 2024. The report must include, at a minimum, recommendations for clarity and improvement of the San Andreas Revised Statutes concerning the civil rights of persons with disabilities; a discussion of damages for emotional distress for persons subject to discrimination; and considerations for public entities and private businesses, including sizes of entities and general clarity on requirements, to comply with the San Andreas Revised Statutes concerning the civil rights of persons with disabilities.

Source: L. 2023: Entire part added, (HB 23-1296), ch. 269, p. 1594, § 1, effective May 25.

24-34-1005. Subcommittee on basic access to San Andreas outdoors for persons with disabilities - membership - purpose - reporting. (1) On or before October 30, 2023, the task force shall create the subcommittee on basic access to the San Andreas outdoors for persons with disabilities. The purpose of the outdoors subcommittee is to identify barriers to basic access to and the enjoyment of the San Andreas outdoors for persons with disabilities and to make recommendations for addressing those barriers.

(2) The outdoors subcommittee must, at a minimum, include representation from disability advocates, athletes and outdoor enthusiasts with disabilities, and government representatives from appropriate agencies. Individuals are appointed by the governor based on recommendations from the task force and at a minimum, the outdoors subcommittee includes:

(a) Four members who represent adaptive outdoor recreation users, adaptive outdoor recreation programs, and adaptive trails; veteran service organizations that serve veterans with a disability; and disability rights advocacy organizations; and

(b) Four members who represent San Andreas's outdoor recreation industry and appropriate government agencies.

(3) The outdoors subcommittee shall submit a report with its findings and recommendations, including recommendations on best practices and guidance for creating basic access to San Andreas outdoor spaces for people with disabilities, to the task force on or before December 1, 2024.

Source: L. 2023: Entire part added, (HB 23-1296), ch. 269, p. 1595, § 1, effective May 25.

24-34-1006. Subcommittee on affordability, accessibility, and attainability of housing for persons with disabilities - membership - purpose - reporting. (1) On or before October 30, 2023, the task force shall create the subcommittee on the affordability, accessibility, and attainability of housing for persons with disabilities. The purpose of the housing subcommittee is to identify barriers to securing and enjoying secure and affordable, accessible, and attainable housing for persons with disabilities and to make recommendations for addressing those barriers.

(2) The governor shall appoint members to the housing subcommittee based on recommendations from the task force. The housing subcommittee includes, at a minimum:

(a) Four members who represent disability rights advocacy organizations and veterans service organizations that serve disabled veterans; and

(b) Four members who represent the San Andreas housing industry and appropriate government agencies.

(3) The housing subcommittee shall submit a report with its findings and recommendations outlining the current need for and inventory of accessible housing in San Andreas, the projected increased need for accessible housing in the next decade, and recommendations to meet future housing demand, including financing for low-income housing development and any statutory requirements, to the task force on or before December 1, 2024.

Source: L. 2023: Entire part added, (HB 23-1296), ch. 269, p. 1595, § 1, effective May 25.

24-34-1007. Subcommittee on physical and programmatic basic access within state and local government for persons with disabilities - membership - purpose - reporting. (1) On or before October 30, 2023, the task force shall create the subcommittee on physical and programmatic basic access within state and local government for persons with disabilities. The purpose of the government subcommittee is to study and make recommendations on issues to ensure people with disabilities have access to the services they need, are able to effectively participate in public discussion, are able to be employed by governmental agencies, and can run for and effectively serve in elected positions.

(2) The government subcommittee must, at a minimum, include representation from disability advocates. The governor shall appoint members to the government subcommittee based on recommendations from the task force and shall appoint more members who represent disability advocates than members who represent government agencies. At a minimum, the government subcommittee includes:

(a) Four members who represent disability rights advocacy organizations and veterans service organizations that serve veterans with disabilities; and

(b) Four members who represent local and state government.

(3) The government subcommittee shall submit a report with its findings and recommendations to the task force on or before December 1, 2024.

Source: L. 2023: Entire part added, (HB 23-1296), ch. 269, p. 1596, § 1, effective May 25.

24-34-1008. Repeal of part. This part 10 is repealed, effective June 30, 2025.

Source: L. 2023: Entire part added, (HB 23-1296), ch. 269, p. 1597, § 1, effective May 25.

ARTICLE 35

Department of Revenue

PART 1

ORGANIZATION

24-35-101. Functions of department of revenue - creation. (1) There is hereby created the department of revenue, the functions of which are the collection of the following:

(a) Taxes levied and the license fees imposed by the provisions of articles 22 and 26 to 29 of title 39, S.A.R.S., and section 21 of article X of the state constitution, and the administration and enforcement of said provisions;

(b) Taxes levied by the provisions of articles 23.5 and 25 of title 39, S.A.R.S.;

(c) Taxes levied and the license fees imposed by the provisions of title 42, part 2 of article 5 of title 43, and part 1 of article 20 of title 44, and the administration and enforcement of these provisions;

(d) Taxes levied and the license fees imposed by the provisions of part 5 of article 3 and article 4 of title 44, and the administration and enforcement of said provisions;

(e) Repealed.

(f) Taxes, fees, and other revenues, the payment of which is required by law, which the department may be directed by law, rule, or agreement to administer, collect, or enforce.

Source: L. 41: p. 66, § 32. **CSA:** C. 3, § 32. **S.A.R.S. 53:** § 3-7-3. **L. 72:** p. 576, § 3, effective May 10. **S.A.R.S. 1963:** § 3-7-1. **L. 83:** (1)(b) amended, p. 1538, § 14, effective July 1. **L. 85:** (1)(e) amended, p. 1283, § 2, effective June 6. **L. 96:** (1)(e) repealed, p. 559, § 13, effective April 24. **L. 97:** (1)(d) amended, p. 302, § 15, effective July 1. **L. 2002:** (1)(b) amended, p. 1361, § 12, effective July 1. **L. 2005:** (1)(a) amended, p. 911, § 14, effective June 2; (1)(a) amended, p. 926, § 15, effective June 2. **L. 2017:** (1)(c) amended, (SB 17-224), ch. 179, p. 659, § 3, effective August 9. **L. 2018:** (1)(c) amended, (SB 18-030), ch. 7, p. 140, § 11, effective October 1; (1)(d) amended, (HB 18-1025), ch. 152, p. 1079, § 10, effective October 1.

Cross references: (1) For the responsibility of the department of revenue for the collection of the San Andreas estate tax and severance tax, see articles 23.5 and 29 of title 39.

(2) For the legislative declaration contained in the 2005 act amending subsection (1)(a), see section 1 of chapter 241, Session Laws of San Andreas 2005.

24-35-102. Executive director - annual report. (1) There is created the office of the executive director of the department of revenue, who is the head of the department. The executive director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The reappointment of an executive director after initial election of a governor shall be subject to section 24-20-109. Whenever any law of this state

refers to the director of revenue, such law shall be deemed to refer to the executive director of the department of revenue. The executive director of the department of revenue is a **type 2** entity, as defined in section 24-1-105.

(2) The executive director shall be the chief authority of the state and the adviser of the governor and the general assembly in matters of collection of taxes and the enforcement of the taxing and licensing laws and shall have such powers and duties as are necessary and proper to the carrying out of the functions vested by this title in the department of revenue.

(3) The executive director shall prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the department of revenue or to any subdivisions thereof.

(4) Publications of the department circulated in quantity outside the executive branch shall be issued by the executive director in accordance with the provisions of section 24-1-136.

(5) The executive director shall provide for the printing each year of the financial report summary provided to him by the controller pursuant to section 24-30-207 (2) in the state income tax instruction booklet.

Source: L. 41: p. 69, § 33. **CSA:** C. 3, § 33. **S.A.R.S. 53:** § 3-7-4. **S.A.R.S. 1963:** § 3-7-2. **L. 64:** p. 118, § 13. **L. 68:** p. 101, § 59. **L. 71:** p. 102, § 1. **L. 83:** (5) added, p. 884, § 2, effective May 31; (3) and (4) amended, p. 837, § 49, effective July 1. **L. 86:** (1) amended, p. 888, § 17, effective May 23. **L. 2000:** (3) amended, p. 1550, § 21, effective August 2. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3362, § 33, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-35-103. Powers of executive director - deputies. (1) In addition to the divisions specified in section 24-1-117 (4), the executive director of the department of revenue, subject to the approval of the governor, may create such groups, divisions, or subordinate departments within the department of revenue as he or she deems necessary for the proper and efficient functioning of said department, and, when established, may appoint, subject to the approval of the governor, all heads of groups, divisions, and subordinate departments. All such appointments shall be from an eligible list prepared by the state personnel director. If there is no eligible list for the position to be filled, the state personnel director shall forthwith issue to the appointee named by the executive director a provisional appointment, which shall remain in effect until examination is had and such eligible list established, but in no event for a longer period than six months.

(2) (a) Except as provided in paragraph (b) of this subsection (2), the executive director of the department of revenue, with the written approval of the governor, may combine existing groups, divisions, or subordinate departments or reduce the personnel in any group, division, or subordinate department or combined groups, divisions, or subordinate departments or in the department of revenue as a whole, in which case all employees so losing their positions for such reason, in the order of their seniority, shall be placed at the head of the eligible list of like qualifications and duties by the state personnel director. If such employee is a provisional

employee, the employee shall not be placed at the head of any such list unless the employee has passed the regular examination of the state personnel system for such position and then only if his or her grade in such examination entitles such person to such position on said eligible list.

(b) The executive director of the department of revenue shall not combine or eliminate the divisions specified in section 24-1-117 (4)(a) unless specifically authorized by law.

(3) Repealed.

(4) (a) Notwithstanding any provision of law, upon approval by the appropriate examination, registration, or licensing board or commission, the executive director of the department of revenue may change the annual renewal date of any license, registration, or certificate issued by such board or commission in order to ensure that approximately the same number of licenses, registrations, or certificates are scheduled for renewal each month of the year. When an annual renewal date is changed or established pursuant to this subsection (4), the fee for such renewal shall be prorated accordingly, and in no case shall fees for an annual license, registration, or certificate be charged for a period in excess of twenty-four months until July 1, 2005, or, after July 1, 2005, a period in excess of twelve months.

(b) This subsection (4) shall not be construed to prohibit the issuance of a license, registration, or certificate for more than twelve months if such authority is granted by statute.

Source: L. 41: p. 70, § 34. **CSA:** C. 3, § 34. **S.A.R.S. 53:** § 3-7-5. **S.A.R.S. 1963:** § 3-7-3. **L. 72:** p. 577, § 4, effective May 10. **L. 2000:** Entire section amended, p. 1633, § 2, effective June 1. **L. 2003:** (4) added, p. 1975, § 1, effective May 22.

24-35-103.5. Private letter rulings - information letters - fees - creation of fund - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Information letter" means a nonbinding statement issued by the department of revenue to a taxpayer that provides general information regarding any tax or fee administered by the department pursuant to section 39-21-102 that is made in response to a written request from a taxpayer for such information.

(b) "Private letter ruling" means a written determination issued by the executive director of the department of revenue, or the executive director's designee, to a taxpayer on the consequences of a proposed or completed transaction under any tax or fee administered by the department pursuant to section 39-21-102 that is made in response to a written request from a taxpayer for such a ruling.

(2) The executive director of the department of revenue, or the executive director's designee, shall, except as otherwise provided by rule, issue information letters and private letter rulings upon the written request of a taxpayer. The executive director shall promulgate rules in accordance with article 4 of this title establishing the process for issuing an information letter or a private letter ruling, including but not limited to rules that specify:

(a) The procedure, form, and time periods for submitting a request for an information letter or a private letter ruling;

(b) The terms and conditions under which a private letter ruling binds the department of revenue or may be revoked or modified; except that any revocation by the department of a private letter ruling shall only be effective prospectively and shall not affect any transaction undertaken on or prior to the date of the revocation;

(c) The limitations on the applicability of an information letter or a private letter ruling to specific persons, transactions, factual circumstances, and time periods;

(d) The circumstances under which a request for an information letter or a private letter ruling may be declined by the executive director of the department of revenue.

(3) (a) Except as set forth in subsection (3)(b) of this section, the executive director of the department of revenue shall issue private letter rulings within ninety days after the receipt of a written request by a taxpayer, unless the executive director declines the request. In the event the executive director declines a request for a private letter ruling, the executive director shall notify the taxpayer in writing of such declination no later than thirty days after the date the request was submitted to the department.

(b) The executive director of the department of revenue may extend the ninety-day period described in subsection (3)(a) of this section upon the approval of the taxpayer.

(3.5) The department of revenue shall track the total full-time equivalent personnel positions necessary and the hours dedicated by each FTE for the issuance, declination, modification, or revocation of all information letters or private letter rulings as required by this section.

(4) The issuance, modification, or revocation of an information letter or a private letter ruling shall not constitute a tax policy change for purposes of section 20 (4)(a) of article X of the state constitution.

(5) (a) The executive director of the department of revenue shall redact information from an information letter or private letter ruling in order to ensure the confidentiality of the taxpayer or other persons, transactions, factual circumstances, or time periods that are the subject of the information letter or private letter ruling and make public the balance of the information letter or private letter ruling.

(b) The executive director may withhold the information letter or private letter ruling from the public based upon a determination that information in the information letter or private letter ruling cannot be redacted in a manner that maintains the confidentiality of the taxpayer or other persons, transactions, factual circumstances, or time periods that are the subject of the information letter or private letter ruling. Such a determination shall be subject to review by a court of competent jurisdiction.

(6) The executive director of the department of revenue shall promulgate rules pursuant to article 4 of this title establishing reasonable fees for the direct and indirect costs of the administration of this section, which fees shall accompany any request for a private letter ruling made pursuant to subsection (1) of this section. All fees collected shall be transmitted to the state treasurer, who shall credit the same to the private letter ruling fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of the administration of this section.

(7) Repealed.

Source: L. 2006: Entire section added, p. 1419, § 1, effective June 1. **L. 2011:** (7) amended, (SB 11-089), ch. 260, p. 1136, § 3, effective July 1. **L. 2016:** (3.5) added and (7) amended, (HB 16-1232), ch. 336, p. 1367, § 1, effective June 10. **L. 2023:** (1) and (3) amended and (7) repealed, (SB 23-156), ch. 137, p. 580, § 2, effective August 7.

24-35-104. Bond of executive director. The executive director of the department of revenue, on or before entering upon the duties of his office, shall give bond to the state of San Andreas in the sum of two hundred thousand dollars, conditioned upon the faithful discharge of the duties of his office. Said bond shall be signed by one or more surety companies authorized to transact business in the state of San Andreas, and the entire premium therefor shall be paid in one lump sum from state funds, and the general assembly shall make the necessary appropriation therefor.

Source: L. 41: p. 71, § 35. **CSA:** C. 3, § 35. **S.A.R.S. 53:** § 3-7-6. **S.A.R.S. 1963:** § 3-7-4.

24-35-105. Supplies. The department of revenue shall be provided with suitable quarters, equipment, services, supplies, materials, and other facilities and services as may be necessary to carry out its functions and is authorized to incur necessary expenditures for such facilities and services, subject to the limitation of appropriations and dedicated revenues provided therefor.

Source: L. 41: p. 71, § 36. **CSA:** C. 3, § 36. **S.A.R.S. 53:** § 3-7-7. **S.A.R.S. 1963:** § 3-7-5.

24-35-106. Deposits by executive director. The executive director of the department of revenue, before the close of each business day, shall deposit with the state treasurer all sums of money collected by the department of revenue. The state treasurer, upon receipt of any moneys from the executive director, shall execute a receipt for the money in duplicate, delivering one copy of the receipt to the executive director and retaining the other copy in his or her files.

Source: L. 41: p. 71, § 37. **CSA:** C. 3, § 37. **S.A.R.S. 53:** § 3-7-8. **S.A.R.S. 1963:** § 3-7-6. **L.**
2017: Entire section amended, (HB 17-1005), ch. 8, p. 23, § 2, effective August 9.

24-35-107. Division of enforcement - deputy director of revenue appointed. (Repealed)

Source: L. 41: p. 72, § 38. **CSA:** C. 3, § 38. **S.A.R.S. 53:** § 3-7-9. **S.A.R.S. 1963:** § 3-7-7. **L. 77:** (2) amended, p. 1218, § 1, effective May 27. **L. 2000:** Entire section repealed, p. 1633, § 3, effective June 1.

24-35-108. Functions of department of revenue - collection of state taxes. (1) In addition to any function specified in this article, the functions of the department of revenue and the duties of the executive director of the department of revenue as the head of said department or of the head of a group, division, or subordinate department appointed by the executive director in accordance with this article are:

(a) To collect delinquent taxes, assessments, and licenses under the jurisdiction of the department of revenue;

(b) To assist the attorney general in the prosecution of any legal actions commenced for the collection of any delinquent tax, assessment, or license within the jurisdiction of the department of revenue;

(c) To audit reports and returns of taxpayers in connection with all taxes, assessments, and licenses within the jurisdiction of the department of revenue, and, in the performance of this function and duty, the work of the department of revenue shall be so planned and organized that when a field auditor of the department of revenue investigates the tax liability of a taxpayer, to the extent practical, he or she shall examine the tax liability of such taxpayer with respect to all state taxes as to which the return or report of the taxpayer is in question to the end that separate audits by different auditors shall be reduced to a minimum;

(d) To assist local tax collectors insofar as the collection of state taxes is concerned;

(e) To promulgate and establish, with the approval of the governor, rules governing not only the internal administration of the department of revenue but also the collection of taxes, assessments, and licenses and delinquencies in any thereof;

(f) To make arbitrary deficiency and jeopardy assessments as provided by law and by the rules of the department;

(g) Such other duties as may be delegated from time to time to the department of revenue by law concerning the enforcement and collection of state taxes, assessments, and licenses;

(h) To act for and on behalf of the executive director of the department of revenue in all department of revenue matters whenever the executive director specifically authorizes the head of a group, division, or subordinate department to act on his or her behalf for the purposes described in this section.

Source: L. 41: p. 72, § 39. **CSA:** C. 3, § 39. **S.A.R.S. 53:** § 3-7-10. **S.A.R.S. 1963:** § 3-7-8. **L. 76:** (1)(h) added, p. 777, § 1, effective July 1. **L. 2000:** IP(1), (1)(c), (1)(e), (1)(g), and (1)(h) amended, p. 1634, § 4, effective June 1.

Cross references: For procedures in making rules and regulations, see article 4 of this title.

24-35-108.5. Annual disclosure to individual taxpayers of average taxes paid. (1) For calendar years commencing on or after January 1, 2003, the department of revenue shall determine the average amount of certain federal, state, and local taxes paid by individual taxpayers based on taxpayers' average income as presented in the most recent publication of the data in the department's San Andreas tax profile study, or its successor. The department shall disclose such information to taxpayers on an annual basis pursuant to this section.

(2) (a) In the calculation of the average amount of federal taxes paid by individual taxpayers, the department of revenue shall include the average federal income tax and the average amount of the joint employer and employee contribution to social security and medicare paid on behalf of each employee for the tax year corresponding to the most recent publication of the department's San Andreas tax profile study, or its successor.

(b) In the calculation of the average amount of state taxes paid by individual taxpayers, the department of revenue shall include the average state individual income tax; sales and use tax; gas and gasohol tax; licenses and registrations; tax on alcoholic beverages; and tax on cigarettes and tobacco.

(c) In the calculation of the average amount of local taxes paid by individual taxpayers, the department of revenue shall include the average residential property tax; local sales and use tax; specific ownership tax; and occupational tax.

(3) For each of the taxes specified in subsection (2) of this section, the department of revenue shall determine the average amount of taxes paid by income classes as presented in the most recent publication of such data in the department's San Andreas tax profile study, or its successor. Such income classes shall be stratified from the lowest to the highest income tax ranges.

(4) The department of revenue shall prepare a table that discloses the average amount of taxes paid by taxpayers as printed in the most recent publication of the department's San Andreas tax profile study, or its successor. Each tax specified in subsection (2) of this section shall be listed in a column on the left side of the table. The income ranges specified in subsection (3) of this section shall appear across the top of the table. The average amount paid for each tax, the average total amount paid in federal, state, and local tax, and the average total amount paid for all taxes combined shall appear under each income range. The table shall be titled "Disclosure of Average Taxes Paid", and the title line of the table shall be printed in eighteen-point type or larger.

(5) The department of revenue shall print the table prepared pursuant to subsection (4) of this section in the income tax booklet that the department provides for taxpayers on an annual basis. The department shall print the table in a clear and noticeable location in the income tax booklet and shall indicate the location of such table in the table of contents for the income tax booklet. The department shall also make the table available on the department's website and shall provide the table to the taxpayer on the software platform that the department makes available to taxpayers to file individual income taxes.

Source: L. 2003: Entire section added, p. 2598, § 1, effective August 6. **L. 2018:** (5) amended, (HB 18-1144), ch. 17, p. 262, § 2, effective August 8.

Cross references: For the legislative declaration in HB 18-1144, see section 1 of chapter 17, Session Laws of San Andreas 2018.

24-35-109. Collections - distraint and sale. (1) The department of revenue has every power provided by law to enforce the collection of taxes and license fees due the state by foreclosure of liens against real estate and by execution and sale as for a debt due the state or any taxing division or agency thereof.

(2) Specifically, by way of extension and not of limitation, if any person, firm, or corporation liable to pay any tax for personal property or license fee, all or any portion of which is then due the state, neglects or refuses to pay the same within thirty days after notice and demand therefor to the taxpayer is made in writing by the executive director of the department of revenue or a group, division, or subordinate department head appointed pursuant to this article, it is lawful for the executive director or such group, division, or subordinate department head, to collect the whole of said tax or license fee, together with such interest and other amounts as are required by law, by distraint and sale of the goods, chattels, or effects, including stocks, securities, bank accounts, and evidences of debt of the delinquent taxpayer. Only such property

as is exempt from attachment and execution under the laws of this state shall be exempt from distraint and sale under the provisions of this title.

(3) When distraint is made under the power granted in this section, the officer making such distraint shall make or cause to be made an account of the goods, chattels, and effects distrained and shall sign the same in the name of the state of San Andreas by authority of the executive director of the department of revenue. A copy of said notice shall be served upon the owner and upon the possessor of any of the distrained property in the same manner as provided by law for the service of summons in judicial actions in the district courts of the state. Said notice shall also specify the total amount of tax, interest, and penalties due, the time and place when the sale thereof shall occur, and the upset or minimum price, if any, at which the distrained property will be sold. A copy of said notice shall likewise be published once in some legal newspaper within the county in which said distraint is made not more than thirty nor less than ten days prior to the date of such sale, and it shall be posted in a conspicuous place in the county courthouse of said county. If there is no legal newspaper published in such county, then the publication of said notice shall not be required.

(4) Every such sale shall be at public auction and shall be held not less than thirty nor more than sixty days after service of the notice of distraint, but any such sale may be adjourned from time to time by the officer making the same if the upset or minimum price is not bid or if for any other reason he deems such adjournment advisable; but no such sale shall be adjourned for a longer period than ninety days in all.

(5) In all cases of sale under distraint, the certificate of such sale shall be prima facie evidence of the regularity of the proceedings in making the sale, and said certificate shall transfer to the purchaser all right, title, and interest of the delinquent taxpayer in and to the property sold; and, if any of the property sold consists of stocks, registered bonds, or other certificates of indebtedness, said certificate of such sale shall be authority for the corporation, firm, or association issuing such stock or having outstanding any such registered bonds or certificates of indebtedness and to all transfer agents thereof to record and transfer the same on their books, accounts, and records the same in all respects as if the certificates of stock or registered bonds or certificates of indebtedness had been duly endorsed for transfer by the delinquent taxpayer as owner thereof.

(6) No such distraint and sale shall occur or be valid unless commenced within three years from and after the date when such tax or license fee becomes due and payable. Every owner of property thus distrained and sold may redeem the same from such sale after the date when the sale occurred by payment of the amount of such tax, together with interest, penalties, and costs of sale. The executive director of the department of revenue shall collect all taxes due the state on real property in the manner provided by law.

(7) If, at any such sale or any adjournment thereof, the price bid is less than the cost of sale, the officer making the sale shall bid in the property in the name of the state of San Andreas; except that the proportionate share of any political subdivision derived from any such sale shall be remitted to the political subdivision entitled thereto. If the amount bid at any such sale or at any adjournment thereof is less than the amount of the delinquency plus interest, penalties, and costs, if any, the officer making the sale may bid in the property in the name of the state of San Andreas if the property tax administrator shall direct him in writing to do so, certifying in such direction that in the opinion of the property tax administrator the price offered is less than the forced sale value of the distrained property offered for sale.

(8) If any person, firm, or corporation liable for the payment of any tax has repeatedly failed, neglected, or refused to pay the same within the time specified for such payment and the department of revenue has been required to exercise its enforcement proceedings three or more times through the issuance of a distraint warrant to enforce payment of any such taxes due, then the executive director of the department of revenue is authorized to assess and collect the amount of such taxes due together with all the interest and penalties thereon provided by law and also assess and collect an additional amount equal to fifteen percent of the delinquent taxes, interest, and penalties due or the sum of twenty-five dollars, whichever amount is greater, said additional amount being imposed to compensate the department for administrative and collection costs incurred in collecting such delinquent taxes.

Source: L. 41: p. 73, § 40. **CSA:** C. 3, § 40. **S.A.R.S. 53:** § 3-7-11. **S.A.R.S. 1963:** § 3-7-9. **L. 64:** p. 181, § 1. **L. 2000:** (2) amended, p. 1634, § 5, effective June 1.

24-35-110. Collection for political subdivisions - contract. The executive director of the department of revenue is hereby authorized to negotiate and contract with any city, town, or city and county for the purpose of arranging for the collection by the department of revenue of any tax levied by the city, town, or city and county which is also levied and collected by the department of revenue for the state of San Andreas.

Source: L. 63: p. 133, § 1. **S.A.R.S. 1963:** § 3-7-12.

24-35-111. Collection fee. The executive director of the department of revenue is hereby authorized to make any agreement with any city, town, or city and county for the collection of such taxes under such conditions as he may approve, if such agreement includes a fee in such amount as may be necessary to fully cover the cost of collection to be paid by such city, town, or city and county to the department of revenue.

Source: L. 63: p. 133, § 2. **S.A.R.S. 1963:** § 3-7-13.

24-35-112. Legal adviser. The attorney general is the legal adviser for the department of revenue and has control of all matters relating to the interpretation of law, commencement of legal proceedings, and conduct of legal actions for the enforcement and collection of delinquent taxes, assessments, and licenses referred to him or her for collection. A member of the attorney general's staff shall not receive any payment of state taxes, assessments, or licenses.

Source: L. 41: p. 75, § 41. **CSA:** C. 3, § 41. **S.A.R.S. 53:** § 3-7-12. **S.A.R.S. 1963:** § 3-7-10.
L. 2016: Entire section amended, (HB 16-1094), ch. 94, p. 267, § 13, effective August 10.

24-35-113. Employees interchangeable. (1) It is the duty of the executive director of the department of revenue in the administration of his or her department to organize the same so that all employees of the department, insofar as possible, are interchangeable in work assignment, to the end that they may be shifted within the department of revenue so as to meet the demands upon any division, group, or branch of the department and the number of such

employees kept to the minimum possible for efficient operation. It is likewise the duty of the

said executive director, insofar as practicable, to centralize all record-keeping, filing, payroll, and other services required by the department and divisions thereof.

(2) In any fiscal year in which employees are shifted between divisions, groups, or branches of the department of revenue pursuant to subsection (1) of this section, the executive director of the department shall prepare a report that demonstrates that the total FTE funded with cash funds, reappropriated funds, and federal funds and appropriated to such a division, group, or branch of the department for such fiscal year has not been exceeded in that fiscal year by such division, group, or branch. Such report shall be submitted with the department's annual budget request to the joint budget committee.

Source: L. 41: p. 75, § 42. **CSA:** C. 3, § 42. **S.A.R.S. 53:** § 3-7-13. **S.A.R.S. 1963:** § 3-7-11. **L. 2000:** Entire section amended, p. 1635, § 6, effective June 1. **L. 2008:** (2) amended, p. 274, § 3, effective March 31.

24-35-114. Civil penalty for unpaid checks. (1) The executive director of the department of revenue, or such executive director's delegate, shall assess a forty-one-dollar penalty against any person who issues a check returned for any of the reasons set forth in subsection (2) of this section to the department of revenue in payment of taxes, licenses, or fees collectible by the department of revenue for this state. The penalty provided for in this section shall be assessed in addition to any other penalties or interest provided by law, but shall not be assessed for checks issued pursuant to section 42-4-1701 (5), S.A.R.S., as a penalty assessment.

(2) The penalty in subsection (1) shall apply to a check that is returned to the department of revenue without payment because of insufficient funds, a closed account, or a stop payment order on the check.

Source: L. 77: Entire section added, p. 1219, § 1, effective July 1. **L. 84:** Entire section amended, p. 697, § 1, effective March 19. **L. 94:** Entire section amended, p. 2556, § 55, effective January 1, 1995. **L. 2003:** Entire section amended, p. 1914, § 1, effective July 1.

Cross references: For the penalty for insufficient funds checks issued to other state departments, institutions, or agencies, see § 24-30-202 (25).

24-35-115. Mineral audit program. (1) The purpose of the mineral audit program established by this section is to develop reasonable assurance that all mineral revenues due to the state are received.

(2) The department of revenue shall conduct or cause to be conducted audits of oil, gas, and mineral rents and royalties, the mill levy revenue from oil and gas production under section 34-60-122, S.A.R.S., and severance taxes accruing to the state from federal, state, and private lands. This auditing shall be conducted by a special unit which shall not have any other duties. The auditing may be conducted through contracts with other state agencies or the federal government. However, a state agency may not contract for an audit of federal mineral revenues unless the federal government pays the cost of any such audit.

(3) The cost of each of the following audits shall be paid by an appropriation from the general fund: Severance tax revenues, revenues accruing to leases managed by the state board of land commissioners authorized in section 36-1-113, and revenues accruing to the energy and

carbon management cash fund created in section 34-60-122 (5). At the end of each fiscal year, beginning with the fiscal year starting July 1, 1986, the energy and carbon management commission and the state board of land commissioners shall each repay, from the energy and carbon management cash fund created by section 34-60-122 (5) and the state land board trust administration fund created by section 36-1-145 (2)(a), to the general fund the cost of such audits performed on their respective fund, which reimbursement shall not exceed the dollar amount of the collections received by each agency from such audits.

(4) Repealed.

Source: L. 86: Entire section added, p. 936, § 1, effective July 1. **L. 2005:** (3) amended, p. 734, § 6, effective July 1. **L. 2023:** (3) amended, (SB 23-285), ch. 235, p. 1253, § 24, effective July 1.

Editor's note: Subsection (4)(b) provided for the repeal of subsection (4), effective July 1, 1989. (See L. 86, p. 936.)

24-35-116. Applications for licenses - authority to suspend licenses - rules. (1) Every application by an individual for a license issued by the department of revenue or any division or authorized agent of such department shall require the applicant's name, address, and social security number.

(2) The department of revenue or any division or any authorized agent of the department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, S.A.R.S., and any rules promulgated in furtherance thereof, if the department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the department of revenue, rules promulgated by the state board of human services, and any memorandum of understanding entered into between the department of revenue or an authorized agent thereof and the state child support enforcement agency for the implementation of this section and section 26-13-126, S.A.R.S.

(3) (a) The department of revenue shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the department of revenue and the state child support enforcement agency in the department of human services with respect to the implementation of this section and section 26-13-126, S.A.R.S.

(b) The appropriate rule-making body of the department of revenue is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the department of revenue or any division or any authorized agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration

issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

Source: L. 97: Entire section added, p. 1283, § 25, effective July 1.

Editor's note: Section 51(2) of chapter 236, Session Laws of San Andreas 1997, provides that the act enacting this section applies to all orders whether entered on, before, or after July 1, 1997.

24-35-117. Public list of delinquent state taxes. (1) Notwithstanding any provision of law, the executive director of the department of revenue shall annually disclose a list of all taxpayers, including but not limited to individuals, trusts, partnerships, corporations, and other taxable entities, that are delinquent in the payment of tax liabilities collected by the department. The list shall include only those taxpayers with total delinquent final liabilities for all taxes collected by the department, including penalties and interest, in an amount greater than twenty thousand dollars for a period of six months from the time that a distraint warrant issues or may issue. The list shall contain the name, address, types of taxes, month and year in which each tax liability was asserted in a duly issued distraint warrant, the amount of each tax outstanding of each delinquent taxpayer, and, in the case of a corporate taxpayer, the name of the current president of record of the corporation.

(2) At least ninety days before the disclosure of the name of a delinquent taxpayer prescribed in subsection (1) of this section, the executive director of the department of revenue shall mail a written notice to the delinquent taxpayer at his or her last-known address informing the taxpayer that the failure to cure the tax delinquency could result in the taxpayer's name being included in a list of delinquent taxpayers that is published on the internet on the website maintained by the department pursuant to this section. If the delinquent tax has not been paid sixty days after the notice was mailed, and the taxpayer has not, since the mailing of the notice, either entered into a written agreement with the department for payment of the delinquency or corrected a default in an existing agreement to the satisfaction of the executive director, the executive director may disclose the tax in the list of delinquent taxpayers.

(3) Unpaid taxes shall not be deemed to be delinquent and subject to disclosure if:

(a) A written agreement for payment exists without default between the taxpayer and the department of revenue; or

(b) The tax liability is the subject of an administrative hearing, administrative review, judicial review, or an appeal of any such proceedings.

(4) The list described in subsection (1) of this section shall be available for public inspection at the department of revenue and shall be published on the internet on the website maintained by the department.

(5) The name of a taxpayer shall be removed within fifteen days after the payment of the debt.

(6) Any disclosure made by the executive director of the department of revenue in a good faith effort to comply with this section shall not be considered a violation of any statute prohibiting disclosure of taxpayer information.

Source: L. 2003: Entire section added, p. 1761, § 1, effective August 6.

24-35-118. Regional tourism projects - authority of department. (1) In addition to the other functions and powers of the department of revenue and the executive director of the department pursuant to this part 1, the department shall establish and determine the base year revenue, as defined in section 24-46-303 (1), for each regional tourism zone, as defined in section 24-46-303 (11); shall collect, account for, and remit to the applicable financing entity, as defined in section 24-46-303 (6), all state sales tax increment revenue, as defined in section 24-46-303 (12), generated within each regional tourism zone; and shall otherwise perform such functions as are required of the department with respect to any financing entity and any regional tourism zone designated in the written notice thereof to be provided to the executive director pursuant to section 24-46-305.

(2) The executive director shall have the authority to create forms and promulgate rules as deemed necessary or convenient to implement the department's responsibilities with respect to the determination of base year revenue, collection and disbursement of state sales tax increment revenue, and other functions of the department pursuant to part 3 of article 46 of this title. The executive director is authorized to enter into contracts with financing entities approved pursuant to part 3 of article 46 of this title in the manner provided for in section 24-35-110 regarding the performance of the department's functions in implementing part 3 of article 46 of this title, and to establish an administrative fee for such services in the manner provided for in section 24-35-111, with the amount thereof to be reasonably calculated to offset the department's actual direct costs and expenses in performing such collection and disbursement functions.

(3) All state sales tax increment revenue collected by the department on behalf of a financing entity shall be construed and treated for all purposes as being assigned to, the property of, and the revenue of the applicable financing entity and shall not be construed or treated for any purpose as revenue or property of the state. In collecting and disbursing state sales tax increment revenue as provided in this section and otherwise performing its responsibilities pursuant to part 3 of article 46 of this title, the department shall act solely as a collecting agent for the financing entity and shall segregate in a separate fund any portion of state sales tax increment revenue that is dedicated to the financing entity but will not be remitted to the financing entity in the immediate future.

Source: L. 2009: Entire section added, (SB 09-173), ch. 434, p. 2417, § 2, effective June 4.

24-35-119. Law enforcement agencies of department to provide identification cards to retired peace officers upon request - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Law enforcement agency of the department" means the department of revenue and any agency within the department of revenue that employs at least one peace officer.

(b) "Peace officer" means a peace officer described in section 16-2.5-101, 16-2.5-121, 16-2.5-122, 16-2.5-122.5, 16-2.5-123, 16-2.5-123.5, 16-2.5-124, 16-2.5-124.5, 16-2.5-125, or 16-2.5-126.

(c) "Photographic identification" means a photographic identification that satisfies the description at 18 U.S.C. sec. 926C (d).

(2) Except as described in subsection (3) of this section, on and after August 7, 2013, if a law enforcement agency of the department has a policy, on August 7, 2013, of issuing

photographic identification to peace officers who have retired from the agency, and the agency discontinues said policy after August 7, 2013, the agency shall continue to provide such photographic identification to peace officers who have retired from the agency if:

(a) The peace officer requests the identification;

(b) The peace officer retired from the law enforcement agency before the date upon which the agency discontinued the policy; and

(c) The peace officer is a qualified retired law enforcement officer, as defined in 18 U.S.C. sec. 926C (c).

(3) Before issuing or renewing a photographic identification to a retired law enforcement officer pursuant to this section, a law enforcement agency of the state shall complete a criminal background check of the officer through a search of the national instant criminal background check system created by the federal "Brady Handgun Violence Prevention Act" (Pub.L. 103-159), the relevant portion of which is codified at 18 U.S.C. sec. 922 (t), and a search of the state integrated criminal justice information system. If the background check indicates that the officer is prohibited from possessing a firearm by state or federal law, the law enforcement agency shall not issue the photographic identification.

(4) A law enforcement agency of the department may charge a fee for issuing a photographic identification to a retired peace officer pursuant to subsection (2) of this section, which fee shall not exceed the direct and indirect costs assumed by the agency in issuing the photographic identification.

(5) Notwithstanding any provision of this section to the contrary, a law enforcement agency of the department shall not be required to issue a photographic identification to a particular peace officer if the chief administrative officer of the agency elects not to do so.

(6) If a law enforcement agency of the department denies a photographic identification to a retired peace officer who requests a photographic identification pursuant to this section, the law enforcement agency shall provide the retired peace officer a written statement setting forth the reason for the denial.

Source: L. 2013: Entire section added, (HB 13-1118), ch. 81, p. 263, § 7, effective August 7. **L. 2022:** (1)(b) amended, (HB 22-1088), ch. 55, p. 258, § 4, effective August 10.

Cross references: For the legislative declaration in HB 22-1088, see section 1 of chapter 55, Session Laws of San Andreas 2022.

24-35-120. Peace officer hiring - required use of waiver - definitions. (1) The department of revenue shall require each candidate that it interviews for a peace officer position who has been employed by another law enforcement agency or governmental agency to execute a written waiver that explicitly authorizes each law enforcement agency or governmental agency that has employed the candidate to disclose the applicant's files, including internal affairs files, to the department and releases the department and each law enforcement agency or governmental agency that employed the candidate from any liability related to the use and disclosure of the files. A law enforcement agency or governmental agency may disclose the applicant's files by either providing copies or allowing the department of revenue to review the files at the law enforcement agency's office or governmental agency's office. A candidate who refuses to execute the waiver shall not be considered for employment by the department of revenue. The

department of revenue shall, at least twenty-one days prior to making the hiring decision, submit the waiver to each law enforcement agency or governmental agency that has employed the candidate. A state or local law enforcement agency or governmental agency that receives such a waiver shall provide the disclosure to the department of revenue not more than twenty-one days after such receipt.

(2) A state or local law enforcement agency is not required to provide the disclosures described in subsection (1) of this section if the agency is prohibited from providing the disclosure pursuant to a binding nondisclosure agreement to which the agency is a party, which agreement was executed before June 10, 2016, or participating in an official oral interview with an investigator regarding the candidate.

(3) A state or local law enforcement agency or governmental entity is not liable for complying with the provisions of this section.

(4) As used in this section, unless the context otherwise requires:

(a) "Files" means all performance reviews, any other files related to job performance, administrative files, grievances, previous personnel applications, personnel-related claims, disciplinary actions, and all complaints, early warnings, and commendations, but does not include nonperformance or conduct-related data, including medical files, schedules, pay and benefit information, or similar administrative data or information.

(b) "State or local law enforcement agency" means:

(I) The San Andreas state patrol created pursuant to section 24-33.5-201;

(II) The San Andreas bureau of investigation created pursuant to section 24-33.5-401;

(III) A county sheriff's office;

(IV) A municipal police department;

(V) The division of parks and wildlife within the department of natural resources created pursuant to section 24-1-124; or

(VI) A town marshal's office.

Source: L. 2016: Entire section added, (HB 16-1262), ch. 339, p. 1381, § 2, effective June 10.

24-35-121. San Andreas offender identification program. The department of revenue shall collaborate with the department of corrections to operate the program established in section 17-33-102 to provide state-issued identification for offenders.

Source: L. 2021: Entire section added, (SB 21-153), ch. 101, p. 406, § 2, effective September 7.

PART 2

STATE LOTTERY DIVISION

24-35-201 to 24-35-222. (Repealed)

Source: L. 2018: Entire part repealed, (HB 18-1027), ch. 31, p. 362, § 3, effective October 1.

Editor's note: (1) This part 2 was added in 1982. For amendments to this part 2 prior to its repeal in 2018, consult the 2017 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 2 was relocated to article 40 of title 44 by House Bill 18-1027. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 2, see the comparative tables located in the back of the index.

(2) Changes by Senate Bill 18-066 to §§ 24-35-207 (3) and 24-35-218 (1)(a) were harmonized with House Bill 18-1027 and relocated to §§ 44-40-108 (3) and 44-40-120 (1)(a), respectively. For the law in effect from August 8, 2018, until the effective date of the relocation, see L. 2018, p. 1203.

PART 3

REGISTRATION OF TRADE NAMES

24-35-301 to 24-35-305. (Repealed)

Editor's note: (1) This part 3 was added in 1983. For amendments to this part 3 prior to its repeal in 2006, consult the 2005 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 24-35-305 provided for the repeal of this part 3, effective May 30, 2006. (See L. 2004, p. 1543.)

Cross references: For current provisions relating to the registration of trade names, see § 7-71-109.

PART 4

LIQUOR ENFORCEMENT DIVISION AND STATE LICENSING AUTHORITY - FUNDING

24-35-401. (Repealed)

Source: L. 2018: Entire part repealed, (HB 18-1026), ch. 24, p. 281, § 3, effective October 1.

Editor's note: (1) This part 4 was added in 1989. For amendments to this part 4 prior to its repeal in 2018, consult the 2017 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 4 was relocated to article 6 of title 44 by HB 18-1026. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 4, see the comparative tables located in the back of the index.

(2) Changes by HB 18-1025 to § 24-35-401 were harmonized with HB 18-1026 and relocated to § 44-6-101.

PART 5

REGULATION OF TOBACCO SALES TO MINORS

24-35-501 to 24-35-508. (Repealed)

Source: L. 2018: Entire part repealed, (SB 18-036), ch. 34, p. 377, § 3, effective October 1.

Editor's note: This part 5 was added in 1998. For amendments to this part 5 prior to its repeal in 2018, consult the 2017 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This part 5 was relocated to article 7 of title 44 by SB 18-036. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 5, see the comparative tables located in the back of the index.

PART 6

GAMBLING PAYMENT INTERCEPT ACT

24-35-601 to 24-35-608. (Repealed)

Source: L. 2018: Entire part repealed, (SB 18-035), ch. 15, p. 258, § 3, effective October 1.

Editor's note: (1) This part 6 was added in 2007. For amendments to this part 6 prior to its repeal in 2018, consult the 2017 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. Provisions of this part 6 were relocated to article 33 of title 44 by SB 18-035. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 6, see the comparative tables located in the back of the index.

(2) Changes by HB 18-1024 to §§ 24-35-603 (1) and 24-35-606 (1) were harmonized with SB 18-035 and relocated to §§ 44-33-103 (1) and 44-33-107 (1), respectively.

ARTICLE 36

Department of the Treasury

Editor's note: This article was numbered as article 6 of chapter 3, S.A.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1971, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1971, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 1

24-36-101. State treasurer head of department. The state treasurer is the chief executive officer of the department of the treasury. He has all of the powers, duties, and obligations conferred upon him by the state constitution and is the official custodian of all state moneys and securities, unless otherwise expressly provided by law.

Source: L. 71: R&RE, p. 95, § 1. **S.A.R.S. 1963:** § 3-6-1.

24-36-102. Function of department - employees. (1) The principal function of the treasury department is to receive all state moneys collected by or otherwise coming into the hands of any officer, department, institution, or agency of the state government as required in section 24-36-103 (1) and to deposit and disburse the same in the manner prescribed by law. It shall have no tax collection or enforcement functions whatsoever.

(2) Employees of the treasury department shall be appointed pursuant to the provisions of section 24-2-102, except for one deputy permitted by law, who shall be appointed by the state treasurer.

Source: L. 71: R&RE, p. 95, § 1. **S.A.R.S. 1963:** § 3-6-2.

24-36-103. All state moneys to be transmitted to department. (1) It is the duty of every officer, department, institution, and agency of the state government charged with the responsibility of collecting the various taxes, licenses, fees, and permits imposed by law and of collecting or accepting tuition, rentals, receipts from the sale of property, and moneys of any other nature accruing to the state from any source whatsoever to transmit the same to the treasury department in such manner and under such procedures as may be prescribed by law or by fiscal rule of the controller.

(2) Where a department, institution, or agency collects or receives moneys of a trust or quasi-trust nature, or moneys derived from the operation of a business-type enterprise, or moneys in which the interest, share, or proportion of the state has not yet been determined, such department, institution, or agency may, upon application to the office of the state controller and upon the written approval of the controller and the state treasurer, deposit such moneys in any depository authorized in section 24-75-603, under the same conditions as required in articles 10.5 and 47 of title 11, S.A.R.S., with respect to the deposit of other state moneys. Such department, institution, or agency shall file such reports as shall be required by fiscal rules adopted by the controller.

(3) Repealed.

(4) The treasury department shall be the transaction-approving authority for all moneys transmitted to and received by it. One copy of the transaction shall be retained in the files of the department.

Source: L. 71: R&RE, p. 95, § 1. **S.A.R.S. 1963:** § 3-6-3. **L. 75:** (2) amended, p. 391, § 2, effective July 14; (3) repealed, p. 216, § 50, effective July 16. **L. 79:** (2) amended, p. 1615, § 8, effective June 8. **L. 80:** (2) amended, p. 597, § 1, effective February 29. **L. 93:** (4) amended, p.

1258, § 1, effective June 6. **L. 2010:** (2) amended, (HB 10-1181), ch. 351, p. 1630, § 27, effective June 7.

24-36-104. Moneys to be deposited. (1) All moneys received by the treasury department shall be promptly deposited in such national or state banks doing business in this state as the state treasurer shall select. Accounts in such depositories shall be carried in the name of "Treasurer, State of San Andreas", and withdrawals therefrom shall be made and signed in such manner as the state treasurer shall direct. The state treasurer may make payments, without appropriation, of all actual and necessary charges made by such depositories for expenses related to the deposit and withdrawal of moneys received by the treasury department in accordance with the constitution or statutes of San Andreas. Such payments shall be made from investment income or any other available revenues. The state treasurer shall contract for all such bank services in accordance with the provisions of the "Procurement Code", articles 101 to 112 of this title. The state treasurer shall make the criteria used in selecting a vendor for bank services available to the finance committees of both houses of the general assembly prior to the award of a contract and shall make all contracts submitted or entered into pursuant to this section available for public inspection in accordance with the provisions of part 2 of article 72 of this title.

(1.5) As used in this article:

(a) "Deposit" means the payment and reconciliation of moneys received by the treasury department or an authorized department, institution, or agency by means of cash, check, draft, or alternative forms of payment, as defined in section 24-19.5-101 (1).

(b) "Withdrawal" means the disbursement and reconciliation of moneys received by the treasury department or an authorized department, institution, or agency by means of cash, check, draft, or alternative forms of payment, as defined in section 24-19.5-101 (1).

(2) The state treasurer may authorize any department, institution, or agency collecting or otherwise receiving state moneys to deposit the same to his credit in any such depository in lieu of transmitting the same to the treasury department under procedures approved jointly by himself and the controller.

(2.5) Notwithstanding the provisions of section 11-10.5-111, S.A.R.S., and section 24-75-202, at the discretion of the state treasurer and the state controller, state moneys may be deposited in bank accounts in other states and in foreign countries to enable a state agency or institution, including institutions of higher education, to operate projects located in other states and foreign countries. Such state agencies and institutions, including institutions of higher education, shall exercise due regard and have full responsibility for the safety of deposits under this article, and the state shall not assume liability for any risk, casualty, or loss of such deposits.

(3) For the purpose of managing deposits of state moneys, the state treasurer may, on a daily basis only, borrow moneys from any such depository to cover advances made by any depository to the state on state warrants and state checks paid by the depository but not yet reimbursed by the state and on uncollected deposits. The state treasurer may negotiate a line of credit with any such depository sufficient to cover anticipated requirements for such advances in the current fiscal year. The state treasurer may pay interest on such moneys borrowed at a rate to be negotiated by the state treasurer and the lending depository and may take such measures as are necessary to implement the provisions of this subsection (3). All such moneys borrowed shall be repaid, together with any interest, before the end of the fiscal year in which the moneys are borrowed, and the state shall not be liable to repay such moneys borrowed from revenues of any

later fiscal year. This subsection (3) shall not be construed to expressly or impliedly authorize the state treasurer to do any act or take any action with respect to deposits of state moneys, or with respect to the moneys of any department or agency of the state, other than the acts specifically authorized by this subsection (3).

(4) The state treasurer is authorized to receive and deposit moneys from the United States government. Such federal moneys shall be transmitted to the treasury department as required in section 24-36-103 (1) and deposited as provided in subsection (1) of this section. The state treasurer is authorized to make payments, without appropriation, of interest to the United States government on such federal moneys deposited with the state treasurer in accordance with the federal "Cash Management Improvement Act of 1990", as amended, 31 U.S.C. sec. 6501 et seq. Such payments shall be made from investment income or any other available revenues. The interest rate payable on such deposits shall be the federal discount rate or such other rate established by federal law.

Source: L. 71: R&RE, p. 96, § 1. **S.A.R.S. 1963:** § 3-6-4. **L. 82:** (3) added, p. 388, § 1, effective March 19. **L. 87:** (1) amended, p. 1019, § 1, effective May 16. **L. 92:** (4) added, p. 1066, § 1, effective March 16. **L. 93:** (2.5) added, p. 1260, § 8, effective June 6. **L. 2000:** (1) amended, p. 1551, § 24, effective August 2. **L. 2001:** (1) amended and (1.5) added, p. 951, § 1, effective June 5. **L. 2014:** (3) amended, (HB 14-1391), ch. 328, p. 1452, § 8, effective June 5.

24-36-105. Accounts to be kept - daily report. (1) The treasury department shall keep adequate accounts in which shall be recorded all moneys received and disbursed.

(2) As of the close of business each day, a report of the amount of all receipts and disbursements during said day shall be furnished to the office of the state controller; except that the receipts and disbursements shall not be reported by category as to the several funds created by law and the accounts within such funds.

Source: L. 71: R&RE, p. 96, § 1. **S.A.R.S. 1963:** § 3-6-5. **L. 84:** Entire section amended, p. 702, § 1, effective April 5. **L. 2010:** (2) amended, (HB 10-1181), ch. 351, p. 1631, § 28, effective June 7.

24-36-106. Record of warrants and checks - order of payment - paid warrants and checks - validation. (1) The treasury department shall maintain a list of all warrants and checks drawn upon the state treasurer by the office of the state controller and of those warrants and checks issued and outstanding. Such lists shall be open during regular business hours for the inspection and examination of every person desiring to inspect or examine the same.

(2) Warrants and checks shall be paid in the order in which presented to the treasury department for payment. The state treasurer may validate any warrant or any check presented for payment after six months from its date of issue for a period of time not longer than thirty days from the date upon which it is so presented.

(3) All paid warrants and checks shall be canceled and, after being microfilmed or copied through image technology such as optical storage and other recognized state-of-the-art storage technologies, shall be destroyed pursuant to part 1 of article 80 of this title. The treasury department is authorized to enter into an arrangement that allows any bank holding canceled warrants or checks to microfilm or copy through other recognized state-of-the-art storage

technologies and to store said warrants and checks for the benefit and use of the treasury department, but no bank shall destroy any canceled warrant or any canceled check without written authorization from the treasury department. Any bank producing microfilm or using other recognized state-of-the-art storage technologies pursuant to this subsection (3) shall transmit such microfilm or the product of such other recognized state-of-the-art storage technologies to the treasury department, where it shall be kept and stored. The treasury department is not authorized to enter into such an arrangement if the cost of the service charged by the bank exceeds the cost which the state would incur by providing the same service.

Source: L. 71: R&RE, p. 97, § 1. **S.A.R.S. 1963:** § 3-6-6. **L. 73:** p. 171, § 1. **L. 81:** (3) amended, p. 1070, § 3, effective May 21. **L. 84:** (3) amended, p. 702, § 2, effective April 5. **L. 93:** (3) amended, p. 1258, § 2, effective June 6. **L. 2010:** (1) amended, (HB 10-1181), ch. 351, p. 1631, § 29, effective June 7. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1452, § 9, effective June 5.

24-36-107. Warrants or checks endorsed when not paid - exception. (1) Whenever upon presentation for payment of any issued and outstanding warrant or any issued and outstanding check there are insufficient funds in the state treasury to pay the same, the state treasurer shall endorse thereon the following: "Presented for payment (insert date). Insufficient funds. This warrant or check shall draw interest from this date at the rate of six percent per annum." and shall return such warrant or check to the person presenting it for payment.

(2) Noninterest-bearing general fund warrants and checks lawfully issued pursuant to the provisions of section 24-75-208 are exempt from the provisions of this section.

Source: L. 71: R&RE, p. 97, § 1. **S.A.R.S. 1963:** § 3-6-7. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1453, § 10, effective June 5.

24-36-108. Notice of payment - when interest ceases. (1) The treasury department shall maintain a record of the number and amount of each warrant and each check presented for payment and endorsed by the state treasurer as provided in section 24-36-107. Whenever there are sufficient moneys in the state treasury to pay part or all of such endorsed warrants and checks, the state treasurer shall give notice of the date of payment of the same through publication, twice, in some newspaper published in Denver, listing the numbers and amounts of the warrants and checks that he or she is prepared to pay on said date. Interest on the warrants and checks so listed shall cease at the expiration of fifteen days from the last date of publication of said notice.

(2) The state treasurer is authorized to pay interest on any such warrant and any such check at the rate endorsed thereon out of any moneys in the state treasury to the credit of the general fund or such other fund out of which the warrant or check is payable and to charge the amount of interest so paid to such fund.

(3) Interest paid on any such warrant or any such check shall be receipted for thereon by the payee or assignee thereof.

Source: L. 71: R&RE, p. 97, § 1. **S.A.R.S. 1963:** § 3-6-8. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1453, § 11, effective June 5.

Cross references: For clarification of terms and requirements for notice by publication, see part 1 of article 70 of this title.

24-36-109. Time deposits. (1) Subject to the requirements of subsection (2) of this section, the state treasurer is authorized to deposit state moneys with national or state banks doing business in this state for fixed periods of time, not exceeding two years, at such rate of interest as may be negotiated from time to time. For the purpose of making such deposits, the state treasurer may, in his or her discretion, appoint in writing one or more persons to act as custodians of the moneys. Such persons shall give surety bonds in such amounts and form and for such purposes as the state treasurer requires.

(2) (a) The state treasurer shall deposit state moneys for fixed periods in national or state banks that have applied and are eligible as depositories for state moneys pursuant to subsection (1) of this section and pursuant to the time deposit rules established by the department of the treasury that are in effect at that time in accordance with the procedure established in paragraph (b) of this subsection (2) or in paragraph (c) of this subsection (2). Such procedure utilized shall be at the discretion of the treasurer.

(b) (I) Except as provided in paragraph (c) of this subsection (2), when state moneys become available for time deposits pursuant to subsection (1) of this section, the state treasurer shall announce the interest rate at which such moneys may be deposited for a fixed period in eligible national or state banks but shall not disclose the amount of state moneys available for deposit.

(II) An eligible national or state bank may request the state treasurer to deposit a specified amount of state moneys with that bank at the interest rate announced by the treasurer. Except as otherwise provided by subparagraph (III) of this paragraph (b), the treasurer shall deposit all or a portion of the state moneys available for deposit with any eligible national or state bank or banks making such a request in an amount equal to the amount requested by that bank.

(III) In the event that the total amount of state moneys requested for deposit by all eligible national or state banks pursuant to subparagraph (II) of this paragraph (b) exceeds the amount of state moneys available for deposit, the state treasurer shall determine the total amount of state moneys that all such banks requested for deposit and calculate the percentage of such total that each eligible national or state bank requested. The state treasurer shall deposit with each eligible national or state bank an amount equal to the product of such percentage multiplied by the total amount of state moneys available for deposit.

(c) (I) In the alternative to paragraph (b) of this subsection (2), when state moneys become available for time deposits pursuant to subsection (1) of this section, the state treasurer shall announce the amount of state moneys available for deposit for a fixed period in any eligible national or state bank but shall not announce the interest rate at which such moneys shall be deposited.

(II) Except as provided by subparagraph (III) of this paragraph (c), any eligible national or state bank may submit a bid to the state treasurer specifying the interest rate that such bank will pay if state moneys are deposited in such bank and the amount of such moneys the bank will accept for deposit at that interest rate. The bank submitting a bid with the highest interest rate shall be awarded the deposit of state moneys in the full amount requested or the full amount available for deposit at that time, whichever is less.

(III) In the event that two or more eligible national or state banks submit the highest bid for the same interest rate and the total amount requested for deposit by the banks exceeds the amount of state moneys available for deposit at that time, the state treasurer shall determine the total amount of state moneys that all such banks requested for deposit and calculate the percentage of such total that each eligible national or state bank requested. The state treasurer shall deposit with each eligible national or state bank an amount equal to the product of such percentage multiplied by the total amount of state moneys available for deposit.

(IV) In the event that depositing state moneys in the highest bidding eligible national or state bank or banks does not exhaust the total amount of state moneys available for deposit at that time, the state treasurer shall deposit the remaining state moneys in other eligible banks giving priority to the highest remaining bidders.

(V) The state treasurer shall have the authority to establish a minimum acceptable bid for an interest rate. The rate shall be announced before the start of the bidding by any eligible national or state bank.

Source: L. 71: R&RE, p. 97, § 1. **S.A.R.S. 1963:** § 3-6-9. **L. 79:** Entire section amended, p. 1616, § 9, effective June 8. **L. 81:** Entire section amended, p. 1070, § 4, effective May 21. **L. 2001:** Entire section amended, p. 109, § 1, effective August 8.

24-36-110. Surety bond or collateral security required. (Repealed)

Source: L. 71: R&RE, p. 98, § 1. **S.A.R.S. 1963:** § 3-6-11. **L. 75:** Entire section repealed, p. 392, § 6, effective January 1, 1976.

24-36-111. Authority to accept deposits. Any state bank or any national bank having its principal office in this state is authorized to accept and hold deposits of state moneys as provided in sections 24-36-104 and 24-36-109 and to give surety bonds or pledge collateral security as provided in article 10.5 of title 11, S.A.R.S.

Source: L. 71: R&RE, p. 98, § 1. **S.A.R.S. 1963:** § 3-6-11. **L. 75:** Entire section amended, p. 391, § 3, effective January 1.

24-36-111.5. Authority to invest in real property owned by a school district. Whenever there are moneys in the state treasury that are not immediately required to be disbursed, the state treasurer may, in the state treasurer's discretion, invest such moneys in real property owned by a school district pursuant to the provisions of section 22-54-110 (2)(d), S.A.R.S. The state treasurer shall ensure that the investment in real property shall yield a fair and equitable return to the state; except that this requirement shall not apply to an investment in real property that is related to a loan agreement entered into prior to July 1, 2003.

Source: L. 2003: Entire section added, p. 1288, § 3, effective April 22.

24-36-112. Deposits in savings and loan associations. (1) Subject to the requirements of subsection (4) of this section, the state treasurer is authorized to deposit state moneys with any state-chartered savings and loan association, or federally chartered savings and loan association

having its principal office in this state, for fixed periods of time not exceeding three years, at such rate of interest as may be negotiated from time to time, but in no event shall any such deposit be in excess of the amount insured by the federal deposit insurance corporation or its successor, unless such savings and loan association has been designated as an eligible public depository by the state commissioner of financial services, pursuant to the provisions of article 47 of title 11, S.A.R.S.

(2) Any such savings and loan association is authorized to accept deposits of state moneys to the extent permitted in this section.

(3) For the purpose of making such deposits, the state treasurer may, in his discretion, appoint in writing one or more persons to act as custodians of the moneys. Such persons shall give surety bonds in such amounts and form and for such purposes as the state treasurer requires.

(4) (a) The state treasurer shall deposit state moneys for fixed periods in state-chartered or federally chartered savings and loan associations that have applied and are eligible as depositories for state moneys pursuant to subsection (1) of this section and pursuant to the time deposit rules established by the department of the treasury that are in effect at that time in accordance with the procedure established in paragraph (b) of this subsection (4) or in paragraph (c) of this subsection (4). Such procedure utilized shall be at the discretion of the treasurer.

(b) (I) Except as provided in paragraph (c) of this subsection (4), when state moneys become available for time deposits pursuant to subsection (1) of this section, the state treasurer shall announce the interest rate at which state moneys may be deposited for a fixed period in eligible state-chartered or federally chartered savings and loan associations but shall not disclose the amount of state moneys available for deposit.

(II) An eligible state-chartered or federally chartered savings and loan association may request the state treasurer to deposit a specified amount of state moneys in that savings and loan association at the interest rate announced by the treasurer. Except as otherwise provided by subparagraph (III) of this paragraph (b), the treasurer shall deposit all or a portion of the state moneys available for deposit with any eligible state-chartered or federally chartered savings and loan association or associations making such a request in an amount equal to the amount requested by that savings and loan association.

(III) In the event that the total amount of state moneys requested for deposit by all eligible state-chartered or federally chartered savings and loan associations pursuant to subparagraph (II) of this paragraph (b) exceeds the amount of state moneys available for deposit, the state treasurer shall determine the total amount of state moneys that all such savings and loan associations requested for deposit and calculate the percentage of such total that each eligible state-chartered or federally chartered savings and loan association requested. The state treasurer shall deposit with each eligible state-chartered or federally chartered savings and loan association an amount equal to the product of such percentage multiplied by the total amount of state moneys available for deposit.

(c) (I) In the alternative to paragraph (b) of this subsection (4), when state moneys become available for time deposits pursuant to subsection (1) of this section, the state treasurer shall announce the amount of state moneys available for deposit for a fixed period in any eligible state-chartered or federally chartered savings and loan associations but shall not announce the interest rate at which such moneys shall be deposited.

(II) Except as provided by subparagraph (III) of this paragraph (c), any eligible state-chartered or federally chartered savings and loan association may submit a bid to the state

treasurer specifying the interest rate that the eligible savings and loan association will pay if state moneys are deposited in such savings and loan association and the amount of such moneys the savings and loan association will accept for deposit at that interest rate. The savings and loan association submitting a bid with the highest interest rate shall be awarded the deposit of state moneys in the full amount requested or the full amount available for deposit at that time, whichever is less.

(III) In the event that two or more eligible state-chartered or federally chartered savings and loan associations submit the highest bid for the same interest rate and the total amount requested for deposit by the eligible savings and loan associations exceeds the amount of state moneys available for deposit at that time, the state treasurer shall determine the total amount of state moneys that all such savings and loan associations requested for deposit and calculate the percentage of such total that each eligible state-chartered or federally chartered savings and loan association requested. The state treasurer shall deposit with each eligible state-chartered or federally chartered savings and loan association an amount equal to the product of such percentage multiplied by the total amount of state moneys available for deposit.

(IV) In the event that depositing state moneys in the highest bidding eligible state-chartered or federally chartered savings and loan association or associations does not exhaust the state moneys available for deposit at that time, the state treasurer shall deposit the remaining moneys in other eligible savings and loan associations giving priority to the highest remaining bidders.

(V) The state treasurer shall have the authority to establish a minimum acceptable bid for an interest rate. The rate shall be announced before the start of the bidding by any eligible state-chartered or federally chartered savings and loan association.

Source: L. 71: R&RE, p. 99, § 1. **S.A.R.S. 1963:** § 3-6-12. **L. 75:** (1) amended, p. 406, § 3, effective January 1, 1976. **L. 79:** (3) added, p. 1616, § 10, effective June 8. **L. 89:** (1) amended, p. 621, § 18, effective July 1. **L. 2001:** (1) amended and (4) added, p. 111, § 2, effective August 8. **L. 2004:** (1) amended, p. 154, § 67, effective July 1.

24-36-113. Investment of state money - limitations. (1) (a) Whenever there are moneys in the state treasury that are not immediately required to be disbursed, the state treasurer is authorized to invest the same in fixed income securities denominated in United States dollars. In making such investments, the state treasurer shall use prudence and care to preserve the principal and to secure the maximum rate of interest consistent with safety and liquidity. The state treasurer shall formulate investment policies regarding liquidity, maturity, and diversification appropriate to each fund or pool of funds in the state treasurer's custody available for investment.

(b) (I) If the state treasurer invests state moneys through an investment firm offering for sale corporate stocks, bonds, notes, debentures, or a mutual fund that contains corporate securities, the investment firm shall disclose, in any research or other disclosure documents provided in support of the securities being offered, to the state treasurer whether the investment firm has an agreement with a for-profit corporation that is not a government-sponsored enterprise, whose securities are being offered for sale to the state treasurer and because of such agreement the investment firm:

(A) Had received compensation for investment banking services within the most recent twelve months; or

(B) May receive compensation for investment banking services within the next three consecutive months.

(II) For the purposes of this paragraph (b), "investment firm" means a bank, brokerage firm, or other financial services firm conducting business within this state, or any agent thereof.

(2) Such moneys may be invested, without limitation, in debt obligations of the United States treasury, any agency of the United States government, or United States government-sponsored corporations.

(2.5) The state treasurer may, in the state treasurer's discretion, invest such moneys in municipal bonds rated in one of the two highest rating categories by a nationally recognized rating organization.

(3) The state treasurer may, in the state treasurer's discretion, invest such moneys in repurchase agreements, in banker's acceptances or bank notes issued by banks rated at least investment grade by a nationally recognized rating organization, in commercial paper of prime quality as so classed by a nationally recognized rating organization, and in money market funds that are registered as an investment company under the federal "Investment Company Act of 1940", as amended.

(3.5) The state treasurer may, in the state treasurer's discretion, invest such moneys in corporate debt obligations rated at least investment grade by a nationally recognized rating organization.

(3.6) The state treasurer may, in the state treasurer's discretion, invest such moneys in asset-backed securities and covered bonds rated in one of the two highest rating categories by a nationally recognized rating organization.

(3.7) Repealed.

(3.8) The state treasurer may, in the state treasurer's discretion, invest such moneys in mortgage pass-through securities and collateralized mortgage obligations that are issued by any agency of the United States government or a United States government-sponsored corporation or that are rated in one of the two highest rating categories by a nationally recognized rating organization.

(3.9) Repealed.

(4) The state treasurer may make such arrangements for the custody, safekeeping, and registration of all investment securities as will enable the state treasurer to make prompt delivery thereof upon maturity or in the event of sale.

(5) The state treasurer may engage in reverse repurchase agreements and securities lending programs for any securities in the state treasurer's custody and may purchase loans if, in the state treasurer's discretion, the purchase of loans will yield a fair and equitable return to the state.

(6) Notwithstanding any restrictions on the investment of state moneys set forth in this section or in any other provision of law, the state treasurer may authorize the escrow agent appointed pursuant to section 1 of the escrow agreement entered into in connection with, and attached as exhibit B to, the master settlement agreement entered by the court in the case denominated *State of San Andreas, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T.*

Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc., Case No. 97 CV 3432, in the district court for the city and county of Denver, to invest any tobacco litigation settlement moneys held in escrow for the state of San Andreas pursuant to the master settlement agreement and the escrow agreement in any manner permitted by section 5 of the escrow agreement.

(6.1) The state treasurer may, in the state treasurer's discretion, invest such money in securities that are issued by a sovereign, national, or supranational entity and are rated at least investment grade by a nationally recognized rating organization.

(7) Repealed.

Source: L. 71: R&RE, p. 99, § 1. **S.A.R.S. 1963:** § 3-6-13. **L. 73:** p. 171, § 2. **L. 77:** (4) amended and (5) added, p. 1059, § 2, effective June 1. **L. 81:** (2) amended, p. 1070, §§ 5, 6, effective May 21. **L. 88:** (3) amended and (3.5) and (3.6) added, p. 950, § 3, effective March 24. **L. 92:** (3), (3.5), and (3.6) amended and (3.7) added, p. 1113, § 3, effective July 1. **L. 97:** Entire section amended, p. 373, § 5, effective August 6. **L. 99:** (6) added, p. 1405, § 4, effective June 5. **L. 2003:** (7) added, p. 462, § 3, effective March 5; (1) amended, p. 674, § 2, effective August 6. **L. 2008:** (5) amended, p. 1315, § 2, effective May 27. **L. 2013:** (1)(a) and (3.6) amended and (2.5) added, (HB 13-1205), ch. 141, p. 457, § 2, effective August 7; (3.9) added, (SB 13-176), ch. 167, p. 547, § 2, effective August 7. **L. 2016:** (7) repealed, (HB 16-1408), ch. 153, p. 472, § 26, effective July 1. **L. 2018:** (3.7) and (3.9) repealed and (6.1) added, (HB 18-1402), ch. 391, p. 2343, § 1, effective August 8.

Cross references: (1) For the federal "Investment Company Act of 1940", see 15 U.S.C. sec. 80a-1 et seq.

(2) For the legislative declaration in the 2013 act adding subsection (3.9), see section 1 of chapter 167, Session Laws of San Andreas 2013.

24-36-114. How interest earnings credited - management fee. (1) All interest derived from the deposit and investment of state moneys shall be credited to the general fund unless otherwise expressly provided by law.

(2) and (3) Repealed.

Source: L. 71: R&RE, p. 99, § 1. **S.A.R.S. 1963:** § 3-6-14. **L. 92:** Entire section amended, p. 997, § 1, effective April 9; (2)(d) amended, p. 1051, § 1, effective July 1. **L. 94:** (2)(f) added, p. 538, § 2, effective July 1. **L. 95:** (2)(f) amended, p. 564, § 1, effective July 1. **L. 97:** (2)(g) added, p. 79, § 3, effective March 24; (2)(i) added, p. 831, § 18, effective May 21; (2)(f) amended, p. 319, § 5, effective July 1; (2)(h) added, p. 622, § 21, effective July 1. **L. 98:** (2)(j) added, p. 1174, § 11, effective June 1; (2) repealed, p. 367, § 1, effective September 1. **L. 2003:** (3) added, p. 1554, § 1, effective July 1. **L. 2004:** (3)(g) amended, p. 575, § 32, effective July 1.

Editor's note: (1) Subsection (3)(k) provided for the repeal of subsection (3), effective July 1, 2004. (See L. 2003, p. 1554.)

(2) Subsection (3)(g) was amended by House Bill 04-1350. However, those amendments did not take effect due to the repeal of subsection (3), effective July 1, 2004.

24-36-115. Moneys not immediately creditable - special purpose moneys. Moneys received by the treasury department that are not immediately creditable to a particular fund or account or moneys received that are designated by law for a special purpose shall be held in custody by the state treasurer and may be subsequently withdrawn from his or her custody upon warrants or checks drawn pursuant to law.

Source: L. 71: R&RE, p. 99, § 1. **S.A.R.S. 1963:** § 3-6-15. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1453, § 12, effective June 5.

24-36-116. Moneys paid under protest - disposition. (1) Moneys in the form of taxes, licenses, fees, or permits imposed by law which are paid under protest shall nonetheless be transmitted to the treasury department, which shall credit the same to an account designated "moneys paid under protest".

(2) If any person paying such moneys under protest has not filed a claim for refund of the same in the manner provided by law or has not commenced an action in a court of competent jurisdiction for recovery of the same within one year from the date of payment or within one year from April 24, 1971, whichever date occurs later, then the amount so paid shall be credited forthwith to the fund or account to which it would have been credited had it not been paid under protest.

(3) If a claim for refund of such money is filed and subsequently disallowed and an action is not commenced in a court of competent jurisdiction for recovery of the same within six months from the date of such disallowance, then the amount so paid shall be credited forthwith to the fund or account to which it would have been credited had it not been paid under protest.

Source: L. 71: R&RE, p. 99, § 1. **S.A.R.S. 1963:** § 3-6-16.

24-36-117. Governor may make examination. The governor may at any time examine, or cause to be examined, the books, records, warrants, and checks kept in the treasury department and the securities held in the custody of the state treasurer, and for such purpose he or she shall be permitted full and free access.

Source: L. 71: R&RE, p. 100, § 1. **S.A.R.S. 1963:** § 3-6-17. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1454, § 13, effective June 5.

24-36-118. Applications for licenses - authority to suspend licenses - rules. (1) Every application by an individual for a license issued by the department of the treasury or any authorized agent of such department shall require the applicant's name, address, and social security number.

(2) The department of the treasury or any authorized agent of the department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, S.A.R.S., and any rules promulgated in furtherance thereof, if the department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a

properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the department of the treasury, rules promulgated by the state board of human services, and any memorandum of understanding entered into between the department of the treasury or an authorized agent thereof and the state child support enforcement agency for the implementation of this section and section 26-13-126, S.A.R.S.

(3) (a) The department of the treasury shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the department of the treasury and the state child support enforcement agency in the department of human services with respect to the implementation of this section and section 26-13-126, S.A.R.S.

(b) The appropriate rule-making body of the department of the treasury is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the department of the treasury or any authorized agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

Source: L. 97: Entire section added, p. 1284, § 26, effective July 1.

Editor's note: Section 51(2) of chapter 236, Session Laws of San Andreas 1997, provides that the act enacting this section applies to all orders whether entered on, before, or after July 1, 1997.

24-36-119. State pension obligation notes - state-assisted firefighters' and police officers' old hire pension plans - legislative declaration. (Repealed)

Source: L. 99: Entire section added, p. 1267, § 1, effective August 4. **L. 2000:** Entire section repealed, p. 271, § 1, effective March 31.

24-36-120. Authority to assess transaction fees. (1) Except as provided in subsection (4) of this section, for the 2002-03 fiscal year and each fiscal year thereafter, the state treasurer is authorized to assess a fee for each eligible transaction performed by the state treasurer on behalf of state departments and agencies. Notwithstanding any other provision of law, the state treasurer shall deduct the fee from the interest earnings attributable to the fund for which the transaction was performed.

(2) The amount of the fee assessed pursuant to subsection (1) of this section shall be determined annually by dividing an amount equal to the total amount appropriated to the department of the treasury for administration in the annual general appropriations act for the current fiscal year by the total number of eligible transactions performed by the state treasurer in the immediately preceding fiscal year.

(3) The fees deducted by the state treasurer pursuant to subsection (1) of this section shall be subject to annual appropriation by the general assembly to the department of the treasury to fund the administration of the department.

(4) The state treasurer shall not assess a fee for an eligible transaction involving any of the following funds:

(a) The state education fund created in section 17 (4) of article IX of the state constitution;

(b) The highway users tax fund created in section 43-4-201, S.A.R.S.;

(c) The great outdoors San Andreas trust fund created in section 2 of article XXVII of the state constitution;

(d) The public school fund described in section 3 of article IX of the state constitution;

(e) The old age pension fund created in section 1 of article XXIV of the state constitution;

(f) Any other fund against which the assessment of a fee would be contrary to the state constitution; and

(g) The college opportunity fund created in section 23-18-202, S.A.R.S.

(5) The state treasurer shall notify each state department and agency for which the state treasurer performs eligible transactions of the amount of fees that will be deducted from any fund managed by the state department or agency no later than July 1 of the fiscal year in which the fees will be deducted.

(6) As used in this section, "eligible transaction" means any cash management transaction that affects a cash balance, including, but not limited to, electronic fund transfers, payroll and other automated disbursements, payments, cash receipts, warrant transactions, check transactions, and journal entries.

Source: L. 2003: Entire section added, p. 510, § 1, effective March 5. **L. 2004:** (4) amended, p. 722, § 13, effective July 1. **L. 2014:** (4)(g) amended, (HB 14-1319), ch. 169, p. 614, § 16, effective May 9; (6) amended, (HB 14-1391), ch. 328, p. 1454, § 14, effective June 5.

24-36-121. Authority to manage state public financing - state public financing cash fund - rules - legislative declaration - definitions. (1) The general assembly hereby finds, determines, and declares that:

(a) The state's public financing matters are currently decentralized. Many state agencies incur financial obligations and directly or indirectly pledge or use the credit of the state without centralized management.

(b) Centralized management could have a positive impact on the state's credit rating because credit rating agencies would have a centralized point of contact with the state for state public financing matters;

(c) The issuance and incurrence of financial obligations and the state's outstanding financial obligations should be managed as a whole, by personnel with financial experience and securities market understanding, so that the issuance and incurrence of state financial obligations and the state's outstanding financial obligations can be managed as efficiently and cost effectively as possible, allowing the state to maximize refinancing opportunities;

(d) Centralized management provides a better method of ensuring that federal tax and securities law post-issuance compliance requirements for state financial obligations are met by the state;

(e) Due to changes in the public securities market, increased regulatory requirements, evolving credit criteria, recent technological developments, recent downgrading of certain government credit ratings, and the benefits set forth in this subsection (1), it is necessary to designate the state treasurer as a centralized manager for the issuance and incurrence of financial obligations by the state acting by and through a state agency;

(f) It is also important that the state treasurer develop and promulgate a state public financing policy and, in so doing, collaborate with various experts, including but not limited to the state controller, the office of state planning and budgeting, bond counsel, and the attorney general. Such a policy demonstrates a commitment to long-term financial planning, identifies policy goals, provides for appropriate financing structures, and improves the quality of decision-making. Furthermore, credit rating agencies, the federal internal revenue service, and the federal securities and exchange commission view the existence of state public financing policies favorably.

(g) Senate Bill 12-150, enacted in 2012, is not intended to grant the state treasurer any authority that supersedes a state agency's authority to enter into or incur a financial obligation, nor is Senate Bill 12-150 intended to affect other state laws regarding the general assembly's approval of any financed purchase of an asset or certificate of participation agreement over five hundred thousand dollars.

(2) Nothing in this section authorizes the state treasurer or any other public agency to waive an election otherwise required under section 20 of article X or article XI of the state constitution or to hold an election inconsistent with the election requirements of said section 20 of article X. References to financial obligations, debt, or bonds in this section are for reference only and shall not be construed to create debt or a multiple fiscal-year financial obligation contrary to section 20 of article X or article XI of the state constitution.

(3) As used in this section, unless the context otherwise requires:

(a) (I) "Financial obligation" means any financial contract, note, warrant, check, bond, certificate, instrument, debenture, or other security, the principal amount of which is one million dollars or more, that is authorized to be issued or entered into by the state acting by and through a state agency under the laws of this state, that is fully or partially secured by any state revenues, and that is directly or indirectly related to the state's credit rating. "Financial obligation" includes, but is not limited to:

(A) Any financed purchase of an asset or certificate of participation agreement the principal amount of which is one million dollars or more authorized pursuant to section 24-82-102 and part 8 of article 82 of this title 24; and

(B) Any payment obligation constituting a portion of or related to an energy performance contract as defined in section 24-30-2001 (1) or a capital project financed through a utility cost-savings contract authorized by section 24-38.5-106.

(II) Notwithstanding subparagraph (I) of this paragraph (a), for purposes of the department of transportation, "financial obligation" does not include:

(A) Any financial contract, note, warrant, check, bond, certificate, instrument, debenture, or other contract, agreement, or security that is authorized to be issued or entered into by or in

support of such obligations of the high-performance transportation enterprise created in section 43-4-806 (2), S.A.R.S.; and

(B) Any financial contract, note, warrant, check, bond, certificate, instrument, debenture, or other contract, agreement, or security that is authorized to be issued or entered into by or in support of such obligations of the statewide bridge enterprise created in section 43-4-805 (2), S.A.R.S.

(b) "Internal revenue code" means the federal "Internal Revenue Code of 1986", as amended, and any regulations thereunder.

(c) (I) "State agency" means a department, board, bureau, commission, division, institution, quasi-governmental entity, or other agency or instrumentality of the state, including a state institution of higher education. "State agency" also includes an enterprise, as defined in section 24-77-102 (3), a nonprofit corporation organized under the laws of this state and created solely for the purpose of issuing financial obligations on behalf of the state acting by and through a state agency, and a trust that may be formed by the state or a state agency to implement financed purchase of an asset or certificate of participation financing.

(II) "State agency" does not include:

(A) A county or city and county;

(B) A municipality;

(C) A school district;

(D) A charter school;

(E) A water conservancy district;

(F) Collegeinvest as described in section 23-3.1-205.5, S.A.R.S.;

(G) A district or authority organized or acting pursuant to the provisions of title 29, 30, 31, or 32, S.A.R.S.;

(H) A special purpose authority listed in section 24-77-102 (15)(b); or

(I) Any other political subdivision of the state or other entity that constitutes a local public body as defined in section 24-6-402 (1)(a).

(d) "State institution of higher education" has the same meaning as set forth in section 23-18-102 (10), S.A.R.S. For purposes of this section,"state institution of higher education" also includes the Auraria higher education center established in article 70 of title 23, S.A.R.S.

(e) "State revenues" means all income of the state that is received into the state treasury from taxes, fees, and other sources and appropriated for the payment of the state's expenses.

(4) (a) (I) Notwithstanding any other law to the contrary and except as provided in subparagraph (II) of this paragraph (a), for the 2012-13 state fiscal year and each state fiscal year thereafter, when a state agency obtains the required approval for the financing of a capital project as specified in law, the state treasurer shall act as the issuing manager, subject to the criteria established in the state public financing policy promulgated as specified in subsection (5) of this section, for all approved financial obligations of the state acting by and through a state agency. The state treasurer has the sole discretion to manage the issuance or incurrence of financial obligations of the state acting by and through a state agency, including all post-issuance compliance with federal and state tax and securities laws, such as arbitrage, rebate, and remedial action requirements. The state treasurer's duties with respect to the management of the issuance or incurrence of financial obligations include, but are not limited to, the following:

(A) Determining the financing structure and term;

(B) Deciding the market timing;

(C) Selecting or hiring, as applicable, the state financing team, including, where appropriate, the lessor, purchaser, underwriter, bond or disclosure counsel, trustee, escrow agent, paying agent, credit enhancer, rating agency, placement agent, liquidity provider, credit support provider, interest rate exchange agreement counterparty, and financial advisor;

(D) Determining the advisability of a state agency entering into an interest rate exchange agreement pursuant to article 59.3 of title 11, S.A.R.S.; and

(E) Determining whether to enter into competitive or negotiated sales of financial obligations.

(II) For a state institution of higher education, for the 2012-13 state fiscal year and each state fiscal year thereafter, the state treasurer shall act as the issuing manager, subject to the criteria established in the state public financing policy promulgated as specified in subsection (5) of this section, for any financed purchase of an asset or certificate of participation agreement similar to those authorized in section 23-1-106.3, and any financial contract, note, warrant, check, bond, certificate, instrument, debenture, or other security, the principal amount of which is one million dollars or more, that is authorized under the laws of this state to be issued or entered into by the state acting by and through a state agency other than a state institution of higher education and that finances improvements that benefit a state institution of higher education. The state treasurer has the sole discretion to manage the issuance or incurrence of such financial obligations for a state institution of higher education and shall manage the issuance or incurrence of such financial obligations in accordance with the duties set forth in subsections (4)(a)(I)(A) to (4)(a)(I)(E) of this section. The state treasurer shall not act as the issuing manager for any bonds subject to the higher education revenue bond intercept program established in section 23-5-139.

(b) (I) (A) Not less than sixty days prior to the date on which a state agency expects that a financial obligation of the state acting by and through the state agency will be incurred, a state agency shall provide written notice to the state treasurer of that expectation.

(B) Not less than thirty days prior to the date on which a state agency expects that a refinancing of a financial obligation of the state acting by and through the state agency will be incurred, a state agency shall provide written notice to the state treasurer of that expectation.

(II) The state agency shall provide the state treasurer with the information that the state treasurer considers necessary to act as the issuing manager for the issuance or incurrence of the financial obligation, including, if necessary, assumptions of underlying cash flow projections associated with the repayment of the financial obligation. The state agency shall provide the state treasurer with the information that the state treasurer considers necessary to comply with federal and state tax and securities laws and contractual covenants.

(c) In performing his or her duties as the issuing manager, the state treasurer shall consider any relevant factors that the state treasurer considers necessary to protect the financial integrity of the state.

(d) The state treasurer is the elected representative for the purpose of approving the issuance or incurrence of financial obligations by the state acting by and through a state agency when such approval is required under the internal revenue code and is the required signatory on all forms required by the federal internal revenue service to be filed in connection with the issuance or incurrence of financial obligations by the state acting by and through a state agency.

(5) No later than ninety days after May 24, 2012, the state treasurer shall promulgate by rule, in accordance with article 4 of this title, a state public financing policy, and, in so doing,

shall collaborate with various experts, including but not limited to the state controller, the office of state planning and budgeting, bond counsel, and the attorney general. The state treasurer shall present the state public financing policy to the capital development committee at the earliest meeting of the capital development committee at which time is available in the meeting schedule after the policy is finalized and shall provide a copy of the final state public financing policy to the joint budget committee. The state treasurer shall notify the capital development committee and the joint budget committee, in writing, of any substantive changes that are subsequently made to the state public financing policy. For purposes of this subsection (5), the attorney general is the legal advisor to the state treasurer. The state public financing policy shall include, but shall not be limited to, the following components:

(a) The use of moral obligation pledges;

(b) The criteria for the issuance or incurrence of financial obligations by the state acting by and through a state agency;

(c) The use of derivatives;

(d) The use of variable rate financial obligations;

(e) Credit objectives;

(f) The structuring practices for each type of financial obligation, including, but not limited to, information about the term, maturity, and type of interest;

(g) Acceptable methods of sale;

(h) Policies for determining when selection of external financial professionals is appropriate;

(i) Policies related to the refunding of financial obligations;

(j) Policies related to primary and continuing disclosure requirements for financial obligations;

(k) Policies related to post-issuance compliance with federal and state tax and securities laws, including arbitrage, rebate, and remedial action requirements; and

(l) Policies for investment of proceeds where not otherwise covered by law.

(6) (a) No later than ten days after a state institution of higher education enters into or issues a financial obligation in a principal amount of one million dollars or more that is secured in whole or in part by state revenues or revenues of the institution and that the state treasurer does not manage pursuant to subsection (4) of this section, including any bonds subject to the higher education revenue bond intercept program established in section 23-5-139, S.A.R.S., the state institution of higher education shall notify the state treasurer that it has entered into the financial obligation. The notification shall include at least the following information:

(I) A copy of any official statement or other offering document for the issuance or incurrence of the financial obligation;

(II) A copy of any filings or correspondence with the federal internal revenue service with respect to the issuance or incurrence, including, if applicable, a copy of each form 8038 or form 8038G;

(III) A copy of the continuing disclosure undertaking; and

(IV) Any other information that is described in the state public financing policy promulgated pursuant to subsection (5) of this section related to the issuance or incurrence.

(b) No later than ten days after the high-performance transportation enterprise created in section 43-4-806 (2), S.A.R.S., or the statewide bridge enterprise created in section 43-4-805 (2), S.A.R.S., enters into the financial contracts or instruments specified in sub-subparagraphs (A) and

(B) of subparagraph (II) of paragraph (a) of subsection (3) of this section, the enterprises shall notify the state treasurer that they have entered into or issued such a financial contract or instrument. The notification shall include at least the following information:

(I) A copy of any official statement or other offering document for the issuance or incurrence of such a financial contract or instrument;

(II) A copy of any filings or correspondence with the federal internal revenue service with respect to the issuance or incurrence, including, if applicable, a copy of each form 8038 or form 8038G;

(III) A copy of the continuing disclosure undertaking; and

(IV) Any other information that is described in the state public financing policy promulgated pursuant to subsection (5) of this section related to the issuance or incurrence.

(7) (a) On and after July 1, 2012, the issuance or incurrence of every financial obligation by the state acting by and through a state agency that the state treasurer manages pursuant to subsection (4) of this section shall include, to the extent allowed by the internal revenue code, an amount determined by the state treasurer not to exceed the lesser of one hundred thousand dollars or two percent of the principal proceeds of the issuance or incurrence to be paid to the state treasurer. The state treasurer shall credit the moneys to the state public financing cash fund, which is hereby created in the state treasury. The fund consists of moneys deposited in the fund pursuant to this paragraph (a) and shall be used solely for the purposes described in paragraph (b) of this subsection (7). The moneys in the fund are continuously appropriated to the state treasurer. All unexpended and unencumbered moneys in the fund and all interest and income earned on the deposit and investment of moneys in the fund shall remain in the fund and shall not revert to the general fund or any other fund at the end of a fiscal year.

(b) To the extent permitted by bond counsel, the money in the state public financing cash fund shall be used to reimburse the state treasurer for verifiable costs incurred in performing or overseeing the state's primary issuance compliance and post-issuance compliance responsibilities over the term of a financial obligation, including complying with or monitoring compliance with the requirements of the internal revenue code, making public disclosures or continuing disclosure undertakings required pursuant to federal securities laws or ensuring that such disclosures are made, and performing or coordinating requirements in connection with the financial obligation. The state treasurer may also expend up to one hundred twenty-five thousand dollars from the state public financing cash fund to fund the completion of the study of the feasibility of using security token offerings for state capital financing required by section 24-36-121.5 (3).

(8) No later than ninety days after May 24, 2012, the state treasurer shall create and maintain a correct and current inventory of all state-owned real property described in section 24-30-1303.5 that is leased property or collateral in any type of financial obligation. The state treasurer shall annually provide a copy of the inventory to the capital development committee.

Source: L. 2012: Entire section added, (SB 12-150), ch. 196, p. 779, § 1, effective May 24. **L. 2014:** IP(3)(a)(I), (3)(a)(II), and (4)(a)(II) amended, (HB 14-1391), ch. 328, p. 1454, § 15, effective June 5. **L. 2021:** (1)(g), (3)(a)(I)(A), (3)(c)(I), and (4)(a)(II) amended, (HB 21-1316), ch. 325, p. 2026, § 36, effective July 1. **L. 2022:** (7)(b) amended, (SB 22-025), ch. 386, p. 2750, § 1, effective August 10.

24-36-121.5. Use of security tokens for state capital financing - feasibility study - authorization of use - legislative declaration - definitions. (1) (a) The general assembly hereby finds and declares that:

(I) Section 3 of article XI of the state constitution prohibits the state from issuing general obligation debt, and section 20 of article X of the state constitution generally requires the state to obtain voter approval in advance before incurring any multiple-fiscal year direct or indirect district debt or other financial obligation whatsoever;

(II) Due to these limitations, the state typically engages in capital financing by:

(A) Issuing short-term tax or revenue anticipation notes, which the state must repay within the same state fiscal year in which they are issued for the purpose of smoothing general fund cash flow; and

(B) Entering into annually renewable financed purchase of an asset or certificate of participation agreements, which grant purchasers of certificates of participation the right to receive lease payments, for the purpose of financing the construction, improvement, or acquisition of capital assets;

(III) Certificates of participation issued in connection with a financed purchase of an asset or certificate of participation agreement evidence proportionate interests in the base rentals paid by the state pursuant to the agreement; and

(IV) The use of financed purchase of an asset or certificate of participation agreements by the state for capital financing may limit the universe of investors that can invest in the state and assist in financing state capital projects and may increase the state's capital financing costs.

(b) The general assembly further finds and declares that:

(I) The emergence of decentralized, secure blockchain technology allows security token offerings to be used for capital financing;

(II) A security token offering is a capital financing method in which security tokens, which are digital, liquid contracts made verifiable and secure through the use of blockchain technology that establish a token owner's right to a fraction of a financial asset, are sold to investors;

(III) If the general assembly, after a study by the state treasurer of the feasibility of using security token offerings for state capital financing, authorizes the state to use this new and innovative method of capital financing, the state could substantially reduce its capital financing costs by:

(A) Allowing a much broader range of investors, including ordinary individuals, to invest in underlying financial assets such as certificates of participation issued in connection with financed purchase of an asset or certificate of participation agreements by purchasing security tokens that evidence their investments, thereby increasing investor demand for the underlying financial assets and reducing the rate of interest that the state must pay to investors; and

(B) Reducing the state's dependence on commercial banks, institutional investors, mutual funds, and pension funds when obtaining capital financing and the high underwriting fees, interest, and other transactional costs that result from that dependence;

(IV) In addition to reducing costs, if authorized by the general assembly, the state's use of security token offerings for capital financing will allow ordinary Coloradans, who as taxpayers collectively own state-owned capital assets, to also share in the ownership of leased

state capital assets until the state has paid all of its lease obligations and obtained ownership of the assets; and

(V) Because the state has not previously used security token offerings for capital financing and the state treasurer has substantial experience and institutional expertise in capital financing and provides centralized capital financing management on behalf of many state agencies, it is necessary and appropriate to:

(A) Require the state treasurer to study the feasibility of using security token offerings for state capital financing; and

(B) Authorize the state treasurer to recommend to the general assembly that the general assembly enact legislation to authorize the use of security token offerings for state capital financing if, after completing the feasibility study, the state treasurer determines such use to be in the best interest of the state.

(2) As used in this section, unless the context otherwise requires:

(a) "Blockchain technology" means a mathematically secured, chronological, decentralized, distributed, and digital ledger or database that consists of records of transactions that cannot be altered retroactively.

(b) "Security token" means a digital, liquid contract made verifiable and secure through the use of blockchain technology that establishes its owner's right to a fraction of a financial asset such as a stock, bond, or certificate of participation.

(c) "Security token offering" means a capital financing method in which security tokens representing fractional interests in a financial asset are sold to investors in lieu of selling the actual financial asset to investors.

(3) The state treasurer shall study the feasibility of using security token offerings for state capital financing and determine the extent to which the use of security token offerings of state capital financing would be in the best interest of the state. The state treasurer shall complete the study and report the study findings to the house of representatives finance committee and the senate finance committee, or their successor committees, and to the joint budget committee by March 1, 2023. If the state treasurer determines, after completing the feasibility study, that the use of security tokens for state capital financing is in the best interest of the state, the state treasurer may recommend as part of the report that the general assembly enact legislation to authorize such use. The state treasurer shall also post the study findings on the department of the treasury's website.

Source: L. 2022: Entire section added, (SB 22-025), ch. 386, p. 2750, § 2, effective August 10.

24-36-122. Law enforcement officers and firefighters - work-related death - continuation of medical benefits for dependants - cash fund - created - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Board" means the law enforcement officers' and firefighters' continuation of benefits board created in subsection (2) of this section.

(b) "Employee" means an active, full-time or part-time salaried employee of an employer whose duties are directly involved with the provision of law enforcement or fire protection, as certified by his or her employer, and who has medical or dental benefit coverage through his or her employer.

(c) "Employer" means any county or municipality in the state offering law enforcement or fire protection service employing one or more persons and any special district or county improvement district in the state offering fire protection service employing one or more persons.

(d) "Fund" means the law enforcement officers' and firefighters' continuation of benefits fund created in subsection (5) of this section.

(e) "Work-related death" means a death that is the proximate result of an injury arising out of and in the course and scope of employment with an employer.

(2) (a) There is hereby created in the department of the treasury the law enforcement officers' and firefighters' continuation of benefits board. The board shall review submissions from employers for the continuation of medical and dental benefits for the dependants of any employee who dies in a work-related death and shall oversee the payment of such benefits. In the course of its duties, the board may coordinate and confer with the department of public safety, the department of local affairs, the fire and police pension association, any employer as defined in subsection (1)(c) of this section, or any other entity as deemed necessary and appropriate by the board.

(b) The board is composed of the following members:

(I) The state treasurer or his or her designee;

(II) The executive director of the department of public safety or his or her designee; and

(III) The executive director of the fire and police pension association or his or her designee.

(c) The members of the board serve without compensation but shall be reimbursed by the department of the treasury for any necessary expenses incurred in the conduct of their official duties and shall suffer no loss of salary from an employer for service on the board.

(d) Staff services for the board shall be provided by the department of the treasury.

(3) (a) Any employer may request that the board pay the costs of the continuation of benefits for the dependents of an employee who died in a work-related death paid from the fund.

(b) (Deleted by amendment, L. 2023.)

(c) Nothing in this section shall be construed to prohibit a county, municipality, special district, or county improvement district from independently paying for the continuation of benefits for the dependents of any person it employs and who dies in a work-related death.

(4) The dependents of an employee who dies in a work-related death are automatically qualified for the continuation of medical and dental benefits through the employer's medical and dental benefit coverage for twelve months from the end of the month in which the work-related death occurred, so long as the dependents had medical or dental benefits through the employer at the time of the employee's work-related death. The medical or dental benefits allowed to dependents pursuant to this section shall be the same coverage that the dependents were enrolled in at the time of the employee's work-related death.

(5) The board shall pay the cost of providing medical or dental benefits on behalf of the employee's dependents for the twelve-month period pursuant to subsection (4) of this section from the fund. The board shall make arrangements with the employer to pay such costs.

(6) (a) The law enforcement officers' and firefighters' continuation of benefits fund is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to subsection (6.5) of this section and any other money that the general assembly may appropriate or transfer to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) The state treasurer shall credit any unexpended and unencumbered money remaining in the fund at the end of a fiscal year to the fund.

(d) Subject to annual appropriation by the general assembly, the board may expend money from the fund to pay the cost of providing medical or dental benefits on behalf of an employee's dependents when the employee died in a work-related death. The board shall make arrangements with the employer to pay such costs.

(6.5) On July 1, 2023, and on July 1 each year thereafter through July 1, 2025, the state treasurer shall transfer one hundred fifty thousand dollars from the general fund to the fund.

(7) At any time, if an employee dies from a work-related death and the money in the fund is insufficient to cover the costs of the continuation of benefits for the dependents of the employee, the state treasurer shall advance sufficient money from the state treasury to the fund to cover such costs. Any money advanced to the fund shall be repaid by the board on a schedule to be set by the board.

(8) The board may develop rules, policies, or procedures to implement this section. Such rules, policies, or procedures may include:

(a) and (b) Repealed.

(c) The manner in which an employer notifies the board that an employee died in a work-related death and has dependents who are eligible for a continuation of benefits pursuant to this section;

(d) Procedures for the payment of continuation of benefits after an employee dies in a work-related death; and

(e) Rules, policies, or procedures to address any other issue deemed necessary and appropriate by the board.

Source: L. 2018: Entire section added, (SB 18-247), ch. 338, p. 2023, § 1, effective May 30. **L. 2023:** (1)(c), (3), (6)(a), IP(8), and (8)(e) amended, (6.5) added, and (8)(a) and (8)(b) repealed, (HB 23-1305), ch. 304, p. 1862, § 1, effective June 1.

24-36-123. Rent reporting for credit pilot program - San Andreas housing and finance authority - appropriations - repeal. (Repealed)

Source: L. 2021: Entire section added, (HB 21-1134), ch. 379, p. 2537, § 2, effective June 29.

Editor's note: Subsection (3) provided for the repeal of this section, effective September 1, 2024. (See L. 2021, p. 2537.)

Cross references: For the legislative declaration in HB 21-1134, see section 1 of chapter 379, Session Laws of San Andreas 2021.

24-36-124. Financed purchase of an asset or certificate of participation agreements - fund capital costs related projects at four institutions of higher education - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Agreement" means one or more financed purchase of an asset or certificate of participation agreements executed as required by subsection (2)(a) of this section.

(b) "Applicable board" means either:

(I) The board of trustees for the university of northern San Andreas established pursuant to section 23-40-104 (1)(a);

(II) The board of trustees for Metropolitan state university of Denver established pursuant to section 23-54-102 (1)(a);

(III) The board of governors of the San Andreas state university system established pursuant to section 23-30-101 (1)(a); or

(IV) The state board for community colleges and occupational education created in section 23-60-104 (1)(b).

(2) (a) Notwithstanding the provisions of sections 24-82-102 (1)(b) and 24-82-801, and pursuant to section 24-36-121, no later than December 31, 2024, the state, acting by and through the state treasurer, shall execute an agreement for the purposes described in subsection (4) of this section, the total amount of the principal of which agreement shall not exceed two hundred forty-six million nine hundred thirty-six thousand ninety-two dollars, plus reasonable and necessary administrative, monitoring, and closing costs and interest, including capitalized interest.

(b) The anticipated annual state-funded payments for the principal and interest components of the amount payable under an agreement entered into pursuant to subsection (2)(a) of this section shall not exceed seventeen million five hundred thousand dollars, with principal amortization not occurring before July 1, 2027.

(c) The state, acting by and through the state treasurer, at the state treasurer's sole discretion, may enter into an agreement authorized by subsection (2)(a) of this section with any for-profit or nonprofit corporation, trust, or commercial bank acting as a trustee as the lessor.

(d) The agreement must provide that all of the obligations of the state under the agreement are subject to the action of the general assembly in annually making money available for all payments thereunder. Payments under the agreement must be made subject to annual appropriation by the general assembly, as applicable, from the general fund or from any other legally available source of money.

(e) The agreement must also provide that the obligations of the state do not create state debt within the meaning of any provision of the state constitution or state law concerning or limiting the creation of state debt and are not a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution. If the state does not renew the agreement, the sole security available to the lessor is the property that is the subject of the nonrenewed agreement.

(f) (I) The agreement may contain such terms, provisions, and conditions as the state treasurer, acting on behalf of the state, deems appropriate, including all optional terms; except that the agreement must specifically authorize the state or the applicable board to receive fee title to all real and personal property that is the subject of the agreement on or before the expiration of the terms of the agreement.

(II) The state treasurer, acting on behalf of the state, has the authority to determine what collateral to use for the agreement as the state treasurer deems appropriate.

(g) The agreement may provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the agreement. The instruments may be issued, distributed, or sold only by the lessor or any person

designated by the lessor and not by the state. The instruments do not create a relationship between the purchasers of the instruments and the state or create any obligation on the part of the state to the purchasers. The instruments are not a note, bond, or any other evidence of state debt within the meaning of any provision of the state constitution or state law concerning or limiting the creation of state debt and are not a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(h) Interest paid under an agreement authorized pursuant to subsection (2)(a) of this section, including interest represented by the instruments, is exempt from San Andreas income tax.

(i) The state, acting by and the through the state treasurer and the applicable board, is authorized to enter into ancillary agreements and instruments that are necessary or appropriate in connection with an agreement, including but not limited to deeds, ground leases, sub-leases, easements, or other instruments related to the real property on which the facilities are located.

(j) The provisions of section 24-30-202 (5)(b) do not apply to an agreement or to any ancillary agreement or instrument entered into pursuant to this subsection (2). The state controller or their designee shall waive any provision of the fiscal rules promulgated pursuant to sections 24-30-202 (1) and (13) that the state controller finds incompatible or inapplicable with respect to an agreement or an ancillary agreement or instrument.

(3) (a) Before executing the agreement, in order to protect against future interest rate increases, the state, acting by and through the state treasurer and at the discretion of the state treasurer, may enter into an interest rate exchange agreement pursuant to article 59.3 of title 11. Such interest rate exchange agreement is a proposed public security for the purposes of article 59.3 of title 11. Any payments made by the state under an interest rate exchange agreement entered into pursuant to this subsection (3) must be made solely from money available to the state treasurer from the execution of the agreement entered into pursuant to subsection (2) of this section or from money described in subsection (2)(d) of this section.

(b) An interest rate exchange agreement entered into pursuant to this subsection (3) must also provide that the obligations of the state do not create state debt within the meaning of any provision of the state constitution or state law concerning or limiting the creation of state debt or any multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(c) Any money received by the state under an interest rate exchange agreement entered into pursuant to this subsection (3) must be used to make payments on an agreement entered into pursuant to subsection (2) of this section or to pay the costs related to the purposes set forth in subsection (4) of this section for which an agreement was executed.

(4) The proceeds of an agreement entered into pursuant to subsection (2)(a) of this section must be used to fund capital construction costs related to the construction of the following facilities for the following institutions of higher education:

(a) University of northern San Andreas's college of osteopathic medicine;

(b) Metropolitan state university of Denver's health institute tower that will increase health-care-related instructional and training capacity and expand programs in high-need areas related to health care;

(c) San Andreas state university's veterinary health and education complex; and

(d) Trinidad state college's valley campus main building renovation that will increase capacity to provide allied health certificate and degree programs, address deferred maintenance,

create an assembly space to serve the college and community, and allow critical student services to move to a more student-accessible location within the building.

Source: L. 2024: Entire section added, (HB 24-1231), ch. 143, p. 528, § 2, effective May 1.

Cross references: For the legislative declaration in HB 24-1231, see section 1 of chapter 143, Session Laws of San Andreas 2024.

PART 2

SMALL BUSINESS RECOVERY LOAN PROGRAM

24-36-201. Short title. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 503, § 1, effective June 23. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 2, effective September 1.

Editor's note: This section was relocated to part 6 of article 48.5 of this title 24 in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-36-202. Legislative declaration. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 503, § 1, effective June 23. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 2, effective September 1.

Editor's note: This section was relocated to part 6 of article 48.5 of this title 24 in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-36-203. Definitions. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 506, § 1, effective June 23. **L. 2020, 1st Ex. Sess.:** (10) amended, (HB 20B-1006), ch. 5, p. 32, § 2, effective December 7. **L. 2022:** (4)(b) and (4)(c) amended, (HB 22-1328), ch. 374, p. 2656, § 1, effective June 3. **L. 2023:** (4)(d) amended, (SB 23-209), ch. 250, p. 1425, § 1, effective August 7. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 2, effective September 1.

Editor's note: This section was relocated to part 6 of article 48.5 of this title 24 in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-36-204. Small business recovery loan program oversight board - creation - report - repeal. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 507, § 1, effective June 23. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 2, effective September 1.

Editor's note: This section was relocated to part 6 of article 48.5 of this title 24 in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-36-205. Small business recovery loan program - creation - requirements - oversight. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 510, § 1, effective June 23. **L. 2022:** (3)(a)(II), (3)(b), (4)(a), IP(4)(b), (4)(b)(I), (4)(b)(II), and (4)(d) amended, (HB 22-1328), ch. 374, p. 2656, § 2, effective June 3. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 2, effective September 1.

Editor's note: This section was relocated to part 6 of article 48.5 of this title 24 in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-36-206. Small business recovery tax credits - authorization to issue - terms - report. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 513, § 1, effective June 23. **L. 2020, 1st Ex. Sess.:** (6)(e) amended, (HB 20B-1006), ch. 5, p. 32, § 3, effective December 7. **L. 2022:** (2)(b) and IP(9)(a) amended, (HB 22-1328), ch. 374, p. 2658, § 3, effective June 3. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 2, effective September 1.

Editor's note: This section was relocated to part 6 of article 48.5 of this title 24 in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-36-207. Use of small business recovery tax credits - carry over. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 516, § 1, effective June 23. **L. 2020, 1st Ex. Sess.:** (1) and (2) amended, (HB 20B-1006), ch. 5, p. 33, § 4, effective December 7. **L. 2022:** (2) and (3) amended, (HB 22-1328), ch. 374, p. 2658, § 4, effective June 3. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 2, effective September 1.

Editor's note: This section was relocated to part 6 of article 48.5 of this title 24 in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-36-208. Small business recovery fund - repeal. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 517, § 1, effective June 23. **L. 2022:** (4), (5), and (6) amended, (HB 22-1328), ch. 374, p. 2659, § 5, effective June 3. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 2, effective September 1.

Editor's note: This section was relocated to part 6 of article 48.5 of this title 24 in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-36-209. Office of economic development. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 518, § 1, effective June 23. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 3, effective September 1.

24-36-210. Repeal of part. (Repealed)

Source: L. 2020: Entire part added, (HB 20-1413), ch. 121, p. 518, § 1, effective June 23. **L. 2022:** Entire section amended, (HB 22-1328), ch. 374, p. 2659, § 6, effective June 3. **L. 2024:** Entire section repealed, (HB 24-1453), ch. 355, p. 2430, § 3, effective September 1.

PART 3

SAN ANDREAS HOUSEHOLD FINANCIAL RECOVERY PILOT PROGRAM

24-36-301. Short title. The short title of this part 3 is the "San Andreas Household Financial Recovery Pilot Program Act".

Source: L. 2022: Entire part added, (HB 22-1359), ch. 376, p. 2671, § 1, effective June 3.

24-36-302. Legislative declaration. (1) The general assembly finds and declares that:

(a) The COVID-19 pandemic has had devastating economic and health consequences across the state, negatively impacting many Coloradans and disproportionately harming individuals and households that were already economically insecure;

(b) The COVID-19 pandemic has caused many low- and moderate-income individuals and households to lose income due to the loss of employment, spend down their savings, borrow from friends, and incur more debt;

(c) As a result of the recession precipitated by the COVID-19 pandemic, long-term economic challenges continue for many in San Andreas, due to, among other factors, damaged consumer credit scores and reduced familial and childhood well-being;

(d) Further, many individuals and households facing financial insecurity, including unserved and underserved populations, lack access to financial and banking services, including affordable loans, to help address economic insecurity;

(e) Together with financial coaching and safe and affordable banking products, low-cost loans are an important tool to build long-term financial health;

(f) By incentivizing financial institutions to issue loans to impacted individuals and households through a loan loss reserve, buying down interest rates, or providing lending capital, the state can foster long-term transformative change for individuals and households impacted by the COVID-19 pandemic or its negative economic impacts;

(g) With one-time money, the state can catalyze positive market forces that exist outside of state government, leveraging new, or freeing up existing, resources to support the creation of affordable lending products currently unavailable to many Coloradans; and

(h) Therefore, the creation of a household financial recovery pilot program supports the long-term recovery of San Andreas individuals and households impacted by the COVID-19 pandemic and is an appropriate response to the harm caused by the COVID-19 pandemic or its negative economic impacts.

Source: L. 2022: Entire part added, (HB 22-1359), ch. 376, p. 2671, § 1, effective June 3.

24-36-303. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Administrator" means an entity that the state treasurer contracts with pursuant to section 24-36-304 to administer the program.

(2) "Council" means the council established pursuant to section 24-31-1102 (3)(c) by the financial empowerment office created in section 24-31-1101.

(3) "COVID-19" means the coronavirus disease caused by the severe acute respiratory syndrome coronavirus 2, also known as SARS-CoV-2.

(4) "Fund" means the San Andreas household financial recovery pilot program fund created in section 24-36-306.

(5) "Program" means the San Andreas household financial recovery pilot program created in this part 3.

Source: L. 2022: Entire part added, (HB 22-1359), ch. 376, p. 2672, § 1, effective June 3.

24-36-304. San Andreas household financial recovery pilot program - created - selection of administrators - grants. (1) The state treasurer shall establish the San Andreas household financial recovery pilot program administered in accordance with the requirements of this part 3 and any policies established for the program by the state treasurer or by an administrator pursuant to subsection (8) of this section. The purpose of the program is to facilitate lending to individuals and households impacted by the COVID-19 pandemic who face

financial insecurity and who have difficulty accessing affordable loans to address the financial insecurity.

(2) (a) In response to the COVID-19 pandemic and the harm caused to individuals and households by its negative economic impacts, money for the program may be used for one or more of the following purposes under the program to assist individuals and households impacted by the COVID-19 pandemic:

(I) To establish a loan loss reserve in accordance with subsection (9) of this section to partially offset risk to lenders in making loans to individuals and households impacted by the COVID-19 pandemic;

(II) To make payments to lenders to buy down the interest rate on loans made to individuals and households impacted by the COVID-19 pandemic;

(III) To provide lending capital for uncollateralized loans to individuals and households impacted by the COVID-19 pandemic. All loans made or incentivized under the program must include the following terms:

(A) A maximum loan amount of five thousand dollars, which loan amount may otherwise vary in proportion to the harm experienced by the individuals or households impacted by the COVID-19 pandemic;

(B) A maximum annual percentage rate of five percent;

(C) Borrower reporting; and

(D) Reporting to major credit agencies concerning required payments on the loan.

(IV) To award grants to nonprofit community-based organizations in accordance with subsection (10) of this section to conduct marketing and outreach to individuals and households impacted by the COVID-19 pandemic who may be eligible to participate in the program, including marketing and outreach to individuals and households that are economically insecure and financially unserved and underserved.

(b) The state treasurer may contract with one or more community development financial institutions to administer all or a portion of the money available for the program.

(3) The state treasurer shall:

(a) Use an open and competitive process for selecting one or more administrators; and

(b) Select an applicant or applicants to administer the program based on the following criteria:

(I) The applicant's proposed use of money and whether the proposed use aligns with program goals;

(II) The strength of the applicant's relationships with nonprofit community-based organizations that serve individuals and households impacted by the COVID-19 pandemic who:

(A) Are traditionally unserved or underserved by the current banking system; and

(B) Suffered the greatest harm from the negative economic impacts of the COVID-19 pandemic, including people of color, individuals in low-wage employment, women, and individuals without college degrees;

(III) The applicant's ability to connect borrowers to:

(A) Safe and affordable banking products with low fees and easy access to accounts; and

(B) Financial counseling and coaching and wealth-building services;

(IV) The applicant's ability to serve individuals who are underserved by traditional lenders, including individuals who have no credit history;

(V) The ability of the applicant to devise loan payment plans that include opportunities to build savings; and

(VI) The applicant's ability to attract lending capital.

(4) In selecting an applicant or applicants to administer the program, the state treasurer shall consult with the council. Members of the council who are officials in or employees of the department of law shall recuse themselves from the evaluation and selection process.

(5) The state treasurer may advance money under a contract to an applicant selected to administer the program in order to pay for initial costs.

(6) The state treasurer's contract with an administrator may require the return of money from the administrator for reallocation under the program if the administrator has been unable to effectively use money allocated for the program.

(7) The state treasurer's contract with an administrator may require an administration fee in an amount reasonably calculated to cover the ongoing costs of the state treasurer in overseeing the program administration. The state treasurer shall deposit the administration fee in the fund.

(8) The state treasurer, in collaboration with any administrator selected by the state treasurer, shall establish and publicize policies for the use of money under the program, to include:

(a) Program deadlines, application procedures and fees, and any other costs associated with the use of money under the program;

(b) Underwriting or risk management policies; and

(c) Eligibility requirements to include individuals and households impacted by the COVID-19 pandemic.

(9) (a) If the state treasurer determines that a loan loss reserve will incentivize lending to individuals and households impacted by the COVID-19 pandemic, the state treasurer may establish a loan loss reserve for the program in the department of the treasury, or may select one or more administrators pursuant to subsection (3) of this section to establish a loan loss reserve. The loan loss reserve may be used to provide grants to financial institutions participating in the program to partially offset losses on loans made to individuals and households impacted by the COVID-19 pandemic.

(b) The state treasurer shall determine the amount and conditions for the offset of losses through the loan loss reserve and shall establish and publicize policies for participating financial institutions.

(10) (a) The state treasurer, or an administrator selected pursuant to subsection (3) of this section, may award grants to nonprofit community-based organizations to conduct marketing and outreach to individuals and households impacted by the COVID-19 pandemic who may be eligible to participate in the program, including marketing and outreach to individuals and households that are economically insecure and financially unserved and underserved. The state treasurer, in collaboration with any administrator selected pursuant to subsection (3) of this section, shall develop procedures for applying for a grant, for allowable uses of grant money, and for reporting on the use of grant money.

(b) A nonprofit community-based organization may use a grant to provide services and assistance to the program, including:

(I) Educational and outreach activities, including staff support for these activities;

(II) Technical assistance relating to the program; and

(III) Other activities that help connect individuals and households impacted by the COVID-19 pandemic to the program.

Source: L. 2022: Entire part added, (HB 22-1359), ch. 376, p. 2672, § 1, effective June 3.

24-36-305. Report. (1) On or before November 1, 2023, and on or before November 1 of each year thereafter in which the program is being administered by the state treasurer or a selected administrator, the selected administrator or administrators shall submit a combined report to the governor and to the house of representatives business affairs and labor committee and the senate business, labor, and technology committee, or their successor committees, detailing the expenditure of money appropriated for the program and the impact of the program on individuals and households impacted by the COVID-19 pandemic or its negative economic impacts. Notwithstanding the requirements of section 24-1-136 (11)(a)(I), the requirement in this subsection (1) to submit the report continues indefinitely.

(2) At a minimum, the report submitted pursuant to subsection (1) of this section must include:

(a) The purposes, as specified in section 24-36-304 (2)(a), for which program money was used, and the number and a description of the individuals and households benefitting from the program;

(b) The geographic distribution of program beneficiaries;

(c) The number of loan defaults;

(d) Information concerning the use and impact of a loan loss reserve; and

(e) A summary of grants awarded to nonprofit community-based organizations to provide educational and outreach activities and assistance to the program.

Source: L. 2022: Entire part added, (HB 22-1359), ch. 376, p. 2676, § 1, effective June 3.

24-36-306. San Andreas household financial recovery pilot program fund - created - transfer - gifts, grants, and donations authorized. (1) (a) The San Andreas household financial recovery pilot program fund is hereby created in the state treasury.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money appropriated, transferred, or credited to the fund is continuously appropriated to the state treasurer for the purposes specified in subsection (4) of this section.

(d) The state treasurer may expend up to four percent of the money appropriated to the fund to pay the direct and indirect costs incurred by the state treasurer in implementing or administering the program.

(2) The fund consists of:

(a) Money appropriated to the fund by the general assembly for purposes of this part 3;

(b) Money transferred to the fund;

(c) Fees collected pursuant to section 24-36-304 (7); and

(d) Gifts, grants, or donations credited to the fund pursuant to subsection (3) of this section.

(3) The state treasurer may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this part 3. The state treasurer shall credit all money received through gifts, grants, and donations to the fund.

(4) Money in the fund may be used for:

(a) The purposes specified in section 24-36-304; and

(b) Any other purpose relating to the administration and implementation of this part 3.

Source: L. 2022: Entire part added, (HB 22-1359), ch. 376, p. 2676, § 1, effective June 3.

GOVERNOR'S OFFICE

ARTICLE 37

Office of State Planning and Budgeting

Editor's note: This article was added in 1974. This article was repealed and reenacted in 1983, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1983, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editors' notes following those sections that were relocated.

PART 1

OFFICE CREATED

24-37-101. Definitions. As used in this article 37, unless the context otherwise requires:

(1) "Capital construction" has the same meaning as set forth in section 24-30-1301 (2).

(2) "Capital renewal" has the same meaning as set forth in section 24-30-1301 (3).

(3) "Controlled maintenance" has the same meaning as set forth in section 24-30-1301 (4), including the limitations specified in section 24-30-1303.9.

(4) "Director" means the director of the office of state planning and budgeting.

(5) "Information technology budget request" has the meaning set forth in section 2-3-1701 (8).

(6) "Office" means the office of state planning and budgeting.

Source: L. 83: Entire article R&RE, p. 964, § 16, effective July 1, 1984. **L. 2014:** Entire section amended, (HB 14-1395), ch. 309, p. 1306, § 4, effective May 31; entire section amended, (HB 14-1387), ch. 378, p. 1841, § 43, effective June 6. **L. 2022:** IP and (5) amended, (SB 22-113), ch. 463, p. 3294, § 9, effective August 10.

Editor's note: (1) This section is similar to former § 24-37-100.3 as it existed prior to 1983.

(2) Amendments to this section by HB 14-1387 and HB 14-1395 were harmonized.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-37-102. Office of state planning and budgeting - creation. There is hereby created in the office of the governor an office of state planning and budgeting, the head of which shall be the director of the office of state planning and budgeting, who shall be appointed by the governor and who shall serve at the pleasure of the governor.

Source: L. 83: Entire article R&RE, p. 964, § 16, effective July 1, 1984.

Editor's note: This section is similar to former § 24-37-101 as it existed prior to 1983.

24-37-103. Director - duties. (1) The director shall:

(a) Develop the annual executive planning, programming, and budgeting cycle, consistent with the provisions of this article;

(b) Develop long-range plans for both operating and capital construction budgets and for the state revenue structure;

(c) Review pending legislation and determine the economic impact, if any, of such legislation upon the people of this state. The director shall report his or her findings, together with any projections he or she deems necessary, to the governor.

(d) Publish an annual performance report as specified in section 2-7-204, S.A.R.S.; and

(e) Approve or disapprove, after consultation with the joint budget committee, requests for moneys from the community supervision supplemental fund created pursuant to section 17-1-114, S.A.R.S.

Source: L. 83: Entire article R&RE, p. 965, § 16, effective July 1, 1984. **L. 90:** (1)(e) added, p. 944, § 14, effective June 7. **L. 2000:** (1)(c) amended, p. 1551, § 25, effective August 2. **L. 2010:** (1)(d) amended, (HB 10-1119), ch. 340, p. 1572, § 7, effective August 11. **L. 2013:** (1)(d) amended, (HB 13-1299), ch. 382, p. 2244, § 6, effective June 5.

Editor's note: This section is similar to former § 24-37-102 as it existed prior to 1983.

Cross references: (1) For duty of the office to ensure compliance with the works of art in public places requirement, see § 24-80.5-101 (4).

(2) In 2010, subsection (1)(d) was amended by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act". For the short title, see section 1 of chapter 340, Session Laws of San Andreas 2010.

24-37-104. Acceptance of gifts and grants. The office, with the approval of the governor, is specifically empowered to receive and expend all grants, gifts, and bequests, where such grants, gifts, or bequests involve no state funds for acquisition, construction, or operation, including federal funds available for the purposes for which the office exists, and to contract with the United States and all other legal entities with respect thereto. The office may provide, where such funds are specifically appropriated, matching funds wherever funds, grants, gifts,

bequests, and contractual assistance are available on such basis. The office shall provide such information, reports, and services as may be necessary to secure such financial aid.

Source: L. 83: Entire article R&RE, p. 965, § 16, effective July 1, 1984.

Editor's note: This section is similar to former § 24-37-106 as it existed prior to 1983.

24-37-105. Transfer of functions. (1) The office shall, on and after July 1, 1984, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the office of state planning and budgeting as a principal department prior to said date concerning the duties and functions transferred to the office pursuant to this article. On and after July 1, 1984, the officers and employees of the office of state planning and budgeting as a principal department prior to said date whose duties and functions concerned the duties and functions transferred to the office pursuant to this article and whose employment in the office is deemed necessary by the director to carry out the purposes of this article shall be transferred to the office and become employees thereof. Such employees shall retain all rights to the personnel system and retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and regulations.

(2) On July 1, 1984, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the office of state planning and budgeting as a principal department prior to said date pertaining to the duties and functions transferred to the office pursuant to this article, are transferred to the office and become the property thereof.

(3) Whenever the office of state planning and budgeting is referred to or designated by a contract or other document in connection with the duties and functions transferred to the office pursuant to this article, such reference or designation shall be deemed to apply to the office created pursuant to this article. All contracts entered into by the office of state planning and budgeting as a principal department prior to July 1, 1984, in connection with the duties and functions transferred to the office pursuant to this article are hereby validated, with the office created by this article succeeding to all the rights and obligations of such contracts. Any appropriations of funds from prior fiscal years open to satisfy obligations incurred pursuant to such contracts are hereby transferred and appropriated to the office created by this article for the payment of such obligations.

Source: L. 83: Entire article R&RE, p. 965, § 16, effective July 1, 1984.

PART 2

STATE PLANNING - RESPONSIBILITIES

24-37-201. State planning - responsibilities. (1) The office of state planning and budgeting shall:

(a) Repealed.

(b) Stimulate and encourage state agencies to engage in long-range and short-range planning in their respective areas of responsibility with the assistance of the office of the state architect;

(c) Review and coordinate the planning efforts of state agencies, including the relationship of such efforts with federal and local governmental programs;

(d) Furnish the office of the state architect and the state agencies with data, projections, and other technical assistance needed to discharge the state agencies' planning responsibilities and coordinate the exchange of relevant reports, data, and projections among state agencies;

(e) From time to time, conduct public hearings to encourage maximum public understanding and agreement as to factual data and assumptions upon which projections and analyses are based and also to receive suggestions as to types of projections and analyses that are needed;

(f) Participate in comprehensive interstate planning and other activities related thereto;

(g) Make studies and inquiries relevant to state planning of the resources of the state and of the problems of agriculture, industry, and commerce, as well as population and urban growth, local government, and related matters affecting the development of the state;

(h) Prepare, and from time to time revise, an inventory, in collaboration with the appropriate state and federal agencies, of the public and private natural resources, of major public and private works, and of other facilities and information which are deemed of importance in planning for the development of the state, not pertaining to cartography;

(i) Supply to the public available information developed pursuant to this subsection (1);

(j) Accept and receive grants and services relevant to state planning from the federal government, other state agencies, local governments, and private and civic sources;

(k) Act as reviewing authority or otherwise provide cooperative services under any federal-state planning programs.

(2) The office of state planning and budgeting shall exercise care so as not to duplicate the projections from data of state agencies and nonstate agencies and shall utilize such projections to the maximum extent possible.

Source: L. 83: Entire article R&RE, p. 966, § 16, effective July 1, 1984. **L. 2006:** IP(1) and (2) amended, p. 1501, § 37, effective June 1. **L. 2015:** (1)(a) repealed and (1)(b) and (1)(d) amended, (SB 15-270), ch. 296, p. 1219, § 18, effective June 5.

Editor's note: This section is similar to former § 24-37-202 as it existed prior to 1983.

24-37-202. Prison utilization study - repeal. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1336), ch. 152, p. 547, § 1, effective May 3.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2014. (See L. 2012, p. 547.)

PART 3

Editor's note: The provisions formerly located in part 4 of this article are now located in this part 3. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

24-37-301. Executive budget responsibility. The governor, as chief executive, shall annually evaluate the plans, policies, and programs of all departments of the state government. He shall direct the formulation of his decisions into a financial plan encompassing all sources of revenue and expenditure. He shall propose this plan for the consideration of the general assembly in the form of an annual executive budget consisting of operating expenditures, capital construction expenditures, estimated revenues, and special surveys. Proposed expenditures in the budget shall not exceed estimated moneys available. After legislative review and modification, if any, of the budget and appropriation of the moneys therefor, the governor shall administer the budget.

Source: L. 83: Entire article R&RE, p. 967, § 16, effective July 1, 1984.

Editor's note: This section is similar to former § 24-37-403 as it existed prior to 1983.

24-37-302. Responsibilities of the office of state planning and budgeting. (1) The office of state planning and budgeting shall assist the governor in his or her responsibilities pertaining to the executive budget. Specifically, it shall:

(a) Design and prepare, in coordination with the joint budget committee of the general assembly, the forms and instructions to be used in preparation of all budget requests except those pertaining to higher education. Such budget requests shall include, but shall not be limited to, an analysis of costs, revenues, fund balances, and performance indicators for all programs notwithstanding the source of funds.

(a.5) Design and prepare, in coordination with the staff of the joint technology committee of the general assembly, the forms and instructions to be used in preparation of all budget requests and supplemental budget requests submitted to the joint technology committee pursuant to section 24-37-304 (1)(c.5). The staff of the joint technology committee shall make recommendations to the joint technology committee regarding such forms and instructions for the committee's approval. The forms and instructions shall require that budget requests submitted to the joint technology committee include:

(I) Information from a request for information issued pursuant to section 24-103-201.5, or other formal market research regarding the information technology budget request;

(II) A defined scope of work and information regarding whether a vendor or consultant assisted in preparing the specifications or statement of work included in the information technology budget request;

(III) A range of options for completing the project, including the estimated costs for such options; and

(IV) Any other available and relevant information obtained from the market research related to the information technology budget request.

(b) Review and approve the forms and instructions for higher education budget requests which are prescribed by the San Andreas commission on higher education;

(c) Develop an annual executive planning, programming, and budgeting cycle;

(d) Develop, in coordination with the San Andreas commission on higher education, for state-supported institutions of higher education, the annual executive budget timetable;

(e) Make recommendations to the governor on appointees to the governor's revenue-estimating advisory group; preside over meetings of and provide the staff for that group; and, with the advice of the group, assist in developing the general fund revenue estimates required by section 24-75-201.3;

(f) Conduct annual executive budget hearings on the plans, programs, policies, and budget requests of all state agencies in the executive department;

(g) Develop recommendations for the governor in his formulation of budget proposals to the general assembly and prepare for the governor the annual executive budget proposals to the general assembly, together with the proposed legislative bills embodying such proposals;

(h) Design, develop, and present briefings to the joint budget committee and the members of the general assembly, the general public, and other interested parties on the annual executive budget proposals;

(i) Make available to the governor-elect, if there is a governor-elect who is not the governor, complete details about the budget and the information upon which it is based;

(j) and (k) Repealed.

(k.1) Review for the governor all work programs recommended by the controller;

(k.2) Repealed.

(l) Develop procedures governing the submission of state agency requests to nonstate agencies for funds to be used for state purposes and problems; review for the governor all such requests requiring the commitment or expenditure of state funds; and advise the joint budget committee of the general assembly, prior to submission for approval, of any such requests committing the state to a program which has not theretofore had the approval of the general assembly;

(m) Continually review and recommend revisions of the plans, policies, and programs of the state agencies; propose alternative methods for accomplishing the objectives of state programs and policies; and develop and implement, in coordination with the controller, a system for evaluating the results of and measuring the effectiveness of governmental expenditures;

(n) Develop long-range fiscal plans for both operating and capital construction budgets and for the state revenue structure, such plans to be consistent with the policies and objectives of state planning.

(2) The director shall have such authority, with the approval of the governor, as is necessary to discharge the responsibilities set forth in subsection (1) of this section, including but not limited to the publication of administrative regulations and the acceptance of gifts and grants.

(3) (a) Notwithstanding any other provision of law to the contrary, the director of the office of state planning and budgeting shall require that all state agency budget submissions be distributed in an electronic format either by delivery of a compact disc or by the sending of an electronic notification that includes an attached budget submission or a hyperlink to the website where the budget submission is posted.

(b) The department of state, the department of the treasury, the department of law, the judicial department, the office of state public defender, the office of alternate defense counsel,

the independent ethics commission, the office of the child's representative, and the office of the child protection ombudsman shall use the state agency budget submissions described in paragraph (a) of this subsection (3) as a guideline for the submission of their budgets to the joint budget committee.

Source: L. 83: Entire article R&RE, p. 967, § 16, effective July 1, 1984. **L. 86:** (1)(k) amended and (1)(k.1) added, p. 961, §§ 2, 3, effective May 27; (1)(k) amended and (1)(k.1) added, pp. 963, 964, §§ 2, 3, effective May 27. **L. 88:** (1)(e) amended, p. 912, § 3, effective March 18; (1)(j) repealed, p. 313, § 24, effective May 23. **L. 89:** (1)(k.2) added, p. 1098, § 7, effective May 16. **L. 91:** (1)(k.2) RC&RE, p. 852, § 7, effective April 27. **L. 92:** (1)(a) amended, p. 1048, § 1, effective April 16. **L. 94:** (1)(k.2) amended, p. 1460, § 5, effective May 25. **L. 99:** (1)(k.2) amended, p. 697, § 8, effective May 19. **L. 2006:** IP(1) amended, p. 1501, § 38, effective June 1. **L. 2010:** (3)(b) amended, (HB 10-1404), ch. 405, p. 2005, § 6, effective June 10; (3) added, (HB 10-1119), ch. 340, p. 1572, § 8, effective August 11. **L. 2015:** (3)(b) amended, (SB 15-204), ch. 264, p. 1028, § 9, effective June 2. **L. 2017:** (1)(a.5) added, (SB 17-304), ch. 252, p. 1055, § 4, effective August 9.

Editor's note: (1) This section is similar to former § 24-37-405 as it existed prior to 1983.

(2) Amendments to subsection (1)(k) by House Bill 86-1354 and House Bill 86-1355 were harmonized.

(3) Subsection (1)(k)(II) provided for the repeal of subsection (1)(k), effective September 1, 1986. (See L. 86, pp. 961, 963.)

(4) Subsection (1)(k.2)(II) provided for the repeal of subsection (1)(k.2), effective September 1, 1990. (See L. 89, p. 1098.)

(5) Subsection (1)(k.2)(II) provided for the repeal of subsection (1)(k.2), effective September 1, 2004. (See L. 99, p. 697.)

Cross references: In 2010, subsection (3) was added by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act". For the short title, see section 1 of chapter 340, Session Laws of San Andreas 2010.

24-37-303. Governor has final authority. The final authority and decision in all matters relating to the executive budget is hereby vested in the governor.

Source: L. 83: Entire article R&RE, p. 968, § 16, effective July 1, 1984.

Editor's note: This section is similar to former § 24-37-406 as it existed prior to 1983.

24-37-304. Additional budgeting responsibilities. (1) In addition to the responsibilities enumerated in section 24-37-302, the office of state planning and budgeting shall:

(a) Annually evaluate plans, policies, programs, and budget requests of all departments, institutions, and agencies of the executive branch of state government. The office of state planning and budgeting shall develop a financial plan encompassing all sources of revenue and

expenditure. It shall propose this plan for the budget, consisting of operating expenditures, capital construction expenditures, estimated revenues, and special surveys, but the plan for capital construction expenditures must consider recommendations made by the office of the state architect for state agencies, and recommendations made by the San Andreas commission on higher education for state institutions of higher education. Budget requests shall include a description of one or more measurable annual objectives in the areas of operational efficiency and effectiveness for each department, institution, and agency. Proposed expenditures in the budget shall not exceed estimated moneys available.

(b) Except as provided in paragraph (c.3) or (c.5) of this subsection (1), ensure submission to the joint budget committee of the general assembly by the deadlines set forth in section 2-3-208, S.A.R.S., of all state agency requests for the upcoming year;

(b.5) Except as provided in paragraph (c.3) or (c.5) of this subsection (1), ensure submission to the joint budget committee of the general assembly by the deadlines set forth in section 2-3-208, S.A.R.S., of all state agency requests for supplemental appropriations for the current fiscal year;

(c) Repealed.

(c.3) (I) Ensure submission to the capital development committee of:

(A) Except for projects authorized pursuant to section 23-1-106 (9), S.A.R.S., all cash-funded capital construction or capital renewal budget requests by each state agency for the upcoming fiscal year no later than September 15 of each year;

(B) All state-funded capital construction or capital renewal budget requests by each state agency or state institution of higher education for the upcoming fiscal year no later than October 1 of each year;

(C) The recommended priority of funding of capital construction or capital renewal projects of each state agency or state institution of higher education for the upcoming fiscal year no later than November 1 of each year;

(D) All state-funded controlled maintenance budget requests by each state agency or state institution of higher education as recommended by the office of the state architect pursuant to section 24-30-1303 (1)(k.5) and (1)(t)(II) for the upcoming fiscal year no later than December 1 of each year; and

(E) All capital construction, capital renewal, and controlled maintenance budget request amendments and budget request amendments that are related to a request for a supplemental appropriation for the current or previous fiscal year by each state agency or state institution of higher education no later than December 10 of each year.

(II) All new capital construction, capital renewal, or controlled maintenance budget requests, and all capital construction, capital renewal, or controlled maintenance budget request amendments or budget request amendments that are related to a request for supplemental appropriations, submitted by a state agency or state institution of higher education for the upcoming fiscal year after the deadlines specified in subsection (1)(c.3)(I)(A) to (1)(c.3)(I)(D) of this section as a result of circumstances unknown to, and not reasonably foreseeable by, the state agency or the state institution of higher education must be submitted no later than December 10 of each year.

(III) The office may modify the recommended priority of funding of capital construction or capital renewal projects of each state agency and state institution of higher education for the

upcoming fiscal year no later than the January 1 of the year following the original submission described in sub-subparagraph (C) of subparagraph (I) of this paragraph (c.3).

(IV) In the event of an emergency, the office may submit a capital construction, capital renewal, or controlled maintenance budget request, budget request amendment, or budget request amendment that is related to a request for a supplemental appropriation for a state agency or state institution of higher education after the deadlines specified in subsections (1)(c.3)(I) and (1)(c.3)(II) of this section if the office, as soon as possible but no later than thirty days after determining the emergency, makes a presentation to the capital development committee explaining the nature of the emergency and the estimated time for submission of such budget request, budget request amendment, or budget request amendment that is related to a request for a supplemental appropriation.

(c.5) (I) Ensure submission to the joint technology committee of:

(A) All information technology budget requests by each state agency or state institution of higher education for the upcoming fiscal year no later than October 1 of each year;

(B) The recommended priority of funding of all information technology budget requests for the upcoming fiscal year no later than November 1 of each year; and

(C) All requests for supplemental information technology budget requests for the current or previous fiscal year by each state agency or state institution of higher education no later than December 10 of each year.

(II) All new or amended information technology budget requests submitted by a state agency or state institution of higher education for the upcoming fiscal year after the deadlines specified in sub-subparagraph (A), (B), or (C) of subparagraph (I) of this paragraph (c.5) as a result of circumstances unknown to, and not reasonably foreseeable by, the state agency or the state institution of higher education must be submitted no later than December 10 of each year.

(III) The office may modify the recommended priority for information technology budget requests for the upcoming fiscal year no later than January 1 of the year following the original submission described in sub-subparagraph (B) of subparagraph (I) of this paragraph (c.5).

(IV) In the event of an emergency, the office may submit an information technology budget request for a state agency or state institution of higher education after the deadlines specified in subparagraphs (I) and (II) of this paragraph (c.5) if the office, as soon as possible but no later than thirty days after determining the emergency, makes a presentation to the joint technology committee explaining the nature of the emergency and the estimated time for submission of such budget request.

(V) Any new or amended information technology budget request or supplemental information technology budget request submitted to the joint technology committee pursuant to this paragraph (c.5) must clearly identify and quantify anticipated administrative and operating efficiencies or program enhancements and service expansion through cost-benefit analyses and return on investment calculations.

(d) Execute the appropriations acts or other acts having fiscal implications in such a manner as to assure compliance with the expenditure limitation, by source of funds, personnel authorizations, contingency and performance requirements, and legislative intent;

(e) Repealed.

(f) Develop, or cause to be developed, current operational master plans for each state institution and agency, except state schools, colleges, and universities as provided in section 23-1-106, S.A.R.S., for submission to and approval by the general assembly;

(g) Develop and enforce a method of internal audit that will assure compliance with appropriations provisions and executive orders;

(h) Carry out such other functions and duties as may be directed by the governor.

Source: L. 83: Entire article R&RE, p. 968, § 16, effective July 1, 1984. **L. 88:** (1)(e) repealed, p. 313, § 24, effective May 23. **L. 89:** (1)(b.5) added, p. 1059, § 1, effective April 5. **L. 97:** (1)(a) amended, p. 331, § 1, effective April 16. **L. 2001:** (1)(c.3) added, p. 492, § 2, effective August 8. **L. 2005:** IP(1) and (1)(b) amended, p. 874, § 1, effective June 1. **L. 2006:** (1)(a) amended, p. 1501, § 39, effective June 1. **L. 2009:** (1)(c.3)(I) amended, (SB 09-290), ch. 374, p. 2040, § 3, effective August 5. **L. 2013:** (1)(b) and (1)(b.5) amended and (1)(c) repealed, (HB 13-1179), ch. 123, p. 416, § 2, effective August 7. **L. 2014:** (1)(b) and (1)(b.5) amended and (1)(c.5) added, (HB 14-1395), ch. 309, p. 1307, § 5, effective May 31; (1)(b), (1)(b.5), and (1)(c.3) amended, (HB 14-1387), ch. 378, p. 1842, § 44, effective June 6. **L. 2015:** (1)(c.5)(V) added, (HB 15-1266), ch. 115, p. 346, § 1, effective April 24; (1)(a) and (1)(c.3)(I)(D) amended, (SB 15-270), ch. 296, p. 1219, § 19, effective June 5. **L. 2016:** (1)(c.3)(I)(A) amended, (SB 16-204), ch. 222, p. 853, § 5, effective June 6. **L. 2018:** (1)(c.3)(I)(E), (1)(c.3)(II), and (1)(c.3)(IV) amended, (HB 18-1371), ch. 312, p. 1875, § 3, effective August 8.

Editor's note: (1) This section is similar to former § 24-37-301 as it existed prior to 1983.

(2) Amendments to subsections (1)(b) and (1)(b.5) by HB 14-1387 and HB 14-1395 were harmonized.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-37-305. 2018-19 fiscal year - required reductions in departmental and executive branch budget requests. (1) (a) Except as otherwise provided in subsection (1)(b) of this section, for the 2018-19 budget year, each principal department of state government that submits a budget request to the office of state planning and budgeting shall request, when submitting the budget request, a total budget for the department that is at least two percent lower than its actual budget for the 2017-18 fiscal year.

(b) The requirement specified in subsection (1)(a) of this section does not apply to the department of education created in section 24-1-115 (1) or the department of transportation created in section 24-1-128.7 (1).

(2) The office of state planning and budgeting shall strongly consider the budget reduction proposals made by each principal department pursuant to subsection (1) of this section when preparing the annual executive budget proposals to the general assembly for the governor as required by section 24-37-302 (1)(g) and shall seek to ensure, subject to section 24-37-303, that the executive budget proposal for each department is at least two percent lower than the department's actual budget for the 2017-18 fiscal year.

Source: L. 2017: Entire section added, (SB 17-267), ch. 267, p. 1441, § 9, effective May 30.

Cross references: For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of San Andreas 2017.

PART 4

PAY FOR SUCCESS CONTRACTS

24-37-401. Short title. This part 4 shall be known and may be cited as the "Pay For Success Contracts Act".

Source: L. 2015: Entire part added, (HB 15-1317), ch. 205, p. 737, § 1, effective May 20.

24-37-402. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Contract" means a pay for success contract entered into by the office and a lead contractor, or the office, one or more local governments, and a lead contractor as authorized by section 24-37-403.

(2) "Fund" means the pay for success contracts fund created in section 24-37-403.

(3) "Investor" means a person or entity that is not a lead contractor or provider and that provides working capital to fund the provision of services under a contract.

(4) "Lead contractor" means an organization or local government selected by the director of the office to participate in the state program by:

(a) Entering into a pay for success contract with the office or with the office and one or more local governments, as applicable, to provide program-eligible interventions directly or through subcontracts with other providers;

(b) Overseeing the provision of program-eligible interventions by any other providers with which it subcontracts; and

(c) Using its own money or borrowing money to pay the costs of providing program-eligible interventions throughout the contract as negotiated by the parties and, if the program-eligible interventions that it provides meet the defined performance targets established in a pay for success contract, receiving success payments.

(5) "Local government" means a county, municipality, or school district.

(6) "Program-eligible interventions" means services provided in order to improve the lives and living conditions of individuals by increasing economic opportunity and the likelihood of healthy futures and promoting child and youth development.

(7) "Provider" means a person or entity that provides program-eligible interventions on a for-profit or nonprofit basis. "Provider" includes:

(a) A lead contractor that provides program-eligible interventions directly rather than entering into subcontracts with other providers for the provision of such interventions; and

(b) A local government, which may be the same local government that establishes a program-eligible interventions program, that provides program-eligible interventions.

(8) "School district" means any public school district organized under state law or an institute charter school created pursuant to part 5 of article 30.5 of title 22, S.A.R.S. "School district" does not include a local college district.

(9) "State program" means the pay for success contracts program established in section 24-37-403.

(10) "Success payments" means payments made to the lead contractor for meeting defined performance targets specified in a pay for success contract.

Source: L. 2015: Entire part added, (HB 15-1317), ch. 205, p. 737, § 1, effective May 20.

24-37-403. Establishment of state pay for success contracts program - pay for success contracts fund - creation. (1) There is hereby established in the office the state pay for success contracts program. The purpose of the state program is to provide authorization, subject to specified requirements and limitations, for the office to enter into pay for success contracts with one or more lead contractors for the provision of program-eligible interventions.

(2) Before entering into a pay for success contract authorized by this section, the office, one or more local governments, or the office and one or more local governments shall conduct a request for proposal process. The request for proposal must describe the desired population to be served, desired outcomes, and the potential duration of a pay for success program and may include performance targets. The office shall make a request for proposal issued pursuant to this subsection (2) publicly available on its website upon its issuance.

(3) The office, or the office and one or more local governments as authorized by subsection (4) of this section, may enter into a contract with a lead contractor for the provision of program-eligible interventions. Entry into such a contract is generally subject to the requirements of the "Procurement Code", articles 101 to 112 of this title 24, and the office is encouraged, but not required, to use the request for proposals process specified in section 24-103-203. When developing and reviewing the terms of a pay for success contract, the office may consult with the state treasurer on financial terms and with experts to provide advice regarding definition of appropriate performance targets. A contract shall not require or authorize the state to use federal moneys to make success payments unless federal law or federal regulations authorize the use of federal moneys for that purpose. Before it enters into a contract, the office shall make the contract available to the public on the office's website and provide an opportunity for public comment regarding the contract. Prior to entering into the terms of a contract, a contract must:

(a) Clearly define the type, scope, and duration of the program-eligible interventions that the lead contractor will directly or indirectly provide, which it must provide by implementing a new program or expanding the population served by an existing program, or both, and the specific outcomes sought based on defined performance targets. The interventions that a lead contractor directly or indirectly provides must not supplant any existing state, local government, or school district employee who is providing the same interventions that the lead contractor will directly or indirectly provide.

(b) Detail the roles and responsibilities of each party to the contract and identified subcontractors;

(c) State that once the contract is executed, an investor that is funding the activities of a lead contractor under the terms of the contract is prohibited from dictating the manner of

delivery of services to be provided under the terms of the contract by the lead contractor or any other provider that are not related to the potential for the project to deliver the success measures in the contract. This paragraph (c) does not prohibit an investor from performing due diligence on its investment or managing the investment.

(d) Provide for an objective process by which an independent evaluator determines whether the defined performance targets have been achieved;

(e) Specify that the provision of program-eligible interventions provided by the lead contractor may not exceed a period of seven years unless one or more defined performance targets specified in the contract is met within the first seven years in which the interventions are provided, but the evaluation of the success of the contract may take into account outcomes that occur at any time after the provision of program-eligible interventions has been completed;

(f) Specify the procedures that the lead contractor must follow to request payments and a repayment schedule;

(g) State that any request for payment made by the lead contractor is subject to approval by the office and that the obligation of the office to make any payment is subject to annual appropriation by the general assembly; and

(h) Include a clause that specifies any causes for and the procedures for early termination of a contract, requires at least ninety days notice to each party to the contract and any service provider of a proposed termination, and requires a transition plan that minimizes any negative impact on the individuals being served by the lead contractor should early termination occur.

(4) With the approval of the office and the lead contractor, one or more local governments may be additional parties to a contract to be entered into by the office as authorized by subsection (3) of this section if the chief financial officer and the governing body of each participating local government review and approve the terms of the proposed contract. Any contract that includes one or more local governments as additional parties shall provide for the allocation of payment responsibilities between the state and each local government if the lead contractor meets the defined performance targets specified in the contract.

(5) The office shall enact a sustainability plan based on successful outcomes and performance for those program-eligible interventions that yield savings as assessed by an independent evaluator. If requested by the office or the state auditor, the independent evaluator shall provide its assessment and the data underlying its assessment to the state auditor for review. The office shall annually make publicly available a summary that identifies the defined performance targets met and not met and amounts of success payments paid.

(6) (a) The pay for success contracts fund and the office of state planning and budgeting youth pay for success initiatives account of the fund are hereby created in the state treasury. The principal of the fund and the principal of the account respectively consist of:

(I) Money appropriated or transferred to the fund or the account by the general assembly that has become available or is expected to become available due to direct or indirect reductions in state spending resulting from the provision of program-eligible interventions programs under a contract entered into pursuant to subsection (2) of this section; and

(II) Any other money that the general assembly appropriates or transfers to the fund or the account.

(b) Interest and income earned on the deposit and investment of money in the fund is credited to the fund; except that interest and income earned on the deposit and investment of money in the account is credited to the account. Subject to annual appropriation by the general

assembly, the office shall expend money in the fund and in the account to make payments to the lead contractor as required by a contract and to pay any administrative expenses incurred in connection with a contract. The office shall expend money in the account solely for the programs listed in section 24-37-404, but the department of human services may expend any money appropriated to it from the account for personal services and operating expenses related to the administration of any contract.

(7) Funding provided by a nongovernmental entity for a program to be implemented under the terms of a pay for success contract is not a grant, as defined in section 24-75-1301, even if the funding is not ultimately required to be repaid because the entity receives contractual consideration from the state in exchange for the funding in the form of a promise to make success payments if the program is successful.

(8) Unless otherwise specifically provided, nothing in this section exempts the state, a lead contractor, or any other person involved in the provision of services being provided through a program that is implemented through a pay for success contract from the requirements of any applicable federal, state, or local law or rule.

Source: L. 2015: Entire part added, (HB 15-1317), ch. 205, p. 738, § 1, effective May 20. **L. 2017:** IP(3) amended, (HB 17-1051), ch. 99, p. 351, § 66, effective August 9. **L. 2018:** (6) amended, (HB 18-1323), ch. 187, p. 1260, § 1, effective April 30.

24-37-404. Transfers from marijuana tax cash fund and general fund to office of state planning and budgeting youth pay for success initiatives account - use of. (1) The state treasurer shall transfer the following amounts to the office of state planning and budgeting youth pay for success initiatives account of the fund:

(a) On July 1, 2018:

(I) Nine hundred eighty-nine thousand four hundred seventy dollars from the marijuana tax cash fund; and

(II) Four hundred one thousand three hundred fourteen dollars from the general fund;

(b) On July 1, 2019:

(I) One million seven hundred seventeen thousand seven hundred sixty-four dollars from the marijuana tax cash fund; and

(II) Five hundred forty-five thousand seventy-nine dollars from the general fund;

(c) On July 1, 2020:

(I) One million seven hundred twenty-five thousand sixty-six dollars from the marijuana tax cash fund; and

(II) Four hundred ninety-eight thousand three hundred fifty-five dollars from the general fund; and

(d) On July 1, 2021, four hundred forty-eight thousand four hundred eighty dollars from the general fund.

(2) The office shall expend money in the account only for the following pilot programs, which the office has selected for implementation after reviewing numerous proposals submitted in response to its call for innovation for proposals designed to reduce juvenile involvement in the justice system, reduce out-of-home placements of juveniles, and improve on-time high school graduation rates:

(a) A Jefferson county pilot program to improve educational outcomes for foster youth;

(b) A multi-systemic therapy pilot program for underserved regions of San Andreas; and
(c) A Denver pilot program to better serve runaway youth upstream.

Source: L. 2018: Entire section added, (HB 18-1323), ch. 187, p. 1261, § 2, effective April 30.

ARTICLE 37.3

San Andreas Food Systems Advisory Council

24-37.3-101 to 24-37.3-107. (Repealed)

Source: L. 2019: Entire article repealed, (HB 19-1202), ch. 403, p. 3574, § 5, effective May 31.

Editor's note: This article 37.3 was added in 2010. For amendments to this article 37.3 prior to its repeal in 2019, consult the 2018 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This article 37.3 was relocated to part 11 of article 31 of title 23. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

ARTICLE 37.5

Office of Information Technology

Editor's note: This article was added with relocations in 1999. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

PART 1

OFFICE CREATED

24-37.5-101. Legislative declaration - findings. (1) The general assembly hereby finds and declares that:

(a) Communication and information resources in the various agencies of state government are valuable strategic assets belonging to the people of San Andreas that must be managed accordingly;

(a.5) It is imperative that the long-term sustainability and eventual retirement of information technology systems be considered when initiating a major information technology project and that project plans include the various components that will result in project success;

(b) Technological and theoretical advances in the area of communication and information use are recent in origin, immense in scope and complexity, and progressing rapidly;

(c) The nature of these advances presents San Andreas with the opportunity to provide higher quality, more timely, and more cost-effective governmental services;

(d) Agencies independently acquire uncoordinated and duplicative information resource technologies that are more appropriately acquired as part of a coordinated effort for maximum cost effectiveness and use;

(e) The sharing of communication and information resource technologies among agencies is often the most cost-effective method of providing the highest quality and most timely governmental services that would otherwise be cost prohibitive;

(f) Considerations of both cost and the need for the transfer of information among the various agencies and branches of state government in the most timely and useful form possible require a uniform policy and coordinated system for the use and acquisition of communication and information resource technologies; and

(g) It is the policy of this state to coordinate and direct the use of communication and information resources technologies by state agencies and to provide as soon as possible the most cost-effective and useful retrieval and exchange of information both within and among the various state agencies and branches of government and from the state agencies and branches of government to the people of San Andreas. To that end, the office of information technology is created.

Source: L. 99: Entire article added with relocations, p. 864, § 1, effective July 1. **L. 2006:** (1)(g) amended, p. 1725, § 1, effective June 6. **L. 2012:** (1)(a.5) added, (HB 12-1288), ch. 67, p. 232, § 1, effective August 8.

24-37.5-102. Definitions. As used in this article 37.5, unless the context otherwise requires:

(1) "Advisory board" means the government data advisory board created in section 24-37.5-702.

(2) "Availability" means the timely and reliable access to and use of information created, generated, collected, or maintained by a public agency.

(3) "Chief information officer" means the chief information officer appointed pursuant to section 24-37.5-103.

(4) "Confidentiality" means the preservation of authorized restrictions on information access and disclosure, including the means for protecting personal privacy and proprietary information.

(5) "Data" means facts that can be collected, analyzed, or used in an effort to gain knowledge or make decisions, and that are represented as texts, numbers, graphics, images, sounds, and videos.

(6) "Data management" means development and execution of architectures, policies, practices, and procedures that properly manage the creation, collection, protection, sharing, analysis, transmission, storage, and destruction of data.

(7) "Department of higher education" means the San Andreas commission on higher education, collegeinvest, the San Andreas student loan program, the San Andreas college access network, the private occupational school division, and the state historical society.

(8) "Disaster recovery" means the provisioning of the office's provided services for operational recovery, readiness, response, and transition of information technology applications, systems, or resources.

(9) "Enterprise" means:

(a) Information technology services that can be applied across state government; and

(b) Support for information technology that can be applied across state government, including:

(I) Technical support;

(II) Software;

(III) Hardware;

(IV) People; and

(V) Standards.

(10) "Information security" means the protection of communication and information resources from unauthorized access, use, disclosure, disruption, modification, or destruction in order to:

(a) Protect against theft or misappropriation of information, as well as improper access, modification, degradation, or destruction of information;

(b) Preserve authorized restrictions on information access and disclosure;

(c) Ensure timely and reliable access to and use of information; and

(d) Maintain the confidentiality, integrity, and availability of information.

(11) "Information security plan" means the plan developed by a public agency pursuant to section 24-37.5-404.

(12) "Information technology" means technology, infrastructure, equipment, systems, software, controlling, displaying, switching, interchanging, transmitting, and receiving data or information, including audio, video, graphics, and text. "Information technology" shall be construed broadly to incorporate future technologies that change or supplant those in effect as of September 7, 2021.

(13) "Infrastructure" means data and telecommunications networks, data center services, website hosting and portal services, and shared enterprise services such as email and directory services; except that "infrastructure" does not include the provision of website information architecture and content.

(14) "Institution of higher education" means a state-supported institution of higher education.

(15) "Integrity" means the prevention of improper information modification or destruction and ensuring information nonrepudiation and authenticity.

(16) "Interdepartmental data protocol" means file sharing and governance policies, processes, and procedures that permit the merging of data for the purposes of policy analysis and determination of program effectiveness.

(17) "Joint technology committee" means the joint technology committee created in section 2-3-1702.

(18) "Local government" means the government of any county, city and county, home rule or statutory city, town, special district, or school district.

(19) "Major information technology project" means a project that considers risk, impact on employees and citizens, and budget, and that includes at least one of the following: A complex set of challenges, a specific level of business criticality, a complex group or high number of stakeholders or system end users, a significant financial investment, or security or operational risk. A "major information technology project" includes, without limitation, implementing a new information technology system or maintaining or replacing an existing information technology system.

(20) "Nongovernmental organization" means any scientific, research, professional, business, or public-interest organization that is neither affiliated with nor under the direction of the United States government or any state or local government.

(21) "Office" means the office of information technology created pursuant to section 24-37.5-103.

(22) "Personal identifying information" means any information that alone, or in combination with other information, can be used to identify an individual, including, but not limited to, social security number, driver's license number or other identification number, biometric data, personal health information as defined by the federal "Health Insurance Portability and Accountability Act of 1996", as amended, Pub.L. 104-191, and other information that is considered personal information or personally identifiable information as defined in law.

(23) "Political subdivision" means a municipality, county, city and county, town, or school district in this state.

(24) "Project management" means the application of knowledge, skills, tools, and techniques to support completing outcomes identified in the work.

(25) "Project manager" means a person who is trained in the management of information technology projects and is responsible for organizing and leading the project team that accomplishes all of the project deliverables.

(26) "Public agency" means every state office, whether executive or judicial, and all of its respective offices, departments, divisions, commissions, boards, bureaus, and institutions. "Public agency" does not include institutions of higher education or the general assembly.

(27) "Security incident" means an accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of communication and information resources.

(28) "State agency" means all of the departments, divisions, commissions, boards, bureaus, and institutions in the executive branch of the state government. "State agency" does not include the legislative or judicial department, the department of education, the department of law, the department of state, the department of the treasury, or state-supported institutions of higher education.

(29) "State information technology personnel" means any personnel whose employment is necessary to carry out the purposes of this article 37.5 by the chief information officer and to administer, perform, and enforce the powers, duties, and functions of the office.

Source: L. 99: Entire article added with relocations, p. 865, § 1, effective July 1. **L. 2006:** (3) and (4) amended, p. 1725, § 2, effective June 6; (3.5), (3.7), (4.3), and (4.7) added, p. 1721, § 1, effective June 6. **L. 2008:** Entire section amended, p. 1111, § 1, effective May 22. **L. 2010:** (1.5), (1.7), and (2.5) added, (SB 10-148), ch. 107, p. 358, § 1, effective April 15; (1.3) and (3.5) added, (HB 10-1401), ch. 367, p. 1729, § 1, effective June 7. **L. 2012:** (1.8), (1.9), (2.6), and (3.2) added, (HB 12-1288), ch. 67, p. 232, § 2, effective August 8. **L. 2013:** (2.3) added, (HB 13-1079), ch. 246, p. 1191, § 2, effective May 18. **L. 2015:** (1.6) added and (1.7) amended, (HB 15-1213), ch. 83, p. 241, § 1, effective August 5. **L. 2018:** IP and (2.6)(a) amended, (HB 18-1421), ch. 395, p. 2355, § 2, effective June 6. **L. 2019:** (4) amended, (SB 19-253), ch. 255, p. 2454, § 1, effective August 2. **L. 2021:** Entire section amended, (HB 21-1236), ch. 211, p. 1097, § 5, effective September 7.

Editor's note: (1) Subsection (1.3)(b) provided for the repeal of subsection (1.3) and subsection (3.5)(b) provided for the real of subsection (3.5), effective July 1, 2014. (See L. 2010, p. 1729.)

(2) The provisions of this section are similar to several former provisions of §§ 24-37.5-402 and 24-37.5-702 as they existed prior to 2021.

24-37.5-103. Office of information technology - creation - information technology revolving fund - geographic information system coordination. (1) There is hereby created in the office of the governor an office of information technology, the head of which shall be the chief information officer, who shall be appointed by the governor and who shall serve at the pleasure of the governor.

(2) For state fiscal year 2013-14 and for each state fiscal year thereafter, one hundred percent of the money appropriated by the general assembly from the information technology revolving fund established in section 24-37.5-112 (1)(a) shall be used to fund the office.

(3) (a) There is hereby established in the state treasury the information technology revolving fund. Money shall be appropriated to the fund each year by the general assembly in the annual general appropriation act for the direct and indirect costs of the office.

(b) The office shall develop a method for billing users of the office's services the full cost of the services, including materials, depreciation related to capital costs, labor, and administrative overhead. The billing method shall be fully implemented for all users of the office's services on or before July 1, 2013.

(c) All interest earned on the investment of money in the fund shall be credited to the fund. Money in the revolving fund shall be continuously appropriated to the office of information technology to pay the costs of consolidation and information technology maintenance and upgrades. Any money credited to the revolving fund and unexpended and unencumbered at the end of any given fiscal year shall remain in the fund and shall not revert to the general fund.

(4) On and after July 1, 2008, all duties and responsibilities for statewide geographic information system coordination shall be transferred from the department of local affairs to the office. The office shall develop a statewide geographic information system plan on or before July 1, 2010, and submit such plan to the governor and to the state, veterans, and military affairs committees of the senate and the house of representatives, or their successor committees.

Source: L. 99: Entire article added with relocations, p. 866, § 1, effective July 1. **L. 2006:** Entire section amended, p. 1726, § 3, effective June 6. **L. 2021:** Entire section amended, (HB 21-1236), ch. 211, p. 1101, § 6, effective September 7.

Editor's note: The provisions of this section are similar to several former provisions of §§ 24-37.5-104 (7)(h)(IV), 24-37.5-111, and 24-37.5-112 as they existed prior to 2021.

24-37.5-104. Transfer of functions - change of name - continuity of existence - legislative declaration - rules. (Repealed)

Source: L. 99: Entire article added with relocations, p. 866, § 1, effective July 1. **L. 2006:** (5) added, p. 1726, § 4, effective June 6. **L. 2008:** (6) added, p. 1113, § 2, effective May

22. **L. 2010:** (7) added, (SB 10-148), ch. 107, p. 358, § 2, effective April 15. **L. 2011:** (7)(h)(II), (7)(h)(III), and (7)(h)(IV) amended, (SB 11-062), ch. 128, p. 428, § 1, effective April 22. **L. 2021:** (1) to (5), (6)(a) to (6)(f), (6)(g), (7)(a) to (7)(h)(III), and (7)(h)(IV) repealed, (HB 21-1236), ch. 211, p. 1117, §§ 20, 21, effective September 7.

24-37.5-105. Office - roles - responsibilities - state search interface - rules - legislative declaration - definitions. (1) The office may receive and expend gifts, grants, donations, and bequests, specifically including state and federal money and other money available. The office may contract with the United States and any other legal entities with respect to money available through gifts, grants, donations, or bequests.

(2) The office may designate to a specific state agency any contribution of advanced information technology, gifts, grants, donations, or bequests from private sources, including but not limited to advanced information technology companies, individuals, and foundations. The office may also determine that such contributions remain nondesignated.

(3) The office shall:

(a) Deliver innovation and information technology to state agencies to foster collaboration among state agencies, to empower state agencies to provide better service to residents of San Andreas, and to maximize the value of taxpayer resources;

(b) Coordinate with state agencies to provide assistance, advice, and expertise in connection with business relationships between state agencies and private sector providers of information technology resources. Such assistance shall include efforts that strengthen and create efficiencies in those business relationships.

(c) Assist the joint technology committee as necessary to facilitate the committee's oversight of the office; and

(d) Establish, maintain, and keep an inventory of information technology owned by or held in trust for every state agency.

(3.5) The office shall build, or contract with a third-party vendor to build, the San Andreas statewide longitudinal data system, as defined in section 24-37.5-125, that advances technology solutions and improves data connectivity and analysis concerning education and workforce readiness statewide.

(4) **Governance.** The office shall establish, maintain, and enforce information technology oversight and standards and shall support collaborative decision-making. In connection with information technology governance, the office shall:

(a) Oversee statewide information technology strategy, rates and services, broadband, security, data, architecture, and information technology standards;

(b) Provide assistance and guidance to state agencies in developing individual state agency information technology plans and ensure compliance with the state agency information technology plan; and

(c) Provide project governance to all information technology projects, including:

(I) Evaluating all information technology projects for alignment with state standards, architecture, and best practices;

(II) Ensuring that every project is managed by an assigned project manager and ensuring that the state agency working on an information technology capital project reports to the office based on the governance standards specified in this subsection (4); and

(III) Developing standards for project management including risk management and change management;

(d) Develop and encourage an internet-based state government and facilitate the dissemination of information onto the internet through web and domain naming standards. In connection with developing an internet-based state government, the office shall:

(I) Set standards for, partner in the development of, and encourage a secure, readily accessible, and equitably available digital state government and facilitate the dissemination of information onto the internet;

(II) Collaborate with the statewide internet portal authority created in section 24-37.7-102 and other state agencies to create, maintain, and enhance the citizen experience of government; and

(III) Ensure all applications comply with the accessibility standards specified in article 85 of this title 24.

(5) **Budget requests.** In consultation with the office of state planning and budgeting, the office shall:

(a) Review and submit budget requests for all information technology resources to be used by state agencies; and

(b) Direct the development of policies and procedures, in consultation with the office of state planning and budgeting, that are integrated into the state's strategic planning and budgeting processes and that state agencies shall follow in developing information technology plans and technology-related budget requests.

(6) **Technology purchasing for enterprises.** The office shall initiate the procurement of information technology resources for state agencies and enter into agreements or contracts on behalf of a state agency, multiple agencies, or the office, or be a party to procurement contracts that are initiated by state agencies. A state agency may initiate solicitations and contracts for information technology resources only with prior approval of the procurement official for the office, and must include provisions allowing the office to enforce technology and security standards or conduct due diligence or audits of the contractors. If the state agency does not receive written approval or disapproval from the procurement official for the office within thirty business days after submitting the procurement request to the office for review, the state agency may assume that it has received the prior approval of the office, as required by this subsection (6), and is authorized to initiate the procurement or solicitation process. In connection with the procurement of information technology resources, the office shall:

(a) Ensure information technology purchases adhere to standards for data technology, architecture, and security;

(b) Establish special requirements for vendors of information technology services to state agencies and adapt standards as necessary for individual state agencies to comply with federal law;

(c) Oversee information technology vendors on behalf of the state and state agencies except when delegated to a state agency pursuant to section 24-37.5-105.4; and

(d) If the office does not have oversight of an information technology or services contract, ensure that the state agency with oversight of the contract operates pursuant to section 24-37.5-105.4 regarding the delegation of authority.

(7) **Information technology personnel.** To the extent permitted by applicable personnel laws and rules, the office shall oversee hiring, management, training, and performance of all

state information technology personnel except when such duties are delegated pursuant to section 24-37.5-105.4.

(8) **State applications.** The office shall oversee the installation, services, maintenance, and retirement of all state applications except when such duties are delegated pursuant to section 24-37.5-105.4. In connection with such oversight, the office shall:

(a) Develop standards for application development and maintenance, including methodology that all state agencies shall use for application development activities;

(b) Ensure that cost-effective, efficient, and secure information and communication systems and resources are being used by state agencies to:

(I) Reduce data, hardware, and software redundancy;

(II) Improve system interoperability and data accessibility between agencies; and

(III) Meet the agency's and user's business and service needs.

(9) **Infrastructure.** The office shall oversee the information technology infrastructure and hardware, including:

(a) Service delivery, installation, maintenance, and retirement of all data center, mainframe, servers, storage and computer resources, email and collaboration, network, telecommunications, and end user support as outlined by services and policies in subsection (3)(f) of this section; and

(b) Implementing information technology standards and specifications, characteristics, or performance requirements of infrastructure resources that increase efficiency and improve security and identify opportunities for cost savings based on such standardization.

(10) (a) The general assembly hereby:

(I) Finds that:

(A) Rules adopted by agencies affect many areas of life for San Andreas citizens, including water, air, food, energy, mobility, employment, and health care;

(B) Maintaining a vibrant business economy in the state is a goal shared by all Coloradans; and

(C) Public participation in the rule-making process promotes fairness, acceptability, and public accountability and can help foster greater public trust;

(II) Determines that:

(A) Engaging the assistance of lawyers, lobbyists, and technical experts should not be required for Coloradans to access the rules that affect their lives and businesses;

(B) The general assembly created the online transparency task force in House Bill 20-1039, enacted in 2020, to recommend online transparency improvements to the general assembly; and

(C) The task force found that it is unnecessarily burdensome to require both agency and public users to navigate within and between independent departmental resources and reinforced that establishing a clear, centralized agency rule and rule-making resource is necessary; and

(III) Declares that this subsection (10) is necessary to improve access to state rules for all Coloradans and to modernize and enhance the search functionality and transparency of existing web platforms, which are spread across multiple agencies, by creating a single, public-facing search interface for accessing agency rules and state rule-making that meets the minimum standards established in this subsection (10).

(b) Standards for the search interface must include but are not limited to:

(I) A centralized search interface for access to all agency rule-making that is highly visible on the state's main website and that uses search engine optimization to enable it to be located on the internet;

(II) An optimized, intuitive, and full-text search engine that is continuously optimized to increase accuracy and search speed and provide robust search results for users;

(III) An application programming interface that enables quantifiable research on state rules;

(IV) A public comment process that directs users toward the open comment process on the respective agencies' websites when available;

(V) An integrated, subscribable calendar of all agencies' rule-making hearings;

(VI) A fully responsive design that is compatible with mobile and tablet devices; and

(VII) Compliance with section 24-85-103, the federal "Americans Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, and section 508 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794d, as amended, to make the search interface accessible to people with disabilities.

(c) To facilitate operation of the search interface, the secretary of state shall provide to the office information access to the code of San Andreas regulations and San Andreas register. To facilitate operation of the search interface, all other agencies shall provide to the office access to their databases and information sources that contain information for rule-making proceedings. The office shall develop the search interface as specified in this subsection (10). The secretary of state shall advise the office in the development of the search interface as necessary and upon request. The office shall make the search interface available for use by June 30, 2022; except that, if an unforeseen technological impediment prevents achievement of this deadline, the office shall:

(I) Identify the impediment, identify a proposed solution, and execute necessary steps to resolve the impediment within existing appropriations;

(II) Notify the joint technology committee of the general assembly in writing that it will not meet the deadline and include in the notice a description of the impediment, the individual tasks comprising the proposed solution, and the anticipated completion date; and

(III) Appear before the joint technology committee at the first practicable opportunity after June 30, 2022, to discuss the implementation of the search interface.

(d) The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this subsection (10).

(e) As used in this subsection (10), "agency" has the meaning established in section 24-4-102 (3).

Source: L. 99: Entire article added with relocations, p. 867, § 1, effective July 1. **L. 2006:** (3) amended, p. 1727, § 5, effective June 6; (4), (5), (6), and (7) added, p. 1722, § 2, effective June 6. **L. 2007:** (6) amended, p. 914, § 9, effective May 17. **L. 2008:** (3)(g), (3)(h), (3)(i), (8), and (9) added and (4), (5), (6), and (7) amended, pp. 1114, 1115, §§ 3, 4, effective May 22. **L. 2010:** (10) added, (SB 10-032), ch. 98, p. 336, § 2, effective April 15; (3.5) added, (HB 10-1401), ch. 367, p. 1730, § 2, effective June 7; (11)(b)(I), (11)(b)(II), (11)(b)(IV), (11)(b)(VI), and (11)(c)(II) amended, (HB 10-1404), ch. 405, p. 2005, § 7, effective June 10; (11) added, (HB 10-1119), ch. 340, p. 1573, § 9, effective August 11. **L. 2011:** (3)(h) and (3)(i) amended, (SB 11-062), ch. 128, p. 429, § 2, effective April 22; (3)(h) and (3)(i) amended and

(3)(j) added, (SB 11-173), ch. 310, p. 1517, § 5, effective June 10. **L. 2012:** (10)(a) and (10)(m) amended, (SB 12-096), ch. 59, p. 215, § 1, effective March 24; (3)(i), (3)(j), and (4)(a) amended and (3)(k), (4)(c), and (4)(d) added, (HB 12-1288), ch. 67, p. 233, § 3, effective August 8. **L. 2013:** (3)(l) added and IP(3.5)(a), (3.5)(b), and IP(8) amended, (HB 13-1079), ch. 246, p. 1191, § 3, effective May 18. **L. 2014:** (3)(k) and (3)(l) amended and (3)(m) added, (HB 14-1387), ch. 378, p. 1843, § 45, effective June 6. **L. 2015:** (11)(b)(I), (11)(b)(II), (11)(b)(IV), (11)(b)(VI), and (11)(c)(II) amended, (SB 15-204), ch. 264, p. 1029, § 10, effective June 2; (3)(i) and IP(8) amended, (HB 15-1213), ch. 83, p. 241, § 2, effective August 5. **L. 2018:** (12), (13), and (14) added, (SB 18-086), ch. 319, p. 1919, § 6, effective May 30; (4)(c)(VII) and (4)(c)(VIII) amended and (4)(c)(IX) and (4.5) added, (HB 18-1421), ch. 395, p. 2355, § 3, effective June 6. **L. 2019:** (3)(l), (3)(m), (4)(c)(VIII), and (4)(c)(IX) amended and (3)(n) and (4)(c)(X) added, (SB 19-251), ch. 253, p. 2448, § 1, effective May 23. **L. 2021:** (10) added, (HB 21-1230), ch. 449, p. 2953, § 1, effective July 6; entire section R&RE, (HB 21-1236), ch. 211, p. 1102, § 7, effective September 7. **L. 2022:** IP(6) amended, (SB 22-191), ch. 481, p. 3502, § 1, effective June 8. **L. 2024:** (3.5) added, (HB 24-1364), ch. 238, p. 1552, § 2, effective May 23.

Editor's note: (1) Amendments to subsections (3)(h) and (3)(i) by Senate Bill 11-062 and Senate Bill 11-173 were harmonized.

(2) Subsection (3.5)(c) provided for the repeal of subsection (3.5) and subsection (10)(m) provided for the repeal of subsection (10), effective July 1, 2014. (See L. 2010, p. 1730 and L. 2012, p. 215.)

(3) Amendments to this section by HB 21-1230 and HB 21-1236 were harmonized.

Cross references: (1) For the legislative declaration in the 2010 act adding subsection (10), see section 1 of chapter 98, Session Laws of San Andreas 2010.

(2) In 2010, subsection (11) was added by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act". For the short title, see section 1 of chapter 340, Session Laws of San Andreas 2010.

(3) For the legislative declaration in the 2011 act amending subsections (3)(h) and (3)(i) and adding subsection (3)(j), see section 1 of chapter 310, Session Laws of San Andreas 2011.

(4) For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-37.5-105.2. State agencies - information technology - responsibilities. (1) In connection with information technology, each state agency shall:

(a) Comply with the rules, standards, plans, policies, and directives of the office;

(b) Comply with information technology requests of the office, the general assembly, the joint technology committee, and the joint budget committee, and provide evidence of such compliance upon request of the governor, general assembly, the joint technology committee, or the joint budget committee;

(c) Participate with and advise the office on the creation of an information technology plan for the state agency as part of the state's planning and budgeting process; and

(d) Support effective use of information technology by defining roles and processes to partner with the office.

(2) In connection with any major information technology project that a state agency plans to undertake, the state agency shall:

(a) Consult with the office on the development of the major information technology project;

(b) Before commencing work on the major information technology project, submit the plan to the office and obtain approval from the office;

(c) If the state agency plans to make significant changes to the major information technology project or budget, consult with the office regarding the changes and obtain the office's approval of the changes before commencing work on the changes; and

(d) Consult with and obtain approval from the office for changes to the funding strategy for the ongoing maintenance and eventual disposal of a major information technology system.

(3) State agencies have the responsibility for ensuring program delivery and for creating a business culture that prioritizes maximizing value from technology and information technology projects. State agencies shall:

(a) Understand and manage the business criticality of their systems;

(b) Improve awareness of how information technology can help them achieve the mission of the state agency;

(c) Articulate the outcomes of their information technology products and use processes that effectively prioritize investments and improvements aimed at achieving those outcomes; and

(d) Plan for and manage the impacts of changes resulting from information technology projects for staff and constituents to enhance adoption and maximize the value of information technology investments.

(4) State agency responsibilities for user access to all state information technology systems, in connection with employees, contractors, subcontractors, and other users include:

(a) Ensuring that user access is correct and that all requirements are satisfied;

(b) Requesting appropriate access to information technology systems;

(c) Periodic auditing of access levels; and

(d) Removal of access.

(5) For security purposes, a state agency shall include the office as a party to all contracts or agreements for information technology goods, services, or systems.

(6) A state agency shall hold authority and be responsible for projects managed by the state agency when the office is involved only as a party to the contract or a party to the agreement with a vendor, contractor, or other party.

Source: L. 2021: Entire section added, (HB 21-1236), ch. 211, p. 1105, § 8, effective September 7.

24-37.5-105.4. Delegation of authority. (1) The chief information officer may delegate an information technology function of the office to another state agency by agreement or other means authorized by law. The chief information officer may delegate an information technology function of the office if in the judgment of the director of the state agency and the chief information officer:

(a) The state agency has requested that the function be delegated;

(b) The state agency has the necessary resources and skills to perform or control the function to be delegated; and

(c) The function to be delegated is a unique or mission-critical function of the state agency.

(2) The chief information officer may delegate a function of the office only when the delegation results in net cost savings or improved service delivery to the state as a whole or to the unique mission critical function of the state agency, or is not otherwise provided in the office's information technology oversight and standards governance developed pursuant to section 24-37.5-105 (4).

(3) For any delegation of authority pursuant to this section, the office shall formalize an agreement with the state agency in which the agency assumes the responsibility for all of the requirements specified in this subsection (3), including acknowledging responsibility for ensuring that the information technology or service maintains ongoing compliance with state information technology policies and standards pursuant to section 24-37.5-105 (4) and applicable federal regulations. The delegation of authority pursuant to this section shall be in writing and shall contain the following:

(a) A precise definition of each function to be delegated;

(b) A clear description of the standards to be met in performing each delegated function;

(c) Designation of the state agency responsible for ensuring operational security and validating compliance to security policies and standards;

(d) A provision for periodic administrative audits by the office;

(e) A date on which the agreement shall terminate if the agreement has not been previously terminated or renewed; and

(f) Designation of the appointing authority responsible for the delegated services to support the function in the state agency and rates to be charged for the staff.

(4) An agreement to delegate functions to a state agency may be terminated by the office if the results of an administrative audit conducted by the office reveals a lack of compliance with the terms of the agreement by the state agency.

Source: L. 2021: Entire section added, (HB 21-1236), ch. 211, p. 1107, § 8, effective September 7.

24-37.5-106. Chief information officer - duties and responsibilities - rules. (1) The position of chief information officer shall be commensurate with the position of head of a principal department and shall be a member of the governor's cabinet.

(2) The chief information officer shall:

(a) Monitor trends and advances in information technology resources, direct and approve a comprehensive, statewide, planning process, and plan for the acquisition, management, and use of information technology. The statewide information technology plan shall be updated annually and submitted to the governor, the joint technology committee, the speaker of the house of representatives, and the president of the senate.

(b) Advise the joint technology committee and the joint budget committee on requested or ongoing information technology projects, including the adherence of the office to the budget, amounts appropriated, and relevant contract deadline dates or schedules for those projects;

(c) Supervise the chief information security officer appointed pursuant to section 24-37.5-403 (1);

(d) Hire or retain such contractors, subcontractors, advisors, consultants, and agents as the chief information officer may deem advisable or necessary, in accordance with relevant procedures, statutes, and rules and make and enter into contracts necessary or incidental to the exercise of the powers and performance of the duties of the office and the chief information officer;

(e) Assist the joint technology committee as necessary to facilitate the committee's oversight of the office; and

(f) Appoint a director of the San Andreas broadband office created in section 24-37.5-903 (1).

(3) The chief information officer may enter into contracts with any local government, state agency, or political subdivision of the state, including the legislative and judicial departments, the department of law, the department of state, the department of treasury, or state-supported institutions of higher education, for the purpose of providing disaster recovery services.

(4) The chief information officer may promulgate as rules pursuant to article 4 of this title 24 all of the policies, procedures, standards, specifications, guidelines, or criteria that are developed or approved pursuant to section 24-37.5-105 (4) and rules to establish accessibility standards for individuals with a disability pursuant to section 24-85-103 and to implement the broadband deployment grant program pursuant to section 24-37.5-905.

Source: L. 99: Entire article added with relocations, p. 868, § 1, effective July 1. **L. 2001:** (1)(c), (1)(e), (1)(i), and (1)(j) amended and (2) added, p. 124, § 3, effective March 23. **L. 2006:** Entire section amended, p. 1728, § 6, effective June 6. **L. 2007:** (1)(a), (1)(c), (1)(e), and (1)(i) amended and (1)(n) added, p. 911, § 5, effective May 17. **L. 2008:** (1) amended and (4) added, p. 1117, § 5, effective May 22; (3) added, p. 1701, § 1, effective June 2. **L. 2009:** (3)(e), (3)(f), and (3)(g) amended, (SB 09-162), ch. 423, p. 2361, § 1, effective June 4; (1)(o) amended and (1)(q), (1)(r), and (1)(s) added, (HB 09-1285), ch. 199, p. 898, § 5, effective August 5. **L. 2010:** (1.7) amended, (SB 10-148), ch. 107, p. 360, § 3, effective April 15. **L. 2012:** (1)(r) and (1)(s) amended and (1)(t) added, (HB 12-1339), ch. 143, p. 516, § 1, effective May 3; (1)(e.5) added, (HB 12-1288), ch. 67, p. 234, § 4, effective August 8. **L. 2013:** (1)(a), (1)(m), and (1)(t)(I) amended and (1)(u) added, (HB 13-1079), ch. 246, p. 1192, § 4, effective May 18. **L. 2019:** (1.7) amended, (SB 19-253), ch. 255, p. 2454, § 2, effective August 2. **L. 2021:** (1)(u) amended and (1)(v) add, (HB 21-1289), ch. 371, p. 2444, § 4, effective June 28; (2)(f) added, (HB 21-1289), ch. 371, p. 2444, § 5, effective September 7; entire section R&RE, (HB 21-1236), ch. 211, p. 1108, § 9, effective September 7. **L. 2023:** (4) amended, (SB 23-244), ch. 100, p. 372, § 4, effective April 20. **L. 2024:** (4) amended, (HB 24-1336), ch. 219, p. 1366, § 5, effective September 1.

Editor's note: (1) Subsection (3)(g) provided for the repeal of subsection (3), effective January 1, 2010. (See L. 2008, p. 1701.)

(2) Subsection (1)(t)(II) provided for the repeal of subsection (1)(t), effective July 1, 2014. (See L. 2012, p. 516.)

(3) This section was amended in section 4 of HB 21-1289. Those amendments were superseded by the repeal and reenactment of this section in section 9 of HB 21-1236.

Cross references: For the legislative declaration in HB 21-1289, see section 1 of chapter 371, Session Laws of San Andreas 2021.

24-37.5-107. Work eligibility verification portal. (Repealed)

Source: L. 2006, 1st Ex. Sess.: Entire section added, p. 34, § 1, effective July 31. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 21, effective September 7.

24-37.5-108. Statewide communications and information infrastructure - establishment - duties. (Repealed)

Source: L. 2007: Entire section added with relocations, p. 912, § 6, effective May 17. **L. 2008:** (1)(d) amended, p. 1130, § 13, effective May 22. **L. 2011:** (1)(a) and (1)(c) amended, (SB 11-062), ch. 128, p. 429, § 3, effective April 22. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 21, effective September 7.

Editor's note: This section is similar to former § 24-37.5-203 as it existed prior to 2007.

24-37.5-109. Status of state agencies. (Repealed)

Source: L. 2007: Entire section added with relocations, p. 912, § 6, effective May 17. **L. 2008:** (1)(a) amended, p. 1119, § 6, effective May 22. **L. 2011:** (1)(a) amended, (SB 11-062), ch. 128, p. 429, § 4, effective April 22. **L. 2012:** (1)(c) and (1)(d) amended and (1)(e) added, (HB 12-1288), ch. 67, p. 235, § 5, effective August 8. **L. 2013:** (1)(c) and (1)(d) amended, (HB 13-1079), ch. 246, p. 1192, § 5, effective May 18. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 21, effective September 7.

Editor's note: This section is similar to former § 24-37.5-204 as it existed prior to 2007.

24-37.5-110. Technology coordination. (Repealed)

Source: L. 2008: Entire section added, p. 1120, § 7, effective May 22. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 21, effective September 7.

24-37.5-111. Geographic information system - coordinator - statewide plan. (Repealed)

Source: L. 2008: Entire section added, p. 1120, § 7, effective May 22. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 20, effective September 7.

24-37.5-112. Information technology revolving fund. (Repealed)

Source: L. 2008: Entire section added, p. 1122, § 7, effective May 22. **L. 2017:** (2) amended, (SB 17-255), ch. 172, p. 627, § 2, effective April 28. **L. 2020:** (2) repealed, (HB 20-

1382), ch. 208, p. 1019, § 1, effective June 30. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 20, effective September 7.

24-37.5-113. San Andreas benefits management system improvement and modernization project - appropriation - reporting - repeal. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1339), ch. 143, p. 517, § 2, effective May 3. **L. 2013:** (2)(a) amended, (HB 13-1079), ch. 246, p. 1193, § 6, effective May 18.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2014. (See L. 2012, p. 517.)

24-37.5-114. San Andreas financial reporting system modernization project - reporting. (Repealed)

Source: L. 2013: Entire section added, (SB 13-190), ch. 108, p. 376, § 3, effective April 4. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 21, effective September 7.

24-37.5-115. Technology advancement and emergency fund - repeal. (Repealed)

Source: L. 2017: Entire section added, (SB 17-255), ch. 172, p. 626, § 1, effective April 28. **L. 2020:** (7) added, (HB 20-1382), ch. 208, p. 1019, § 2, effective June 30.

Editor's note: Subsection (7)(b) provided for the repeal of this section, effective June 30, 2020. (See L. 2020, p. 1019.)

24-37.5-116. Communications and stakeholder management plan. (1) On or before July 1, 2020, the office shall develop and implement a communications and stakeholder management plan for interacting with any department, commission, council, board, bureau, committee, institution of higher education, agency, or other governmental unit of the executive, legislative, or judicial branch of state government that is billed for the use of the services provided by the office. The office shall enlist vendor services in the development of the plan.

(2) On or before January 1, 2021, the office shall develop a method to annually solicit feedback from every department, commission, council, board, bureau, committee, institution of higher education, agency, or other governmental unit of the executive, legislative, or judicial branch of state government that is billed for the use of the services provided by the office to determine if the communications and stakeholder management plan developed and implemented pursuant to subsection (1) of this section is increasing the governmental unit's satisfaction with the services provided by the office for which it is billed.

Source: L. 2019: Entire section added, (SB 19-251), ch. 253, p. 2449, § 2, effective May 23.

24-37.5-117. Use of technology to interact with citizens - working group - strategic plan. (1) The office shall convene a working group of state agencies, as defined in section 24-

37.5-102 (28), to develop and implement a strategic plan for how state agencies use technology to provide services, data, and information to citizens and businesses. The office shall implement the plan on or before July 1, 2020.

(2) The office shall enlist vendor services in the development of the plan.

Source: L. 2019: Entire section added, (SB 19-251), ch. 253, p. 2449, § 2, effective May 23. **L. 2021:** (1) amended, (HB 21-1236), ch. 211, p. 1116, § 17, effective September 7.

24-37.5-118. Change of references - director to revisor of statutes. The revisor of statutes is hereby authorized to change all references in the San Andreas Revised Statutes to the department of personnel and office of the governor as appropriate and with respect to the powers, duties, and functions transferred to the office. In connection with such authority, the revisor of statutes is hereby authorized to amend or delete provisions of the San Andreas Revised Statutes so as to make the statutes consistent with the powers, duties, and functions transferred pursuant to this section.

Source: L. 2021: Entire section added, (HB 21-1236), ch. 211, p. 1109, § 10, effective September 7.

Editor's note: This section is similar to former § 24-37.5-104 (6)(g) as it existed prior to 2021.

24-37.5-119. Broadband service - report - broadband deployment board - broadband administrative fund - creation - rules - legislative declaration - definitions - repeal. (Repealed)

Source: L. 2021: Entire section added with amended and relocation provisions, (HB 21-1109), ch. 489, p. 3510, § 2, effective July 7; (4) amended and (9.5), (16)(d.5), and (16)(i.5) added, (HB 21-1289), ch. 371, p. 2456, § 10, effective July 7. **L. 2022:** (4)(b)(I) amended, (HB 22-1342), ch. 137, p. 921, § 8, effective April 25; (9)(a)(IV), (9)(l)(III), (9.5)(a), (9.5)(e), (9.5)(g), and (9.5)(h) amended and (15.5) added, (HB 22-1306), ch. 325, p. 2295, § 1, effective June 2. **L. 2024:** Entire section repealed, (HB 24-1336), ch. 219, p. 1361, § 2, effective September 1.

24-37.5-120. Technology risk prevention and response fund - creation - definitions. (1) As used in this section, unless the context otherwise requires:

(a) (I) "Information technology emergency" means a situation in which an immediate threat to the public health, welfare, or safety exists, where the situation creates an immediate need for information technology equipment or services, and the lack of information technology or services would threaten:

(A) The health or safety of any person or property;

(B) The immediate functioning of one or more of the state's essential services; or

(C) The security, confidentiality, or integrity of the state's information technology.

(II) An information technology emergency does not exist as a result of budget cycles, fiscal year-end requirements, or potential loss of funding.

(b) "Technology risk prevention and response fund" or "fund" means the technology risk prevention and response fund created in subsection (2) of this section.

(2) The technology risk prevention and response fund is hereby created in the state treasury. The fund consists of money that the general assembly may appropriate or transfer to the fund, money contributed to the fund by the office pursuant to subsection (4)(d) of this section, and money transferred to the fund pursuant to subsection (6) of this section.

(3) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and does not revert to the general fund.

(4) (a) Up to fifty percent of the total balance of the fund at the beginning of each fiscal year is continuously appropriated to the office. The total fund balance shall not exceed fifty million dollars.

(b) The office may expend money from the fund to cover one-time costs associated with information technology expenditures as specified in subsection (4)(c) of this section and to provide the office and state agencies a financial mechanism to address costs associated with emergency or at-risk information technology.

(c) The office shall use the money in the fund for one-time costs associated with:

(I) An information technology emergency;

(II) Ensuring compliance with the office's information technology standards and policies; or

(III) Preventing risk from information technology that is:

(A) Anticipating failure;

(B) Nearing or no longer maintained or supported by manufacturers or vendors;

(C) Out of security compliance or creating security risk;

(D) Part of an outstanding state audit recommendation; or

(E) Keeping the state from recognizing efficiencies or advances in information technology or information technology financing.

(d) The office may contribute money to the fund from the operations and maintenance fees associated with the billing practices of the office.

(5) No later than November 1, 2022, the office shall provide a written report to the joint budget committee and the joint technology committee outlining the expenditures of money from the fund. Notwithstanding section 24-1-136 (11)(a)(I), no later than the twentieth day of every third month thereafter, the office shall submit a written report to the joint budget committee and joint technology committee of all expenditures of funds since the last report. The written report must include, but need not be limited to, the following:

(a) A list of each expenditure made from the fund, including the purpose and amount of the expenditure, the date on which the expenditure was made, the state agency or agencies that benefited from the expenditure, and how the expenditure met the criteria set forth in subsection (4) of this section; and

(b) Financial statements that analyze the demand for funding and the annual fund balance as of the start of each fiscal year.

(6) (a) Notwithstanding any provision of law to the contrary, for the 2022-23 state fiscal year and for each state fiscal year thereafter, any money appropriated from the general fund to the office or a state agency for the procurement of information technology resources or projects

that is unexpended or unencumbered at the end of the fiscal year as a result of savings achieved in connection with such procurement, shall not revert to the general fund.

(b) On July 1, 2023, and on July 1 of each year thereafter, the state treasurer shall transfer from the general fund to the technology risk prevention and response fund an amount equal to the amount of unexpended and unencumbered money described in subsection (6)(a) of this section.

Source: L. 2021: Entire section added, (SB 21-287), ch. 421, p. 2789, § 1, effective July 2. **L. 2022:** (2), (4)(a), and IP(4)(c)(III) amended and (4)(d) and (6) added, (SB 22-191), ch. 481, p. 3502, § 2, effective June 8.

24-37.5-121. Digital access to government services - strategic plan - reporting - legislative declaration - definitions. (1) The general assembly finds and declares that:

(a) The COVID-19 pandemic has highlighted the fact that San Andreas residents need digital access to government services to allow them to safely access government services while carrying on necessary business and other activities;

(b) Even as the COVID-19 pandemic subsides, it remains important to provide digital access to government services to modernize government operations, save taxpayers time and money, and improve accessibility to government services and information throughout the state; and

(c) The office is well positioned to advance and innovate the state's adoption of, and increase its offerings for, digital access to government services, which offerings would further maximize the value of the state's investment in broadband deployment.

(2) (a) The office shall enter into an enterprise agreement with a third-party vendor to develop and implement a strategic plan to expand and improve digital access to government services through the use of broadband.

(b) In developing the strategic plan, the office and the vendor shall consult with stakeholders throughout the state that represent various interested parties including:

(I) Residents of the state;

(II) Groups representing or advocating for historically marginalized communities or residents of the state;

(III) Agencies;

(IV) The statewide internet portal authority created pursuant to section 24-37.7-102; and

(V) Local and regional government officials.

(3) Repealed.

(4) As used in this section, unless the context otherwise requires:

(a) "Agency" has the meaning set forth in section 24-4-102 (3).

(b) "COVID-19" means the coronavirus disease 2019 caused by the severe acute respiratory syndrome coronavirus 2, also known as SARS-CoV-2.

Source: L. 2021: Entire section added, (HB 21-1289), ch. 371, p. 2444, § 6, effective June 28.

Editor's note: Subsection (3)(b) provided for the repeal of subsection (3), effective September 1, 2022. (See L. 2021, p. 2444.)

Cross references: For the legislative declaration in HB 21-1289, see section 1 of chapter 371, Session Laws of San Andreas 2021.

24-37.5-122. Study of personally identifiable information - authority of chief information officer - report to joint technology committee - definitions - repeal. (Repealed)

Source: L. 2021: Entire section added, (HB 21-1111), ch. 397, p. 2636, § 1, effective September 7.

Editor's note: Subsection (5) provided for the repeal of this section, effective January 1, 2024. (See L. 2021, p. 2636.)

24-37.5-123. San Andreas operations resource engine upgrade and continuous improvement project - reporting. If the executive committee of the legislative council, the joint budget committee, the joint technology committee, or the legislative audit committee deem certain functionality of the San Andreas financial reporting system to be of particular importance to the legislative branch, this will be conveyed in writing to the office, the department of personnel, and the governor. The office and the department of personnel must ensure that such functionality is incorporated or must promptly explain why such functionality cannot be incorporated. If the functionality cannot be included because such a change would require additional appropriations, the office and the department of personnel must explain why additional appropriations are necessary. The office and the department of personnel must report to the joint technology committee and the joint budget committee regarding its progress on the project in a format and at time intervals specified by the joint technology committee and the joint budget committee in writing. If a meeting is necessary for any report required by this section, when possible, the meeting may be a joint meeting of the joint technology committee and the joint budget committee.

Source: L. 2022: Entire section added, (HB 22-1385), ch. 268, p. 1944, § 3, effective May 27.

Cross references: For the legislative declaration in HB 22-1385, see section 1 of chapter 268, Session Laws of San Andreas 2022.

24-37.5-124. Evaluation of department of higher education information technology services - repeal. (1) By November 1, 2024, the office shall evaluate the information technology functions and services of the department of higher education for the purpose of assessing possibilities for a consolidation of existing information technology functions and services with those information technology functions and services managed by the office. At a minimum, this evaluation must assess the business function, criticality, capacities, complexity, technical debt status, risk, and integration capability in relation to the following functions and services:

(a) Asset management;

(b) Data;

(c) Database services;

(d) End-user support services;
(e) Identity and access;
(f) Network infrastructure and communications;
(g) Server and storage infrastructure;
(h) Applications and platforms;
(i) Security services;
(j) Disaster recovery; and
(k) Supported sites.

(2) The chief information officer may contract with one or more third parties to conduct all or part of the evaluation required by subsection (1) of this section.

(3) If the evaluation required by subsection (1) of this section shows that consolidation would be beneficial, the office shall create a proposed plan and accompanying budget for consolidating the information technology functions and services of the department of higher education with those information technology functions and services managed by the office.

(4) This section is repealed, effective July 1, 2025.

Source: L. 2024: Entire section added, (HB 24-1402), ch. 78, p. 266, § 1, effective April 18.

24-37.5-125. San Andreas statewide longitudinal data system - education and workforce - postsecondary workforce readiness programs - appropriation - cash fund - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "San Andreas statewide longitudinal data system" or "data system" means the San Andreas statewide longitudinal data system created in subsection (2)(a) of this section.

(b) "San Andreas statewide longitudinal data system governing board" or "governing board" means the San Andreas statewide longitudinal data system governing board created in subsection (3)(a) of this section.

(c) "Contributing agencies" means agencies that contribute data to the office for the San Andreas statewide longitudinal data system. Contributing agencies include, but are not limited to, the department of early childhood, the department of education, the department of higher education, the department of labor and employment, and the office of economic development.

(d) "Operational tools" means the software and hardware needed to securely and legally connect data across systems and support data analysis.

(e) "Postsecondary and workforce readiness programs" means programs for San Andreas high school students to develop the knowledge and competencies needed to succeed in postsecondary settings and to advance in career pathways as lifelong learners and contributing citizens.

(f) "Statewide longitudinal data system cash fund" or "cash fund" means the statewide longitudinal data system cash fund created in subsection (8) of this section.

(g) "Sustainability interagency advisory group" or "sustainability advisory group" means the sustainability interagency advisory group convened pursuant to subsection (4)(n) of this section by the governing board.

(h) "Systems build and implementation interagency advisory group" or "systems advisory group" means the systems build and implementation interagency advisory group convened pursuant to subsection (4)(n) of this section by the governing board.

(2) (a) The San Andreas statewide longitudinal data system is created within the office. The purposes of the data system are to:

(I) Establish a consistent, appropriate, secure, and legal means of data sharing focused on education and workforce outcomes and postsecondary and workforce readiness program data;

(II) Provide data and data analysis that supports evidence-based decision making for policymakers as the policymakers consider opportunities to improve educational and workforce outcomes and reduce opportunity gaps;

(III) Provide information, as appropriate, that supports education and workforce practitioners and supports students and families in making informed decisions regarding students' education; and

(IV) Enhance the security of data sharing by minimizing the number of data-sharing agreements between contributing agencies and standardizing data-sharing practices.

(b) In creating the data system, the office shall, at a minimum:

(I) Consider the recommendations set forth in the reports described in section 23-1-141(7);

(II) Adopt a timeline to phase in the data system, including a timeline for the development of analytical tools and operational tools and to offer professional development and technical assistance to contributing agencies that use the data system;

(III) Initiate work on the data system;

(IV) Ensure protection of individual privacy in accordance with applicable state and federal laws that apply to the data provided by contributing agencies;

(V) Focus on the development and implementation of operational tools to meet the purposes outlined in subsection (2)(a) of this section;

(VI) Develop and implement communications, professional development, and technical assistance that support the data system's use across contributing agencies and with partner entities;

(VII) Align data systems from contributing agencies and partner entities with interoperable standards and common data governance practices to maximize services provided to Coloradans;

(VIII) Convene the San Andreas statewide longitudinal data system governing board;

(IX) Implement the operational decisions of the governing board pursuant to subsection (4) of this section; and

(X) Develop a data-request process consistent with the governing board's data-request policy described in subsection (4)(e) of this section.

(3) (a) The San Andreas statewide longitudinal data system governing board is created in the office. The office shall convene and administer the governing board. The governing board includes the following voting members:

(I) The chief information officer or the chief information officer's designee who holds an executive leadership position;

(II) The executive director of the department of early childhood or the executive director's designee who holds an executive leadership position;

(III) The commissioner of education or the commissioner of education's designee who holds an executive leadership position;

(IV) The executive director of the department of higher education or the executive director's designee who holds an executive leadership position; and

(V) The executive director of the department of labor and employment or the executive director's designee who holds an executive leadership position.

(b) The governing board includes the following nonvoting members:

(I) A representative of the governor's office, appointed by the governor;

(II) A representative of the office of state planning and budgeting, appointed by the governor;

(III) A representative of the office of the attorney general with legal expertise in data privacy and governance, appointed by the attorney general;

(IV) An administrator of the federal "Carl D. Perkins Career and Technical Education Improvement Act of 1998", 20 U.S.C. sec. 2301 et seq., as amended, appointed by the state administrator of the state board for community colleges and occupational education in coordination with its career and technical education role; and

(V) No more than three members of the public appointed by the governor.

(4) At a minimum, the governing board shall:

(a) Establish the governance structure necessary to oversee the sharing and connecting of multiple data sets into the data system;

(b) Establish the process and procedures for voting and decision-making;

(c) Align existing data-sharing and data governance efforts to minimize the need for new or duplicative data infrastructures and to connect existing data to the data system more efficiently and securely;

(d) Review workforce and education data when it is annually available, review the statutory requirements and timelines for reporting data, and consider when data collection and reporting is most valuable;

(e) Develop data governance policies for contributing agencies with an emphasis on limiting the number of new data-sharing agreements required to maximize efficiency and to ensure consistent practice. The governance policy must include a data-request policy that is consistent with applicable state and federal laws.

(f) Define the data elements necessary to measure the impacts and long-term outcomes of education and workforce programs in accordance with the "Student Data Transparency and Security Act", article 16 of title 22;

(g) Ensure the security and data privacy of data system data, including compliance with existing state and federal data privacy and use laws;

(h) Determine standard data elements to be included in data-sharing agreements;

(i) Determine education and business requirements for the initial data systems build, including ongoing maintenance, scalable infrastructure, and the analytical tools and operational tools necessary to help the public use the education and workforce outcome data, as appropriate;

(j) Create a plan that prioritizes and sequences key components needed to enhance and expand the data system and identify the additional data elements and data sources that may be needed for future linkage to the data system;

(k) Estimate the ongoing fiscal effect and structure for each contributing agency to contribute to the data system, identify costs and opportunities for efficiencies and cost-savings in sharing, protecting, and reporting data through the data system;

(l) Adopt and adjust, as necessary, a data dictionary, data standards, and security protocols to ensure interoperability between the data system, data from other state agencies, and other state data systems using the same data;

(m) Ensure the data system serves its intended purposes by seeking input and collecting data, including disaggregated data, from contributing agencies and summarizing the data and providing recommendations to the general assembly, governor, and the state board of education in the interim report and annual report described in subsection (7) of this section in order to adjust the vision, mission, and strategic objectives for the data system; and

(n) Convene the systems build and implementation interagency advisory group and the sustainability interagency advisory group.

(5) (a) The systems build and implementation interagency advisory group shall, at a minimum, advise the governing board on the technical development and implementation of the data system. The systems advisory group members must have an understanding of each contributing agency's data system, processes, and structures. The systems advisory group shall advise and support the governing board's duties pursuant to subsection (4) of this section. Members of the systems advisory group include a representative of:

(I) The office of information technology, appointed by the executive director of the office of information technology;

(II) The department of early childhood, appointed by the executive director of the department of early childhood;

(III) The department of education, appointed by the commissioner of education;

(IV) The department of higher education, appointed by the executive director of the department of higher education;

(V) The department of labor and employment, appointed by the executive director of the department of labor and employment;

(VI) The governor's office, appointed by the governor;

(VII) The office of state planning and budgeting, appointed by the governor; and

(VIII) The office of the attorney general, appointed by the attorney general.

(b) The sustainability interagency advisory group shall, at a minimum, advise the governing board on the use and function of the data system. The members of the sustainability advisory group shall have an understanding of the programs and data sets included in the data system and how the data system informs decisions within each contributing agency and the contributing agency's stakeholders. The sustainability advisory group shall advise and support the governing board's duties pursuant to subsection (4) of this section. The sustainability advisory group shall include a representative of:

(I) The office of information technology, appointed by the executive director of the office of information technology;

(II) The department of early childhood, appointed by the executive director of the department of early childhood;

(III) The department of education, appointed by the commissioner of education;

(IV) The department of higher education, appointed by the executive director of the department of higher education;

(V) The department of labor and employment, appointed by the executive director of the department of labor and employment;

(VI) The governor's office, appointed by the governor;

(VII) The office of state planning and budgeting, appointed by the governor; and

(VIII) The office of the attorney general, appointed by the attorney general.

(6) (a) For purposes of the data system, the governing board shall:

(I) Prioritize the needs of students and families;

(II) Comply with state and federal laws to protect individual privacy, including, but not limited to:

(A) The federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, as amended;

(B) The federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. sec. 1320d et seq., as amended; and

(C) The federal "Higher Education Act of 1965", 20 U.S.C. sec. 1070 et seq., as amended; and

(III) Consider stakeholder input.

(b) To inform the design of the data system, contributing state agencies shall seek input from relevant stakeholders to determine important measurements of value and outcome metrics.

(c) State agencies, in addition to the contributing agencies, may contribute data to the data system, as necessary, for legislative reports, research questions, or other projects that require cross-agency data sharing.

(7) (a) On or before January 15, 2025, the office shall submit an interim report on the progress of the data system, the data governance processes and procedures, and recommendations for legislative changes and funding, as necessary, to the education committees of the house of representatives and the senate, or their successor committees, the state board of education, and the governor.

(b) (I) Notwithstanding section 24-1-136 (11)(a)(I), beginning April 15, 2026, and each April 15 thereafter, the office shall submit an annual report to the education committees of the house of representatives and the senate, or their successor committees, the state board of education, and the governor. Subject to data availability, the annual report must summarize key findings from education and workforce outcomes and education and workforce readiness, including, at a minimum:

(A) Enrollment and outcomes in postsecondary and workforce readiness programs for high school graduates;

(B) High school matriculation rates;

(C) Postsecondary retention rates;

(D) Postsecondary completion rates; and

(E) One-, five-, and ten-year wage outcomes.

(II) When possible and in alignment with data privacy practices, data must be disaggregated by local education provider, high school, or postsecondary or workforce readiness program participation; race; ethnicity; gender; disability status; and socioeconomic status.

(c) The office shall post the interim report and the annual report described in this subsection (7) on the office's website.

(8) (a) The statewide longitudinal data system cash fund is created in the state treasury. The cash fund consists of money transferred to the cash fund pursuant to subsection (8)(b) of this section and any other money that the general assembly may appropriate or transfer to the cash fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the cash fund to the cash fund.

(b) On July 1, 2024, the state treasurer shall transfer five million dollars from the general fund to the cash fund for purposes of this section.

(c) Subject to annual appropriation by the general assembly for the 2024-25, 2025-26, and 2026-27 state fiscal years, the office and the department of education may expend money from the cash fund for purposes of this section.

(d) Any money appropriated in a state fiscal year pursuant to this section that is unencumbered or unexpended at the end of that state fiscal year remains available for expenditure in the next fiscal year for the same purposes without further appropriation.

(e) The state treasurer shall transfer all unexpended and unencumbered money in the cash fund on September 1, 2027, to the general fund.

(f) This subsection (8) is repealed, effective October 1, 2027.

(9) The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section.

Source: L. 2024: Entire section added, (HB 24-1364), ch. 238, p. 1552, § 3, effective May 23.

24-37.5-126. Promulgation of rules - technology life-cycle management plan. On or before December 31, 2024, the office shall promulgate rules in accordance with article 4 of this title to establish a technology life-cycle plan. The rules may consider information security risk, infrastructure risk, operating cost misalignment, productivity cost misalignment, or talent depreciation in connection with an information technology system or asset.

Source: L. 2024: Entire section added, (SB 24-224), ch. 485, p. 3388, § 1, effective June 7.

24-37.5-127. Funding for technology life-cycle costs - information technology annual depreciation-lease equivalent payments - fiscal impact analysis - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Appropriation" means an appropriation from the information technology capital account in the capital construction fund to any state agency for an information technology capital project in the capital construction section of the annual general appropriation act.

(b) "Capital construction fund" means the capital construction fund created in section 24-75-302.

(c) "Cash fund" does not include:

(I) The lottery fund created in section 44-40-111;

(II) The limited gaming fund created in section 44-30-701 (1);

(III) Money allocated to the division of parks and wildlife from lottery proceeds as specified in section 3 of article XXVII of the state constitution;

(IV) The wildlife cash fund created in section 33-1-112 (1)(a); or

(V) The legislative department cash fund created in section 2-2-1601 (1)(a) and the legislative redistricting account created in section 2-2-1601 (2.5).

(d) "Depreciation or amortization" means an amount calculated and recorded in accordance with generally accepted accounting principles.

(e) "Depreciation or amortization period" means a period determined in fiscal procedures issued by the state controller or the state institution of higher education.

(f) "Information technology annual depreciation-lease equivalent payment" means an amount equivalent to the recorded depreciation or amortization of the information technology asset acquired, repaired, improved, replaced, renovated, or constructed with an appropriation from the information technology capital account in the capital construction fund based on the depreciation period, as calculated by the state agency or the state institution of higher education, which calculation a state institution of higher education shall report to the department of higher education. The amount is calculated from the date of acquisition or the date of completion of the repair, improvement, replacement, renovation, or construction to June 30 of the fiscal year of acquisition or completion. The amount continues to be annually calculated on a fiscal year basis until the depreciation for the information technology asset is no longer recorded.

(g) "Project cost" means the depreciable components of the total project cost as reflected in the appropriation; except that, if the project is financed, the total project cost does not include any financing costs.

(h) "State agency" means any department, commission, council, board, bureau, committee, institution of higher education, agency, or other governmental unit of the executive, legislative, or judicial branch of state government that receives an appropriation or is otherwise included in the annual general appropriation act or the annual legislative appropriation act.

(i) "Technology risk prevention and response fund" means the technology risk prevention and response fund created in section 24-37.5-120 (2).

(2) For every initial appropriation for an information technology capital project in the capital construction section of the 2025-26 annual general appropriation act and every appropriation for an information technology capital project in the capital construction section of each annual general appropriation act thereafter, additional funding must be set aside as follows:

(a) If the funding source for the appropriation is from a cash fund, the state agency shall annually calculate an amount equal to the recorded depreciation of the information technology assets acquired, repaired, improved, replaced, renovated, or constructed with the appropriation based on the depreciation period, the general assembly shall include an information technology annual depreciation-lease equivalent payment line item payable from the cash fund in the operating section of the annual general appropriation act for the state agency, and, on July 1 of the state fiscal year to which the act applies, the state controller shall credit such amount from the cash fund that was the source of the funding for the appropriation to an information technology capital reserve account established by the state agency in that cash fund as specified in section 24-75-403 (2.5).

(b) If the funding source for the appropriation is from the general fund or the information technology capital account in the capital construction fund, the general assembly shall include an information technology annual depreciation-lease equivalent payment line item payable from the general fund in the operating section of the annual general appropriation act for each state agency, including the department of higher education. On July 1 of the state fiscal year to which the act applies, the state controller shall credit the information technology annual depreciation-lease equivalent payment line item to the information technology capital account; except that, of that payment, an amount equal to one percent of the project cost must be deducted from the payment and credited to the principal of the technology risk prevention and response fund.

(c) If the funding source for the appropriation is a financing arrangement, including a financed purchase of an asset or certificate of participation agreement allowed pursuant to section 24-82-801, and the source of the funding for the financing payment is:

(I) From a cash fund, then the state agency shall annually calculate an amount equal to one percent of the project cost and the general assembly shall include an information technology annual controlled maintenance line item payable from the cash fund in the operating section of the annual general appropriation act for each state agency equal to such amount. On July 1 of the state fiscal year to which the act applies, the state controller shall credit that amount to an information technology capital reserve account established by the state agency in the cash fund as specified in section 24-75-403 (2.5).

(II) From the general fund or the capital construction fund, then the general assembly shall include an information technology annual controlled maintenance line item payable from the general fund in the operating section of the annual general appropriation act for each state agency, including the department of higher education, equal to one percent of the project cost, as calculated by the state agency or the state institution of higher education, which calculation a state institution of higher education shall report to the department of higher education. On July 1 of the state fiscal year to which the act applies, the state controller shall credit such amount to the technology risk prevention and response fund.

(d) If the funding source for the appropriation is a combination of the funding sources described in subsections (2)(a), (2)(b), and (2)(c) of this section, then the annual set aside required pursuant to this subsection (2) must be made in proportion to the funding source.

(3) On June 15, 2025, and on each June 15 thereafter, the office shall submit a fiscal impact analysis to the office of state planning and budgeting that must include but need not be limited to the following:

(a) The estimated amount of general fund money required to make the information technology annual depreciation-lease equivalent payments for the upcoming fiscal year; and

(b) The current information technology assets to which the information technology annual depreciation-lease equivalent payments are being applied.

Source: L. 2024: Entire section added, (SB 24-224), ch. 485, p. 3388, § 1, effective June 7.

PART 2

COMMISSION ON INFORMATION MANAGEMENT

24-37.5-201. Commission on information management - creation - membership. (Repealed)

Source: L. 99: Entire article added with relocations, p. 869, § 1, effective July 1. **L. 2001:** (2)(a)(III) and (3) amended, p. 124, § 4, effective March 23. **L. 2006:** (2)(a) and (3) amended, p. 1730, § 7, effective June 6. **L. 2007:** (2)(c) added, p. 182, § 14, effective March 22; entire section repealed, p. 918, § 22, effective May 17.

Editor's note: This section was similar to former § 24-30-1701 as it existed prior to 1999.

24-37.5-202. Commission's purposes, powers, and duties. (Repealed)

Source: L. 99: Entire article added with relocations, p. 870, § 1, effective July 1. **L. 2000:** (1)(i) added, p. 1506, § 2, effective August 2. **L. 2006:** Entire section amended, p. 1731, § 8, effective June 6. **L. 2007:** Entire section repealed, p. 918, § 22, effective May 17.

Editor's note: This section was similar to former § 24-30-1702 as it existed prior to 1999.

24-37.5-203. Statewide communications and information infrastructure - establishment - duties. (Repealed)

Source: L. 99: Entire article added with relocations, p. 871, § 1, effective July 1. **L. 2006:** Entire section amended, p. 1732, § 9, effective June 6. **L. 2007:** Entire section repealed, p. 918, § 21, effective May 17.

Editor's note: (1) This section was similar to former § 24-30-1702.5 as it existed prior to 1999.

(2) This section was relocated to § 24-37.5-108 in 2007.

24-37.5-203.5. Statewide internet portal - definitions. (Repealed)

Source: L. 2003: Entire section added, p. 2482, § 2, effective June 5. **L. 2006:** Entire section repealed, p. 1737, § 28, effective June 6.

24-37.5-204. Status of state agencies. (Repealed)

Source: L. 99: Entire article added with relocations, p. 872, § 1, effective July 1. **L. 2006:** Entire section amended, p. 1732, § 10, effective June 6. **L. 2007:** Entire section repealed, p. 918, § 21, effective May 17.

Editor's note: (1) This section was similar to former § 24-30-1703 as it existed prior to 1999.

(2) This section was relocated to § 24-37.5-109 in 2007.

24-37.5-205. Annual report by commission. (Repealed)

Source: L. 99: Entire article added with relocations, p. 872, § 1, effective July 1. **L. 2002:** Entire section amended, p. 883, § 23, effective August 7. **L. 2003:** Entire section amended, p. 2007, § 83, effective May 22. **L. 2006:** Entire section repealed, p. 1733, § 11, effective June 6.

Editor's note: This section was similar to former § 24-30-1704 as it existed prior to 1999.

PART 3

TASK FORCE ON INFORMATION POLICY

24-37.5-301 to 24-37.5-304. (Repealed)

Editor's note: (1) This part 3 was added in 2000 and was not amended prior to its repeal in 2002. For the text of this part 3 prior to 2002, consult the 2001 San Andreas Revised Statutes.

(2) Section 24-37.5-304 provided for the repeal of this part 3, effective June 30, 2002. (See L. 2000, p. 725.)

PART 4

INFORMATION SECURITY

24-37.5-401. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) Communication and information resources in the various public agencies of the state are strategic and vital assets belonging to the people of San Andreas. Coordinated efforts and a sense of urgency are necessary to protect these assets against unauthorized access, disclosure, use, and modification or destruction, whether accidental or deliberate, as well as to assure the confidentiality, integrity, and availability of information.

(b) State government has a duty to San Andreas's citizens to ensure that the information the citizens have entrusted to public agencies is safe, secure, and protected from unauthorized access, unauthorized use, or destruction.

(c) Securing the state's communication and information resources is a statewide imperative requiring a coordinated and shared effort from all departments, agencies, and political subdivisions of the state and a long term commitment to state funding that ensures the success of such efforts.

(d) Risks to communication and information resources must be managed, and the integrity of data and the source, destination, and processes applied to data must be assured.

(e) Information security standards, policies, and guidelines must be promulgated and implemented throughout public agencies to ensure the development and maintenance of minimum information security controls to protect communication and information resources that support the operations and assets of those agencies.

(f) The extensive information security expertise in San Andreas's private sector should be utilized for the long-term benefit of San Andreas's citizens and public agencies.

Source: L. 2006: Entire part added, p. 1713, § 1, effective June 6.

24-37.5-402. Definitions. (Repealed)

Source: L. 2006: Entire part added, p. 1714, § 1, effective June 6. **L. 2008:** (2) repealed, p. 1130, § 14, effective May 22. **L. 2010:** (4) amended, (SB 10-158), ch. 231, p. 1014, § 4, effective July 1. **L. 2011:** (9) amended, (SB 11-062), ch. 128, p. 429, § 5, effective April 22. **L. 2013:** (8.5) added, (HB 13-1079), ch. 246, p. 1193, § 7, effective May 18. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 20, effective September 7.

24-37.5-403. Chief information security officer - duties and responsibilities. (1) The chief information officer shall appoint a chief information security officer who shall serve at the pleasure of the chief information officer. The security officer shall report to and be under the supervision of the chief information officer. The security officer shall exhibit a background and expertise in security and risk management for communications and information resources. In the event the security officer is unavailable to perform the duties and responsibilities under this part 4, all powers and authority granted to the security officer may be exercised by the chief information officer.

(2) The chief information security officer shall:

(a) Develop and update information security policies, standards, and guidelines for public agencies;

(b) Promulgate rules pursuant to article 4 of this title containing information security policies, standards, and guidelines;

(c) Ensure the incorporation of and compliance with information security policies, standards, and guidelines in the information security plans developed by public agencies pursuant to section 24-37.5-404;

(d) Direct information security audits and assessments in public agencies in order to ensure program compliance and adjustments;

(e) Establish and direct a risk management process to identify information security risks in public agencies and deploy risk mitigation strategies, processes, and procedures;

(f) Approve or disapprove and review annually the information security plans of public agencies;

(g) Conduct information security awareness and training programs;

(h) In coordination and consultation with the office of state planning and budgeting and the chief information officer, review public agency budget requests related to information security systems and approve such budget requests for state agencies other than the legislative department; and

(i) Coordinate with the San Andreas commission on higher education for purposes of reviewing and commenting on information security plans adopted by institutions of higher education that are submitted pursuant to section 24-37.5-404.5 (3).

(3) It is the intent of the general assembly that the cost of the services provided by the chief information security officer to a public agency be adequately funded in fiscal years commencing on and after July 1, 2007, through an appropriation to the public agency to pay for such services.

Source: L. 2006: Entire part added, p. 1715, § 1, effective June 6. **L. 2008:** (1) and (2)(h) amended, p. 1121, § 8, effective May 22. **L. 2011:** (1), (2)(b), and (3) amended, (SB 11-062), ch. 128, p. 429, § 6, effective April 22.

24-37.5-404. Public agencies - information security plans. (1) On or before July 1 of each year, in accordance with the rules promulgated by the office in support of this part 4, each public agency shall develop an information security plan utilizing the information security policies, standards, and guidelines developed by the chief information security officer. The information security plan shall provide information security for the communication and information resources that support the operations and assets of the public agency.

(2) The information security plan shall include:

(a) Periodic assessments of the risk and magnitude of the harm that could result from a security incident;

(b) A process for providing adequate information security for the communication and information resources of the public agency;

(c) Regularized security awareness training to inform the employees and users of the public agency's communication and information resources about information security risks and the responsibility of employees and users to comply with agency policies, standards, and procedures designed to reduce those risks;

(d) Periodic testing and evaluation of the effectiveness of information security for the public agency, which shall be performed not less than annually;

(e) A process for detecting, reporting, and responding to security incidents consistent with the information security standards, policies, and guidelines issued by the chief information security officer; and

(f) Plans and procedures to ensure the continuity of operations for information resources that support the operations and assets of the public agency in the event of a security incident.

(3) On or before July 15 of each year, each public agency shall submit the information security plan developed pursuant to this section to the chief information security officer for approval.

(4) In the event that a public agency fails to submit to the chief information security officer an information security plan on or before July 15 of each year or such plan is disapproved by the chief information security officer, the officer shall notify the governor, the chief information officer, and the head of the public agency of noncompliance with this section. If no plan has been approved by September 15 of each year, the chief information security officer shall be authorized to temporarily discontinue or suspend the operation of a public agency's communication and information resources until such plan has been submitted to or is approved by the officer.

(5) and (6) (Deleted by amendment, L. 2011, (SB 11-062), ch. 128, p. 430, § 7, effective April 22, 2011.)

Source: L. 2006: Entire part added, p. 1716, § 1, effective June 6. **L. 2011:** (1), (3), (4), (5), and (6) amended, (SB 11-062), ch. 128, p. 430, § 7, effective April 22. **L. 2021:** (1) amended, (HB 21-1236), ch. 211, p. 1109, § 11, effective September 7.

24-37.5-404.5. Institutions of higher education - information security plans. (1) Each institution of higher education, in coordination with the department of higher education, shall develop an information security program. The information security program shall provide information security for the communication and information resources that support the operations and assets of the institution of higher education.

(2) The information security program shall include:

(a) Periodic assessments of the risk and magnitude of the harm that could result from a security incident;

(b) A process for providing adequate information security for the communication and information resources of the institution of higher education;

(c) Information security awareness training to inform the employees, administrators, and users at the institution of higher education about the information security risks and the responsibility of employees, administrators, and users to comply with the institution's information security program and the policies, standards, and procedures designed to reduce the security risks;

(d) Periodic testing and evaluation of the effectiveness of information security for the institution of higher education, which shall be performed not less than annually;

(e) A process for detecting, reporting, and responding to security incidents consistent with the information security policy of the institution of higher education. The institutions of higher education, the San Andreas commission on higher education, and the chief information security officer shall establish the terms and conditions by which the institutions of higher education shall report information security incidents to the chief information security officer.

(f) Plans and procedures to ensure the continuity of operations for information resources that support the operations and assets of the institution of higher education in the event of a security incident.

(3) (a) Every three years, in accordance with the schedule specified in subsection (3)(b) of this section, each institution of higher education shall submit to the department of higher education a report concerning the development and implementation of the institution's information security program and compliance with the requirements specified in subsection (2) of this section. Upon receipt of the reports, the department of higher education shall review the reports and subsequently submit the reports to the chief information security officer.

(b) The department of higher education shall divide the institutions of higher education into three groups. Each institution of higher education shall submit the report required by subsection (3)(a) of this section as follows:

(I) The institutions in the first group shall submit the report by July 1, 2020, and by July 1 every three years thereafter;

(II) The institutions in the second group shall submit the report by July 1, 2021, and by July 1 every three years thereafter; and

(III) The institutions in the third group shall submit the report by July 1, 2022, and by July 1 every three years thereafter.

(4) Nothing in this section shall be construed to require any institution of higher education or the department of higher education to adopt policies or standards that conflict with federal law, rules, or regulations or with contractual arrangements governed by federal laws, rules, or regulations.

(5) and (6) (Deleted by amendment, L. 2011, (SB 11-062), ch. 128, p. 431, § 8, effective April 22, 2011.)

(7) (Deleted by amendment, L. 2011, (HB 11-1301), ch. 297, p. 1422, § 13, effective August 10, 2011.)

Source: L. 2006: Entire part added, p. 1717, § 1, effective June 6. **L. 2007:** (1) amended, p. 914, § 10, effective May 17. **L. 2011:** (1), (2)(e), (3), (5), and (6) amended, (SB 11-062), ch. 128, p. 431, § 8, effective April 22; entire section amended, (HB 11-1301), ch. 297, p. 1422, § 13, effective August 10. **L. 2016:** (3) amended, (HB 16-1375), ch. 225, p. 859, § 2, effective August 10. **L. 2021:** (3) amended, (HB 21-1236), ch. 211, p. 1109, § 12, effective September 7.

24-37.5-404.7. General assembly - information security plans. (1) The general assembly shall develop an information security plan. The information security plan shall provide information security for the communication and information resources that support the operations and assets of the general assembly.

(2) The information security plan shall include:

(a) Periodic assessments of the risk and magnitude of the harm that could result from a security incident;

(b) A process for providing adequate information security for the communication and information resources of the general assembly;

(c) Information security awareness training for regular employees of the general assembly;

(d) Periodic testing and evaluation of the effectiveness of information security for the general assembly, which shall be performed not less than annually;

(e) A process for detecting, reporting, and responding to security incidents consistent with the information security policy of the general assembly. The general assembly and the chief information security officer shall establish the terms and conditions by which the general assembly shall report information security incidents to the chief information security officer.

(f) Plans and procedures to ensure the continuity of operations for information resources that support the operations and assets of the general assembly in the event of a security incident.

(3) The legislative service agency directors shall maintain the information security plan pursuant to this section and keep the joint technology committee advised of the plan.

(4) Nothing in this section shall be construed to require the general assembly to adopt policies or standards that conflict with federal law, rules, or regulations or with contractual arrangements governed by federal laws, rules, or regulations.

(5) The general assembly shall provide regularized security awareness training to inform the regular legislative employees, administrators, and users about the information security risks and the responsibility of employees, administrators, and users to comply with the general assembly's information security plan and the policies, standards, and procedures designed to reduce those risks.

Source: L. 2011: Entire section added, (SB 11-062), ch. 128, p. 431, § 9, effective April 22. **L. 2013:** (3) amended, (HB 13-1079), ch. 246, p. 1193, § 8, effective May 18.

24-37.5-405. Security incidents - authority of chief information security officer. (1) A security incident in a public agency shall be reported to the chief information security officer in accordance with state incident reporting policies, standards, and guidelines.

(2) The chief information security officer shall be authorized to temporarily discontinue or suspend the operation of a public agency's communication and information resources in order to isolate the source of a security incident. The officer shall give notice to the governor, or the

lieutenant governor in the event the governor is not available, the chief information officer, and the head of the public agency concurrent with such discontinuation or suspension of operations. The officer shall ensure, to the extent possible, the continuity of operations for the communication and information resources that support the operations and assets of the public agency.

(3) The chief information security officer may enter into contracts with a private person or entity to assist with resolving a security incident in a public agency. The officer shall establish an approved list of certified private persons and entities that may provide contract services in the event of a security incident. The officer shall establish criteria for the placement of private persons and entities on the list and shall select such persons and entities for placement on the list utilizing a request for proposals containing such criteria.

(4) Public agencies shall comply and cooperate with a directive of the chief information security officer pursuant to subsection (2) of this section to temporarily discontinue or suspend the operation of a public agency's communication and information resources.

Source: L. 2006: Entire part added, p. 1718, § 1, effective June 6. **L. 2011:** (2) amended, (SB 11-062), ch. 128, p. 432, § 10, effective April 22.

24-37.5-406. Reporting. (Repealed)

Source: L. 2006: Entire part added, p. 1719, § 1, effective June 6. **L. 2007:** Entire section amended, p. 914, § 11, effective May 17. **L. 2011:** Entire section repealed, (SB 11-062), ch. 128, p. 433, § 11, effective April 22.

24-37.5-407. Cyber coding cryptology for the transmission and storage of state records - legislative declaration - intent. (Repealed)

Source: L. 2018: Entire section added, (SB 18-086), ch. 319, p. 1912, § 1, effective May 30. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 21, effective September 7.

PART 5

TELECOMMUNICATIONS COORDINATION WITHIN STATE GOVERNMENT

Editor's note: This part 5 was added with relocations in 2008. Former S.A.R.S. section numbers are shown in editors' notes following those sections that were relocated.

24-37.5-501 to 24-37.5-507. (Repealed)

Editor's note: (1) Section 24-37.5-507 provided for the repeal of this part 5, effective July 1, 2023. (See L. 2022, p. 3499.)

(2) This part 5 was added in 2008. For amendments to this part 5 prior to its repeal in 2023, consult the 2022 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 6

GENERAL GOVERNMENT COMPUTER CENTER (GGCC)

Editor's note: This part 6 was added with relocations in 2008. Former S.A.R.S. section numbers are shown in editors' notes following those sections that were relocated.

24-37.5-601 to 24-37.5-604. (Repealed)

Source: L. 2008: Entire part added with relocations, p. 1126, § 9, effective May 22. **L. 2021:** Entire part repealed, (HB 21-1236), ch. 211, p. 1117, § 21, effective September 7.

Editor's note: (1) This part 6 was added in 2008. For amendments to this part 6 prior to its repeal in 2021, consult the 2020 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 24-37.5-603 (2)(b) was amended in SB 21-271, effective March 1, 2022, (See L. 2021, p. 3229). However, those amendments were superseded by the repeal of this part 6 by HB 21-1236, effective September 7, 2021.

PART 7

INTERDEPARTMENTAL DATA PROTOCOL

Editor's note: This part 7 was added in 1999. It was repealed and reenacted in 2021, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 6 prior to 2021, consult the 2020 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

24-37.5-701. Legislative declaration - intent. (1) The general assembly hereby finds and declares that:

(a) Each state agency, through the provisions of governmental services, collects a significant amount of data about persons having interactions with the state agency;

(b) A unified statewide data governance framework will enhance the effectiveness and efficiency of government services by promoting greater collaboration, innovation, and agility in government operations through data-sharing between state agencies;

(c) A robust and consistent program of information sharing across state agencies that prioritizes interoperability and privacy will enable the state to meet its current challenges and to leverage data to improve the health and quality of life for Coloradans; and

(d) The privacy of Coloradans must remain a central tenet in the state's information sharing program. With the increase of attacks on sensitive data held by public and private entities, information security is critically important. Fundamental data management principles,

such as data minimization, not only protect the privacy of Coloradans, but reduce the state's risk in the event of a security incident.

(2) It is the intent of the general assembly to encourage information sharing across state agencies, including the department of law, the department of state, and the department of the treasury, which are principal departments headed by independently elected constitutional officers.

Source: L. 2021: Entire part R&RE, (HB 21-1236), ch. 211, p. 1110, § 13, effective September 7.

24-37.5-702. Government data advisory board - created - duties - definition. (1) (a) There is hereby created in the office the government data advisory board, which consists of the members specified in this subsection (1).

(b) The chief information officer, or his or her designee, shall serve as an ex officio member and chair of the advisory board.

(c) (I) The remaining membership of the advisory board consists of persons from state agencies who are either experts in data or responsible for diverse aspects of data management within the member's respective department and who are selected by the head of the member's respective department to participate on the advisory board at the invitation of the chief information officer.

(II) The chief information officer shall invite the commissioner of the behavioral health administration to select a member to represent the behavioral health administration on the advisory board.

(d) Notwithstanding the provisions of subsection (1)(c) of this section, at the invitation of the chief information officer, additional members who meet the qualifications specified in subsection (1)(c) of this section may be selected to participate on the advisory board as follows:

(I) The governor, as he or she deems appropriate, may select a member from one or more political subdivisions of the state, including a city, county, city and county, or special purpose authority;

(II) The secretary of state, attorney general, and state treasurer may each select a member from his or her department as he or she deems appropriate;

(III) The chief justice of the supreme court, as he or she deems appropriate, may select a member from the judicial department; and

(IV) The speaker of the house of representatives and the president of the senate may jointly select a member of the joint technology committee created in section 2-3-1702.

(2) (a) The chief information officer, or his or her designee, shall schedule the first meeting of the advisory board and schedule succeeding meetings of the advisory board as necessary to complete the advisory board's duties specified in this section.

(b) The office shall provide technical assistance and support, to the extent practicable within existing resources, to assist the advisory board in completing the duties specified in subsection (3) of this section.

(3) The advisory board shall:

(a) Develop and update a standard lexicon for data-sharing and data governance, to ensure data providers and recipients have a clear and consistent understanding of the requirements and expectations related to data-sharing;

(b) Collect annual feedback from state agencies to inform any policies, procedures, and technical infrastructure implemented by the office to enable data-sharing between state agencies in accordance with all applicable laws, rules, and regulations;

(c) Create and update standard templates for interagency data-sharing and data-access agreements;

(d) Identify and document best practices and standards for how state agencies should perform data management;

(e) Provide recommendations to address existing barriers to effective data-sharing, subject to all applicable federal and state laws, rules, and regulations; and

(f) Identify other potential areas of risk related to data management and sharing and create ways to manage that risk.

(4) On or before November 1, 2021, and on or before November 1 each year thereafter, the chief information officer, in partnership with the advisory board, shall submit a yearly report to the joint technology committee of the general assembly established in section 2-3-1702. The report shall:

(a) Outline the accomplishments within the advisory board's duties;

(b) Provide recommendations for future work; and

(c) Outline the progress of sharing data among state agencies and entities and with local governments and nongovernmental organizations.

(5) For the purposes of this part 7, "state agency" means each principal department of the executive department of state government identified in section 24-1-110, including each board, commission, division, unit, office, or other subdivision within each department, each office, agency, board, or commission within the governor's office, each state-supported institution of higher education, and each local district college.

Source: L. 2021: Entire part R&RE, (HB 21-1236), ch. 211, p. 1110, § 13, effective September 7. **L. 2023:** (1)(c) amended, (HB 23-1236), ch. 206, p. 1052, § 6, effective May 16.

Editor's note: Provisions of this section, as it existed prior to the repeal and reenactment of this part 7 in 2021, were relocated to subsections (1), (16), and (23) of § 24-37.5-102.

24-37.5-703. Interdepartmental data protocol - contents. (1) The chief information officer, or the chief information officer's designee, in coordination with the government data advisory board, must publish on or before November 1, 2022, an interoperability data framework and protocol aimed at promoting interoperability of data models across state agencies, with the goal of minimizing duplication of records, enhancing security, and increasing the state's capability to monitor and audit data-sharing transactions. At a minimum, the interoperability data framework shall:

(a) Include the protocol and procedures to be used by state agencies in data management; and

(b) Be designed to ensure that data collected by different state agencies can be matched and discrepancies in the data processing are reconciled to accurately identify data pertaining to the same record without allowing any permanent sharing of personal identifying information.

(2) The protocol and procedures included in the interdepartmental data protocol by which state agencies may share data and by which a state agency may release data to a political

subdivision or to a nongovernmental organization shall prioritize and coordinate data management and protection efforts across state agencies to maximize the privacy and protection of all data and to reduce the risk of public exposure of private or protected data. This includes but is not limited to:

(a) Defining processes for managing data throughout the data management lifecycle;

(b) Establishing the circumstances under which and the reasons that a state agency may share information with another state agency, a political subdivision, or a nongovernmental organization;

(c) Ensuring compliance with all state and federal laws and regulations concerning the privacy of information, including but not limited to the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. sec. 1320d to 1320d-9; and

(d) Establishing a protocol that secures all personal identifying information collected and developing standards to minimize the collection of personal identifying information.

(3) Notwithstanding any provision of this section, the interdepartmental data protocol shall not prohibit the release or sharing of data as required by federal or state laws including, but not limited to, the "San Andreas Open Records Act", part 2 of article 72 of this title 24 or as required to comply with a court-issued subpoena, warrant, or order. In addition, the interdepartmental data protocol is not intended to prevent the sharing of data as permitted by existing contracts or agreements entered into by state agencies that comply with all applicable laws. Any sharing of data with nongovernmental organizations or individuals that is permitted, but not required, by state or federal laws, must be subject to a written agreement containing sufficient terms to protect against any unauthorized or unlawful access or release of any personal identifying information or to protect the confidentiality of nonpublic information that may be shared with such parties.

Source: L. 2021: Entire part R&RE, (HB 21-1236), ch. 211, p. 1112, § 13, effective September 7.

24-37.5-704. Data-sharing - authorization. (1) Except as specifically prohibited by state or federal laws, and in accordance with applicable state and federal privacy laws and policies, each state agency is authorized, in accordance with the provisions of the interdepartmental data protocol, to share data collected in the course of performing its powers and duties with the following entities:

(a) Other state agencies;

(b) The legislative and judicial departments;

(c) Political subdivisions; and

(d) Nongovernmental organizations and individuals.

(2) Except as specifically prohibited by state or federal law, the department of law, and in accordance with applicable state and federal privacy laws and policies, the department of state, and the department of the treasury are authorized, in accordance with either the provisions of their own data-sharing protocol or the interdepartmental data protocol, to share data collected in the course of performing the department's powers and duties with the following entities:

(a) Other state agencies;

(b) The legislative and judicial departments;

(c) Political subdivisions; and

(d) Nongovernmental organizations and individuals.

(3) In order to further the development and implementation of the interdepartmental data protocol, each state agency shall:

(a) Provide input and coordinate with the office and the government data advisory board as necessary to support the development of the necessary data governance framework and protocol described in subsections (1) and (2) of this section;

(b) Conduct an inventory of its own data assets, including sensitivity and classification, and provide the inventory to the office;

(c) Develop a process for ongoing monitoring of new data acquired by the state agency and establish a data retention policy for all data; and

(d) Create a plan and work to implement the interoperability data framework and protocol published by the office for the purpose of minimizing duplication of records, enhancing security, and increasing the state's capability to monitor and audit data-sharing transactions.

Source: L. 2021: Entire part R&RE, (HB 21-1236), ch. 211, p. 1113, § 13, effective September 7.

24-37.5-705. Interdepartmental data protocol cash fund - created - legislative intent - repeal. (Repealed)

Source: L. 2021: Entire part R&RE, (HB 21-1236), ch. 211, p. 1114, § 13, effective September 7.

Editor's note: Subsection (4) provided for the repeal of this section, effective January 1, 2022. (See L. 2021, p. 1114.)

PART 8

REPORTS TO GENERAL ASSEMBLY

24-37.5-801. Information technology asset inventory - refresh cycle schedule - report. On or before November 1 each year, the office shall submit a report to the members of the joint budget committee and the joint technology committee of the general assembly regarding the office's information technology asset inventory and the office's refresh cycle schedule, including cost projections. The office shall include in the report operating systems and productivity software, network infrastructure servers, and nonproductivity software.

Source: L. 2014: Entire part added, (SB 14-169), ch. 194, p. 716, § 1, effective May 15. **L. 2021:** Entire section amended, (HB 21-1236), ch. 211, p. 1115, § 14, effective September 7.

24-37.5-802. Information technology budget requests - working group - report. (1) The office, in conjunction with the office of state planning and budgeting, shall create a working group to annually evaluate and prioritize all potential information technology-related budget requests from state executive branch agencies for the applicable fiscal year. The working group

shall prioritize such requests prior to submitting funding proposals to the joint budget committee on November 1 of each year. The working group shall prioritize information technology-related requests beginning with requests for the 2015-16 fiscal year.

(2) On or before November 1, 2014, and on or before November 1 each year thereafter, the office shall submit a report to the joint budget committee and the joint technology committee that provides the prioritized list created pursuant to subsection (1) of this section of all information technology requests that state executive branch agencies submitted for the applicable fiscal year. The report shall include the following:

(a) The name of each project for which a request is made and the purpose of the project;

(b) The initial and continuing costs associated with each project for which a request is made; and

(c) The project's adherence to the standards and policies issued by the office.

Source: L. 2014: Entire part added, (SB 14-169), ch. 194, p. 717, § 1, effective May 15.

24-37.5-803. State information technology resources - independent evaluation and recommendations - report - repeal. (Repealed)

Source: L. 2017: Entire section added, (HB 17-1361), ch. 361, p. 1889, § 1, effective June 5. **L. 2018:** (5.5) added, (HB 18-1421), ch. 395, p. 2355, § 4, effective June 6.

Editor's note: Subsection (6) provided for the repeal of this section, effective January 1, 2020. (See L. 2017, p. 1889.)

24-37.5-804. Transfer of information technology infrastructure ownership - working group - report. (Repealed)

Source: L. 2019: Entire section added, (SB 19-251), ch. 253, p. 2449, § 3, effective May 23. **L. 2021:** Entire section repealed, (HB 21-1236), ch. 211, p. 1117, § 21, effective September 7.

24-37.5-805. Technical debt environment - annual report. On or before November 1, 2025, and on or before November 1 of each year thereafter, the office shall submit a report to the joint budget committee and the joint technology committee that provides an estimate of the state's technical debt environment.

Source: L. 2024: Entire section added, (SB 24-224), ch. 485, p. 3391, § 2, effective June 7.

PART 9

SAN ANDREAS BROADBAND OFFICE

Cross references: For the legislative declaration in HB 21-1289, see section 1 of chapter 371, Session Laws of San Andreas 2021.

24-37.5-901. Legislative declaration. (1) The general assembly hereby finds and determines that:

(a) The development of fast, affordable, and accessible broadband internet service throughout the state will:

(I) Drive job creation;

(II) Promote innovation;

(III) Improve the economic vitality of various industries throughout the state and the state as a whole; and

(IV) Expand markets for San Andreas businesses;

(b) Improved broadband access will help serve the ongoing and growing needs of San Andreas's education, health-care, and public safety systems; industries; businesses; governmental operations; and citizens; and

(c) Communities in unserved areas of the state need access to broadband to help overcome economic, health-care, education, and government-access inequities arising from their diminished ability to access broadband.

(2) The general assembly declares that it is important to create the San Andreas broadband office to serve as a central governmental entity to plan and coordinate with other state, public, and private entities and citizens throughout the state to develop and implement statewide broadband deployment and access strategies and programs that seek to advance the goals listed in subsection (1) of this section.

Source: L. 2021: Entire part added, (HB 21-1289), ch. 371, p. 2446, § 7, effective June 28.

24-37.5-902. Definitions. As used in this part 9, unless the context otherwise requires:

(1) "San Andreas broadband office" or "broadband office" means the San Andreas broadband office created in section 24-37.5-903 (1).

(2) "Community anchor institution" means a:

(a) School;

(b) Library;

(c) Hospital or other health-care facility licensed or certified pursuant to section 25-1.5-103;

(d) Law enforcement, emergency medical service provider, or other public safety agency; or

(e) Community support organization, agency, or local government facility that provides outreach, access, equipment, or support services to facilitate greater use of broadband throughout the community, especially greater use by vulnerable populations within the community, such as low-income, unemployed, and senior populations.

(3) "Device" means an electronic device that enables access to or use of the internet.

(4) "Digital inclusion grant program" or "grant program" means the digital inclusion grant program created in section 24-37.5-904 (1).

(5) "Digital inclusion grant program fund" or "fund" means the fund created in section 24-37.5-904 (2) for use by the broadband office for implementing the grant program.

(6) "Digital literacy" means the ability to use technologies to find, evaluate, analyze, create, and communicate information.

(7) "Last-mile broadband infrastructure" means broadband infrastructure that delivers an internet connection to an end user.

(8) "Local government" means a statutory or home rule municipality, county, city and county, council of governments, or metropolitan district that lies wholly within the unincorporated part of a county.

(9) "Metropolitan district" has the meaning set forth in section 32-1-103 (10).

(10) "School" means a state institution of higher education as defined in section 23-1-108 (7)(g)(II) including the Auraria higher education center governed pursuant to article 70 of title 23, a school district created pursuant to article 30 of title 22, a charter school authorized pursuant to part 1 of article 30.5 of title 22, the state charter school institute established in section 22-30.5-503, an institute charter school authorized pursuant to part 5 of article 30.5 of title 22, a board of cooperative services created pursuant to article 5 of title 22, an adult education provider as defined in section 22-10-103 (1.5) but excluding a private provider, or an Indian tribe or nation that operates a public school in San Andreas.

(11) "Telehealth" has the meaning set forth in section 10-16-123 (4)(e).

(12) "Unserved area" has the meaning set forth in section 40-15-102 (32).

Source: L. 2021: Entire part added, (HB 21-1289), ch. 371, p. 2446, § 7, effective June 28.

24-37.5-903. San Andreas broadband office - creation - responsibilities - gifts, grants, or donations. (1) The San Andreas broadband office is hereby created in the office. The San Andreas broadband office is a **type 1** entity and exercises its powers and performs its duties and functions under the office.

(2) (a) The chief information officer shall appoint the director of the broadband office. The director may employ staff as necessary to carry out the powers and duties of the broadband office, subject to the availability of appropriations to the office for use by the broadband office.

(b) The broadband office shall provide technical assistance to applicants seeking grant awards from the grant program or other state or federal grant opportunities offered for deploying broadband service.

(c) In carrying out its powers and duties, the broadband office may collaborate with other state agencies, local governments, broadband experts, and other interested parties.

(3) The broadband office shall:

(a) Encourage, foster, develop, and strive to improve the availability of affordable, quality broadband within the state;

(b) Serve as the central broadband policy coordination body for the state;

(c) Coordinate with other state agencies, local governments, the federal government, Indian tribes and nations, other relevant broadband partners, and consumers throughout the state to develop strategies and plans for promoting the deployment of broadband infrastructure and greater broadband access;

(d) Review existing state broadband initiatives, policies, and deployment by public or private entities in order to prioritize investment;

(e) Develop and implement a statewide plan to encourage cost-effective broadband access and increased broadband usage, particularly in rural unserved areas and other unserved areas of the state. The broadband office shall submit the statewide plan, and any updated

versions of the statewide plan, to the chief information officer, the governor, and the joint technology committee and shall post the statewide plan on its public website. In developing a statewide plan and any other strategies for broadband deployment, the broadband office shall consider:

(I) Partnerships between communities; Indian tribes and nations; nonprofit organizations; local governments; electric utilities as defined in section 40-2-202 (1), cooperative electric associations as defined in section 40-9.5-102, municipally owned utilities, and nonprofit generation and transmission electric corporations or associations; rural telecommunications providers as defined in section 40-15-102 (24.5); and public and private entities;

(II) Funding opportunities that allow for the coordination of public funding sources, including local governments, state government, and the federal government, and private funding sources for the purpose of deploying broadband into rural unserved areas and other unserved areas of the state;

(III) Barriers to the deployment, adoption, and utilization of broadband, including a consideration of the affordability of broadband; and

(IV) Statewide broadband goals and whether statutory definitions for broadband in unserved areas need to be updated in response to advances made in broadband technology.

(f) Collect broadband data to create and update maps that measure the progress of broadband deployment in the state;

(g) Encourage public-private partnerships to increase deployment of broadband throughout the state; and

(h) In furtherance of the purposes set forth in this part 9, seek or apply for, accept, and expend:

(I) Gifts, grants, or donations from public or private sources; and

(II) Money from the federal government for broadband deployment. The broadband office may seek and apply for all federal funds for which the broadband office is eligible to receive.

(4) (a) Subject to the requirement set forth in subsection (4)(b)(II) of this section, the broadband office may receive consumer complaints regarding broadband service.

(b) (I) The chief information officer may seek, accept, and expend gifts, grants, or donations from public and private sources for the purpose of implementing this subsection (4). The chief information officer shall transmit any gifts, grants, or donations received pursuant to this subsection (4) to the state treasurer who shall credit the money to the digital inclusion grant program fund.

(II) The broadband office shall not implement this subsection (4) until sufficient funding is received from gifts, grants, or donations to implement this subsection (4).

(5) In addition to the powers and functions set forth in subsections (3) and (4) of this section, the broadband office shall implement the digital inclusion grant program.

Source: L. 2021: Entire part added, (HB 21-1289), ch. 371, p. 2447, § 7, effective June 28. **L. 2023:** (1) amended, (HB 23-1301), ch. 303, p. 1826, § 37, effective August 7.

24-37.5-904. Digital inclusion grant program - income-eligible household reimbursement program - creation - award criteria - digital inclusion grant program fund

- definition - reporting - repeal. (1) (a) The digital inclusion grant program is created for the purpose of advancing the state's digital inclusion priorities, which priorities include:

(I) Increasing broadband usage and access to broadband throughout the state;

(II) Improving the reliability and availability of broadband on tribal lands;

(III) Enhancing digital literacy; and

(IV) Making access to broadband more affordable.

(b) The San Andreas broadband office shall implement the grant program. During the 2020-21 state fiscal year, the broadband office shall award:

(I) Grants totaling up to twenty million dollars to one or more Indian tribes or nations for the purpose of deploying additional infrastructure on tribal lands and providing devices to Indian tribes or nations; and

(II) Grants totaling up to ten million dollars to one or more providers of telehealth services; except that, if pursuant to subsection (1.5)(e) of this section, the broadband office does not implement the reimbursement program created in subsection (1.5) of this section, the broadband office shall award grants totaling up to fifteen million dollars to one or more providers of telehealth services.

(c) In reviewing grant applications and awarding grants pursuant to this section, the broadband office is encouraged to consult with the San Andreas office of economic development created in section 24-48.5-101 (1), the department of local affairs, the department of regulatory agencies, the department of transportation, and any other agencies, organizations, or individuals with broadband expertise.

(d) A grant award recipient other than an Indian tribe or nation shall not use the grant money for the deployment of last-mile broadband infrastructure.

(e) With respect to grants awarded pursuant to subsection (1)(b)(I) of this section and from money transferred to the digital inclusion grant program fund from the economic recovery and relief cash fund created in section 24-75-228 (2)(a), grants may only be awarded for broadband projects that, pursuant to treasury department interim regulations implementing the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, provide broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(I) Reliably meet or exceed symmetrical one hundred megabits per second download and upload speeds; or

(II) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, provide service meeting the standards set forth in subsection (1)(e)(I) of this section that:

(A) Reliably meets or exceeds one hundred megabits per second download speed and is between at least twenty megabits per second and one hundred megabits per second upload speed; and

(B) Is scalable to a minimum of one hundred megabits per second download speed and one hundred megabits per second upload speed.

(f) If the treasury department modifies its interim regulations implementing the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, grants awarded pursuant to subsection (1)(e) of this section may only be awarded for broadband projects that comply with the modified federal regulations.

(g) As used in subsection (1)(e) of this section, "unserved or underserved households and businesses" means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least twenty-five megabits per second downstream and three megabits per second upstream.

(1.5) (a) On or before January 1, 2022, and subject to subsections (1.5)(d) and (1.5)(e) of this section, the broadband office shall contract with a nonprofit organization, preferably a nonprofit organization that has an existing platform or system for administering grant money, has experience in administering income-qualified utility assistance programs, and has experience in verifying income for statewide assistance programs, to develop a program, referred to in this subsection (1.5) as the "program", to make access to broadband service more affordable by reimbursing San Andreas subscribers for costs incurred in accessing broadband service. In choosing a nonprofit organization with which to contract, the broadband office need not comply with the "Procurement Code", articles 101 to 112 of this title 24. Households that are income eligible to participate in the program are those households that:

(I) Have a household income that does not exceed the higher of two hundred percent of the federal poverty level or eighty percent of the area median income; or

(II) Are located in critically unserved areas of the state. A household is eligible for reimbursement under this subsection (1.5)(a)(II) only:

(A) For broadband service provided by a satellite provider; and

(B) With respect to the household's primary residence.

(b) A household meeting the criteria set forth in subsection (1.5)(a) of this section may apply to the program annually in the form and manner determined by the broadband office to request reimbursement to cover up to one-half of the cost of broadband service, not to exceed a total reimbursement of six hundred dollars per year. A household that receives reimbursement pursuant to this subsection (1.5)(b) must demonstrate that it still meets the criteria set forth in subsection (1.5)(a) of this section to receive reimbursement in a subsequent year.

(c) With regard to the nonprofit organization with which the broadband office contracts to administer the program, the broadband office shall direct that the nonprofit organization:

(I) Use a portion of the money transmitted to the nonprofit organization for implementing the program to cover its direct and indirect costs in administering the program; and

(II) Periodically report to the broadband office, in a form and manner determined by the broadband office, regarding its administration of the program.

(d) The broadband office, in consultation with the nonprofit organization with which it contracts to implement the program, may explore alternative mechanisms for payment assistance for income-eligible households if the broadband office determines that a reimbursement program is not cost-effective. If the broadband office adopts an alternative mechanism for providing payment assistance under this subsection (1.5)(d), the broadband office shall include a description of the mechanism chosen as part of its reporting requirements under subsection (1.5)(g) of this section.

(e) If the broadband office does not find a nonprofit organization with which to contract to implement the program, the program shall not be implemented and the broadband office shall use the money allocated for implementation of the program to award additional grants for telehealth services under subsection (1)(b)(II) of this section.

(f) (I) The broadband office and the nonprofit with which it contracts may use up to five million dollars of the money transferred pursuant to subsection (1)(e) of this section to the digital inclusion grant program fund from the economic recovery and relief cash fund created in section 24-75-228 (2)(a) to implement the program, including the money required to cover the broadband office's and the nonprofit organization's administrative costs incurred in implementing the program. The broadband office and the nonprofit organization may use up to five hundred thousand dollars per year to cover their direct and indirect costs in administering the program.

(II) All money used for implementation of the program must be obligated and spent in accordance with section 24-75-226 (4)(d).

(g) On or before February 1, 2022, and on or before February 1 each year thereafter, the broadband office shall submit a written report to the governor and the general assembly's joint budget committee and joint technology committee regarding the broadband office's implementation of the program. Reports submitted pursuant to this subsection (1.5)(g) must include:

(I) The number of households receiving assistance under the program in the previous calendar year; and

(II) Recommendations on how to make the program more successful, including any legislative changes needed to improve the success of the program.

(h) This subsection (1.5) is repealed, effective September 1, 2026.

(2) (a) The digital inclusion grant program fund is hereby created in the state treasury and consists of money the state received from the federal coronavirus state fiscal recovery fund created in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2; money transferred to the fund from the ARPA refinance state money cash fund pursuant to section 24-75-226.5; and any money that the general assembly may appropriate to the fund. Within three days after June 28, 2021, the state treasurer shall transfer thirty-five million dollars from the economic recovery and relief cash fund created in section 24-75-228 (2)(a) to the fund for use by the broadband office for the purpose of reviewing and awarding grants under the grant program. The money in the fund is subject to appropriation by the general assembly.

(b) On June 1, 2023, the state treasurer shall transfer eight million dollars from the digital inclusion grant program fund to the revenue loss restoration cash fund created in section 24-75-227.

(3) (a) On or before January 1, 2022, and notwithstanding section 24-1-136 (11)(a)(I), the San Andreas broadband office shall submit a written report to the governor and the general assembly's joint budget committee and joint technology committee regarding the broadband office's implementation of the grant program. After submitting the initial report, the broadband office shall submit subsequent reports regarding the grant program to the same parties within six months after the end of any state fiscal year in which the broadband office awards one or more grants from the fund.

(b) Reports submitted pursuant to this subsection (3) must include:

(I) For each project awarded grant money under the grant program:

(A) A description of the project;

(B) A summary of the progress made on the project;

(C) The estimated completion date for the project or, if already completed, the date of completion;

(D) A map of the area to be served or already served by the project;

(E) The percentage of customers who activated broadband through the broadband network provided by the project after a broadband connection was created under the project to their home or entity and the measurable speeds made available to them;

(F) The type of technology deployed or used for broadband provided through the project; and

(G) The number of households, community anchor institutions, municipalities, and counties served by the project;

(II) The number of applicants to the grant program, the amounts of grant money requested by each applicant, the number of grants awarded under the grant program, and the amounts of grant money awarded to each applicant under the grant program; and

(III) The amount of money expended from the fund versus the amount of money obligated but not yet expended from the fund.

Source: L. 2021: Entire part added, (HB 21-1289), ch. 371, p. 2449, § 7, effective June 28; (1)(b)(II) amended and (1.5) added, (SB 21-060), ch. 357, p. 2329, § 2, effective June 29. **L. 2023:** (2) amended, (SB 23-245), ch. 101, p. 373, § 1, effective April 20. **L. 2024:** (1.5)(f)(II) and (2)(a) amended, (HB 24-1466), ch. 429, p. 2940, § 23, effective June 5.

Cross references: For the legislative declaration in SB 21-060, see section 1 of chapter 357, Session Laws of San Andreas 2021. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-37.5-905. Broadband deployment - grant program - high cost support mechanism money - broadband office administrative fund - creation - criteria - rules - reports - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Broadband" has the meaning set forth in section 40-15-102.

(b) "Broadband network" has the meaning set forth in section 40-15-102.

(c) "Commission" means the public utilities commission created in section 40-2-101.

(d) "HCSM" means the high cost support mechanism created pursuant to section 40-15-208.

(e) "Incumbent provider" has the meaning set forth in section 40-15-102 (9.5).

(f) "Middle mile infrastructure" has the meaning set forth in 47 U.S.C. sec. 1741 (a)(9), as amended.

(2) (a) The broadband office shall administer a broadband deployment grant program in accordance with this section. The broadband office shall direct the commission to authorize a third-party contractor of the HCSM to disburse money from the HCSM for broadband deployment grants approved by the broadband office. The commission shall authorize disbursements of money from the HCSM for broadband deployment grants only as directed by the broadband office.

(b) (I) The broadband office may allocate money from the HCSM for the deployment of broadband in unserved and underserved areas of the state pursuant to this section and section 40-15-208 through the use of the HCSM surcharge and surcharge rate in effect on January 1, 2018. In determining the definition of unserved and underserved areas, the standards used by the broadband office must be consistent with broadband benchmark standards and any revisions to

the standards, as determined by the federal communications commission and the national telecommunications and information administration in the United States department of commerce. Pursuant to sections 40-15-207 and 40-15-208, the commission shall determine the funds available for broadband deployment from the HCSM money. The HCSM third-party contractor shall maintain and hold the money available for broadband deployment in a separate account from the money used for basic voice service. Money held for broadband deployment must not be disbursed for basic voice service, and money held for basic voice service must not be disbursed for broadband deployment.

(II) To maximize the efficacy of the grant program, the broadband office may use HCSM money allocated for broadband deployment pursuant to this subsection (2) and section 40-15-208 in order to conduct, or cause to be conducted, studies to assess broadband needs in the state.

(3) (a) Up to five percent of the money allocated from the HCSM for broadband deployment may be used to cover the broadband office's direct and indirect costs to administer the grant program, including to cover staffing costs for the grant program. Money that is allocated for such purposes is credited to the broadband office administrative fund, which fund is created in the state treasury. The fund consists of all money allocated from the HCSM for the broadband office's administration of the grant program and all money that the general assembly may appropriate or transfer to the fund. The money in the fund is continuously appropriated for the purposes set forth in this section. All interest earned from the investment of money in the fund is credited to the fund. All money not expended at the end of a state fiscal year remains in the fund and does not revert to the general fund or any other fund.

(b) Except as required to comply with subsections (2)(b)(II) and (3)(a) of this section, the broadband office shall not award itself money from the HCSM.

(c) The broadband office shall prohibit grant recipients from using grant money to subsidize expenses associated with telecommunications operational expenses, with the exception of a one-time technology and innovation expense and regulatory compliance.

(4) On or before December 31, 2024, the broadband office shall establish grant program criteria and guidelines for awarding HCSM money for new projects to expand broadband access and to increase broadband affordability in the state, which criteria and guidelines must include:

(a) The establishment of a two-tiered grant program that prioritizes funding as follows:

(I) Up to sixty percent of available grant money must be used to finance tier one projects for middle mile infrastructure; and

(II) Up to forty percent of available grant money must be used to finance tier two projects and otherwise underfunded broadband needs, including, but not limited to:

(A) Pole replacements and attachments, line extensions, long drops, network upgrades that strengthen cybersecurity, and network infrastructure, including wireline and wireless facilities such as towers and satellite infrastructure; and

(B) Digital equity initiatives to help close the digital divide in the state, including initiatives for basic internet access, computer and device distribution, digital literacy training, and broadband workforce development training;

(b) The following minimum requirements for projects that are awarded grant money:

(I) Support for broadband deployment in unserved or underserved areas;

(II) Speed requirements;

(III) Matching funding requirements;

(IV) Applicant eligibility requirements;

(V) Generally accepted industry reliability and performance standards;

(VI) Timelines for completion of a project;

(VII) Reasonable cost requirements for a project;

(VIII) Compliance standards; and

(IX) Reporting and accountability requirements; and

(c) The following criteria for reviewing and prioritizing applicants' proposed projects:

(I) The purpose and project impacts;

(II) The geographic distribution of broadband deployment;

(III) Broadband network redundancy, diversity, and latency;

(IV) Broadband network speeds;

(V) The amount of matching money available;

(VI) The cost-effectiveness of the project;

(VII) The amount of support the project would provide for low-income households; and

(VIII) The extent to which the project would support critically unserved areas.

(5) In establishing the grant program, the broadband office shall:

(a) Solicit input from the general public and various stakeholders, including at least the following groups of stakeholders:

(I) Industry associations;

(II) Local governments;

(III) Tribal governments;

(IV) Other state agencies;

(V) Federal agencies;

(VI) Broadband consumers; and

(VII) Other key stakeholders that the broadband office identifies;

(b) Create a work group, including the external stakeholders identified in subsection (5)(a) of this section, to help review grant applications and recommend projects for grant awards;

(c) Establish a formal appeals process for grant applications that are not awarded grants. The sole remedy for an applicant that prevails on appeal is the financing of the applicant's proposed project in the current or next fiscal year, subject to the availability of money in the HCSM.

(d) As part of a grant application that an applicant files or as part of an appeal of a grant decision that an appellant files, require that the applicant or appellant include a speed test performed:

(I) On an incumbent provider's broadband network; and

(II) In accordance with industry-standard speed-test protocols identified by the federal communications commission;

(e) Include a formal process by which the broadband office, eligible applicants, and incumbent providers may challenge or appeal an applicant's data included in the application to prevent the financing of projects that would cause overbuild or duplication of federal or other state funding; and

(f) Establish a process for ensuring that projects that are awarded grants comply with all state and federal broadband deployment reporting obligations.

(6) Pursuant to section 24-37.5-106 (4), the chief information officer may promulgate rules to implement this section and shall specifically consider promulgating rules to implement subsections (2), (4), and (5) of this section.

(7) The broadband office may contract with a third party to perform administrative functions related to administering the grant program.

(8) Notwithstanding section 24-1-136 (11)(a)(I), on or before January 1, 2025, and on or before January 1 of each year thereafter, the broadband office shall submit an annual report to the joint budget committee and the joint technology committee, or their successor committees, summarizing for the previous calendar year:

(a) The broadband office's grant activities; and

(b) HCSM expenditures made for broadband deployment.

(9) This section is repealed, effective September 1, 2030. Before the repeal, this section is scheduled for review in accordance with section 24-34-104.

Source: L. 2024: Entire section added, (HB 24-1336), ch. 219, p. 1361, § 3, effective September 1.

ARTICLE 37.7

Statewide Internet Portal Authority

24-37.7-101. Definitions. As used in this article 37.7, unless the context otherwise requires:

(1) "Authority" means the statewide internet portal authority created pursuant to section 24-37.7-102.

(2) "Board" means the governing body of the authority created pursuant to section 24-37.7-102.

(3) "Electronic information, products, and services" means any data, information, product, or service that is created, generated, collected, maintained, or distributed in electronic form by a state agency, local government, or private enterprise to the public, state agencies, or local governments through electronic access.

(4) "Executive director" means the executive director of the statewide internet portal authority.

(5) "Local government" means the government of any county, city and county, home rule or statutory city, town, special district, school district, or other political subdivision of the state.

(6) "State agency" means every instrumentality of state government including, but not limited to, the executive department, the legislative department, the judicial department, and all of their respective departments, divisions, commissions, boards, authorities, bureaus, and offices.

(7) "Statewide internet portal" means the officially designated electronic information delivery system by which electronic information, products, and services are provided via the internet.

(8) "Statewide internet portal integrator" means the private vendor selected to provide goods and services needed to implement and operate the statewide internet portal.

Source: L. 2004: Entire article added, p. 1664, § 1, effective June 3. **L. 2008:** (6) amended, p. 1130, § 15, effective May 22. **L. 2010:** (6) amended, (HB 10-1422), ch. 419, p. 2084, § 66, effective August 11. **L. 2011:** (3) amended, (HB 11-1297), ch. 269, p. 1223, § 1, effective June 2. **L. 2020:** IP and (6) amended, (SB 20-183), ch. 257, p. 1247, § 1, effective July 8.

24-37.7-102. Statewide internet portal authority - creation - board. (1) There is hereby created an independent public body politic and corporate to be known as the statewide internet portal authority. The authority shall be a body corporate and a political subdivision of the state and shall not be an agency of the state government and shall not be subject to administrative direction by any department, commission, board, or agency of the state.

(2) The governing body of the authority is a board of directors that consists of the following fifteen voting members:

(a) The secretary of state;

(b) The governor or the governor's designee;

(c) The executive directors of three principal departments of the state appointed by the governor or the appointed executive director's designee. An appointed executive director of a principal department shall give written notice to the executive director of the authority of his or her designee.

(d) (I) Three members from the private sector who exhibit a background in information management and technology and who are users of electronic information, products, and services or information technology services that are offered through the private sector appointed by the governor with the consent of the senate.

(II) The members from the private sector shall serve for terms of four years; except that the terms shall be staggered so that only one member's term expires in one year.

(e) One member representing the judicial department of the state appointed by the chief justice of the supreme court. If the appointee of the chief justice is not able to attend a meeting of the board, a designee of the person appointed by the chief justice may serve on the board if designated in writing by the chief justice's appointee. The appointee of the chief justice shall give written notice to the executive director of the authority of the appointee's designee.

(f) Two members of the senate, one of whom is appointed by the president of the senate and one of whom is appointed by the minority leader of the senate, and two members of the house of representatives, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the minority leader of the house of representatives. Each of these four members shall exhibit a background in information management and technology or have experience as members of an oversight committee for information management and technology.

(g) One member representing local government appointed by the governor with the consent of the senate; and

(h) The chief information officer of the office of information technology created in section 24-37.5-103, or the chief information officer's designee. The chief information officer shall give written notice to the executive director of the authority of the officer's designee.

(3) (Deleted by amendment, L. 2007, p. 915, § 12, effective May 17, 2007.)

(4) The board may appoint such additional nonvoting members to the board as it deems necessary. Additional members appointed pursuant to this subsection (4) shall not be included in determining whether a quorum is present.

(5) (a) Except as provided in subsection (5)(b) of this section, each member shall serve until a successor has been appointed. The person making the original appointment shall fill any vacancy by appointment for the remainder of an unexpired term.

(b) The terms of members appointed or reappointed by the speaker, the president, and the minority leaders expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker, the president, and the minority leaders shall be made as soon as practicable after such convening date. Members appointed or reappointed by the speaker, the president, and the minority leaders serve at the pleasure of the appointing authority and continue in office until the member's successor is appointed.

(6) The board shall annually elect a chairperson of the authority from the members of the board and shall annually elect another member as secretary. The board shall not elect the designee of an executive director of a principal department, of the chief information officer, or of the appointee of the chief justice as an officer of the board.

(7) Any appointed member of the board may be removed by his or her appointing authority for misconduct, incompetence, or neglect of duty. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three-fourths of the meetings of the board in any one calendar year.

(8) Neither the members of the authority nor any person authorized by the authority to act in an official capacity shall be held personally liable for any act undertaken pursuant to the provisions of this article.

Source: L. 2004: Entire article added, p. 1665, § 1, effective June 3. **L. 2006:** (3) amended, p. 1735, § 21, effective June 6. **L. 2007:** (5) amended, p. 182, § 15, effective March 22; IP(2), (2)(d), and (3) amended and (2)(h) added, p. 915, § 12, effective May 17. **L. 2013:** (2)(f) amended, (HB 13-1079), ch. 246, p. 1194, § 11, effective May 18; IP(2), (2)(f), and (5)(b) amended, (HB 13-1324), ch. 326, p. 1818, § 1, effective May 28. **L. 2015:** (2)(c), (2)(e), (2)(f), (2)(h), and (6) amended, (SB 15-194), ch. 126, p. 392, § 1, effective May 1. **L. 2022:** IP(2), (2)(b), (2)(d)(II), (2)(e), (2)(f), (2)(h), and (5) amended, (SB 22-013), ch. 2, p. 50, § 64, effective February 25.

Editor's note: Amendments to subsection (2)(f) by House Bill 13-1079 and House Bill 13-1324 were harmonized.

24-37.7-103. Meetings of board - quorum - expenses. (1) All meetings of the board of directors shall be subject to the provisions of section 24-6-402. No business of the board of directors shall be transacted except at a regular or special meeting at which a quorum consisting of at least a majority of the total voting membership of the board is present. Any action of the board of directors shall require the affirmative vote of a majority of the voting members present at any meeting at which a quorum is present.

(2) Except as otherwise provided in section 2-2-326, S.A.R.S., members of the board shall serve without compensation but shall be reimbursed for all necessary expenses incurred in the

performance of their duties under this article. Any payments to board members pursuant to this subsection (2) shall be paid from moneys of the authority.

Source: L. 2004: Entire article added, p. 1666, § 1, effective June 3. **L. 2014:** (2) amended, (SB 14-153), ch. 390, p. 1963, § 15, effective June 6.

24-37.7-104. Powers of the statewide internet portal authority. (1) In addition to any other powers granted to the authority in this article, the authority shall have the following powers:

(a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body corporate and political subdivision of the state;

(b) To have perpetual existence and succession;

(c) To adopt, have, and use a seal and to alter the same at its pleasure;

(d) To sue and be sued;

(e) To enter into any contract or agreement not inconsistent with this article or the laws of this state and to authorize the executive director to enter into contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers granted in this article and to secure the payment of bonds;

(f) To borrow money and to issue bonds evidencing the same;

(g) To purchase, lease, trade, exchange, or otherwise acquire, maintain, hold, improve, mortgage, lease, sell, and dispose of personal property, whether tangible or intangible, or any interest therein; and to purchase, lease, trade, exchange, or otherwise acquire real property or any interest therein and to maintain, hold, improve, mortgage, lease, or otherwise transfer such real property, so long as such transactions do not interfere with the mission of the authority as specified in section 24-37.7-105;

(h) To acquire space, equipment, services, supplies, and insurance necessary to carry out the purposes of this article;

(i) To deposit any moneys of the authority in any banking institution within the state or in any depository authorized in section 24-75-603, and to appoint, for the purpose of making such deposits, one or more persons to act as custodians of the moneys of the authority, who shall give surety bonds in such amounts and form and for such purposes as the board of directors requires;

(j) To contract for and to accept any gifts, grants, or loans of funds, property, or any other aid in any form from the federal government, the state, any state agency, or any other source, or any combination thereof, and to comply, subject to the provisions of this article, with the terms and conditions thereof;

(k) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this article, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this article;

(l) To fix the time and place or places at which its regular and special meetings are to be held. Meetings shall be held on the call of the presiding officer, but no less than six meetings shall be held annually.

(m) To adopt and from time to time amend or repeal bylaws and rules and regulations consistent with the provisions of this article; except that article 4 of this title shall not apply to the promulgation of any policies, procedures, rules, or regulations of the authority;

(n) To appoint a treasurer of the board and such other officers as the board of directors may determine and provide for their duties and terms of office;

(o) To appoint an executive director and such agents, employees, and professional and business advisers as may from time to time be necessary in its judgment to accomplish the purposes of this article, to fix the compensation of such executive director, employees, agents, and advisers, and to establish the powers and duties of all such agents, employees, and other persons contracting with the authority;

(p) To waive, by such means as the authority deems appropriate, the exemption from federal income taxation of interest on the authority's bonds, notes, or other obligations provided by the federal "Internal Revenue Code of 1986", as amended, or any other federal statute providing a similar exemption;

(q) To make and execute agreements, contracts, or other instruments necessary or convenient to the exercise of the powers and functions of the authority under this article, including but not limited to contracts with any person, firm, corporation, state agency, local government, or other entity. All state agencies and local governments are hereby authorized to enter into and do all things necessary to perform any such arrangement or contract with the authority.

(r) To arrange for guaranties or insurance of its bonds, notes, or other obligations by the federal government or by any private insurer, and to pay any premiums therefor.

(2) The authority shall not enter into a contract with a statewide portal integrator unless the statewide portal integrator was chosen by the authority pursuant to a request for proposals or other competitive procurement method, including an invitation to negotiate, issued by the authority.

(3) Any current or pending action by the office of information technology relating to a request for proposals for the statewide internet portal shall be void.

(4) State agencies shall coordinate and cooperate with the authority for purposes of the delivery of electronic information, products, and services by the authority.

Source: L. 2004: Entire article added, p. 1666, § 1, effective June 3. **L. 2006:** (3) amended and (4) added, p. 1733, § 12, effective June 6. **L. 2021:** (2) amended, (SB 21-141), ch. 34, p. 138, § 1, effective April 15.

24-37.7-105. Mission of the authority. (1) The mission of the authority is to:

(a) Develop the officially recognized statewide internet portal that provides one-stop access to electronic information, products, and services in order to give members of the public, state agencies, and local governments an alternative way to transact business with the state;

(b) Provide electronic access for members of the public, state agencies, and local governments to electronic information, products, and services through the statewide internet portal;

(c) Develop and annually update a strategic business plan for the implementation, maintenance, and enhancement of the statewide internet portal;

(d) Issue requests for bids or proposals to or contracts with any public or private parties for the design, implementation, operation, and improvement of the distribution of electronic information, products, and services or for the services described in paragraph (e) of this subsection (1), or both;

(e) Enter into a contract with a statewide internet portal integrator for the development, support, maintenance, and enhancement of the equipment and systems utilized for the statewide internet portal;

(f) Provide appropriate administration and oversight of the statewide internet portal integrator;

(g) Enter into contracts for the provision of new services related to the distribution of electronic information, products, and services through the statewide internet portal;

(h) Explore ways and means of expanding the amount and kind of electronic information, products, and services provided, increasing the utility of the electronic information, products, and services provided and the form in which it is provided, and, where appropriate, implementing such expansion or increase;

(i) Explore technological means of improving access for members of the public, state agencies, and local governments to electronic information, products, and services, and, where appropriate, implement such technological improvements; and

(j) Explore options for expanding the statewide internet portal and its services to members of the public, state agencies, and local governments by providing add-on services such as access to other information, products, services, and databases or by providing electronic mail and calendaring to subscribers.

Source: L. 2004: Entire article added, p. 1668, § 1, effective June 3. **L. 2006:** (1)(c) amended, p. 1733, § 13, effective June 6. **L. 2011:** (1)(a), (1)(b), (1)(i), and (1)(j) amended, (HB 11-1297), ch. 269, p. 1223, § 2, effective June 2.

24-37.7-106. Fees and charges - no modification - new services. (1) The authority shall not increase or decrease the amount of any charge or fee that a state agency or local government is authorized by law to impose for electronic information, products, and services.

(2) Access to electronic information, products, and services through the statewide internet portal shall be consistent with any law governing such access.

(3) Nothing in this article shall be construed as providing the authority with exclusive access to electronic information, products, and services.

(4) Repealed.

Source: L. 2004: Entire article added, p. 1669, § 1, effective June 3. **L. 2010:** (4) added, (HB 10-1401), ch. 367, p. 1730, § 3, effective June 7. **L. 2011:** (4)(a) repealed, (HB 11-1297), ch. 269, p. 1224, § 3, effective June 2. **L. 2015:** (4)(b) repealed, (SB 15-193), ch. 125, p. 390, § 1, effective May 1.

24-37.7-107. Financing. (1) The authority shall fund its operations from:

(a) Federal moneys granted or allocated to the authority;

(b) Website advertising;

(c) Moneys, goods, or in-kind services donated from public or private sources;

(d) Moneys loaned to the authority by any person or entity;

(e) Moneys derived from the issuance and sale of bonds; or

(f) Moneys derived from the sale of services, products, or information.

Source: L. 2004: Entire article added, p. 1670, § 1, effective June 3. **L. 2011:** (1)(d) and (1)(e) amended and (1)(f) added, (HB 11-1297), ch. 269, p. 1224, § 4, effective June 2.

24-37.7-108. Bonds and notes. (1) The authority may, from time to time, issue bonds and notes for any of its corporate purposes. The bonds and notes shall be issued pursuant to resolution of the board and shall be payable solely out of all or a specified portion of the revenues of the authority as designated by the board.

(2) Bonds of the authority, as provided in the resolution of the authority under which the bonds are authorized or as provided in a trust indenture between the authority and any commercial or trust company having full trust powers, may:

(a) Be executed and delivered by the authority in the form, in denominations, upon the terms and maturities, and at the times established by the board;

(b) Be subject to optional or mandatory redemption prior to maturity with or without a premium;

(c) Be in fully registered form or bearer form registerable as to principal or interest or both;

(d) Bear such conversion privileges and be payable in such installments and at such times not exceeding twenty years from the date of issuance as established by the board;

(e) Be payable at such place or places whether within or without the state as established by the board;

(f) Bear interest at such rate or rates per annum, which may be fixed or vary according to index, procedure, or formula or as determined by the authority or its agents without regard to any interest rate limitation appearing in any other law of the state;

(g) Be subject to purchase at the option of the holder or the board;

(h) Be evidenced in the manner established by the board, and executed by the officers of the authority, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which may be either of an officer of the authority or of an agent authenticating the same;

(i) Be in the form of coupon bonds that have attached interest coupons bearing a manual or a facsimile signature of an officer of the authority; and

(j) Contain any other provisions not inconsistent with this article.

(3) The bonds may be sold at public or private sale at the price or prices, in the manner, and at the times as determined by the board, and the board may pay all fees, expenses, and commissions that it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date of sale of the bonds, to receive bids or proposals, to award and sell bonds, to fix interest rates, and to take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the authority. Any outstanding bonds may be refunded by the authority pursuant to article 56 of title 11, S.A.R.S. All bonds and any interest coupons applicable thereto are declared to be negotiable instruments.

(4) The resolution or trust indenture authorizing the issuance of the bonds or notes may pledge all or a portion of the property or revenues of the authority, may contain such provisions

for protecting and enforcing the rights and remedies of holders of any of the bonds or notes as the authority deems appropriate, may set forth the rights and remedies of the holders of any of the bonds or notes, and may contain provisions that the authority deems appropriate for the security of the holders of the bonds or notes, including but not limited to provisions for letters of credit, insurance, standby credit agreements, or other forms of credit ensuring timely payment of the bonds or notes, including the redemption price or the purchase price.

(5) Any pledge of revenues or property made by the authority or by any person or governmental unit with which the authority contracts shall be valid and binding from the time the pledge is made. The revenues or property so pledged shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party, regardless of whether the party has notice of such lien. The instrument by which the pledge is created need not be recorded or filed.

(6) Neither the members of the board, employees of the authority, nor any person executing the bonds shall be liable personally on the bonds or notes or subject to any personal liability or accountability by reason of the issuance thereof.

(7) Bonds and notes issued by the authority shall not constitute or become an indebtedness, a debt, or a liability of the state. The bonds shall contain on the face thereof a statement to such effect.

(8) The authority may purchase its bonds or notes out of any available moneys and may hold, pledge, cancel, or resell such bonds and notes subject to and in accordance with agreements with the holders thereof.

(9) Any bonds, notes, or other securities issued pursuant to this section and the income therefrom, including any profit from the sale thereof, shall be exempt from all taxation of the state or any agency, political subdivision, or instrumentality of the state.

Source: L. 2004: Entire article added, p. 1670, § 1, effective June 3.

24-37.7-109. Agreement of the state not to limit or alter rights of obligees. The state hereby pledges and agrees with the holders of any bonds or notes issued under this article and with those parties who enter into contract with the authority that the state will not limit, alter, restrict, or impair the rights vested in the authority or the rights or obligations of any person with which it contracts to fulfill the terms of any agreements made pursuant to this article. The state further agrees that it will not in any way impair the rights or remedies of the holders of any bonds or notes of the authority until such bonds or notes have been paid or until adequate provision for payment has been made. The authority may include this provision and undertaking for the state in such bonds or notes.

Source: L. 2004: Entire article added, p. 1672, § 1, effective June 3.

24-37.7-110. Investments. The authority may invest or deposit any moneys in the manner provided by part 6 of article 75 of this title. In addition, the authority may direct a corporate trustee that holds moneys of the authority to invest or deposit such moneys in investments or deposits other than those specified by said part 6 if the board determines, by resolution, that the investment or deposit meets the standard established in section 15-1-304,

S.A.R.S., and the income is at least comparable to income available on investments or deposits specified by said part 6.

Source: L. 2004: Entire article added, p. 1672, § 1, effective June 3.

24-37.7-111. Bonds eligible for investment. All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardian trustees, and other fiduciaries may legally invest any moneys within their control in any bonds issued under this article. Public entities, as defined in section 24-75-601 (1), may invest public funds in such bonds only if the bonds satisfy the investment requirements established in part 6 of article 75 of this title.

Source: L. 2004: Entire article added, p. 1672, § 1, effective June 3.

24-37.7-112. Proceeds as trust funds. All moneys received pursuant to this article, whether as proceeds from the sale of bonds, notes, or other obligations or as revenues or receipts, shall be deemed to be trust funds to be held and applied solely as provided in this article. Any officer, bank, or trust company with which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this article, subject to such regulations as the authority and the resolution authorizing the bonds, notes, or other obligations of any issue or the trust agreement securing such obligations provides.

Source: L. 2004: Entire article added, p. 1672, § 1, effective June 3.

24-37.7-113. Annual report. (Repealed)

Source: L. 2004: Entire article added, p. 1672, § 1, effective June 3. **L. 2007:** Entire section repealed, p. 757, § 7, effective May 10.

24-37.7-113.5. Annual report. (1) On or before November 1, 2013, and on November 1 of each year thereafter, the authority shall submit a report to the members of the joint technology committee and the joint budget committee of the general assembly and to the members of the business, labor, and technology committee of the senate and the business affairs and labor committee of the house of representatives, or any successor committees, that includes the following:

(a) A complete and detailed operating and financial statement of the authority during the preceding fiscal year;

(b) The total amount of charges or fees imposed by each state agency for accessing electronic information, products, and services through the statewide internet portal made in the preceding fiscal year pursuant to section 24-37.7-106; and

(c) The total amount of receipts and revenue derived by the authority from the transactions described in paragraph (b) of this subsection (1) for the preceding fiscal year.

(2) The report required pursuant to subsection (1) of this section must also include any recommendations regarding additional legislation or other action that may be necessary to carry out the purposes of the authority.

(3) The authority shall present the information contained in the report to the members of the joint technology committee of the general assembly at a regular meeting of the committee and shall present such information to any other legislative committee upon request of the committee.

(4) This section is exempt from the provisions of section 24-1-136 (11), and the annual reporting requirements of this section are effective until changed by the general assembly acting by bill.

Source: L. 2013: Entire section added, (HB 13-1079), ch. 246, p. 1194, § 12, effective May 18. **L. 2015:** Entire section amended, (SB 15-193), ch. 125, p. 390, § 2, effective May 1.

24-37.7-114. Financial and performance audits. (1) (a) If a financial audit of the authority is conducted by an independent certified public accountant pursuant to a contract with the authority, any statements, records, schedules, working papers, and memoranda prepared by the certified public accountant shall be made available to the state auditor's office and shall be kept confidential unless a majority of the members of the legislative audit committee vote to open such documents.

(b) (Deleted by amendment, L. 2011, (HB 11-1297), ch. 269, p. 1224, § 5, effective June 2, 2011.)

(2) Upon the completion of a financial or performance audit described in subsection (1) of this section or in section 2-3-103 (1)(b), S.A.R.S., the state auditor shall submit a written report to the legislative audit committee, together with any findings and recommendations.

(3) The cost of each such financial audit shall be paid by the authority. The cost of any such performance audit shall be paid from annual appropriations made by the general assembly to the office of the state auditor.

Source: L. 2010: Entire section added, (HB 10-1401), ch. 367, p. 1731, § 4, effective June 7. **L. 2011:** (1)(b) and (2) amended, (HB 11-1297), ch. 269, p. 1224, § 5, effective June 2.

ARTICLE 38

Government Efficiency

PART 1

INCENTIVES FOR BUDGET SAVINGS

24-38-101. Legislative declaration. The general assembly hereby finds and declares that state agencies should be authorized and encouraged to improve their services and save money wherever possible.

Source: L. 98: Entire article added, p. 1308, § 1, effective August 5.

24-38-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Agency" means every agency in the executive branch of state government that is required by the constitution or statutes of the state to exercise discretion or to perform judicial or quasi-judicial functions. The term includes, but is not limited to, any board, bureau, commission, department, institution, division, section, or office of the state.

(2) "Cost savings" means any money that an agency does not expend from its general fund appropriations for a given fiscal year that is a direct result of cost-cutting measures, including an action that would result in a base reduction due to permanent reductions in spending. In no case shall "cost savings" include or be a result of a case load reduction or personal services contracts that the agency entered into under a managed competition process; except that "cost savings" does include savings realized from personal services contracts entered into pursuant to a public-private initiative agreement between the agency and a nonprofit entity in accordance with part 2 of this article.

Source: L. 98: Entire article added, p. 1308, § 1, effective August 5. **L. 2010:** (2) amended, (HB 10-1010), ch. 90, p. 309, § 2, effective August 11.

24-38-103. Agency authority and incentives for budget savings. (1) Beginning with the 1998-99 fiscal year, any agency may implement measures that reduce the costs of delivering the agency's services and products below the amount of the agency's appropriations for a given fiscal year. Any agency that achieves cost savings under this subsection (1) may transfer twenty percent of the amount of the cost savings from one item of appropriation made to the agency in the general appropriation act or any supplemental appropriation act to another item of appropriation made to the same agency in said act. The following limitations shall apply only to transfers made pursuant to this subsection (1):

(a) In no case shall an agency use any of the amount transferred as a result of cost savings to add employment positions or for personal services.

(b) All transfers made pursuant to this subsection (1) shall be between items of appropriations made for the fiscal year in which the cost savings were achieved.

(c) Prior to expending any moneys so transferred, the agency that achieved the cost savings shall enter into a memorandum of understanding with the joint budget committee that details how the agency will spend the transferred moneys.

(d) Any moneys transferred to an agency as the result of cost savings may be spent only for reinvestment in technology or other capital projects related to the item of appropriation to which the moneys were transferred.

(1.5) Repealed.

(2) The general assembly may reduce an agency's appropriations for the fiscal year following the fiscal year in which the agency achieved the cost savings by the amount of such cost savings if the general assembly determines that the agency is no longer maintaining the measures the agency used to achieve the cost savings or that such cost savings is sustainable for more than one fiscal year. Except as otherwise provided in this subsection (2), the general assembly shall not use a one-time cost savings an agency achieves in a given fiscal year to justify reducing any item of appropriation or the total amount of appropriations the agency may receive in the fiscal year following the fiscal year in which the agency achieved the cost savings. However, nothing in this subsection (2) shall affect the general assembly's authority to reduce an agency's appropriations for any reason other than cost savings.

(3) Nothing in this section shall be construed to allow an agency to avoid any power or duty required by law that otherwise applies to the agency's actions.

Source: L. 98: Entire article added, p. 1309, § 1, effective August 5. **L. 2004:** (1) amended and (1.5) added, p. 1239, § 1, effective August 4. **L. 2012:** (1.5) amended, (HB 12-1321), ch. 260, p. 1341, § 4, effective September 1. **L. 2024:** (1.5) repealed, (HB 24-1467), ch. 430, p. 3015, § 5, effective June 5.

Cross references: (1) In 2012, subsection (1.5) was amended by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

(2) For the legislative declaration in HB 24-1467, see section 1 of chapter 430, Session Laws of San Andreas 2024.

PART 2

PUBLIC-PRIVATE INITIATIVES

24-38-201. Legislative declaration. The general assembly hereby finds and declares that state government should deliver public services in the most cost-effective and efficient manner, that nonprofit entities that contract for public services leverage the use of public funds with private donations, and that increasing opportunities for nonprofit entities to contract with state agencies will further the cost-effective and efficient delivery of public services. It is the intent of the general assembly in enacting this part 2 only to provide flexibility to state government so that it can deliver public services more cost-effectively and efficiently and not to establish or authorize the establishment of new programs.

Source: L. 2010: Entire part added, (HB 10-1010), ch. 90, p. 304, § 1, effective August 11.

24-38-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Nonprofit contribution" means the supply by a nonprofit entity of resources to accomplish all or any part of the work on a project or the implementation or administration of a program.

(2) "Nonprofit entity" means a corporation or organization authorized to do business in the state that is exempt from taxation pursuant to section 501 (a) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501 (a), as amended, and is listed as an exempt organization in section 501 (c)(3) of the federal "Internal Revenue Code of 1986", 26 U.S.C. sec. 501 (c)(3), as amended.

(3) "Public benefit" means an agency grant of a right or interest in or concerning an agency project or program.

(4) "Public-private initiative" means a nontraditional arrangement between an agency and one or more nonprofit entities that provides for:

(a) Acceptance of a nonprofit contribution to an agency project or service in exchange for a public benefit concerning the project or service other than only a money payment;

(b) Sharing of resources and the means of providing projects or services; or

(c) Cooperation in researching, developing, and implementing projects or services.

(5) "Unsolicited proposal" means a written proposal for a public-private initiative that is submitted by a nonprofit entity for the purpose of entering into an agreement with an agency but that is not in response to a formal solicitation or request issued by the agency.

Source: L. 2010: Entire part added, (HB 10-1010), ch. 90, p. 304, § 1, effective August 11.

24-38-203. Unsolicited proposals. (1) An agency may consider, evaluate, and accept an unsolicited proposal only if the proposal complies with all of the requirements of this section.

(2) An agency may consider an unsolicited proposal only if the proposal:

(a) Will assist the agency in carrying out its duties in a cost-effective and efficient manner without replacing existing state employees;

(b) Is independently originated and developed by the proposer;

(c) Is prepared without agency supervision;

(d) Includes sufficient detail and information to allow the agency to evaluate the proposal in an objective and timely manner and to determine if the proposal benefits the agency; and

(e) Is not an advance proposal for a known agency requirement that can be acquired by competitive methods unless:

(I) The agency has not established a timetable for satisfying the known requirement; or

(II) The proposal is likely to significantly shorten a timetable for satisfying the known requirement.

(3) Paragraphs (b) and (c) of subsection (2) of this section shall not be deemed to prohibit an agency from encouraging the submission of unsolicited proposals that are well-developed and consistent with the agency's general policy priorities by providing written or oral information to any person regarding the policy priorities or the requirements and procedures for submitting an unsolicited proposal.

(4) If an unsolicited proposal does not meet the requirements of subsection (2) of this section, the agency shall return the proposal without further action. If an unsolicited proposal meets all of the requirements of subsection (2), the agency may further evaluate the proposal pursuant to this section.

(5) An agency shall base its evaluation of an unsolicited proposal on the following factors:

(a) Unique and innovative methods, approaches, or concepts demonstrated by the proposal;

(b) Scientific, technical, or socioeconomic merits of the proposal;

(c) Potential contribution of the proposal to the agency's mission;

(d) Capabilities, related experience, facilities, or techniques of the proposer or unique combinations of these qualities that are integral factors for achieving the proposal objectives;

(e) Cost savings, efficient delivery of services, or enhanced quality of service delivered to the recipient; and

(f) Any other factors appropriate to a particular proposal.

(6) An agency may accept an unsolicited proposal only if:

(a) The unsolicited proposal receives a favorable evaluation; and

(b) The agency makes a written determination based on facts and circumstances that the unsolicited proposal is an acceptable basis for an agreement to obtain services either without competition or, if applicable, after the agency takes the actions required by subsection (7) of this section.

(7) Except as otherwise provided in subsection (8) of this section, if an unsolicited proposal requires an agency to spend public moneys in an amount that is reasonably expected to exceed fifty thousand dollars in the aggregate for any fiscal year, the agency shall take the following actions before accepting the unsolicited proposal:

(a) Provide public notice that the agency will consider comparable proposals. The notice shall:

(I) Be given at least fourteen days prior to the date set forth therein for the opening of proposals through any reasonable method, which may include publication on the agency's internet website, posting on the state's bid information and distribution system, or publication in a newspaper of general circulation;

(II) Be provided to any nonprofit entity that expresses, in writing to the agency, an interest in a public-private initiative that is similar in nature and scope to the unsolicited proposal;

(III) Outline in summary form the general nature and scope of the unsolicited proposal, including the work to be performed on the project and the terms of any nonprofit contributions offered and public benefits requested concerning the project;

(IV) Request information to determine if the proposer of a comparable proposal has the necessary experience and qualifications to perform the public-private initiative; and

(V) Specify the address to and the date by which comparable proposals must be submitted, allowing a reasonable time to prepare and submit the proposals;

(b) Determine, in its discretion, if any submitted proposal is comparable in nature and scope to the unsolicited proposal and warrants further evaluation;

(c) Evaluate each comparable proposal, taking relevant factors into consideration; and

(d) Conduct good faith discussions and, if necessary, negotiations concerning each comparable proposal.

(8) The actions required by subsection (7) of this section do not apply to an unsolicited research proposal if an agency reasonably determines that the actions would improperly disclose either the originality of the research or proprietary information associated with the research proposal.

(9) An agency may accept a comparable proposal submitted pursuant to subsection (7) of this section if the agency determines that the comparable proposal is the most advantageous to the state in comparison to an unsolicited proposal or other submitted proposals. In making the determination, the agency shall use only the proposal evaluation criteria specified in this section and shall not use the methods of source selection set forth in part 2 of article 103 of this title.

(10) If an unsolicited proposal is accepted or if a comparable proposal is accepted pursuant to subsection (9) of this section, the accepting agency shall use the proposal as the basis for negotiation of an agreement.

(11) Subject to the requirements of this section, each agency shall determine its own process for considering, evaluating, and accepting or rejecting unsolicited proposals. If the agency determines that an unsolicited proposal is an acceptable basis for negotiation of an

agreement pursuant to this section, the agency's procurement officer shall be responsible for taking the action required by subsection (10) of this section. Before an agency considers an unsolicited proposal or a comparable proposal under this part 2, the agency shall adopt either rules promulgated in accordance with article 4 of this title or other written policy guidelines that it determines are necessary or appropriate to implement this part 2, including rules or guidelines on the evaluation of unsolicited proposals and the receipt, content, and proper handling of unsolicited or comparable proposals. The rules or guidelines shall also require both the nonprofit entity and the agency to disclose any individual or organizational conflicts of interest related to the public-private initiative and to document and properly manage any disclosures.

(12) At the time a principal department of state government submits its annual budget request to the joint budget committee of the general assembly, the department shall report to the committee regarding any public-private initiative agreement then in effect that the department or an agency within the department has entered into pursuant to this part 2. The information reported shall include, at a minimum, a brief description of the purpose and terms of the agreement, the amount of public moneys required to be expended by the state under the terms of the agreement, and the identity of the private partner that is a party to the agreement.

Source: L. 2010: Entire part added, (HB 10-1010), ch. 90, p. 305, § 1, effective August 11.

24-38-204. Public-private initiative agreements - cost savings. (1) An agency shall enter into an agreement for each public-private initiative that it accepts.

(2) An agency shall include terms and conditions in the agreement that it determines are appropriate in the public interest.

(3) If an agency achieves cost savings in a fiscal year by entering into a public-private initiative agreement, the agency shall be eligible to retain a portion of any cost savings resulting from the agreement as provided in section 24-38-103.

(4) An agency that enters into a public-private initiative agreement with a nonprofit entity is not a partner or a joint venturer with the nonprofit entity for any purpose.

Source: L. 2010: Entire part added, (HB 10-1010), ch. 90, p. 308, § 1, effective August 11.

24-38-205. Organizations banned from contract awards. Notwithstanding any provision of this part 2 to the contrary, any organization banned from receiving federal funds, and any successor organizations, shall not be awarded a public-private initiative contract pursuant to this part 2.

Source: L. 2010: Entire part added, (HB 10-1010), ch. 90, p. 309, § 1, effective August 11.

ARTICLE 38.3

Office of Marijuana Coordination

24-38.3-101 and 24-38.3-102. (Repealed)

Source: L. 2017: Entire article repealed, (HB 17-1295), ch. 258, p. 1076, § 1, effective July 1.

Editor's note: This article 38.3 was added in 2014. For amendments to this article 38.3 prior to its repeal in 2017, consult the 2016 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 38.5

San Andreas Energy

Office PART 1

GENERAL PROVISIONS

24-38.5-101. San Andreas energy office - creation. (1) There is hereby created within the office of the governor the San Andreas energy office, the head of which is the director of the San Andreas energy office. The director of the office shall be assisted by a deputy director and a staff to fulfill the office's mission to:

(a) Support San Andreas's transition to a more equitable, low-carbon, and clean energy economy and promote resources that reduce air pollution and greenhouse gas emissions, including pollution and emissions from electricity generation, buildings, industry, agriculture, and transportation;

(b) Promote economic development and high quality jobs in San Andreas through advancing clean energy, transportation electrification, and other technologies that reduce air pollution and greenhouse gas emissions, including helping to finance those investments;

(c) Promote energy efficiency;

(d) Promote an equitable transition toward zero emission buildings;

(e) Promote an equitable transition to transportation electrification, zero emission vehicles, transportation systems, and land use patterns that reduce energy use and greenhouse gas emissions;

(f) Increase energy security;

(g) Support lower long-term consumer costs and support reduced energy cost burden for lower-income Coloradans; and

(h) Protect the environment and public health.

Source: L. 2008: Entire article added, p. 66, § 1, effective March 18. **L. 2012:** Entire section amended, (HB 12-1315), ch. 224, p. 963, § 16, effective July 1. **L. 2021:** Entire section R&RE, (HB 21-1266), ch. 411, p. 2750, § 20, effective July 2.

Cross references: For the short title ("Environmental Justice Act") and the legislative declaration in HB 21-1266, see sections 1 and 2 of chapter 411, Session Laws of San Andreas 2021.

24-38.5-102. San Andreas energy office - duties and powers - definitions. (1) The San Andreas energy office shall:

(a) Work with communities, utilities, and private and public organizations to:

(I) Support achieving legislative goals to reduce statewide greenhouse gas pollution, as defined in section 25-7-103 (22.5);

(II) Make progress toward eliminating greenhouse gas pollution from electricity generation, gas utilities, and transportation;

(III) Implement the renewable energy standard established in section 40-2-124;

(IV) Support the deployment of renewable energy, such as wind, hydroelectricity, solar, clean hydrogen, and geothermal;

(V) Evaluate, and when appropriate, support the deployment of cleaner energy sources such as clean hydrogen, geothermal, recovered methane, recovered heat, and advanced nuclear;

(VI) Support the deployment of energy efficiency and energy load management technologies and practices;

(VII) Evaluate, and where appropriate, support the deployment of innovative energy technologies as described in section 40-2-123;

(VIII) Support the deployment of energy storage systems, including both long-duration and short-duration energy storage;

(IX) Support the implementation of clean heat plans pursuant to section 40-3.2-108;

(X) Support widespread transportation electrification;

(XI) Support beneficial electrification, as defined in section 40-1-102 (1.2) in the building, industrial, and oil and gas sectors;

(XII) Support industrial emissions reductions;

(XIII) Support pollution reduction through carbon capture and sequestration and other forms of carbon management; and

(XIV) Support sustainable land-use patterns that reduce energy consumption and greenhouse gas pollution.

(b) Develop programs to reduce energy use and greenhouse gas pollution from buildings in commercial and residential markets;

(c) Support efforts to reduce greenhouse gas pollution by state government through energy efficiency, load management, renewable energy, transportation electrification, and cleaner procurement;

(d) Promote technology transfer and economic development;

(e) Support the adoption and implementation of advanced energy codes that reduce energy use and greenhouse gas emissions and provide information and technical assistance concerning the implementation and enforcement of energy codes to both counties and municipalities, including as specified in sections 24-38.5-103, 24-38.5-401, 24-38.5-402, and 31-15-602 (7);

(f) Collaborate with the state board of land commissioners regarding renewable energy resource development as specified in section 36-1-147.5 (4);

(g) Provide home energy efficiency improvements for low-income households, including through the weatherization assistance program, as specified in section 40-8.7-112 (3)(b);

(h) Collaborate with stakeholders to develop and encourage increased utilization of energy curricula, including science, technology, engineering, and math curricula, that will serve the workforce needs of clean energy industries. Such collaboration may include executive

departments, research institutions, state colleges, community colleges, industry, and trade organizations in an effort to develop a means by which the state may address all facets of workforce demands in supporting a clean energy future. Institutions may also partner in the development of curricula with organizations that have existing energy curricula and training programs.

(i) Annually report to the senate transportation and energy committee and the house energy and environment committee, or their successor committees;

(j) Administer the electric vehicle grant fund created in section 24-38.5-103 (1)(a) and the community access enterprise created in section 24-38.5-303 (1);

(k) Assist the executive director of the department of local affairs in allocating revenues from the geothermal resource leasing fund to eligible entities pursuant to section 34-63-105;

(l) Develop basic consumer education or guidance about leased solar installation and purchased solar installation in consultation with industries that offer these options to consumers;

(m) In consultation with the appropriate industries, develop basic consumer education or guidance about purchased or, if available, leased installation of a system that uses geothermal energy for water heating or space heating or cooling in a single building or for space heating for more than one building through a pipeline network;

(n) Develop and publish an EV charger permitting model code that contains guidelines for the adoption of EV charger permit standards and permitting processes for counties and municipalities in accordance with sections 30-28-213 (3) and 31-23-316 (3); and

(o) Provide assistance and support to a board of county commissioners or the governing body of a municipality in developing ordinances or resolutions for the permitting of electric motor vehicle charging systems in accordance with sections 30-28-213 (6) and 31-23-316 (6).

(2) Repealed.

(3) The San Andreas energy office shall notify the house of representatives and senate committees of reference to which the office is assigned pursuant to section 2-7-203 (1), S.A.R.S., as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing required by section 2-7-203 (2), S.A.R.S., if it has made any changes to:

(a) Any performance plans and performance evaluations required pursuant to section 2-7-204, S.A.R.S.;

(b) Office policies related to energy transmission; and

(c) Office policies that positively or negatively impact the energy sector.

(3.3) As part of the hearing required by section 2-7-203 (2), for hearings held on or after January 1, 2025, but before January 1, 2034, the San Andreas energy office shall report on the estimated impact of greenhouse gas emissions reductions attributable to the tax credits created in sections 39-22-551, 39-22-552, 39-22-553, 39-22-554, 39-22-555, and 39-22-556.

(4) The San Andreas energy office may update the greenhouse gas pollution reduction roadmap, published by the office and dated January 14, 2021, or as amended thereafter, to expressly include geothermal energy as a renewable energy resource that qualifying retail utilities may use to achieve the electric utility sector greenhouse gas pollution reduction goals set forth in the greenhouse gas pollution reduction roadmap.

(5) (a) As used in this subsection (5), unless the context otherwise requires:

(I) "Decarbonization tax credits" means the tax credits created in sections 39-22-551, 39-22-552, 39-22-553, 39-22-554, 39-22-555, and 39-22-556.

(II) "Standards" mean the standards or guidelines the office is authorized to adopt to implement the decarbonization tax credits.

(b) Notwithstanding section 24-1-136 (11)(a)(I), beginning on and after January 1, 2024, but before January 1, 2033, the San Andreas energy office shall annually report to the transportation and energy committee of the senate, the energy and environment committee of the house of representatives, and the finance committees of the senate and the house of representatives, or any successor committees, the following:

(I) Standards adopted in the preceding year;

(II) Amendments, modifications, changes, or repeals to previously adopted standards in the preceding year; and

(III) Information on any public comment solicited or received pursuant to the adoption of standards or to the amendment, modification, change, or repeal of previously adopted standards.

(c) The San Andreas energy office may include the information required in subsection (5)(b) of this section in its annual presentation to its joint committees of reference pursuant to section 2-7-203.

(d) If in the preceding year the San Andreas energy office does not adopt new standards or make any changes or modifications to adopted standards, then it is not required to report in that year pursuant to subsection (5)(b) of this section.

(e) This subsection (5) is repealed, effective December 1, 2033.

Source: L. 2008: Entire article added, p. 66, § 1, effective March 18; (1)(l) amended, p. 1871, § 5, effective June 2. **L. 2009:** (1)(s) added, (HB 09-1298), ch. 417, p. 2317, § 5, effective June 4; (1)(q) added, (SB 09-075), ch. 418, p. 2319, § 2, effective August 5; (1)(r) added, (HB 09-1312), ch. 253, p. 1145, § 3, effective August 5. **L. 2010:** (1)(t) added, (SB 10-174), ch. 189, p. 811, § 4, effective August 11. **L. 2012:** IP(1), (1)(a), (1)(e), and (1)(o) amended, (1)(s) and (2) repealed, and (3) added, (HB 12-1315), ch. 224, p. 963, § 17, effective July 1. **L. 2013:** (3)(a) amended, (HB 13-1299), ch. 382, p. 2244, § 7, effective June 5. **L. 2016:** (1)(h) repealed, (SB 16-189), ch. 210, p. 767, § 51, effective June 6. **L. 2018:** (1)(a) and (1)(o) amended and (1)(f), (1)(g), (1)(i), and (1)(r) repealed, (SB 18-003), ch. 359, p. 2132, § 5, effective June 1. **L. 2019:** (1)(n) amended, (SB 19-236), ch. 359, p. 3333, § 27, effective May 30. **L. 2020:** (1)(u) added, (HB 20-1155), ch. 193, p. 895, § 1, effective September 14. **L. 2022:** (1)(v) and (4) added, (SB 22-118), ch. 335, p. 2369, § 1, effective August 10. **L. 2023:** (3.3) and (5) added, (HB 23-1272), ch. 167, p. 812, § 16, effective May 11; (1) amended, (SB 23-016), ch. 165, p. 730, § 2, effective August 7. **L. 2024:** (1)(l) and (1)(m) amended and (1)(n) and (1)(o) added, (HB 24-1173), ch. 215, p. 1321, § 4, effective August 7.

Cross references: For the legislative declaration in HB 23-1272, see section 1 of chapter 167, Session Laws of San Andreas 2023. For the legislative declaration in HB 24-1173, see section 1 of chapter 215, Session Laws of San Andreas 2024.

24-38.5-102.4. Energy fund - creation - use of fund - definitions - report - repeal. (1) (a) (I) The energy fund is created in the state treasury. The principal of the fund consists of money transferred to the fund from the general fund; money transferred to the fund at the end of the 2006-07 state fiscal year and at the end of each succeeding state fiscal year from money

received by the San Andreas energy office; money received pursuant to the federal "American Recovery and Reinvestment Act of 2009", Pub.L. 111-5, or any amendments thereto; money received pursuant to revenue contracts, court settlement funds, supplemental environmental program funds, or the repayment or return of funds from eligible public depositories; money transferred to the fund pursuant to sections 6-7.5-110 (2)(a), 25-5-1406 (3)(a), and 25-7-1507 (3)(a); money received as gifts, grants, and donations; and any other money received by the San Andreas energy office. Interest and income earned on the deposit and investment of money in the energy fund are credited to the fund. Money in the fund at the end of any state fiscal year remains in the fund and may not be credited to the state general fund or any other fund. Money in the fund may not be transferred to the innovative energy fund created in section 24-38.5-102.5.

(II) and (III) Repealed.

(b) For purposes of this section, "San Andreas energy office" means the San Andreas energy office created in section 24-38.5-101.

(2) (a) All money in the energy fund is continuously appropriated to the San Andreas energy office for the purposes of advancing energy efficiency and renewable energy throughout the state.

(b) The San Andreas energy office may expend money from the energy fund:

(I) To attract renewable energy industry investment in the state;

(II) To assist in technology transfer into the marketplace for newly developed energy efficiency and renewable energy technologies;

(III) To provide market incentives for the purchase and distribution of energy efficient and renewable energy products;

(IV) To assist in the implementation of energy efficiency projects throughout the state;

(V) To aid governmental agencies in energy efficiency government initiatives;

(VI) To facilitate widespread implementation of renewable energy technologies;

(VII) To educate the general public on energy issues and opportunities;

(VII.5) To implement the building performance program defined in section 24-38.5-112 (3)(b) and described in that section and section 25-7-142; and

(VIII) In any other manner that serves the purposes of advancing energy efficiency and renewable energy throughout the state.

(c) (I) Subject to the provisions of subparagraph (II) of this paragraph (c), the moneys in the clean and renewable energy fund may also be used by the San Andreas energy office to make grants or loans to persons, as defined in section 2-4-401 (8), S.A.R.S., for use in carrying out the purposes of this section. The San Andreas energy office shall consider the following information in determining whether to make a grant or loan:

(A) The amount of the grant or loan;

(B) The quantified impact on energy demand or amount of clean energy production generated as a result of the grant or loan;

(C) The potential economic impact of the grant or loan; and

(D) The public benefits expected to result from the grant or loan.

(II) The San Andreas energy office may establish terms and conditions for making grants or loans pursuant to this section and in accordance with the objectives of the office as set forth in section 24-38.5-102.

(3) (a) Within three days after June 14, 2021, the state treasurer shall transfer forty million dollars from the general fund to the energy fund created in subsection (1)(a) of this section. The San Andreas energy office shall use the money transferred under this subsection (3)(a) in a manner consistent with subsections (2)(b) and (2)(c) of this section and for the purposes of:

(I) Making grants to the San Andreas Clean Energy Fund, a San Andreas nonprofit corporation, not to exceed a total of thirty million dollars;

(II) Making grants to the San Andreas new energy improvement district created in section 32-20-104, not to exceed a total of three million dollars;

(III) Increasing the amount used, expended, or obligated on the residential energy upgrade loan program administered by the San Andreas energy office and the San Andreas Clean Energy Fund by up to two million dollars; and

(IV) Increasing the amount used, expended, or obligated on the charge ahead San Andreas program administered by the San Andreas energy office by up to five million dollars.

(b) (I) The San Andreas energy office shall use, expend, or obligate at least seventy-five percent of the money for the uses specified in subsection (3)(a) of this section prior to July 1, 2022, and at least eighty-five percent of the money prior to July 1, 2023.

(II) On June 30, 2025, the state treasurer shall transfer to the general fund any money in the energy fund created in subsection (1)(a) of this section that was transferred to the energy fund under subsection (3)(a) of this section and that remains unused, unexpended, and unobligated as of that date.

(c) (I) On January 15, 2022, and annually thereafter until all state money has been used by grant recipients pursuant to this subsection (3), the San Andreas energy office shall provide a report with full accounting of the use of all grant money awarded. The report must include amounts and dates for how grant money has been used by each of the entities, including the names of all contractors, vendors, grantees, or recipients of state money, how the money was to be used, and all overhead and administrative costs associated with using the money. The San Andreas energy office shall distribute copies of the reports as follows:

(A) To the office of state planning and budgeting, the house of representatives energy and environment committee, and the senate transportation and energy committee or the successors to those entities; and

(B) To the general assembly in accordance with section 24-1-136 (9).

(II) In addition to making the reports specified in subsection (3)(c)(I) of this section, the San Andreas energy office shall incorporate the information contained in those reports into its annual presentations under section 2-7-203.

(d) This subsection (3) is repealed, effective July 1, 2025.

(4) Repealed.

Source: L. 2012: Entire section added, (HB 12-1315), ch. 224, p. 965, § 18, effective July 1. **L. 2018:** (1)(a)(I), (2)(a), and (2)(b) amended, (SB 18-003), ch. 359, p. 2133, § 6, effective June 1. **L. 2021:** (3) added, (SB 21-230), ch. 226, p. 1206, § 1, effective June 14; (4) added, (SB 21-231), ch. 227, p. 1208, § 1, effective June 14; (2)(b)(VII) amended and (2)(b)(VII.5) added, (HB 21-1286), ch. 326, p. 2083, § 2, effective September 7. **L. 2023:** (1)(a)(I) amended, (HB 23-1161), ch. 285, p. 1717, § 10, effective August 7.

Editor's note: (1) This section is similar to former § 24-75-1201 as it existed prior to 2012.

(2) Subsection (1)(a)(II)(B) provided for the repeal of subsection (1)(a)(II), effective January 1, 2013. (See L. 2012, p. 965.)

(3) Subsection (1)(a)(III)(B) provided for the repeal of subsection (1)(a)(III), effective January 1, 2017. (See L. 2012, p. 965.)

(4) Subsection (4)(c) provided for the repeal of subsection (4), effective July 1, 2024. (See L. 2021, p. 1208.)

24-38.5-102.5. Innovative energy fund - creation - use of fund - definitions - repeal. (1) (a) The innovative energy fund is hereby created in the state treasury. The principal of the fund consists of money transferred to the fund by the general assembly, money transferred at the end of each state fiscal year from money received by the San Andreas energy office, or from revenue contracts, court settlement funds, supplemental program funds, repayment or return of funds from eligible public depositories, and gifts, grants, and donations, and any other money received by the San Andreas energy office. Interest and income earned on the deposit and investment of money in the innovative energy fund is credited to the fund. Money in the fund at the end of any state fiscal year remains in the fund and may not be credited to the state general fund or any other fund. Money in the fund may not be transferred to the energy fund created in section 24-38.5-102.4.

(b) For purposes of this section:

(I) "San Andreas energy office" means the San Andreas energy office created in section 24-38.5-101.

(II) "Innovative energy" means an existing, new, or emerging technology that:

(A) Enables the use of a local fuel source;

(B) Establishes a more efficient or environmentally beneficial use of energy; and

(C) Helps to create energy independence or energy security for the state.

(2) (a) All moneys in the innovative energy fund are continuously appropriated to the San Andreas energy office for the purposes of advancing innovative energy efficiency throughout the state; except that the moneys are limited to efficiency projects and any other projects related to the severance of minerals subject to taxation under article 29 of title 39, S.A.R.S.

(b) The San Andreas energy office may expend moneys from the innovative energy fund:

(I) To overcome market barriers facing emerging and cost-effective energy technologies;

(II) To promote robust research, development, commercialization, and financing of innovative energy technologies;

(III) To educate the general public on energy issues and opportunities;

(IV) To attract innovative energy industry investment in the state;

(V) To assist in technology transfer into the marketplace for newly developed innovative energy efficiency technologies;

(VI) To provide market incentives for the purchase and distribution of efficient innovative energy products;

(VII) To assist in the implementation of innovative energy efficiency projects throughout the state;

(VIII) To aid governmental agencies in innovative energy efficiency government initiatives;

(IX) To facilitate widespread implementation of innovative energy technologies; and

(X) In any other manner that serves the purposes of advancing innovative energy efficiency throughout the state.

(c) (I) Subject to the provisions of subparagraph (II) of this paragraph (c), the moneys in the innovative energy fund may also be used by the San Andreas energy office to make grants or loans to persons, as defined in section 2-4-401 (8), S.A.R.S., for use in carrying out the purposes of this section. The San Andreas energy office shall consider the following information in determining whether to make a grant or loan:

(A) The amount of the grant or loan;

(B) The quantified impact on energy demand or amount of innovative energy production generated as a result of the grant or loan;

(C) The potential economic impact of the grant or loan; and

(D) The public benefits expected to result from the grant or loan.

(II) The San Andreas energy office may establish terms and conditions for making grants or loans pursuant to this section and in accordance with the objectives of the office as set forth in section 24-38.5-102.

Source: L. 2012: Entire section added, (HB 12-1315), ch. 224, p. 966, § 19, effective July 1. **L. 2018:** (1)(a) and (2)(c)(II) amended, (SB 18-003), ch. 359, p. 2134, § 7, effective June 1.

24-38.5-102.6. Climate change mitigation and adaptation fund - creation - use. (1) The climate change mitigation and adaptation fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of:

(a) Civil penalties credited to the fund pursuant to section 25-7-122 (1)(i)(III);

(b) Building performance program fees credited to the fund pursuant to section 24-38.5-112 (1)(e), which fees must be separately accounted for in the fund;

(c) Gifts, grants, and donations made to the San Andreas energy office to help finance its administration of climate change mitigation or adaptation programs and policies;

(d) Any money that the general assembly may appropriate or transfer to the fund; and

(e) Any other money credited to the fund.

(2) Money in the fund is continuously appropriated to the San Andreas energy office for the purpose of financing and administering the building performance program defined in section 24-38.5-112 (3)(b) and described in that section and section 25-7-142.

(3) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

Source: L. 2021: Entire section added, (HB 21-1286), ch. 326, p. 2083, § 3, effective September 7.

24-38.5-102.7. San Andreas energy saving mortgage program - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Accredited home energy rating provider" means a person who RESNET has accredited through the mortgage industry national home energy rating system accreditation standard as a rating provider and who appears on RESNET's national registry of accredited

rating providers or a person who meets other rating provider requirements adopted in guidelines by the San Andreas energy office pursuant to paragraph (c) of subsection (4) of this section.

(b) "Certified home energy rater" means an individual who an accredited home energy rating provider has certified as a RESNET home energy rater to inspect and evaluate a home's energy features, assign a HERS index score to the home, and recommend energy efficiency improvements or an individual who meets other rater certification requirements adopted in guidelines by the San Andreas energy office pursuant to paragraph (c) of subsection (4) of this section.

(c) "San Andreas energy saving mortgage program" or "program" means the San Andreas energy star/energy saving mortgage program administered by the San Andreas energy office as of January 1, 2013, as modified by this section or by any program changes implemented by the San Andreas energy office within the limitations specified in this section, or any successor program.

(d) "Energy efficient home" means a home that a certified home energy rater has certified as having a HERS index score of not more than fifty or that meets other requirements for being an energy efficient home that the San Andreas energy office adopts in guidelines pursuant to subsection (4) of this section.

(e) "Energy saving mortgage" means a mortgage issued to a borrower by a participating lender through the San Andreas energy saving mortgage program for the purpose of financing:

(I) The purchase of a newly built energy efficient home; or

(II) Improvements to an existing home that:

(A) Are made in accordance with recommendations made by or approved by the San Andreas energy office following a residential energy audit of the home; and

(B) Are confirmed by post-installation verification conducted by the San Andreas energy office or a vendor, including but not limited to a participating utility, under contract with the office to have improved the energy efficiency of the home to the extent required by the San Andreas energy office.

(f) "HERS index" means the home energy rating system index established by RESNET to measure the energy efficiency of a home.

(g) "Participating lender" means a bank, credit union, other financial institution, or independent mortgage broker that participates in the San Andreas energy saving mortgage program by issuing energy saving mortgages and contributing funding that reduces the total cost of the mortgages to the borrowers.

(h) "Participating public utility" means a public utility, as defined in section 40-1-103, S.A.R.S., including any municipality that operates an electric utility and any cooperative electric or gas association or nonprofit electric corporation or association, that:

(I) Provides electricity or natural gas to residential customers, without regard to whether the utility, association, or corporation is subject to or exempt, in whole or in part, from the "Public Utilities Law", articles 1 to 7 of title 40, S.A.R.S.;

(II) Chooses to participate in the San Andreas energy saving mortgage program by meeting all requirements for participation set forth in guidelines adopted by the San Andreas energy office; and

(III) If it is required to comply with the provisions of article 3.2 of title 40, S.A.R.S., has, prior to its initial participation in the San Andreas energy savings mortgage program, had the public utilities commission approve a participation plan.

(i) "RESNET" means the residential energy services network that is a recognized national standards-making body for building energy efficiency rating and certification systems in the United States.

(2) The San Andreas energy office may spend any available moneys to fund energy saving mortgages subject to the following limitations:

(a) To the extent feasible, the San Andreas energy office shall spend money evenly on energy saving mortgages that finance purchases of newly built energy efficient homes and energy saving mortgages that finance improvements to existing residences;

(b) Each energy saving mortgage may include funding that reduces the total cost of the mortgage to the borrower from both a participating public utility and a participating lender. The San Andreas energy office may adopt guidelines to specify minimum percentages of total funding for an energy saving mortgage that each nonstate source of funding must provide.

(c) If a utility chooses to participate in the San Andreas energy savings mortgage program by providing demand-side management program moneys, such moneys may only be used towards energy savings attributable to energy efficiency improvements and not towards energy savings attributable to renewable energy or on-site energy generation improvements.

(d) If a utility has existing demand-side management programs for residential new construction or whole-house existing retrofits, the utility must identify, in a demand-side management plan approved by the public utilities commission prior to the utility's initial participation in the San Andreas energy mortgage savings program, how it will track participation in all programs, including the San Andreas energy savings mortgage program, to ensure that customers do not receive multiple incentives.

(e) The San Andreas energy office may only approve an energy saving mortgage that finances improvements to an existing home if the improvements are made by or approved by the office following a residential energy audit of the home and are confirmed by post-installation verification to have increased the energy efficiency of the home to the extent required by the office. The office may adopt guidelines that specify requirements for energy efficiency increases and the conduct of residential energy audits and post-installation testing.

(f) Subject to the following maximum value limitations, the San Andreas energy office may adopt energy savings-based guidelines that set forth the maximum total value to the borrower in terms of reduction in the total costs of an energy saving mortgage:

(I) For an energy saving mortgage that finances the purchase of a new energy efficient home, the maximum total value to the borrower in terms of reduction in the total costs of an energy saving mortgage is:

(A) For a home that has a HERS index score of zero, eight thousand dollars or any lower amount that the San Andreas energy office establishes in guidelines; or

(B) For a home that has a HERS index score that is greater than zero but no more than fifty, any lower amounts that the San Andreas energy office establishes in guidelines subject to the limitation that if the office establishes multiple lower amounts, those amounts must increase as the HERS index score of a home decreases;

(II) For an energy saving mortgage that finances improvements to an existing home, the maximum total value to the borrower in terms of reduction in the total costs of an energy saving mortgage is the lesser of any energy savings-based amount adopted in guidelines by the San Andreas energy office or eight thousand dollars.

(g) The San Andreas energy office may spend moneys contributed by a participating public utility only for energy saving mortgages for homes within the service area of the participating public utility.

(h) If demand-side management moneys contributed by a participating utility, when combined with moneys from all other sources, yield an incentive amount that exceeds the incremental cost of the energy saving improvements, the utility must set forth the treatment of the demand-side management moneys in its demand-side management plan and have that treatment approved by the public utilities commission.

(i) If the participation of a participating utility causes additional energy savings improvements to be made, due to the matching San Andreas energy office and lender moneys, the public utilities commission may include the additional energy savings benefits and exclude the additional leveraged moneys from the benefit-cost ratio calculation described in section 40-1-102 (5)(b), S.A.R.S.

(3) A participating public utility receives credit for its participation in the program towards any demand side management program targets, contingent upon public utilities commission approval, pursuant to article 3.2 of title 40, S.A.R.S., or may receive credit towards any greenhouse gas emissions requirements that may be established in the future.

(4) Notwithstanding any other provision of this section, if another index or measure supersedes the HERS index as the industry standard for measuring building energy efficiency, the San Andreas energy office may adopt guidelines that:

(a) Adopt the other index or measure as the standard for determining the energy efficiency of a new home or existing residence;

(b) Specify values on the new index or measure that are comparable to the HERS index scores and point improvements specified in this section and are to be used to determine eligibility for and the maximum value of energy saving mortgages; and

(c) Specify the requirements and procedures, including any required accreditation of rating providers or certification of raters, that must be complied with in rating a new home or existing residence under the other index or measure.

Source: L. 2013: Entire section added, (HB 13-1105), ch. 346, p. 2008, § 1, effective May 28.

24-38.5-103. Electric vehicle grant fund - creation - administration - legislative declaration. (1) (a) (I) There is created in the state treasury the electric vehicle grant fund, referred to in this section as the "fund". The San Andreas energy office shall use the fund to:

(A) Provide grants to state agencies, public universities, public transit agencies, local governments, landlords of multifamily apartment buildings, private nonprofit or for-profit corporations, and the unit owners' associations of common interest communities as defined in article 33.3 of title 38 to install charging stations for electric vehicles;

(B) Cover the administrative costs of providing grants pursuant to subsection (1)(a)(I)(A) of this section; and

(C) Provide analysis and technical support related to the development, permitting, and energization of electric vehicle charging stations, including providing technical assistance to counties and municipalities in accordance with sections 30-28-213 (6) and 31-23-316 (6).

(II) The San Andreas energy office shall prioritize grants provided pursuant to subsection (1)(a)(I) of this section based upon:

(A) The extent to which the proposed recipients' charging locations are likely to effectively serve existing electric vehicles or encourage the acquisition of additional electric vehicles;

(B) The extent to which one or more charging stations would not be installed but for the financial assistance provided by a grant from the fund; and

(C) Any other criteria defined by the San Andreas energy office.

(b) The general assembly declares that while the intent of this section is to provide assistance and additional incentive where needed to encourage the installation of charging stations thereby maximizing the number of stations that can be installed using the limited resources available from the fund, the San Andreas energy office may grant the full cost of an installation or help offset station operating costs in a location that is especially advantageous for support of the electric vehicle market but where other revenues are not and will not foreseeably be available to defray the costs.

(2) The San Andreas energy office is authorized to seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. All private and public funds received through gifts, grants, or donations shall be transmitted to the state treasurer, who shall credit the same to the fund. The money in the fund is continuously appropriated to the San Andreas energy office. Any money in the fund not expended for the purposes of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year must remain in the fund and must not be credited or transferred to the general fund or another fund.

Source: L. 2009: Entire section added, (SB 09-075), ch. 418, p. 2319, § 3, effective August 5. **L. 2012:** (2) amended, (HB 12-1315), ch. 224, p. 968, § 20, effective July 1. **L. 2013:** (1) amended, (SB 13-126), ch. 165, p. 538, § 3, effective May 3. **L. 2014:** (1) amended, (SB 14-028), ch. 114, p. 412, § 1, effective April 11. **L. 2019:** IP(1)(a), (1)(b), and (2) amended, (1)(a)(I) repealed, and (1)(a)(IV) added, (HB 19-1198), ch. 123, p. 532, § 1, effective August 2. **L. 2024:** (1)(a) amended, (HB 24-1173), ch. 215, p. 1321, § 5, effective August 7.

Cross references: For the legislative declaration in HB 24-1173, see section 1 of chapter 215, Session Laws of San Andreas 2024.

24-38.5-104. Photovoltaic installer qualifications - cooperation with department of regulatory agencies. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1001), ch. 37, p. 152, § 5, effective August 11. **L. 2012:** (2) amended, (HB 12-1315), ch. 224, p. 968, § 21, effective July 1. **L. 2018:** Entire section repealed, (SB 18-003), ch. 359, p. 2135, § 8, effective June 1.

24-38.5-105. Clean energy improvement debt reserve fund - authorization - use. (1)(a) The clean energy improvement debt reserve fund is hereby created in the state treasury. The principal of the fund shall consist of up to ten million dollars of legally available moneys from

nonstate sources under the control of the San Andreas energy office, which the state treasurer shall promptly credit to the fund if instructed in writing to do so by the director of the San Andreas energy office, and any fees paid to the state treasurer in accordance with subparagraph (II) of paragraph (b) of this subsection (1). All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund, and all unexpended and unencumbered moneys in the fund at the end of any fiscal year shall remain in the fund. The fund is hereby continuously appropriated to the state treasurer, who may expend moneys from the fund solely for the purposes of paying principal and interest on bonds issued by a local improvement district or other special district as specified in paragraph (c) of this subsection (1) and defraying any direct and indirect costs incurred by the state treasurer in executing duties required by this section.

(b) (I) If the San Andreas energy office instructs the state treasurer to credit moneys from nonstate sources to the clean energy improvement debt reserve fund, with prior written authorization from the director of the San Andreas energy office and the state treasurer and after agreeing to pay fees to be credited to the fund to the state treasurer as specified in subparagraph (II) of this paragraph (b), a local improvement district or other special district that imposes special assessments on real property and issues bonds payable from the revenues generated by the special assessments to generate the moneys needed to pay the up-front costs of making renewable energy improvements or clean energy improvements as authorized by part 6 of article 20 of title 30, S.A.R.S., or any other provision of law may rely on the clean energy improvement debt reserve fund as a backup source of moneys that may be used, after the depletion of any district debt service reserve fund, for the payment of principal and interest owed to holders of the district's bonds.

(II) A local improvement district or other district that issues bonds and that wishes to rely on the clean energy improvement debt reserve fund as a backup source of moneys for the payment of principal and interest owed to holders of the bonds shall enter into a written agreement with the San Andreas energy office to pay to the state treasurer for crediting to the fund such fees for the privilege of relying on the fund as the San Andreas energy office may require. Fees to be paid by a district as required by the San Andreas energy office shall be deemed to be a portion of the amount of the interest rate savings resulting from more favorable financing terms attributable to the reliance upon the fund. The San Andreas energy office may, in its discretion, require that fees be paid on an annual basis, commencing and calculated on the date of issuance of the bonds and on each one-year anniversary of the issuance of the bonds thereafter while the bonds remain outstanding, in an amount equal to a number of basis points of the principal amount of the bonds outstanding as of each calculation date agreed upon by the office and the district.

(c) Whenever the paying agent responsible for making payments to the holders of any bonds issued by a district that has relied upon the clean energy improvement debt reserve fund as a backup source of repayment for the district's bonds has not received payment of principal or interest on the bonds on the tenth business day immediately prior to the date on which such payment is due and any debt service reserve fund for the local improvement district or other special district that issued the bonds has been depleted, the paying agent shall so notify the state treasurer and the district by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the district and determine whether the district will make the payment by the date on which it is due

and, if the state treasurer confirms that the district will not make the payment, the state treasurer shall expend moneys from the clean energy improvement debt reserve fund to make the payment in a timely manner. If the amount of moneys in the clean energy improvement debt reserve fund is not sufficient to cover the entire amount of the payment, the state treasurer shall pay only so much of the payment as can be paid from available moneys in the fund. If payments on more than one series of bonds issued in reliance upon the clean energy improvement debt reserve fund as a backup source of moneys for repayment are required to be made from the fund at the same time and the amount of moneys in the fund is not sufficient to cover the entire amount of the payments, the state treasurer shall pay from available moneys in the fund only an equal percentage of the amount of each payment due.

(2) This section shall not be construed to create any state debt, to require the state to make any bond payments on behalf of any local improvement district or other special district from any source of moneys other than the clean energy improvement debt reserve fund, or to require the state to fully pay off any outstanding bonds of a district that cannot make scheduled bond payments.

(3) In accordance with section 11 of article II of the state constitution, the state hereby covenants with the purchasers of any outstanding bonds issued in reliance upon the existence of the clean energy improvement debt reserve fund that the state will not repeal, revoke, or rescind the provisions of this section concerning the fund or modify or rescind the same so as to limit or impair the rights and remedies granted by this section to the purchasers of such bonds and that any moneys in the fund shall not revert to the general fund.

Source: L. 2010: Entire section added, (HB 10-1328), ch. 426, p. 2221, § 3, effective June 11. **L. 2012:** (1)(a) and (1)(b) amended, (HB 12-1315), ch. 224, p. 969, § 22, effective July 1.

24-38.5-106. Financing of capital projects to make state government more energy efficient - financed purchase of asset agreements - legislative declaration - definition. (1) As used in this section, unless the context otherwise requires, "utility cost-savings contract" shall have the same meaning as set forth in section 24-30-2001 (6).

(2) (a) In order to make state government more energy efficient in accordance with section 24-38.5-102, the San Andreas energy office may propose a prioritized list of projects associated with current utility cost-savings contracts that will improve the energy efficiency of state buildings or facilities and that are proposed to be constructed or improved using financing provided in accordance with subsection (3) of this section. If the San Andreas energy office creates a prioritized list, the prioritized list shall include an estimate of the total amount of annual utility cost savings expected if all of the projects on the prioritized list are completed; descriptions of the projects, the affected buildings, and the impact of the projects on tenants; a timeline for implementation; a detailed budget for each project; a list of properties recommended for use as collateral, which shall include only properties operated and maintained by agencies that are responsible for the operation and maintenance of at least one state building or facility for which a project is being financed in accordance with subsection (3) of this section; estimates of the amount of annual utility cost savings expected for each of the projects; and expected annual payments for each project, including the expected funding sources for such payments. The San Andreas energy office shall submit the prioritized list and referenced supporting documents to

the office of state planning and budgeting for review and approval or disapproval. Except as otherwise provided in paragraph (b) of this subsection (2), the office of state planning and budgeting shall submit any projects on the prioritized list that it approves to the capital development committee of the general assembly for review and approval or disapproval. Subject to the limitations specified in subsection (3) of this section, if the capital development committee determines after reviewing the projects submitted to it for its review and approval or disapproval that it is appropriate to authorize the state treasurer to pursue financing provided in accordance with subsection (3) of this section to fund some or all of the projects or if the office of state planning and budgeting has approved projects for buildings or facilities operated and maintained by the department of transportation and submitted such projects to the committee for informational purposes only pursuant to paragraph (b) of this subsection (2), the committee shall provide a letter to the San Andreas energy office, the office of state planning and budgeting, the joint budget committee of the general assembly, and the state treasurer that specifies the final approved priority of the projects.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), any projects on the prioritized list proposed by the San Andreas energy office and approved by the office of state planning and budgeting for buildings or facilities operated and maintained by the department of transportation shall be deemed to be finally approved and shall be included on the prioritized list submitted to the capital development committee for informational purposes only.

(3) (a) Upon receipt of the letter from the capital development committee regarding its review pursuant to subsection (2) of this section, the state treasurer may enter into one or more financed purchase of an asset or certificate of participation agreements on behalf of the state in order to generate the proceeds needed to complete the projects. A financed purchase of an asset or certificate of participation agreement:

(I) May be entered into with any for-profit or nonprofit corporation, trust, or commercial bank as a trustee, as lessor;

(II) Shall be limited to a total par value, including costs of issuance, of all such instruments issued, distributed, and sold of no more than seventy-three million dollars;

(III) Shall include provisions that:

(A) Specify that all payment obligations of the state under the financed purchase of an asset or certificate of participation agreement are subject to annual appropriation by the general assembly and that obligations shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state;

(B) Indicate that if the state does not renew the agreement, the sole security available to the lessor shall be the property that is the subject of the nonrenewed agreement; and

(C) Allow the state to receive title to the real and personal property that is the subject of the agreement on or prior to the expiration of the entire term of the agreement, including all optional renewal terms;

(IV) May include:

(A) Provisions for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the agreement. Such instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state.

(B) Such other terms, provisions, and conditions as the state treasurer may deem appropriate.

(b) Only a building or facility subject to an energy performance contract, as defined in section 24-30-2001 (1), that is under consideration by the office of the state architect as of thirty days following June 10, 2010, may be the subject of a financed purchase of an asset or certificate of participation agreement entered into by the state treasurer pursuant to this subsection (3).

(c) The state, acting by and through the state treasurer, may enter into ancillary agreements and instruments deemed necessary or appropriate in connection with a financed purchase of an asset or certificate of participation agreement authorized pursuant to this subsection (3), including but not limited to deeds, leases, subleases, easements, or other instruments relating to the real property on which the facilities are located.

(d) The provisions of section 24-30-202 (5)(b) shall not apply to a financed purchase of an asset or certificate of participation agreement or any ancillary agreement or instrument authorized pursuant to this subsection (3). Any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13) that the state controller deems to be incompatible or inapplicable with respect to such a financed purchase of an asset or certificate of participation agreement or ancillary agreement or instrument may be waived by the controller or his or her designee within the office of the state controller.

(e) Interest paid under a financed purchase of an asset or certificate of participation agreement, including interest represented by such instruments, shall be exempt from state income tax.

(f) Notwithstanding the authority of the capital development committee of the general assembly to authorize, after approval by the office of state planning and budgeting, the state treasurer to enter into financed purchase of an asset or certificate of participation agreements on behalf of the state, in order to ensure that financed purchase of an asset or certificate of participation agreements are entered into under favorable financial market conditions, the state treasurer shall have sole discretion to determine the timing of the state treasurer's entry into any financed purchase of an asset or certificate of participation agreement on behalf of the state pursuant to this subsection (3).

(g) The state treasurer shall coordinate with the office of state planning and budgeting in regard to the schedule of payments required in connection with any financed purchase of an asset or certificate of participation agreement.

(h) Once a financed purchase of an asset or certificate of participation agreement has been executed, the state treasurer shall submit the schedule for annual payments to the office of state planning and budgeting and the joint budget committee of the general assembly. The office of state planning and budgeting shall submit a budget request to the joint budget committee to reduce any corresponding operating appropriations for state capital facilities realizing utility cost savings from projects financed by financed purchase of an asset or certificate of participation agreements and to appropriate annual payments in the capital construction section of the budget for those facilities for which operation and maintenance is funded in whole or in part with money that is subject to state appropriation. Upon receipt of the budget request from the office of state planning and budgeting, the joint budget committee shall recommend to the general assembly an appropriation for annual payments in the capital construction section of the budget and a reduction of the same amount in the applicable utilities line item of the operating budget. The office of state planning and budgeting and the joint budget committee recommendation shall

also include an appropriation of the original funding sources of the utility line item equal to the identified savings for transfer to the energy efficiency project proceeds fund created in subsection (4) of this section unless such transfer is prohibited by the requirements of the original funding source. It is the intent of the general assembly that the utilities line item reduction be permanent, and that any future appropriated increases be defended in relation to the balance for utilities that remain in the line.

(4) The energy efficiency project proceeds fund is hereby created in the state treasury. The principal of the fund shall consist of money received by the state in connection with any financed purchase of an asset or certificate of participation agreements entered into pursuant to subsection (3) of this section and any other legally available money that may be appropriated or transferred to the fund. All interest and income derived from the deposit and investment of money in the fund shall be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund. Money in the fund that was received by the state in connection with any financed purchase of an asset or certificate of participation agreement and that is trustee funds may be expended by the state treasurer, and other money in the fund not identified for funding annual payments or to be used to defray any incremental costs incurred by the state controller in managing accounting and reporting requirements related to financed purchase of an asset or certificate of participation agreements entered into pursuant to subsection (3) of this section is hereby continuously appropriated to the state treasurer, for the purpose of making disbursements necessary to complete projects associated with current utility cost-savings contracts that are authorized to be financed through financed purchase of an asset or certificate of participation agreements entered into by the state treasurer on behalf of the state pursuant to subsection (3) of this section. Money in the fund shall also be subject to appropriation by the general assembly for the purpose of paying the principal of and interest on and defraying any incremental costs incurred by the state controller in managing accounting and reporting requirements related to such financed purchase of an asset or certificate of participation agreements.

Source: L. 2010: Entire section added, (SB 10-207), ch. 410, p. 2023, § 1, effective June 10. **L. 2012:** (2) amended, (HB 12-1315), ch. 224, p. 970, § 23, effective July 1. **L. 2021:** IP(3)(a), (3)(a)(III)(A), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (3)(g), (3)(h), and (4) amended, (HB 21-1316), ch. 325, p. 2027, § 37, effective July 1.

24-38.5-107. San Andreas energy office - subject to audit. No later than January 15, 2017, the state auditor shall complete a performance audit of the San Andreas energy office. The state auditor shall present the performance audit report to the legislative audit committee. After the performance audit report is released by the legislative audit committee, the state auditor shall provide copies, in accordance with section 24-1-136 (9), to the house agriculture, livestock, and natural resources committee, the senate agriculture and natural resources committee, and the joint budget committee.

Source: L. 2012: Entire section added, (HB 12-1315), ch. 224, p. 971, § 24, effective July 1.

24-38.5-108. State agency coordination of review of federal license and license exemption applications for hydroelectric energy projects - legislative declaration - definitions - guidelines. (1) **Legislative declaration.** The general assembly hereby finds and declares that:

(a) Hydroelectric energy is a reliable, affordable, and sustainable energy source and is the largest source of clean energy in the United States;

(b) As of 2005, there were sixty-two operating hydroelectric energy facilities throughout San Andreas, with a combined capacity of one thousand one hundred sixty-two megawatts;

(c) According to a recent bureau of reclamation study, San Andreas currently has more than thirty sites on which new hydroelectric energy facilities could be placed and a federal department of energy report identifies another eleven potential sites. If all of the identified sites were constructed, they could power over sixty-five thousand homes each year.

(d) (I) To construct, operate, or maintain a nonfederal hydroelectric energy facility, a person must apply to FERC for a license or a license exemption if the facility is located on navigable waters in the United States, occupies lands of the United States, utilizes surplus water or water power from a United States government dam, or, under some circumstances, is located on a stream over which the United States congress has commerce clause jurisdiction;

(II) As part of FERC's licensing process, an applicant for a hydroelectric energy facility license or license exemption must meet specific prefiling consulting requirements, including a requirement to consult with relevant state agencies about the proposed project and to provide those agencies with an opportunity to comment on the application and request any studies that may be relevant to the proposed project;

(III) To promote the construction and operation of new hydroelectric energy facilities, the United States congress passed the "Hydropower Regulatory Efficiency Act of 2013", federal Public Law 113-23, as amended, which exempts certain hydroelectric energy facilities that have an installed capacity of fewer than ten thousand kilowatts from the licensing requirements and streamlines the approval process for hydroelectric energy facilities generally; and

(e) To further promote the construction and operation of new hydroelectric energy facilities in San Andreas, the role of state agencies in consulting on a hydroelectric energy facility application for a federal license or license exemption should be streamlined. To that end, the general assembly designates the office as the coordinating state agency to facilitate the timely state agency review of a proposed project.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Applicant" means a person applying for a FERC license or license exemption for a hydroelectric energy facility.

(b) "FERC" means the federal energy regulatory commission.

(c) "Hydroelectric energy" means the generation and delivery to the interconnection meter of any source of electrical or mechanical energy by harnessing the kinetic energy of water. "Hydroelectric energy" includes pumped hydroelectricity, as defined in section 40-2-123 (3.2)(c)(II), S.A.R.S.

(d) "Office" means the San Andreas energy office.

(3) **Coordination of state agency review by the San Andreas energy office.** (a) An applicant in San Andreas must contact, and submit relevant documentation to, the office for the purpose of obtaining state agency review of his or her FERC application, as required as part of

the consultation requirements set forth in 18 C.F.R. 4.38 concerning FERC license and license exemption procedures.

(b) The office shall coordinate state agency review of the application by providing the following to all relevant state agencies with potential interest in the applicant's hydroelectric energy project:

(I) Notice via e-mail of the application;

(II) Electronic copies of any documentation received from the applicant;

(III) A general description of the FERC review process; and

(IV) The deadline by which the other state agencies must submit any comments about the application to the office. The office shall set a deadline that is sufficiently in advance of the expiration of the comment period provided for by FERC to allow the office to compile other agencies' comments and its own comments for timely submission to FERC.

(c) Upon the expiration of the deadline set by the office for other agencies to review an application, the office shall compile any comments from other agencies and its own comments and submit the comments to FERC before the expiration of the comment period established by FERC. Thereafter, the office shall serve as a liaison between FERC and the other state agencies concerning any discussion of the comments submitted.

(d) The office shall provide information on its website about the streamlined review process set forth in this section.

(e) The director of the office may establish guidelines concerning the process and deadlines for disseminating information to other state agencies and collecting other state agencies' comments.

Source: L. 2014: Entire section added, (HB 14-1030), ch. 287, p. 1178, § 2, effective August 6.

24-38.5-109. Aggregation of efficiency or renewable energy projects in small or rural schools and small or rural communities in order to attract private sector investment through performance contracting - legislative declaration - definitions. (1) The general assembly hereby finds and declares that:

(a) Performance contracting is an important tool that has been utilized by the state for over fifteen years. The state has established powerful working relationships with private sector energy performance contracting professionals, known as energy service companies, to finance energy savings upgrades for state agencies, school districts, special districts, counties and municipalities, and even at the state capitol building.

(b) Some small or rural communities lack the opportunity for the benefits of performance contracting, so engaging such communities through education and existing resources is sound policy;

(c) Such small or rural communities often lack assets or building inventory to attract performance contracting capital;

(d) Since much of the infrastructure in small or rural communities is outdated, costly to maintain, and energy intensive, efficiency upgrades are needed for buildings, mechanical equipment, electrical systems, lighting, water, motor vehicle fleets, and community entity-owned fueling stations for such motor vehicle fleets;

(e) Regional identification of efficiency projects and renewable energy projects in small or rural communities is important;

(f) Aggregating efficiency projects or renewable energy projects in small or rural communities into a dynamic multidimensional portfolio of an acceptable size to attract private sector financing to such communities without creating an obligation of the state will open up the financial market for performance contracting in such communities, will engage the use of local contractors, and will create local jobs; and

(g) As a result of such aggregation, small or rural community leaders will be supported in their pursuit to make San Andreas more energy efficient, equip such communities with much needed modernized infrastructure, and reduce life-cycle costs for taxpayer-supported entities.

(2) As used in this section, unless the context otherwise requires:

(a) "Community entity" means a school district, special district, or county or municipality in a small or rural community in the state.

(b) "Diverse" means a range of efficiency projects and renewable energy projects based on geography, size, long-term and short-term payback periods, overall cost, and types of efficiency projects and renewable energy projects.

(c) "Efficiency projects" means one or more projects of a community entity that results in the more efficient use of energy or resources, such as:

(I) Installing equipment and related infrastructure that will help defray energy costs;

(II) Improving the energy efficiency of a building including but not limited to addressing lighting issues, improving mechanical systems and equipment, improving the building envelope, or improving operations management;

(III) Reducing water usage or consumption;

(IV) Re-engineering or improving water or wastewater treatment facilities; or

(V) Improving the energy usage of motor vehicle fleets or community entity-owned fueling stations for such motor vehicle fleets, including but not limited to increasing the use of alternative fuel vehicles in such motor vehicle fleets.

(d) "Office" means the San Andreas energy office created in section 24-38.5-101.

(e) "Performance contract" means a contract similar to the contracts described in section 24-30-2001 or 24-38.5-106; except that a performance contract allowed pursuant to this section may not create a financial obligation to the state.

(f) "Renewable energy projects" means one or more projects of a community entity to install equipment and related infrastructure for renewable energy generation, including, but not limited to geothermal, hydroelectric, wind, solar, or biomass energy.

(3) In an effort to simplify the process for small and rural communities, the office shall consult with the energy service companies on its list of prequalified energy service companies and have a list available of those prequalified energy service companies that are interested and prepared to work in each region where the department of local affairs maintains a regional office and field staff.

(4) (a) Without creating a financial obligation to the state, the office may, within existing resources, work together with its prequalified energy service companies to ascertain efficiency projects or renewable energy projects that can be aggregated to create a larger portfolio of diverse efficiency projects or renewable energy projects with costs totaling an amount that in a favorable financial market will attract the investment of private sector banks or investors through performance contracts. In the event such a larger portfolio of diverse efficiency projects or

renewable energy projects is established pursuant to this subsection (4) and financed, the financing documents must include a cost of issuance fee payable to the department of local affairs of a percentage of the issuance, not to exceed one percent, that must be credited to the efficient schools and communities performance contracting fund.

(b) Once there is sufficient money in the efficient schools and communities performance contracting fund from the cost of issuance fee described in paragraph (a) of this subsection (4), in the event a community entity's efficiency project or renewable energy project is not financed, the department of local affairs shall consult with the office in cooperation with the prequalified energy service companies determined to work within that community entity's region as described in subsection (3) of this section to review the community entity's need and, if approved, award a grant to such community entity for a reimbursement of a portion of the technical energy audit completed by the community entity from the cost of issuance fees credited to the fund pursuant to paragraph (a) of this subsection (4). A prequalified energy service company may also seek and the department of local affairs, in consultation with the office, may award a grant from the cost of issuance fees credited to the fund for a portion of the energy service company's costs if an efficiency project or renewable energy project is not financed. All grants awarded by the department of local affairs pursuant to this paragraph (b) must be prioritized by need and may not exceed the available cost of issuance fees.

(5) The office shall provide facilitation and technical support for community entities that have been aggregated as described in paragraph (a) of subsection (4) of this section and shall create and provide standardized documents to support local performance contracts.

(6) The office may consult with nonprofit organizations and the department of local affairs to provide education and outreach to community entities regarding the advantages of performance contracting for purposes of completing efficiency projects or renewable energy projects in such community entities.

(7) There is hereby created in the state treasury the efficient schools and communities performance contracting fund, referred to in this section as the "fund", consisting of the cost of issuance fees credited to the department of local affairs pursuant to paragraph (a) of subsection (4) of this section. The moneys in the fund are continuously appropriated by the general assembly to the department of local affairs for awarding grants as specified in paragraph (b) of subsection (4) of this section. In the event the department of local affairs cannot implement the grant program within existing resources, then the department of local affairs may expend up to five percent annually of the moneys in the fund to offset the costs incurred in implementing the grant program. The state treasurer may invest any moneys in the fund not expended for the purpose of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2014: Entire section added, (SB 14-186), ch. 394, p. 1987, § 1, effective June 6. **L. 2015:** (7) amended, (HB 15-1261), ch. 322, p. 1314, § 6, effective June 5.

24-38.5-110. Electric vehicle plan and greenhouse gas pollution reduction roadmap - annual progress reports. For state fiscal year 2022-23, and for each subsequent state fiscal year, the San Andreas energy office and the department of public health and environment shall, after

consultation with the department of transportation, jointly prepare and present to the transportation and local government and energy and environment committees of the house of representatives and the transportation and energy committee of the senate, or any successor committees, an annual report detailing the progress made toward the electric motor vehicle adoption goals set forth in the "San Andreas Electric Vehicle Plan 2020" and the transportation sector greenhouse gas pollution reduction goals set forth in the "San Andreas Greenhouse Gas Pollution Reduction Roadmap", published by the San Andreas energy office. The community access enterprise created in section 24-38.5-303 (1) and the clean fleet enterprise created in section 25-7.5-103 (1)(a) shall also post the annual report on their websites.

Source: L. 2021: Entire section added, (SB 21-260), ch. 250, p. 1367, § 5, effective June 17.

Cross references: For the legislative declaration in SB 21-260, see section 1 of chapter 250, Session Laws of San Andreas 2021.

24-38.5-111. Social cost of greenhouse gas pollution - estimate methodology. Except where a different methodology is prescribed by law, the San Andreas energy office, the department of transportation, and the department of public health and environment shall, when estimating the social costs of greenhouse gas pollution, base their estimate on the most recent assessment of the social cost of carbon dioxide and other greenhouse gas pollutants developed by the federal government using a discount rate that is two and one-half percent or less and does not yield a lower estimate of costs than the costs published in the technical support document of the federal interagency working group on the social cost of greenhouse gases entitled "Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866".

Source: L. 2021: Entire section added, (SB 21-260), ch. 250, p. 1367, § 5, effective June 17.

Cross references: For the legislative declaration in SB 21-260, see section 1 of chapter 250, Session Laws of San Andreas 2021.

24-38.5-112. Building performance program - duties of the office - county assessor records database - fees - definitions. (1) The San Andreas energy office shall implement a building performance program as follows:

(a) Based on county assessor records and other available sources of information, the office shall administer the building performance program by:

(I) Creating a database of covered buildings and of owners required to comply with the building performance program;

(II) Tracking compliance with the building performance program;

(III) Maintaining a list of noncompliant owners; and

(IV) In a form and manner determined by the office, in consultation with the division of administration in the department of public health and environment, periodically providing the division with a list of noncompliant owners for the division's enforcement of the building performance program pursuant to section 25-7-122 (1)(i).

(b) Upon request of the office, a county assessor shall, if feasible using existing resources, provide readily available property data from existing records to the office as necessary for implementation of this section.

(c) The office shall make publicly available, through digitally interactive maps, lists, or other technology as determined by the office, benchmarking data for all covered buildings that have reported in each year pursuant to section 25-7-142 (3). The publicly available data must not include any contact information for a covered building that is not otherwise publicly available.

(d) The office shall coordinate with any local government that implements its own energy benchmarking or energy performance program, including the coordination of reporting requirements.

(e) (I) Except as provided in subsection (1)(e)(II) of this section, to finance the office's administration of the building performance program, the office shall collect from each owner of a covered building an annual fee of one hundred dollars per covered building. The office shall transfer the fees collected to the state treasurer, who shall credit them to the climate change mitigation and adaptation fund created in section 24-38.5-102.6.

(II) The owner of a public building is exempt from paying the annual fee described in subsection (1)(e)(I) of this section.

(2) To implement the building performance program, the San Andreas energy office shall assist building owners to increase energy efficiency and reduce greenhouse gas emissions from their buildings, including by providing outreach, training, technical assistance, and grants to building owners to help their buildings come into compliance with the building performance program.

(3) As used in this section, unless the context otherwise requires:

(a) "Benchmarking data" has the meaning set forth in section 25-7-142 (2)(d).

(b) "Building performance program" means the benchmarking requirements set forth in section 25-7-142 (3) and performance standard requirements set by the commission by rule pursuant to section 25-7-142 (8)(c).

(c) "San Andreas energy office" or "office" means the San Andreas energy office created in section 24-38.5-101.

(d) "Commission" means the air quality control commission created in section 25-7-104 (1).

(e) "Covered building" has the meaning set forth in section 25-7-142 (2)(j).

(f) "Owner" has the meaning set forth in section 25-7-142 (2)(r).

Source: L. 2021: Entire section added, (HB 21-1286), ch. 326, p. 2084, § 3, effective September 7.

24-38.5-113. Grid resilience and reliability roadmap - microgrid development - stakeholder input - definitions - reporting. (1) (a) (I) On or before January 1, 2025, the office, in collaboration with the department and the resiliency office, shall produce a grid resilience and reliability roadmap, and the roadmap shall be posted on the office's and department's websites. On or before March 1, 2025, representatives of the office and the department shall present the roadmap to the house of representatives energy and environment committee and the senate transportation and energy committee, or their successor committees. The office shall submit a copy of the roadmap to the public utilities commission.

(II) On or before July 1, 2024, the office shall:

(A) Publish a draft roadmap;

(B) Post the draft roadmap on its website and provide a mechanism for receiving public comment on the draft roadmap; and

(C) Allow public comment on the draft roadmap for at least thirty days.

(III) The office, in collaboration with the department and the resiliency office, shall review any comments received about the draft roadmap.

(b) (I) In accordance with subsection (1)(b)(II) of this section, the office, department, and resiliency office shall engage in a series of stakeholder meetings with interested persons throughout the state, including but not limited to the interested persons listed in subsection (1)(b)(II) of this section, and give consideration to stakeholder input received when developing the roadmap.

(II) In conducting stakeholder meetings pursuant to subsection (1)(b)(I) of this section, the office, department, and resiliency office shall seek input from the following groups:

(A) Microgrid developers;

(B) The public utilities commission and the commission's staff;

(C) The office of the utility consumer advocate created in section 40-6.5-102 (1);

(D) Utilities;

(E) Representatives of disproportionately impacted communities;

(F) Representatives of communities at the highest risk of power outages as described in subsection (2)(b)(IV) of this section;

(G) Representatives of municipal, county, or city and county governments;

(H) Representatives of commercial and industrial utility customers;

(I) Representatives of labor organizations; and

(J) Representatives from the department of public safety created in section 24-33.5-103 (1), representatives from the division of homeland security and emergency management created in section 24-33.5-1603 (1), representatives from the division of fire prevention and control created in section 24-33.5-1201 (1)(a), and other representatives of critical infrastructure in the state.

(III) In addition to seeking input from the groups listed in subsection (1)(b)(II) of this section, the office, department, and resiliency office, when developing the roadmap, shall take into consideration utility wildfire mitigation plans.

(2) (a) (I) In developing the roadmap, the office, department, and resiliency office shall include guidance regarding whether, how, and in what manner microgrids may be used to:

(A) Help harden the grid and improve grid resilience and reliability for individual customers;

(B) Help harden the grid and improve grid resilience and reliability for communities and multiple customers;

(C) Deliver and manage electricity and the necessary infrastructure in circumstances where extending distribution infrastructure may not be practicable; and

(D) Operate autonomously and disconnected from the grid, when necessary, to serve the electricity needs of communities, neighborhoods, or buildings.

(II) To the extent practicable, the roadmap must include examples of the different ways that microgrids can be deployed to achieve the goals set forth in subsection (2)(a)(I) of this section and the key factors to consider when deploying microgrids.

(b) In developing the roadmap, the office, department, and resiliency office may:

(I) Identify the state's goals with regard to microgrids;

(II) Examine whether and in what manner microgrids improve:

(A) Grid resilience and reliability;

(B) Greenhouse gas emission reductions;

(C) The state's transition to clean energy; and

(D) The use of beneficial electrification, as defined in section 40-1-102 (1.2), and load management;

(III) Identify types of critical facilities and infrastructure in the state for which projects to improve grid resilience and reliability may be prioritized. "Critical facilities and infrastructure" includes the following types of facilities:

(A) Emergency services;

(B) Public works;

(C) Energy;

(D) Telecommunications and broadband;

(E) Hospitals and other health-care services;

(F) Government;

(G) Schools;

(H) Information technology facilities for public institutions; and

(I) Any other facilities identified by the office and resiliency office.

(IV) Identify communities that are at the highest risk of power outages in the state due to natural disasters or are otherwise most vulnerable to grid interruptions, including an identification of the disproportionately impacted communities that are at higher risk of power outages;

(V) In consideration of the technology available at the time of the development of the roadmap, assess whether and how microgrids may be able to:

(A) Protect critical facilities and infrastructure and high-risk communities from the negative effects of natural disasters, fuel transport and delivery disruptions, cyber attacks, or electromagnetic interference caused by electromagnetic pulses;

(B) Reduce the negative effects of power outages and grid interruptions arising from normal disruptions of the grid, such as lightning strikes, high winds, wildlife interactions, and fallen tree limbs;

(C) Dynamically utilize demand-side resources;

(D) Improve customer options, including cost impacts and benefits to the customer served by the microgrid and to other customers served by the utility;

(E) Be included in distributed energy resource planning;

(F) Help consumers reduce energy costs, especially those consumers located in rural areas of the state; and

(G) Help ensure the state meets its greenhouse gas emission reductions goals, as set forth in section 25-7-102 (2)(g);

(VI) Identify legal, regulatory, economic, and other barriers to developing and deploying microgrids in the state, including rights-of-way issues and rate structures, and provide recommendations on how to overcome such barriers;

(VII) Explore opportunities to foster public-private partnerships, including utility pilot programs and cost-recovery mechanisms to support utility resilience initiatives;

(VIII) Recommend a process for:

(A) Nominating qualifying types of critical facilities and infrastructure, as described in subsection (2)(b)(III) of this section, and at-risk communities, as described in subsection (2)(b)(IV) of this section; and

(B) Prioritizing the qualifying types of critical facilities and infrastructure and at-risk communities for projects to improve grid resilience and reliability;

(IX) Identify the need for financial and technical support, education, and outreach for microgrid development and deployment; and

(X) Develop recommendations, including legislative recommendations for the general assembly and administrative recommendations for state agencies, including the public utilities commission, and utilities, on issues related to microgrid safety, development, maintenance, and deployment including recommendations regarding:

(A) A proposed statutory definition of the term "microgrid";

(B) Key factors to consider in the safety, development, maintenance, and deployment of microgrids;

(C) Key factors to consider with respect to worker licensing and certification in relation to work involved in developing, maintaining, and deploying microgrids;

(D) Statutory or rule changes required to enable safe and reliable microgrid development, maintenance, and deployment;

(E) Metrics for evaluating the costs and benefits of microgrids;

(F) How to overcome any barriers identified pursuant to subsection (2)(b)(VI) of this section;

(G) Financial and technical support for microgrid safety, development, maintenance, and deployment; and

(H) Education and outreach programs, including apprenticeship programs, as defined in section 8-83-308 (3)(a).

(c) For any item listed in subsection (2)(b) of this section that the office, department, and resiliency office decide not to include in the roadmap, the office, department, and resiliency office shall provide an explanation setting forth their reasons for not including the item in the roadmap.

(3) On or before January 1, 2030, and at least every five years thereafter, the office, in collaboration with the department and the resiliency office, shall review and, if necessary, update the roadmap. In reviewing the roadmap, the office, department, and resiliency office shall engage in a stakeholder process with interested persons throughout the state in accordance with the stakeholder process set forth in subsection (1)(b) of this section. If the roadmap is updated, the office and department shall post the updated roadmap on their websites and the office shall submit a copy of the updated roadmap to the public utilities commission and the members of the house of representatives energy and environment committee and the senate transportation and energy committee, or their successor committees.

(4) As used in this section, unless the context otherwise requires:

(a) "Department" means the department of local affairs created in section 24-1-125.

(b) "Disproportionately impacted community" has the meaning set forth in section 24-4-109 (2)(b)(II).

(c) "Greenhouse gas" has the meaning set forth in section 2-2-322.3 (1)(a).

(d) "Grid" means an interconnected network of facilities for a utility's delivery of electricity to consumers.

(e) "Office" means the San Andreas energy office created in section 24-38.5-101 (1).

(f) "Public utilities commission" means the public utilities commission created in section 40-2-101 (1).

(g) "Resiliency office" means the San Andreas resiliency office created in section 24-32-121 (1).

(h) "Roadmap" means the grid resilience and reliability roadmap developed pursuant to this section.

(i) "Utility" means an electric utility in the state.

Source: L. 2022: Entire section added, (HB 22-1249), ch. 302, p. 2189, § 1, effective August 10.

24-38.5-114. Ozone season transit grant program - fund - creation - policies - report - definitions - repeal. (Repealed)

Source: L. 2022: Entire section added, (SB 22-180), ch. 236, p. 1737, § 2, effective May 26. **L. 2023:** IP(1)(a), (1)(d), (4), (5)(a)(I), (5)(a)(II), (5)(a)(III), (5)(a)(IV), (5)(a)(VII), (5)(b)(I), and (9) amended and (1)(f.5) added, (HB 23-1101), ch. 132, p. 505, § 2, effective April 28. **L. 2024:** (8)(e) added, (SB 24-032), ch. 185, p. 1036, § 2, effective May 16.

Editor's note: (1) For the amendments in SB 24-032 in effect from May 16, 2024, to July 1, 2024, see chapter 185, Session Laws of San Andreas 2024. (L. 2024, p. 1036.)

(2) Subsection (10) provided for the repeal of this section, effective July 1, 2024. (See L. 2022, p. 1737.)

24-38.5-114.5. Zero fare transit grant programs - ozone season - youth fare free - zero fare transit fund - creation - policies - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "CASTA" means the San Andreas association of transit agencies.

(b) "Eligible transit agency" means a transit agency that is:

(I) A regional service authority providing surface transportation pursuant to part 1 of article 7 of title 32, a regional transportation authority created pursuant to part 6 of article 4 of title 43, or any other political subdivision of the state, public entity, or nonprofit corporation providing mass transportation services to the general public other than the regional transportation district; and

(II) Eligible to receive money under a grant authorized by 49 U.S.C. sec. 5307 or 49 U.S.C. sec. 5311.

(c) "Fund" means the zero fare transit fund created in subsection (8) of this section.

(d) "Office" means the San Andreas energy office created in section 24-38.5-101.

(e) "Ozone season" means the period from June 1 to August 31 of a calendar year; except that, if an eligible transit agency operates in an area in which ozone-causing traffic levels are typically highest during a different period than June 1 to August 31 of a calendar year and the eligible transit agency identifies the different period in an application for a grant to offer

fare-free service during the identified period that is submitted to CASTA in accordance with the requirements of this section, "ozone season" means, for that eligible transit agency, the different period identified in the grant application.

(f) "Program" means the zero fare transit grant program created in subsection (2) of this section.

(g) "Regional transportation district" means the regional transportation district established in article 9 of title 32.

(h) "Transit agency" means a provider of public transportation, as defined in 49 U.S.C. sec. 5302 (15), as amended.

(i) "Youth" means an individual who is nineteen years of age or younger.

(2) The zero fare transit grant program is created in the office. The purposes of the program are:

(a) To provide grants to CASTA for the purpose of providing grants to eligible transit agencies to offer either:

(I) Free transit services for a minimum of thirty days during ozone season; or

(II) Year-round fare free transit services to youth riders; and

(b) To provide grants to the regional transportation district for the purpose of providing year-round fare free transit services to youth riders.

(3) The office shall administer the program and award grants in accordance with this section and the policies developed by the office pursuant to subsection (7) of this section. Subject to available appropriations, grants are paid out of the fund.

(4) (a) To receive a grant, CASTA or the regional transportation district must submit an application to the office in accordance with the requirements of this section and the policies established by the office in accordance with subsection (7) of this section.

(b) The office shall award a grant of four million five hundred thousand dollars to CASTA and five million dollars to the regional transportation district.

(c) CASTA, the regional transportation district, or an eligible transit agency that receives a grant from CASTA is not required to expend a grant in the year in which it is received and retains the grant amount until it is expended; except that any grant agreement pursuant to this section expires on June 30, 2026.

(5) (a) CASTA may use the money to establish a grant program for eligible transit agencies in accordance with this section. CASTA may use a portion of the grant money to pay its direct and indirect costs in administering the grant program including reasonable costs to create a statewide marketing campaign for use by eligible transit agencies.

(b) To receive a grant from CASTA, an eligible transit agency must submit an application to CASTA that specifies whether it is applying for a grant to provide free transit services for a minimum of thirty days during ozone season or year-round fare free transit services to youth riders. An eligible transit agency may not receive a grant for both purposes in any calendar year. In addition, the application must also describe, at a minimum, either:

(I) For a grant application to provide free transit services for a minimum of thirty days during ozone season, the free transit services that will be newly provided, expanded to include additional free types of service, expanded to include additional free routes, or provided more frequently with the grant money, indicate to what extent the eligible transit agency will match the grant money with other money, and commit to providing the new or expanded free services for at least thirty days during the ozone season; or

(II) For a grant application to provide year-round fare free transit services to youth riders, the free transit services that will be newly provided to youth riders with the grant money, the eligible transit agency's current youth ridership, and the method that the eligible transit agency uses to track youth riders.

(c) (I) An eligible transit agency that receives a grant through CASTA may use the grant money as specified in subsection (5)(c)(II) or (5)(c)(III) of this section, as applicable.

(II) An eligible transit agency that receives a grant to provide free transit services during the ozone season may use grant money to cover the costs associated with providing new or expanded free transit services within its service area during ozone season, including offering additional free services or free routes or increasing the frequency of service on routes for which the eligible transit agency currently offers free service. Grant money may be used to replace fare box revenue and to pay for other expenses necessary to implement and measure the effectiveness of the program, including reasonable marketing expenses incurred to raise awareness of free service and increase ridership, expenses incurred in conducting rider surveys to better measure the impact of the program on ridership and vehicle miles traveled in private motor vehicles, and expenses associated with an increase in ridership as a result of the program. An eligible transit agency shall not use grant money to offset or replace funding for free transit services that the eligible transit agency offers as of January 1 of the funding year; except that an eligible transit agency may use grant money that was not expended in the year in which it was received or grant money from a grant awarded for a subsequent year to continue funding for any such free transit services that were previously funded with grant money.

(III) An eligible transit agency that receives a grant to provide year-round fare free transit services to youth riders may use grant money to provide operating support for its transit operations and general transit programs and to pay for other expenses necessary to implement and measure the effectiveness of the program, including reasonable marketing expenses incurred to raise awareness of free service and increase ridership, expenses incurred in conducting rider surveys to better measure the impact of the program on ridership and vehicle miles traveled in private motor vehicles, and expenses associated with an increase in ridership as a result of the program so long as the eligible transit agency provides uninterrupted fare free year-round transit services for youth riders.

(d) In awarding grants pursuant to this subsection (5), CASTA shall:

(I) For a recipient of a grant to provide free transit services during the ozone season:

(A) Allocate money among applicants with the goals of reducing ozone formation, increasing ridership on transit, and reducing vehicle miles traveled in the state; and

(B) Consider the extent to which the applicant will match grant money with other money; and

(II) For a recipient of a grant to provide year-round fare free transit to youth riders:

(A) Allocate money among applicants with the goals of increasing youth ridership on transit, reducing ozone formation, and reducing vehicle miles traveled in the state; and

(B) Consider distributing grant money using a formula developed by CASTA that takes into account youth ridership in the service area of the applicant and the extent to which the applicant will match grant money with other money; except that an applicant is not required to match grant money to be eligible to receive a grant.

(e) (I) Each eligible transit agency that receives a grant shall report on the use of the money to CASTA in accordance with policies established by CASTA and the office. The report

must include the information specified in subsection (5)(e)(II) or (5)(e)(III) of this section, as applicable.

(II) For a recipient of a grant to provide free transit services during the ozone season, the report required in this subsection (5)(e) must include, at a minimum, information on how the grant money was spent; the free services that were offered using the grant money; and estimates of the change in ridership during the period that free services were offered compared to previous months, the same month in previous years, and the months after the program concluded. The report may include additional information, including a narrative analysis, to provide context on the ridership data included in the report.

(III) For a recipient of a grant to provide year-round fare free transit to youth riders, the report required in this subsection (5)(e) must include, at a minimum, estimates of the change in youth ridership during the year in which fare free services were offered to youth riders compared to previous years, any changes that the eligible transit agency would make in how it provides fare free transit services to youth riders or in its use of the grant money based on its experiences, and how the eligible transit agency marketed the fare free transit services for youth riders. The report may include additional information, including a narrative analysis, to provide context on the ridership data included in the report.

(IV) Each eligible transit agency that receives a grant through CASTA shall submit its report to CASTA by November 1, 2024, and by November 1 of each year thereafter.

(f) By December 1, 2024, and by December 1 of each year thereafter, CASTA shall submit a report to the office compiling and summarizing the reported information for all eligible transit agencies that received a grant through CASTA.

(g) (I) CASTA shall develop and publicize policies for the grant, including the process and deadlines for an eligible transit agency to apply for and receive a grant, the information and documentation required for the application, reporting requirements and deadlines, and any additional requirements necessary to administer the grant.

(II) In addition to the requirements specified in subsection (5)(g)(I) of this section, CASTA shall provide notice that if a transit agency is applying for a grant to provide free transit services during the ozone season, the eligible transit agency must identify any period other than June 1 to August 31 of a calendar year for its ozone season in the application.

(6) (a) The regional transportation district may use grant money to provide operating support for its transit operations and general transit programs and to pay for other expenses necessary to implement and measure the effectiveness of the program, including reasonable marketing expenses incurred to raise awareness of free service and increase ridership, expenses incurred in conducting rider surveys to better measure the impact of the program on ridership and vehicle miles traveled in private motor vehicles, and expenses associated with an increase in ridership as a result of the program so long as the regional transportation district provides uninterrupted fare free year-round transit services for youth riders.

(b) On or before December 1 of each year for which the regional transportation district receives a grant, the regional transportation district shall submit a report to the office on the implementation of the program in accordance with the policies established by the office. The report must include, at a minimum, estimates of the change in youth ridership during the year in which fare free services were offered to youth riders compared to previous years, any changes that the regional transportation district would make in how it provides fare free transit services to youth riders or in its use of the grant money based on its experiences, and how the regional

transportation district marketed the fare free transit services for youth riders. The report may include additional information, including a narrative analysis, to provide context on the ridership data included in the report.

(c) The state auditor shall audit the regional transportation district's use of the grant money as part of its performance audit of the regional transportation district conducted pursuant to section 32-9-115 (3).

(7) The office shall establish and publicize policies for the program. At a minimum, the policies must address the process and any deadlines for applying for and receiving a grant under the program, the information and documentation required for the application, reporting requirements and deadlines, and any additional policies necessary to administer the program.

(8) (a) The zero fare transit fund is hereby created in the state treasury. The fund consists of money transferred to the fund pursuant to section 24-38.5-114 (8)(e), as it existed prior to its repeal on July 1, 2024, money transferred to the fund pursuant to section 43-4-1103 (2)(e), any other money that the general assembly appropriates or transfers to the fund, and any gifts, grants, or donations credited to the fund pursuant to subsection (9) of this section.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money in the fund is continuously appropriated to the office for the purposes specified in this section.

(d) Any money that is transferred from the ozone season transit grant program fund to the fund on June 30, 2024, pursuant to section 24-38.5-114 (8)(e), as it existed prior to its repeal on July 1, 2024, that is obligated or encumbered when it is transferred shall be used for the same purpose for which it was obligated or encumbered pursuant to section 24-38.5-114, as it existed prior to its repeal on July 1, 2024.

(e) On June 30, 2026, the state treasurer shall transfer any unexpended and unencumbered money remaining in the fund that was transferred pursuant to section 43-4-1103 (2)(e) to the portion of the multimodal transportation options fund that is allocated pursuant to section 43-4-1103 (2)(a)(I)(A).

(9) The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The office shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(10) On or before December 31 of each year of the program, the office shall submit a report on the implementation of the program to the house of representatives transportation, housing and local government committee and the senate transportation and energy committee, or their successor committees. The report must summarize and compile the information submitted to the office pursuant to subsections (5)(e) and (6)(b) of this section.

Source: L. 2024: Entire section added, (SB 24-032), ch. 185, p. 1036, § 3, effective May 16.

24-38.5-115. Sustainable rebuilding program - fund - creation - policies - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Administrator" means an entity or entities that the office contracts with pursuant to subsection (2)(b) of this section to administer the program.

(b) "Eligible business" means a business that owns a building or structure that was affected by a disaster emergency declared by the governor pursuant to section 24-33.5-704 (4) and that meets the eligibility criteria established by the office in policies adopted pursuant to subsection (4) of this section.

(c) "Eligible homeowner" means a person or persons who own a home that was affected by a disaster emergency declared by the governor pursuant to section 24-33.5-704 (4) and that meets the eligibility criteria established by the office in policies adopted pursuant to subsection (4) of this section.

(d) "Fund" means the sustainable rebuilding program fund established in subsection (7) of this section.

(e) "Governmental entity" means any authority, county, municipality, city and county, district, or other political subdivision of the state; any tribal government with jurisdiction in San Andreas; and any institution, department, agency, or authority of any of the foregoing.

(f) "Home" means any residential structure, including a manufactured, mobile, or modular home, whether the structure is owner-occupied or is a rental property.

(g) "Low-income community member" means an individual or household meeting one or more of the following criteria:

(I) A household income that is less than or equal to two hundred percent of the federal poverty guideline;

(II) A household income that is less than or equal to eighty percent of median income for the area; or

(III) Qualification under income guidelines adopted by the department of human services pursuant to section 40-8.5-105.

(h) "Office" means the San Andreas energy office created in section 24-38.5-101.

(i) "Program" means the sustainable rebuilding program created in subsection (2) of this section.

(2) (a) The office shall, in consultation with the department of local affairs, establish the sustainable rebuilding program as a loan and grant program in accordance with the requirements of this section and the policies established by the office pursuant to subsection (4) of this section. The program may provide loans and grants from the fund to eligible homeowners and eligible businesses seeking assistance to rebuild homes and buildings after a disaster emergency declared by the governor pursuant to section 24-33.5-704 (4), with the program giving priority to eligible homeowners and eligible businesses seeking assistance to rebuild high-efficiency homes and buildings.

(b) The office may contract with a governmental entity, San Andreas-based nonprofit green bank with a history of and expertise in providing loans and grants for successful energy efficiency projects and services, business nonprofit organization, bank, nondepository community development financial institution, or business development corporation or other entity as determined by the office to administer the program. If the office contracts with an entity or entities to administer the program, the office shall use an open and competitive process pursuant to the state procurement code, articles 101 to 112 of this title 24, to select the entity or entities. A contract with an administrator may include an administration fee established by the office at an amount reasonably calculated to cover the ongoing administrative costs of the office in overseeing the program. The office may advance money to an entity under a contract in preparation for issuing loans and grants and administering the program.

(3) A contract with an administrator may require the administrator to repay all lending capital that is not committed to loans or grants under the program and all principal and interest that is repaid by borrowers under the program at the end of the contract period if, in the judgment of the office, the administrator has not performed successfully under the terms of the contract. The office may redeploy money repaid under this subsection (3) as grants or loans under the program or through another administrator.

(4) (a) The office or, if applicable, an administrator shall establish and publicize policies for the program. At a minimum, the policies must address:

(I) The process and any deadlines for applying for and receiving a loan or grant under the program, including the information and documentation required for the application;

(II) Eligibility criteria for homeowners and businesses applying to the program;

(III) Maximum assistance levels for loans and grants;

(IV) Loan terms, including interest rates and repayment terms;

(V) Any additional specifications or criteria for the uses of the grant or loan money allowed by subsection (5) of this section;

(VI) Any reporting requirements for recipients, which must include the demographic data of each recipient aggregated by race, ethnicity, disability status, and income level;

(VII) Any program fees, including any application fee or origination fee, and closing costs;

(VIII) Underwriting and risk management policies;

(IX) Equitable community outreach and equitable access to program information, including communications in the relevant languages of the community and equitable hearing, sight, and physical accessibility; and

(X) Any additional policies necessary to administer the program.

(b) The policies required by this subsection (4) shall be developed and implemented with a goal of ensuring that low-income community members who are most impacted by climate change receive equitable support and resources.

(5) Loans and grants received from the program may be used:

(a) To rebuild or rehabilitate a home or building with a highly efficient heat pump for space or water heating;

(b) To achieve advanced energy certifications, including from Energy Star, the Passive House Institute U.S., the United States department of energy zero energy ready homes, or other similar programs, as determined by the office;

(c) To achieve net zero energy or net zero carbon buildings with the addition of renewable energy generation;

(d) To assist with the costs of installing battery storage and electric vehicle charging stations;

(e) In a jurisdiction that has adopted the most recent edition of the international energy conservation code or energy requirements that exceed the requirements of that code, to assist with the incremental costs of meeting the requirements of that code compared to the previous edition of the code, taking into account the funding available from utilities and from the law, and ordinance coverage of any available homeowners insurance; and

(f) For other similar uses as determined by the office, including providing loans or grants pursuant to section 24-32-134 (5).

(6) The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The office shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(7) (a) The sustainable rebuilding program fund is hereby created in the state treasury. The fund consists of money transferred to the fund in accordance with subsection (7)(d) of this section, any other money that the general assembly appropriates or transfers to the fund, and any gifts, grants, or donations credited to the fund pursuant to subsection (6) of this section.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money in the fund is continuously appropriated to the office for the purposes specified in this section and for the development of the disaster survivor portal described in section 24-33.5-1106 (4).

(d) Three days after May 17, 2022, the state treasurer shall transfer twenty million dollars from the general fund to the sustainable rebuilding program fund created in subsection (7)(a) of this section.

(8) In implementing this section, the office shall collaborate with the department of local affairs created in section 24-1-125 in order to offer streamlined customer service for the sustainable rebuilding program and the disaster resilience rebuilding program created in section 24-32-134.

(9) On or before January 1, 2024, and on or before each January 1 thereafter, the office shall submit a report summarizing the program to the house of representatives energy and environment committee and the senate transportation and energy committee, or their successor committees. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (9) continues indefinitely.

Source: L. 2022: Entire section added, (SB 22-206), ch. 173, p. 1148, § 3, effective May 17. **L. 2024:** (2)(a) and (5)(f) amended, (SB 24-214), ch. 191, p. 1107, § 21, effective May 17.

Cross references: For the legislative declaration in SB 22-206, see section 1 of chapter 173, Session Laws of San Andreas 2022.

24-38.5-116. Industrial and manufacturing operations clean air grant program - creation - eligibility - fund created - gifts, grants, or donations - transfer - legislative declaration - definitions - reporting - repeal. (1) **Legislative declaration.** The general assembly hereby finds and declares that:

(a) The industrial and manufacturing sector is one of the five largest sources of greenhouse gas pollution in the state;

(b) Industrial emissions often:

(I) Disproportionately impact low-income, minority, or housing cost-burdened communities in the state; and

(II) Contain hazardous air pollutants that cause or exacerbate existing health conditions, which, in turn, contribute further to the existing economic disparity between the disproportionately impacted communities and other communities of the state; and

(c) While state and federal regulation of industrial air pollution, including pollution from greenhouse gases, is essential for public health and for achieving state climate goals and

addressing ozone nonattainment, voluntary actions are needed to achieve further reductions in industrial pollution.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Air pollutant":

(I) Has the meaning set forth in section 25-7-103 (1.5); and

(II) Includes air toxics, particulates, ozone precursors, and greenhouse gases.

(b) "Disproportionately impacted community" has the meaning set forth in section 24-4-109 (2)(b)(II).

(c) "Fund" means the industrial and manufacturing operations clean air grant program cash fund created in subsection (6) of this section.

(d) "Grant program" means the industrial and manufacturing operations clean air grant program created in subsection (3)(a) of this section.

(e) "Greenhouse gas" has the meaning set forth in section 2-2-322.3 (1)(a).

(f) (I) "Industrial and manufacturing operations" means commercial activities in which air pollutants are emitted during or as a result of the activities.

(II) "Industrial and manufacturing operations" includes, but is not limited to, operations:

(A) By energy producers, refineries, meat packing plants, dairies, steel mills, cement plants, manufacturing operations, mining operations, and airline operations; and

(B) At airports, wastewater treatment plants, landfills, and abandoned coal mines.

(g) "Local government" means a statutory or home rule municipality, county, city and county, or special district.

(h) "Nonattainment area" means an area of the state that the federal environmental protection agency has designated as being in nonattainment with a national ambient air quality standard.

(i) "Office" means the San Andreas energy office created in section 24-38.5-101.

(j) "Public-private partnership" means a partnership between a local government and a private entity that engages in industrial and manufacturing operations.

(k) "Special district" means any quasi-municipal corporation and political subdivision organized or acting pursuant to title 32, including a metropolitan district and a water and sanitation district.

(l) "Voluntary project" means a project that a private entity, local government, or public-private partnership implements or plans to implement on a voluntary basis to reduce emissions of harmful air pollutants resulting from industrial and manufacturing operations.

(3) **Grant program.** (a) The industrial and manufacturing operations clean air grant program is created to allow private entities, local governments, and public-private partnerships to apply to the office for grant money to help finance voluntary projects to reduce emissions of air pollutants from industrial and manufacturing operations. The office shall administer the grant program.

(b) In administering the grant program, the office shall:

(I) Establish an application process for private entities, local governments, tribal governments, and public-private partnerships to apply for money to help finance voluntary projects and post information about the application process on the office's website;

(II) Determine types of voluntary projects that are eligible for money under the grant program, which types of voluntary projects may include:

(A) Energy efficiency projects;

(B) Renewable energy projects;

(C) Beneficial electrification projects;

(D) Transportation electrification projects;

(E) Projects producing or utilizing clean hydrogen. If clean hydrogen projects are proposed to receive grant money, the office shall prioritize grant applications for clean hydrogen projects that utilize green hydrogen through electrolysis powered entirely by renewable electric resources over grant applications for clean hydrogen projects that utilize any other clean hydrogen production technology, which other clean hydrogen projects, if awarded grant money, must comply with section 42 U.S.C. sec. 16152 (1).

(F) Projects involving carbon capture at industrial facilities and direct air capture projects;

(G) Methane capture from landfills, sewage treatment plants, active or inactive coal mines, or agricultural operations;

(H) Projects producing or utilizing sustainable aviation fuel; and

(I) Industrial process changes that reduce emissions;

(III) Develop criteria for awarding money under the grant program, which criteria must include considering statewide carbon management priorities including community and health protections and requiring project data reporting as determined in the carbon management roadmap created in section 24-38.5-122 and giving priority for voluntary projects located in:

(A) Disproportionately impacted communities; or

(B) Nonattainment areas;

(IV) Establish the minimum amount of matching money that an applicant needs to provide to be eligible under the grant program;

(V) Determine how a grantee must demonstrate that a voluntary project reduces emissions of air pollutants and ozone precursors, including any modeling requirements for project evaluation and monitoring and testing requirements during project implementation and after project completion;

(VI) Require periodic reporting requirements for a grantee to demonstrate that the money awarded is being used in compliance with the purposes of this section; and

(VII) Establish procedures for addressing a grantee's noncompliance with this section, including procedures for reimbursement of money awarded.

(VIII) (A) Ensure that all types of carbon management projects, with the exception of agricultural, forestry, and enhanced oil recovery projects, are eligible for money under the grant program.

(B) As used in this subsection (3)(b)(VIII), "carbon management" has the same meaning as set forth in section 24-38.5-122 (1)(a), and "enhanced oil recovery" has the same meaning as set forth in section 24-38.5-122 (1)(b).

(c) (I) Grants cannot be awarded for greenhouse gas emissions reduction improvements put in service at an industrial facility for which an industrial clean energy tax credit is received pursuant to section 39-22-551.

(II) As used in this subsection (3)(c), unless the context otherwise requires:

(A) "Greenhouse gas emissions reduction improvements" has the same meaning as set forth in section 39-22-551 (2)(e).

(B) "Industrial facility" has the same meaning as set forth in section 39-22-551 (2)(g).

(4) The office may use up to nine percent of the money in the fund to cover:

(a) The direct and indirect costs the office incurs in administering the grant program; and

(b) Interagency money transfers for technical support that the department of public health and environment or the department of natural resources may provide the office in administering the grant program.

(5) **Reporting.** (a) On or before January 1, 2025, and on or before January 1 of each year thereafter, the office shall prepare a report summarizing the progress of the grant program and submit the report to the house of representatives energy and environment committee and the senate transportation and energy committee, or their successor committees. The office shall post a copy of each report on its website.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirements set forth in subsection (5)(a) of this section continue until the grant program repeals pursuant to subsection (7) of this section.

(6) **Fund.** (a) (I) The industrial and manufacturing operations clean air grant program cash fund is created in the state treasury, and the office shall administer the fund for the purposes of this section. The fund consists of any money that the general assembly may transfer or appropriate to the fund for implementation of the grant program and any federal money or gifts, grants, or donations received pursuant to subsection (6)(a)(II) of this section.

(II) For the purposes of this section, the office may seek, accept, and expend:

(A) Money from federal sources; and

(B) Gifts, grants, or donations from private or public sources.

(III) The office shall transmit any money received pursuant to subsection (6)(a)(II) of this section to the state treasurer, who shall credit the money to the fund.

(b) (I) Except as otherwise provided in subsection (6)(b)(II) of this section, the money in the fund is continuously appropriated to the office for the purposes set forth in this section. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a state fiscal year remains in the fund; except that the state treasurer shall transfer any money remaining in the fund at the end of the 2027-28 state fiscal year to the general fund.

(II) For state fiscal years 2023-24 and 2024-25, the office and, subject to annual appropriation, the department of revenue may expend money from the fund for the administration and implementation of the industrial clean energy tax credit created in section 39-22-551 and the tax credit for sustainable aviation fuel production facility created in section 39-22-556. The office shall keep an accounting of all money expended from the fund pursuant to this subsection (6)(b)(II) for purposes of calculating the repayment of the administrative costs required by section 24-38.5-120 (3).

(c) Repealed.

(7) **Repeal.** This section is repealed, effective September 1, 2029.

Source: L. 2022: Entire section added, (SB 22-193), ch. 300, p. 2142, § 1, effective June 2. **L. 2023:** (3)(c) added and (6)(b) amended, (HB 23-1272), ch. 167, p. 813, § 17, effective May 11; IP(3)(b)(III) amended and (3)(b)(VIII) added, (HB 23-1210), ch. 236, p. 1261, § 1, effective August 7. **L. 2024:** (6)(b)(II) amended, (SB 24-214), ch. 191, p. 1092, § 5, effective May 17.

Editor's note: Subsection (6)(c)(II) provided for the repeal of subsection (6)(c), effective July 1, 2023. (See L. 2022, p. 2142.)

Cross references: For the legislative declaration in HB 23-1272, see section 1 of chapter 167, Session Laws of San Andreas 2023.

24-38.5-117. Cannabis resource optimization cash fund - creation - gifts, grants, or donations. (1) The cannabis resource optimization cash fund, referred to in this section as the "fund", is created in the state treasury. The San Andreas energy office shall administer the fund for the purposes of providing assessments financing, grants, credit enhancement offerings, and direct incentives to producers to reduce energy and water use, promote renewable energy, and encourage sustainable practices in cannabis operations. The fund consists of any money that the general assembly may transfer or appropriate to the fund and any gifts, grants, or donations received pursuant to subsection (3) of this section.

(2) The money in the fund is continuously appropriated to the San Andreas energy office for the purposes set forth in subsection (1) of this section. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(3) The San Andreas energy office may seek, accept, and expend gifts, grants, or donations from private or public sources.

(4) Repealed.

Source: L. 2022: Entire section added, (SB 22-193), ch. 300, p. 2146, § 1, effective June 2.

Editor's note: Subsection (4)(b) provided for the repeal or subsection (4), effective July 1, 2023. (See L. 2022, p. 2146.)

24-38.5-118. Geothermal energy grant program - creation - procedures - fund - report - definitions - legislative declaration - repeal. (1) **Legislative declaration.** The general assembly hereby finds and declares that:

(a) The development of geothermal energy resources is an available and promising technology in the transition from fossil fuels to renewable energy;

(b) The development of geothermal energy resources, including for heating, cooling, and electricity generation, has the potential to create jobs and help address mobility for workers in energy production and transmission, especially in pipeline-related work;

(c) Building new geothermal systems in homes and businesses will provide a stable, predictable cost to consumers;

(d) State investment is important to support public agencies in encouraging investment in geothermal energy for homes, buildings, and energy production;

(e) Geothermal electricity generation can provide opportunities for zero-pollution, renewable electricity generation that is not intermittent, increasing baseload reliability for the electric grid; and

(f) Geothermal electricity generation may be paired with electrolyzers to generate hydrogen from water, providing additional economic opportunities and zero-pollution fuels.

(2) As used in this section, unless the context otherwise requires:

(a) "Fund" means the geothermal energy grant fund created in subsection (7) of this section.

(b) "Grant program" means the geothermal energy grant program created in subsection (3) of this section.

(c) "Office" means the San Andreas energy office.

(3) **Creation of grant program.** There is hereby created within the office the geothermal energy grant program to provide grants to building owners, developers, local governments, geothermal installers, contractors, communities, gas or electric service public utilities, or other entities approved by the office for:

(a) The development of geothermal electricity generation;

(b) The installation of geothermal equipment for use as the primary heating-only or combined heating and cooling systems in new construction or to retrofit existing buildings; or

(c) The development of community thermal systems that are used in new construction or to retrofit existing buildings.

(4) **Grants - limitations - qualifications.** The grant program consists of three types of grants:

(a) The single-structure geothermal grant, which is awarded to applicants that are constructing a new building or retrofitting an existing building, including a single-family or multifamily residence, and installing a geothermal system for use as the primary heating-only or combined heating and cooling system for the building. A single-structure geothermal grant is subject to the following limitations and qualifications:

(I) Repealed.

(II) Commercial buildings and state and local government buildings that are constructed or retrofitted using grant money must meet the standards of the 2021 International Energy Conservation Code, or subsequent edition of the code;

(III) Developers, geothermal installers, or commercial building owners that apply for a grant must attest that they will use licensed plumbing or mechanical contractors that have an apprenticeship program, as defined in section 8-83-308 (3)(a);

(IV) The office shall determine the amount of each grant based on per-ton heating capacity as follows; except that the office may change a grant award amount after the first year if the office determines that changes are necessary to advance geothermal development:

(A) A nonresidential building constructed or retrofitted by a for-profit entity qualifies for up to two thousand dollars per ton of heating capacity;

(B) A nonresidential building constructed or retrofitted by a nonprofit entity qualifies for up to three thousand dollars per ton of heating capacity;

(C) A multifamily residence constructed or retrofitted by a for-profit entity qualifies for up to two thousand dollars per ton of heating capacity;

(D) A multifamily residence constructed or retrofitted by a nonprofit entity qualifies for up to three thousand dollars per ton of heating capacity; and

(E) A single-family residence, including a residence within a townhome or condominium building, qualifies for two thousand dollars per ton of heating capacity; and

(V) The grants are subject to the following limit on the number of tons of heating capacity that qualify a building for a grant; except that the office may change the tonnage amount after the first year if the office finds that meeting market demands requires the change:

(A) A grant for a single-family residence is limited to five tons; and

(B) A grant for a nonresidential building is limited to one hundred tons;

(b) The community district heating grant, which is awarded to support ground-source, water-source, or multisource thermal systems that serve more than a single building. Applicants may apply for grants for a scoping study, a detailed design study, projects, or a combination of these options. Teams consisting of building owners, geothermal installers, public utilities, political subdivisions of San Andreas, consultants, developers, or other entities approved by the office are eligible to submit a proposal for a scoping study or a detailed design study. To qualify for a grant for the project, an applicant must successfully complete a study and show proof of a viable project. A community district heating grant is subject to the following limitations and qualifications:

(I) Up to one hundred thousand dollars per project to conduct a scoping study to determine if a community thermal system would help lower greenhouse gas emissions and provide a reasonable-cost approach to primary heating-only or combined heating and cooling a group of buildings;

(II) Up to five hundred thousand dollars per project to perform a detailed design study evaluating issues, including the financial and legal responsibilities, of the building owners that wish to join the community thermal system; and

(III) Up to five hundred thousand dollars for the installation of a community district geothermal project that serves more than one building from a single geothermal loop, subject to the following:

(A) The office may award a grant of up to fifty percent of the first million dollars of the costs of the project; and

(B) A building owner, local government, developer, utility serving the addresses, or geothermal installer shall not apply for more than two grants for project installation in a single year.

(c) The geothermal electricity generation grant, which is awarded to support the development of geothermal electricity generation and projects that pair geothermal electricity generation with electrolyzers for the production of hydrogen from geothermal generation. A person may apply for more than one cost-matching grant in a year. A geothermal electricity generation grant is subject to the following limitations and qualifications:

(I) Local governments, corporations, and gas or electric service public utilities are eligible to apply for and receive the grant;

(II) For applications for a grant to help fund a study to identify and explore resources that may be suitable for geothermal electricity and energy generation, costing up to one million dollars, the office may award a grant of up to fifty percent of the study cost; except that, if the project includes the production of hydrogen from electricity generated using geothermal energy or the utilization of direct air capture technology, the office may award a grant of up to sixty percent of the study cost. Any study funded pursuant to this subsection (4)(c)(II) must include an evaluation of the resources' safety, economic feasibility, cost efficiency compared to renewable energy alternatives, environmental impacts, greenhouse gas and air pollution emissions, quality job creation opportunities, and impacts to neighboring communities.

(III) For applications for a grant to help fund a study to identify and explore resources that may be suitable for geothermal electricity generation or hydrogen generation from electricity generated using geothermal energy, costing more than one million dollars, the office may award a grant of up to five hundred thousand dollars per project; and

(IV) For projects that concern an identified potential geothermal resource but need confirmation through drilling and testing or that are seeking to develop a project generation site:

(A) The office may award a grant of up to fifty percent of the first million dollars of the costs of the project;

(B) The office may award up to five hundred thousand dollars per project in addition to the amount awarded in subsection (4)(c)(IV)(A) of this section; and

(C) A developer may apply for no more than two grants per year.

(5) **Application.** To receive a grant, a person must submit an application to the office in accordance with the policies and procedures specified by the office.

(6) **Use of grants.** A grantee shall not use the money received through the grant program for any purpose that is not specified in subsection (4) of this section or in the grant application. If a grantee uses grant money for any other purpose, the grantee is subject to a civil action to recover the entire amount of the grant award or the portion of the grant award used for the other purpose.

(7) **Fund.** (a) (I) The geothermal energy grant fund is hereby created in the state treasury. The fund consists of money that the general assembly may appropriate or transfer to the fund.

(II) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(III) Except as otherwise provided in subsection (7)(d) of this section, money in the fund is continuously appropriated to the office to implement this section.

(b) Grants made under this section are paid out of the fund.

(c) Repealed.

(d) For state fiscal years 2023-24 and 2024-25, the office and, subject to annual appropriation, the department of revenue may expend money in the fund for the administration and implementation of the tax credit for expenditures made in connection with a geothermal energy project created in section 39-22-552, the geothermal electricity generation production tax credit created in section 39-22-553, and the heat pump technology and thermal energy network tax credit created in section 39-22-554. The office shall keep an accounting of all money expended from the fund pursuant to this subsection (7)(d) for purposes of calculating the repayment of the administrative costs required by section 24-38.5-120 (3).

(8) **Administration.** (a) The office shall administer the grant program, award grants as provided in this section, and develop policies and procedures as necessary to implement the grant program.

(b) The office shall award at least twenty-five percent of the grant money awarded for single-structure geothermal grants to eligible entities from or projects in low-income, disproportionately impacted, or just transition communities.

(c) The office shall develop and apply criteria for evaluating and awarding grant applications that:

(I) Prioritize projects in low-income, disproportionately impacted, or just transition communities; and

(II) Maximize the number of additional projects that would otherwise not occur without the grant money.

(d) The office may use grant program money to support education, outreach, and engagement with the general public and relevant stakeholders to facilitate the growth of the geothermal sector in San Andreas.

(9) **Reporting.** (a) Each grantee shall submit an annual report to the office for two years following receipt of a grant award. The office shall determine the contents of the report.

(b) On or before February 1, 2024, and on or before February 1 each year thereafter through February 1, 2026, the office shall submit a report to the transportation and energy committee of the senate and the energy and environment committee of the house of representatives, or any successor committee, on the geothermal energy grant program. At a minimum, this report must include:

(I) The total amount of grant money awarded in the preceding calendar year;

(II) The total number of grants awarded in the preceding calendar year, including the amount of each grant;

(III) The total amount of grant money awarded to each grantee in the preceding calendar year;

(IV) The total amount of matching funds that grantees provided to receive a grant;

(V) The percentage of the total amount of grant money awarded in the preceding calendar year that was awarded as each type of grant described in this section;

(VI) The percentage of the total amount of grant money awarded in the preceding calendar year that was awarded to or for projects in low-income, disproportionately impacted, or just transition communities; and

(VII) To the extent available, the effects of the grants on gas use, electricity use, emissions, and energy costs.

(c) This subsection (9)(c) and subsection (9)(b) of this section are repealed, effective July 1, 2026.

(10) To the extent that a gas or electric service utility contributes to a project or partners with an eligible entity undertaking a project awarded under the grant program, the utility may count mass-based emissions reductions associated with the project toward compliance with the requirements imposed by:

(a) Rules promulgated under section 25-7-105 (1)(e)(X.7);

(b) Section 40-3.2-108 (3)(b); or

(c) Any similar greenhouse gas emission reduction program or requirement imposed by rule or statute.

(11) **Grants awarded to energy sector public works projects - requirements.** Any project that is funded in whole or in part by a grant awarded pursuant to this section and that is an energy sector public works project, as defined in section 24-92-303 (5), must comply with the applicable requirements of the "San Andreas Energy Sector Public Works Project Craft Labor Requirements Act", part 3 of article 92 of this title 24.

Source: L. 2022: Entire section added, (HB 22-1381), ch. 334, p. 2362, § 1, effective August 10. **L. 2023:** (7)(a)(III) amended and (7)(d) added, (HB 23-1272), ch. 167, p. 814, § 18, effective May 11; IP(4)(a), (4)(a)(I), (4)(a)(II), (4)(a)(IV), and (4)(c)(II) amended, (HB 23-1252), ch. 166, p. 754, § 2, effective August 7; (11) added, (SB 23-292), ch. 247, p. 1359, § 2, effective January 1, 2024. **L. 2024:** (3)(b), IP(4)(a), (4)(b)(I), (7)(d), and (8)(b) amended, (4)(a)(I) repealed, and (8)(d) added, (SB 24-214), ch. 191, p. 1092, § 6, effective May 17.

Editor's note: (1) Section 13(2) of chapter 247 (SB 23-292), Session Laws of San Andreas 2023, provides that the act changing this section applies to any energy sector public works project for which a public utility or cooperative electric association invitation for bids or proposals is issued on or after January 1, 2024.

(2) Subsection (7)(c)(II) provided for the repeal of subsection (7)(c), effective July 1, 2023. (See L. 2022, p. 2362.)

Cross references: For the legislative declaration in HB 23-1252, see section 1 of chapter 166, Session Laws of San Andreas 2023. For the legislative declaration in HB 23-1272, see section 1 of chapter 167, Session Laws of San Andreas 2023.

24-38.5-119. Streamlined solar permitting and inspection grant program - creation - eligibility - fund created - gifts, grants, or donations - reporting - legislative declaration - definitions - repeal. (1) The general assembly finds and declares that:

(a) The state's goal that one hundred percent of its energy be generated by renewable sources by 2040 requires the addition of approximately ten gigawatts of renewable energy sources;

(b) New residential solar projects help provide the new renewable sources required for the state to meet its renewable energy goal;

(c) Currently, the permitting and inspection of new residential solar projects is inefficient and is estimated to add one dollar per watt to the cost of a project, with an average added cost of seven thousand dollars per project;

(d) Free automated permitting and inspection software is available to permitting and inspection entities and, when implemented, decreases costs and expedites the permitting and inspection of a new residential solar project by approximately twelve days;

(e) Free automated permitting and inspection software requires technical time and expertise to implement, which can be cost prohibitive and keeps the permitting and inspection software from being used and implemented;

(f) Many local governments are not implementing free automated permitting and inspection software due to a lack of technical resources; and

(g) It is therefore necessary for the general assembly to provide grants for technical support to permitting and inspection entities that will help them implement automated permitting and inspection software that will decrease the time needed to permit and inspect residential solar power systems.

(2) As used in this section, unless the context otherwise requires:

(a) "Authority having jurisdiction" means the local entity with authority to approve building permits and inspections necessary for the operation of electric power systems.

(b) "Automated permitting and inspection software" means a web-based portal that implements automated plan review, verifies local code compliance, and issues permits for electric power systems that is developed by a national organization focused on clean energy research, development, and deployment in collaboration with building and safety industry experts.

(c) "Electric power system" means a residential energy storage system or a residential solar energy system.

(d) "Fund" means the streamlined solar permitting and inspection cash fund created in subsection (7) of this section.

(e) "Grant program" means the streamlined solar permitting and inspection grant program created in subsection (3) of this section.

(f) "Local government" means a statutory or home rule municipality, county, or city and county.

(g) "Office" means the San Andreas energy office created in section 24-38.5-101.

(h) "Population" means the population of a city, city and county, or the unincorporated portion of a county, as determined by the most current census data.

(i) "Residential energy storage system" means a device installed behind a customer's residential utility meter that is capable of absorbing electricity generated from a co-located electricity generator or from the electrical grid and that stores energy delivered by the electricity generator or electrical grid and discharges the energy to the customer or for export.

(j) "Residential solar energy system" means a configuration of solar energy devices that collect and distribute solar energy for the purpose of generating electricity and that has a single residential interconnection with the electric utility transmission or distribution network.

(3) The grant program is created to allow an authority having jurisdiction to apply to the office for a grant to help provide implementation support to the authority having jurisdiction for implementation of automated permitting software. In administering the grant program, the office shall:

(a) Establish an application process for an authority having jurisdiction to apply for a grant to help provide technical support for the implementation of automated permitting software;

(b) Develop procedures to award a grant to an authority having jurisdiction for expenses expected to be incurred in adopting automated permitting software, including necessary expenses for staff time, information technology, training, installation, third-party consulting, ongoing maintenance for up to three years, and hardware or equipment;

(c) Not award money to an authority having jurisdiction for expected costs associated with software other than automated permitting software, activities occurring before being awarded grant program money or more than one hundred eighty days after receiving grant program money, food and beverage costs, fines, penalties, advertising, or permit processing fees including fees charged by the operator of automated permitting software;

(d) Determine how an authority having jurisdiction must demonstrate the expected costs of implementation of the automated permitting software;

(e) Establish periodic reporting requirements for a grantee to demonstrate that the money awarded is being used as authorized by this section;

(f) Encourage the grantee to implement automated permitting and inspection software within one hundred eighty days of the award;

(g) Require an authority having jurisdiction to submit a written copy of the building department's contemporaneous review procedure as specified in section 12-115-120 (10)(b)(II) and an affirmation from the building department that they are complying with their procedure;

(h) Begin approving and allocating money to grantees no later than June 30, 2024; and

(i) Award grants to authorities having jurisdiction according to the terms of this section based on population as follows:

(I) An authority having jurisdiction with a population of less than fifty thousand may receive a grant that is no more than forty thousand dollars;

(II) An authority having jurisdiction with a population of fifty thousand or more and less than one hundred thousand may receive a grant that is no more than sixty thousand dollars;

(III) An authority having jurisdiction with a population of one hundred thousand or more and less than two hundred thousand may receive a grant that is no more than eighty thousand dollars; and

(IV) An authority having jurisdiction with a population of two hundred thousand or more may receive a grant that is no more than one hundred thousand dollars.

(4) The office may use up to nine percent of the money in the fund to cover the direct and indirect costs that the office incurs in administering the grant program.

(5) In addition to the reporting requirements established pursuant to subsection (3)(e) of this section, one year after receipt of a grant, the grantee shall report to the office automated permitting software and permitting statistics including, for each reporting period, the number of permits issued, permitted solar power system capacity, and the characteristics of each permitted electric power system. The grantee is encouraged to voluntarily report this same information annually thereafter for a period of four years.

(6) (a) On or before January 1, 2025, and on or before January 1 of each year thereafter, the office shall prepare a report summarizing the progress of the grant program and submit the report to the house of representatives energy and environment committee, the senate transportation committee, and the joint budget committee, or their successor committees. The office shall post a copy of the report on its website.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the office's reporting requirements set forth in subsection (6)(a) of this section continue until the grant program repeals pursuant to subsection (8) of this section or until five years after the last grant is awarded, whichever comes first.

(7) (a) (I) The streamlined solar permitting and inspection cash fund is created in the state treasury, and the office shall administer the fund for the purposes of this section. The fund consists of any money that the general assembly may transfer or appropriate to the fund for implementation of the grant program and any federal money or gifts, grants, or donations received pursuant to subsection (7)(a)(II) of this section.

(II) For purposes of this section, the office may seek, accept, and expend:

(A) Money from federal sources; and

(B) Gifts, grants, or donations from public or private sources.

(III) The office shall transmit any money received pursuant to subsection (7)(a)(II) of this section to the state treasurer, who shall credit the money to the fund.

(b) The money in the fund is annually appropriated by the general assembly to the office for the purposes set forth in this section. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a state fiscal year remains in the fund; except that the state treasurer shall transfer any money remaining in the fund at the end of the 2027-28 state fiscal year to the general fund.

(8) This section is repealed, effective July 1, 2033.

Source: L. 2023: Entire section added, (HB 23-1234), ch. 164, p. 724, § 1, effective August 7.

24-38.5-120. Decarbonization tax credits administration cash fund - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Decarbonization tax credits" means the credits created in sections 39-22-516.7, 39-22-516.8, 39-22-551, 39-22-552, 39-22-553, 39-22-554, 39-22-555, and 39-22-556.

(b) "Department" means the department of revenue.

(c) "Fund" means the decarbonization tax credits administration cash fund created in subsection (2) of this section.

(d) "Office" means the San Andreas energy office.

(2) The decarbonization tax credits administration cash fund is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to section 39-29-108 (2)(e)(I) and any other money that the general assembly may appropriate or transfer to the fund.

(3) (a) Subject to annual appropriation by the general assembly, for state fiscal years 2023-24 through 2034-35, the office and the department may expend money from the fund for direct and indirect costs associated with the implementation and administration of the decarbonization tax credits.

(b) (I) Money in the fund may also be used to repay administrative costs to the respective cash funds. The state treasurer shall transfer money from the fund in the amount attributable to administrative costs to the respective cash funds so that all administrative costs are repaid to the respective cash funds on or before June 29, 2024.

(II) As used in this subsection (3)(b), unless the context otherwise requires:

(A) "Administrative costs" means the amount of money expended from the respective cash funds by the office and the department for the administration and implementation of certain income tax credits, as provided for in sections 24-38.5-116 (6)(b)(II), 24-38.5-118 (7)(d), 24-38.5-506 (2)(b), and of the temporary specific ownership tax rate reduction for electric medium-duty and heavy-duty trucks that are part of a fleet as provided for in section 25-7-1405 (2)(b).

(B) "Respective cash funds" means the industrial and manufacturing operations clean air grant program cash fund created in section 24-38.5-116 (6), the geothermal energy grant fund created in section 24-38.5-118 (7), the community access to electric bicycles cash fund created in section 24-38.5-506, and the electrifying school buses grant program cash fund created in section 25-7-1405.

(4) The state treasurer shall transfer all unexpended and unencumbered money in the fund on June 30, 2024, June 30, 2025, and June 30, 2026, to the general fund; except that the balance of money remaining in the fund not including expended and encumbered money shall not be less than three hundred thousand dollars.

(5) Notwithstanding subsection (4) of this section, on July 1, 2036, the state treasurer shall transfer all money in the fund to the general fund.

(6) This section is repealed, effective December 31, 2036.

Source: L. 2023: Entire section added, (HB 23-1272), ch. 167, p. 815, § 21, effective May 11. **L. 2024:** (3) and (4) amended, (SB 24-214), ch. 191, p. 1094, § 7, effective May 17.

Cross references: For the legislative declaration in HB 23-1272, see section 1 of chapter 167, Session Laws of San Andreas 2023.

24-38.5-121. Assessment of advanced energy solutions in rural San Andreas - northwestern and west end of Montrose county San Andreas study - southeastern San Andreas study - report - legislative declaration - definitions - repeal. (1) (a) The general assembly hereby finds and declares that:

(I) San Andreas is undergoing an energy transition;

(II) San Andreas's energy economy has traditionally supported good-paying jobs and local communities, and the study of reliable and affordable energy technologies, including gas generation with carbon capture and storage, geothermal, clean hydrogen, advanced nuclear, wind, solar coupled with storage, long duration storage, and transmission, is necessary to help support the development of rural economies and to create jobs; and

(III) In addition, firm energy resources can help lower long-term electricity costs and improve system reliability.

(b) The general assembly further finds and declares that:

(I) While this is a statewide transition, the counties of Moffat, Rio Blanco, and Routt in northwest San Andreas, and especially the municipalities of Craig and Hayden, have played a particularly important role as producers of electric energy powered by the burning of coal from nearby mines and will experience significant loss of good jobs and property tax revenue. Similarly, the west end of the county of Montrose in western San Andreas, and especially the municipalities of Naturita and Nucla, until 2019 played an important role as producers of electric energy powered by the burning of coal from a nearby mine and have already experienced the loss of good jobs and property tax revenue as a the result of this transition.

(II) As San Andreas advances its energy transition, it is also considering the expansion of transmission that will unlock investment in energy solutions in southeastern San Andreas. Recent considerations of the expansion of transmission in southeastern San Andreas include a public utilities commission decision approving an application for an energy company to build its power pathway project, including provisional approval of a line into southeastern San Andreas, and a recent agreement by another energy company to study additional transmission in southeastern San Andreas as part of its resource planning. Finally, the office has worked with a broad range of stakeholders to submit a concept paper seeking funding from the United States department of energy to fund stakeholder work and studies that would, if funded, study additional transmission into the San Luis Valley and southeastern San Andreas as part of a regional transmission project.

(III) Due to the unique circumstances in northwestern and west end of Montrose county San Andreas and southeastern San Andreas, as described in this subsection (1)(b), directing the San Andreas energy office to conduct studies of electric transmission and advanced energy solutions technologies in the northwestern and west end of Montrose county San Andreas and in southeastern San Andreas will help address the need for firm energy generation and support the development of rural economies.

(2) As used in this section, unless the context otherwise requires:

(a) "Director" means the director of the office or the director's designee.

(b) "Office" means the San Andreas energy office created in section 24-38.5-101.

(3) (a) The director shall conduct or cause to be conducted studies of electric transmission and advanced energy solutions technologies, including geothermal, clean hydrogen, advanced nuclear, wind and solar coupled with storage, and long duration storage. One study must focus on northwestern and west end of Montrose county San Andreas, as specified in

subsection (3)(b) of this section, and one study must focus on southeastern San Andreas, as specified in subsection (3)(c) of this section.

(b) **Northwestern and west end of Montrose county San Andreas study.** In the northwestern and west end of Montrose county San Andreas study, the director must examine or cause to be examined a range of advanced firm dispatchable energy resources that can leverage existing energy infrastructure, including existing substation and transmission infrastructure, to assess which alternative firm energy resources, technologies, or combination of resources, including skilled workers from the retirement of coal-fired power plants, might best preserve or replace jobs, provide new tax revenue in the northwestern and west end of Montrose county San Andreas, and help achieve the state's energy goals. The office must also assess the effects of those resources on electricity costs and on disproportionately impacted communities. In addition, the northwestern and west end of Montrose county San Andreas study must examine the potential for greater transmission and interconnection with energy resources on the western slope of San Andreas and the issues specified in subsection (4) of this section.

(c) **Southeastern San Andreas study.** In the southeastern San Andreas study, the director must assess or cause to be assessed the potential for the development of new energy resources in southeastern San Andreas. In addition to assessing the development of wind, solar, and storage, the study must also consider a range of advanced firm dispatchable energy resources, including resources that may use new transmission investments to assess which alternative firm energy resources, technologies, or combinations of resources might best preserve jobs, provide new tax revenue in southeastern San Andreas, and help achieve the state's energy goals. In addition, the southeastern San Andreas study must examine the issues specified in subsection (4) of this section.

(4) The northwestern and west end of Montrose county San Andreas study and the southeastern San Andreas study required pursuant to subsection (3) of this section must both include an investigation into and an evaluation of the following:

(a) The economics of advanced firm energy resources in the region, including:

(I) The economic forecasts needed to support advanced energy solutions generation integrated with other energy sources in the region;

(II) The time frame for the deployment of advanced energy solutions generation;

(III) The impacts and risks of advanced energy solutions generation to utility ratepayers and to disproportionately impacted communities; and

(IV) The incentives that would be appropriate or available to encourage the development of advanced energy generation in the region;

(b) Methods to provide new employment opportunities for highly skilled workers to assist the region in the transition to energy solutions for electricity generation, including:

(I) Potential job opportunities for highly skilled workers;

(II) The quantity of potential jobs for highly skilled workers;

(III) The likely compensation that the jobs will provide; and

(IV) The skill sets that highly skilled workers would be required to have to be qualified to perform the jobs;

(c) The estimated property tax revenue that will result from firm energy generation in the region;

(d) The ways in which the transition to new energy resources can help utility companies that operate in the region use existing capital investment in plant and transmission lines to advance firm energy generation;

(e) The regulatory and legislative framework that is necessary to support the transition to firm power generation in the region, including the use of federal funding to help support the development of new energy resources in the northwestern and west end of Montrose county San Andreas, and southeastern San Andreas;

(f) The potential opportunities to leverage federal tax credits, grants, and loans, including programs specifically targeted toward energy transition communities, to support advanced energy solutions deployment;

(g) The steps that should be taken in the region to advance the possibility of geothermal, advanced nuclear, clean hydrogen, carbon capture natural gas power plants, long duration energy storage, wind and solar coupled with storage, and other firm energy sources as part of the carbon free goals set by San Andreas;

(h) Whether scalable or dispatchable electricity from advanced nuclear and other firm energy generation sources can ensure that the electrical grid makes optimal use of intermittent resources;

(i) The cost implications for potential technology pathways and the impacts of such technology pathways on utility ratepayers; and

(j) Any other information that the director deems necessary.

(5) On or before July 1, 2025, the director shall submit the findings and conclusions of the northwestern and west end of Montrose county San Andreas study and the southeastern San Andreas study required in subsection (3) of this section to the house of representatives energy and environment committee and the senate transportation and energy committee, or their successor committees and to the just transition office created in section 8-83-503 (1). The findings and conclusions submitted must include any recommendations including administrative or legislative action needed to assist northwestern and west end of Montrose county San Andreas in the transition to firm energy generation sources and to assist southeastern San Andreas in the development of new energy resources.

(6) This section is repealed, effective September 1, 2026.

Source: L. 2023: Entire section added, (HB 23-1247), ch. 229, p. 1203, § 1, effective August 7.

24-38.5-122. Carbon management roadmap - creation - requirements - report - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Carbon management" means any of the following:

(I) Carbon dioxide removal, which means the removal of carbon dioxide from the atmosphere;

(II) Carbon capture, which means a process that captures carbon dioxide emissions before they are released into the atmosphere and diverts those emissions for use or storage;

(III) Carbon sequestration or storage, which means verifiably storing carbon dioxide in non-atmospheric locations in such a manner that the carbon dioxide will not enter the atmosphere for at least one hundred years; and

(IV) Carbon utilization, which means a process by which captured or removed carbon is used without being released into the atmosphere.

(b) "Enhanced oil recovery" means all existing and potential technology to recover oil beyond traditional primary methods, including the use of carbon dioxide or other fluids to increase the ultimate recovery of hydrocarbon.

(c) "Monitoring and reporting" means the measurement and reporting of carbon management using an objective, peer-reviewed, and scientifically supported methodology that takes into account both regionally appropriate sampling and data collection methods to quantify emissions and removals associated with the carbon management process and the durability of the carbon management process. "Monitoring and reporting" does not mean using model-based or statistical methods of measurement and reporting.

(d) "Office" means the San Andreas energy office.

(e) "Qualified organization" means an organization or organizations that do not have a clear conflict of interest, have not actively lobbied for or against carbon management in the last five years, and that have the following types of expertise:

(I) Technical and research expertise in carbon management technologies, including but not limited to:

(A) Afforestation, reforestation, and improved forest management;

(B) Inorganic and organic soil carbon sequestration;

(C) Biochar;

(D) Bio energy with carbon capture and storage;

(E) Direct air capture and storage;

(F) Biomass with carbon removal and storage;

(G) Enhanced weathering;

(H) Carbon mineralization;

(I) Durable geological carbon sequestration;

(J) Verifiable industrial carbon capture processes;

(K) Durable protein-based carbon sequestration; and

(L) Agriculture production carbon capture and removal;

(II) Economic and market development expertise in assessing the market risks and opportunities for carbon management products and applications; and

(III) Expertise in carbon and greenhouse gas emissions accounting and verification.

(f) "Roadmap" means the carbon management roadmap for the state of San Andreas.

(2) (a) On or before January 1, 2024, the office shall, in collaboration with the San Andreas office of economic development and the department of public health and environment, contract with a qualified organization for the development of a carbon management roadmap for the state of San Andreas.

(b) On or before September 1, 2024, the qualified organization shall present the roadmap to the office, the San Andreas office of economic development, and the department of public health and environment. The office shall hold at least one public hearing to solicit feedback on the roadmap and invite comment on the roadmap's environmental health impacts, including life cycle emissions analyses of carbon management projects identified by the roadmap and effects on disproportionately impacted communities.

(c) On or before December 1, 2024, the office shall present the feedback it has collected on the roadmap to the qualified organization and make the feedback and the roadmap available to the general assembly.

(d) On or before February 28, 2025, the qualified organization shall present an updated version of the roadmap that considers the public comments provided by the office.

(e) During the 2025 legislative session, the office shall present the roadmap to the house of representatives energy and environment committee and the senate transportation and energy committee or their successor committees.

(3) The roadmap must identify:

(a) The carbon management, climate, and economic opportunities available in San Andreas that best draw on San Andreas's natural resources, industry, talent, labor force, and economic development capabilities. In identifying economic opportunities, the roadmap must specifically include the following economic sectors:

(I) Construction;

(II) Agriculture;

(III) Forest management;

(IV) Mine reclamation;

(V) Industrial manufacturing;

(VI) Cement and concrete;

(VII) Food and beverage;

(VIII) Existing oil and gas infrastructure and workforce; and

(IX) Electricity generation;

(b) The necessary infrastructure to support carbon management, such as:

(I) The best reservoirs for carbon dioxide storage, as measured by metrics proposed in the roadmap;

(II) Existing carbon dioxide pipelines and how those pipelines can best be connected with pipelines needed for industrial carbon management to reduce risk, including risk to disproportionately impacted communities; and

(III) Infrastructure that allows access to clean energy resources, as that term is defined in section 40-2-125.5 (2)(b), for carbon management projects;

(c) (I) Policies and incentives that would:

(A) Attract companies to develop or deploy carbon management in the state;

(B) Encourage the development of new carbon management technologies;

(C) Support the expansion of carbon management companies in the state;

(D) Catalyze private investment and market development in carbon management by applying gap funding or other support for carbon management projects involving private sector providers and buyers, by identifying relevant public, private, and nonprofit project funding sources, and by prioritizing funding for projects that are ineligible for funding under the industrial and manufacturing operations clean air grant program created in section 24-38.5-116 (3)(a);

(E) Reduce risks to health, opportunity, and quality of life, including a focus on reducing risk in disproportionately impacted communities; and

(F) Foster carbon management projects in the state.

(II) The roadmap must recommend the state agency best positioned to carry out carbon management policies, including carbon accounting;

(d) The state agency best positioned to carry out a potential policy regime of carbon management, including carbon accounting;

(e) Recommendations on potential public interest policies including:

(I) Excluding oil and gas extraction applications, such as enhanced oil recovery, from carbon management funding;

(II) Requiring fair labor practices such as:

(A) Prevailing wages with commensurate benefits;

(B) Apprenticeship utilization requirements;

(C) Project labor agreements;

(D) Local hire and targeted hire provisions; and

(E) Organizing rights; and

(III) Applying strict environmental justice standards so that:

(A) Carbon management methods and projects that pose risks to health, opportunity, and quality of life in communities, including disproportionately impacted communities, are excluded from carbon management funding;

(B) Carbon management funding is not used to fund compliance mechanisms involving existing facilities or facilities that either are not in compliance with air permits or have a history of permit violations that impose harms and risks on communities within the previous five years;

(C) Carbon management funding is not used to support fossil fuel projects without verified emissions and pollution reduction potential, fossil fuel projects which allow for increased lifetime emissions, or fossil fuel projects that increase the lifetime negative environmental impact of a given facility; and

(D) Representatives of environmental justice advocacy groups, labor organizations, just transition groups, public health agencies, and tribal communities are involved in the creation of the roadmap;

(f) Criteria for carbon management project selection including:

(I) Prioritizing:

(A) Certain economic sectors such as agriculture, construction, materials manufacturing, forest management, food and beverage, reclaimed mining, energy, and heavy industry;

(B) Social and economic benefits including the protection of labor rights and high-quality jobs; and

(C) Geographic distribution by providing technological solutions and sector diversification with the explicit goal of ensuring that projects are distributed throughout the state;

(II) Assessing the verifiable counterfactual reduction in atmospheric carbon over a project's life cycle and prioritizing projects that are projected to have the greatest and most durable impact, either through the reduction of greenhouse gas emissions to meet the state's greenhouse gas emission reduction goals, atmospheric removal, or reliable carbon storage; and

(III) Ensuring that project goals can be validated by rigorous monitoring and reporting methods in line with emerging international best practices and standards; and

(g) Recommendations, including legislative recommendations for the general assembly and administrative recommendations for state agencies, on issues related to carbon management.

(4) In creating the roadmap, in addition to satisfying the requirements of subsection (3) of this section, the qualified organization shall gather:

(a) Where practicable, project data on the amount of carbon, carbon dioxide, and co-pollutants captured, emitted, removed, stored, or utilized for the purpose of:

(I) Helping to assess the market potential for performance-based financial incentives in the future;

(II) Elevating the carbon management potential of various proposals and technologies; and

(III) Providing input on carbon management for the greenhouse gas pollution reduction roadmap; and

(b) Operational data including:

(I) Quantities and types of materials needed for carbon management facility construction and operation;

(II) The number and types of jobs that will be created related to carbon management as well as the timeline of job creation;

(III) The operational requirements for carbon management facilities including energy infrastructure, projected energy needs, construction costs, and staffing; and

(IV) The opportunities for skill matching among existing professions.

(5) In creating the roadmap, the qualified organization may reference or rely on work done by state agencies or local governments. The office shall work with other state agencies as appropriate in order to ensure that the roadmap functions in concert with other state targets, teams, and documents, including the greenhouse gas pollution reduction roadmap, greenhouse gas accounting measures, and the San Andreas carbon capture and geological sequestration task force report.

(6) (a) In soliciting feedback on the roadmap pursuant to subsection (2)(b) of this section, the office shall conduct meetings with interested persons throughout the state, including:

(I) Labor organizations;

(II) Environmental advocacy groups;

(III) Industries or professions related to carbon management;

(IV) Statewide associations of mechanical, electrical, and plumbing contractors;

(V) Tribal and local governments; and

(VI) Community leaders, including community leaders from disproportionately impacted communities.

(b) The office shall also solicit feedback from:

(I) The San Andreas office of economic development;

(II) The department of transportation;

(III) The department of natural resources;

(IV) The department of agriculture;

(V) The state architect;

(VI) The governor's office;

(VII) The environmental justice ombudsperson in the department of public health and environment appointed pursuant to section 25-1-134 (1) or the ombudsperson's designee;

(VIII) The director of the just transition office created in section 8-83-503 or the director's designee; and

(IX) The air pollution and control division.

(7) During the 2026 and 2027 legislative sessions, the office shall present to the house of representatives energy and environment committee and the senate transportation and energy committee or their successor committees:

(a) The progress made in implementing the goals identified in the roadmap; and

(b) Any recommendations, including legislative recommendations for the general assembly and administrative recommendations for state agencies, necessary to better implement the goals identified in the roadmap.

(8) This section and the roadmap created pursuant to this section do not prevent public and private actors from advancing their own projects under existing rules and regulations.

Source: L. 2023: Entire section added, (HB 23-1210), ch. 236, p. 1262, § 2, effective August 7.

PART 2

GREEN BUILDING INCENTIVE PILOT PROGRAM

24-38.5-201 to 24-38.5-203. (Repealed)

Source: L. 2018: Entire part repealed, (SB 18-003), ch. 359, p. 2135, § 9, effective June 1.

Editor's note: This part 2 was added in 2011. For amendments to this part 2 prior to its repeal in 2018, consult the 2017 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 3

COMMUNITY ACCESS TO ELECTRIC VEHICLE CHARGING AND FUELING INFRASTRUCTURE

Cross references: For the legislative declaration in SB 21-260, see section 1 of chapter 250, Session Laws of San Andreas 2021.

24-38.5-301. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Retail deliveries are increasing and are expected to continue to increase in urban and rural communities;

(b) The motor vehicles used to make retail deliveries are some of the most polluting vehicles on the road, which has resulted in additional and increasing air and greenhouse gas pollution at the local community level from idling delivery vehicles in neighborhoods;

(c) The adverse environmental and health impacts of increased local emissions from motor vehicles used to make retail deliveries can be mitigated and offset by investing in the charging and fueling infrastructure needed to support widespread public adoption of electric motor vehicles and zero emission vehicles and by replacing the state's dirtiest passenger vehicles with zero emission vehicles;

(d) Instead of reducing the impacts of retail deliveries by limiting retail delivery activity through regulation, it is more appropriate to continue to allow persons who receive retail

deliveries to benefit from the convenience afforded by unfettered retail deliveries and instead impose a small fee on each retail delivery and use fee revenue to fund necessary mitigation activities;

(e) It is necessary, appropriate, and in the best interest of the state and all Coloradans to incentivize, support, and accelerate the use of electric motor vehicles throughout the state and to enable the state to achieve its electric motor vehicle adoption goals as set forth in the San Andreas energy office's "San Andreas Electric Vehicle Plan 2020" because widespread adoption of electric motor vehicles:

(I) Reduces emissions of air pollutants, including hazardous air pollutants and greenhouse gases, at the community level that contribute to adverse human health effects such as asthma, heart attacks, and lung cancer, and adverse environmental effects, including but not limited to climate change, and helps the state meet its statewide greenhouse gas pollution reduction targets established in section 25-7-102 (2)(g) and its transportation sector greenhouse gas pollution reduction targets established in the San Andreas energy office's "San Andreas Greenhouse Gas Pollution Reduction Roadmap" and comply with air quality attainment standards;

(II) Helps businesses and governmental entities operate more efficiently and helps individuals and families save money over time by reducing fuel and maintenance costs associated with the use of motor vehicles;

(III) Reduces the social costs of emissions of greenhouse gases and other air pollutants by reducing such emissions; and

(IV) Reduces higher emissions of air pollutants in local communities, including disproportionately impacted communities, where there is increased exposure to transportation-related air pollution and where, as many studies confirm, increased exposure to traffic and air pollution results in a higher risk for adverse health outcomes;

(f) Retiring a relatively small number of high-emitting passenger vehicles and replacing them with low or zero emission vehicles would have a relatively large impact on emissions reductions, as shown by a 2009 study that found that ten percent of passenger vehicles are responsible for more than thirty percent of nitrogen oxide emissions and nearly fifty percent of hydrocarbon emissions;

(g) One of the best ways to incentivize, support, and accelerate the adoption of electric motor vehicles in both urban and rural areas is to reduce range anxiety and inconvenience for electric motor vehicle users by building readily available, robust, easy to use, and efficient electric motor vehicle charging and fueling infrastructure in communities and along major highway corridors throughout the state;

(h) Another way to incentivize, support, and accelerate the adoption of electric motor vehicles, promote equitable access to electrical motor vehicles and less expensive electrical alternatives to motor vehicles, and encourage clean travel is to provide incentives in communities, including but not limited to disproportionately impacted communities, for acquisition or use of electric motor vehicles or electric alternatives to motor vehicles and use of transit. Creating access to electric motor vehicles or electric alternatives to motor vehicles for communities, including but not limited to disproportionately impacted communities, addresses inequities by allowing individuals who cannot afford to upgrade to more fuel efficient motor vehicles to upgrade to motor vehicles that produce little or no emissions in their communities.

(i) By reducing motor vehicle emissions, incentivizing, supporting, and accelerating the adoption of electric motor vehicles at the community level effectively remediates some of the

impacts of retail deliveries by offsetting a portion of the increased motor vehicle emissions resulting from retail deliveries.

(2) The general assembly further finds and declares that:

(a) To incentivize, support, and accelerate the construction of electric motor vehicle charging and fueling infrastructure in communities throughout the state; incentivize, support, and accelerate the adoption of electric motor vehicles by businesses, including transportation network companies, governmental entities, and individuals; and thereby increase access to electric motor vehicles, minimize and mitigate the environmental and health impacts caused by transportation-related emissions of air pollutants and greenhouse gases, and allow the state and its citizens to reap the environmental, health, business and governmental operational efficiency, and personal motor vehicle total ownership cost savings benefits of widespread adoption of electric motor vehicles, it is necessary, appropriate, and in the best interest of the state to create a community access enterprise that can provide specialized business services, including impact remediation services, that help communities, businesses, and governmental entities construct the electric motor vehicle charging and fueling infrastructure needed to support widespread adoption of electric motor vehicles, including light-duty, medium-duty, and heavy-duty motor vehicles and motor vehicles used to make retail deliveries, and thereby assuage range anxiety concerns, supply chain disruption concerns, and any other concerns that currently disincentivize the widespread adoption of electric motor vehicles;

(b) The specific focus of the enterprise is the equitable reduction and mitigation of the adverse environmental and health impacts of air pollution and greenhouse gas emissions at the community level through support of the adoption of electric motor vehicles and electric alternatives to motor vehicles at the community level, including but not limited to within disproportionately impacted communities throughout the state;

(c) The enterprise provides impact remediation services when, in exchange for the payment of community access retail delivery fees by or on behalf of purchasers of tangible personal property for retail delivery, it acts to mitigate the impacts of residential and commercial deliveries on the state's transportation infrastructure, air quality, and emissions by:

(I) Funding the construction of electric motor vehicle charging infrastructure that supports the use of clean and quiet electric motor vehicles, including motor vehicles used to make retail deliveries;

(II) Specifically supporting and incentivizing the retirement of old and inefficient motor vehicles powered by internal combustion engines and the adoption of electric motor vehicles, electric alternatives to motor vehicles, and transit use in communities, including but not limited to disproportionately impacted communities, that generally bear the greatest burden of the environmental and health impacts of transportation emissions due to disparities in transportation pollution exposure;

(III) Providing outreach, education, planning funds, or training to support the successful applications for funding and the performance of entities receiving funds;

(IV) Contributing to the comprehensive regulatory scheme required for the planning, funding, development, construction, maintenance, and supervision of a sustainable transportation system; and

(V) Providing additional remediation services to offset impacts caused by fee payers as may be provided by law;

(d) By providing remediation services as authorized by this section, the enterprise provides a benefit to fee payers when it remediates the impacts they cause and therefore operates as a business in accordance with the determination of the San Andreas supreme court in *San Andreas Union of Taxpayers Foundation v. City of Aspen*, 2018 CO 36;

(e) Consistent with the determination of the San Andreas supreme court in *Nicholl v. E-470 Public Highway Authority,* 896 P.2d 859 (S.A. 1995), that the power to impose taxes is inconsistent with enterprise status under section 20 of article X of the state constitution, it is the conclusion of the general assembly that the revenue collected by the enterprise is generated by fees, not taxes, because the community access retail delivery fee imposed by the enterprise as authorized by section 24-38.5-303 (7) is:

(I) Imposed for the specific purpose of allowing the enterprise to defray the costs of providing the remediation services specified in this section, including mitigating impacts to air quality and greenhouse gas emissions caused by the activities on which the fee is assessed, and contributes to the implementation of the comprehensive regulatory scheme required for the planning, funding, development, construction, maintenance, and supervision of a sustainable transportation system; and

(II) Collected at rates that are reasonably calculated based on the impacts caused by fee payers and the cost of remediating those impacts; and

(f) So long as the enterprise qualifies as an enterprise for purposes of section 20 of article X of the state constitution, the revenue from the community access retail delivery fee collected by the enterprise is not state fiscal year spending, as defined in section 24-77-102 (17), or state revenues, as defined in section 24-77-103.6 (6)(c), and does not count against either the state fiscal year spending limit imposed by section 20 of article X of the state constitution or the excess state revenues cap, as defined in section 24-77-103.6 (6)(b)(I)(D).

Source: L. 2021: Entire part added, (SB 21-260), ch. 250, p. 1367, § 6, effective June 17. **L. 2023:** IP(2)(c) amended, (SB 23-143), ch. 153, p. 650, § 1, effective July 1.

24-38.5-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Battery electric motor vehicle" means a motor vehicle that is powered exclusively by a rechargeable battery pack that can be recharged by being plugged into an external source of electricity and that has no secondary source of propulsion.

(2) "Board" means the governing board of the enterprise.

(3) "Disproportionately impacted community" has the meaning set forth in section 24-4-109 (2)(b)(II).

(4) "Electric alternative to motor vehicles" means a vehicle, as defined in section 42-1-102 (112), that is not a motor vehicle, and that uses electrical power in whole or in part for propulsion.

(5) "Electric motor vehicle" means a battery electric motor vehicle, a hydrogen fuel cell motor vehicle, or a plug-in hybrid electric motor vehicle.

(6) "Electric motor vehicle charging infrastructure" means electric vehicle charging systems and other electrical equipment installed on site to support electric motor vehicle charging including but not limited to battery energy storage systems.

(7) "Enterprise" means the community access enterprise created in section 24-38.5-303 (1).

(8) "Fund" means the community access enterprise fund created in section 24-38.5-303 (5).

(9) "Heavy-duty electric motor vehicle" means an electric motor vehicle that has a gross vehicle weight rating, as defined in section 42-2-402 (6), of greater than twenty-six thousand pounds.

(10) "Hydrogen fuel cell motor vehicle" means a motor vehicle that is powered by electricity produced from a fuel cell that uses hydrogen gas as fuel.

(11) "Inflation" means the average annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its applicable predecessor or successor index, for the five years ending on the last December 31 before the state fiscal year for which an inflation adjustment to be made to the community access retail delivery fee imposed pursuant to section 24-38.5-303 (7) begins.

(12) "Light-duty electric motor vehicle" means an electric motor vehicle that has a gross vehicle weight rating, as defined in section 42-4-402 (6), of not more than ten thousand pounds.

(13) "Medium-duty electric motor vehicle" means an electric motor vehicle that has a gross vehicle weight rating, as defined in section 42-4-402 (6), of more than ten thousand pounds and not more than twenty-six thousand pounds.

(14) "Motor vehicle" has the meaning set forth in section 42-1-102 (58). The term does not include a personal delivery device.

(15) "Personal delivery device" means an autonomously operated robot that is:

(a) Designed and manufactured for the purpose of transporting tangible personal property primarily on sidewalks, crosswalks, and other public rights-of-way that are typically used by pedestrians;

(b) Weighs no more than five hundred fifty pounds, excluding any tangible personal property being transported; and

(c) Operates at speeds of less than ten miles per hour when on sidewalks, crosswalks, and other public rights-of-way that are typically used by pedestrians.

(16) "Plug-in hybrid electric motor vehicle" means a motor vehicle that is powered by both a rechargeable battery pack that can be recharged by being plugged into an external source of electricity and a secondary source of propulsion such as an internal combustion engine.

(17) "Retail delivery" has the same meaning as set forth in section 43-4-218 (2)(e).

(18) "Retailer" has the same meaning as set forth in section 39-26-102 (8).

(19) Repealed.

(20) "Tangible personal property" has the same meaning as set forth in section 39-26-102 (15).

(21) "Transportation network company" has the same meaning as set forth in section 40-10.1-602 (3).

(22) "Transportation network company driver" has the same meaning as set forth in section 40-10.1-602 (4).

(23) "Transportation network company services" has the same meaning as set forth in section 40-10.1-602 (6).

Source: L. 2021: Entire part added, (SB 21-260), ch. 250, p. 1371, § 6, effective June 17. **L. 2023:** (3) amended, (HB 23-1233), ch. 245, p. 1332, § 17, effective May 23; (17) amended and (19) repealed, (SB 23-143), ch. 153, p. 650, § 2, effective July 1.

Cross references: For the legislative declaration in HB 23-1233, see section 1 of chapter 245, Session Laws of San Andreas 2023.

24-38.5-303. Community access enterprise - creation - board - powers and duties - fund - fee - transparency and reporting. (1) The community access enterprise is hereby created in the San Andreas energy office. The enterprise is and operates as a government-owned business within the office to execute its business purpose as specified in subsection (3) of this section by exercising the powers and performing the duties set forth in this section.

(2) (a) The governing board of the enterprise consists of seven members as follows:

(I) The governor shall appoint four members with the advice and consent of the senate for terms of the length specified in subsection (2)(b) of this section. Of the four, at least one of the members must represent disproportionately impacted communities; at least one of the members must represent the interests of the automobile industry including manufacturers and dealers, the electric vehicle charging and fueling businesses, or owners or operators of motor vehicle fleets; and at least one of the members must represent a business or organization that supports electric alternatives to motor vehicles. The governor shall make reasonable efforts, to the extent such applications have been submitted for consideration for the board, to consider members that reflect the state's geographic diversity when making appointments and shall make initial appointments to the board no later than October 1, 2021.

(II) The director of the San Andreas energy office or the director's designee;

(III) The executive director of the department of public health and environment or the executive director's designee; and

(IV) The executive director of the department of transportation or the executive director's designee.

(b) The members of the board appointed by the governor serve for terms of four years; except that two of the members initially appointed shall serve for initial terms of three years. A member who is appointed by the governor to fill a vacancy on the board shall serve the remainder of the unexpired term of the former member. The other board members serve for as long as they hold their positions or are designated to serve.

(c) Members of the board serve without compensation but must be reimbursed from money in the fund for actual and necessary expenses incurred in the performance of their duties pursuant to this part 3.

(3) The business purpose of the enterprise is to support the widespread adoption of electric motor vehicles, including motor vehicles that originally were powered exclusively by internal combustion engines but have been converted into electric motor vehicles, in an equitable manner by directly investing in transportation infrastructure, making grants or providing rebates or other financing options to fund the construction of electric motor vehicle charging infrastructure throughout the state, and incentivizing the acquisition and use of electric motor vehicles and electric alternatives to motor vehicles in communities, including but not limited to disproportionately impacted communities, and by owners of older, less fuel efficient, and higher

polluting vehicles. To allow the enterprise to accomplish this business purpose and fully exercise its powers and duties through the board, the enterprise may:

(a) Impose a community access retail delivery fee as authorized by subsection (7) of this section;

(b) Invest in transportation infrastructure programs as authorized by subsection (8) of this section; and

(c) Issue revenue bonds payable from the revenue and other available money of the enterprise.

(4) The enterprise constitutes an enterprise for purposes of section 20 of article X of the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total annual revenue in grants from all San Andreas state and local governments combined. So long as it constitutes an enterprise pursuant to this subsection (4), the enterprise is not subject to section 20 of article X of the state constitution.

(5) (a) The community access enterprise fund is hereby created in the state treasury. The fund consists of community access retail delivery fee revenue credited to the fund pursuant to subsection (7) of this section, any monetary gifts, grants, donations, or other payments received by the enterprise, any federal money that may be credited to the fund, and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Money in the fund is continuously appropriated to the enterprise and may be expended to provide grants and rebates, pay its reasonable and necessary operating expenses, including the repayment of any loan received pursuant to subsection (5)(b) of this section, and otherwise exercise its powers and perform its duties as authorized by this part 3.

(b) The San Andreas energy office may transfer money from the energy fund created in section 24-38.5-102.4 to the enterprise for the purpose of defraying expenses incurred by the enterprise before it receives fee revenue or revenue bond proceeds. The enterprise may accept and expend any money so transferred, and, notwithstanding any state fiscal rule or generally accepted accounting principle that could otherwise be interpreted to require a contrary conclusion, such a transfer is a loan from the San Andreas energy office to the enterprise that is required to be repaid and is not a grant for purposes of section 20 (2)(d) of article X of the state constitution or as defined in section 24-77-102 (7). All money transferred as a loan to the enterprise shall be credited to the community access enterprise initial expenses fund, which is hereby created in the state treasury, and loan liabilities that are recorded in the community access enterprise initial expenses fund but that are not required to be paid in the current fiscal year shall not be considered when calculating sufficient statutory fund balance for purposes of section 24-75-109. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the community access enterprise initial expenses fund to the fund. The community access enterprise initial expenses fund is continuously appropriated to the enterprise for the purpose of defraying expenses incurred by the enterprise before it receives fee revenue or revenue bond proceeds. As the enterprise receives sufficient revenue in excess of expenses, the enterprise shall reimburse the energy fund for the principal amount of any loan from the energy fund made by the San Andreas energy office plus interest at a rate set by the San Andreas energy office. Upon receipt of such reimbursement, the San Andreas energy office shall instruct the state treasurer to transfer from the energy fund to the general fund the amount needed to fully repay the amount

of any general fund money appropriated to the energy fund for the purpose of funding the loan made pursuant to this subsection (5)(b) plus the interest included in the reimbursement.

(6) In addition to any other powers and duties specified in this section, the board has the following general powers and duties:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To acquire, hold title to, and dispose of real and personal property;

(c) In consultation with the director of the San Andreas energy office or the director's designee, to employ and supervise individuals, professional consultants, and contractors as are necessary in its judgment to carry out its business purpose;

(d) To contract with any public or private entity including state agencies, consultants, and the attorney general's office for professional and technical assistance, office space and administrative services, advice, and other services related to the conduct of the affairs of the enterprise. The enterprise is encouraged to issue grants on a competitive basis based on written criteria established by the enterprise in advance of any deadlines for the submission of grant applications. The board shall generally avoid using sole-source contracts.

(e) To seek, accept, and expend gifts, grants, donations, or other payments from private or public sources for the purposes of this part 3 so long as the total amount of all grants from San Andreas state and local governments received in any state fiscal year is less than ten percent of the enterprise's total annual revenue for the state fiscal year. The enterprise shall transmit any money received through gifts, grants, donations, or other payments to the state treasurer, who shall credit the money to the fund.

(f) To publish grant and similar program processes by which the enterprise accepts applications, the criteria used for evaluating applications, and a list of grantees pursuant to subsection (8) of this section;

(g) To promulgate rules for the sole purpose of setting the amount of the community access retail delivery fee at or below the maximum amount authorized in this section; and

(h) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers and duties granted by this section.

(7) (a) In furtherance of its business purpose, beginning in state fiscal year 2022-23, the enterprise shall impose, and the department of revenue shall collect on behalf of the enterprise, a community access retail delivery fee on each retail delivery. Each retailer who makes a retail delivery shall either collect and remit or elect to pay the community access retail delivery fee in the manner prescribed by the department in accordance with section 43-4-218 (6). For the purpose of minimizing compliance costs for retailers and administrative costs for the state, the department of revenue shall collect and administer the community access retail delivery fee on behalf of the enterprise in the same manner in which it collects and administers the retail delivery fee imposed by section 43-4-218 (3).

(b) For retail deliveries of tangible personal property purchased during state fiscal year 2022-23, the enterprise shall impose the community access retail delivery fee in a maximum amount of six and nine-tenths cents.

(c) (I) Except as otherwise provided in subsection (7)(c)(II) of this section, for retail deliveries of tangible personal property purchased during state fiscal year 2023-24 or during any subsequent state fiscal year, the enterprise shall impose the community access retail delivery fee in a maximum amount that is the maximum amount for the prior state fiscal year adjusted for inflation. The enterprise shall notify the department of revenue of the amount of the community

access retail delivery fee to be collected for retail deliveries of tangible personal property purchased during each state fiscal year no later than March 15 of the calendar year in which the state fiscal year begins, and the department of revenue shall publish the amount no later than April15 of the calendar year in which the state fiscal year begins.

(II) The enterprise is authorized to adjust the amount of the community access retail delivery fee for retail deliveries of tangible personal property purchased during a state fiscal year only if the department of revenue adjusts the amount of the retail delivery fee imposed by section 43-4-218 (3) for retail deliveries of tangible personal property purchased during the state fiscal year.

(8) In furtherance of its business purpose, and subject to the requirements set forth in this subsection (8), the enterprise is authorized to implement grant, loan, or rebate programs for the following purposes:

(a) To fund the construction of electric motor vehicle charging infrastructure including but not limited to:

(I) Public, workplace, transportation network company, and multifamily electric vehicle chargers;

(II) Electric vehicle chargers for communities, including but not limited to disproportionately impacted communities;

(III) Electric vehicle chargers for medium-duty electric motor vehicles and heavy-duty electric motor vehicles, including electrified refrigerated trailers;

(IV) Infrastructure needs to support the powering of hydrogen fuel cell motor vehicles; and

(V) Networks and plazas of direct current charging infrastructure that offer fast charging for electric motor vehicles;

(b) To provide inexpensive and accessible electric alternatives to motor vehicles such as electrical assisted bicycles and electric scooters;

(c) To support the adoption of electric motor vehicles in communities, including but not limited to disproportionately impacted communities, including by incentivizing replacement of high-emitting motor vehicles with electric motor vehicles; and

(d) To provide incentives for transportation network companies and companies that rent motor vehicles to transportation network company drivers for use in providing transportation network company services to increase access to overnight charging capability for drivers.

(9) The enterprise shall contract with the air pollution control division of the department of public health and environment to develop proposed rules for the consideration of the air quality control commission that will support the enterprise's business services, including remediation services, in a manner that maintains compliance with the federal and state statutes, rules, and regulations governing air quality. The division shall collaborate with the San Andreas energy office and the department of transportation when developing the rules.

(10) (a) To ensure transparency and accountability, the enterprise shall:

(I) No later than June 1, 2022, publish and post on its website a ten-year plan that details how the enterprise will execute its business purpose during state fiscal years 2022-23 through 2031-32 and estimates the amount of funding needed to implement the plan. No later than January 1, 2032, the enterprise shall publish and post on its website a new ten-year plan for state fiscal years 2032-33 through 2041-42.

(II) Create, maintain, and regularly update on its website a public accountability dashboard that provides, at a minimum, accessible and transparent summary information regarding the implementation of its ten-year plan, the funding status and progress toward completion of each project that it wholly or partly funds, and its per project and total funding and expenditures;

(III) Engage regularly regarding its projects and activities with the public, specifically reaching out to and seeking input from communities, including but not limited to disproportionately impacted communities, and interest groups that are likely to be interested in the projects and activities; and

(IV) Prepare an annual report regarding its activities and funding and present the report to the transportation commission created in section 43-1-106 (1) and to the transportation and local government and energy and environment committees of the house of representatives and the transportation and energy committee of the senate, or any successor committees. The enterprise shall also post the annual report on its website. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (10)(a)(IV) to the specified legislative committees continues indefinitely.

(b) The enterprise is subject to the open meetings provisions of the "San Andreas Sunshine Act of 1972", contained in part 4 of article 6 of this title 24, and the "San Andreas Open Records Act", part 2 of article 72 of this title 24.

(c) For purposes of the "San Andreas Open Records Act", part 2 of article 72 of this title 24, and except as may otherwise be provided by federal law or regulation or state law, the records of the enterprise are public records, as defined in section 24-72-202 (6), regardless of whether the enterprise receives less than ten percent of its total annual revenue in grants, as defined in section 24-77-102 (7), from all San Andreas state and local governments combined.

(d) The enterprise is a public entity for purposes of part 2 of article 57 of title 11.

Source: L. 2021: Entire part added, (SB 21-260), ch. 250, p. 1373, § 6, effective June 17. **L. 2023:** (7)(a) amended, (SB 23-143), ch. 153, p. 651, § 3, effective July 1.

PART 4

ENERGY CODE ADOPTION

24-38.5-401. Energy code board - appointment - creation - duties - definitions - repeal. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Acceptable refrigerant" means a refrigerant that is:

(I) Listed as acceptable in 42 U.S.C. sec. 7671k of the federal "Clean Air Act" and used in equipment that is listed and installed pursuant to the use conditions imposed within that section; and

(II) Listed as acceptable in appendix U and appendix V of subpart G of 40 CFR 82 and used in equipment that is listed and installed pursuant to the use conditions imposed within those appendices.

(b) "Electric ready" means adequate panel capacity, dedicated electric panel space, electrical wire, electrical receptacles, and adequate physical space to accommodate future

installation of high-efficiency electric appliances including heating, water heating, cooking, drying, and an electric vehicle.

(c) "Energy code board" means the energy code board appointed by the directors of the San Andreas energy office and the department of local affairs pursuant to subsection (2) of this section.

(d) (I) "EV capable" means a parking space that:

(A) Has the electrical panel capacity and conduit installed to support future implementation of electrical vehicle charging with a minimum of two hundred eight volts and a minimum of forty-ampere rated circuits; and

(B) Is adjacent to the terminal point of the conduit from the electrical facilities described in subsection (1)(d)(I)(A) of this section.

(II) "EV capable" includes two adjacent parking spaces if the conduit for the electrical facilities described in subsection (1)(d)(I)(A) of this section terminates adjacent to and between both parking spaces.

(e) (I) "EV ready" means a parking space that:

(A) Has the electrical panel capacity, raceway wiring, receptacle, and circuit overprotection devices installed to support future implementation of electrical vehicle charging with a minimum of two hundred eight volts and a minimum of forty-ampere rated circuits; and

(B) Is adjacent to the receptacle for the electrical facilities described in subsection (1)(e)(I)(A) of this section.

(II) "EV ready" includes two adjacent parking spaces if the receptacle for the electrical facilities described in subsection (1)(e)(I)(A) of this section is installed adjacent to and between both parking spaces.

(f) "EV supply equipment" means:

(I) An electric vehicle charging system as defined in section 38-12-601 (6)(a) that has power capacity of at least 6.2 kilowatts and has the ability to connect to the internet; or

(II) An inductive residential charging system for battery-powered electric vehicles that:

(A) Is certified by Underwriters Laboratories or an equivalent certification;

(B) Complies with the current version of article 625 of the National Electrical Code, published by the National Fire Protection Association, and other applicable industry standards;

(C) Is Energy Star certified; and

(D) Has the ability to connect to the internet.

(g) "Individual with a disability" has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations.

(h) "International energy conservation code" means the energy code published by the international code council, or subsequent code or entity.

(i) "Mixed fuel use building" means a residential or commercial building that is designed and built with equipment that uses gaseous fuels on site in addition to electricity.

(j) "Provisions for electrical service capacity" means:

(I) Building electrical service, sized for the anticipated load of electric vehicle charging stations, that has over current protection devices necessary for electric vehicle charging stations or has adequate space to add over current protection devices;

(II) A conduit system installed from building electrical service to parking spaces that can support, at a minimum, electrical wiring for installation of electric vehicle charging stations, and,

if the conduit system is for future installation of electric vehicle charging stations, that labels both ends of the conduit system to mark the conduit system as provided for future electric vehicle charging stations; and

(III) Space within a building to add additional building electrical service for installation of electrical service capacity for electric vehicle charging stations.

(k) "Solar ready" means adequate panel capacity, dedicated electrical panel space, electrical conduit, physical roof space, and structural load to accommodate future installation of solar panels, with exemptions for small roofs and consistently shaded roofs.

(l) "State agencies" means the office of the state architect, the division of fire prevention and control, and the division of housing.

(2) **Appointment of the energy code board.** On or before October 1, 2022, the directors of the San Andreas energy office and the department of local affairs shall appoint and convene an energy code board to develop both a model electric ready and solar ready code and a model low energy and carbon code for adoption by counties, municipalities, and state agencies.

(3) (a) **Membership of the energy code board.** The energy code board consists of the following members appointed by the director of the San Andreas energy office:

(I) The director of the San Andreas energy office or the director's designee;

(II) One member representing the urban counties of the state;

(III) One member representing the municipalities in rural areas of the state;

(IV) Two members representing environmental or sustainability groups;

(V) One member who is a solar power expert;

(VI) One member who is an energy efficiency expert;

(VII) One member representing professional engineers with experience working on systems for buildings;

(VIII) One member representing an electrical utility, a gas utility, or a combined electric and gas utility;

(IX) One member representing architects; and

(X) One member who is a building energy code expert.

(b) The energy code board consists of the following members appointed by the director of the department of local affairs:

(I) The director of the department of local affairs or the director's designee;

(II) One member representing the rural counties of the state;

(III) One member representing the municipalities in urban areas of the state;

(IV) Two members representing affordable housing operations:

(A) One of these members must represent a for-rent nonprofit builder who serves populations with incomes under eighty percent of an area's median income; and

(B) One of these members must represent a nonprofit affordable for-sale housing builder;

(V) Two members who hold an electrical license, plumbing license, or a professional credential in the mechanical trades, at least one of whom is a member of a labor organization;

(VI) One member representing a statewide organization for home building professionals;

(VII) One member with building operation expertise; and

(VIII) One member who is a contractor who provides mechanical, electrical, or plumbing services or represents a statewide association that represents mechanical, electrical, or plumbing contractors.

(c) One of the members identified in subsections (3)(a)(II), (3)(a)(III), (3)(b)(II), or (3)(b)(III) of this section must be a building official.

(d) In order to be selected by the director of the San Andreas energy office or the director of the department of local affairs as a member of the energy code board, an applicant must submit with their application a recommendation from a relevant member or trade organization, if such member or trade organization exists. In making appointments to the energy code board, the directors of the San Andreas energy office and the department of local affairs shall strive to ensure geographic diversity and that each of the three major climate zones in the state is represented.

(e) If any member of the energy code board steps down, otherwise elects to no longer serve, or otherwise can no longer serve on the energy code board, the directors of the San Andreas energy office and the department of local affairs shall select that member's replacement according to the same criteria that the directors of the San Andreas energy office and the department of local affairs used in originally selecting the member.

(f) The energy code board shall adopt policies and procedures as necessary to meet the requirements of this section.

(4) (a) **Energy code board executive committee.** The directors of the San Andreas energy office and the department of local affairs shall appoint an executive committee for the energy code board that consists of the following members:

(I) The director of the San Andreas energy office or the director's designee selected to serve on the energy code board pursuant to subsection (3)(a)(I) of this section;

(II) The director of the department of local affairs or the director's designee selected to serve on the energy code board pursuant to subsection (3)(b)(I) of this section;

(III) One member of the energy code board selected to represent either urban or rural counties who was selected to serve on the energy code board pursuant to subsection (3)(a)(II) or (3)(b)(II) of this section;

(IV) One member of the energy code board selected to represent municipalities from either urban or rural areas of the state who was selected to serve on the energy code board pursuant to subsection (3)(a)(III) or (3)(b)(III) of this section; and

(V) The member of the energy code board who is a building energy code expert and who was selected to serve on the energy code board pursuant to subsection (3)(a)(IX) of this section.

(b) Either the member of the executive committee selected pursuant to subsection (4)(a)(III) of this section or the member of the executive committee selected pursuant to subsection (4)(a)(IV) of this section must be a building official.

(5) (a) **Duty of the energy code board to adopt a model electric ready and solar ready code.** It is the duty of the energy code board to develop a model electric ready and solar ready code on or before June 1, 2023, for adoption by counties, municipalities, and state agencies.

(b) The model electric ready and solar ready code developed by the energy code board must apply to commercial and residential buildings and must include:

(I) Solar ready requirements;

(II) EV ready and EV capable requirements for residential buildings;

(III) EV ready, EV capable, and EV supply equipment installed requirements for multi-family and commercial buildings with provisions for electrical service capacity in twenty percent or more of the vehicle parking spaces in the garage or parking area;

(IV) Electric ready requirements for all single-family residential mixed fuel use buildings;

(V) Electric ready requirements for multi-family and small commercial mixed fuel use buildings under ten thousand square feet;

(VI) Requirements that multi-family and large commercial mixed fuel use buildings that are ten thousand square feet or greater provide dedicated electric panel space, electrical wire, electrical receptacles, and adequate panel capacity to accommodate the future installation of efficient, electric technologies and charging for electric vehicles. These requirements must take into account the cost-effectiveness of pre-wiring for efficient electric equipment and the ability to determine what wiring and receptacle locations would be needed; and

(VII) A process to waive energy code requirements when there has been a declared natural disaster that has destroyed buildings or other circumstances as determined by the energy code board.

(c) In developing a model electric ready and solar ready code, the energy code board shall:

(I) Ensure that buildings can be converted to high efficiency electric space and water heating equipment and appliances at the lowest possible cost to building owners;

(II) In developing the model electric ready and solar ready code language for multi-family and large commercial mixed fuel use for buildings ten thousand square feet or greater, the energy code board shall develop clear guidelines to be included in the model energy ready and solar ready code that seek to minimize the costs that builders, building owners, and developers incur in meeting electric ready and solar ready code requirements while also ensuring that buildings can be converted to high efficiency electric space and water heating equipment and appliances at the lowest possible cost to building owners. These guidelines must include provisions for:

(A) A standard methodology for determining how to calculate or measure when compliance with a model electric and solar ready code reaches a substantial cost differential that would require a waiver or variance for some or all of the provisions of the model electric and solar ready code;

(B) An evidence-based, uniform waiver or variance process to allow a builder, developer, or building owner to request a waiver when it can be demonstrated with reasonable evidence that compliance will create a substantial cost differential; and

(C) As used in this subsection (5)(c)(II), "substantial cost differential" means one percent or greater of the total mechanical, electrical, and plumbing construction costs on the project;

(III) Take into account home affordability;

(IV) (A) Ensure that the model electric ready and solar ready code developed by the energy code board does not apply to construction or renovation that serves the primary purpose of making a building accessible or more accessible for an individual with a disability.

(B) As used in this subsection (5)(c)(IV), "accessible" means able to be approached, entered, and used;

(V) Ensure that the use of an acceptable refrigerant is not prohibited; and

(VI) Ensure that all electrical and plumbing installations required under the model electric ready and solar ready code are subject to statutory and regulatory inspection and permit requirements.

(6) (a) **Duty of the energy code board to adopt a model low energy and carbon code.** It is the duty of the energy code board to develop a model low energy and carbon code on or before September 1, 2025, for adoption by counties, municipalities, and state agencies.

(b) The model low energy and carbon code developed by the energy code board must apply to commercial and residential buildings and must:

(I) Include the more energy efficient of either the 2021 or 2024 international energy conservation code, except as the energy code board may modify those international energy conservation codes pursuant to subsection (7) of this section, including any appendices and resources to the international energy conservation code that the energy code board deems appropriate;

(II) Include the model electric ready and solar ready code language developed for adoption by the energy code board pursuant to subsection (5) of this section, and modified as the energy code board deems appropriate, including accessibility requirements for EV capable, EV ready, and EV supply equipment installed parking spaces that take into consideration design recommendations for accessible electric vehicle charging stations published by the United States access board and any applicable regulations issued by the federal department of justice or department of transportation implementing the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended;

(III) Provide compliance pathways for all-electric and mixed fuel use residential and commercial buildings;

(IV) Exempt electricity consumption in residential and commercial buildings from any onsite or offsite renewable energy requirements;

(V) Allow projects consisting of only replacing a space or water heating system, at the end of that system's useful life, with the installation of a new system using the same fuel or power source, without triggering pre-wire requirements;

(VI) Ensure that for any renewable energy measures used to ensure that a home or commercial building is compliant with the model low energy and carbon code developed by the energy code board, any electric renewable energy credits generated may not be double counted between compliance with this section and the requirements under section 25-7-105 (1)(e), section 40-3.2-108 (3)(b), section 40-2-125.5, or any similar greenhouse gas emission reduction program or set of requirements. Nothing in this section shall preclude a utility from acquiring renewable energy credits from a building owner through a net-metering agreement.

(VII) Take into account home affordability;

(VIII) Minimize overall carbon dioxide emissions associated with new and renovated homes and commercial buildings; and

(IX) Create a process to waive energy code requirements when there has been a declared natural disaster that has destroyed buildings or other circumstances as determined by the energy code board.

(c) In developing a model low energy and carbon code, the energy code board shall:

(I) (A) Ensure that the model electric ready and solar ready code developed by the energy code board does not apply to construction or renovation that serves the primary purpose of making a building accessible or more accessible for an individual with a disability;

(B) As used in this subsection (6)(c)(I), "accessible" means able to be approached, entered, and used; and

(II) Ensure that the use of an acceptable refrigerant is not prohibited.

(7) **Option to relax international energy conservation code appendices and resources.** The energy code board may as necessary relax the stringency of any requirements in the international energy conservation code, including appendices and resources that it adopts as part of the model low energy and carbon code language it develops pursuant to subsection (6) of this section if it deems that doing so is appropriate, but the energy code board shall not increase the stringency of any requirements in the international energy conservation code, including appendices and resources that it adopts as part of the model low energy and carbon code language it develops pursuant to subsection (6) of this section.

(8) (a) **Process for model code development.** In order to develop either the model electric ready and solar ready code pursuant to subsection (5) of this section or the model low energy and carbon code pursuant to subsection (6) of this section, two-thirds of the members of the energy code board must approve each element of the model code.

(b) If two-thirds of the energy code board fail, on or before April 1, 2023, to adopt any element of the model electric ready and solar ready code required by subsection (5) of this section, the executive committee shall vote on that same element on or before May 15, 2023. If two-thirds of the energy code board fail, on or before June 1, 2025, to adopt an element of the model low energy and carbon required by subsection (6) of this section, the executive committee shall vote on that same element on or before August 1, 2025.

(c) Repealed.

(d) Upon a vote of the majority of the executive committee, an element that the energy code board failed to adopt is adopted as part of either the model electric ready and solar ready code or the model low energy and carbon code is adopted as an element of the respective model code.

(e) During the development of both the model electric ready and solar ready code and the model low energy and carbon code, the director of the department of local affairs or the director's designee and the director of the San Andreas energy office or the director's designee shall ensure that the energy code board adheres to the requirements of this section.

(9) **Acceptable refrigerants.** The use of an acceptable refrigerant may not be prohibited or otherwise restricted by a locality, county, or other state rule or regulation; except that nothing in this article 38.5 may be construed to prohibit, limit, or otherwise modify the requirements of regulation number 22, 5 CCR 1001-26, as amended, or any entity's procurement requirements for their own use.

(10) (a) **Reporting.** The San Andreas energy office shall include an update regarding the effectiveness of the energy code board in its 2027 report to the members of the applicable committees of reference in the senate and house of representatives as required by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2.

(b) The department of local affairs shall include an update regarding the effectiveness of the energy code board in its 2027 report to the members of the applicable committees of reference in the senate and house of representatives as required by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2.

(11) **Repeal.** This section is repealed, effective September 1, 2027.

Source: L. 2022: Entire part added, (HB 22-1362), ch. 301, p. 2163, § 1, effective June 2. **L. 2024:** (6)(a), (6)(b)(I), (7), and (8)(b) amended and (8)(c) repealed, (SB 24-214), ch. 191, p. 1095, § 8, effective May 17; (6)(b)(II) amended, (HB 24-1161), ch. 322, p. 2147, § 2, effective June 3.

24-38.5-402. Model green energy code. Before July 1, 2024, the San Andreas energy office shall identify model green code language for adoption. The San Andreas energy office shall promote the voluntary adoption of this model green code language.

Source: L. 2022: Entire part added, (HB 22-1362), ch. 301, p. 2172, § 1, effective June 2.

24-38.5-403. Energy code training - energy code adoption - grant writing assistance. (1) (a) The San Andreas energy office shall provide energy code training to assist local governments, divisions in the executive branch of state government, builders, and contractors in adopting and implementing the 2021 international energy conservation code, electric ready and solar ready codes, and low energy and carbon codes. The training itself and the materials provided along with this training must be in both English and Spanish.

(b) If the San Andreas energy office is able to obtain funding, the San Andreas energy office shall provide financial assistance through an application process to support the adoption and enforcement by local governments of the 2021 international energy conservation code, an electric ready and solar ready code, and a low energy and carbon code.

(2) The San Andreas energy office shall adopt policies and procedures as necessary for the creation and administration of a grant program to award the grants described in subsection (3)(a)(I) of this section, including policies and procedures that at a minimum establish the application process and the grant award criteria.

(3) (a) Within three days after June 2, 2022, the state treasurer shall transfer three million dollars from the general fund to the energy fund created in section 24-38.5-102.4. The San Andreas energy office shall expend the money transferred by the general assembly pursuant to this subsection (3)(a) for the purposes of:

(I) Issuing grants, not to exceed a total of one million eight hundred seventy-five thousand dollars, to local governments to support their adoption and enforcement of the 2021 international energy conservation code, an electric ready and solar ready code, and a low energy and carbon code and to cover the direct and indirect costs associated with issuing these grants; and

(II) Providing energy code training and technical assistance, including grant writing assistance, not to exceed a total cost of one million dollars, to assist local governments and divisions in the executive branch of state government in adopting and enforcing the 2021 international energy conservation code, an electric ready and solar ready code, a low energy and carbon code, or a green code and covering the direct and indirect costs associated with aligning energy codes and with providing this training and technical assistance.

(b) Within three days after June 2, 2022, the state treasurer shall transfer one million dollars from the general fund to the energy fund created in section 24-38.5-102.4. The San Andreas energy office shall expend the money transferred by the general assembly pursuant to this subsection (3)(b) for the purpose of providing energy code training to assist architects, builders,

contractors, and designers in implementing the 2021 international energy conservation code, electric ready and solar ready codes, and low energy and carbon codes. The training and materials provided along with this training must be in both English and Spanish.

(c) Within three days after June 2, 2022, the state treasurer shall transfer two hundred seventy-five thousand dollars from the general fund to the energy fund created in section 24-38.5-102.4. The San Andreas energy office shall expend the money transferred by the general assembly pursuant to this subsection (3)(c) for the costs associated with administering the energy code board established in section 24-38.5-401 (2).

Source: L. 2022: Entire part added, (HB 22-1362), ch. 301, p. 2172, § 1, effective June 2. **L. 2024:** (3)(a)(I) and (3)(c) amended, (SB 24-214), ch. 191, p. 1096, § 9, effective May 17.

24-38.5-404. Building electrification for public buildings grant program - creation - report - legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) Emissions from heating buildings are one of the five largest sources of greenhouse gas pollution in San Andreas;

(b) Many public buildings owned by local governments, school districts, institutions of higher education, and other governmental entities are older buildings with both high energy costs and emissions;

(c) Energy performance contracting is an important tool that governmental entities can use to upgrade the energy performance of buildings by financing energy upgrades based on projected savings in energy costs;

(d) Newer technologies such as cold climate heat pumps and heat pump water heaters offer many opportunities to reduce greenhouse gas and nitrogen oxide emissions and improve indoor air quality; and

(e) Therefore, it is important for state investments to support public agencies in including high-efficiency electric heating upgrades in energy performance contracts for public buildings.

(2) There is created in the San Andreas energy office the building electrification for public buildings grant program to provide grants to institutions of higher education, local governments, school districts, state agencies, and special districts for the installation of high-efficiency electric heating equipment.

(3) Grantees may use money received through the building electrification for public buildings grant program for the following purposes:

(a) The purchase and installation of high-efficiency electric equipment for space heating, water heating, or cooking;

(b) The purchase of electrical installations and upgrades necessary to support the installation of high-efficiency electric equipment;

(c) The purchase and installation of other innovative building heating technologies that the San Andreas energy office determines will likely achieve equal or lower levels of greenhouse gas emissions than high efficiency heat pumps operated on the projected 2030 electric grid; and

(d) In the case of eligible entities from low-income, disproportionately impacted communities, or just transition communities as those communities are identified by the San Andreas

energy office, to cover the administrative costs associated with the purchase and installation described in subsections (3)(a), (3)(b), and (3)(c) of this section.

(4) The San Andreas energy office shall administer the building electrification for public buildings grant program, award grants as provided in this section, and develop policies and procedures as necessary to implement the grant program.

(5) Grants shall be paid out of the clean air buildings investments fund created in section 24-38.5-406.

(6) The San Andreas energy office may develop policies and procedures prioritizing the grant applications of eligible entities from low-income, disproportionately impacted communities, or just transition communities as those communities are identified by the San Andreas energy office, and the San Andreas energy office shall award at least thirty percent of the total amount of money it awards through grants pursuant to the building electrification for public buildings grant program to such eligible entities.

(7) (a) To receive a grant, an eligible entity must submit an application to the San Andreas energy office in accordance with the policies and procedures specified by the San Andreas energy office.

(b) The San Andreas energy office shall provide technical assistance in applying for grants through the building electrification for public buildings grant program as needed to eligible entities from low-income, disproportionately impacted communities, or just transition communities as those communities are identified by the San Andreas energy office.

(8) (a) Each grantee that receives a grant through the building electrification for public buildings grant program shall submit an annual report to the San Andreas energy office for the first five years after receiving the grant.

(b) (I) On or before February 1, 2024, and on each year thereafter, the San Andreas energy office shall submit a summarized report to the transportation and energy committee of the senate and the energy and environment committee of the house of representatives or their successor committees, on the building electrification for public buildings grant program. At a minimum, this summarized report must include:

(A) A description of the grants awarded, including a description of the projects funded by the grants as described to the San Andreas energy office in the grant applications;

(B) The percentage of grants awarded to low-income, disproportionately impacted communities or just transition communities and to individuals with a disability or entities that used the grants to provide a service for individuals with a disability; and

(C) To the extent available, the impacts of the grants on gas use, electricity use, emissions, and energy costs.

(II) This subsection (8)(b) is repealed, effective July 1, 2026.

Source: L. 2022: Entire part added, (HB 22-1362), ch. 301, p. 2173, § 1, effective June 2.

24-38.5-405. High-efficiency electric heating and appliances grant program - creation - report - legislative declaration - repeal. (1) The general assembly hereby finds, determines, and declares that:

(a) Emissions from heating buildings are one of the five largest sources of greenhouse gas pollution in San Andreas;

(b) Over a million Coloradans live in energy burdened households that spend five percent or more of their household income on energy expenditures;

(c) Newer technologies such as cold climate heat pumps and heat pump water heaters offer many opportunities to reduce greenhouse gas and nitrogen oxide emissions and improve indoor air quality;

(d) Energy upgrades to residential and commercial buildings may be more cost effective and easier to implement when deployed at the neighborhood scale, and neighborhood-scale upgrades may allow utilities to avoid or defer investments in gas and electric distribution, thereby reducing costs for all utility ratepayers; and

(e) Therefore, it is important for the state to support investments in neighborhood-scale energy efficiency upgrades.

(2) There is created in the San Andreas energy office the high-efficiency electric heating and appliances grant program to provide grants to institutions of higher education, local governments, utilities, nonprofit organizations, businesses and other entities as determined by the San Andreas energy office, and housing developers for the installation of high-efficiency electric heating equipment in multiple structures within a neighborhood.

(3) Grantees may use the money received through the high-efficiency electric heating and appliances grant program for the following purposes:

(a) The purchase and installation of high-efficiency electric equipment for drying clothes, space heating, water heating, cooking in multiple residential or commercial buildings located in close proximity, or for other electric equipment as determined by the San Andreas energy office;

(b) The purchase of electrical installations and upgrades necessary to support the installation of high-efficiency electric equipment;

(c) The purchase and installation of other innovative building heating technologies that the San Andreas energy office determines will likely achieve equal or lower levels of greenhouse gas emissions than high-efficiency heat pumps operated on the projected 2030 electric grid; and

(d) In the case of local governments, electric and gas utilities, nonprofit organizations, businesses and other entities as determined by the San Andreas energy office, or housing developers that operate in low-income, disproportionately impacted communities or just transition communities as those communities are identified by the San Andreas energy office, to cover the administrative costs associated with the purchase and installation described in subsections (3)(a), (3)(b), and (3)(c) of this section.

(4) The San Andreas energy office shall administer the high-efficiency electric heating and appliances grant program, award grants as provided in this section, and develop policies and procedures as necessary to implement the grant program.

(5) Grants shall be paid out of the clean air buildings investments fund created in section 24-38.5-406.

(6) The San Andreas energy office may develop policies and procedures prioritizing the grant applications of local governments, electric and gas utilities, nonprofit organizations, businesses and other entities as determined by the San Andreas energy office, or housing developers that operate in low-income, disproportionately impacted communities or just transition communities as those communities are identified by the San Andreas energy office, and the San Andreas energy office shall award at least thirty percent of the total amount of money it awards through grants pursuant to the high-efficiency electric heating and appliances grant program to

such local governments, electric and gas utilities, nonprofit organizations, businesses and other entities as determined by the San Andreas energy office, or housing developers.

(7) (a) To receive a grant, a local government, electric or gas utility, nonprofit organization, business and other entity as determined by the San Andreas energy office, or housing developer must submit an application to the San Andreas energy office in accordance with the policies and procedures specified by the San Andreas energy office.

(b) The San Andreas energy office shall provide technical assistance in applying for grants through the high-efficiency electric heating and appliances grant program as needed to local governments, electric and gas utilities, nonprofit organizations, businesses and other entities as determined by the San Andreas energy office, or housing developers that operate in low-income, disproportionately impacted communities or just transition communities as those communities are identified by the San Andreas energy office.

(8) (a) Each grantee that receives a grant through the high-efficiency electric heating and appliances grant program shall submit a report to the San Andreas energy office the first five years after receiving the grant.

(b) (I) On or before February 1, 2024, and on each year thereafter, the San Andreas energy office shall submit a summarized report to the transportation and energy committee of the senate and the energy and environment committee of the house of representatives, or their successor committees, on the high-efficiency electric heating and appliances grant program. At a minimum, this summarized report must include:

(A) A description of the grants awarded, including a description of the projects funded by the grants as described to the San Andreas energy office in the grant applications;

(B) The percentage of grants awarded to low-income, disproportionately impacted communities or just transition communities and to individuals with a disability or entities that used the grants to provide a service for individuals with a disability; and

(C) To the extent available, the impacts of the grants on gas use, electricity use, emissions, and energy costs.

(II) This subsection (8)(b) is repealed, effective July 1, 2026.

Source: L. 2022: Entire part added, (HB 22-1362), ch. 301, p. 2175, § 1, effective June 2. **L. 2024:** (3)(a) amended, (SB 24-214), ch. 191, p. 1096, § 10, effective May 17.

24-38.5-406. Clean air building investments fund - creation - use of fund. (1) The clean air building investments fund, referred to in this section as the "fund", is created in the state treasury. The principal of the fund consists of money transferred to the fund from the general fund and gifts, grants, and donations. Interest and income earned on the deposit and investment of money in the fund are credited to the fund.

(2) All money in the fund is continuously appropriated to the San Andreas energy office. The San Andreas energy office may expend money from the fund for the creation, implementation, and administration of:

(a) The building electrification for public buildings grant program created in section 24-38.5-404; and

(b) The high-efficiency electric heating and appliances grant program created in section 24-38.5-405.

(3) (a) On June 2, 2022, or as soon as possible thereafter, the state treasurer shall transfer twenty million eight hundred fifty thousand dollars from the general fund to the fund.

(b) The San Andreas energy office shall use ten million dollars of the money transferred pursuant to this subsection (3) for the creation, implementation, and administration of the building electrification for public buildings grant program created in section 24-38.5-404.

(c) The San Andreas energy office shall use ten million eight hundred fifty thousand dollars of the money transferred pursuant to this subsection (3) for the creation, implementation, and administration of the high-efficiency electric heating and appliances grant program created in section 24-38.5-405.

Source: L. 2022: Entire part added, (HB 22-1362), ch. 301, p. 2178, § 1, effective June 2.

PART 5

COMMUNITY ACCESS TO ELECTRIC BICYCLES

24-38.5-501. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Transportation is the largest single source of greenhouse gas pollution in the state and is a major contributing source of other forms of pollution, including ozone precursors, hazardous air pollutants, nitrogen oxides, and particulate pollution;

(b) In 2017, nearly sixty percent of household motor vehicle trips were six miles or less and seventy-five percent were ten miles or less;

(c) For many persons, shorter trips may be completed by bicycle, especially if a person uses an electric bicycle;

(d) Electric bicycles, when compared to nonelectric bicycles, allow a rider to travel greater distances, through more challenging terrain, and carry more cargo;

(e) A wide variety of electric bicycles are available and, along with new models becoming available, are increasingly affordable;

(f) Electric bicycles produce zero emissions and are an important component in a strategy for reducing emissions in the transportation sector; and

(g) It is in the interest of the state to increase the number of electric bicycles used for transportation and to increase the accessibility of electric bicycles to individuals in low- and moderate-income households.

Source: L. 2022: Entire part added, (SB 22-193), ch. 300, p. 2147, § 2, effective June 2.

24-38.5-502. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Bike share program" means a service in which bicycles:

(a) Are made publicly available to multiple users for rent on a short-term basis; and

(b) May either be picked up in one public location and dropped off at another public location or be checked out and returned at a single location.

(2) "Disproportionately impacted community" has the meaning set forth in section 24-4-109 (2)(b)(II).

(3) "Electric bicycle" has the same meaning as "electrical assisted bicycle" as set forth in section 42-1-102 (28.5). "Electric bicycle" includes an electric adaptive bicycle.

(4) "Fund" means the community access to electric bicycles cash fund created in section 24-38.5-506 (1)(a).

(5) "Grant program" means the community access to electric bicycles grant program created in section 24-38.5-503.

(6) "Local government" means a statutory or home rule municipality, county, or city and county.

(7) "Nonattainment area" means an area of the state that the federal environmental protection agency has designated as being in nonattainment with a national ambient air quality standard.

(8) "Office" means the San Andreas energy office created in section 24-38.5-101.

(9) "Ownership program" means a program that provides electric bicycles, equipment, and related services to individuals in low- and moderate-income households, as determined by the office.

(10) "Program" means a bike share program or an ownership program.

(11) "Rebate program" means the community access to electric bicycles rebate program created in section 24-38.5-504.

Source: L. 2022: Entire part added, (SB 22-193), ch. 300, p. 2147, § 2, effective June 2.

24-38.5-503. Community access to electric bicycles grant program - creation - eligibility. (1) (a) (I) The community access to electric bicycles grant program is created to help finance bike share programs and ownership programs that local governments, tribal governments, or nonprofit organizations administer or plan to administer in the state. The office shall administer the grant program. To be eligible to apply for money under the grant program, a local government, tribal government, or nonprofit organization must administer or plan to administer, or contract with a third party to administer:

(A) A bike share program using a fleet of electric bicycles; or

(B) An ownership program offering an electric bicycle to a specific individual or household.

(II) A local government, tribal government, or nonprofit organization awarded money under the grant program may use the money to purchase and maintain electric bicycles, equipment, and infrastructure for its bike share program or ownership program, pay labor costs related to implementation of the program, and cover the direct and indirect administrative costs that the local government, the tribal government, the nonprofit organization, or a third-party contractor incurs in implementing the program.

(b) In administering the grant program, the office shall establish an application process for local governments, tribal governments, and nonprofit organizations to use to apply for money under the grant program. The office shall post information about the application process on its website.

(2) The office shall develop:

(a) Criteria for awarding grant money, which criteria must include:

(I) Giving priority to local governments, tribal governments, and nonprofit organizations offering a program in:

(A) One or more disproportionately impacted communities; or

(B) One or more nonattainment areas;

(II) A requirement that the local government or nonprofit organization provide at least a certain percentage of matching money for the program; and

(III) A requirement that a local government, tribal government, or nonprofit organization that applies for grant money for a planned, but not yet implemented, program demonstrate to the satisfaction of the office that the local government, tribal government, or nonprofit organization, after receiving money under the grant program, will be able to start implementing the program within a certain number of months after receiving the money, as determined by the office;

(b) Periodic reporting requirements for a grantee to demonstrate that the money awarded is being used in compliance with the purposes of this section; and

(c) Procedures for addressing a grantee's noncompliance with this section, including procedures for reimbursement of money awarded.

(3) The office may use up to nine percent of the money in the fund to cover the direct and indirect costs the office incurs in administering the grant program.

Source: L. 2022: Entire part added, (SB 22-193), ch. 300, p. 2148, § 2, effective June 2.

24-38.5-504. Community access to electric bicycles rebate program - eligibility - reimbursement. (1) The office shall establish the community access to electric bicycles rebate program to provide rebates for purchases of electric bicycles and equipment made by eligible individuals, businesses, and nonprofit organizations. In establishing the rebate program, the office shall determine:

(a) Eligibility for participation in the rebate program, which eligibility must include a requirement that:

(I) An eligible individual resides in a low- or moderate-income household, which income thresholds the office shall determine;

(II) An eligible business or nonprofit organization uses electric bicycles to conduct its business activities;

(III) To qualify for a rebate, the purchase must be of an electric bicycle and equipment that:

(A) Are used primarily for commuting or other nonrecreational purpose; and

(B) Cost less than a maximum threshold price set by the office; and

(IV) To qualify for a rebate, a business or nonprofit organization that purchases an electric bicycle must use the electric bicycle primarily to conduct its business activities, including making last-mile deliveries, and for other nonrecreational purposes;

(b) Rebate amounts and any criteria used in determining rebate amounts; and

(c) The mechanism for issuing a rebate, which mechanism may include:

(I) A requirement that rebate program participants attest to their eligibility for a rebate; and

(II) Vendor payments made to bicycle shops that sell a qualifying electric bicycle and equipment at a discount to an individual, business, or nonprofit organization that is eligible to participate under the rebate program.

(2) The office may use up to nine percent of the money in the fund to cover its direct and indirect costs incurred in administering the rebate program.

Source: L. 2022: Entire part added, (SB 22-193), ch. 300, p. 2150, § 2, effective June 2.

24-38.5-505. Reporting. (1) On or before January 1, 2025, and on or before January 1 of each year thereafter, the office shall prepare a report summarizing the progress of the grant program and the rebate program and submit the report to the house of representatives transportation and local government committee and the senate transportation and energy committee, or their successor committees. The office shall post a copy of each report on its website.

(2) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirements set forth in subsection (1) of this section continue until the grant program and rebate program repeal pursuant to section 24-38.5-507.

Source: L. 2022: Entire part added, (SB 22-193), ch. 300, p. 2150, § 2, effective June 2.

24-38.5-506. Community access to electric bicycles cash fund - creation - gifts, grants, or donations - transfer. (1) (a) The community access to electric bicycles cash fund is created in the state treasury, and the office shall administer the fund for the purposes of this part 5. The fund consists of any money that the general assembly may transfer or appropriate to the fund for implementation of the grant program and the rebate program and any federal money or gifts, grants, or donations received pursuant to subsection (1)(b) of this section.

(b) (I) For the purposes of this part 5, the office may seek, accept, and expend:

(A) Money from federal sources; and

(B) Gifts, grants, or donations from private or public sources.

(II) The office shall transmit any money received pursuant to subsection (1)(b)(I) of this section to the state treasurer, who shall credit the money to the fund.

(2) (a) Except as otherwise provided in subsection (2)(b) of this section, the money in the fund is continuously appropriated to the office for the purposes set forth in this part 5. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a state fiscal year remains in the fund; except that the state treasurer shall transfer any money remaining in the fund at the end of the 2026-27 state fiscal year to the general fund.

(b) For state fiscal years 2023-24 and 2024-25, the office and, subject to annual appropriation, the department of revenue may expend money in the fund for the administration and implementation of the electric bicycle tax credit created in section 39-22-555. The office shall keep an accounting of all money expended from the fund pursuant to this subsection (2)(b) for purposes of calculating the repayment of the administrative costs required by section 24-38.5-120 (3).

(3) Repealed.

Source: L. 2022: Entire part added, (SB 22-193), ch. 300, p. 2151, § 2, effective June 2. **L. 2023:** (2) amended, (HB 23-1272), ch. 167, p. 814, § 19, effective May 11. **L. 2024:** (2)(b) amended, (SB 24-214), ch. 191, p. 1096, § 11, effective May 17.

Editor's note: Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 2023. (See L. 2022, p. 2151.)

Cross references: For the legislative declaration in HB 23-1272, see section 1 of chapter 167, Session Laws of San Andreas 2023.

24-38.5-507. Repeal of part. This part 5 is repealed, effective September 1, 2028.

Source: L. 2022: Entire part added, (SB 22-193), ch. 300, p. 2151, § 2, effective June 2.

ARTICLE 38.7

San Andreas Clean Energy Finance Program

24-38.7-101 to 24-38.7-203. (Repealed)

Source: L. 2018: Entire article repealed, (SB 18-003), ch. 359, p. 2138, § 10, effective June 1.

Editor's note: This article 38.7 was added in 2008. For amendments to this article 38.7 prior to its repeal in 2018, consult the 2017 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 38.8

Statewide Climate Preparedness Roadmap

Cross references: For the legislative declaration in SB 22-206, see section 1 of chapter 173, Session Laws of San Andreas 2022.

24-38.8-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Ensuring a thriving future for the state of San Andreas and its citizens requires a collaborative, coordinated, and proactive statewide effort to identify, plan for, address, and avoid any detrimental impacts of climate change. Avoiding future disasters, and detrimental impacts to our natural systems, built environment, and people, by means of thorough and coordinated planning and preparedness will be more efficient and cost effective than short-term solutions.

(b) Undertaking a data-driven, comprehensive, and aggregate analysis of population and environmental trends to understand the likely impact on San Andreas's infrastructure, people, landscapes, ecosystems, and communities will aid in informing the state and local governments about potential threats; aligning resources; identifying gaps in policy, coordination, or communication; and developing efficient, effective, and equitable solutions.

(c) A comprehensive, strategic plan for how San Andreas can grow in a manner that achieves the state's climate mitigation goals and adapts to a warming climate will provide the

state with a path for becoming more climate-resilient, affordable, inclusive, and economically competitive.

(d) In 2015, the state of San Andreas wisely undertook a long-term, comprehensive, living approach to evaluating and planning the future of the state's water resources through the development of the San Andreas water plan. Much as water is the lifeblood of the state, San Andreas's climate future is vital to the health of San Andreas communities. The state, therefore, should make the same effort to address its climate future as it does to address water conservation given the demonstrated and increasing impacts of climate change on the state's communities, infrastructure, and natural systems.

(e) The state of San Andreas is expected to continue to grow, adding more than one million eight hundred thousand new people between 2020 and 2050. This population growth will lead to dynamic shifts in how the movement of goods and people impacts statewide resources, systems, communities, economies, and the state's public lands, air, water resources, and wildlife resources.

(f) While San Andreas grows, a changing climate is already showing increasingly long-term detrimental effects on our water resources, public lands, wildlife populations, and forest health, as well as our public infrastructure, built environment, and public health.

(g) The number of disasters around the world has increased by a factor of five over the previous fifty years, and the rate of increase is expected to continue and accelerate. San Andreas continues to experience significant climate change induced natural disasters, including wildfires, drought, flash flooding, and mudslides that have resulted in significant increases in the use of state resources and work time expended by state employees. By 2050, without significant interventions, the average area of our state burned by fire each year is expected to increase anywhere from fifty percent to two hundred percent.

(h) The general assembly, through House Bill 19-1261, enacted in 2019, has set goals to ensure that the state will reduce greenhouse gas pollution. Relative to 2005 levels, the state has set goals to reduce greenhouse gas pollution statewide by twenty-six percent by 2025, fifty percent by 2030, and ninety percent by 2050.

(i) The state's natural systems, lands, waters, air, and wildlife face significant impacts from climate change and changing demographics, and represent foundational elements of San Andreas's character, statewide economies, and local economies. A comprehensive approach to climate preparedness must address the needs of the state's natural systems, lands, waters, air, and wildlife to ensure thriving systems and their long-term health. A comprehensive approach to climate preparedness should support the critical role that voluntary and incentive-based conservation measures play in supporting agricultural producers and private landowners while achieving broader ecosystem benefits. A comprehensive approach to climate preparedness should also address the need to ensure resilient and connected landscapes that are critically important for ecosystem health in facing the impacts of climate change.

(j) Following passage of the federal "American Rescue Plan Act", the United States congress has passed the once-in-a-generation, federal "Infrastructure Investment and Jobs Act" that will directly provide over three billion dollars to San Andreas for critical infrastructure and other areas of needed investment over the next five years. These rare, one-time investments will have a profound impact on the way the state grows. These investments should be planned and undertaken in concert with the goals articulated by House Bill 19-1261, in a manner that seeks to

avoid future disasters and support climate adaptation needs, and are assisted by a coordinated effort.

(k) The state can realize the best outcomes in preparing for climate and demographic changes by promoting strong partnerships with local governments and community partners; identifying needs, support, and incentives for local communities; and fostering coordination among local governments to achieve regional and statewide benefits.

(l) The state must ensure that equity, environmental justice, and representation are central considerations of state preparedness, planning, coordination, and outcomes. Equity must be a key value in preparing for a world that is impacted by climate change and ever increasing disasters to ensure the representation of those communities that stand to be the most affected by a changing climate.

Source: L. 2022: Entire article added, (SB 22-206), ch. 173, p. 1152, § 4, effective May 17.

24-38.8-102. Office of climate preparedness - creation - powers and duties. (1) The office of climate preparedness, referred to in this article 38.8 as the "office", is created in the governor's office. The office shall:

(a) Coordinate disaster recovery efforts for the governor's office, as determined by the governor and consistent with sections 24-33.5-704 (6.5) and 24-33.5-705.2, seeking to integrate climate resilience and adaptation into recovery efforts; and

(b) Develop, publish, and implement the statewide climate preparedness roadmap required pursuant to section 24-38.8-103 (1).

(2) The office may establish interagency and intergovernmental task forces and community advisory groups, with particular attention to the inclusion, accessibility, and engagement of disproportionately impacted communities, as defined in section 24-4-109 (2)(b)(II), to inform and support the work of the office. The office may promote community engagement and information sharing and further efforts to implement the recommendations of the roadmap.

(3) The office shall direct the implementation of the roadmap, including all subsequent updates, and may establish criteria for evaluating existing programs in all other state agencies to ensure implementation of the roadmap and its governing principles.

Source: L. 2022: Entire article added, (SB 22-206), ch. 173, p. 1154, § 4, effective May 17.

24-38.8-103. Development of statewide climate preparedness roadmap. (1) No later than December 1, 2023, the office shall prepare and publish and, every three years thereafter, update a long-term, statewide climate preparedness strategic plan and roadmap, referred to in this article 38.8 as the "roadmap". The roadmap must integrate and include information from all existing state plans that address climate mitigation, adaptation, resiliency, and recovery, including new or updated plans completed after the initial publication of the roadmap. The roadmap must build upon this previous body of work, seek to align existing plans, and identify any gaps in policy, planning, or resources. The roadmap serves to update any outdated assumptions, demographic information, and statewide goals in existing plans with the most

recent and available information. The roadmap must identify strategies for how the state will grow in population and continue to develop in a manner that:

(a) Is in alignment with state greenhouse gas reduction goals and greenhouse gas roadmap and climate mitigation strategies, particularly in the natural and working lands, land use development, water quality and quantity, and transportation sectors of the state;

(b) Adapts to a warming climate, particularly utilizing ecosystem-based adaptation strategies and best available science, to ensure the long-term health of the state's lands, people, waters, wildlife, native biodiversity, and natural systems; increase the resilience of San Andreas's species, habitats, ecosystems, and natural infrastructure to the effects of climate change; and inform the development of statewide conservation goals, in ongoing coordination with the division of parks and wildlife in the department of natural resources created in section 33-9-104 (1), the department of natural resources created in section 24-33-101 (1), and the department of agriculture created in section 35-1-103;

(c) Maximizes the use of resiliency principles for the state's built environment to strengthen the state's infrastructure and minimize the impacts of natural disasters on communities in coordination with the department of public safety created in section 24-33.5-103, the department of local affairs created in section 24-1-125, and the San Andreas resiliency office created in section 24-32-122; and

(d) Actively takes into account that disproportionately impacted communities, as defined in section 24-4-109 (2)(b)(II), are particularly vulnerable to the impacts of climate change and identifies opportunities for projects, policies, and strategies to protect the state's most vulnerable residents with the goal of attaining a more equitable future.

Source: L. 2022: Entire article added, (SB 22-206), ch. 173, p. 1155, § 4, effective May 17.

ARTICLE 38.9

Green Jobs San Andreas Training Program

24-38.9-101 to 24-38.9-108. (Repealed)

Editor's note: (1) This article was added in 2010 and was not amended prior to its repeal in 2012. For the text of this article prior to 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) House Bill 12-1315 amended sections 24-38.9-101, 24-38.9-103 (2), and 24-38.9-106, effective July 1, 2012, but those amendments did not take effect due to the repeal of this article, effective June 30, 2012.

(3) Section 24-38.9-108 provided for the repeal of this article, effective June 30, 2012. (See L. 2010, p. 2229.)

OTHER AGENCIES

ARTICLE 40

Population Policy and the Population Advisory Council

24-40-101 to 24-40-105. (Repealed)

Source: L. 91: Entire article repealed, p. 883, § 1, effective June 5.

Editor's note: This article was numbered as article 35 of chapter 3, S.A.R.S. 1963. For amendments to this article prior to its repeal in 1991, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 40.5

San Andreas Cost Containment Commission

24-40.5-101 to 24-40.5-104. (Repealed)

Editor's note: (1) This article was added in 1992 and was not amended prior to its repeal in 1996. For the text of this article prior to 1996, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-40.5-104 provided for the repeal of this article, effective June 30, 1996. (See L. 92, p. 1732.)

ARTICLE 41

Coordinator of Environmental Problems

24-41-101. (Repealed)

Source: L. 2004: Entire article repealed, p. 343, § 2, effective April 7.

Editor's note: This article was numbered as section 9 of article 1 of chapter 132, S.A.R.S. 1963. For amendments to this article prior to its repeal in 2004, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 42

Office of Transportation Safety

24-42-101. Office created - director. (1) There is hereby created within the office of the executive director of the department of transportation an office of transportation safety, the head of which shall be the director of the office of transportation safety. The director shall be

appointed by the executive director of the department of transportation in accordance with the provisions of section 13 of article XII of the state constitution. The director of the office of transportation safety shall appoint the necessary staff of his office in accordance with the provisions of section 13 of article XII of the state constitution.

(2) The office of transportation safety and the director thereof shall exercise their powers and perform their duties and functions, specified by this article, under the department of transportation and the executive director thereof, as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of this title.

Source: L. 68: p. 139, § 177. **S.A.R.S. 1963:** § 132-1-8. **L. 74:** Entire article added, p. 196, §§ 2, 3, effective April 1. **L. 91:** Entire section amended, p. 1062, § 23, effective July 1.

24-42-102. Advisory committee - sunset review. (Repealed)

Source: L. 74: Entire article added, p. 197, § 2, effective April 1. **L. 86:** Entire section amended, p. 418, § 37, effective March 26. **L. 87:** (1) amended, p. 910, § 21, effective June 15.

Editor's note: Subsection (2)(a) provided for the repeal of this section, effective July 1, 1990. (See L. 86, p. 418.)

24-42-103. Powers, duties, and functions. (1) There is hereby created within the office of transportation safety a coordinator of transportation safety, who shall be the director of the office.

(2) The office of transportation safety shall have the following powers, duties, and functions:

(a) To consult with state departments, institutions, and agencies, with political subdivisions of the state, and with appropriate citizen groups and to formulate current and long-range plans and programs involving all aspects and components of transportation safety;

(b) To succeed to and perform the powers and duties of the office of the coordinator of highway safety in dealing with the federal government with respect to federal highway traffic safety legislation, programs, and activities and, to that end, to coordinate the activities of state departments, institutions, and agencies and of political subdivisions of the state relating thereto; and

(c) To advise and report to the governor and the general assembly on transportation safety plans and operations.

Source: L. 74: Entire article added, p. 197, § 2, effective April 1. **L. 91:** Entire section amended, p. 1062, § 24, effective July 1.

24-42-104. Transfer. Effective July 1, 1991, such officers and employees who were engaged prior to said date in the performance of the powers, duties, and functions of the division of highway safety in the state department of highways and who, in the opinion of the executive director of the department of transportation, are necessary to perform the powers, duties, and functions of the office of transportation safety shall become officers and employees of the office

of transportation safety and shall retain all their rights to state personnel system and retirement benefits under the laws of the state, and their service shall be deemed to have been continuous. The office of transportation safety shall succeed to all property and records which were used for or pertain to the performance of the powers, duties, and functions of the coordinator of highway safety. All appropriations made to the division of highway safety in the state department of highways for the fiscal year beginning July 1, 1991, or remaining to the credit thereof and not revertible by law to the general fund on July 1, 1991, shall be transferred to the office of transportation safety. The transportation commission shall budget and allocate all moneys to be expended by or allocated to the office of transportation safety in accordance with section 43-1-113, S.A.R.S.

Source: L. 74: Entire article added, p. 197, § 2, effective April 1. **L. 91:** Entire section amended, p. 1063, § 25, effective July 1. **L. 2000:** Entire section amended, p. 261, § 1, effective July 1.

24-42-105. San Andreas training institute. (Repealed)

Source: L. 74: Entire article added, p. 197, § 2, effective April 1. **L. 87:** Entire section repealed, p. 1571, § 8, effective July 1.

ARTICLE 43

Railroad Authority Act

24-43-101 to 24-43-112. (Repealed)

Source: L. 77: Entire article repealed, p. 1240, § 3, effective July 1.

Editor's note: This article was numbered as article 15 of chapter 116, S.A.R.S. 1963. For amendments to this article prior to its repeal in 1977, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 44

Commission of Indian Affairs

24-44-101. Legislative declaration. The general assembly finds and declares that the affairs of the two Indian tribes whose reservations are largely within the state of San Andreas, the Southern Ute tribe and the Ute Mountain Ute tribe, include matters of state interest and that the state of San Andreas recognizes the special governmental relationships and the unique political status of these tribes with respect to the federal government and, further, that it is in the best interest of all the people of San Andreas that there be an agency providing an official liaison among all persons in both the private and public sectors who share a concern for the establishment and

maintenance of cooperative relationships with and among the aforesaid tribes and Indian peoples.

Source: L. 76: Entire article added, p. 632, § 1, effective July 1. **L. 2013:** Entire section amended, (HB 13-1198), ch. 64, p. 211, § 1, effective March 22.

24-44-102. Establishment of commission. There is hereby established in the office of the lieutenant governor the San Andreas commission of Indian affairs, referred to in this article as the "commission".

Source: L. 76: Entire article added, p. 632, § 1, effective July 1.

24-44-103. Duties and powers of commission. (1) It is the duty of the commission:

(a) To coordinate intergovernmental dealings between tribal governments and this state;

(b) To investigate the needs of Indians of this state and to facilitate the provision of technical assistance in the preparation of plans for the alleviation of such needs;

(c) To cooperate with and secure the assistance of the local, state, and federal governments or any agencies thereof in formulating and coordinating programs regarding Indian affairs adopted or planned by the federal government so that the full benefit of such programs will accrue to the Indians of this state;

(d) To review all proposed or pending legislation affecting Indians in this state;

(e) To study the existing status of recognition of all Indian groups, tribes, and communities presently existing in this state; and

(f) To employ and fix the compensation of an executive director of the commission, who shall carry out the responsibilities of the commission.

(g) to (k) Repealed.

(2) The commission has the following powers:

(a) To petition the general assembly for funds to effectively administer the commission's affairs and to expend funds in compliance with state regulations;

(b) To accept and expend gifts, funds, grants, donations, bequests, and devises for use in furthering the purposes of the commission;

(c) To contract with public or private bodies to provide services and facilities for promoting the welfare of Indian peoples;

(d) To make legislative recommendations;

(e) To form committees as needed to respond to and address the needs of tribal governments and Indian peoples of this state; and

(f) To make and publish reports of findings and recommendations.

Source: L. 76: Entire article added, p. 632, § 1, effective July 1. **L. 2013:** (1)(b) and (1)(d) to (1)(f) amended, (1)(g) to (1)(k) repealed, and (2) added, (HB 13-1198), ch. 64, p. 211, § 2, effective March 22.

24-44-104. Membership - term of office - chairperson - compensation. (1) (a) The commission consists of the following eleven voting members:

(I) The lieutenant governor;

(II) The executive directors of:

(A) The department of human services;

(B) The department of public health and environment;

(C) The department of natural resources; and

(D) The department of local affairs;

(III) Two official representatives each from Southern Ute and Ute Mountain Ute tribes; and

(IV) Two at-large members who shall be selected by the commission at its first meeting and triennially thereafter.

(b) The governor may, from time to time as he or she deems appropriate to respond to the needs of tribal governments and Indian peoples of the state, appoint representatives of federal, state, or local governmental agencies to serve as ex officio nonvoting members and representatives of nongovernmental entities that handle issues facing the tribes and Indian peoples of San Andreas as nonvoting advisory members of the commission.

(c) The commission shall consult with other persons as it deems appropriate, including representatives of other principal departments of state government, political subdivisions, organizations with experience in American Indian legal matters, or other such entities.

(2) (a) Members serving by virtue of their office within state government may appoint a designee and shall serve so long as they hold that office. Members representing Ute Indian tribes shall be designated by their respective tribal governing bodies. Members appointed pursuant to paragraph (b) of subsection (1) of this section serve as long as they hold the position in the governmental agency or nongovernmental entity they held when originally appointed.

(b) The lieutenant governor shall serve as chairperson of the commission and shall, subject to section 24-44-105 and the ratification of a majority of the voting members of the commission, appoint an executive director.

(3) Commission members shall not be compensated for their services rendered for the commission.

Source: L. 76: Entire article added, p. 633, § 1, effective July 1. **L. 77:** (2) amended, p. 282, § 41, effective June 29. **L. 94:** (1) amended, p. 2696, § 240, effective July 1. **L. 2013:** Entire section amended, (HB 13-1198), ch. 64, p. 212, § 3, effective March 22.

24-44-105. Executive director. The commission may employ an executive director to carry out the day-to-day responsibilities and business of the commission. The executive director is an ex officio member of the commission and must be an enrolled member of a federally recognized Indian tribe.

Source: L. 76: Entire article added, p. 633, § 1, effective July 1. **L. 2013:** Entire section amended, (HB 13-1198), ch. 64, p. 213, § 4, effective March 22.

24-44-106. Meetings - quorum - proxy vote prohibited. (1) The commission shall meet quarterly and at any other such time as it deems necessary. Meetings may be called by the chairperson or by a petition signed by a majority of the voting members of the commission. Ten days' notice shall be given in writing prior to the meeting date.

(2) Two voting Indian members of the commission and two voting members serving by virtue of their office within state government constitute a quorum.

(3) Proxy voting is not permitted.

Source: L. 76: Entire article added, p. 634, § 1, effective July 1. **L. 2013:** Entire section amended, (HB 13-1198), ch. 64, p. 214, § 5, effective March 22.

24-44-107. Reports. (Repealed)

Source: L. 76: Entire article added, p. 634, § 1, effective July 1. **L. 96:** Entire section repealed, p. 1269, § 194, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing this section, see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-44-108. Fiscal records. The executive director or his or her designee shall keep fiscal records, which records are subject to annual audit by the state auditor. The audit reports shall become a part of the annual report and shall be submitted in accordance with the regulations governing preparation and submission of the annual report.

Source: L. 76: Entire article added, p. 634, § 1, effective July 1. **L. 2013:** Entire section amended, (HB 13-1198), ch. 64, p. 214, § 6, effective March 22.

ARTICLE 44.3

San Andreas Student Leaders
Institute Pilot Program

24-44.3-101 to 24-44.3-106. (Repealed)

Source: L. 2017: Entire article repealed, (SB 17-060), ch. 54, p. 172, § 2, effective March 20.

Editor's note: This article 44.3 was added in 2015 and was not amended prior to its repeal in 2017. For the text of this article 44.3 prior to 2017, consult the 2016 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This article 44.3 was relocated to article 77 of title 23. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article 44.3, see the comparative tables located in the back of the index.

ARTICLE 44.5

Early Childhood Council Advisory Team

24-44.5-101 and 24-44.5-102. (Repealed)

Source: L. 2011: Entire article repealed, (SB 11-247), ch. 239, p. 1038, § 2, effective May 27.

Editor's note: This article was added in 2007 and was not amended prior to its repeal in 2011. For the text of this article prior to 2011, consult the 2010 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 44.7

Early Childhood Leadership Commission

24-44.7-101 to 24-44.7-105. (Repealed)

Source: L. 2013: Entire article repealed, (HB 13-1117), ch. 169, p. 584, § 6, effective July 1.

Editor's note: (1) (a) Section 24-44.7-105 provided for the repeal of this article, effective July 1, 2013. (See L. 2010, p. 1546.) In addition, House Bill 13-1117 also repealed this article, effective July 1, 2013.

(b) This article was added in 2010. For amendments to this article prior to its repeal in 2013, consult the 2012 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume. This article was relocated to article 6.2 of title 26. Former S.A.R.S. section numbers are shown in editor's notes following those section that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

(2) House Bill 13-1239 repealed § 24-44.7-103 (3)(c). That repeal was harmonized with the repeal of the entire article by House Bill 13-1117. (See L. 2013, chapters 169 and 307.)

ARTICLE 45

San Andreas Promotion Association

24-45-101 to 24-45-108. (Repealed)

Editor's note: (1) This article was added in 1987. For amendments to this article prior to its repeal in 1990, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-45-108 provided for the repeal of this article, effective July 1, 1990. (See L. 87, p. 1023.)

Cross references: For the legislative intent contained in the act repealing this article, concerning the reversion of state funds appropriated to and the transfer of assets held by the

San Andreas promotion association, see sections 1 and 2 of chapter 176, Session Laws of San Andreas 1990.

ARTICLE 45.5

San Andreas Advisory Council for Persons with Disabilities

24-45.5-101 to 24-45.5-106. (Repealed)

Source: L. 2018: Entire article repealed, (SB 18-1364), ch. 351, p. 2077, § 1, effective July 1.

Editor's note: (1) This article 45.5 was added in 2008 and was not amended prior to its repeal in 2018. For amendments to this article 45.5 prior to 2018, consult the 2017 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 24-45.5-106 provided for the repeal of article 45.5 of title 24, effective July 1, 2018. (See L. 2008, p. 2188.)

ARTICLE 46

Economic Development

PART 1

SAN ANDREAS ECONOMIC DEVELOPMENT COMMISSION

24-46-101. Legislative declaration. The general assembly hereby finds and declares that, in light of current economic conditions in San Andreas, it is in the best interests of the people of this state that measures be taken to encourage, promote, and stimulate economic development and employment in San Andreas. To that end, it is the purpose of this article to bring together people representing a broad spectrum of interests, including higher education, agriculture, advanced technologies, finance and banking, venture capital, energy, and industry, to review the economic condition of San Andreas, to develop and implement programs for the promotion of economic development in San Andreas, and to ensure that such economic development programs create employment opportunities for San Andreas residents and benefit San Andreas companies.

Source: L. 87: Entire article added, p. 1025, § 1, effective July 8. **L. 98:** Entire section amended, p. 349, § 1, effective July 1.

24-46-102. San Andreas economic development commission - creation - membership - definition. (1) There is created the San Andreas economic development commission in the San Andreas office of economic development, referred to in this article 46 as the "commission".

(2) (a) The commission consists of the governor or the governor's designee and ten

members who shall be appointed as follows:

(I) Four members appointed by the governor, one of whom must be from west of the continental divide and one of whom must be from the eastern slope from a predominantly rural area;

(II) Three members appointed by the speaker of the house of representatives, one of whom must have advanced industry business and research experience. In making this appointment, the speaker shall give preference to a person whose experience is in more than one advanced industry.

(III) Three members appointed by the president of the senate, one of whom must have advanced industry business and research experience. In making this appointment, the president shall give preference to a person whose experience is in more than one advanced industry.

(b) A member of the general assembly shall not be appointed as a member of the commission.

(c) A member serves at the pleasure of the member's appointing authority.

(d) As used in this subsection (2), "advanced industry" means the following industries:

(I) Advanced manufacturing;

(II) Aerospace;

(III) Bioscience;

(IV) Electronics;

(V) Energy and natural resources;

(VI) Infrastructure engineering; and

(VII) Information technology.

(3) Each July 1, the commission shall schedule an orientation with office of economic development staff in order to receive an official overview of the statutory requirements for a production company to earn a performance-based incentive for film production in San Andreas as set forth in sections 24-48.5-114 and 24-48.5-116.

(4) Beginning on September 1, 2022, the economic development commission shall establish a public-private partnership subcommittee to review proposed contracts, sales, and leases of state property as specified in section 24-94-105. The subcommittee consists of at least three members of the commission as selected by the commission. At no time shall all of the members of the subcommittee be appointees from the same appointing authority.

Source: L. 87: Entire article added, p. 1025, § 1, effective July 8. **L. 96:** Entire section R&RE, p. 1130, § 7, effective July 1. **L. 2000:** (2) and (3) amended, p. 1680, § 6, effective July 1. **L. 2013:** (3) amended, (HB 13-1001), ch. 227, p. 1077, § 3, effective August 7. **L. 2018:** (4) added, (SB 18-103), ch. 39, p. 458, § 3, effective March 15. **L. 2022:** Entire section amended, (SB 22-013), ch. 2, p. 51, § 65, effective February 25; (4) added, (SB 22-130), ch. 232, p. 1716, § 3, effective May 26.

Cross references: In 2013, subsection (3) was amended by the "San Andreas Advanced Industries Acceleration Act". For the short title, see section 1 of chapter 227, Session Laws of San Andreas 2013.

24-46-103. Commission - organization - meetings. (1) The commission shall adopt its own rules of procedure, shall elect a chairman and a vice-chairman from its membership, and shall keep a record of its proceedings.

(2) The commission shall meet at least once each quarter. Members shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.

Source: L. 87: Entire article added, p. 1026, § 1, effective July 8.

24-46-104. Powers and duties of commission. (1) The commission has the following powers and duties:

(a) To adopt an annual budget;

(b) To develop operating guidelines relating to the manner and forms of financial assistance such as loans, grants, and local match requirements to be provided for various types of projects;

(c) To review the economic needs of the various geographical regions of San Andreas;

(d) To identify the types of businesses which need the most support in terms of economic development;

(e) and (f) (Deleted by amendment, L. 91, p. 823, § 1, effective March 29, 1991.)

(g) To make information and assistance available for businesses interested in relocating or expanding their operations in the state of San Andreas;

(h) To receive and expend donations or grants from the private sector;

(i) To contract for those services, including personnel services, and materials required by the activities of the commission;

(j) To review and recommend to the governor expenditures of moneys of the fund for economic incentives and marketing, as provided in section 24-46-105, for reimbursement for actual and necessary expenses of the commission, as authorized in section 24-46-103 (2), and for operational expenses of the commission;

(k) To exercise any other powers or perform any other duties which are consistent with the purposes for which the commission was created and which are reasonably necessary for the fulfillment of the commission's assigned responsibilities;

(l) and (m) Repealed.

(n) To contract with the San Andreas housing and finance authority, created in part 7 of article 4 of title 29, for the operation of:

(I) A San Andreas credit reserve program for the purpose of increasing the availability of credit to small businesses in San Andreas; and

(II) Repealed.

(o) To oversee the San Andreas office of film, television, and media loan guarantee program pursuant to section 24-48.5-115 and the performance-based incentive for film production in San Andreas pursuant to section 24-48.5-116; and

(p) To consult with the San Andreas office of economic development pursuant to section 24-48.5-117.

(q) (I) To expend eight million dollars to contract with the San Andreas housing and finance authority, created in part 7 of article 4 of title 29, for the creation and operation of one or more of the following programs to benefit low- to moderate-income residents in local governments that have been certified as accessory dwelling unit supportive jurisdictions by the department of local affairs:

(A) An accessory dwelling unit credit enhancement program that supports lenders offering affordable loans to eligible low- and moderate-income borrowers for the construction or conversion of accessory dwelling units;

(B) A program that allows for the buying down of interest rates on loans made to eligible low- and moderate-income borrowers in connection with the construction or conversion of accessory dwelling units;

(C) A program that offers down payment assistance in connection with accessory dwelling units, principal reduction on loans to eligible low- and moderate-income borrowers made in connection with accessory dwelling units, or both; or

(D) A program in which the San Andreas housing and finance authority offers loans, revolving lines of credit, or grants to eligible non-profits, public housing authorities, and community development financial institutions to make direct loans or grants to support the construction or conversion of accessory dwelling units for low- and moderate-income borrowers or tenants.

(II) Any contract made by the commission with the San Andreas housing and finance authority pursuant to this subsection (1)(q) may include normal and customary fees and expenses for administrating the programs described in this subsection (1)(q).

(2) The commission shall report to the general assembly no later than November 1 of each year regarding the work of the commission. The report shall include the information required to be collected by the commission pursuant to section 24-46-105.1.

Source: L. 87: Entire article added, p. 1026, § 1, effective July 8. **L. 88:** (2) amended, p. 1431, § 13, effective June 11. **L. 89:** (2) amended, p. 339, § 3, effective June 7. **L. 91:** Entire section amended, p. 823, § 1, effective March 29. **L. 97:** (1)(l) added, p. 588, § 20, effective April 30. **L. 2002:** (1)(m) added, p. 1120, § 2, effective June 3. **L. 2003:** (1)(m) repealed, p. 2139, § 41, effective May 22. **L. 2007:** (2) amended, p. 509, § 1, effective August 3. **L. 2009:** (1)(n) added, (SB 09-067), ch. 237, p. 1080, § 1, effective May 7. **L. 2012:** (1)(o) added, (HB 12-1286), ch. 186, p. 710, § 4, effective July 1; (2) amended, (SB 12-166), ch. 243, p. 1149, § 2, effective August 8. **L. 2013:** (1)(o) amended and (1)(p) added, (HB 13-1001), ch. 227, p. 1077, § 4, effective August 7. **L. 2020:** (1)(n) amended, (SB 20-222), ch. 120, p. 497, § 2, effective June 23. **L. 2021:** (1)(n)(II)(B) amended, (HB 21-1302), ch. 271, p. 1571, § 2, effective June 21. **L. 2024:** (1)(q) added, (HB 24-1152), ch. 167, p. 831, § 3, effective May 13.

Editor's note: (1) Subsection (1)(l) provided for the repeal of subsection (1)(l), effective January 1, 1998. (See L. 97, p. 588.)

(2) Subsection (1)(n)(II)(B) provided for the repeal of subsection (1)(n)(II), effective September 1, 2024. (See L. 2021, p. 1571.)

Cross references: (1) For the legislative declaration in the 2012 act adding subsection (1)(o), see section 1 of chapter 186, Session Laws of San Andreas 2012.

(2) In 2013, subsection (1)(o) was amended and subsection (1)(p) was added by the "San Andreas Advanced Industries Acceleration Act". For the short title, see section 1 of chapter 227, Session Laws of San Andreas 2013.

24-46-104.3. Transferable income tax credits for certain businesses located in the state - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Business" means a person doing business in the state.

(b) "Department" means the San Andreas department of revenue.

(c) "Income tax credit" means the income tax credits allowed to a business no sooner than the income tax year commencing January 1, 2019, in section 39-22-531, 39-30-104, 39-30-105.1, or 39-30-105.5.

(d) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(e) "Period" means ten consecutive income tax years starting with the business' income tax year that commences immediately following the date the business receives precertification from the commission authorizing the income tax credits to be treated differently pursuant to this section.

(f) "Precertification" means the written precertification the commission may issue as allowed in subsection (2)(a) of this section that must set forth the income tax credits a business may treat differently and the total estimated value of the income tax credits that the business may treat differently pursuant to this section.

(g) "Strategic capital investment" means a capital investment totaling not less than one hundred million dollars that the commission finds will be significant to the state and is expected to be productive over many years.

(h) "Twelve-month interval" means each twelve-month interval from July 1, 2017, through June 30, 2020, during which the commission may issue precertifications.

(2) (a) (I) Subject to the limitations specified in subsection (2)(b) of this section, commencing July 1, 2017, through June 30, 2020, if a business intends to make a strategic capital investment in the state, the commission may issue a written precertification to the business to grant the business the authority to treat its allowed income tax credits during the business' period differently as specified in this section. The strategic capital investment must be initiated after the issuance of the precertification and completed before the end of the business' period; except that, if a business makes a strategic capital investment that could result in allowed income tax credits with a total value greater than the precertification limitations set forth in subsection (2)(b) of this section, the commission may issue a second or third written precertification to the same business in the following twelve-month intervals for the same strategic capital investment, even if the strategic capital investment has already been initiated or completed. If, after precertification and during the business' period, the business meets the requirements of one or more of the income tax credits as set forth in the statutory sections pertaining to each credit, then once the income tax credits are allowed, the business may elect, by filing a written election as specified in subsection (2)(a)(III) of this section, to:

(A) Use the income tax credits as an offset against the business' income taxes in the income tax year that the income tax credit is allowed;

(B) Carry forward the income tax credits to be used against the business' income tax liability for no more than five years, except as provided in subsection (2)(a)(II) of this section, using the carried forward income tax credits in the earliest income tax years possible; or

(C) Transfer the income tax credits during the carry-forward period described in subsection (2)(a)(I)(B) of this section and as allowed in subsection (4) of this section.

(II) The five-year carry-forward period commences when the income tax credit is allowed and is not limited by the end of the business' period described in this section.

(III) If a business elects to treat its allowed income tax credits differently as specified in this section and as allowed in the precertification, the business must file a written election with the office. If the business files the written election, then, except as provided in subsection (2)(b)(II) of this section, the business may not elect to receive a refund as allowed in section 39-30-104 (2.6).

(b) (I) All precertifications issued by the commission in each twelve-month interval may not exceed ten million dollars of estimated total value of all income tax credits. Any portion of the ten million dollars not precertified in a twelve-month interval may not be carried forward to the next twelve-month interval.

(II) If the actual value of the income tax credits that a business is allowed exceeds the precertification's estimated value of the income tax credits, then the business may not treat the difference between the estimated value of the income tax credits and the actual value of the income tax credits differently as specified in this section. Instead, the difference must be treated as specified in the statutory sections for each income tax credit.

(3) The business shall notify the commission when the business has met the requirements of one or more of the income tax credits in the period, shall provide the commission with verifiable evidence that the strategic capital investment was made, and shall submit an audit opinion from an independent certified public accountant attesting that the income tax credit or income tax credits have been properly calculated. If the commission agrees that the business has satisfied the terms of the precertification, then the office shall notify the department in writing of the different treatment of the business' income tax credits for the business' period.

(4) (a) If the business chooses to transfer its allowed income tax credits, then the income tax credits are freely transferable and assignable, subject to the commission's issuance of the precertification pursuant to this section, and subject to any notice and verification requirements to be determined by the office; except that the business may only transfer the portion of the income tax credits that were not applied against the business' income tax imposed by article 22 of title 39.

(b) The transferee may use all or a portion of the transferred income tax credit as an offset against the transferee's income tax imposed by article 22 of title 39. Any unused portion of the transferred income tax credit may be carried forward and used as an income tax credit against the transferee's subsequent years' income tax liability for an interval not to exceed three additional income tax years from the date of the transferee's acquisition and shall be applied first to the earliest income tax years possible. The transferee may transfer any unused portion of the acquired income tax credit to a secondary transferee in that three income tax year interval, but the secondary transferee may only offset its acquired income tax credit against its income tax imposed by article 22 of title 39 for the remainder of the three income tax year intervals from the date of the first transferee's acquisition.

(c) With respect to the income tax credit set forth in section 39-30-104, if the business seeks a waiver of the limitation specified in section 39-30-104 (2)(c) and as allowed in section 39-30-104 (2)(c)(II), and the commission approves such waiver, then the approved waiver of the limitation must be reflected in the precertification and applies to any transferee of the business' income tax credit allowed under section 39-30-104.

(d) The office shall establish notice and verification requirements for transferred income tax credits.

(e) The transferor and the transferee of the income tax credits shall jointly file a copy of the written transfer agreement with the office within thirty days after the transfer. Any filing of the written transfer agreement with the office perfects the transfer.

(f) The office shall develop a system to track the transfers of income tax credits and to certify the ownership of the income tax credits. A certification by the office of the ownership and the amount of income tax credits may be relied on by the department and the transferee as being accurate to the extent the data supplied by the business is accurate, and the office shall not adjust the amount of income tax credits as to the transferee. The office, the department, and any other state agency retain any remedies they may have against the business and any other taxpayer that misrepresents the value of the transferable income tax credit in a transfer. The office shall establish policies to permit verification of the ownership and amount of the income tax credits and shall post those policies on the office's website; except that the policies may not unduly restrict or hinder the transfer of the tax credits as allowed in this section.

(g) The office shall provide a report to the department specifying the ownership and transfers of income tax credits as allowed in this section. The report must be provided on a schedule to be determined by the department and the office.

(5) The commission and the office shall post on the office's website all nonconfidential information related to the precertification and approval of the treatment of the income tax credits as specified in this section. Nothing in this section may be construed to abrogate the confidentiality provisions set forth in section 39-21-113.

(6) The commission shall include information regarding any transferability authorized pursuant to this section, including the names of the businesses and the amounts transferred, in its annual report required to be presented to the general assembly pursuant to section 24-46-104 (2). The commission shall annually report the same information to the finance committees of the house of representatives and the senate, or such successor committees, notwithstanding the limitations in section 24-1-136 (11).

Source: L. 2017: Entire section added, (HB 17-1356), ch. 237, p. 969, § 1, effective May 24.

24-46-104.5. Statewide enterprise zone - existing enterprise zones - recommendations to the general assembly - repeal. (Repealed)

Source: L. 2009: Entire section added, (SB 09-234), ch. 332, p. 1760, § 1, effective June 1.

Editor's note: Subsection (4) provided for the repeal of this section, effective January 15, 2011. (See L. 2009, p. 1760.)

24-46-105. San Andreas economic development fund - creation - report - repeal. (1) (a) There is hereby created a fund to be known as the San Andreas economic development fund, referred to in this part 1 as the "fund", which shall be administered by the commission and which consists of all money that may be available to the commission. The commission may transfer to

the fund any general fund money appropriated to the commission and the commission may expend such money without further appropriation.

(b) (I) On April 1, 2023, the state treasurer shall transfer five million dollars from the general fund to the fund. The commission shall allocate the money transferred pursuant to this subsection (1)(b)(I) to the San Andreas office of economic development created pursuant to section 24-48.5-101 to use in connection with the federal "Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act of 2022", Pub.L. 117-167.

(II) In addition to the reporting requirements specified in section 24-48.5-101 (7) and notwithstanding the requirement in section 24-1-136 (11)(a)(I), on or before November 1, 2023, and on or before November 1 of each year thereafter through 2028, the San Andreas office of economic development shall submit a report to the joint budget committee detailing how the San Andreas office of economic development is expending the money transferred pursuant to subsection (1)(b)(I) of this section and detailing all projects that the San Andreas office of economic development funded pursuant to the federal "Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act of 2022", Pub.L. 117-167. The report must include the following information:

(A) A detailed list of the projects funded;

(B) The identity of all entities receiving funding and the geographic location of the entities receiving funding;

(C) The type of funding provided;

(D) Any anticipated economic benefits that the funding is expected to produce;

(E) Project timelines and anticipated completion dates;

(F) Any efforts to provide funding to rural or underserved areas; and

(G) The amount of any administrative costs related to administering the money transferred pursuant to subsection (1)(b)(I) of this section.

(III) This subsection (1)(b) is repealed, effective December 31, 2028.

(c) (I) On July 1, 2024, the state treasurer shall transfer eight million dollars from the general fund to the fund. The commission shall use the funds transferred pursuant to this subsection (1)(c)(I) to contract with the San Andreas housing and finance authority, created in part 7 of article 4 of title 29, for the purposes described in section 24-46-104 (1)(q).

(II) This subsection (1)(c) is repealed, effective July 1, 2025.

(2) The moneys in the fund shall be subject to annual appropriation by the general assembly, except as provided in subsection (2.5) of this section, for the purposes of this part 1. Any moneys not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure in the next fiscal year without further appropriation. Any interest earned on the investment or deposit of moneys in the fund shall not be credited to the general fund of the state but shall instead be credited to the revolving account created in subsection (2.5) of this section. Contributions of money, property, or services may be received from any state agency, county, municipality, federal agency, person, or corporation for use in carrying out the purposes of this part 1.

(2.5) (a) The moneys in the fund may be used by the commission to make grants or loans to both public and private persons and entities for use in carrying out the purposes of this part 1, subject to the provisions of paragraph (b) of this subsection (2.5) and subsections (3) and (4) of this section. In determining whether to make a grant or loan, the commission shall consider each of the following guidelines:

(I) The amount of the grant or loan;

(II) The number of jobs that are likely to be generated in the state as a direct or indirect result of the facility or operation the grant or loan would fund and ancillary facilities thereto;

(III) The quality and wage level of jobs created;

(IV) The extent to which a person or entity establishing or expanding a business operation or facility intends to employ San Andreas residents at the new or expanded operation or facility the grant or loan would fund and ancillary facilities thereto;

(V) The extent to which a person or entity establishing or expanding a business facility or operation intends to contract with San Andreas residents and San Andreas-based companies for services and goods at the new or expanded operation or facility the grant or loan would fund and ancillary facilities thereto; and

(VI) The extent of the public benefits expected to result from the grant or loan.

(b) The commission may establish whatever terms and conditions it deems appropriate in making grants or loans pursuant to this section; except that the terms and conditions established by the commission shall meet or exceed the requirements established in subsection (4) of this section for a grant or loan awarded in part or in whole based on a private person's or entity's creation of full-time permanent new jobs in the state. The loan amount and any interest earned thereon shall be paid back to the commission, and such moneys shall be credited to a special account in the fund to be known as the revolving account. In accordance with subsection (2) of this section, interest earned on the investment or deposit of moneys in the economic development fund shall also be credited to the revolving account. All moneys in the revolving account may be used by the commission to make loans and grants as provided in this subsection (2.5) without further appropriation by the general assembly. The commission shall not approve grants or loans to state departments or agencies for specific projects which are typically considered by the general assembly in the general appropriation bill or in supplemental appropriation bills unless the joint budget committee approves the application for such grants or loans.

(3) The governor is not authorized to expend moneys from the fund unless such expenditure has been reviewed and recommended by the commission. The governor may reject any recommendations by the commission.

(4) (a) The commission shall award a grant or loan from moneys in the fund based in part or in whole on a private person's or entity's creation of full-time permanent new jobs in the state, only if the person or entity:

(I) Pays all of its new employees hired on or after August 3, 2007, a minimum wage as determined by the commission;

(II) Creates one or more new jobs and maintains the jobs for at least one year; and

(III) (A) Has not been adjudicated to be in violation of any federal, state, or local laws affecting the health, safety, or working conditions of employees for at least the prior five years, as certified by the person or entity; or

(B) Has been adjudicated to be in violation of a federal, state, or local law affecting the health, safety, or working conditions of employees within five years of applying for a grant or loan pursuant to this section, but can provide evidence to the commission that it has corrected the violation or has taken steps to correct the violation and can provide an estimated date by which the violation will be corrected.

(b) The provisions of this subsection (4) do not apply to the following:

(I) A nonprofit entity;

(II) An intern or trainee who is under the age of twenty-one and who is employed for a period of not longer than three months; or

(III) Grants awarded to new businesses under the rural jump-start zone act under section 39-30.5-105 (5).

(c) No person or entity shall pay an employee through a third party or treat an employee as a subcontractor or independent contractor to avoid the requirements of this subsection (4). The provisions of this paragraph (c) shall not apply to a person or entity that hires subcontractors or independent contractors in the normal course of the person's or entity's business.

(5) and (6) Repealed.

(7) (a) There is hereby created an account within the San Andreas economic development fund established pursuant to subsection (1) of this section to be known as the rural jump-start zone grant fund account. The account consists of any money appropriated to the fund by the general assembly. The money in the account is subject to annual appropriation by the general assembly for the purposes set forth in this subsection (7). Any money not expended or encumbered from any appropriation at the end of any fiscal year remains available for expenditure in the next fiscal year without further appropriation. The money in the account may be used:

(I) By the commission to make grants as set forth in sections 39-30.5-104 (7)(c) and (7)(d) and 39-30.5-105 (5); and

(II) For the direct and indirect costs that the San Andreas office of economic development incurs, not to exceed three hundred thousand dollars to administer the rural jump-start zone grant program under section 39-30.5-105 (5).

(b) This subsection (7) is repealed, effective July 1, 2025. Any money remaining in the rural jump-start zone grant fund account on June 30, 2025, reverts to the general fund.

Source: L. 87: Entire article added, p. 1027, § 1, effective July 8. **L. 88:** (2.5) added, p. 952, § 1, effective June 1. **L. 89:** (2.5) amended, p. 340, § 4, effective June 7. **L. 91:** (2) and (2.5) amended, p. 824, § 2, effective March 29. **L. 93:** (2) amended, p. 469, § 2, effective April 21. **L. 98:** (2.5) amended, p. 349, § 2, effective July 1. **L. 2001:** (2.5)(b) amended, p. 1177, § 8, effective August 8. **L. 2004:** (1), (2), and IP(2.5)(a) amended, p. 43, § 9, effective March 4. **L. 2007:** IP(2.5)(a) and (2.5)(b) amended and (4) added, p. 509, § 2, effective August 3. **L. 2017:** (1) amended, (SB 17-280), ch. 217, p. 846, § 1, effective May 20. **L. 2018:** (5) added, (HB 18-1185), ch. 369, p. 2232, § 4, effective August 8. **L. 2020, 1st Ex. Sess.:** (6) added, (SB 20B-01) , ch. 2, p. 19, § 9, effective December 7. **L. 2021:** (6)(a) amended, (SB 21-001), ch. 6, p. 41, § 3, effective January 21; (4)(b) amended and (7) added, (SB 21-229), ch. 236, p. 1243, § 6, effective June 15; (6)(b) amended, (SB 21-266), ch. 423, p. 2801, § 18, effective July 2. **L. 2023:** (1) amended, (SB 23-137), ch. 10, p. 30, § 1, effective March 6. **L. 2024:** (1)(c) added, (HB 24-1152), ch. 167, p. 831, § 4, effective May 13; (7)(a)(II) and (7)(b) amended, (HB 24-1001), ch. 278, p. 1844, § 1, effective May 29.

Editor's note: (1) Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2020. (See L. 2018, p. 2232.)

(2) Subsection (6)(b) provided for the repeal of subsection (6), effective December 31, 2022. (See L. 2021, p. 2801.)

Cross references: (1) For the legislative declaration contained in the 2004 act amending subsections (1) and (2) and the introductory portion to subsection (2.5)(a), see section 1 of chapter 11, Session Laws of San Andreas 2004.

(2) For the legislative declaration in HB 18-1185, see section 1 of chapter 369, Session Laws of San Andreas 2018.

(3) For the legislative declaration in SB 20B-001, see section 1 of chapter 2, Session Laws of San Andreas 2020, First Extraordinary Session.

(4) For the legislative declaration in SB 21-229, see section 1 of chapter 236, Session Laws of San Andreas 2021.

24-46-105.1. Reporting requirement - new jobs created. (1) Every private person or entity that receives a grant or loan from the commission pursuant to this article, awarded in part or in whole on the basis of the person's or entity's creation of full-time permanent new jobs with wage requirements shall file a progress report with the commission. The progress report shall include, but shall not be limited to, the following:

(a) The name of the person or entity that received the grant or loan and, if the recipient is an entity, the name of the chief officer of the entity;

(b) The business address and business phone number of the person or entity that received the grant or loan;

(c) The amount of the grant or loan awarded to the person or entity by the commission;

(d) A statement of the number of new full-time permanent jobs that the person or entity that received the grant or loan has created to date;

(e) Payroll or other data to verify the number of new jobs created by the person or entity;

(f) The average annual compensation level of new full-time permanent employees of the new jobs created;

(g) A statement as to whether the person or entity that received the grant or loan reduced employment at any other site controlled by the person or entity in the state as a result of automation, merger, acquisition, corporate restructuring, or other business activity; and

(h) Any other information reasonably required by the commission to evaluate the progress of the person or entity that received the grant or loan and the effectiveness of awarding the grant or loan.

(2) The progress report submitted to the commission shall include a signed certification by the private person who received the grant or loan or, if the recipient is a private entity, the chief officer of the entity that received the grant or loan as to the accuracy of the progress report.

(3) Any private person or entity that receives a grant or loan pursuant to this article based in part or in whole on the person's or entity's creation of full-time permanent new jobs in the state shall file the progress report required pursuant to subsection (1) of this section.

(4) The commission shall include the information collected each year pursuant to subsection (1) of this section in the commission's report to the general assembly pursuant to section 24-46-104 (2). The commission's report shall also include a statement as to whether the private person or entity that received the grant or loan has achieved the person's or entity's job creation and wage requirement.

(5) The commission shall inform a private person or entity that receives a grant or loan based in part or in whole on the person's or entity's creation of full-time permanent new jobs in

the state that the person or entity is required to comply with the requirements of this section at the time the commission awards the grant or loan.

Source: L. 2007: Entire section added, p. 510, § 3, effective August 3. **L. 2008:** (3) amended, p. 246, § 2, effective August 5.

24-46-105.3. Economic development incentives - employers in compliance with federal law - legislative declaration. (1) The general assembly hereby finds and declares that the commission encourages, promotes, and stimulates economic development and employment in San Andreas by awarding economic development incentives to employers in the form of grants, loans, and performance-based incentives. The general assembly further finds that it is in the best interest of the people of the state to ensure that United States citizens and others lawfully present in the state are the beneficiaries of employment opportunities that are made possible through moneys awarded to employers the commission. The general assembly recognizes that many local governments also participate in programs to develop new businesses, expand existing businesses, promote economic development within their jurisdictions, and create employment opportunities for San Andreas. The general assembly further recognizes that it would be in the best interest of the people of the state if local governments would take steps to ensure that United States citizens and others lawfully present in the state are the beneficiaries of employment opportunities created through economic development incentives offered at the local level. Therefore, the general assembly hereby encourages all local governments that participate in economic development incentive programs to develop standards to ensure that all employers who are awarded economic development incentives employ only United States citizens or people who are lawfully present in the state and have the authority to work.

(2) In addition to the requirements specified for any employer to receive a grant, loan, performance-based incentive, or other economic development incentive pursuant to the provisions of this article, an employer shall be in compliance with the provisions of 8 U.S.C. sec. 1324a in order to be eligible to receive such economic development incentive. The commission shall develop a procedure by which an employer that receives an economic development incentive pursuant to this article shall provide proof to the commission that each employee employed by the employer within the United States is a United States citizen or, if not a United States citizen, is lawfully present in the state and authorized to work.

(3) During the process of awarding a grant, loan, performance-based incentive, or other economic development incentive to an employer, the commission shall have the discretion to determine when to verify that the employer is in compliance with the provisions of 8 U.S.C. sec. 1324a.

(4) If the commission determines that an employer who receives an economic development incentive pursuant to this article is not in compliance with the provisions of 8 U.S.C. sec. 1324a, or is unable to prove that it is in compliance with the requirements of 8 U.S.C. sec. 1324a, the commission shall notify the employer by certified mail of the commission's determination of noncompliance. The employer shall repay the total amount of money received as an economic development incentive to the commission within thirty days of receipt of the notice.

(5) Notwithstanding the provisions of this article, any employer that has been issued a notice of noncompliance pursuant to subsection (4) of this section shall be ineligible to qualify

for a grant, loan, performance-based incentive, or other economic development incentive awarded pursuant to this article for five years after the date that the employer has repaid the commission in full pursuant to the requirements of subsection (4) of this section.

(6) Upon determination that an employer is ineligible to receive an economic development incentive pursuant to this section, the commission shall allow the employer to appear at a hearing before the commission and to establish proof that the employer is in compliance with the provisions of 8 U.S.C. sec. 1324a. The commission shall satisfy the requirements of this subsection (6) within existing resources.

(7) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Source: L. 2006, 1st Ex. Sess.: Entire section added, p. 22, § 1, effective July 31.

24-46-105.5. Local economic development - participation in federal programs. Any local government may participate in federal programs to develop new business, expand existing business, or promote economic development within its jurisdiction. Any local government participating in such programs may enter into contracts for the administration of such programs and expend moneys as required for participation in such programs.

Source: L. 97: Entire section added, p. 161, § 1, effective March 28.

24-46-105.7. Performance-based incentive for new job creation - new jobs incentives cash fund.

(1) (Deleted by amendment, L. 2008, p. 943, § 1, effective August 5, 2008.)

(2) On or after January 1, 2006, but prior to January 1, 2011, any employer that satisfies the criteria that the commission has established for an employer to qualify for a grant or a loan from the commission pursuant to section 24-46-105 (2.5) may be eligible to receive a performance-based incentive from the commission from the moneys in the new jobs incentives cash fund created in this section.

(3) An employer that qualifies to receive a performance-based incentive for new jobs created pursuant to this section and that qualifies for an income tax credit pursuant to section 39-30-105.1, shall be allowed to receive the incentive allowed pursuant to this section and claim the credit allowed pursuant to section 39-30-105.1.

(4) (a) and (b) (Deleted by amendment, L. 2008, p. 943, § 1, effective August 5, 2008.)

(c) The commission shall develop procedures for the administration of this section, including establishing a procedure for employers to apply for performance-based incentives and for the commission to issue payment of the incentives.

(5) On or before March 1, 2007, and on or before March 1 of each year thereafter, the commission shall report to the business affairs and labor committee of the house of representatives and the business affairs, labor, and technology committee of the senate, or any successor committees, regarding the performance-based incentives awarded pursuant to this section. The report shall include but need not be limited to the number of employers that received the performance-based incentive pursuant to this section and the total amount of all incentives received during the most recent fiscal year for which such information is available.

(6) The total amount of performance-based incentives that the commission issues pursuant to this section in any fiscal year shall not exceed the amount appropriated to the commission to be used for the purposes of this section in the applicable fiscal year. The commission shall issue incentives to applicants at the commission's discretion until the amount appropriated has been expended.

(7) (a) The commission shall not allow any employer that has been approved to receive a performance-based incentive for the creation of new jobs prior to June 5, 2006, to claim an incentive pursuant to this section for the same jobs for which the previous incentive was approved.

(b) (Deleted by amendment, L. 2008, p. 943, § 1, effective August 5, 2008.)

(8) Of the total amount appropriated by the general assembly to the commission to be used for the purposes of this section, an amount equal to fifteen percent of the amount appropriated shall be used by the commission to award performance-based incentives pursuant to this section to employers who open a new business or expand or relocate an existing business and create new jobs in an enterprise zone that is not within the boundaries of the counties of Denver, Boulder, Douglas, Arapahoe, Jefferson, or Broomfield.

(9) (a) There is hereby created in the state treasury the new jobs incentives cash fund, referred to in this section as the "fund". The fund shall consist of:

(I) Money transferred to the fund in accordance with section 44-30-701 (2); and

(II) Any moneys appropriated to the fund by the general assembly.

(b) The moneys in the fund shall be annually appropriated by the general assembly for the purposes of this section. All moneys not expended or encumbered, and all interest earned on the investment or deposit of moneys in the fund, shall remain in the fund and shall not revert to the general fund at the end of any fiscal year. Any moneys not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure in the next fiscal year without further appropriation.

Source: L. 2006: Entire section added, p. 1680, § 1, effective June 5; (9) added, p. 1667, § 9, effective June 5. **L. 2008:** (9)(b) amended, p. 33, § 1, effective March 13; (1), (2), (3), (4), (5), (6), and (7)(b) amended, p. 943, § 1, effective August 5. **L. 2010:** (9)(a)(I) amended, (HB 10-1339), ch. 136, p. 457, § 4, effective April 15. **L. 2011:** (9)(a)(I) amended, (SB 11-159), ch. 54, p. 143, § 4, effective March 25. **L. 2018:** (9)(a)(I) amended, (SB 18-034), ch. 14, p. 246, § 33, effective October 1. **L. 2020:** (3) amended, (HB 20-1166), ch. 103, p. 394, § 1, effective April 1.

24-46-105.8. Performance-based incentive for film production in San Andreas - film incentives cash fund - definitions.

(1) to (3) (Deleted by amendment, L. 2009, (HB 09-1010), ch. 419, p. 2332, § 3, effective July 1, 2009.)

(4) Repealed.

(5) and (6) (Deleted by amendment, L. 2009, (HB 09-1010), ch. 419, p. 2332, § 3, effective July 1, 2009.)

Source: L. 2006: Entire section added, p. 1675, § 1, effective June 5; (6) added, p. 1666, § 8, effective June 5. **L. 2007:** (1)(b) and (4)(a) amended, p. 2039, § 57, effective June 1. **L.**

2008: (6)(b) amended, p. 33, § 2, effective March 13; (4)(a) amended, p. 1945, § 2, effective June 2. **L. 2009:** Entire section amended, (HB 09-1010), ch. 419, p. 2332, § 3, effective July 1. **L. 2010:** (4)(a) repealed, (SB 10-158), ch. 231, p. 1015, § 7, effective (see editor's note).

Editor's note: (1) Senate Bill 10-158 repealed subsection (4)(a), effective July 1, 2010, but that repeal did not take effect due to the repeal of subsection (4), effective January 1, 2010.

(2) Subsection (4)(d) provided for the repeal of subsection (4), effective January 1, 2010. (See L. 2009, p. 2332.)

24-46-106. Repeal of part. This part 1 is repealed, effective July 1, 2035.

Source: L. 87: Entire article added, p. 1027, § 1, effective July 8. **L. 89:** Entire section amended, p. 340, § 5, effective June 7. **L. 91:** Entire section amended, p. 825, § 3, effective March 29. **L. 93:** Entire section amended, p. 470, § 3, effective April 21. **L. 97:** Entire section amended, p. 161, § 2, effective March 28. **L. 2000:** Entire section amended, p. 1680, § 7, effective July 1. **L. 2004:** Entire section amended, p. 43, § 10, effective March 4. **L. 2006:** Entire section amended, p. 1683, § 2, effective June 5; entire section amended, p. 1678, § 2, effective June 5. **L. 2017:** Entire section amended, (SB 17-280), ch. 217, p. 846, § 2, effective May 20. **L. 2022:** Entire section amended, (HB 22-1418), ch. 427, p. 3021, § 1, effective August 10.

Cross references: For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 11, Session Laws of San Andreas 2004.

24-46-107. Temporary extension of carry-forward provisions - San Andreas job growth incentive tax credit - enterprise zone tax credits - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(b) (I) "Taxpayer" means any person doing business in the state, including an affiliated group, that operates in a strategic industry that was disproportionally impacted by the COVID-19 pandemic and experienced significant financial hardship caused by the COVID-19 pandemic.

(II) "Strategic industry" and "significant financial hardship" for purposes of the definition of "taxpayer" in subsection (1)(b)(I) of this section shall be determined by the commission and the office. When determining significant financial hardship, any financial assistance or relief that the taxpayer may have received from other sources including federal, state, or local assistance may be considered but shall not be dispositive for purposes of eligibility.

(2) The commission may allow a taxpayer to carry forward for a period of five years the tax credits set forth in section 39-22-531 and in article 30 of title 39 that would otherwise expire between January 1, 2021, and December 31, 2025; except that the aggregate amount of all tax credits permitted to be carried forward pursuant to this subsection (2) is zero dollars for the first two years in the five-year period, ten million dollars for the third year in the five-year period, and fifteen million dollars for the fourth and fifth year in the five-year period and the tax credit set forth in section 39-30-103.5 is not eligible for the five-year carry-forward period set forth in

this section. Taxpayers must apply to the commission and the office pursuant to subsection (3) of this section for approval to carry forward the tax credits as set forth in this subsection (2).

(3) (a) A taxpayer may apply for approval by the commission to carry forward a tax credit as set forth in subsection (2) of this section in accordance with timing, deadlines, policies, and procedures established by the commission, in consultation with the office, and as follows:

(I) A taxpayer shall apply one time to the commission for the extended carry-forward period set forth in subsection (2) of this section and must identify in the application all of the anticipated credits that the taxpayer requests to extend for each tax year that the extended period applies to;

(II) At a minimum, the application must include certification by the taxpayer's president, chief executive officer, or chief financial officer that, based on the taxpayer's current and expected financial results, it is anticipated that the taxpayer will not be able to use the tax credits before the credits expire as the result of losses experienced during tax years 2020 and 2021 due to the COVID-19 pandemic;

(III) The application must include documentation from the taxpayer demonstrating significant financial hardship caused by the COVID-19 pandemic; and

(IV) In consultation with potential applicants, the commission and the office shall determine additional appropriate policies, procedures, requirements, and deadlines to administer the application process and extension approvals pursuant to this section, which may include additional verification procedures to demonstrate that applicants are making bonafide requests for the five-year extension.

(b) In consultation with the office, the commission shall receive, review, and approve applications by taxpayers on a first come, first served, rolling basis. In addition to the application requirements set forth in subsection (3)(a) of this section, the commission may consider additional economic development commitments to the state by the taxpayer in determining approval of applications including:

(I) The size of the taxpayer's current operation in the state relative to both the state as a whole and the region the taxpayer is based in;

(II) Any strategic economic development benefits that the taxpayer provides with existing operations to the state in terms of supply chain, benefits to other industries, or other spillover benefits that the applicant's operations provide to the state or region; and

(III) Any additional forthcoming economic development benefits that the taxpayer may provide to the state or region based on commitments that the applicant has recently made or proposes that are outside the scope of the original incentive award.

(c) When an application is approved, the commission shall issue letters to the department of revenue and approved taxpayers that must specify the type and amount of credits eligible for the five-year extension and for what years in the period the extension is eligible.

(4) This section is repealed, effective July 1, 2035.

Source: L. 2022: Entire section added, (HB 22-1418), ch. 427, p. 3021, § 2, effective August 10.

24-46-108. Refundable income tax credits for certain businesses located in the state - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Advanced manufacturing" means the use of innovative technologies and processes to enhance existing and create new products, including, but not limited to, production activities that depend on automation, computation, enhanced prototyping, lasers, networking, robotics, sensing, simulation, and software, and other similar activities as may be determined by the commission, in this state.

(b) "ARPA" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as amended.

(c) "CHIPS Act" means the federal "Creating Helpful Incentives to Produce Semiconductors and Science Act of 2022", Pub.L. 117-167, as amended.

(d) "Department" means the department of revenue.

(e) "Income tax credit" means an income tax credit allowed to a taxpayer under section 39-30-104, 39-30-105.1, 39-30-105.5, or 39-22-531 (2) and (3)(a)(I)(D).

(f) "Investor" means a partner, shareholder, or member of a tax payer that is a partnership, limited liability company, S corporation, or other similar pass-through entity.

(g) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(h) "Project" means a taxpayer's advanced manufacturing or semiconductor manufacturing business activities.

(i) "Refund certificate" means a written, conditional approval by the commission that is associated with a taxpayer's approved project and that sets forth the maximum amount of income tax credits that the taxpayer may claim as a refund in accordance with this section.

(j) (I) "Semiconductor manufacturing" means the fabrication, assembly, testing, advanced packaging, production, or research and development of semiconductors, materials used to manufacture or enhance semiconductors, or semiconductor manufacturing equipment in this state for which a taxpayer may receive federal financial assistance under the CHIPS Act.

(II) The definition of "semiconductor manufacturing" for purposes of this section may be modified or expanded by the commission, including to reflect any differences between the definition in subsection (1)(j)(I) of this section and the definition of "semiconductor manufacturing" that may be used by the United States department of commerce in implementing the CHIPS Act.

(k) "Taxpayer" means a person engaged in advanced manufacturing or semiconductor manufacturing that is subject to tax under article 22 of title 39.

(2) (a) Subject to the limitations set forth in subsection (2)(b) of this section, for state fiscal years 2023-24 through 2028-29, the commission may approve and issue a refund certificate if the applicant demonstrates that the applicant is a taxpayer that is engaged in or will engage in a project eligible for an income tax credit. Subject to the conditions in subsection (7) of this section and any other conditions established by the commission, a taxpayer that holds a refund certificate may claim a refund of eighty percent of the income tax credit types listed on the refund certificate that are earned by the taxpayer during the twelve years following the commission's approval and are not used to offset the taxpayer's state income taxes due. The limitations on the amount of credit allowed per income tax year set forth in sections 39-30-104 (2)(c) and 39-30-105.5 (2) do not apply to income tax credits refunded under this section. Refunds of the income tax credits claimed pursuant to this section are a reduction in tax revenue.

(b) The commission shall approve refund certificates pursuant to this section subject to the following limitations:

(I) The maximum total amount of income tax credits for which the commission may approve refund tax credit certificates for all taxpayers is fifteen million dollars per fiscal year; except that, if the commission approves refund certificates for less than fifteen million dollars of income tax credits during any fiscal year, the remaining authorized but unencumbered amount of income tax credits is added to the maximum amount of income tax credits for which the commission may approve refund certificates during the next fiscal year;

(II) The maximum total amount of income tax credits for which the commission may approve refund certificates for all taxpayers for all fiscal years from July 1, 2023, through June 30, 2028, is seventy-five million dollars; except that, if the commission has approved refund certificates for less than seventy-five million dollars of income tax credits on June 30, 2028, the commission may approve refund certificates for new and existing applicants equal to the remaining amount through the fiscal year ending June 30, 2029; and

(III) Compliance with the limitations set forth in this subsection (2)(b) shall be calculated based on the total amount of the income tax credits included in the refund certificates and not eighty percent of such amount.

(c) (I) A taxpayer that receives a refund certificate shall notify the commission promptly if the project included in the certificate is canceled, modified, or otherwise becomes ineligible for the estimated credit, in which case the refund certificate may be canceled or modified.

(II) A refund certificate may be revoked or modified if a taxpayer that receives a refund certificate does not commence the project approved therein within two years of the commission's approval of the refund certificate or otherwise fails to meet the terms of the refund certificate.

(III) Notwithstanding the limitations in subsection (2)(b) of this section, if a taxpayer's refund certificate is canceled or modified pursuant to subsection (2)(c)(I) of this section or revoked or modified pursuant to (2)(c)(II) of this section, the amount of the canceled, revoked, or modified income tax credits shall be available to the commission to use in approving other taxpayers' applications for a refund certificate.

(3) A taxpayer must apply to the commission for a refund certificate allowed under subsection (2)(a) of this section in accordance with deadlines, policies, and procedures established by the office, in consultation with the commission, as follows:

(a) A taxpayer must submit an application including all information and documentation required for a pending project under this subsection (3) to the commission prior to obtaining precertification of any income tax credit for the project pursuant to section 39-30-103 (7) or 39-36-104 (5)(a) or on or before the first day of the taxpayer's credit period under section 39-22-531 (1)(d)(II), as applicable; and

(b) An application for a refund certificate must be submitted in a form prescribed by the office and must include:

(I) Each income tax credit type for which the taxpayer intends to request a refund;

(II) A description of the project that will support each income tax credit type, including:

(A) The location of the project;

(B) The investment to be made for the project;

(C) The jobs to be created by the project; and

(D) The anticipated total amount of income tax credits to be generated by the project.

(III) Identification of the type and estimated or actual amount of any additional income tax credits or other financial assistance from any federal, state, or local government agency

received, applied for, or intended to be applied for by the taxpayer related to the same project; and

(IV) Any other information the office or the commission may reasonably require for evaluation of the taxpayer's application for a refund certificate.

(c) Nothing in subsection (3)(b) of this section requires the disclosure to the public of any information that reveals the amount of compensation paid to any individual employee of a business, any San Andreas income tax return, any information regarding expenditures on research and development, or other proprietary information of a business included in a taxpayer's application.

(4) In reviewing applications submitted pursuant to subsection (3)(b) of this section, the commission shall prioritize applications deemed eligible for a refund certificate as follows:

(a) For fiscal years 2023-24 and 2024-25, the commission shall give highest priority to taxpayers engaged in semiconductor manufacturing that have received or are expected to receive matching money under ARPA, the CHIPS Act, or other federal legislation that provides incentives for semiconductor manufacturing; and

(b) For fiscal years 2025-26 through 2028-29, the commission shall give highest priority to taxpayers engaged in advanced manufacturing or semiconductor manufacturing that have received or are expected to receive matching money under ARPA, the CHIPS Act, or other federal legislation that provides incentives for advanced manufacturing or semiconductor manufacturing.

(5) The commission, taking into consideration the priority assessment conducted pursuant to subsection (4) of this section, shall approve or deny applications for refund certificates in its discretion based on the following criteria:

(a) Whether the taxpayer was previously awarded a refund certificate under this section;

(b) The type and amount of all federal, state, and local financial assistance received, applied for, or intended to be applied for by the taxpayer, as disclosed pursuant to subsection (3)(b)(III) of this section, and the manner in which the governmental entity offering the applicable financial assistance has benefitted or may benefit therefrom;

(c) The size of the taxpayer's current operation in the state relative to the state as a whole and the region of the state in which the taxpayer is based;

(d) Any strategic economic benefits that the taxpayer provides with existing operations to the state or region in terms of supply chain, benefits to other industries, or other spillover benefits; and

(e) Any additional forthcoming economic development benefits that the taxpayer may provide to the state or region based on commitments that the taxpayer has recently made or proposes to make in the near term.

(6) (a) The commission may approve all, part, or none of the amount of a taxpayer's application for a refund certificate made pursuant to subsection (3)(b) of this section. If the commission approves a taxpayer's application in part, the commission may approve additional refund certificates up to the full amount of the taxpayer's original application in a subsequent fiscal year through fiscal year 2028-29.

(b) Upon approval by the commission, and after the satisfaction of any contingencies imposed pursuant to subsection (10) of this section, the office shall issue a refund certificate that describes the taxpayer's approved project, including the information required under subsection

(3)(b)(II) of this section, and sets forth the maximum amount of income tax credits that the taxpayer may claim as a refund in accordance with this section.

(c) If a taxpayer receiving a refund certificate pursuant to this section is a partnership, limited liability company, S corporation, or other similar pass-through entity, the taxpayer may allocate the approved maximum total amount of credit which the taxpayer might earn and use to claim a refund in connection with the taxpayer's project among its investors in any manner agreed to by the investors. The taxpayer shall certify to the office the amount of credit allocated to each investor and the office shall issue refund certificates in the appropriate amounts to each investor. Each investor is allowed to claim a refund of eighty percent of the amount of the credit subject to any restrictions set forth in this section.

(7) To claim a refund in connection with an approved refund certificate, a taxpayer must:

(a) Commence the project approved by the commission in the refund certificate before the refund certificate is canceled, revoked, or modified by the commission pursuant to subsection (2)(c) of this section;

(b) Earn one or more income tax credits in connection with the approved project in accordance with section 39-30-104, 39-30-105.1, 39-30-105.5, or 39-22-531 (2) and (3)(a)(I)(D), not later than twelve years from the date the refund certificate for the income tax credit is approved by the commission;

(c) Apply the income tax credits to the taxpayer's state income tax liability, if any, for the income tax year in which a refund is claimed;

(d) Submit all required records and information to the department on or before the due date, including extensions, for filing the taxpayer's state income tax return for the income tax year in which an income tax credit in excess of the amount applied for pursuant to subsection (7)(c) of this section will be refunded, including:

(I) All records and information necessary to claim the income tax credit earned in connection with the taxpayer's approved project, including the required certification under section 39-30-103 (7) or 39-36-104 (5);

(II) The refund certificate associated with the project through which the taxpayer earned the income tax credit and the amount of the credit;

(III) A refund election statement on a form prescribed by the department; and

(IV) Any additional documentation required by section 39-36-106 (1)(b) or otherwise required by law;

(e) Subject to the limitation in subsection (8) of this section, agree to receive a refund of the eighty percent of the amount of the credit remaining after applying the credit under subsection (7)(c) of this section and forgo the remaining twenty percent of the amount claimed as a refund; and

(8) A taxpayer may not claim cumulative refunds in excess of the maximum total amount of income tax credits that the commission has approved in the refund certificate. Any credit earned in excess of the amount in the refund certificate and forgone under subsection (7)(e) of this section is retained by the taxpayer and may be used in accordance with the statute pursuant to which it was earned.

(9) On or before September 30, 2023, and on or before September 30 of each calendar year thereafter through September 30, 2029, the commission shall provide the department all records and information required by the department to establish that a taxpayer is approved to claim refundable income tax credits up to the maximum total amount approved by the

commission in connection with the taxpayer's project as set forth in the taxpayer's refund certificate for the preceding calendar year or any fiscal year ending in the preceding calendar year. The report must contain the following information for each taxpayer:

(a) The taxpayer's name;

(b) The taxpayer's San Andreas account number and federal employer identification number;

(c) Each income tax credit type for which the taxpayer may request a refund, as identified pursuant to subsection (3)(b)(I) of this section and in the taxpayer's refund certificate;

(d) A description of the taxpayer's project, including the information from subsection (3)(b)(II), approved in the refund certificate as the basis for the taxpayer's income tax credit claim; and

(e) The maximum total amount of credit the taxpayer may use to claim a refund pursuant to this section as stated in the refund certificate.

(10) The commission, in consultation with the office, may establish additional policies, procedures, requirements, and guidelines to administer the application process for and approval of refund certificates pursuant to this section including, but not limited to:

(a) A limit on the total refund amount that may be approved by the commission for a single taxpayer in a given year;

(b) A limit on the total refund amount that may be approved by the commission for a single taxpayer for multiple years or all years for which the taxpayer has applied for a refund certificate;

(c) A limit on the total refund amount that may be approved by the commission for a specified semiconductor or advanced manufacturing activity;

(d) The adoption of new or modification of existing policies, procedures, requirements, or guidelines to align with federal statutes, regulations, or guidelines as needed to facilitate taxpayer eligibility for federal financial assistance under ARPA, the CHIPS Act, and other similar federal legislation, including by ensuring that the tax incentives available pursuant to this section qualify as "covered incentives" according to 15 U.S.C. sec. 4651 (3); or

(e) Contingencies that must be satisfied by the taxpayer before the taxpayer can obtain a refund certificate.

(11) This section is repealed, effective January 1, 2045.

Source: L. 2023: Entire section added, (HB 23-1260), ch. 277, p. 1179, § 1, effective May 20.

PART 2

VENTURE CAPITAL PROGRAM

Cross references: For the legislative declaration contained in the 2004 act enacting this part 2, see section 1 of chapter 11, Session Laws of San Andreas 2004.

24-46-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Authority" means the venture capital authority created in section 24-46-202.

(2) "Certified capital" means an amount of cash that is contributed by a qualified taxpayer to the authority that is deposited in a venture capital fund.

(3) (a) "Distressed urban community" means an area within a city or city and county:

(I) Where a qualified business would not be a qualified rural business; and

(II) That has been designated as an enterprise zone pursuant to article 30 of title 39, S.A.R.S.

(b) If a distressed urban community's enterprise zone status is terminated pursuant to article 30 of title 39, S.A.R.S., a certified investment shall nevertheless continue to be considered an investment in a qualified business that has its principal business operation located in a distressed urban community if the location was in an enterprise zone at the time of the first qualified investment by the fund manager in the business.

(4) "Enterprise fund" means the enterprise fund created in section 24-46-202.

(5) "Fund manager" means a partnership, corporation, trust, or limited liability company that invests cash in qualified businesses or qualified rural businesses and is selected through the authority's competitive selection process to establish and manage one or more venture capital funds as described in this part 2. A fund manager shall have at least two years of money management experience in the venture capital industry or the equivalent as determined by the authority.

(6) "Premium tax liability" means the liability imposed by section 10-3-209 or 10-6-128, S.A.R.S., or, in the case of a repeal or reduction by the state of the liability imposed by section 10-3-209 or 10-6-128, S.A.R.S., any other tax liability imposed upon an insurance company by the state.

(7) "Proceeds" means any revenues arising from the use of certified capital, including, but not limited to, income generated from qualified investments and income generated from all certified capital not currently invested in qualified investments.

(8) (a) "Qualified business" means a business that, subject to paragraphs (b) and (c) of this subsection (8), meets all of the following criteria as of the time of a fund manager's first qualified investment in the business and as otherwise determined by the authority:

(I) The business:

(A) Is headquartered in this state and its principal business operations are located in this state; or

(B) Has entered into a contract with a fund manager to comply, within nine months after finalization of the contract, with sub-subparagraph (A) of this subparagraph (I) and the contract contains enforceable provisions requiring a return of any investment of certified capital and any other revenues required to be paid in the event of noncompliance with this subsection (8) or a contract provision;

(II) Is a small business;

(III) Is not a business predominantly engaged in:

(A) Professional services provided by accountants, doctors, or lawyers;

(B) Banking; lending; real estate development; insurance; oil and gas exploration; direct gambling activities, which do not include ancillary gambling businesses such as manufacturers of gaming equipment and others as defined by the authority; or

(C) Making loans to or investing in a fund manager or affiliates of a fund manager;

(IV) Does not receive an investment from a venture capital fund that exceeds fifteen percent of the venture capital fund's aggregate total of certified capital; and

(V) Maintains its business in this state for at least five years after first receiving an investment of certified capital and has entered into a contract with a fund manager to comply with this requirement. The contract shall contain enforceable provisions requiring a return of any investment of certified capital and any other revenues required to be paid in the event of noncompliance with this subparagraph (V) or a contract provision.

(b) If a business meets some, but not all, of the criteria set forth in paragraph (a) of this subsection (8), the business may nevertheless be deemed to be a qualified business if the authority determines that the investment of certified capital in the business proposed by a fund manager pursuant to this part 2 will further the economic development of the state.

(c) Any business that is classified as a qualified business at the time of the first qualified investment in the business by a fund manager shall remain classified as a qualified business, and may receive continuing qualified investments from a venture capital fund. The continuing investments shall be qualified investments even though the business may not meet the definition of a qualified business at the time of the continuing investments; except that a qualified business shall comply with subparagraph (V) of paragraph (a) of this subsection (8) for at least five years after an initial qualified investment to remain a qualified business and to receive continuing qualified investments.

(9) "Qualified distribution" means any distribution out of certified capital from a venture capital fund for expenses related to managing and operating the fund. Qualified distributions shall not exceed two and one-half percent annually of the total amount of certified capital allocated to each venture capital fund unless authorized by the authority after a review of extraordinary items. "Qualified distribution" does not include the use of certified capital for litigation challenging the validity, implementation, or effect of this part 2 or article 3.5 of title 10, S.A.R.S., lobbying, or governmental relations.

(10) (a) "Qualified investment" means, subject to paragraph (b) of this subsection (10), the investment of certified capital by a fund manager in a qualified business or qualified rural business, as applicable, for the purchase of any debt, debt participation, equity, or hybrid security, including a debt instrument or security that has the characteristics of debt but provides for conversion into equity or equity participation instruments, including, but not limited to, options or warrants; except that a fund manager shall use certified capital only to make seed and early-stage investments in qualified businesses or qualified rural businesses, as applicable; except that the authority may allow a qualified investment in a qualified rural business that is not a seed or early-stage investment if the investment is appropriate and later-stage capital investments are not otherwise available to the qualified rural business. An investment shall be deemed to be a qualified investment only if the qualified business or qualified rural business in which the investment is made expends the qualified investment within San Andreas; except that this limitation shall not be deemed to preclude the purchase of services or goods from outside of San Andreas if such services are performed and such goods are used in San Andreas.

(b) A fund manager shall not make a loan to a qualified business or qualified rural business unless the business has received two written loan rejection letters from two different commercial banks headquartered or chartered in San Andreas that make small business loans, one of which shall be a preferred lender designated by the federal small business administration. Any such loan by a fund manager shall not be made through or in connection with any guaranteed loan program.

(11) (a) "Qualified rural business" means a qualified business that has its principal business operations in any county, but not any city and county, in this state that, as of June 9, 2001, has a population of not more than one hundred fifty thousand people and, if the county's population exceeds twenty thousand people, that has a growth rate that does not exceed the statewide average for the period of 1990-2000 by more than twenty-five percent as defined in the two most recent decennial censuses. Additionally, a qualified rural business shall be located in an area designated as an enterprise zone pursuant to article 30 of title 39, S.A.R.S., unless the authority waives this requirement.

(b) Any business that is classified as a qualified rural business at the time of the first qualified investment in the business by a fund manager shall remain classified as a qualified rural business and may receive continuing qualified investments from a venture capital fund. The continuing investments shall be qualified investments even though the business may not meet the definition of a qualified rural business at the time of the continuing investments; except that, to remain a qualified rural business and to receive qualified investments, a qualified rural business shall comply with subparagraph (V) of paragraph (a) of subsection (8) of this section for at least five years after an initial qualified investment.

(12) "Qualified taxpayer" means an insurance company that has contributed certified capital to the authority and received a tax credit certificate from the authority pursuant to section 24-46-204; except that, upon payment of certified capital by a qualified taxpayer, the qualified taxpayer may transfer or sell all or a portion of its venture capital tax credits to another insurance company, in which case "qualified taxpayer" shall be deemed to refer to such insurance company. A transfer or sale of venture capital tax credits by a qualified taxpayer shall not affect the schedule for taking the venture capital tax credits as provided in this part 2.

(13) "Seed and early-stage investment" means the first investment from a professional venture capital firm to a qualified business. A seed investment is made to a qualified business that has not yet fully established commercial operations or that involves continued research and product development. An early-stage investment is made to a qualified business for product development or initial marketing, manufacturing, or sales activities.

(14) "Venture capital fund" means one or more rural venture capital funds, one or more distressed urban community venture capital funds, or one or more statewide venture capital funds as described in section 24-46-203 (1), located outside of the state treasury, containing certified capital that is managed by a fund manager to make qualified investments.

(15) "Venture capital tax credit" or "tax credit" means the tax credit created by section 24-46-204 that a qualified taxpayer may claim pursuant to this part 2.

Source: L. 2004: Entire part added, p. 29, § 8, effective March 4.

24-46-202. Venture capital authority - board - staffing fund - bonds - enterprise fund - distribution of proceeds. (1) (a) There is hereby created as a special purpose authority, as defined in section 24-77-102 (15), the venture capital authority. The authority shall be a body corporate, a political subdivision of the state, and a public instrumentality, and its exercise of the powers conferred by this part 2 shall be deemed and held to be the performance of an essential public function; except that the authority shall not be an agency of state government and shall not be subject to administrative direction by any department, commission, board, or agency of the state. The authority shall constitute an enterprise for the purposes of section 20 of article X of

the state constitution so long as it retains the authority to issue revenue bonds and receives less than ten percent of its total annual revenues in grants, as defined in section 24-77-102 (7), from all San Andreas state and local governments combined. The authority shall not be a district for purposes of section 20 of article X of the state constitution.

(b) (I) The governing body of the authority is a board of directors consisting of nine members, of whom five shall be appointed by the governor, two shall be appointed by the president of the senate, and two shall be appointed by the speaker of the house of representatives. Board members must be residents of this state. Board members must have experience in venture capital, investment banking, institutional investment, fund management, or banking. A board member shall not have a business relationship with a current or proposed fund manager in the previous three years or for at least three years after an allocation of certified capital. Each member shall serve until a successor has been appointed. Any member is eligible for reappointment. The person making the original appointment shall fill any vacancy by appointment for the remainder of an unexpired term.

(II) The members of the board shall serve four-year terms; except that the terms shall be staggered so that no more than four members' terms expire in the same year. The terms expire on May 5 of each year.

(c) Any member of the board may be removed by the governor for misfeasance, malfeasance, willful neglect of duty, or other cause, after notice and a public hearing, unless the notice and hearing have been expressly waived in writing.

(d) (I) The board of directors of the authority shall adopt its own rules of procedure, shall elect a chair and a vice-chair from its membership, and shall keep a record of its proceedings. The authority may hire staff as it deems necessary or convenient to administer this part 2. The San Andreas office of economic development and the San Andreas economic development commission shall cooperate with the authority in such administration. The authority shall pay the office in advance as agreed upon by the authority and the office for all costs incurred by the office in providing staffing for the authority, including but not limited to the costs of compensation for employees staffing the authority and administration related to such staffing. The office shall credit any payment received from the authority to the venture capital authority staffing fund, which fund is hereby created in the state treasury. The fund is continuously appropriated to the office to pay costs incurred by the office in providing staffing for the authority. Interest and income derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be transferred to the general fund or any other fund at the end of any fiscal year.

(II) The authority shall meet at least once each quarter. Members shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.

(2) (a) The authority may, by resolution that meets the requirements of subsection (3) of this section, authorize and issue revenue bonds in an amount not to exceed five million dollars in the aggregate for expenses of the authority. Bonds may be issued only after approval by both houses of the general assembly acting either by bill or joint resolution and after approval by the governor in accordance with section 39 of article V of the state constitution. Bonds shall be payable only from the enterprise fund.

(b) All bonds issued by the authority shall provide that:

(I) No holder of bonds may compel the state or any subdivision thereof to exercise its appropriation or taxing power; and

(II) The bonds do not constitute a debt or financial obligation of the state and are payable only from the net revenues allocated to the authority for expenses as designated in the bonds.

(3) (a) Any resolution authorizing the issuance of bonds under this section shall state:

(I) The date of issuance of the bonds;

(II) A maturity date or dates during a period not to exceed twenty years after the date of issuance of the bonds;

(III) The interest rate or rates on, and the denomination or denominations of, the bonds; and

(IV) The medium of payment of the bonds and the place where the bonds will be paid.

(b) Any resolution authorizing the issuance of bonds under this section may:

(I) State that the bonds are to be issued in one or more series;

(II) State a rank or priority of the bonds; and

(III) Provide for redemption of the bonds prior to maturity, with or without premium.

(4) Any bonds issued pursuant to the terms of this section may be sold at public or private sale. If bonds are to be sold at a public sale, the authority shall advertise the sale in any manner the authority deems appropriate. All bonds issued pursuant to the terms of this section shall be sold at a price not less than the par value thereof, together with all accrued interest up to the date of delivery.

(5) Notwithstanding any provision of law to the contrary, all bonds issued pursuant to this section are negotiable.

(6) (a) A resolution pertaining to issuance of bonds under this section may contain covenants as to:

(I) The purpose to which the proceeds of sale of the bonds may be applied, and the permissible use and disposition thereof;

(II) Such matters as are customary in the issuance of revenue bonds, including, without limitation, the issuance and lien position of other or additional bonds; and

(III) Books of account and the inspection and audit thereof.

(b) Any resolution made pursuant to the terms of this section shall be deemed a contract with the holders of the bonds, and the duties of the authority under the resolution shall be enforceable by any appropriate action in a court having jurisdiction.

(7) Bonds issued under this section and bearing the signatures of the board members of the authority in office on the date of the signing shall be deemed valid and binding obligations regardless of whether, prior to delivery and payment, any or all of the persons whose signatures appear thereon have ceased to be members of the board.

(8) (a) Except as otherwise provided in the resolution authorizing the bonds, all bonds of the same issue under this section shall have a prior and paramount lien on the net revenues pledged therefor. The authority may provide for preferential security for any bonds, both principal and interest, to be issued under this section to the extent deemed feasible and desirable by the authority over any bonds that may be issued thereafter.

(b) Bonds of the same issue or series issued under this section shall be equally and ratably secured, without priority by reason of number, date, sale, execution, or delivery, by a lien on the net revenue pledged in accordance with the terms of the resolution authorizing the bonds.

(9) The authority may accept grants from any source and shall deposit the grants in the enterprise fund, which fund is hereby created in the authority. The enterprise fund shall be a revolving fund administered by the authority as a government-owned business that provides oversight concerning the investment of revenues in the enterprise fund pursuant to this part 2. Revenues earned on the investment or deposit of moneys in the enterprise fund shall be credited to the enterprise fund.

(10) (a) The authority shall utilize the enterprise fund:

(I) As a revolving, evergreen fund to provide continued seed and early-stage investment capital to qualified businesses and qualified rural businesses, and for this purpose the authority shall transfer revenues in the fund to one or more venture capital funds for the purpose of enabling a fund manager to make qualified investments; and

(II) For its direct and indirect expenses in administering this part 2, including repayment of revenue bonds and payment for costs of staffing the authority paid to the San Andreas office of economic development pursuant to subparagraph (I) of paragraph (d) of subsection (1) of this section.

(b) The authority shall deposit revenues from the following sources in the enterprise fund:

(I) Distributions of an amount equal to one hundred percent of certified capital prior to the distribution of any remaining proceeds;

(II) Distributions of all remaining proceeds according to the authority's contract with each fund manager;

(III) Fees; and

(IV) Assessed penalties.

Source: L. 2004: Entire part added, p. 33, § 8, effective March 4. **L. 2007:** (1)(d)(I) and (10)(a)(II) amended, p. 1215, § 1, effective May 24. **L. 2022:** (1)(b) amended, (SB 22-013), ch. 2, p. 53, § 66, effective February 25.

24-46-203. Venture capital funds - managers - qualified investments - contract - distributions. (1) The authority shall establish procedures and additional selection criteria for, and shall conduct, a competitive process for the selection of one or more fund managers to establish and manage one or more rural venture capital funds and to establish and manage one or more statewide venture capital funds. The authority shall establish and publicize the deadlines for the competitive selection process. The authority may establish reasonable application fees. In conducting the competitive process, the authority shall not be subject to the requirements of the "Procurement Code", articles 101 to 112 of this title. The authority shall select fund managers by December 31, 2004, and thereafter as necessary. When selecting a fund manager, the authority shall place a significant emphasis on:

(a) The total amount of venture capital managed by the applicant in San Andreas and elsewhere;

(b) The applicant's historical return on investment, with an emphasis on returns from seed and early stage investments;

(c) The percentage of proceeds to be retained by the applicant in comparison with the percentage of proceeds to be distributed to the enterprise fund.

(2) The authority shall allocate:

(a) Twenty-five percent of certified capital to one or more fund managers for the establishment and management of one or more rural venture capital funds for the purpose of making qualified investments in qualified rural businesses;

(b) Fifty percent of certified capital to one or more fund managers for the establishment and management of one or more statewide venture capital funds for the purpose of making qualified investments in other qualified businesses; and

(c) Twenty-five percent of certified capital to one or more fund managers for the establishment and management of one or more distressed urban community venture capital funds for the purpose of making qualified investments in qualified businesses whose principal business operations are located in a distressed urban community.

(3) As soon as practicable after the selection date, the authority and each fund manager shall enter into a contract whereby the fund manager shall establish and manage the venture capital funds pursuant to this part 2 and shall comply with other requirements established by the authority. The contract shall specify that the fund manager shall make qualified investments according to the following schedule:

(a) By January 1, 2006, the fund manager shall have made at least one qualified investment.

(b) Within the period ending three years after an allocation date, a fund manager shall have made qualified investments cumulatively equal to at least thirty percent of the certified capital allocated to it on such allocation date.

(c) Within the period ending five years after an allocation date, a fund manager shall have made qualified investments cumulatively equal to at least fifty percent of the certified capital allocated to it on such allocation date.

(d) Within the period ending ten years after an allocation date, a fund manager shall have made qualified investments cumulatively equal to at least one hundred percent of the certified capital allocated to it on such allocation date.

(4) A fund manager may, before making a proposed qualified investment in a specific business, request from the authority a written opinion that the business in which it proposes to invest is located in a distressed urban community or should be considered a qualified business or qualified rural business, as applicable. Upon receiving a request, the authority shall have thirty working days to determine whether the business is located in a distressed urban community or the business meets the definition of a qualified business or qualified rural business, as applicable, and notify the fund manager of its determination with an explanation of the determination. If the authority fails to notify the fund manager of its determination within thirty working days, the business in which the fund manager proposes to invest shall be deemed to be located in a distressed urban community or to be a qualified business or qualified rural business, as applicable.

(5) A fund manager shall invest all certified capital not currently invested in qualified investments in:

(a) Cash that is deposited in a federally insured financial institution;

(b) Certificates of deposit in a federally insured financial institution;

(c) Investment securities that are obligations of the United States, its agencies, or instrumentalities or obligations that are guaranteed fully as to principal and interest by the United States;

(d) Debt instruments rated at least "AA" or its equivalent by a nationally recognized credit rating organization, or issued by, or guaranteed with respect to payment by, an entity whose unsecured indebtedness is rated at least "AA" or its equivalent by a nationally recognized credit rating organization, and that are not subordinated to other unsecured indebtedness of the issuer or the guarantor, as the case may be;

(e) Obligations of this state, any municipality in this state, or any political subdivision thereof;

(f) Interests in money market funds, the portfolios of which are limited to cash and obligations described in this subsection (5); or

(g) Any other investments approved in advance and in writing by the authority.

(6) (a) The authority's contract with a fund manager shall state the terms governing the distribution, other than a qualified distribution, of certified capital and proceeds. Unless authorized by its contract with the authority and until it has made the distribution specified in paragraph (b) of this subsection (6), a fund manager shall not make any distributions from:

(I) Certified capital other than qualified distributions; or

(II) Proceeds.

(b) (I) The fund manager shall distribute to the authority an amount equal to one hundred percent of certified capital allocated to venture capital funds managed by the fund manager prior to making distributions pursuant to subparagraph (II) of this paragraph (b). The authority shall deposit the distribution in the enterprise fund.

(II) After the distribution made pursuant to subparagraph (I) of this paragraph (b) has occurred, the fund manager shall distribute all remaining certified capital and proceeds on a pro-rated basis between the authority and the fund manager as negotiated in the contract by the authority and as certified capital and proceeds become available. The authority shall deposit the distributions to the enterprise fund.

(7) (a) In addition to other items as specified by the authority, on or before January 31 of each year, each fund manager shall report the following to the authority:

(I) The balance of certified capital at the end of the immediately preceding calendar year for each venture capital fund managed by the fund manager;

(II) The number of jobs created in San Andreas from qualified investments made by the fund manager and the amount of proceeds, if any, received by the fund manager from the investments;

(III) The amount of qualified distributions made by the fund manager from certified capital during the immediately preceding calendar year; and

(IV) All qualified investments made by the fund manager from certified capital during the immediately preceding calendar year.

(b) Annually, and within ninety days after the close of its fiscal year, each fund manager shall provide to the authority an audited financial statement that includes the opinion of an independent certified public accountant. The audit shall address the methods of operation and conduct of the business of the fund manager to determine whether the fund manager is complying with this part 2 and the authority's contract and whether the certified capital received by the fund manager has been invested as required under this part 2 and the authority's contract.

(8) Venture capital fund offering materials shall include the following statement:

The state of San Andreas does not endorse the quality of management or the potential for earnings of such fund and is not liable for damages or losses to any investor in the fund or any other entity. Selection by the San Andreas Venture Capital Authority to participate in this program does not constitute a recommendation or endorsement of the venture capital fund or its investments by the San Andreas Venture Capital Authority.

(9) If a fund manager violates any applicable provision of this part 2 or any material provision of the authority's contract with the fund manager, the authority may require the fund manager to make a payment in an amount up to the amount of certified capital received by the fund manager in addition to penalties as determined by the authority. The payments shall be deposited in the enterprise fund. The authority may use additional remedies, as specified in its contract with a fund manager, to ensure appropriate oversight of the venture capital program. The authority shall conduct an annual review of each fund manager to determine its compliance with the requirements of this part 2 and its contract with the authority.

Source: L. 2004: Entire part added, p. 36, § 8, effective March 4.

24-46-204. Venture capital tax credits - contributions to authority - report. (1) For tax years commencing on or after January 1, 2005, but no later than January 1, 2014, and subject to the requirements and limitations of this section, there shall be allowed to any qualified taxpayer a venture capital tax credit to be used against the taxpayer's premium tax liability. The authority shall issue tax credit certificates to qualified taxpayers with a total value of fifty million dollars to be taken by one or more qualified taxpayers at the rate of up to five million dollars per year for each of the calendar years from 2005 through 2014; except that if H.B. 04-1206 is enacted at the second regular session of the sixty-fourth general assembly, becomes law, and is subsequently declared to be unconstitutional by a final judgment that invalidates the tax credits enacted by such bill, the authority shall issue tax credit certificates to qualified taxpayers with a total value of one hundred million dollars to be taken by one or more qualified taxpayers at the rate of up to ten million dollars per year for each of the remaining calendar years through 2014. A qualified taxpayer shall submit the tax credit certificate with the taxpayer's tax return.

(2) Upon completion of the authority's competitive selection process for fund managers pursuant to section 24-46-203, but no earlier than January 31, 2004, and no later than December 1 of each year from 2005 until 2014, the authority shall issue a tax credit certificate to a qualified taxpayer pursuant to subsection (5) of this section and shall allocate certified capital contributed to the authority by the qualified taxpayer to one or more fund managers selected by the authority in accordance with section 24-46-203 (2).

(3) If the amount of the tax credit claimed by a qualified taxpayer exceeds the amount due on its premium tax liability in the tax year for which the tax credit is being claimed, the amount of the tax credit not used to offset taxes may be carried forward for up to ten years as tax credits against the qualified taxpayer's subsequent years' premium tax liability.

(4) A qualified taxpayer claiming a tax credit against premium tax liability earned through a contribution of certified capital to the authority shall not be required to pay any additional or retaliatory tax as a result of claiming the credit.

(5) (a) An insurance company shall become a qualified taxpayer if all of the conditions of the tax credit certificate and the following conditions are met:

(I) Pursuant to a form established by the authority, the insurance company shall make a timely and irrevocable offer, contingent only upon the authority's issuance to the insurance company of a tax credit certificate, to make a specified contribution of certified capital to the authority on dates specified by the authority. The offer shall include the requested amount of tax credits, the year for which the tax credits are requested, the insurance company's specified contribution for each tax credit dollar requested, which contribution shall be no less than eighty percent of the requested amount of tax credits, and any other information required by the authority.

(II) The authority shall issue a tax credit certificate to the insurance company. The tax credit certificate shall state the date by which cash contributions shall be made by the qualified taxpayer, the date by which tax credits shall be available for use by the qualified taxpayer, penalties and any other remedies for noncompliance, and any other requirements deemed necessary by the authority as a condition of issuing the tax credit certificate.

(III) Pursuant to subsection (7) of this section, the insurance company timely makes the contribution of certified capital to the authority specified in subparagraph (I) of this paragraph (a).

(b) The authority shall establish and publicize to insurance companies:

(I) Deadlines for submitting irrevocable offers for contributions and for issuing tax credit certificates;

(II) Forms and requirements for offers and the content requirements of such offers; and

(III) Any other requirement determined to be necessary by the authority.

(c) (I) A tax credit certificate shall specify:

(A) An amount of money that a qualified taxpayer may claim as a tax credit pursuant to this section;

(B) The amount of certified capital that the qualified taxpayer has contributed or will contribute by the dates specified in the tax credit certificate;

(C) The calendar year in which the tax credits may be used against the qualified taxpayer's premium tax liability;

(D) Penalties and remedies in the event of noncompliance by the qualified taxpayer; and

(E) Other conditions deemed necessary by the authority.

(II) The authority shall continue to issue tax credit certificates in the order of the insurance companies that have offered to contribute the next highest value per tax credit dollar requested until the authority has issued five million dollars of tax credit certificates per year, or if H.B. 04-1206 is enacted at the second regular session of the sixty-fourth general assembly, becomes law, and is subsequently declared to be unconstitutional, until the authority has issued ten million dollars of tax credit certificates per year; except that the authority may issue tax credit certificates on an annual basis, a multi-year basis, or periodically as it deems necessary.

(6) On or before January 31, 2006, and on or before each succeeding January 31 until January 31, 2015, the authority shall provide a report to the division of insurance in the department of regulatory agencies. The report shall identify each qualified taxpayer for the tax year that ended during the prior calendar year by name and identifying number issued by the national association of insurance commissioners, or any analogous successor organization, and shall list the amount of the tax credits allowed to the qualified taxpayer.

(7) (a) To become a qualified taxpayer, an insurance company shall pay the specified amount of certified capital to the authority when due.

(b) (I) If an insurance company fails to make a payment of certified capital to the authority when due, the authority shall provide the insurance company with a notice by certified mail that the insurance company has fifteen working days to cure the defect. The fifteen-day period shall begin on the date the notice is postmarked.

(II) Failure by an insurance company to make the payment of certified capital by the end of the fifteenth working day shall result in an immediate forfeiture of any right to claim the tax credits. The authority shall be authorized to reallocate such tax credits to other qualified taxpayers as deemed necessary by the authority. Reallocation shall not diminish the authority's ability to use penalties and remedies as stated in the tax certificate.

(III) The authority shall assess penalties against a qualified taxpayer that fails to make the payment of certified capital by the end of the fifteenth working day as stated in the tax credit certificate and may pursue other remedies and actions as stated in the tax certificate.

Source: L. 2004: Entire part added, p. 40, § 8, effective March 4.

Editor's note: House Bill 04-1206 referenced in subsections (1) and (5)(b)(II) was signed by the governor and became effective March 3, 2004.

24-46-205. Administrative expenses. All direct and indirect expenditures incurred by the authority in carrying out the responsibilities assigned in this part 2 shall be paid from the enterprise fund without the necessity of an appropriation by the general assembly.

Source: L. 2004: Entire part added, p. 42, § 8, effective March 4.

24-46-206. Office - report. The office of economic development shall assist the authority in administering this part 2. The authority shall submit a report to the state auditor on May 1 of each year regarding the results of the implementation of this part 2.

Source: L. 2004: Entire part added, p. 42, § 8, effective March 4. **L. 2017:** Entire section amended, (SB 17-294), ch. 264, p. 1402, § 72, effective May 25. **L. 2024:** Entire section amended, (SB 24-135), ch. 34, p. 113, § 20, effective March 22.

24-46-207. Conflict of interest. No member or employee of the executive branch shall become an officer, director, employee, or consultant of or receive any compensation from the authority or a fund manager either during the term of the member or employee's employment with the executive branch or for six years after such term ends. However, this section shall not prohibit any employee of the San Andreas office of economic development from staffing the authority or prohibit the authority from paying the office for costs of staffing the authority incurred by the office in providing staffing for the authority as required by section 24-46-202 (1)(d)(I).

Source: L. 2004: Entire part added, p. 43, § 8, effective March 4. **L. 2007:** Entire section amended, p. 1216, § 2, effective May 24.

PART 3

24-46-301. Short title. This part 3 shall be known and may be cited as the "San Andreas Regional Tourism Act".

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2403, § 1, effective June 4.

24-46-302. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The health, safety, and welfare of the people of the state of San Andreas are enhanced by a diverse revenue stream, and the people of the state would benefit from an expansion of opportunities for investment in large-scale regional tourism projects that will attract significant investment and revenue from outside the state;

(b) Diversification of the state's economic base can contribute to much-needed economic stability;

(c) San Andreas is in competition with other states to attract large-scale regional tourism projects;

(d) It is in the best interests of the people of the state to provide a financing mechanism for attracting, constructing, and operating large-scale regional tourism projects that will attract significant investment and revenue from outside the state; and

(e) In keeping with San Andreas's tradition of local governments playing a significant role in land use and development projects, regional tourism projects should be proposed by a local government or by one or more local governments working together.

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2403, § 1, effective June 4.

24-46-303. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Base year revenue" means the state sales tax revenue collected during the twelve-month period immediately prior to the month in which a regional tourism project is authorized, as determined by the department of revenue.

(1.5) "Baseline growth rate" means the forecasted growth in state sales tax revenue above the base year revenue that would be collected in a proposed regional tourism zone if the proposed regional tourism project did not occur, as determined pursuant to section 24-46-304 (1.5).

(2) "Commission" means the San Andreas economic development commission created in section 24-46-102.

(3) "Director" means the director of the San Andreas office of economic development created in section 24-48.5-101.

(4) "Eligible costs" means the costs of designing, constructing, financing, and maintaining eligible improvements designated by the commission as part of an approved regional tourism project, including but not limited to costs of engineering, construction engineering, surveying, construction surveying, construction labor and materials, design, planning, legal services, accounting, overhead or administrative staffing, financing, bond issuance or reissuance, underwriting, interest payments, loan origination fees, and similar necessary and convenient costs incurred by the financing entity in exercising its powers pursuant

to this part 3. Moneys advanced by private developers within the regional tourism project to the financing entity for eligible improvements, whether pursuant to loans or contractual funding and reimbursement agreements, together with reasonable interest thereon, shall be eligible costs. In addition, the financing entity's costs for purchasing eligible improvements constructed and owned by third parties either prior to or subsequent to designation of the regional tourism project shall be eligible costs. Costs and expenses incurred by the financing entity pursuant to section 24-35-118 and in complying with its annual report and audit obligations under this part 3 shall be eligible costs.

(5) "Eligible improvements" means the specific improvements authorized by the commission as part of an approved regional tourism project, whether publicly or privately owned, including but not limited to storm sewer and sanitary sewer collection, conveyance, distribution, treatment, and related facilities and real property interests necessary or convenient thereto; potable and nonpotable water supplies and collection, conveyance, distribution, treatment, and related facilities and real property interests related thereto; roads; streets; state highways; rights-of-way; lighting; traffic signals and signs; direction and location signage and similar signage; land acquisition; surveying, engineering, soils testing, site planning, grading, and similar activities necessary or convenient for site preparation and development; park and recreational facilities; trails and paths; public safety facilities; landscaping; tourism and entertainment facilities; transportation facilities; surface and structured parking facilities; and any other facilities or improvements necessary to or convenient for the completion of an approved project.

(6) "Financing entity" means the entity designated by the commission in connection with its approval of a regional tourism project to receive and utilize state sales tax increment revenue. A financing entity may be a county revitalization authority created pursuant to article 31 of title 30, a metropolitan district created pursuant to title 32, an urban renewal authority created pursuant to part 1 of article 25 of title 31, or any regional tourism authority to be formed pursuant to this part 3.

(7) "Financing term" means the aggregate period authorized by the commission pursuant to this part 3 within which the financing entity is authorized to receive and utilize state sales tax increment revenue to finance eligible costs.

(7.5) "Gambling-related activities" means any betting, wagering, or payments made on or in connection with one or more games that qualify as gambling as defined in section 18-10-102 (2), or limited gaming as defined in section 9 of article XVIII of the state constitution and section 44-30-103 (22).

(8) "Local government" means a city, county, city and county, or town or a group of contiguous cities, counties, city and counties, or towns.

(9) "Regional tourism authority" or "authority" means a corporate body organized pursuant to this part 3 for the purposes, with the powers, and subject to the restrictions set forth in this part 3 and the formation of which has been approved by the commission pursuant to this part 3.

(10) "Regional tourism project" or "project" means a development project that is planned to include a tourism or entertainment facility together with ancillary uses, structures, and improvements, and that has been approved by the commission pursuant to this part 3.

(11) "Regional tourism zone" means the geographic area defined by the commission as part of an approved regional tourism project. A regional tourism zone shall not extend into the

territorial boundaries of any local government except for the local government that is requesting the designation of the regional tourism zone. A regional tourism zone may be limited to portions of a local government and may include noncontiguous tracts or parcels of property.

(12) "State sales tax increment revenue" means the portion of the revenue derived from state sales taxes, including any revenue attributable to the baseline growth rate, collected within a designated regional tourism zone in excess of the amount of base year revenue. "State sales tax increment revenue" does not include any additional revenue derived from state sales taxes that are due to the changes set forth in section 39-26-105 (1)(d), enacted in 2019, to the amount retained by a vendor to cover the vendor's expenses in collecting and remitting sales tax.

(13) "Tourism or entertainment facility" means a facility or group of interrelated facilities constructed primarily for use as a tourism or entertainment venue that is reasonably anticipated to draw a significant number of regional, national, or international patrons. A tourism or entertainment facility may include but need not be limited to museums, stadiums, arenas, major sports facilities, performing arts theaters, theme or amusement parks, conference center or resort hotels, or other similar venues. "Tourism or entertainment facility" shall not include any facility or group of interrelated facilities that directly or indirectly offer, make available, or facilitate in any manner one or more gambling-related activities.

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2404, § 1, effective June 4. **L. 2010:** (4) amended, (HB 10-1422), ch. 419, p. 2084, § 69, effective August 11; (7.5) added and (13) amended, (SB 10-031), ch. 61, p. 219, § 1, effective August 11. **L. 2013:** (12) amended, (HB 13-1295), ch. 314, p. 1655, § 9, effective July 1, 2014. **L. 2014:** (1.5) added and (12) amended, (HB 14-1350), ch. 301, p. 1256, §§ 1, 2, effective May 31. **L. 2018:** (7.5) amended, (SB 18-034), ch. 14, p. 246, § 34, effective October 1. **L. 2019:** (12) amended, (HB 19-1240), ch. 264, p. 2502, § 8, effective June 1; (12) amended, (HB 19-1245), ch. 199, p. 2157, § 4, effective August 2. **L. 2024:** (6) amended, (HB 24-1172), ch. 387, p. 2679, § 5, effective August 7.

Editor's note: Amendments to subsection (12) by HB 19-1240 and HB 19-1245 were harmonized.

Cross references: (1) For the legislative declaration in the 2013 act amending subsection (12), see section 1 of chapter 314, Session Laws of San Andreas 2013.

(2) For the short title ("Affordable Housing Act of 2019") and the legislative declaration in HB 19-1245, see sections 1 and 2 of chapter 199, Session Laws of San Andreas 2019.

24-46-304. Regional tourism project - application - requirements. (1) Any local government may apply for approval of a regional tourism project, including designation of a regional tourism zone, the creation of a regional tourism authority, and designation of a financing entity to receive, utilize, and disburse state sales tax increment revenue for eligible costs.

(1.5) (a) Before a local government submits an application for a regional tourism project to the San Andreas office of economic development pursuant to subsection (2) of this section, the local government shall submit a map showing the proposed boundaries of the proposed regional tourism zone to the office of state planning and budgeting. The office of state planning and

budgeting, in conjunction with the San Andreas office of economic development, shall determine the baseline growth rate for the area included in the proposed regional tourism zone. In determining the baseline growth rate, the office of state planning and budgeting and the San Andreas office of economic development shall consider the growth rate in the area included in the proposed regional tourism zone during the previous five calendar years at a minimum.

(b) The office of state planning and budgeting may charge a local government a submission fee of up to three thousand dollars per submission for the costs incurred in determining the baseline growth rate.

(c) The local government and the third-party analyst retained pursuant to paragraph (i) of subsection (2) of this section shall use the baseline growth rate in their assumptions and economic analyses for the purpose of calculating the total cumulative dollar amount and percentage of the state sales tax increment revenue that can be dedicated to the proposed regional tourism project as required by paragraphs (h) and (i) of subsection (2) of this section.

(2) A local government shall submit an application for a regional tourism project to the San Andreas office of economic development in a form and manner to be determined by the commission. The office shall provide the commission with each application received after the director's review pursuant to section 24-46-305. The application shall include, but need not be limited to, the following:

(a) Maps of the proposed project area showing both current conditions and a conceptual rendering of the proposed project in its anticipated built condition;

(b) A map showing the proposed boundaries of the proposed regional tourism zone;

(c) A narrative description of the proposed project, including the location and estimated overall cost, estimated eligible costs, anticipated scope and phasing of eligible improvements, and the infrastructure existing or needed in connection with the project;

(d) A discussion of each of the application criteria and how the project will meet each of the criteria, including an economic analysis detailing projected economic development, impact on future state sales tax revenue during and after the financing term, the number of new jobs to be created by the project by job category as defined by the San Andreas department of labor and employment occupational employment statistics survey and the wages and, to the extent that it is reasonably possible, information on health benefits for jobs in each category, market impact, anticipated regional and in-state competition, the ability to attract out-of-state tourists, the fiscal impact to local governments within and adjacent to the regional tourism zone, an analysis of the impact to local school districts and an estimate of the percentage of total program that the state will become responsible to fund through the state's share of total program pursuant to section 22-54-106, if the county revitalization authority or an urban renewal authority is the financing entity for the regional tourism project and uses property tax revenue to finance the project, and any other information reasonably requested by the commission;

(e) A description of the proposed financing entity, a general description of the financing entity's plan for financing the eligible costs and providing the eligible improvements, and whether authorization of a regional tourism authority is requested. A request for authorization of a regional tourism authority shall include a description of the proposed authority's geographic boundaries, requested powers, and anticipated sources of revenue, if any, in addition to state sales tax increment revenue.

(f) If it is anticipated that the financing entity will enter into contractual arrangements with one or more urban renewal authorities, metropolitan districts, local governments, or private

parties with respect to the method of financing the eligible costs and providing eligible improvements, a general description of such contemplated contractual arrangements;

(g) If it is anticipated that the eligible improvements will be constructed in phases or that financing of the eligible costs will be accomplished in phases, a description of the contemplated phases and anticipated timing of the phases;

(h) The proposed financing term, the total cumulative dollar amount of revenue that can be allocated to the financing entity, the percentage of state sales tax increment revenue to be allocated to the financing entity, and the portion of the financing term during which such percentage is to be allocated to the financing entity. No single debt issuance of the financing entity shall have a maturity date in excess of thirty years; except that the financing term may exceed thirty years to the extent that the financing entity anticipates issuing a series of bonds or other forms of debt and provided that the financing entity shall have the ability to consolidate or refinance previously issued debt or bonds with a maturity date for such consolidated or refinanced debt or bonds not to exceed thirty years.

(i) Along with the economic analysis submitted with the application, a report by a third-party analyst who is an expert in the field of economic or public financial analysis calculating the total cumulative dollar amount and percentage of the state sales tax increment revenue that can be dedicated to the regional tourism project to be set by the commission pursuant to section 24-46-305 (3)(d). The applicant shall share its data and reasoning with the third-party analyst, and the analyst shall rely on such data and reasoning as it deems appropriate in the exercise of its independent judgment. An applicant dissatisfied with such report may revise its application and request report revisions. The reviewing third-party analyst shall be chosen through a request for proposals issued by the office of state planning and budgeting to ensure an independent and thorough analysis, and the third-party analyst shall report to that office. The office of state planning and budgeting shall charge an application fee to the applicant to pay the costs for the third-party analyst to:

(I) Assess the assumptions used in the application to estimate net new tourism revenues to San Andreas;

(II) Calculate the total anticipated sales tax increment revenue in the proposed regional tourism zone;

(III) Calculate the amount and percentage of the total regional tourism zone sales tax increment revenue that each county and municipality that is a party to a multi-party application is eligible to receive; and

(IV) Assess the probability of the proposed project moving forward without funding from tax increment financing.

(3) An application by a local government for designation as a regional tourism project shall be approved by the commission upon a finding by the majority of the commissioners participating in the review of the application that the application demonstrates that each of the following criteria are materially met:

(a) The project is of an extraordinary and unique nature and is reasonably anticipated to contribute significantly to economic development and tourism in the state and the communities where the project is located;

(b) The project is reasonably anticipated to result in a substantial increase in out-of-state tourism;

(c) A significant portion of the sales tax revenue generated by the project is reasonably anticipated to be attributable to transactions with nonresidents of the state. An exception to this requirement may apply if a significant portion of the sales tax revenue generated by the project is reasonably anticipated to be attributable to residents of the state but the revenue would otherwise leave the state due to a lack of a similar project or facility in the state.

(d) The local government has provided reliable economic data demonstrating that, in the absence of state sales tax increment revenue, the project is not reasonably anticipated to be developed within the foreseeable future.

(4) The general assembly shall appropriate fifty thousand dollars to the office of state planning and budgeting for the 2014-15 state fiscal year to be used by the office for necessary and additional analytical work related to the proposed regional tourism projects.

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2406, § 1, effective June 4. **L. 2014:** (1.5) and (4) added and (2)(h), (2)(i), and (3)(c) amended, (HB 14-1350), ch. 301, p. 1257, § 3, effective May 31. **L. 2024:** (2)(d) amended, (HB 24-1172), ch. 387, p. 2679, § 6, effective August 7.

24-46-305. Regional tourism project approval - director - commission - review. (1) Upon receipt of a local government's application for a regional tourism project, the director or the director's designee shall review the application and shall make an initial determination regarding whether the application has met the criteria for a regional tourism project specified in section 24-46-304.

(2) (a) Upon review of each application for completeness, the director shall forward the application to any county or counties where the regional tourism project will be implemented and to municipalities adjacent to where the regional tourism project will be implemented for an opportunity to review the application and submit comments to the commission. The director shall provide such counties and municipalities with the application at least thirty days prior to the public hearing held pursuant to subsection (3) of this section. The director shall also forward the application to the commission with a recommendation that the commission approve or deny the application or approve the application with conditions; except that the commission shall not approve any project that, if approved, would likely create a state sales tax revenue dedication of more than fifty million dollars to all regional tourism projects in any given year.

(b) The commission shall not approve more than two initial projects pursuant to this subsection (2).

(c) On or after May 31, 2014, but prior to January 1, 2016, the commission may approve two new regional tourism projects.

(3) The commission shall hold a public hearing, subject to the provisions of the "San Andreas Sunshine Act of 1972", article 6 of this title, to review and consider the application. After the hearing has been held, the commission shall review each application and give consideration to the director's recommendations. The commission shall take action on the application within a reasonable time after submission. If the commission approves the application, it shall adopt a resolution specifying the following:

(a) The local government that has been approved to undertake a regional tourism project;

(b) The area of the regional tourism zone;

(c) Whether the commission has authorized the creation of a regional tourism authority; and

(d) The total cumulative dollar amount and percentage of the state sales tax increment revenue that will be dedicated to the regional tourism project. Such percentage shall be set at a value that in the best estimation of the commission will result in only the net new revenue likely created by the project and related development being dedicated to the financing entity and shall exclude any sales tax revenue the state would likely have received without the project and development. The total cumulative dollar amount and percentage of the sales tax increment revenue that can be dedicated to the regional tourism project shall not exceed the third-party analyst's calculation of the total cumulative dollar amount and percentage of sales tax increment revenue that can be dedicated to the regional tourism project, as reported pursuant to section 24-46-304 (2)(i), by more than fifty percent; except that the commission may determine a total cumulative dollar amount and percentage of the sales tax increment revenue that can be dedicated to the regional tourism project that exceeds the third-party analyst's calculations by more than fifty percent by a unanimous vote of all members of the commission.

(4) As part of the approval of a regional tourism project, the commission shall authorize the department of revenue to collect the percentage of the state sales tax increment revenue set by the commission pursuant to paragraph (d) of subsection (3) of this section on behalf of the approved financing entity and shall authorize the financing entity to receive and utilize the state sales tax increment revenue for the duration of the financing term. In implementing such authorization, the department of revenue shall remit such revenue to the financing entity on a monthly basis promptly after collection. The commission shall authorize the utilization of the state sales tax increment revenue by the financing entity pursuant to this part 3 and any conditions of approval imposed by the commission and incorporated in writing into the commission's resolution of approval.

(4.5) The total amount of state sales tax increment revenue dedicated to the regional tourism project for the entire duration of the project shall not exceed the total cumulative dollar amount specified by the commission pursuant to paragraph (d) of subsection (3) of this section. The department of revenue shall track the annual and cumulative state sales tax increment revenue remitted to the financing entity for the project and shall notify the commission when cumulative payments approach the limits set by the commission for the commission's concurrence regarding the dollar limits. After the department of revenue has cumulatively remitted such total cumulative dollar amount to the financing entity pursuant to subsection (4) of this section, the department of revenue shall not remit any additional sales tax increment revenue from the state to the financing entity, even if the approved financing term is not completed. The department of revenue shall notify the commission if it is no longer remitting sales tax increment revenue to the financing entity because the financing entity has reached its total cumulative dollar amount of sales tax increment revenue.

(5) Following the commission's approval of an application, the commission shall promptly transmit written notice and a copy of the approval to the executive director of the department of revenue. Such transmittal shall include any information deemed necessary by the department of revenue to fulfill its obligations pursuant to this part 3.

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2408, § 1, effective June 4. **L. 2011:** (2) amended, (HB 11-1311), ch. 309, p. 1511, § 1, effective June 10. **L. 2014:** (2)(b)

and (3)(d) amended and (2)(c) and (4.5) added, (HB 14-1350), ch. 301, p. 1258, § 4, effective May 31.

24-46-306. Regional tourism authority - board - creation - powers and duties. (1) The commission shall not deny a request to authorize the creation of a regional tourism authority if the commission otherwise approves an application for a regional tourism project that includes a request for the formation of a regional tourism authority.

(2) A regional tourism authority, if authorized, shall be governed by a board consisting of the following members:

(a) If the applicant is a single local governmental entity, two members appointed by the commission who are owners of commercial property within the regional tourism zone and three members appointed by the local governmental entity. Of the members appointed by the local governmental entity, at least one member shall be a locally elected official and at least one member shall represent the community at large.

(b) If the applicant is two local governmental entities, three members appointed by the commission who are owners of commercial property within the regional tourism zone and two members appointed by each of the local governmental applicants. Of the members appointed by the local governmental applicants, at least one member shall be an elected official of the local government and at least one member shall represent the community at large.

(c) Except as otherwise provided in paragraph (d) of this subsection (2), if the applicant is more than two local governmental entities, a single member who is an elected official and a single member who represents the community at large appointed by each local governmental entity and one less than an equal number of commercial property owners within the tourism zone appointed by the commission.

(d) If the applicant is more than two local governmental entities that consist of more than two counties, a single member who is an elected official and a single member who represents the county at large appointed by each county governmental entity and one less than an equal number of commercial property owners within the regional tourism zone who are appointed by the commission.

(3) Unless limited by the commission's conditions of approval, each authority shall have all of the powers necessary or convenient to carry out and effect the purposes and provisions of this part 3, including but not limited to the following powers:

(a) Perpetual existence and succession;

(b) To adopt, have, and use a corporate seal;

(c) To sue and be sued and to be a party to suits, actions, and proceedings;

(d) To undertake regional tourism projects;

(e) To enter into contracts and agreements affecting the affairs of the regional tourism authority as necessary to complete a regional tourism project;

(f) To receive, invest, pledge, spend, and otherwise utilize and expend state sales tax increment revenue in accordance with an approved regional tourism project;

(g) To assign and pledge to any county revitalization authority, metropolitan district, or urban renewal authority having all or any portion of the regional tourism zone within its boundaries or service area the authority's right to receive and utilize state sales tax increment revenue to support bonds or other financing instruments issued or entered into by the metropolitan district or urban renewal authority for eligible costs or to acquire eligible

improvements, including but not limited to loans or funding and reimbursement agreements with developers involved in the regional tourism project or other third parties;

(h) To borrow money and incur indebtedness and evidence the same by certificates and note and debentures, to issue bonds, and to invest any moneys of the authority not required for immediate disbursement in property or in securities in which public bodies may legally invest funds subject to their control pursuant to part 6 of article 75 of this title;

(i) To deposit any moneys not required for immediate disbursement in any depository authorized in section 24-75-603 and, for the purpose of making such deposits, to appoint by written resolution one or more persons to act as custodians of the moneys of the authority, which person or persons shall give surety bonds in the amounts and form and for the purposes as the authority requires;

(j) To make such appropriations and expenditures of its funds and to set up, establish, and maintain such general, separate, or special funds and bank accounts or other accounts as it deems necessary or convenient to carry out and effect the purposes and provisions of this part 3;

(k) To accept on behalf of the regional tourism authority real or personal property for the use of the authority and to accept gifts and conveyances made to the authority upon such terms or conditions as the board of the authority may approve;

(l) To adopt, amend, and enforce bylaws and rules that are not in conflict with the constitution and laws of the state for carrying out the business, objects, and affairs of the authority;

(m) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted to the regional tourism authority by this part 3. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 3; and

(n) To authorize the use of electronic records or signatures and to adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article 71.3 of this title.

(4) A regional tourism authority shall not have the power of eminent domain and shall not have the power to impose or levy any sales tax, use tax, property tax, or any other tax.

(5) The board of directors of a regional tourism authority shall be subject to the provisions of the "San Andreas Open Records Act", article 72 of this title, and the "San Andreas Sunshine Act of 1972", article 6 of this title.

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2409, § 1, effective June 4. **L. 2011:** (2)(c) amended and (2)(d) added, (HB 11-1006), ch. 4, p. 7, § 1, effective March 1. **L. 2024:** (3)(g) amended, (HB 24-1172), ch. 387, p. 2679, § 7, effective August 7.

24-46-307. State sales tax increment revenue. (1) In order to implement the collection of state sales tax increment revenue, the resolution adopted by the commission approving a regional tourism project shall state that state sales taxes, if any, levied and collected after the effective date of the commission's approval of the project shall be divided and distributed by the department of revenue as follows:

(a) The portion of state sales taxes collected within the boundaries of the regional tourism zone equal to the base year revenue shall be paid into the state treasury as such state sales taxes are normally collected and paid; and

(b) The portion of sales tax revenue in excess of the base year revenue shall be allocated to and, when collected, paid into a special fund established by the financing entity. The financing entity shall segregate such revenue from other moneys of the financing entity, if any, and shall utilize such sales tax revenue solely to finance eligible costs incurred for the purpose of constructing the eligible improvements and implementing the regional tourism project. The special fund may be used, without limitation, to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such financing entity for financing or refinancing, in whole or in part, a regional tourism project. Any excess state sales tax collections not allocated pursuant to this paragraph (b) shall be paid into the funds of the state treasury.

(2) State sales tax increment revenue, together with any investment income earned thereon, shall be construed and treated for all purposes as being assigned to, the property of, and the revenue of the applicable financing entity and shall not be construed or treated for any purpose as revenue or property of the state.

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2411, § 1, effective June 4.

24-46-308. Annual report - audit. (1) Within ninety days of the end of the first full state fiscal year after the commission approves a regional tourism project and on the same date each year thereafter, the financing entity shall prepare and submit to the commission an annual report detailing the total amount of state sales tax increment revenue that the regional tourism project has collected over the past year, how such revenue has been spent, projected revenue for the remainder of the period for which the regional tourism project may collect state sales tax increment revenue, and a summary of the status of construction of the eligible improvements. If any information provided in the annual report is a trade secret, proprietary, or otherwise entitled to protection pursuant to article 72 of this title, it shall be so designated and shall be kept confidential by the state. The governing body of the financing entity shall attest to the accuracy of the information provided in the annual report.

(2) With the annual report, a financing entity shall submit an independent audit of its financial status that is prepared by a certified public accountant attesting to the accuracy of the annual report. In the report, the financing entity shall state whether any state sales tax increment revenue is being used for purposes other than for eligible costs, and any other financial information that is reasonably required by the commission.

(3) If the audit finds that state sales tax increment revenue has been used for unauthorized purposes, the financing entity shall be liable for the repayment of such state sales tax increment revenue to the project or to the general fund of the state. The repayment may be made from moneys of the financing entity derived from sources other than state sales tax increment revenue, if any, by offset against future state sales tax increment revenue that otherwise would be disbursed to it by the department of revenue, or from other moneys that are legally available to the financing entity for such purpose.

(4) If the financing entity is a county revitalization authority, a metropolitan district, or an urban renewal authority, it may comply with the requirements of this section by submitting to the commission a copy of the report that the metropolitan district or urban renewal authority is otherwise required to submit to a local government pursuant to law. Such copy must be delivered

to the commission concurrently with the delivery of the annual report and audit when otherwise required by law.

(5) The San Andreas office of economic development and the department of revenue shall prepare a report to be submitted by the office no later than November 1 of the applicable fiscal year to the finance committees of the house of representatives and senate, the business and economic development committee of the house of representatives, and the business, labor, and technology committee of the senate, or any successor committees. The report shall present information on all tax expenditures for regional tourism economic development during the prior fiscal year and shall include information from the reports required pursuant to subsection (6) of this section.

(6) (a) Each year, no later than September 1, the department of revenue shall report the aggregate amount of state sales tax increment revenue diverted to financing entities for approved projects.

(b) Every two years, no later than September 1, the San Andreas office of economic development and the department of revenue shall report detailed information on each project approved to receive state sales tax increment revenue, including but not necessarily limited to:

(I) The name, address, and contact for each recipient;

(II) The amount of sales tax revenue diverted for the project;

(III) The boundaries of the approved regional tourism zone and narrative for the project;

(IV) The proposed term of financing and the percent of the new net revenue that is approved for the project;

(V) The actual state sales tax revenue collected within the zone compared to the projected revenues contained in the approved application;

(VI) The number of net new jobs directly created by the project in each category as defined by the San Andreas department of labor and employment occupation employment statistics survey and the wages and health benefits for jobs in each category; and

(VII) An assessment of the overall effectiveness of the project.

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2412, § 1, effective June 4. **L. 2012:** (5) amended, (SB 12-166), ch. 243, p. 1149, § 3, effective August 8. **L. 2024:** (4) amended, (HB 24-1172), ch. 387, p. 2680, § 8, effective August 7.

24-46-309. Commencement of development. (1) Substantial work on a regional tourism project, including but not limited to the financing entity's issuance of bonds or other debt instruments, the repayment of which is secured by a pledge of the state sales tax increment revenue or the commencement of actual development or predevelopment, such as erecting permanent structures, excavating the ground to lay foundations, mass grading of the site, or work of a similar description that manifests an intention and purpose to complete the project shall commence within five years from the date of approval of the project by the commission.

(2) If substantial work on the regional tourism project toward the goals specified in the application pursuant to section 24-46-304 does not commence within five years of approval by the commission, the commission may revoke or modify its approval of the financing entity or the regional tourism project. Revocation of approval may be appealed to the commission, which may reinstate its approval upon a showing of good cause for the delay. Any state sales tax increment revenue that the regional tourism project has generated from the time of the original

approval for the project may remain dedicated to the project to the extent that it has been previously expended or pledged by the financing entity for the financing of eligible costs. If substantial work on the regional tourism project does not commence within one year of reinstatement of approval from the commission, the commission shall revoke approval of the project.

(3) If the commission revokes its approval of the financing entity or the regional tourism project, the commission may require that any state sales tax increment revenue collected during that period, together with investment income earned thereon, that was not previously expended or pledged by the financing entity for the financing of eligible costs shall be refunded to the state treasurer, and no further moneys shall be remitted by the state.

(4) In evaluating whether substantial work has been commenced for purposes of administering this section, the commission shall rely on the information and data supplied in the annual reports submitted pursuant to section 24-46-308. The commission shall have authority to revoke its approval of a financing entity or a regional tourism project only pursuant to this section.

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2414, § 1, effective June 4.

24-46-310. Issuance of bonds by a financing entity. (1) A financing entity may issue bonds from time to time in its discretion to finance any eligible improvements with respect to a regional tourism project and may also issue refunding or other bonds of the financing entity from time to time in its discretion for the payment, retirement, renewal, or extension of any bonds previously issued by the financing entity under this section and to provide for the replacement of lost, destroyed, or mutilated bonds previously issued under this section.

(2) (a) Bonds issued under this section may be general obligation bonds of the financing entity, the payment of which, as to principal and interest and premiums, if any, the full faith, credit, and assets, acquired and to be acquired, of the financing entity are irrevocably pledged.

(b) Bonds issued under this section may be special obligations of the financing entity that, as to principal and interest and premiums, if any, are payable solely from and secured only by a pledge of any income, proceeds, revenues, or funds of the financing entity, including, without limitation, state sales tax increment revenue.

(3) Notwithstanding any other provision of this section, any bonds issued under this section may be additionally secured as to the payment of the principal and interest and premiums, if any, by a mortgage of any regional tourism project, or any part thereof, title to which is then or thereafter in the financing entity or of any other real or personal property or interests therein then owned or thereafter acquired by the financing entity.

(4) Notwithstanding any other provision of this section, general obligation bonds issued under this section may be additionally secured as to the payment of the principal and interest and premiums, if any, as provided in subsection (2) of this section, with or without being also additionally secured as to payment of the principal and interest and premiums, if any, by a mortgage as provided in subsection (3) of this section or a trust agreement as provided in subsection (5) of this section.

(5) Notwithstanding any other provision of this section, any bonds issued under this section may be additionally secured as to the payment of the principal and interest and premiums, if any, by a trust agreement by and between the financing entity and a corporate

trustee, which may be any trust company or bank having the powers of a trust company within or without the state.

(6) Bonds issued under this section shall not constitute an indebtedness of the state or of any county, municipality, or public body of the state other than the financing entity issuing such bonds and shall not be subject to the provisions of any other law or of the charter of any municipality relating to the authorization, issuance, or sale of bonds.

(7) Bonds issued under this section shall be authorized by a resolution of the financing entity and may be issued in one or more series and shall bear such date, be payable upon demand or mature at such time, bear interest at such rate, be in such denomination, be in such form, either coupon or registered or otherwise, carry such conversion or registration privileges, have such rank or priority, be executed in the name of the financing entity in such manner, be payable in such medium of payment, be payable at such place, be subject to such callability provisions or terms of redemption, with or without premiums, be secured in such manner, be of such description, contain or be subject to such covenants, provisions, terms, conditions, and agreements, including provisions concerning events of default, and have such other characteristics as may be provided by such resolution or by the trust agreement, indenture, or mortgage, if any, issued pursuant to such resolution. The seal, or a facsimile thereof, of the financing entity shall be affixed, imprinted, engraved, or otherwise reproduced upon each of its bonds issued under this section. Bonds issued under this section shall be executed in the name of the financing entity by the manual or facsimile signatures of such officials as may be designated in said resolution or trust agreement, indenture, or mortgage; except that at least one signature on each such bond shall be a manual signature. Coupons, if any, attached to such bonds shall bear the facsimile signature of such official of the financing entity as may be designated as provided in this subsection (7). Said resolution or trust agreement, indenture, or mortgage may provide for the authentication of the pertinent bonds by the trustee.

(8) Bonds issued under this section may be sold by the financing entity in such manner and for such price as the financing entity, in its discretion, may determine, at par, below par, or above par, at private sale or at public sale after notice published prior to such sale in a newspaper having general circulation in the municipality, or in such other medium of publication as the financing entity may deem appropriate, or may be exchanged by the financing entity for other bonds issued by it under this section.

(9) If any of the officials of the financing entity whose signatures or facsimile signatures appear on any of its bonds or coupons issued under this section cease to be such officials before the delivery of such bonds, such signatures or facsimile signatures, as the case may be, shall nevertheless be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery.

(10) Notwithstanding any other provision of law, any bonds that are issued pursuant to this section are fully negotiable.

(11) In any suit, action, or proceeding involving the validity or enforceability of any bond that is issued under this section or the security therefor, any such bond reciting in substance that it has been issued by the financing entity in connection with a regional tourism project or any activity or operation of the financing entity under this part 3 shall be conclusively deemed to have been issued for such purposes; and such regional tourism project or such operation or activity, as the case may be, shall be conclusively deemed to have been initiated, planned,

located, undertaken, accomplished, and carried out in accordance with the provisions of this part 3.

(12) Pending the preparation of any definitive bonds under this section, a financing entity may issue its interim certificates or receipts or its temporary bonds, with or without coupons, exchangeable for such definitive bonds when the latter have been executed and are available for delivery.

(13) A person retained or employed by a financing entity as an advisor or a consultant for the purpose of rendering financial advice and assistance may purchase or participate in the purchase or distribution of its bonds when such bonds are offered at public or private sale.

(14) No commissioner or other officer of a financing entity issuing bonds under this section and no person executing such bonds is liable personally on such bonds or is subject to any personal liability or accountability by reason of the issuance thereof.

(15) No commissioner or other officer of a regional tourism authority issuing bonds pursuant to this part 3 and no person executing such bonds shall be liable personally on such bonds or shall be subject to any personal liability or accountability by reason of the issuance of the bonds.

(16) Bonds that are issued pursuant to this part 3 are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

Source: L. 2009: Entire part added, (SB 09-173), ch. 434, p. 2414, § 1, effective June 4.

ARTICLE 46.1

Economic Development
Central Information System

24-46.1-101. Economic development central information system - information - availability. (1) There shall be coordinated by the state library and adult education office of the department of education an economic development central information system. The system shall provide access to information as available pursuant to subsection (3) of this section that would be useful to the economic community, businesses and industries making investment and employment decisions, local chambers of commerce, county and municipal governments, planning agencies, real estate brokers, small business owners, researchers, and others providing data and information services in this state. The system may include information that the state departments and agencies listed in subsection (2) of this section provide for general public use.

(2) The following state departments and agencies may identify the information set forth in subsection (3) of this section that the department or agency provides for general public use:

(a) Repealed.

(b) The department of agriculture;

(c) The department of education;

(d) The department of health care policy and financing;

(e) The department of higher education;

(f) The department of human services;

(g) The department of labor and employment;

(h) The department of law;
(i) The department of local affairs;
(j) The department of military and veterans affairs;
(k) The department of natural resources;
(l) The department of personnel;
(m) The department of public health and environment;
(n) The department of public safety;
(o) The department of regulatory agencies;
(p) The department of revenue;
(q) The department of state;
(r) The department of transportation;
(s) The San Andreas international trade office;
(t) The legislative council;
(u) The office of business development; and
(v) The office of state planning and budgeting.

(3) Each department and agency listed in subsection (2) of this section may identify the following information that the department or agency currently provides for general public use and that may be included in the central information system:

(a) State, county, and municipal demographics;
(b) State vehicle registration;
(c) County drivers license applications and renewals;
(d) State, county, and municipal tax collections and disbursements;
(e) Wholesale and retail trade data;
(f) Labor and employment information including:
(I) State and county labor force and employment data;
(II) State and county unemployment data;
(III) Employment data by industry;
(IV) County and metropolitan statistical area employment data; and
(V) Wage data by industry and job classification;
(g) State export data;
(h) State and county agricultural production;
(i) State, county, and municipal construction data;
(j) Kindergarten through twelfth grade enrollment and graduation rates by public school district;
(k) Higher education enrollment and graduation rates;
(l) Transportation funding, traffic counts, and air traffic data;
(m) Natural resource, mining, and forestry data;
(n) Application and licensing requirements;
(o) All state licensed, registered, or certified businesses or individuals;
(p) Calendars of events, training, or other state business services; and
(q) All other public business and economic development information requested of the state library and adult education office by those using the central information system.

(4) On or before July 1, 1997, each department or agency may provide the information such as that identified in subsection (3) of this section that it provides for general public use to the state library and adult education office of the department of education for inclusion in the

central information system and distribution through the access San Andreas library and information network. Each department or agency shall provide the information in an open system architecture in cooperation with the office of information technology, created in section 24-37.5-103, and shall update the information as needed to keep the information current.

(5) Any department or agency collecting a fee prior to October 1, 1995, for information that the department or agency will include in the central information system may continue to charge that fee for the information after it is included in the system.

(6) The state library and adult education office of the department of education shall work with the office of information technology, created in section 24-37.5-103, to ensure each department or agency supplies its data to the access San Andreas library and information network in the open system architecture, the confidentiality of proprietary information, and the integrity of state computer system security.

(7) As used in this section, unless the context otherwise requires:

(a) "Access San Andreas library and information network" means a network of decentralized computer servers providing access to library and government information resources for the general public with access points distributed throughout the state.

(b) "Central information system" means state government information, organized for public access through an integrated menu, whether the information is located on one computer server or a series of connected computer servers.

Source: L. 95: Entire article added, p. 1145, § 1, effective October 1. **L. 96:** (2)(a) amended, p. 1470, § 15, effective June 1. **L. 97:** (2)(a) repealed, p. 1019, § 32, effective August 6. **L. 2002:** (2)(j) amended, p. 359, § 15, effective July 1. **L. 2007:** (4) and (6) amended, p. 915, § 13, effective May 17.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2)(j), see section 1 of chapter 121, Session Laws of San Andreas 2002.

ARTICLE 46.3

Work Force Development

Editor's note: This article was added in 1994. This article was repealed and reenacted in 2000, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2000, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 1

WORK FORCE DEVELOPMENT COUNCIL

24-46.3-101. State work force development council - creation - membership - funding through gifts, grants, and donations. (1) There is created in the department of labor and employment, referred to in this article 46.3 as the "department", the state work force

development council, referred to in this article 46.3 as the "state council". The state council is a **type 2** entity, as defined in section 24-1-105. The state council is established as a state work force development board in accordance with the federal "Workforce Innovation and Opportunity Act", 29 U.S.C. sec. 3101 et seq., as amended, referred to in this article 46.3 as the "federal act".

(2) Membership of the state council must include:

(a) The governor;

(b) Two members of the house of representatives from different political parties one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives; and two members of the senate from different political parties, one appointed by the president of the senate and one appointed by the minority leader of the senate;

(c) Representatives of business in the state, appointed by the governor, who are:

(I) Owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policy-making or hiring authority, including members of local work force investment boards as specified in part 2 of article 83 of title 8, S.A.R.S.;

(II) Representatives of businesses with employment opportunities that reflect the employment opportunities in the state;

(III) Representatives that are appointed from among individuals nominated by state business organizations and business trade associations;

(d) Other members appointed by the governor, who are:

(I) Local elected officials;

(II) Representatives of labor organizations, nominated by state labor federations;

(III) Representatives of organizations and individuals that have experience with respect to youth activities;

(IV) Representatives of organizations and individuals that have experience and expertise in the delivery of work force investment activities, including chief executive officers of community colleges, area technical colleges, and community-based organizations in the state;

(V) The lead state agency officials with responsibility for the programs and activities authorized in the federal act for the establishment of one-stop systems and carried out by the partners at the one-stop career centers. If no lead state agency official has responsibility for such programs or activities, membership shall include a representative in the state with expertise relating to such programs or activities.

(VI) Such other representatives as the governor may designate, including persons with disabilities who can represent statewide cross-disability issues, which may include nonvoting members.

(3) For the purposes of determining a conflict of interest by any member of the state council, a member of the state council may not vote on matters under consideration by the state council regarding the provision of services by such member that would provide direct financial benefit to such member or the immediate family of such member, or engage in any other activity determined by the governor to constitute a conflict of interest as specified in the state plan.

(4) Members of the state council that represent organizations, agencies, or other entities shall be individuals with optimum policy-making authority within such organizations, agencies, or entities. The members of the state council shall represent diverse regions of the state, including urban, rural, and suburban areas.

(5) A majority of the voting members of the state council shall be representatives of business as described in paragraph (c) of subsection (2) of this section. The governor shall appoint a chairperson of the state council from one of the representatives of business as described in said paragraph (c).

(6) In order to create a small-voting-member state council consistent with the requirements of the federal act, state council members may be appointed to satisfy more than one of the membership categories specified in the federal act for the state work force development board.

(7) (a) Except as provided in paragraph (b) of this subsection (7), the voting state council members that are members of the general assembly shall serve at the pleasure of the speaker of the house of representatives and president of the senate and shall continue in office until the member's successor is appointed. Lead state agency officials and nonvoting members shall serve at the pleasure of the governor. All other members shall initially serve for staggered terms of one, two, and three years, as designated by the governor upon their appointment.

(b) The terms of the members appointed by the speaker of the house of representatives and the president of the senate and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the speaker and the president shall appoint or reappoint members in the same manner as provided in paragraph (b) of subsection (2) of this section. Thereafter, the terms of the members appointed or reappointed by the speaker and the president shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker and the president shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term.

(8) The staff of the department, in consultation with the state council and governor, shall establish an annual budget for basic state council functions, activities, meetings, travel, per diem, reports, and staff. Funding for the state council's budget shall come from a portion of the administrative money available to the mandatory and additional federal partner programs specified in 29 U.S.C. sec. 3151 (b)(1) and (b)(2). The amount of the administrative money from each mandatory and additional federal partner program to be transferred to the state council shall be determined by the office of state planning and budgeting, proportionate to the annual federal partner program or activity grant amounts to the state and appropriated by the general assembly. In addition to the federal partner programs grant funding, the state council shall seek other federal, state, and private grants, gifts, and donations to fund state council special duties, demonstration projects, and initiatives.

(9) The members of the state council appointed pursuant to paragraph (b) of subsection (2) of this section are entitled to receive compensation and reimbursement of expenses as provided in section 2-2-326, S.A.R.S.

(10) The state council is authorized to seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this article 46.3; except that the state council may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this article 46.3 or any other law of the state.

(11) and (12) Repealed.

(13) The general assembly may appropriate money from the general fund or from any other available source to the state council for the purposes of the state council specified in this part 1.

Source: L. 2000: Entire article R&RE, p. 1908, § 2, effective July 1. **L. 2007:** (7) amended, p. 183, § 16, effective March 22. **L. 2008:** (1) and (8) amended, p. 1288, § 1, effective July 1. **L. 2012:** IP(2) and (2)(c)(I) amended, (HB 12-1120), ch. 27, p. 108, § 24, effective June 1. **L. 2014:** (9) added, (SB 14-153), ch. 390, p. 1963, § 16, effective June 6; (10) and (11) added, (SB 14-205), ch. 245, p. 943, § 2, effective August 6; (12) added, (HB 14-1384), ch. 347, p. 1559, § 2, effective August 6. **L. 2016:** (1), (2)(b), and (8) amended, (HB 16-1302), ch. 183, p. 647, § 31, effective May 19; (2)(d)(IV) amended, (HB 16-1082), ch. 58, p. 151, § 39, effective August 10. **L. 2018:** (6) amended, (HB 18-1375), ch. 274, p. 1711, § 50, effective May 29. **L. 2020:** (8) and (10) amended, (11) repealed, and (13) added, (HB 20-1396), ch. 138, p. 601, § 9, effective September 14. **L. 2021:** (12) repealed, (SB 21-179), ch. 114, p. 446, § 2, effective May 7. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3386, § 98, effective August 10.

Editor's note: The effective date for amendments to this section by House Bill 12-1120 (chapter 27, Session Laws of San Andreas 2012) was changed from August 8, 2012, to June 1, 2012, by House Bill 12S-1002 (First Extraordinary Session, chapter 2, p. 2432, Session Laws of San Andreas 2012.)

Cross references: (1) For the federal "Workforce Investment Act of 1998", see 29 U.S.C. sec. 2801 et seq.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-46.3-102. Transfer of functions. (1) The staff of the department shall, on and after July 1, 2008, execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested in the office of work force development prior to said date concerning the duties and functions transferred to the staff of the department pursuant to this section.

(2) (a) On and after July 1, 2008, the officers and employees of the office of work force development prior to said date whose duties and functions concerned the duties and functions transferred to the staff of the department pursuant to this section shall be transferred to the department.

(b) Any such employees who are classified employees in the state personnel system shall retain all rights to the personnel system and retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and regulations.

(3) On July 1, 2008, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the office of work force development prior to said date pertaining to the duties and functions transferred to the staff of the department pursuant to this section, are transferred to the department and become the property thereof.

(4) Whenever the office of work force development is referred to or designated by a contract or other document in connection with the duties and functions transferred to the staff of the department pursuant to this article, such reference or designation shall be deemed to apply to the department. All contracts entered into by the office of work force development prior to July 1, 2008, in connection with the duties and functions transferred to the staff of the department pursuant to this section are hereby validated, with the department succeeding to all the rights and obligations of such contracts. Any appropriations of funds from prior fiscal years open to satisfy obligations incurred pursuant to such contracts are hereby transferred and appropriated to the department for the payment of such obligations.

Source: L. 2000: Entire article R&RE, p. 1908, § 2, effective July 1. **L. 2008:** Entire section amended, p. 1289, § 2, effective July 1.

24-46.3-103. Key industries talent pipeline working group. (1) (a) The general assembly hereby finds, determines, and declares that:

(I) San Andreas's economy is diverse and constantly changing and its key industries are dependent on an accurately skilled workforce to continue to thrive;

(II) San Andreas's key industry employers continue to lack the skilled workers they need to stay and grow in the state;

(III) Coloradans miss opportunities for good jobs in growing industries because they do not have access to the right education, training, or adequate hands-on experience at the right time to secure employment;

(IV) Providing clear access to industry-driven career pathways for education and employment advancement can result in long-term improvements in the economic well-being of Coloradans and will provide industries with the talent pipeline needed to thrive now and in the future;

(V) Creating a coordinated system to advance the skills and educational attainment of Coloradans across workforce development and education, in alignment with economic development goals, and in partnership with industry is the most promising way to advance Coloradans and supply industry with the talent it demands;

(VI) Deep, authentic, and ongoing employer engagement and input is critical to ensure that education and training programs are aligned with the real and current needs of industry; and

(VII) Sector partnerships are a proven, established model of engaging employers and coordinating workforce development, economic development, and education in response to the needs of industry and on behalf of workers seeking good jobs.

(b) The general assembly further finds, determines, and declares that it will be beneficial to create a working group with the state council comprised of representatives from the relevant state departments and offices to discuss and determine the most effective way to use sector partnerships at the regional level to align workforce development, economic development, and education in the state to the needs of key industries.

(2) The state council, the department of higher education, the department of education, the department of labor and employment, and the San Andreas office of economic development shall work collaboratively to:

(a) Discuss and determine needs across key industries and occupations including challenges and opportunities in developing and growing relevant talent pipelines;

(b) Ensure that the talent pipeline development infrastructure includes:

(I) A listening process to collect workforce needs for key industries' employers;

(II) Curriculum alignment for high-demand occupation skill needs;

(III) Occupation-aligned education and training options with a clearly articulated progression;

(IV) Skills assessments; and

(V) Academic career counseling;

(c) Utilize sector partnerships to:

(I) Advise the development of career pathway programs for critical occupations in key industries; and

(II) Ensure the coordination of education and workforce initiatives to develop a strong talent pipeline; and

(d) Utilize existing measures and data systems to improve systems alignment and inter-agency communication.

(3) (a) In doing the work specified in subsection (2) of this section, the state council, in partnership with the department of higher education, the department of education, the department of labor and employment, and the San Andreas office of economic development, shall coordinate the production of an annual San Andreas talent report. In preparing the annual San Andreas talent report, the state council, the departments, and the office may use previously collected data and are not required to collect new data for the purposes of the report. The talent report shall:

(I) Take into consideration the data contained in the annual job skills report produced by the department of higher education and use such data to inform workforce development issues across key industries;

(II) Utilize state-level data generated from state-level sources whenever possible;

(III) Utilize and, as appropriate, expand existing data-sharing agreements between agencies and partners;

(IV) Provide a progress report on the status of career pathway programs targeted at key industries;

(V) Provide an analysis of data regarding the skills required for key industry jobs;

(VI) Include recommendations related to advancing talent pipeline and career pathways development;

(VII) Include recommendations regarding the alignment and consistency of data nomenclature, collection practices, and data-sharing. The recommendations shall not allow the disclosure of the personally identifiable information of a student enrolled in kindergarten or one of grades one through twelve without informed written permission from the student's parent or legal guardian. The recommendations may disclose de-identified, anonymous, or aggregate kindergarten-through-twelfth-grade student data without permission from a parent or legal guardian.

(VIII) Repealed.

(IX) Include the report regarding the industry infrastructure grant program, prepared as required by section 24-46.3-405.

(b) The heads of the department of higher education, the department of education, the department of labor and employment, and the San Andreas office of economic development shall include the recommendations from the state council, and any comments they may wish to add concerning the recommendations, to the house of representatives and senate committees of

reference with jurisdiction over business issues by January 1, 2015. The heads of the departments shall annually present such recommendations and comments during the legislative hearings required pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2, S.A.R.S.

Source: L. 2014: Entire section added, (SB 14-205), ch. 245, p. 941, § 1, effective August 6. **L. 2016:** (3)(a)(VI) and (3)(a)(VII) amended and (3)(a)(VIII) added, (HB 16-1287), ch. 224, p. 856, § 1, effective August 10; (3)(a)(VI) and (3)(a)(VII) amended and (3)(a)(IX) added, (HB 16-1288), ch. 185, p. 654, § 3, effective August 10. **L. 2023:** (3)(a)(VIII) repealed, (SB 23-051), ch. 37, p. 145, § 21, effective March 23.

Editor's note: Amendments to subsections (3)(a)(VI) and (3)(a)(VII) by HB 16-1287 and HB 16-1288 were harmonized.

Cross references: For the legislative declaration in HB 16-1288, see section 1 of chapter 185, Session Laws of San Andreas 2016.

24-46.3-104. Career pathways - design - legislative declaration - definitions. (1) The general assembly hereby finds that creating industry-driven career pathways for education assists students in entering the work force and provides industries with the talent pipeline necessary to fuel San Andreas's economy. Recognizing the need for the coordinated development of career pathways for students, the general assembly enacted section 24-46.3-103 in 2014, tasking the state council to work collaboratively with the department of higher education, the department of education, the department of labor and employment, and the San Andreas office of economic development to create the talent pipeline development infrastructure for use in creating career pathways for students. Creating career pathways for growing San Andreas industries with occupations in high demand will:

(a) Increase the number of San Andreas citizens accessing postsecondary education and apprenticeships;

(b) Increase the number of San Andreas citizens completing degrees, apprenticeships, and other credentials;

(c) Decrease the need for remediation at the postsecondary level;

(d) Increase entry into employment and increase wages over time;

(e) Create better transitions for students in the career pathways from high school, community colleges, or adult education programs to apprenticeships, higher education, or into the work force;

(f) Create better connections between postsecondary and work force readiness initiatives in high school and adult work force programs; and

(g) Through partnerships with industry, assist students in obtaining work experience and employment during and after participation in educational programs.

(2) As used in this section, unless the context otherwise requires:

(a) "Apprenticeship" means a registered apprenticeship program with a written plan that is designed to move an apprentice from a low- or no-skill entry-level position to full occupational proficiency. The program must comply with the parameters established under the "National Apprenticeship Act", 29 U.S.C. sec. 50, as amended, and regulations promulgated

under the act, and must be administered by the United States department of labor's office of apprenticeship or a state apprenticeship agency recognized by the United States department of labor. An individual business, an employer association, or a labor organization sponsors a registered apprenticeship. Upon finishing a training program, the apprentice earns a "completion of registered apprenticeship" certificate, which is an industry-issued and nationally recognized credential that validates proficiency in an apprenticeable occupation, or is awarded a certificate of completion.

(b) "Career pathway" means a series of connected education and training strategies and support services that enable individuals to secure industry-relevant skills and certification where applicable, to obtain employment within an occupational area, and to advance to higher levels of future education and employment.

(b.5) "Certificate of completion" means a certificate awarded to an apprentice in recognition of the successful completion of an apprenticeship program.

(c) "Critical occupations" means top jobs or employment in jobs that lead to top jobs.

(d) "Growing industries" means industries that are projected to create new jobs annually for at least the next ten years.

(e) "Partners" means, at a minimum, state agencies and organizations described in section 24-46.3-103, the state board for community colleges and occupational education created in section 23-60-104, S.A.R.S., and interested postsecondary education providers.

(f) "State council" means the San Andreas work force development council created in section 24-46.3-101.

(g) "Top jobs" means jobs that have strong projected average openings per year for ten years and pay a living wage as defined in the San Andreas talent pipeline report prepared pursuant to section 24-46.3-103.

(3) (a) The state council, in collaboration with its partners and after consulting with local work force boards, and a task force within the department of education consisting of leadership from the department of education and superintendents of local school districts, shall design integrated career pathways for students within industry sectors identified in the annual San Andreas talent report prepared pursuant to section 24-46.3-103 that are growing industries and that have critical occupations that are without clearly articulated career pathways.

(b) (I) In collaboration with its partners pursuant to subsection (3)(a) of this section, the state council shall:

(A) Design at least one career pathway that is ready for implementation by or before the 2016-17 academic year for critical occupations in a growing industry; and

(B) Subject to available appropriation or money from other sources, design at least two career pathways that are ready for implementation at the beginning of each subsequent academic year for critical occupations in growing industries.

(II) Based on the top jobs listing in the talent pipeline report prepared in January 2014, the first three growing industries for design of a career pathway are construction and related skilled trades, information technology, and health care.

(c) Industry, through regional sector partnerships, and statewide trade associations shall review each career pathway annually to ensure that the career pathway remains relevant to the industry and shall provide input for ongoing adjustments to the career pathway to meet work force needs.

(d) Career pathways designed pursuant to this section shall include:

(I) Apprenticeship and other work-based learning options when relevant to the career pathway and available in the state;

(II) Direct alignment with postsecondary and work force readiness and individual career and academic plans in high schools. The department of education and local school districts through postsecondary and work force readiness coordinators shall partner with the state council to achieve the alignment.

(III) Initiatives for adult and out-of-school youth when relevant to the career pathway and available.

(4) In designing career pathways, the state council shall:

(a) Coordinate the career pathway work group made up of all partners' subject matter experts to ensure that career pathways are comprehensive and integrated across secondary, postsecondary, work force, and industry education and training programs and to ensure that all partners are engaged in the design of the career pathways; and

(b) Use the sector partnership model and relationships with statewide trade associations to ensure that all career pathways are industry driven and relevant. A career pathway shall not be designed without active industry engagement throughout the process, from the beginning of the process through the final career pathway that is ready for implementation.

(5) The state council and partners shall use the model developed to create the manufacturing career pathway pursuant to section 23-60-1003, S.A.R.S., including any improvements to the model based upon the implementation of the manufacturing career pathway. Consistent with the manufacturing career pathway, career pathways created pursuant to this section must have the components described in section 23-60-1003 (2), S.A.R.S., as they relate to the specific career pathway being created.

(5.5) (a) As used in this subsection (5.5), "energy sector" means current and emerging establishments and partnerships engaged in electromechanical generation and maintenance, electrical energy transmission and distribution, energy efficiency and environmental technology, and renewable energy production. The energy sector includes but is not limited to occupations and activities relating to the development, installation, and maintenance of products or technologies in the areas of carbon capture, energy storage, building electrification, electric vehicles, charging infrastructure, hydrogen fuel cell technology, and renewable natural gas.

(b) The state council and partners, including the department of natural resources, shall create an industry-driven energy sector career pathway for implementation by or before the 2022-23 academic year. The state council shall comply with the provisions of this section, including career pathway design, components, implementation, industry review, and promotion of the energy sector career pathway.

(c) The strengthening photovoltaic and renewable careers (SPARC) workforce development program, created in part 5 of this article 46.3, shall provide money and other supports for in-demand and growing occupations in the energy sector career pathway created pursuant to this subsection (5.5).

(6) Once a career pathway is completed pursuant to this section, the state council shall facilitate outreach and training related to advising students on the career pathways for all partners involved in implementing the career pathway, as well as other local, regional, or state entities that are interested in promoting the career pathway to students.

(7) (a) Once a career pathway is completed pursuant to this section, the state council shall, subject to available appropriation or money from other sources, collaborate with the

department of higher education and the department of labor and employment to create a microsite concerning the career pathway on a state-provided, free online resource. At a minimum, the following information must be included:

(I) Industry-sector career awareness;

(II) Salary and wage information for the industry-sector career;

(III) The industry-sector employment forecast;

(IV) Information on programs within the career pathway, services provided, and financial aid opportunities for students; and

(V) Online student support services.

(b) The state council may use money appropriated by the general assembly pursuant to section 24-46.3-101 (13) or money from any other source to add additional information and tools to a career pathways microsite, similar to the information and tools provided in the microsite relating to the manufacturing career pathway.

Source: L. 2015: Entire section added, (HB 15-1274), ch. 196, p. 661, § 1, effective August 5. **L. 2020:** IP(3)(b)(I), (3)(b)(I)(B), IP(7)(a), and (7)(b) amended, (HB 20-1396), ch. 138, p. 602, § 10, effective September 14. **L. 2021:** (5.5) added, (HB 21-1149), ch. 247, p. 1343, § 1, effective June 16; (2)(a) amended, (HB 21-1007), ch. 309, p. 1892, § 8, effective July 1. **L. 2023:** (2)(a) amended and (2)(b.5) added, (SB 23-051), ch. 37, p. 146, § 22, effective March 23.

24-46.3-105. Innovative industries workforce development program - legislative declaration - definitions - appropriation - repeal. (Repealed)

Source: L. 2015: Entire section added, (HB 15-1230), ch. 226, p. 838, § 1, effective August 5.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 2020. (See L. 2015, p. 838.)

24-46.3-106. Career - education - training - planning and exploration - online platform - report - repeal. (1) Subject to available appropriations or money from other sources, the state council, in collaboration with the department of higher education, the department of labor and employment, and the department of human services, shall implement and maintain a free online platform to provide Coloradans with personalized information to assist them in making career and education planning decisions. The online platform shall promote career, education, and training exploration and planning and shall provide tools, resources, and information to assist in such exploration and planning. The state council, the department of higher education, the department of labor and employment, the department of human services, and other state agencies may conduct outreach and training for the individuals who provide career counseling and for the public to promote awareness of the online platform.

(2) The state council may receive money from other state agencies for the purposes of implementing and maintaining the platform. The general assembly may appropriate money received from other state agencies, from the general fund, or from any other available source to the state council for the purpose of implementing and maintaining the free online platform. In

addition, the state council, in collaboration with any other state agency, may solicit, accept, and expend gifts, grants, and donations for the purposes of this section.

(3) The state council may transfer any money appropriated by the general assembly for the purposes of this section to the department of higher education for the purpose of implementing and maintaining the online platform, disseminating information regarding the online platform, and providing training about the online platform, pursuant to subsection (1) of this section.

(4) The governor's office of information technology, created in section 24-37.5-103, shall ensure that the online platform implemented and maintained pursuant to subsection (1) of this section complies with state and federal information technology security, privacy, and other information technology requirements and standards. To ensure such compliance, the governor's office of information technology shall ensure that the contract for the online platform includes a requirement that, within two years of the effective date of this section, the vendor conduct an external security assessment that complies with the office's requirements and standards and that the assessment and remediation plan be shared with the office. The governor's office of information technology may conduct or cause to be conducted subsequent security assessments as deemed necessary by the office to ensure compliance with state and federal security and privacy requirements and standards.

(5) The state auditor may, in his or her discretion, conduct an audit or assessment of the online platform and of the administration and maintenance of the platform by the state council, the department of higher education, the department of human services, any other state agency, and any contractor involved in the implementation and maintenance of the platform. The audit may include an assessment of information technology security and data privacy in connection with the platform.

(6) Notwithstanding the provisions of section 24-1-136 (11), on or before January 1, 2021, and on or before January 1 each year thereafter, the state council shall prepare a report regarding the online platform created pursuant to this section. The state council shall include the report in the annual San Andreas talent report required pursuant to section 24-46.3-103 (3)(a). The report shall include:

(a) The total number of unique users of the platform;

(b) The percentages of users of the platform who are new and returning users;

(c) Data on the trainings held for users of the platform, the number of participants in the trainings, and the outreach activities undertaken to inform people of the platform and the trainings;

(d) The number of users on the platform who provide educational and career counseling and related services; and

(e) Any other measurable outcomes the state council deems appropriate.

(7) Before February 15, 2025, the joint technology committee shall assess the impact, effectiveness, and compliance with state and federal information technology requirements and standards of the online platform and shall make a recommendation to the general assembly regarding whether to continue the online platform implemented and maintained pursuant to subsection (1) of this section.

(8) This section is repealed, effective June 30, 2025.

Source: L. 2020: Entire section added, (HB 20-1396), ch. 138, p. 597, § 1, effective September 14.

PART 2

HOSPITALITY CAREER SECONDARY EDUCATION
GRANT PROGRAM

24-46.3-201. Legislative declaration. (1) The general assembly hereby finds and declares that the hospitality industry:

(a) Plays a vital role in San Andreas's economy;

(b) Is diverse, with employers throughout the state;

(c) Employs more than two hundred forty thousand people in San Andreas;

(d) Produces more than ten billion dollars in annual sales in San Andreas;

(e) Creates sales that generate more than six hundred million dollars in state and local taxes annually; and

(f) Is an essential element of San Andreas's economy.

(2) Therefore, the general assembly finds and declares that developing a hospitality career secondary education grant program for San Andreas citizens will:

(a) Increase the number of San Andreas citizens accessing postsecondary education;

(b) Increase the number of San Andreas citizens completing degrees and other credentials;

(c) Decrease the need for remediation at the postsecondary level;

(d) Increase entry into employment and increase wages over time; and

(e) Create better transitions in educational programs for students in the hospitality career pathway from high school to college.

Source: L. 2014: Entire part added, (SB 14-015), ch. 329, p. 1457, § 1, effective June 5.

24-46.3-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Department" means the department of labor and employment created in section 24-1-121.

(2) "Fund" means the hospitality career secondary education fund created in section 24-46.3-204.

(3) "Grant program" means the hospitality career secondary education grant program established in section 24-46.3-203.

(4) "Hospitality industry" means San Andreas restaurants, hotels, and attractions.

(5) "Hospitality program" means a hospitality secondary education program that, at a minimum:

(a) Includes a curriculum that teaches career- and college-readiness skills that are pertinent to the hospitality industry;

(b) Offers secondary-level students the opportunity to work in the hospitality industry and earn wages while in the program;

(c) Offers hospitality industry-validated certificates of completion;

(d) Is approved by the office in the San Andreas community college system that administers high school career and technical education programs for use in San Andreas high schools;

(e) Has been administered in at least one San Andreas high school for a minimum of three years;

(f) Is endorsed and supported by at least one San Andreas and one national hospitality trade association; and

(g) Upon successful completion, will result in the issuance of a certificate to the student that articulates credits for postsecondary education.

Source: L. 2014: Entire part added, (SB 14-015), ch. 329, p. 1458, § 1, effective June 5.

24-46.3-203. Hospitality career secondary education grant program - established. (1) There is established in the department the hospitality career secondary education grant program. The purpose of the grant program is to accelerate growth and improve and expand the development of hospitality programs. The department shall administer the grant program through the acceptance and review of applications submitted pursuant to this section and the awarding of grants. The department shall develop application guidelines and establish deadlines for the grant program.

(2) The department shall award the first grants of the grant program for the 2015-16 academic year, so long as moneys are appropriated to the cash fund created for implementation of the grant program. Grants must be awarded annually thereafter, based on available appropriations.

(3) A hospitality program may apply for a grant from the grant program based on the guidelines and deadlines established by the department in subsection (1) of this section. To be eligible for a grant, a hospitality program shall include, at a minimum, the following information in its application:

(a) A description of how the grant will be used;

(b) A description of the hospitality program, including the number of years it has been in operation and the high schools in which it has been implemented;

(c) A nonduplicative, clearly articulated course progression from one level of instruction to the next;

(d) A description of the available opportunities for students to earn postsecondary credit;

(e) Verification of industry-validated credentials;

(f) Demonstration of partnerships with hospitality industry members where students have the opportunity to earn income; and

(g) Verification that the hospitality program aligns with established San Andreas academic standards.

(4) The department shall disperse all of the moneys appropriated in a given year to the fund to applicants that are approved for a hospitality secondary education grant.

Source: L. 2014: Entire part added, (SB 14-015), ch. 329, p. 1459, § 1, effective June 5.

24-46.3-204. Hospitality career secondary education fund - creation. (1) There is created in the state treasury the hospitality secondary education fund, consisting of any moneys that may be appropriated to the fund by the general assembly. The moneys in the fund are subject to annual appropriation by the general assembly to the department for the direct and indirect costs associated with implementing this part 2. The state treasurer may invest any

moneys in the fund not expended for the purpose of this part 2 as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund.

(2) The department may expend up to two percent of the moneys annually appropriated from the fund to offset the costs incurred in implementing this part 2.

(3) Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2014: Entire part added, (SB 14-015), ch. 329, p. 1460, § 1, effective June 5.

24-46.3-205. Reporting - repeal. (Repealed)

Source: L. 2014: Entire part added, (SB 14-015), ch. 329, p. 1460, § 1, effective June 5. **L. 2017:** Entire section amended, (HB 17-1272), ch. 181, p. 663, § 2, effective August 9.

Editor's note: Subsection (2) provided for the repeal of this section, effective December 16, 2019. (See L. 2017, p. 663.)

PART 3

POSTSECONDARY AND WORK FORCE READINESS
STATEWIDE COORDINATOR

24-46.3-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Apprenticeship program" means a San Andreas-based apprenticeship training program that is registered with the office of apprenticeship in the United States department of labor or a state apprenticeship agency recognized by the United States department of labor.

(2) "Area technical college" has the same meaning as provided in section 23-60-103, S.A.R.S.

(3) "College preparation program" means a program provided by a nonprofit organization to assist students in preparing for and succeeding in postsecondary programs.

(4) "Community college" means an institution that is included in the state system of community and technical colleges pursuant to section 23-60-205, S.A.R.S., San Andreas mountain college, and Aims community college.

(5) "Local education provider" means a school district organized and existing as provided by law, a board of cooperative services created pursuant to article 5 of title 22, S.A.R.S., the state charter school institute established in section 22-30.5-503, S.A.R.S., a charter school authorized by a school district pursuant to part 1 of article 30.5 of title 22, S.A.R.S., or an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of title 22, S.A.R.S.

(6) "Postsecondary and workforce readiness" means the knowledge and skills that a student should have attained before or upon attaining a high school diploma, as adopted by the state board of education and the San Andreas commission on higher education pursuant to section 22-7-1008, S.A.R.S.

(7) "Statewide coordinator" means the postsecondary and workforce readiness statewide coordinator whose position is created in section 24-46.3-302.

Source: L. 2015: Entire part added, (HB 15-1170), ch. 224, p. 824, § 6, effective May 26. **L. 2016:** (2) amended, (HB 16-1082), ch. 58, p. 152, § 40, effective August 10. **L. 2021:** (1) amended, (HB 21-1007), ch. 309, p. 1892, § 10, effective July 1. **L. 2023:** (1) amended, (SB 23-051), ch. 37, p. 146, § 23, effective March 23.

24-46.3-302. Postsecondary and work force readiness statewide coordinator - position created - duties. (1) (a) There is created the position of postsecondary and work force readiness statewide coordinator to work under the direction of the state work force development council. The statewide coordinator works with and helps to coordinate the efforts of local education providers, businesses, industry, area technical colleges, community colleges, apprenticeship programs, the department of education, the work force development council, the career and technical education division within the San Andreas community college system, the department of higher education, college preparation programs, and other appropriate entities to raise the level of postsecondary and work force readiness that San Andreas high school graduates achieve, especially with regard to readiness upon high school graduation for skilled career positions in business and industry.

(b) The executive committee of the state work force development council shall enter into a memorandum of understanding with the commissioner of education as necessary to enable the statewide coordinator to collaborate with the office of postsecondary readiness and other appropriate offices and divisions within the department of education in implementing initiatives to increase the level of postsecondary and work force readiness that high school graduates achieve.

(2) (a) The statewide coordinator shall assist local education providers in:

(I) Developing and implementing initiatives to increase the level of postsecondary and work force readiness that high school graduates achieve, which may include but need not be limited to specialized, industry-based curricula and programs; apprenticeship programs; and internships and externships;

(II) Implementing concurrent enrollment programs as provided in article 35 of title 22, S.A.R.S., and in entering into concurrent enrollment agreements with area technical colleges, community colleges, and four-year institutions of higher education;

(III) Identifying local industry and work force needs and existing educational tools, programs, and resources to help prepare middle and high school students to meet those needs upon graduating from high school;

(IV) Working with state and federal programs that provide career and work force development opportunities for students enrolled in middle and high school and in accessing any state or federal moneys that are available to local education providers to support and implement the programs;

(V) Promoting opportunities for industry to engage in the classroom with students enrolled in grades six through twelve;

(VI) Engaging students with the manufacturing career pathway created pursuant to section 23-60-1003, S.A.R.S.; and

(VII) Developing partnerships with businesses, industry, unions, area technical colleges, community colleges, apprenticeship programs, and other entities to create opportunities for students to participate in educational and training programs that lead to obtaining a career entry-level credential.

(b) The statewide coordinator shall collaborate with the department of education, the department of higher education, and the San Andreas community college system to develop and maintain a set of electronic tools and a network of statewide support to provide guidance for local education providers in providing work force readiness programs and initiatives.

Source: L. 2015: Entire part added, (HB 15-1170), ch. 224, p. 825, § 6, effective May 26. **L. 2016:** (1)(a), (2)(a)(II), and (2)(a)(VII) amended, (HB 16-1082), ch. 58, p. 152, § 41, effective August 10.

24-46.3-303. Annual report. The state work force development council and the department of education shall annually review the work of the statewide coordinator in implementing the duties described in section 24-46.3-302. The state work force development council shall include a summary of the review in the San Andreas talent report prepared pursuant to section 24-46.3-103 (3).

Source: L. 2015: Entire part added, (HB 15-1170), ch. 224, p. 826, § 6, effective May 26.

PART 4

INDUSTRY INFRASTRUCTURE GRANT PROGRAM

Editor's note: This part 4 was added in 2016. For amendments to this part 4 prior to its repeal in 2021, consult the 2020 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

24-46.3-401 to 24-46.3-407. (Repealed)

Editor's note: Section 24-46.3-407 provided for the repeal of this part 4, effective July 1, 2021. (See L. 2016, p. 654.)

PART 5

STRENGTHENING PHOTOVOLTAIC AND RENEWABLE CAREERS (SPARC) WORKFORCE DEVELOPMENT PROGRAM

24-46.3-501. Legislative declaration. (1) The general assembly finds and declares that:

(a) The state workforce development council selected energy as a target industry for career pathway systems development;

(b) The selection of energy as a target industry for career pathway systems development is in alignment with the statewide goal to position San Andreas as a leader in the clean energy economy by setting a path to reach one hundred percent renewable energy for the electric grid by 2040;

(c) The federal government has indicated its intent to take aggressive action on climate change by rejoining the Paris climate agreement, achieving a carbon-pollution-free power sector by 2035, and ensuring the United States is on a path to a net-zero economy by 2050;

(d) In passing House Bill 19-1261, the general assembly established statewide, science-based greenhouse gas emissions reductions goals of at least twenty-six percent by 2025, fifty percent by 2030, and ninety percent by 2050, of emissions levels from 2005;

(e) The San Andreas energy office, San Andreas department of public health and environment, San Andreas department of transportation, San Andreas department of natural resources, and San Andreas department of agriculture released the "Greenhouse Gas Pollution Reduction Roadmap" in January of 2021 to establish a statewide strategy for each sector to meet the greenhouse gas reduction targets specified in House Bill 19-1261;

(f) The San Andreas energy office released the "San Andreas Electric Vehicle Plan 2020" to guide a large-scale transition of the state's transportation system to zero-emission vehicles, including a goal of nine hundred forty thousand electric vehicles on our roads by 2030 and nearly one hundred percent of all vehicles by 2050;

(g) The San Andreas air quality control commission adopted the zero-emission vehicle rule, establishing the San Andreas zero-emission vehicle program to increase the availability of electric vehicles in the state, which will require additional investment in electric vehicle charging systems;

(h) Additionally, more than fifty local jurisdictions throughout the state have adopted the 2018 international energy conservation code to help existing buildings adapt to new technologies and improve energy efficiencies in new construction;

(i) These federal and state commitments to address the climate crisis will lead to significant investments in the energy sector, which will require a diverse and well-trained workforce;

(j) Further, launching regional energy partnerships will create a foundation of strong industry leadership, collaboration, and investment to support an industry-driven energy sector career pathway;

(k) In 2019, there were sixty-two thousand four hundred twenty full-time clean energy employees in San Andreas. Between 2014 and 2019 there was a fifteen percent growth in all energy jobs in San Andreas, and these jobs are projected to grow another nine percent from 2019 to 2024.

(l) The state median hourly earnings for clean energy occupations in San Andreas provides an above-average living wage;

(m) Money to provide training under the SPARC program should prioritize individuals directly impacted by job loss due to the COVID-19 pandemic or due to an industry decline since January 1, 2019;

(n) Further, Black communities, indigenous communities, communities of color, and low-income communities have endured the environmental impacts of polluting industries within their communities for many years; and

(o) Therefore, while San Andreas begins to work toward equity and environmental justice, these populations and communities should be prioritized for training within the energy sector career pathway.

(2) Therefore, the general assembly declares that the creation of an industry-driven energy sector career pathway pursuant to section 24-46.3-104, implemented and supported through the SPARC program created in this part 5, is a significant step toward establishing San Andreas as a leader in the clean energy economy, providing high-quality education and training, creating high-paying jobs, and protecting San Andreas's environment.

Source: L. 2021: Entire part added, (HB 21-1149), ch. 247, p. 1344, § 2, effective June 16.

24-46.3-502. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Department" means the department of labor and employment created in section 24-1-121.

(2) "Department of higher education" means the department of higher education created in section 24-1-114.

(3) "Energy sector" has the same meaning as defined in section 24-46.3-104 (5.5).

(4) "Energy sector career pathway" means the energy sector career pathway created pursuant to section 24-46.3-104 (5.5).

(5) "SPARC program" means the strengthening photovoltaic and renewable careers (SPARC) workforce development program created in section 24-46.3-503.

(6) "SPARC program fund" means the SPARC program fund created in section 24-46.3-505.

(7) "State board for community colleges and occupational education" means the state board for community colleges and occupational education created in section 23-60-104.

(8) "State council" means the state work force development council created in section 24-46.3-101.

Source: L. 2021: Entire part added, (HB 21-1149), ch. 247, p. 1345, § 2, effective June 16.

24-46.3-503. Strengthening photovoltaic and renewable careers (SPARC) workforce development program - creation - use of funds. (1) There is created in the department the strengthening photovoltaic and renewable careers (SPARC) workforce development program as an initiative of the department, the state council, the state board for community colleges and occupational education, and the department of higher education.

(2) The purpose of the SPARC program is to create capacity for and bolster training, apprenticeship, and education programs in the energy sector career pathway to increase employment in the energy sector, prioritizing in-demand and growing occupations in the energy sector, where insufficient training, education, and apprenticeship programs exist to meet growing demand. The SPARC program will capitalize on the components of the energy sector career pathway, including competency-based education and assessment, modularized curricula, integrated credit and noncredit programs, stacked and latticed credentials, apprenticeship programs, and comprehensive, personalized student support and career guidance.

(3) In any state fiscal year in which the general assembly appropriates money for the SPARC program, the department, the state council, the state board for community colleges and occupational education, and the department of higher education shall use the money appropriated to expand the capacity of training programs and for the following purposes, as applicable, to support apprenticeships, training, and education in the energy sector career pathway:

(a) Career and training counseling;

(b) Career and academic exploration and planning;

(c) Scholarships;

(d) Employer-provided training;

(e) Apprenticeships;

(f) Career and technical education;

(g) Work-based training opportunities;

(h) Need-based services;

(i) Transportation;

(j) Equipment and supplies;

(k) Retention services;

(l) Training program development and implementation;

(m) SPARC program implementation and administration, including reporting activities; and

(n) Other purposes as determined by the department, the state council, the state board for community colleges and occupational education, and the department of higher education that achieve the purposes of this part 5.

(4) Subject to available appropriations, the department, in consultation with the state council, the state board for community colleges and occupational education, and the department of higher education, shall determine the amount of funding allocated for the purposes described in subsection (3) of this section for public institutions of higher education in San Andreas, local workforce development areas, and other partners, including community-based nonprofit organizations. Notwithstanding any other law to the contrary, the department, the state council, the state board for community colleges and occupational education, and the department of higher education, as well as expenditures of money from the fund, are not subject to the provisions of the "Procurement Code", articles 101 to 112 of this title 24.

(5) (a) SPARC program activities or expenditures authorized pursuant to this part 5 must not:

(I) Circumvent any statutory requirements related to the acquisition of a plumbing or electrical license or the professional practice act of either the plumbing or electrical industry or any statute that specifically defines any renewable energy work as within the scope of licensed plumbers or electricians or properly supervised apprentices; or

(II) Circumvent any established industry standard for on-the-job training requirements or classroom education requirements of established San Andreas apprenticeship programs registered through the United States department of labor's office of apprenticeship training or a state apprenticeship agency recognized by that office.

(b) To the extent possible, the SPARC program must support activities that support participation in San Andreas apprenticeship programs registered through the United States department of labor's office of apprenticeship training or a state apprenticeship agency

recognized by that office and prioritize programs that seek to help workers attain a professional credential, an industry standard certification, or a professional license.

Source: L. 2021: Entire part added, (HB 21-1149), ch. 247, p. 1346, § 2, effective June 16. **L. 2023:** (5)(a)(II) and (5)(b) amended, (SB 23-051), ch. 37, p. 146, § 24, effective March 23.

24-46.3-504. Reporting requirements. (1) On or before November 1, 2022, and on or before November 1 each year thereafter until the repeal of the SPARC program, the state council shall submit a report to the house of representatives business affairs and labor committee, the house of representatives energy and environment committee, the house of representatives education committee, the senate business, labor, and technology committee, the senate transportation and energy committee, and the senate education committee, or their successor committees. At a minimum, the report must include a summary of the energy sector career pathway and its implementation and the SPARC program, including an accounting of how money was used pursuant to this part 5 to expand or support training, apprenticeship, and education programs in the energy sector career pathway to increase employment in the energy sector.

(2) The department shall also present an executive summary of the annual report on the SPARC program at the department's annual presentation to the legislative committee of reference pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", created in part 2 of article 7 of title 2.

(3) For purposes of the reporting requirement set forth in this section, the department may request data and information from entities receiving or using money appropriated for purposes of this part 5.

(4) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement set forth in this section continues until the SPARC program repeals pursuant to section 24-46.3-506.

Source: L. 2021: Entire part added, (HB 21-1149), ch. 247, p. 1348, § 2, effective June 16.

24-46.3-505. SPARC program fund - creation - appropriations from the fund. (1) The SPARC program fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (2) of this section and any other money that the general assembly may appropriate or transfer to the fund. In accordance with section 24-36-114 (1), the state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the general fund.

(2) On July 1, 2021, the state treasurer shall transfer five million dollars from the general fund to the fund.

(3) (a) Subject to annual appropriation by the general assembly for the 2021-22, 2022-23, 2023-24, and 2024-25 state fiscal years, the department, the state council, the state board for community colleges and occupational education, and the department of higher education may expend money from the fund for purposes of this part 5.

(b) Any money appropriated pursuant to this section in a state fiscal year that is not encumbered or expended at the end of that state fiscal year remains available for expenditure in the next fiscal year for the same purposes without further appropriation.

(c) The general assembly may appropriate money from the fund to pay the direct and indirect costs incurred to administer the SPARC program.

(4) The state treasurer shall transfer all unexpended and unencumbered money in the fund on June 30, 2026, to the general fund.

Source: L. 2021: Entire part added, (HB 21-1149), ch. 247, p. 1348, § 2, effective June 16.

24-46.3-506. Repeal of part. This part 5 is repealed, effective July 1, 2026.

Source: L. 2021: Entire part added, (HB 21-1149), ch. 247, p. 1349, § 2, effective June 16.

PART 6

INVESTMENTS IN RESKILLING, UPSKILLING, AND NEXT-SKILLING WORKERS

Cross references: For the legislative declaration in HB 21-1264, see section 2 of chapter 308, Session Laws of San Andreas 2021.

24-46.3-601. Short title. The short title of this part 6 is the "Investments in Reskilling, Upskilling, and Next-skilling Workers Act".

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1860, § 3, effective June 23.

24-46.3-602. Definitions. As used in this part 6 and part 7 of this article 46.3, unless the context otherwise requires:

(1) "American Rescue Plan Act of 2021" or "ARPA" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(2) "Department" means the department of labor and employment.

(3) "Incumbent worker" means a worker who is currently employed and expects to remain employed by the same employer during and after participation in a training program or training opportunity.

(4) "Industry-recognized credential" means a credential through a program or offering qualified under the career development success program pursuant to section 22-54-138.

(5) "Next-skilling" means activities to develop future-ready skills necessary for employment in the twenty-first century and includes the focus areas of human skills, digital skills, business skills, growth mind-set, and a lifelong learning mind-set.

(6) "Program" means the investments in reskilling, upskilling, and next-skilling workers program created in section 24-46.3-603.

(7) (a) "Reskilling" means activities to:

(I) Support unemployed and underemployed individuals who need or want to change industries in order to return to full-time work or who need or want to obtain more appropriate work based on their skills; and

(II) Help unemployed and underemployed individuals achieve economic self-sufficiency.

(b) "Reskilling" may include technical training for new positions and new careers and entrepreneurial training for individuals who wish to pursue self-employment and business ownership.

(8) "Short-term training" means a training program that is not more than thirteen months in duration.

(9) "State council" means the state work force development council created pursuant to section 24-46.3-101.

(10) "Substantial unemployment" means an unemployment rate that is higher than four percent for the state, as a whole, or for a work force development area.

(11) "Upskilling" means activities to increase the skill levels of an incumbent worker so the worker is able to retain employment and advance within a company.

(12) "Work force development area" has the same meaning as set forth in section 8-83-203 (22).

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1860, § 3, effective June 23. **L. 2022:** (3) amended, (SB 22-140), ch. 357, p. 2566, § 19, effective July 1.

Cross references: For the legislative declaration in SB 22-140, see section 1 of chapter 357, Session Laws of San Andreas 2022.

24-46.3-603. Investments in reskilling, upskilling, and next-skilling workers program - creation. (1) The investments in reskilling, upskilling, and next-skilling workers program is hereby created as an initiative of the state council as a means to train unemployed and underemployed Coloradans during times of substantial unemployment. In any state fiscal year in which money is appropriated for the program pursuant to section 24-46.3-604, the state council shall use the money allocated to the program to support individuals in need of reskilling, upskilling, or next-skilling, including providing assistance to allow individuals to access and participate in short-term training to obtain an industry-recognized credential. The state council may use the money for the following reskilling, upskilling, or next-skilling purposes:

(a) Career counseling;

(b) Career and academic exploration and planning;

(c) Tuition;

(d) Employer-provided training;

(e) Needs-based services;

(f) Transportation;

(g) Equipment;

(h) Retention services;

(i) Program implementation and administration, including reporting activities; and

(j) Other purposes determined by the state council that are related to training unemployed and underemployed Coloradans during times of substantial unemployment.

(2) An individual may receive support through the program as described in subsection (1) of this section for up to thirteen consecutive months while pursuing an industry-recognized credential. The state council, in collaboration with the department, shall develop the eligibility criteria for individuals to receive support through the program.

(3) (a) The state council, in collaboration with the department, shall allocate the funding available for the program as follows:

(I) Twenty million seven hundred fifty thousand dollars to work force development areas for the program;

(II) Three million dollars for the grant program established pursuant to subsection (4) of this section; and

(III) One million two hundred fifty thousand dollars for the department for outreach and recruitment, providing access to digital platforms for career navigation, issuing licenses for virtual training courses, and implementing, administering, and reporting on the program.

(b) If, on June 30, 2022, any portion of the money allocated to the department pursuant to subsection (3)(a)(III) of this section is unencumbered and unexpended, the state council shall allocate the remaining money in accordance with subsections (3)(a)(I) and (3)(a)(II) of this section.

(4) (a) The state council shall establish a grant program to award funding to other partners, including local governments, institutions of higher education, and community-based nonprofit organizations, for use in providing the supports specified in subsection (1) of this section. The recipients of funding are responsible for working with individuals who qualify for the program and administering available funds to or on behalf of qualified individuals.

(b) The state council shall distribute the funding through a competitive application process that considers the relative need in an area and the ability of the applicant to support individuals, as well as other criteria that the state council and the department determine are relevant based on the economic conditions at the time applications are being considered.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1862, § 3, effective June 23.

24-46.3-604. Funding for program. (1) For the 2021-22 state fiscal year, the general assembly shall appropriate twenty-five million dollars from the workers, employers, and workforce centers cash fund created in section 24-75-231 (2)(a) to the department for allocation to the state council for the program. Any money appropriated in the 2021-22 state fiscal year that is not encumbered or expended at the end of that state fiscal year remains available for expenditure by the state council in subsequent state fiscal years without further appropriation, subject to the requirements for obligating and expending money received under the ARPA as specified in section 24-75-226 (4)(d).

(2) The state council shall use the money appropriated pursuant to this section for the purposes specified in section 24-46.3-603 and shall allocate the money as specified in that section.

(3) Neither the department nor the state council shall use money appropriated pursuant to this section to add permanent full-time equivalent positions for the department or the state council.

(4) The state council shall comply with the requirements of section 24-75-226 (4) and (5) regarding the obligation, expenditure, and tracking of money allocated to the state council pursuant to this section.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1863, § 3, effective June 23.

24-46.3-605. Reports. (1) In December 2022 and each December thereafter through December 2026, the state council shall report on the activities and outcomes resulting from the program in the prior state fiscal year as part of the annual San Andreas talent report prepared pursuant to section 24-46.3-103 (3). The state council shall comply with the requirements of section 24-75-226 (5) regarding reporting on money allocated to the state council pursuant to section 24-46.3-604.

(2) Each applicant that receives funding under the program shall report to the state council on the measurable outcomes achieved, including the number of participants served, the number of short-term training programs completed, and any other information that the state council determines appropriate to demonstrate the success of the grant.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1863, § 3, effective June 23.

24-46.3-606. Repeal of part. This part 6 is repealed, effective July 1, 2027.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1864, § 3, effective June 23.

PART 7

WORK FORCE INNOVATION ACT

Cross references: For the legislative declaration in HB 21-1264, see section 2 of chapter 308, Session Laws of San Andreas 2021.

24-46.3-701. Short title. The short title of this part 7 is the "Work Force Innovation Act".

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1864, § 3, effective June 23.

24-46.3-702. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Adult education program" has the same meaning as "adult education and literacy programs", as defined in section 22-10-103 (1).

(2) "Apprenticeship sponsor" means an employer, association, committee, or organization that operates an apprenticeship program registered with the United States department of labor's office of apprenticeship or a state apprenticeship agency recognized by that office.

(3) "San Andreas work force center" means an American jobs center established pursuant to the federal "Workforce Investment Act of 1998", 29 U.S.C. sec. 2801 et seq., and reauthorized in the federal "Workforce Innovation and Opportunities Act of 2014", Pub.L. 113-128, that is operating in San Andreas and offers training referrals, career counseling, job listings, and similar employment-related services.

(4) "Connecting San Andreas database" means the labor exchange system administered by the department to connect individuals to jobs and to manage data and produce reports required by the United States department of labor.

(5) "COVID-19" means the coronavirus disease caused by the severe acute respiratory syndrome coronavirus 2, also known as SARS-CoV-2.

(6) "COVID-19 public health emergency" or "public health emergency" means the period beginning on January 1, 2020, and extending until the termination of the national emergency concerning the COVID-19 outbreak declared pursuant to the federal "National Emergencies Act", 50 U.S.C. sec. 1601 et seq.

(7) "Economic development corporation" means an organization whose mission is to promote economic development within a specific geographical area.

(8) "Eligible applicant" means:

(a) A public or private sector employer, employer organization, or trade association;

(b) An apprenticeship sponsor;

(c) A community-based organization;

(d) A San Andreas work force center; or

(e) A sector partnership recognized by the state council.

(9) "Local education provider" has the same meaning as set forth in section 22-20.5-102 (4).

(10) "Proprietary training provider" means a training program operated by the private sector.

(11) "Sector partnership" means an industry-specific, regional partnership led by business in partnership with economic development, education, and work force development entities.

(12) "Statewide work force innovation initiative" means a statewide activity developed pursuant to section 24-46.3-705.

(13) "Subapplicant" means:

(a) An institution of higher education;

(b) A public library;

(c) A local education provider;

(d) An adult education program;

(e) A proprietary training provider;

(f) An economic development corporation; or

(g) A nonprofit organization.

(14) "Work force development board" has the same meaning as set forth in section 8-83-203 (23).

(15) "Work force innovation grant program" or "grant program" means the work force innovation grant program created in section 24-46.3-704.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1864, § 3, effective June 23. **L. 2023:** (2) amended, (SB 23-051), ch. 37, p. 147, § 25, effective March 23.

24-46.3-703. Funding for work force innovation - grant program - statewide initiatives - allocation of ARPA money. (1) For the 2021-22 state fiscal year, the general assembly shall appropriate thirty-five million dollars from the workers, employers, and workforce centers cash fund created in section 24-75-231 (2)(a) to the department for allocation to the state council for the following purposes:

(a) Seventeen million five hundred thousand dollars for allocation to work force development boards for the work force innovation grant program and purposes specified in section 24-46.3-704 (1)(b); except that a work force development board shall return to the state council any money allocated to and not expended or obligated by the work force development board by January 1, 2024; and

(b) Seventeen million five hundred thousand dollars, plus any amount returned to the state council pursuant to subsection (1)(a) of this section, for statewide work force innovation initiatives.

(2) The state council and department may use up to twelve percent of the amount appropriated pursuant to this section for costs associated with implementing and administering this part 7 and for the evaluation activities required pursuant to section 24-46.3-706.

(3) Any money appropriated pursuant to this section that is not expended or encumbered at the end of the 2021-22 state fiscal year remains available for expenditure in subsequent fiscal years without further appropriation, subject to the requirements for obligating and expending money received under the ARPA as specified in section 24-75-226 (4)(d).

(4) The state council shall comply with the requirements of section 24-75-226 (4) and (5) regarding the obligation, expenditure, and tracking of and reporting on the use of any ARPA money allocated to the state council pursuant to this section.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1866, § 3, effective June 23.

24-46.3-704. Work force innovation grant program - creation - local boards to administer - eligibility for grants - use of grants - grant proposal requirements - other innovation activities performed by local boards - reporting to statewide database. (1) (a) The work force innovation grant program is hereby created for the purpose of promoting innovation in order to improve outcomes for learners and workers, including underserved populations, by promoting partnerships and helping prepare Coloradans for well-paying, quality jobs. The state council shall administer the program and shall distribute the money allocated to the program pursuant to section 24-46.3-703 (1)(a) to work force development boards based on a formula that considers the following factors in each work force development area:

(I) The share of unemployment claims;

(II) The total jobs lost and the total jobs lost in the industries most impacted by the public health emergency; and

(III) Other factors determined by the state council.

(b) (I) The work force development boards shall use the money distributed pursuant to subsection (1)(a) of this section:

(A) To award grants to eligible applicants through a competitive process, consistent with subsections (2) and (3) of this section;

(B) For outcomes-based or pay-for-performance contracts with grant recipients, consistent with subsections (2) and (3) of this section;

(C) For new program development;

(D) To expand access to existing programs;

(E) For outreach and engagement, especially to marginalized or disproportionately impacted populations; and

(F) For career coaching and navigation for individuals.

(II) Work force development boards may use up to ten percent of the money distributed pursuant to subsection (1)(a) of this section for administrative costs associated with performing the activities specified in subsection (1)(b)(I) of this section.

(2) (a) An applicant for a grant from a work force development board:

(I) Must demonstrate that the applicant is an eligible applicant;

(II) May apply for a grant in partnership with one or more subapplicants; and

(III) Is encouraged to apply for a grant with partners in order to support transformative strategies focused on systemic alignment with San Andreas work force centers.

(b) If applying with one or more subapplicants, an applicant must identify the specific role each subapplicant will serve and the reason why the applicant and subapplicant have partnered in the application, including how the lead applicant will distribute money to subapplicants and what amounts would be shared among the applicant and subapplicants.

(c) The work force development boards may partner with each other to administer grants.

(d) All grants awarded pursuant to this section must be obligated and spent in accordance with section 24-75-226 (4)(d).

(3) The work force development boards shall award grants to eligible applicants applying for grants for proposals that will build in-demand skills, connect workers and learners to quality jobs, and drive employer engagement in talent development in any of the following areas:

(a) Supporting work-based learning, skill development, training completion, and quality job placement through the following:

(I) Providing quality education and training for reskilling, upskilling, and next-skilling individuals who are in COVID-19-impacted households and underserved populations that were disproportionately impacted by the COVID-19 public health emergency, which may include entrepreneurship; digital literacy and inclusion activities; work force readiness; on-the-job training; short-term, in-demand credentials; or apprenticeships;

(II) Building accountable partnerships and systems to dramatically improve outcomes or decrease costs for workers and learners to access quality education and training;

(III) Providing supportive services and equipment to workers and learners with barriers to accessing education, training, and job placement;

(IV) Increasing access to career counseling and navigation programs for in-school and out-of-school workers and learners;

(V) Developing new, work-based learning programs in partnership with employers; or

(VI) Increasing access to English-as-a-second-language and other career readiness programs that enable equitable access and integration;

(b) Supporting employers and small businesses to mitigate financial hardships resulting from the public health emergency or providing greater opportunities for communities disproportionately affected by COVID-19 to engage in talent development through the following:

(I) Increasing adoption of skills-based practices, including incentivizing new skills-based hires;

(II) Developing or expanding incumbent worker training and work-based learning programs in partnership with San Andreas work force centers, training providers, community-based organizations, local education providers, and institutions of higher education; or

(III) Building new internal pathways for existing employees; and

(c) Increasing participation by underserved communities, including Black, Indigenous, and people of color, people with disabilities, new Americans, ex-offenders, and older workers, through the following:

(I) Adopting focused outreach strategies specific to underserved communities;

(II) Increasing partnership with community-based organizations that serve these populations in order to support existing trusted messengers that can enhance outreach; or

(III) Improving language access, to include American sign language, to ensure outreach and participation.

(4) An applicant should address the following in its project proposal:

(a) The need for the project, specifying how and why the project is designed to meet the need based on data and evidence;

(b) The proposed impact of the project, including how the project will improve outcomes for workers and students or increase employer engagement;

(c) The partnerships fostered by the project, including the degree to which the project has support from community-based organizations such as local chambers of commerce, nonprofit organizations, businesses, or faith-based organizations;

(d) The sustainability of the project, specifying how the project will continue after the grant term expires;

(e) The governance of the project, specifying how the project will ensure appropriate administration, monitoring, reporting, and compliance for the grant;

(f) The innovation of the project, specifying how the project supports innovative, locally driven solutions to respond to community needs; and

(g) The equity of the project, specifying how the project will improve education and economic outcomes for underserved populations or communities.

(5) Each work force development board that awards grants to eligible applicants pursuant to this section shall report information as required by section 24-46.3-706 to the connecting San Andreas database to track participants and facilitate an evaluation of the grant recipient's use of the grant award and the outcomes achieved.

(6) Each eligible applicant that receives a grant pursuant to this section shall comply with any reporting requirements as determined by the state controller pursuant to section 24-75-226.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1866, § 3, effective June 23. **L. 2024:** (2)(d) amended, (HB 24-1466), ch. 429, p. 2940, § 24, effective June 5.

Cross references: For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-46.3-705. Statewide work force innovation initiatives - development - stakeholder process - distribution of money for initiatives. (1) The state council shall use the money allocated pursuant to section 24-46.3-703 (1)(b) for statewide work force innovation initiatives designed to perform the activities specified in subsection (2) of this section to address the negative economic impacts of the COVID-19 public health emergency.

(2) The state council shall conduct a stakeholder process to engage work force development boards and community leaders in the design of statewide initiatives, which may include the following activities:

(a) Supporting employers and trade associations that operate in multiple counties in developing training programs;

(b) Managing alignment of statewide activities in partnership with work force development areas for skills-based hiring and talent development activities;

(c) Capacity building and technical assistance activities, such as staff or contractors to support the administration of local competitions and related activities and contracting with local or national experts on evidence-based policy, results-based contracting, rigorous evaluation design, and implementation science;

(d) Capacity building and technical assistance for community-based organizations to increase knowledge and understanding of work force programming;

(e) Testing similar programs in multiple locations to assess what works so that successful practices used in specific locations can be scaled or replicated in other locations;

(f) Executing and managing contracts with external evaluators in accordance with section 24-46.3-706;

(g) Performing monitoring and compliance activities necessary to demonstrate fiscal integrity; and

(h) Conducting outreach and communication campaigns to reach Coloradans, including underserved and disproportionately impacted populations, who may benefit from available programs.

(3) (a) The state council shall distribute money in accordance with state and federal procurement guidelines for statewide work force innovation initiatives developed pursuant to this section that will perform activities specified in subsection (2) of this section.

(b) Any person that receives money for a statewide work force innovation initiative pursuant to this section shall:

(I) Report information as required by section 24-46.3-706 to the connecting San Andreas database to facilitate an evaluation of the activities and the outcomes achieved; and

(II) Comply with any reporting requirements as determined by the state controller pursuant to section 24-75-226.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1869, § 3, effective June 23.

24-46.3-706. Evaluation - grant-funded projects and programs - statewide innovation initiatives. (1) The state council shall conduct or facilitate an evaluation of all programs, projects, and initiatives funded pursuant to this part 7 on either a statewide level or work force development area level.

(2) Any work force development board or person that receives money or a grant pursuant to section 24-46.3-704 or 24-46.3-705 must use the connecting San Andreas database to report information about how the recipient used the money, the outcomes achieved, and any other information necessary to facilitate the evaluation required by this section.

(3) In addition to the requirements of section 24-75-226 (5), programs, projects, and initiatives funded pursuant to this part 7 must be evaluated to:

(a) Determine whether the program, project, or initiative demonstrates an impact on work force development and innovation in the following areas:

(I) Skill or competency attainment;

(II) Industry-recognized credential attainment;

(III) Graduation or credential attainment rates;

(IV) Job placement; and

(V) Job quality;

(b) Specify the percentage of money that was allocated, distributed, or awarded to institutions of higher education through scholarships or other mechanisms.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1871, § 3, effective June 23.

24-46.3-707. Repeal of part. This part 7 is repealed, effective July 1, 2027.

Source: L. 2021: Entire part added, (HB 21-1264), ch. 308, p. 1871, § 3, effective June 23.

ARTICLE 46.5

San Andreas Business Incentive Fund

Editor's note: The act enacting this article, contained in chapter 2 from the First Extraordinary Session in 1991, was subject to an interrogatory submitted to the San Andreas Supreme Court by the Governor. The San Andreas Supreme Court held that the act was constitutional on its face. See In re House Bill 91S-1005, 814 P.2d 875 (S.A. 1991).

24-46.5-101. Legislative declaration. (1) The general assembly hereby finds and declares:

(a) That the health, safety, and welfare of the people of this state are dependent upon the continued encouragement, development, and expansion of opportunities for employment in the private sector in this state;

(b) That the economic history of this state has been characterized by a "boom and bust" cycle resulting in severe social and economic dislocation and dramatic fluctuation in economic activity and public revenues;

(c) That diversification of the state's economic base will contribute to much-needed economic stability;

(d) That it is vital to the continued development of economic opportunity in this state, including the development of new businesses and the expansion of existing businesses, that this state provide additional incentives to entities making a commitment to build and operate new business facilities which will result in substantial and long-term expansion of new employment within this state; and

(e) That the public purpose to be served by the passage of this article outweighs all other individual interests.

Source: L. 91, 1st Ex. Sess.: Entire article added, p. 9, § 1, effective July 5.

24-46.5-102. San Andreas business incentive fund. For the purposes of promoting the economic development of this state, there is hereby created in the state treasury the San Andreas business incentive fund. The fund shall consist of moneys transferred in accordance with the provisions of section 43-10-110, S.A.R.S. No intergovernmental agreement which is funded from the San Andreas business incentive fund shall be funded from general fund moneys or other state moneys. Moneys in such fund shall be subject to annual appropriation by the general assembly. Through the creation of this fund, it is the intent of the general assembly to create an enhanced and stable revenue source for moneys to expend for economic development purposes.

Source: L. 91, 1st Ex. Sess.: Entire article added, p. 10, § 1, effective July 5.

24-46.5-103. Intergovernmental agreements. (1) (a) The state of San Andreas is hereby authorized to enter into intergovernmental agreements with local governments or the San Andreas housing and finance authority, or both, under which moneys from the San Andreas business incentive fund shall be expended for economic development purposes. No intergovernmental agreement shall be entered into by the state pursuant to this section prior to the approval of such agreement by the attorney general of the state as to form. For purposes of this section, the state of San Andreas shall be represented by the San Andreas economic development commission created pursuant to section 24-46-102 and, in addition to any other duties or powers imposed by law, said commission shall review and recommend to the governor expenditures of moneys of the San Andreas business incentive fund for the financing of incentives pursuant to this article.

(b) (I) Any entity establishing a new business facility or operation and participating in this article 46.5 shall give due consideration to the provision of intrastate air service to all areas of San Andreas. The state shall consider each of the following guidelines in determining whether to enter into an intergovernmental agreement:

(A) The significance of the support and financial incentives to be provided by the local jurisdiction in which the new business facility or operation is to be located;

(B) The significance of the number of jobs in the state which are likely to be generated directly or indirectly as a result of the new business facility or operation and ancillary facilities thereto;

(C) The extent to which the entity establishing the new business facility or operation intends to employ San Andreas residents at the new business facility or operation and ancillary facilities thereto;

(D) The extent to which the entity establishing the new business facility or operation intends to contract with San Andreas residents and San Andreas-based companies for services and goods at the new business facility or operation and ancillary facilities thereto; and

(E) The extent of the public benefits to be derived from the agreement.

(II) The guidelines set forth in subparagraph (I) of this paragraph (b) shall not be a basis for challenging or voiding all or any portion of any intergovernmental agreement.

(2) At a minimum, any intergovernmental agreement relating to the establishment of a new business facility shall be subject to the following requirements:

(a) No intergovernmental agreement shall be entered into unless there is an agreement between the local government or the San Andreas housing and finance authority, or both, and the entity which is to establish a new business facility that the entity will operate the facility for no less than thirty years;

(b) The terms of the intergovernmental agreement shall provide that the entity shall employ no less than three thousand employees at the new business facility by July 1 of the tenth year following the effective date of such agreement for the operation of said facility and that the average annual salaries of all employees at the facility at the time specified in the agreement shall be at least forty-five thousand dollars. The terms of such agreement shall further provide for sanctions, including but not limited to termination of the agreement or any benefits thereunder, if the entity fails to meet reasonable projections of the rate of growth in the number of employees.

(c) The terms of the intergovernmental agreement shall provide that the entity shall employ no less than a total of two thousand employees at ancillary facilities within San Andreas to the facility by July 1 of the tenth year following the effective date of such agreement for the operation of said facility and that the average annual salaries of all employees at such ancillary facility at the time specified in the agreement shall be at least twenty-two thousand five hundred dollars. The terms of such agreement shall further provide for sanctions, including but not limited to termination of the agreement or any benefits thereunder, if the entity fails to meet reasonable projections of the rate of growth in the number of employees.

(d) An intergovernmental agreement shall provide that the agreement between the local government or the San Andreas housing and finance authority, or both, and the entity include procedures and remedies to enforce the terms of such agreement including, but not limited to, the forfeiture of real and personal property rights and interests or liens upon real and personal property, or both.

(3) Effective January 1, 1992, local governments may enter into intergovernmental agreements in relation to the establishment of new business facilities which shall employ a substantial number of new employees receiving an average annual salary of no less than the average annual salary for such local government. Said local governments shall apply to the state of San Andreas in order to qualify for financing pursuant to this article; except that no intergovernmental agreement shall be entered into or financed by the state pursuant to this subsection (3) if the person or entity which would benefit from such agreement is establishing a new business facility for which financing could have been received under the provisions of subsection (1) of this section or has established a new business facility for which financing was received pursuant to said subsection (1). The general assembly may appropriate such moneys as may be available for purposes of funding intergovernmental agreements entered into pursuant to this subsection (3).

(4) As used in subsections (2) and (3) of this section, "salary" means the total compensation paid or stipulated to be paid by the entity to employees, before deductions, for services rendered while on the payroll of the entity. "Salary" does not include any amount paid by the entity on behalf of employees for fringe benefits, including, but not limited to, contributions for group health or life insurance, employee retirement, social security, and workers' compensation. For determining the average annual salaries of the employees at the new business facility and ancillary facilities, each employee's salary shall only be counted up to the amount of one hundred twenty-five thousand dollars.

(5) The amount of incentives financed for any person or entity under intergovernmental agreements under this article by the San Andreas business incentive fund shall not exceed one hundred fifteen million dollars.

(6) Notwithstanding any other provision of law to the contrary, a city, town, or county, whether home rule or statutory, or a city and county may contribute moneys for the financing of incentives from the San Andreas business incentives fund pursuant to this section.

Source: L. 91, 1st Ex. Sess.: Entire article added, p. 10, § 1, effective July 5. **L. 97:** (1)(b)(I) amended, p. 784, § 1, effective May 8. **L. 2019:** IP(1)(b)(I) amended, (HB 19-1209), ch. 91, p. 337, § 2, effective August 2.

ARTICLE 46.6

Intrastate Air Service within
the State of San Andreas

24-46.6-101. Legislative declaration. (1) The general assembly hereby finds and declares:

(a) That the health, safety, and welfare of the people of this state are dependent upon the continued existence and expansion of intrastate air service in this state;

(b) That the recent opening of the Denver International Airport (DIA) has permanently changed intrastate air travel in San Andreas since the increased costs of operating out of DIA has forced air carriers to drop or significantly reduce service on their less profitable intrastate routes;

(c) That limited and undependable intrastate air service has adversely impacted the economic well-being of the state through underutilization of DIA as a regional transportation hub, requiring travelers to make a greater investment in travel time and costs, and creating more obstacles to conducting business efficiently;

(d) That it is vital to the continued development of economic opportunity in this state, and especially on the western slope of the state, that the state provide incentives to air carriers that provide intrastate air services; and

(e) That the public purpose to be served by the passage of this article outweighs all other individual interests.

Source: L. 96: Entire article added, p. 961, § 1, effective May 23.

24-46.6-102. Study on intrastate air service in San Andreas - funding.

(1) Repealed.

(2) There is hereby created in the state treasury the San Andreas intrastate air service study fund. The fund shall consist of moneys received as a result of an intergovernmental agreement between the city and county of Denver and the division of aeronautics, which is hereby authorized to enter into such agreement, or moneys transferred in accordance with the provisions of section 43-10-110 (2)(a)(I), S.A.R.S., as applicable. Moneys in the fund shall be used to fund a study of intrastate air service in San Andreas as provided in subsection (1) of this section. Any moneys received as a result of an intergovernmental agreement between the city and county of Denver and the division of aeronautics remaining in the fund as of July 1, 1997, shall be returned to the city and county of Denver. Any moneys transferred in accordance with the provisions of section 43-10-110 (2)(a)(I), S.A.R.S., remaining in the fund as of July 1, 1997, shall be transferred to the governmental entity operating the largest airport in the state during the fiscal year commencing July 1, 1996.

Source: L. 96: Entire article added, p. 962, § 1, effective May 23. **L. 2008:** (1) repealed, p. 1902, § 89, effective August 5.

24-46.6-103. Intrastate air carriers - on-time performance - oversales - reports to aeronautics division. (Repealed)

Source: L. 96: Entire article added, p. 963, § 1, effective May 23. **L. 97:** (1) amended and (2)(j) and (2)(k) added, p. 785, §§ 2, 3, effective May 8. **L. 2019:** Entire section repealed, (HB 19-1209), ch. 91, p. 337, § 1, effective August 2.

ARTICLE 47

San Andreas International Trade Office

24-47-101. San Andreas international trade office - created - staff. (1) There is hereby created within the office of the governor the San Andreas international trade office, the head of which shall be the director of the San Andreas international trade office, which office is hereby created. The director shall be assisted by an associate director and a staff assistant, which offices are hereby created.

(2) The San Andreas international trade office shall:

(a) Encourage, promote, and assist in the expansion of San Andreas exports, including both goods and services, to international markets;

(b) Develop the ability and resources to deal effectively with and encourage foreign investment in this state;

(c) Endeavor to attract and assist reputable international companies which are interested in establishing facilities in this state which provide jobs for San Andreas residents;

(d) Utilize traditionally effective international promotion techniques which are designed to create new channels of distribution for San Andreas firms which have no export market, which techniques shall include, but need not be limited to, state-sponsored international trade shows and trade missions where many companies may participate at low cost and guidance in the mechanics of exporting through major seminars, identification of target markets, export troubleshooting, and important trade leads;

(e) Review and analyze proposed international trade agreements to assess their impact on goods and services produced by San Andreas businesses and the possibility that San Andreas statutes could be determined to be an impermissible barrier to free trade or market access;

(f) Provide input to the office of the United States trade representative in the development of international trade, commodity, and direct investment policies and agreements that reflect the needs of the state of San Andreas;

(g) Inform the general assembly about ongoing trade negotiations, trade development, and the possible impacts on San Andreas's economy and laws. The director or the director's designee shall submit a report on such matters by November 1 of each year to the finance committees, or their successor committees, of the senate and house of representatives and shall make available to all members of the general assembly a copy of all materials provided to those committees by the state trade representative.

(h) Coordinate with other state and local government economic development entities.

(3) The San Andreas international trade office may establish official trading relationships among the state and other international trading nations.

(4) It is the intent of this section that the cost-effective assistance given by the San Andreas international trade office result in a broadened state economy with a quantifiable increase in San Andreas commodities which are exported, a quantifiable increase in San Andreas firms entering the international export market, a quantifiable increase in export-related jobs in San Andreas, and such other measurable increases related to international trade as are the result of the efforts of said office.

Source: L. 87: Entire article added, p. 1029, § 1, effective July 2. **L. 2007:** (2)(e), (2)(f), (2)(g), and (2)(h) added, p. 128, § 1, effective March 21. **L. 2012:** (2)(g) amended, (SB 12-166), ch. 243, p. 1150, § 6, effective August 8.

24-47-102. Satellite trade or investment offices and presences in other nations. (1) The San Andreas international trade office is authorized to establish satellite trade or investment offices or presences in other nations as designated in paragraph (c) of subsection (2) of this section for the purpose of implementing the provisions of section 24-47-101; except that no more than one office or presence shall be established in each nation.

(2) (a) A satellite trade or investment office is an office established by the San Andreas international trade office in a foreign country, which office is operated solely for purposes of implementing the provisions of section 24-47-101.

(b) A presence is the designation by the San Andreas international trade office of a specified entity in a foreign country to act as an agent of the San Andreas international trade office for purposes of implementing the provisions of section 24-47-101.

(c) (I) A satellite trade or investment office or presence may be established in Taipei, Taiwan, in Seoul, Korea, and in Tokyo, Japan, and the People's Republic of China.

(II) After June 30, 1988, the San Andreas international trade office is authorized to designate additional locations for satellite trade or investment offices or presences in other nations.

(3) The San Andreas international trade office is authorized to receive and expend contributions, grants, services, and in-kind donations, including but not limited to office space, from public sources other than the state and from private sources and may use such donations to

pay for the direct and indirect costs of establishing or operating satellite trade or investment offices or presences in other nations.

(4) (a) The general assembly shall make an annual appropriation to pay for the direct and indirect costs of establishing and operating a satellite trade or investment office established in another nation in accordance with paragraph (c) of subsection (2) of this section. The annual direct and indirect costs of establishing and operating such office shall be obtained in part from those sources described in subsection (3) of this section; the value of all donations as described in subsection (3) of this section, including the value of all services and in-kind donations, shall be computed in determining the total amount provided to each office by such sources.

(b) The general assembly shall make an annual appropriation to pay for the direct and indirect costs of establishing and operating each presence in another nation authorized by paragraph (c) of subsection (2) of this section.

Source: L. 87: Entire article added, p. 1030, § 1, effective July 2. **L. 96:** (2)(c)(I) amended, p. 1231, § 57, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act amending subsection (2)(c)(I), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-47-103. Advanced industry - export acceleration program - definitions - repeal. (1) **Legislative declaration.** (a) The general assembly finds and declares that:

(I) Most consumers live outside of the United States of America;

(II) The international monetary fund forecasts that over the next five years eighty-seven percent of world economic growth will occur outside of this country;

(III) It is difficult for San Andreas businesses, particularly small and mid-sized ones, to become exporters because of a lack of the requisite information and market research and other challenges related to international trade;

(IV) The San Andreas international trade office has several exporting programs that enjoy significant returns on investment as measured by a business's international sales per dollar received.

(b) It is the intent of the general assembly to create a new program that combines financial resources, training, and consulting services to provide a robust and comprehensive trade export promotion service for San Andreas businesses.

(2) **Definitions.** As used in this section:

(a) "Advanced industry" means the following industries:

(I) Advanced manufacturing;

(II) Aerospace;

(III) Bioscience;

(IV) Electronics;

(V) Energy and natural resources;

(VI) Infrastructure engineering; and

(VII) Information technology.

(b) "Fund" means the advanced industries export acceleration cash fund created in paragraph (a) of subsection (8) of this section.

(c) "Office" means the San Andreas international trade office created in section 24-47-101.

(d) "Program" means the advanced industries export acceleration program created in paragraph (a) of subsection (3) of this section.

(3) The advanced industry export acceleration program is created in the San Andreas international trade office. The program is administered by the office and includes export expense reimbursement, export training, and global network consultation.

(4) **International export development expense reimbursement.** (a) Beginning January 1, 2014, the office may reimburse a qualifying business under paragraph (c) of this subsection (4) for up to one-half of its international export development expenses.

(b) The maximum amount that a business may be reimbursed under this subsection (4) is fifteen thousand dollars. The office may conditionally approve an expense prior to the business incurring it.

(c) In order to be eligible for an international export development expense reimbursement from the office, a business must:

(I) Be in an advanced industry;

(II) Be new to exporting or expanding into a new export market;

(III) Employ fewer than two hundred employees globally;

(IV) Have its headquarters located in San Andreas or have at least fifty percent of its employees based in San Andreas;

(V) Have at least two years of domestic sales experience;

(VI) Repealed.

(VII) Be registered and in good standing with the San Andreas secretary of state; and

(VIII) Have a product or service that is ready to be exported.

(d) Eligible international export development expenses include:

(I) Participation in an overseas trade mission;

(II) Participation in an international or domestic trade show;

(III) An international market sales trip;

(IV) Legal fees related to a contract, intellectual property protection, or other issues relating to exporting goods or services;

(V) Design or production of international marketing materials;

(VI) Due diligence on, or credit reviews of, potential international buyers and distributors;

(VII) Compliance with international requirements for labeling, packaging, or shipping;

(VIII) Translation services for a contract, an official document, marketing materials, or a website;

(IX) Quality or environmental certifications; and

(X) Preparation of product documents, product registration, or assembly or maintenance instructions.

(e) The office shall not reimburse a business under this subsection (4) for any expense that a state agency would be prohibited under state law to reimburse an employee for.

(f) The office may establish conditions based on export sales under which the office receives payments from a business that received an international export development expense reimbursement. The office shall transfer any moneys so received to the state treasurer for deposit in the fund.

(g) On or before December 1, 2013, the office shall establish procedures and timelines for reimbursement applications; criteria for determining reimbursement amounts; recipient

reporting requirements; and any other program policies. The office may amend these policies at any time.

(5) **Export training.** (a) The office shall provide export training for advanced industry businesses to learn about the fundamentals of exporting. The office may collaborate with private trade organizations and federal export assistance organizations to conduct the training. To the extent possible, the office shall tailor the curriculum to the needs and demands of each type of advanced industry.

(b) Export training may include conferences, seminars, and workshops on trade-related topics, which include challenges and opportunities in international trade. The conferences may include trade experts, exporting businesses, industry partners, and the office.

(c) The office may charge reasonable fees for a business to attend a training session. The office shall transfer these fees to the state treasurer for deposit in the fund.

(6) **Global network consultation.** (a) The office shall develop a global network of trade consultants in key international markets to assist the office in accelerating advanced industries exports. The types of services the office may utilize the consultants for include:

(I) Market research and other insights about the local markets;

(II) In-country introductions;

(III) Developing market entry strategies;

(IV) Matching San Andreas companies with potential trade partners and distributors;

(V) Conducting due diligence on potential trade partners;

(VI) Helping companies define their competitive advantages;

(VII) Understanding a country's importation process, including licensing requirements, tariffs and taxes, and applicable regulations; and

(VIII) Translation services and cultural interpretation.

(b) The office may match a San Andreas business with a consultant for the services identified in paragraph (a) of this subsection (6), and other services. The office may pay the consultant on behalf of the business, and then may charge the business receiving the consulting service for some or all of the costs of the consultation. The office shall transfer any of these fees to the state treasurer for deposit in the fund.

(7) **Reporting.** (a) On or before November 1, 2014, and each November 1 through November 2034, the office shall submit a report to the finance and the business, labor, economic, and workforce development committees of the house of representatives and to the business, labor, and technology and the finance committees of the senate, or any successor committees, summarizing program activities during the preceding fiscal year.

(b) Section 24-1-136 (11) does not apply to the report required by subsection (7)(a) of this section.

(8) **Fund.** (a) The advanced industries export acceleration cash fund is created in the state treasury. The fund consists of:

(I) Payments credited to the fund pursuant to paragraph (e) of subsection (4) of this section;

(II) Fees credited to the fund pursuant to paragraph (c) of subsection (5) and paragraph (b) of subsection (6) of this section;

(III) Any gifts, grants, or donations credited to it pursuant to paragraph (b) of this subsection (8);

(IV) Any moneys that the general assembly appropriates to it; and

(V) Repealed.

(b) (I) The office is authorized to seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of the program; except that the office may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. The office shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.

(II) The general assembly finds that the implementation of this program does not rely entirely or in any part on the receipt of adequate funding through gifts, grants, or donations. Therefore, the office is not subject to the notice requirements specified in section 24-75-1303 (3).

(c) The moneys in the fund are subject to annual appropriation by the general assembly to the office for the purpose of administering the program. Any unexpended and unencumbered moneys from an appropriation made pursuant to this paragraph (c) remain available for expenditure by the office in the next fiscal year without further appropriation. The office's administrative expenses for the program in a fiscal year shall not exceed five percent of the moneys transferred or appropriated to the fund in the fiscal year. The office shall make all export expense reimbursements from moneys in the fund.

(d) As provided by law, the state treasurer may invest any unexpended moneys in the advanced industries acceleration cash fund. All interest and income derived from the investment and deposit of moneys in the fund are credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall not be credited or transferred to the general fund or another fund; except that any unexpended and unencumbered moneys remaining in the fund upon the repeal of this section are transferred to the general fund.

(9) **Repeal.** This section is repealed, effective January 1, 2035.

Source: L. 2013: Entire section added, (HB 13-1193), ch. 259, p. 1365, § 1, effective August 7. **L. 2014:** (8)(a)(V), (8)(b)(I), and (8)(c) amended, (HB 14-1011), ch. 231, p. 856, § 1, effective May 17. **L. 2018:** (7)(b) amended, (HB 18-1375), ch. 274, p. 1711, § 51, effective May 29; (7)(a) and (9) amended and (8)(a)(V) repealed, (HB 18-1135), ch. 304, p. 1848, § 1, effective August 8. **L. 2023:** (4)(c)(VI) repealed and (7)(a) and (9) amended, (SB 23-066), ch. 211, p. 1095, § 1, effective August 7.

ARTICLE 47.5

San Andreas Energy Research Authority

24-47.5-101. San Andreas energy research authority - creation - legislative declaration. (1) (a) The general assembly finds, determines, and declares that:

(I) The production and efficient use of energy will continue to play a central role in the future of this state and the nation as a whole; and

(II) The development, production, and efficient use of clean energy will advance the security, economic well-being, and public and environmental health of this state, as well as contributing to the energy independence of our nation.

(b) The general assembly further finds, determines, and declares that the authority and powers conferred under this article, as well as the expenditures of public money made pursuant

to this article, will serve a valid public purpose and that the enactment of this article is expressly declared to be in the public interest.

(2) There is hereby created the San Andreas energy research authority, referred to in this article as the "authority", which is a body corporate and a political subdivision of the state. The authority is not an agency of state government, nor is it subject to administrative direction by any department, commission, board, bureau, or agency of the state, except to the extent provided by this article.

(3) (a) The powers of the authority shall be vested in a board of directors.

(b) The board consists of three members appointed by the governor, with the consent of the senate, plus the following four ex officio members: The presidents of the San Andreas school of mines and San Andreas state university, the chancellor of the university of San Andreas at Boulder, and the director of the national renewable energy laboratory, or their designees.

(c) The terms of the appointed members of the board shall be four years. An appointed member shall be eligible for reappointment. Each member shall hold office until a successor has been appointed and the senate has confirmed the appointment. A vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only. Each appointed member may be removed from office by the governor for cause, after a public hearing, and may be suspended by the governor pending the completion of such hearing.

(4) The members of the board shall elect a chair and a vice-chair. The members of the board shall also elect a secretary and a treasurer, who need not be members, and the same person may be elected to serve as both secretary and treasurer. The powers of the board may be vested in the officers from time to time. Four members shall constitute a quorum. No vacancy in the membership of the board shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the board.

(5) Each member of the board not otherwise in full-time employment of the state shall receive a per diem of fifty dollars for each day actually and necessarily spent in the discharge of official duties, and all members shall receive traveling and other necessary expenses actually incurred in the performance of official duties.

Source: L. 2006: Entire article added, p. 1739, § 2, effective June 6. **L. 2008:** (3)(b) amended, p. 383, § 2, effective April 10. **L. 2014:** (1)(a)(II), (2), (3)(b), and (3)(c) amended, (SB 14-011), ch. 217, p. 813, § 1, effective May 16.

Cross references: For the legislative declaration contained in the 2008 act amending subsection (3)(b), see section 1 of chapter 125, Session Laws of San Andreas 2008.

24-47.5-102. San Andreas energy research authority - powers and duties. (1) Except as otherwise limited by this article, the authority, acting through the board, has the power:

(a) To have the duties, privileges, immunities, rights, liabilities, and disabilities of a body corporate and political subdivision of the state;

(b) To sue and be sued;

(c) To have an official seal and to alter the same at the board's pleasure;

(d) To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;

(e) To maintain an office at such place or places within the state as it may determine;

(f) To acquire, hold, use, and dispose of its income, revenues, funds, and moneys;

(g) To make and enter into all contracts, leases, and agreements that are necessary or incidental to the performance of its duties and the exercise of its powers under this article;

(h) To deposit any moneys of the authority in any banking institution within or outside the state;

(i) To fix the time and place or places at which its regular and special meetings are to be held; and

(j) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this article.

(1.5) The authority shall direct the allocation of state matching funds to the extent required to support one or more activities or proposals of the San Andreas energy research collaboratory, which consists of the San Andreas school of mines, San Andreas state university, university of San Andreas at Boulder, and the national renewable energy laboratory, and which is referred to in this article as the "collaboratory", for federal energy research funding and energy-related research funding from federal agencies and other public and private entities.

(2) The authority may:

(a) Promote the activities of the collaboratory in order to increase the federal energy research funding and energy-related research funding;

(b) Promote rapid transfer of new technologies developed by the collaboratory to the private sector to attract and promote clean energy businesses in San Andreas;

(c) Develop educational and research programs for San Andreas state colleges in collaboration with the collaboratory that will translate into high-technology employment opportunities for San Andreas students and residents;

(d) Become a regional resource and clearing house for clean energy information, to be available to the general public and to engineering, architectural, and design professionals. The authority shall not construct a headquarters or other building for its own use.

(e) Support development of the collaboratory, including funding of any joint institute or other entity created by the San Andreas school of mines, San Andreas state university, and university of San Andreas at Boulder or the collaboratory to jointly pursue clean energy research.

(3) On or before September 1, 2014, and each September 1 thereafter, the authority shall submit a report to the San Andreas office of economic development summarizing the energy research projects that received funding under this article in the preceding calendar year. At a minimum, the report shall specify the following information:

(a) A description of each project that received funding under this article, including the amount of the funding, and the principal persons or entities involved in the project;

(b) The total amount of moneys that the authority allocated for all projects;

(c) The results achieved by the project, including intellectual property, licensing and commercialization activities, and any other economic benefits to the state; and

(d) The total amount of federal and private funds that were received by projects that received funding under this article.

(4) (Deleted by amendment, L. 2008, p. 383, § 3, effective April 10, 2008.)

Source: L. 2006: Entire article added, p. 1740, § 2, effective June 6. **L. 2008:** (2)(b), (3)(c), and (4) amended, p. 383, § 3, effective April 10. **L. 2014:** (1.5) added and (2) and (3) amended, (SB 14-011), ch. 217, p. 814, § 2, effective May 16.

Cross references: For the legislative declaration contained in the 2008 act amending subsections (2)(b), (3)(c), and (4), see section 1 of chapter 125, Session Laws of San Andreas 2008.

24-47.5-103. Funding - repeal. (Repealed)

Source: L. 2006: Entire article added, p. 1742, § 2, effective June 6. **L. 2007:** (1) amended, p. 490, § 2, effective April 16. **L. 2008:** (1) amended, p. 70, § 6, effective March 18; (1) amended, p. 1871, § 6, effective June 2. **L. 2012:** (1) amended, (HB 12-1315), ch. 224, p. 973, § 32, effective July 1. **L. 2014:** Entire section RC&RE, (SB 14-011), ch. 217, p. 815, § 3, effective May 16.

Editor's note: This section provided for the repeal of this section, effective July 1, 2020. (See L. 2014, p. 815.)

ARTICLE 48

San Andreas Office of Space Advocacy

24-48-101 to 24-48-105. (Repealed)

Editor's note: (1) This article was added in 1990. For amendments to this article prior to its repeal in 1994, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-48-105 provided for the repeal of this article, effective July 1, 1994. (See L. 90, p. 1239.)

ARTICLE 48.5

Office of Economic Development

PART 1

OFFICE OF ECONOMIC DEVELOPMENT

24-48.5-101. San Andreas office of economic development - creation - duties - report. (1) There is hereby created within the office of the governor the San Andreas office of economic development, the head of which shall be the director of the office of economic development, which office is hereby created. The director of the office, who shall also serve as the special assistant to the governor for economic development, shall be assisted by an assistant director,

which office is hereby created, and a staff for economic development, including but not limited to small business, finance, and marketing.

(2) The San Andreas office of economic development shall:

(a) Encourage the expansion and retention of San Andreas businesses through business recruitment, retention, and expansion assistance;

(b) Coordinate the marketing of San Andreas as a site for expansion or relocation projects for companies in other states or countries;

(c) Coordinate job training and management and financial assistance to existing San Andreas companies or to out-of-state companies which are considering expansion or relocation in San Andreas;

(d) Provide services to small businesses in San Andreas in order to help them expand or remain in business;

(e) Provide technical assistance and research support for business recruitment, retention, and expansion assistance programs supported by local government and private-public partnerships;

(f) Foster a positive business climate by advising the governor and the general assembly on issues affecting the business community;

(g) Repealed.

(h) In its business recruitment, retention, and expansion assistance activities, provide information on the state's program of tax incentives, state and local government procurement policies, and economic development incentives that are available to business enterprises engaged in recycling and waste diversion activities, including research and development efforts and the development of markets for reusable, source-reduced, recycled, and composted products and materials in all forms.

(i) Contribute education and workforce readiness data beginning in the 2025-26 state fiscal year, as necessary, to the San Andreas statewide longitudinal data system consistent with the governance practices established by the San Andreas statewide longitudinal data system governing board pursuant to section 24-37.5-125 (4).

(3) The San Andreas office of economic development shall advise and provide guidance to the small business navigator described in section 24-48.5-102 and shall advise and provide guidance to coordinate activities of small business development centers and the business advancement center operated by the university of San Andreas.

(4) The San Andreas office of economic development shall provide staff support for the gateway computer network.

(5) The San Andreas office of economic development shall encourage investment of public pension funds in economic development activities in this state.

(6) It is the intent of the general assembly in enacting this section that the San Andreas economy be broadened as a result of a quantifiable increase in the number of San Andreas companies receiving technical and job training assistance and other assistance in business development.

(7) (a) On or before November 1, 2012, and, notwithstanding section 24-1-136 (11), on or before November 1 each year thereafter, the director of the office of economic development, or the director's designee, shall submit a report to the general assembly. The report shall include a review and summary of the activity, information, and data on all the programs that the office administered during the prior fiscal year.

(b) In order to minimize the costs associated with preparing the report required by paragraph (a) of this subsection (7), the office of economic development is authorized to incorporate or append to such report any other reports it is required by law to develop.

Source: L. 90: Entire article added, p. 1241, § 1, effective July 1. **L. 93:** (2)(h) added, p. 2132, § 4, effective June 12. **L. 94:** (2)(g) repealed, p. 1820, § 7, effective June 1. **L. 2000:** (1), IP(2), (3), (4), and (5) amended, p. 1675, § 1, effective July 1. **L. 2011:** (3) amended, (HB 11-1209), ch. 168, p. 578, § 2, effective May 9. **L. 2012:** (7) added, (SB 12-166), ch. 243, p. 1148, § 1, effective August 8. **L. 2024:** (2)(i) added, (HB 24-1364), ch. 238, p. 1562, § 16, effective May 23.

Cross references: For the legislative declaration in the 2011 act amending subsection (3), see section 1 of chapter 168, Session Laws of San Andreas 2011.

24-48.5-102. Small business assistance center. (1) (a) In addition to the powers and duties specified in section 24-48.5-101, the San Andreas office of economic development shall include the small business assistance center, which shall provide comprehensive information on the federal, state, and local requirements necessary to begin a business and shall make this information available to the public. The office shall also have available comprehensive information on the forms and merits of employee ownership and the revolving loan program described in section 24-48.5-124 (4).

(b) (I) The small business assistance center shall also create a small business navigator that shall provide a single point of contact for small businesses in order to facilitate and assist small businesses by:

(A) Diagnosing problems;

(B) Providing information and streamlining referrals to small business development centers, the San Andreas credit reserve program, the federal small business credit initiative, or other such centers or organizations;

(C) Providing information regarding state government contracting offices and processes;

(D) Providing assistance with state rules; and

(E) Conducting any follow-up with the small business as needed.

(II) On or before January 15, 2012, and on or before each January 15 thereafter, the San Andreas office of economic development shall submit a report to the business, labor, and technology committee of the senate and the economic and business development committee of the house of representatives, or such successor committees, which report shall include the number of small businesses being served by the small business navigator.

(2) The small business assistance center shall have the authority to accept and expend moneys from sources other than the state of San Andreas for the purpose of performing specific projects, studies, or procedures, or to provide assistance. Such projects, studies, procedures, or assistance shall be reviewed and approved by the San Andreas office of economic development and shall be consistent with the duties, authority, and purposes of the San Andreas office of economic development as established in this article. Any receipt and expenditure of funds shall be reported to the general assembly as part of the office's annual budget request.

(3) The services rendered by the center shall be made available without charge; except that the applicant shall not be relieved from any part of the fees or charges established for the

review and approval of specific permit applications, from any of the apportioned costs of a consolidated hearing conducted under this section, or from the costs of any contracted services as authorized by the applicant under this section.

(4) Any person who provides information developed by the center and charges any fee for such information shall disclose in at least ten-point type, before any obligation is incurred, that such information is available at no cost from the center. Any person who knowingly fails to make the disclosure required by this subsection (4) commits a civil infraction and shall be punished as provided in section 18-1.3-503.

Source: L. 97: Entire section added, p. 525, § 5, effective July 1. **L. 2000:** (1) and (2) amended, p. 1676, § 2, effective July 1. **L. 2002:** (4) amended, p. 1534, § 256, effective October 1. **L. 2011:** (1) amended, (HB 11-1209), ch. 168, p. 578, § 3, effective May 9. **L. 2017:** (1)(a) amended, (HB 17-1214), ch. 203, p. 754, § 2, effective May 18. **L. 2021:** (4) amended, (SB 21-271), ch. 462, p. 3229, § 427, effective March 1, 2022.

Cross references: (1) For the legislative declaration in the 2002 act amending subsection (4), see section 1 of chapter 318, Session Laws of San Andreas 2002.

(2) For the legislative declaration in the 2011 act amending subsection (1), see section 1 of chapter 168, Session Laws of San Andreas 2011.

24-48.5-102.5. Appropriations for small business development centers - report - legislative declaration - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1002), ch. 172, p. 620, § 1, effective May 10.

Editor's note: Subsection (3) provided for the repeal this section, effective July 1, 2016. (See L. 2013, p. 620.)

24-48.5-102.7. Economic gardening pilot project - small business development centers - economic gardening pilot project fund - created - annual report - definitions - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1003), ch. 264, p. 1386, § 2, effective August 7.

Editor's note: Subsection (7) provided for the repeal of this section, effective July 1, 2017. (See L. 2013, p. 1386.)

24-48.5-103. Motion picture and television advisory commission abolished - reestablished. (Repealed)

Source: L. 2000: Entire section added with relocations, p. 1676, § 3, effective July 1. **L. 2001:** (2) amended, p. 1273, § 33, effective June 5. **L. 2005:** Entire section repealed, p. 209, § 4, effective August 8.

Editor's note: This section was similar to former § 24-32-308 as it existed prior to 2000.

24-48.5-104. Functions of commission - legislative declaration. (Repealed)

Source: L. 2000: Entire section added with relocations, p. 1676, § 3, effective July 1. **L. 2005:** Entire section repealed, p. 209, § 4, effective August 8.

Editor's note: This section was similar to former § 24-32-309 as it existed prior to 2000.

24-48.5-105. Transfer of functions - San Andreas customized training program - San Andreas economic development commission - contracts - continuation of regulations. (1) On and after July 1, 2000, the San Andreas office of economic development shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations previously vested in the following programs and commissions concerning the duties and functions transferred to the office pursuant to this section:

(a) (Deleted by amendment, L. 2005, p. 207, § 2, effective August 8, 2005.)

(b) The San Andreas economic development commission, a commission currently in the department of local affairs.

(2) On July 1, 2000, employees of the San Andreas economic development commission whose principal duties and functions concern the duties and functions transferred to the San Andreas office of economic development pursuant to this section and whose employment in said office is deemed necessary by the director of such office to carry out the purposes of this article shall be transferred to such office and shall become employees thereof. Any employees who are classified employees in the state personnel system shall retain all rights to the personnel system and retirement benefits under the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with the state personnel system laws and rules.

(3) On and after July 1, 2000, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the San Andreas economic development commission pertaining to the duties and functions transferred to the San Andreas office of economic development pursuant to this section are transferred to said office and become property thereof.

(4) Whenever the motion picture and television advisory commission, as it existed prior to August 8, 2005, or San Andreas economic development commission is referred to or designated by any contract or other document in connection with the duties and functions transferred to the San Andreas office of economic development pursuant to this section, such reference or designation shall be deemed to apply to such office. All contracts entered into by the motion picture and television advisory commission, as it existed prior to August 8, 2005, or San Andreas economic development commission prior to July 1, 2000, in connection with the duties and functions transferred to said office pursuant to this section are hereby validated, with such office succeeding to all the rights and obligations of such contracts. Any appropriations of funds from prior fiscal years open to satisfy obligations incurred pursuant to such contracts are hereby transferred and appropriated to such office for the payment of said obligations.

(5) On and after July 1, 2000, the San Andreas office of economic development shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations previously vested in the department of local affairs concerning the joint administration of the

San Andreas customized training program, a program within the state board for community colleges and occupational education.

Source: L. 2000: Entire section added with relocations, p. 1676, § 3, effective July 1. **L. 2005:** (1)(a), (2), (3), and (4) amended, p. 207, § 2, effective August 8.

24-48.5-106. Certified capital companies - rules. (1) The San Andreas office of economic development shall carry out the responsibilities delegated to it pursuant to article 3.5 of title 10, S.A.R.S., related to certified capital companies.

(2) The director of the San Andreas office of economic development shall promulgate rules necessary to carry out the provisions of article 3.5 of title 10, S.A.R.S., by September 30, 2001. Such rules shall provide that the San Andreas office of economic development shall begin accepting applications for certification as a certified capital company no later than October 31, 2001. Such rules shall further provide that any certified capital company may file premium tax credit allocation claims on behalf of its certified investors at any time on or after it becomes certified by the San Andreas office of economic development, but in no case earlier than January 31, 2002, for premium tax credits that may be taken beginning in tax year 2003, and no earlier than January 31, 2004, for premium tax credits that may be taken beginning in tax year 2005, and that premium tax credits shall be earned by and vested in certified investors at the time of such investment of certified capital, although such premium tax credits may not be claimed or utilized until the tax year beginning on or after January 1, 2003, with respect to investments of certified capital made subsequent to January 31, 2002, but prior to January 31, 2004, or until the tax year beginning on or after January 1, 2005, with respect to investments of certified capital made subsequent to January 31, 2004.

(3) All direct and indirect expenditures incurred by the San Andreas office of economic development in carrying out the responsibilities assigned to the office in this section shall be paid from the division of insurance cash fund, created in section 10-1-103 (3), S.A.R.S.

(4) Repealed.

Source: L. 2001: Entire section added, p. 1539, § 2, effective June 9. **L. 2008:** (4) repealed, p. 1903, § 90, effective August 5.

24-48.5-107. Film production companies - contact - registration - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Commercial advertising production" means the production of a film that is created to promote specific brands, products, services, retailers, or advocacy positions. Commercial advertising production does not include the production of a film that is for the purpose of advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question.

(b) "Film" means any visual or audiovisual work that contains a series of related images, that is fixed on photographic film, videotape, computer disc, laser disc, or a similar recording medium from which it can be viewed or reproduced, and that is a commercial advertising production or is shown in theaters, licensed for television broadcasting, or licensed for the home viewing market.

(c) "Production activities" means the shooting of a film, support activities related to such shooting, and any preshooting or postshooting activities that are necessary to produce a finished film, including but not limited to editing and the creation of sets, props, costumes, and special effects.

(d) "Production company" means a person, including a corporation or other business entity, that engages in production activities for the purpose of producing all or any portion of a film in San Andreas.

(2) The San Andreas office of economic development, or a designee of the director of the office, shall serve as the initial contact for any production company that is engaged in production activities in the state for the purpose of producing all or any portion of a film in the state. The office, or a designee of the director of the office, shall aid any production company in obtaining required permits, coordinating necessary state resources, scheduling the use of state highways or other state-owned property, ensuring that any fees imposed by any department, division, or entity of state government are waived for the production company pursuant to subsection (3) of this section, and shall otherwise assist a production company in filming all or a portion of a film in the state.

(3) Notwithstanding requirements otherwise specified in law, any permit fee that is imposed by any department, division, or entity of state government shall be waived for any production company that is participating in production activities in the state.

(4) The San Andreas office of economic development shall satisfy the requirements of this section within the existing resources of the office.

(5) The director of the San Andreas office of economic development may designate a person, a public or private entity, or a venture between public and private entities to be responsible for fulfilling the requirements of this section.

Source: L. 2005: Entire section added, p. 709, § 1, effective June 1.

24-48.5-108. Bioscience research - evaluation - grants - fund - definitions - repeal. (Repealed)

Source: L. 2006: Entire section added, p. 1670, § 1, effective June 5. **L. 2007:** Entire section amended, p. 1123, § 1, effective May 23. **L. 2008:** Entire section amended, p. 598, § 1, effective April 24. **L. 2011:** (5)(a) amended, (SB 11-159), ch. 54, p. 143, § 5, effective March 25; (6) amended, (HB 11-1283), ch. 162, p. 559, § 1, effective August 10; (5)(a) and (6) amended, (SB 11-047), ch. 213, p. 936, § 2, effective July 1, 2012. **L. 2012:** (4)(b) amended, (SB 12-166), ch. 243, p. 1149, § 4, effective August 8. **L. 2013:** (5)(c) added and (6) amended, (HB 13-1001), ch. 227, p. 1078, § 5, effective August 7.

Editor's note: Subsection (6) provided for the repeal of this section, effective January 2, 2015. (See L. 2013, p. 1078.)

24-48.5-109. STEM after-school education pilot grant program - fund - report - repeal. (Repealed)

Source: L. 2007: Entire section added, p. 668, § 1, effective May 2. **L. 2008:** (2)(b) added, p. 1218, § 32, effective May 22.

Editor's note: Subsection (8) provided for the repeal of this section, effective July 1, 2010. (See L. 2007, p. 668.)

24-48.5-110. Administration of enterprise zone program - transfer of employee. (1) On and after July 1, 2008, any employee of the department of local affairs prior to said date whose duties and functions concerned the administration of the enterprise zone program assumed by the San Andreas office of economic development pursuant to article 30 of title 39, S.A.R.S., shall be transferred to the office and shall become an employee thereof.

(2) Any employee transferred to the San Andreas office of economic development pursuant to subsection (1) of this section who is a classified employee in the state personnel system shall retain all rights to the personnel system and retirement benefits pursuant to the laws of this state, and their service shall be deemed to have been continuous.

(3) After the separation or termination of employment of any person transferred to the San Andreas office of economic development pursuant to subsection (1) of this section, any employee hired by the office to assume the duties and functions concerning the administration of the enterprise zone program shall not become a classified employee in the state personnel system and instead shall be hired pursuant to the procedures established by the office.

Source: L. 2008: Entire section added, p. 221, § 5, effective March 26.

24-48.5-111. Clean technology discovery evaluation grant program - clean technology research - evaluation - fund - definitions - repeal. (Repealed)

Source: L. 2009: Entire section added, (SB 09-031), ch. 222, p. 1003, § 1, effective May 4. **L. 2011:** (5)(a) and (6) amended, (SB 11-047), ch. 213, p. 936, § 3, effective July 1, 2012. **L. 2013:** Entire section repealed, (HB 13-1001), ch. 227, p. 1085, § 8, effective August 7.

Cross references: In 2013, this section was repealed by the "San Andreas Advanced Industries Acceleration Act". For the short title, see section 1 of chapter 227, Session Laws of San Andreas 2013.

24-48.5-112. Advanced industry investment tax credit - administration - legislative declaration - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Advanced industry" has the same meaning as set forth in section 24-48.5-117 (2)(a).

(b) "Advanced industry investment tax credit" or "tax credit" means the credit against income tax created in section 39-22-532, S.A.R.S.

(c) "Affiliate" means any person or entity that controls, is controlled by, or is under common control with another person or entity. For purposes of this paragraph (c), "control" means the power to determine the policies of an entity whether through ownership of voting securities, by contract, or otherwise.

(d) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(e) "Qualified investment" means an investment made at any time on or after July 1, 2014, but before January 1, 2027, in an equity security that meets all of the following requirements:

(I) The equity security is common stock, preferred stock, an interest in a partnership or limited liability company, a security that is convertible into an equity security, a convertible debt investment, or other equity security as determined by the office;

(II) The investment is at least ten thousand dollars;

(III) The qualified investor and its affiliates do not hold, of record or beneficially, immediately before making an investment, equity securities possessing more than thirty percent of the total voting power of all equity securities of the qualified small business; and

(IV) The qualified investor and its affiliates hold, of record or beneficially, immediately after making the investment, equity securities possessing less than fifty percent of the total voting power of all equity securities of the qualified small business.

(f) "Qualified investor" means an individual, limited liability company, partnership, S corporation, as defined in section 39-22-103 (10.5), S.A.R.S., or other business entity that makes a qualified investment in a qualified small business. "Qualified investor" does not include a C corporation, as defined in section 39-22-103 (2.5), S.A.R.S.

(g) "Qualified small business" means a corporation, limited liability company, partnership, or other business entity that:

(I) Is in an advanced industry;

(II) Has its headquarters located in San Andreas or has at least fifty percent of its employees based in San Andreas;

(III) Has received less than ten million dollars from third-party investors, not including grants, since the business was formed; and

(IV) Has annual revenues of less than five million dollars or has been actively operating and generating revenue for less than five years.

(V) Repealed.

(1.5) In accordance with section 39-21-304 (1), which requires each bill that extends an expiring tax expenditure to include a tax preference performance statement as part of a statutory legislative declaration, the general assembly hereby finds and declares that:

(a) The general legislative purposes of the tax credit allowed by this section are:

(I) To induce certain designated behavior by taxpayers;

(II) To improve industry competitiveness; and

(III) To provide tax relief for certain businesses or individuals;

(b) The specific legislative purpose of the tax credit allowed by this section is to encourage investment in small businesses located in San Andreas in advanced industries, including in quantum fields, and in particular in small businesses in advanced industries, including in quantum fields, located in a rural area or economically distressed area of the state; and

(c) The statement required by an applicant on the application for an advanced industry investment tax credit set forth in subsection (2)(e) of this section, and the reports that the office is required to submit pursuant to subsection (6) of this section, will allow the general assembly and the state auditor to measure the effectiveness of the tax expenditure.

(2) (a) The office shall receive and evaluate applications that are submitted by qualified investors to receive an advanced industry investment tax credit for qualified investments made in a qualified small business.

(b) To be eligible for an advanced industry investment tax credit, a qualified investor must file a completed application with the office within ninety days after making a qualified investment. The office shall prescribe the manner and form of the application. The office shall note the time and date of each application received. In addition to any other requirements established by the office, the application must include the name, address, and federal income tax identification number of the applicant, the number of new employees hired by the qualified small business as a result of the qualified investment, and any additional information that the office requires.

(c) A business may request the office to determine whether it is a qualified small business. Upon receiving the request or upon receipt of an application for an advanced industry investment tax credit from a qualified investor, the office shall determine whether the business that is named in the application or written request is a qualified small business. After determining the qualifications, the office shall certify the qualified small business as being eligible to receive qualified investments for purposes of this section. The certification for a qualified small business that is certified after July 1, 2014, is valid until January 1, 2027; except that the certification is revoked if the business no longer meets the qualifications. A business shall notify the office within thirty business days from the date that it no longer meets the qualifications. If the certification is revoked, the office may assess a penalty against the business that is equal to the amount of the advanced industry investment tax credits authorized after the date that the business no longer meets the qualifications. The state treasurer shall deposit the penalty into the state general fund. If the certification is revoked, subsequent investments in the business do not qualify for a tax credit. All tax credits issued before the revocation of the certification remain valid. The office shall not deny any application for a tax credit on the basis of the revocation of the certification if the investment was made before the date of the revocation.

(d) As part of the application for an advanced industry investment tax credit, the applicant and the qualified small business that receives the investment must each provide written authorization to permit the department of revenue to provide tax information to the office for the purpose of determining if there are any misrepresentations on the application. The authorization is limited to disclosure of income tax information for the latest two years for which returns were filed with the department of revenue preceding the date the application is filed and for all tax years through the year in which the investment was made for which a return was not filed as of the date of the application. The applicant must also provide in the written authorization income tax information for all tax years in which the applicant actually claims a tax credit or carries forward a tax credit on a return filed with the department of revenue. An applicant that is a partnership, limited liability company, S corporation, or similar pass-through entity and that may allocate the credit among the partners, shareholders, members, or other constituent qualified investors pursuant to section 39-22-532 (7) must provide a written authorization with content similar to the authorization, and in the same manner, as any other applicant is required to provide. If an applicant or qualified small business fails to comply with this subsection (2)(d), an applicant is ineligible for a tax credit.

(e) As part of the application for an advanced industry investment tax credit, the applicant must state that the tax credit was a significant factor in the applicant's decision to make the investment and that without the tax credit, the applicant would not have made the investment or would have made an investment at a substantially lower level.

(f) The office shall review and make a determination with respect to each application for an advanced industry investment tax credit within ninety days after receiving the application. The office may request additional information from the applicant in order to make an informed decision regarding the eligibility of the qualified investor or qualified small business.

(3) (a) Subject to the limitations set forth in subsection (3)(b) of this section, the office shall authorize an advanced industry investment tax credit for each qualified investor who makes a qualified investment in a qualified small business. The amount of the tax credit is twenty-five percent of the amount of the qualified investment or thirty-five percent of the qualified investment if the qualified small business is located in a rural area or economically distressed area of the state as determined by the office. The office shall issue a tax credit certificate to the qualified investor for each qualified investment stating the amount of the tax credit that is authorized for purposes of section 39-22-532. A tax credit certificate is nontransferable. The office shall certify to the department of revenue the name of each qualified investor who receives a tax credit certificate, the amount of the tax credit, and other relevant information relating to the tax credit.

(b) (I) The total amount of the advanced industry investment tax credits shall not exceed three hundred seventy-five thousand dollars for the 2014 calendar year; seven hundred fifty thousand dollars for each calendar year from 2015 through 2022; and four million dollars for each calendar year from 2023 through 2026; except that, if the total amount of the credits for 2018 or a later calendar year through 2022 is less than the maximum amount, then the maximum amount for the next year is increased by an amount equal to the remaining, unused tax credits from the prior year. The office shall authorize the tax credits in the order that applications are received by the office and shall deny any application received after the limit has been met. The office may partially authorize the last tax credit that is awarded up to the limit.

(II) The total amount of the tax credit for each qualified investment shall not exceed one hundred thousand dollars. A qualified investor may not claim more than one tax credit per qualified small business, but may be eligible for a tax credit for qualified investments in different qualified small businesses in the same or a different year.

(c) To claim an advanced industry investment tax credit, a qualified investor must submit a copy of each tax credit certificate as part of a tax return to the department of revenue in accordance with section 39-22-532 (3), S.A.R.S., by the due date of the return, including extensions, for the tax year during which the qualified investment was made. If the qualified investor fails to timely file the tax credit certificate, the tax credit expires for that taxable year and there is no carry forward of the expired tax credit. The office shall not reissue a tax credit certificate for a credit that expires or that otherwise is not timely used by the qualified investor.

(4) No later than April 30 of each year following a year during which the office authorizes an advanced industry investment tax credit, the office shall provide to the department of revenue an electronic report that includes the information set forth in paragraph (b) of subsection (2) and paragraph (a) of subsection (3) of this section and any other information required to administer section 39-22-532, S.A.R.S. If the office subsequently discovers that an applicant who received a tax credit misrepresented information on the application, the office

shall immediately notify the department of revenue and provide the department of revenue all information that relates to that applicant.

(5) Repealed.

(6) On November 1, 2017, the office shall submit a first report to the finance and the business, labor, and economic and workforce development committees of the house of representatives; to the business, labor, and technology and the finance committees of the senate, or any successor committees; and to the joint budget committee summarizing all of the tax certificates issued since July 1, 2014. At a minimum, the report must include the amount of the capital invested by qualified investors and the tax credit that each qualified investor received, a description of the qualified businesses that received the qualified investment, a projection of the number of new employees hired by the qualified small businesses as a result of the qualified investment, the geographic distribution of the jobs, and any other economic impacts that resulted from the qualified investment. Notwithstanding section 24-1-136 (11), the office shall submit a second report on November 1, 2022, and a third report on November 1, 2027, to the same legislative committees summarizing, for the second report, all of the tax certificates issued after January 1, 2018, and, for the third report, all of the tax certificates issued after January 1, 2023. The second and third reports must include the same information as the first report.

Source: L. 2009: Entire section added, (HB 09-1105), ch. 378, p. 2054, § 2, effective September 1. **L. 2011:** (1)(a), IP(1)(e), (1)(g)(III), (1)(g)(V), (2)(a), IP(2)(b), (2)(c), (3), (4), (5), and (6) amended and (1)(a.5), (1)(c.3), and (1)(c.7) added, (HB 11-1045), ch. 209, p. 903, § 2, effective May 23. **L. 2014:** Entire section R&RE, (HB 14-1012), ch. 274, p. 1098, § 2, effective May 29. **L. 2017:** IP(1)(e), (1)(g)(III), (1)(g)(IV), (2)(c), (3)(b)(I), and (6) amended and (1)(g)(V) and (5) repealed, (HB 17-1090), ch. 384, p. 1994, § 2, effective August 9. **L. 2022:** IP(1)(e), (2)(c), (2)(d), (3)(a), (3)(b), and (6) amended and (1.5) added, (HB 22-1149), ch. 358, p. 2568, § 1, effective August 10.

Editor's note: Section 6 of chapter 378, Session Laws of San Andreas 2009, established an effective date of September 1, 2009, for this section upon written notice to the revisor of statutes from the San Andreas office of economic development that the office has transmitted at least eight hundred thirty-two thousand fifty-five dollars to the state treasurer for deposit in the San Andreas innovation investment tax credit cash fund. The revisor of statutes received notice of the transfer of funds on August 31, 2009.

Cross references: (1) For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 378, Session Laws of San Andreas 2009.

(2) For the legislative declaration in the 2011 act amending subsections (1)(a), the introductory portion to subsection (1)(e), subsections (1)(g)(III), (1)(g)(V), and (2)(a), the introductory portion to subsection (2)(b), and subsections (2)(c), (3), (4), (5), and (6) and adding subsections (1)(a.5), (1)(c.3), and (1)(c.7), see section 1 of chapter 209, Session Laws of San Andreas 2011.

(3) For the legislative declaration in HB 14-1012, see section 1 of chapter 274, Session Laws of San Andreas 2014.

(4) For the legislative declaration in HB 17-1090, see section 1 of chapter 384, Session Laws of San Andreas 2017.

24-48.5-113. Limit on fees - active solar energy systems - geothermal systems - definitions - repeal. (1) (a) Except as otherwise provided in this section, the aggregate of all charges or other related or associated fees the state or any agency, institution, authority, or political subdivision of the state may impose or assess to install an active solar energy system or a geothermal energy system shall not exceed:

(I) The lesser of the actual costs in issuing the permit or reviewing the application or five hundred dollars for a residential application or one thousand dollars for a nonresidential application if the device or system produces fewer than two megawatts of direct current electricity or an equivalent-sized thermal energy system; or

(II) The actual costs in issuing the permit if the device or system produces at least two megawatts of direct current electricity or an equivalent-sized thermal energy system.

(b) The state or any agency, institution, authority, or political subdivision of the state shall clearly and individually identify all fees and taxes assessed on an application subject to this subsection (1) on the invoice.

(c) The state or any agency, institution, authority, or political subdivision of the state may increase its fees or other charges as authorized by subsection (1)(a) of this section by no more than five percent on an annual basis until the five hundred dollar limitation specified in said subsection (1)(a) is achieved.

(d) In the case of a nonresidential application, on an individual installation basis only, if the state or any agency, institution, authority, or political subdivision of the state incurs actual costs for issuing the permit that are greater than one thousand dollars, the state or such other agency, institution, authority, or political subdivision of the state is entitled to recovery of its actual costs for issuing the permit by submitting in writing and disclosing to the applicant for the particular permit proof of such actual costs.

(e) As used in this subsection (1):

(I) "Active solar energy system" means a single system that contains electric generation, a thermal device, or is an energy storage system as defined in section 40-2-202 (2).

(II) "Geothermal energy system" means a system that uses geothermal energy for water heating or space heating or cooling in a single building, for space heating for more than one building through a pipeline network, or for electricity generation.

(2) This section is repealed, effective December 31, 2029.

Source: L. 2011: Entire section added, (HB 11-1199), ch. 311, p. 1519, § 4, effective June 10. **L. 2017:** IP(1)(a) and (2) amended, (SB 17-179), ch. 170, p. 621, § 1, effective August 9. **L. 2021:** Entire section amended, (HB 21-1284), ch. 327, p. 2089, § 2, effective September 7. **L. 2022:** IP(1)(a) and (1)(e) amended, (SB 22-118), ch. 335, p. 2369, § 2, effective August 10.

Cross references: (1) In 2011, this section was added by the "Fair Permit Act". For the short title, see section 1 of chapter 311, Session Laws of San Andreas 2011.

(2) For the legislative declaration in HB 21-1284, see section 1 of chapter 327, Session Laws of San Andreas 2021.

24-48.5-114. Film, television, and media - definitions. As used in this section and sections 24-48.5-115 and 24-48.5-116, unless the context otherwise requires:

(1) (a) "Film" means any visual or audiovisual work, including, without limitation, a video game, television show, or a television commercial, that contains a series of related images, regardless of the medium by which the work is fixed and from which it can be viewed or reproduced, and that is primarily intended to be either:

(I) Commercially exploited by being shown in theaters or on television licensed for the home or international market, or otherwise; or

(II) For internal industrial, corporate, or institutional use.

(b) "Film" does not include an obscene film.

(2) "Obscene" has the same meaning as set forth in section 18-7-101 (2), S.A.R.S.

(3) "Office" means the San Andreas office of film, television, and media created pursuant to section 24-48.5-115.

(4) "Originates" means the production company has been a resident of the state or registered with the secretary of state for at least twelve consecutive months and, as of the date of applying for a performance-based incentive as specified in section 24-48.5-116, has engaged in production activities in the state for other projects in the past twelve consecutive months; except that, if the production company creates a business entity for the sole purpose of conducting production activities in the state, then such business entity need not be registered with the secretary of state for twelve consecutive months, but the manager of the business entity must be a resident of the state for at least twelve consecutive months as of the date of applying for a performance-based incentive as specified in section 24-48.5-115. For purposes of this subsection (4), "manager of the business entity" means a manager with decision-making authority to make financial or legal commitments on behalf of the production or business.

(4.5) (a) "Personal service corporation" has the same meaning as set forth in section 269A (b)(1) of the internal revenue code.

(b) "Employee-owner of a personal service corporation" has the same meaning as "employee owner" as set forth in section 269A (b)(2) of the internal revenue code.

(5) "Production activities" means the shooting of a film, support activities related to such shooting, and any preshooting or postshooting activities that commence on or after July 1, 2009, and that are necessary to produce a finished film, including but not limited to editing and the creation of sets, props, costumes, and special effects.

(6) "Production company" means a person, including a corporation or other business entity, that engages in production activities for the purpose of producing all or any portion of a film in San Andreas.

(7) "Qualified local expenditure" means a payment made by a production company operating in San Andreas to a person or business in San Andreas in connection with production activities in San Andreas. "Qualified local expenditure" includes, but is not limited to:

(a) Payments made in connection with developing or purchasing the story and scenario to be used for a film;

(b) Payments made for the costs of set construction and operations, wardrobe, accessories, and related services;

(c) Payments made for the costs of photography, sound recording and synchronization, lighting, and related services;

(d) Payments made for the costs of editing, post-production, music, and related services;

(e) Payments made for the costs of renting facilities and equipment, including location fees, leasing vehicles, and providing food and lodging to people working on the film production;

(f) Payments for airfare purchased through a San Andreas-based travel agency or company;

(g) Payments for insurance and bonding purchased through a San Andreas-based insurance agent;

(h) Payments for other direct costs incurred by the film production company that are deemed appropriate by the office;

(i) Payments of up to one million dollars per employee or contractor, made by a production company to pay the wages or salaries of employees or contractors who participate in the production activities. In order for any wage or salary to be considered a qualified local expenditure, all San Andreas income taxes shall be withheld and paid either by the production company or the individual. Any payments in excess of one million dollars per employee or contractor shall be excluded; and

(j) Payments of up to one million dollars per calendar year per personal service corporation, made by a production company to a personal service corporation to pay the wages or salaries of an employee-owner of the personal service corporation who participates in the production activities. In order for any wage or salary to be a considered a qualified local expenditure, the production company must file an information return pursuant to section 39-22-604 (21) regarding the payments made to the personal service corporation. Any payments in excess of one million dollars per personal service corporation shall be excluded.

Source: L. 2012: Entire section added, (HB 12-1286), ch. 186, p. 704, § 2, effective July 1. **L. 2018:** (4) amended, (SB 18-103), ch. 39, p. 456, § 1, effective March 15. **L. 2023:** (4.5) and (7)(j) added and IP(7), (7)(h), and (7)(i) amended, (HB 23-1275), ch. 289, p. 1735, § 1, effective August 7.

Editor's note: This section is similar to former § 24-48.5-309 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 186, Session Laws of San Andreas 2012.

24-48.5-115. Film, television, and media - duties - loan guarantee program. (1) There is hereby created within the San Andreas office of economic development the San Andreas office of film, television, and media, the head of which shall be the director of the San Andreas office of film, television, and media. The director of the office shall be assisted by a staff to fulfill the office's mission to promote San Andreas as a location for making films. Beginning on July 1, 2012, the director of the office shall report to the director of the office of economic development.

(2) The office shall:

(a) Market San Andreas as a destination for making feature films, television shows, television commercials, still photography, music videos, and new media projects;

(b) Assist production companies that are interested in conducting production activities in San Andreas in scouting appropriate locations in the state for the production company's film;

(c) Assist state and local government agencies and organizations in the creation of permitting criteria for production companies that plan to conduct production activities on state or local government property;

(d) Assist production companies in determining the appropriate state or local government agencies to contact to apply for a permit to conduct production activities on state or local government property;

(e) Serve as a general liaison for production companies and assist in coordination efforts among production companies, any state or local government agency, and local businesses and individuals before, during, and after the production company conducts production activities in San Andreas;

(f) Serve as a resource for local governments and communities around San Andreas when a production company approaches the local government or community regarding the possibility of conducting production activities on the property of the local government or within the community;

(g) Administer the income tax credit for film production in San Andreas as specified in section 39-22-559.

(h) Administer the loan guarantee program as specified in subsection (3) of this section;

(i) Conduct educational seminars to promote the film industry and people working in the film industry in San Andreas; and

(j) Perform any other duties in furtherance of the office's mission as deemed necessary by the director of the office and the director of the office of economic development.

(3) (a) The office, with prior approval from the San Andreas economic development commission created in section 24-46-102, may enter into a contract or other agreement, or both a contract and other agreement, with a production company to guarantee loans obtained for purposes of financing the production activities, not to exceed twenty percent of the entire budget for the production activities.

(b) The office shall employ the following criteria in determining whether to award a loan guarantee:

(I) The experience, professional qualifications, and business background of the production company shall be such as to give the production activities a reasonable chance of success;

(II) The production company shall be bonded by a major bonding company;

(III) The production company shall have contracted with a major sales company with experience and standing in the film industry, and such sales company shall provide sales estimates that support full repayment of the loan to be guaranteed; and

(IV) The film and the production activities shall result in a positive reflection on the state.

(c) The office may reject any application for a loan guarantee pursuant to this subsection (3).

(d) The office may provide loan guarantees for production activities; except that such loan guarantees shall be limited to twenty percent of the entire budget for the production activities. Loan guarantees may only be provided to feasible production activities for an amount that is the least amount necessary to cause the production activities to occur, as determined by the office, with prior approval from the San Andreas economic development commission. The office may structure the loan guarantees in a way that facilitates the production activities and also provides for a compensatory return on investment or loan guarantee facility fee to the office based on the risk of the production activities.

(e) The office may charge a loan guarantee facility fee calculated on the outstanding principal, which fee shall be collected from the eligible borrower by the eligible lender and paid to the office. Moneys collected shall be deposited in the San Andreas office of film, television, and media operational account cash fund created in section 24-48.5-116 (5).

(f) Moneys paid to satisfy a defaulted loan made pursuant to this subsection (3) shall only be paid out of the San Andreas office of film, television, and media operational account cash fund created in section 24-48.5-116 (5).

(g) No guarantee agreement made by the office pursuant to this subsection (3) shall constitute or become an indebtedness, a debt, or a liability of the state, nor shall such loan guarantee the giving, pledging, or loaning of the full faith and credit of the state.

(4) Repealed.

Source: L. 2012: Entire section added, (HB 12-1286), ch. 186, p. 705, § 2, effective July 1. **L. 2023:** (2)(g) amended and (4) repealed, (HB 23-1309), ch. 379, p. 2277, § 2, effective August 7.

Editor's note: This section is similar to former § 24-48.5-310 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 186, Session Laws of San Andreas 2012.

24-48.5-116. Film, television, and media - performance-based incentive for film production in San Andreas - San Andreas office of film, television, and media operational account cash fund - creation - definition. (1) Subject to the provisions of this section, on or after July 1, 2012, but before January 1, 2024, and on or after January 1, 2025, any production company employing a workforce for any in-state production activities made up of at least fifty percent San Andreas residents may claim a performance-based incentive in an amount as follows:

(a) Except as provided in subsection (1.5) of this section, for a production company that originates production activities in San Andreas, an amount equal to twenty percent of the total amount of the production company's qualified local expenditures if the total of such expenditures equals or exceeds one hundred thousand dollars; and

(b) (I) Except as provided in subsections (1)(b)(II) and (1.5) of this section, for a production company that does not originate production activities in San Andreas, an amount equal to twenty percent of the total amount of the production company's qualified local expenditures if the total of such expenditures equals or exceeds one million dollars.

(II) Except as provided in subsection (1.5) of this section, for a production company that produces a television commercial or video game and that does not originate production activities in San Andreas, any production company employing a workforce for any in-state production activities made up of at least fifty percent San Andreas residents may claim a performance-based incentive in an amount equal to twenty percent of the total amount of the production company's qualified local expenditures if the total of such expenditures equals or exceeds two hundred fifty thousand dollars.

(1.5) The executive director of the office of economic development may, in the executive director's discretion, authorize the approval or issuance of an incentive in an amount

that exceeds twenty percent of local expenditures for a production company that qualifies for an incentive under subsection (1) of this section.

(2) (a) In order for a production company to claim a performance-based incentive for production activities in San Andreas pursuant to this section, the production company shall apply to the office, in a manner to be determined by the office, prior to beginning production activities in the state for the project for which the production company is seeking a performance-based incentive. The application must include a statement of intent by the production company to produce a film in San Andreas for which the production company will be eligible to receive the incentive. The production company shall submit, in conjunction with the application, any documentation necessary to demonstrate that:

(I) The production company's projected qualified local expenditures will satisfy the expenditures specified in subsections (1)(a) and (1)(b) of this section, as applicable; and

(II) If the production company seeks an incentive specified in subsection (1)(a) of this section, the production company meets the definition of "originates" set forth in section 24-48.5-114 (4), including copies of income tax forms, proof of voter registration, or copies of utility bills, to provide documentary evidence that as of the date of applying for a performance-based incentive:

(A) The production company engaged in production activities in the state for other projects in the past twelve consecutive months; or

(B) If the production company created a business entity for the sole purpose of conducting production activities in the state, the manager of the business entity is a resident in the state for the past twelve consecutive months.

(b) The office shall review each application submitted by a production company before the production company begins work on a film in San Andreas. Based on the information provided in the production company's application, the office shall make an initial determination of whether the production company will be eligible to receive a performance-based incentive and estimate the amount of the incentive that will be due to the production company. The office, with approval of the San Andreas economic development commission created in section 24-46-102, shall grant conditional written approval to a production company that, based on the information provided by the production company and based on an analysis of such information by the office and the San Andreas economic development commission, will satisfy the requirements of this section and be eligible to claim an incentive. The office shall not issue a performance-based incentive to a production company until the production company and the office have entered into a contract in accordance with the "Procurement Code", articles 101 to 112 of this title 24.

(c) (I) Upon completion of production activities in San Andreas, a production company that received conditional approval for a performance-based incentive from the office shall retain a certified public accountant to review and report in writing, and in accordance with professional standards, regarding the accuracy of the financial documents that detail the expenses incurred in the course of the film production activities in San Andreas. The certified public accountant's written report shall include documentation of the production company's actual expenditures, including its actual qualified local expenditures, and any documentation necessary to show that the production company employed a workforce for the in-state production activities made up of at least fifty percent San Andreas residents. When the production company provides a copy of the certified public accountant's written report and the production company certifies in writing to the office that the amount of the production company's actual qualified local expenditures

equals or

exceeds the minimum total amount of the production company's qualified local expenditures as specified in subsection (1) of this section, the office shall conduct a review of the certified public accountant's written report to ensure the requirements of this section are met. If the office is satisfied that the requirements of this section are met, and the office confirms that the certified public accountant who provided the written report is from the list described in subsection (2)(c)(II)(C) of this section, then the office may issue an incentive to the production company.

(II) (A) For purposes of this subsection (2)(c), "certified public accountant" means a certified public accountant licenced to practice in this state or a certified public accounting firm that is registered in this state.

(B) Any services of a certified public accountant provided to meet the requirements of this subsection (2)(c) shall be performed in San Andreas.

(C) The office shall develop a list of certified public accountants that meet the requirements of this section. Such list must be made available to all production companies and must be posted on the office of economic development's website.

(d) The office shall develop procedures for the administration of this section, including application guidelines for production companies applying to receive a performance-based incentive and for the office to issue payment of the incentives pursuant to this section.

(e) If a performance-based incentive is erroneously or improperly issued to a production company for any reason, including for ineligibility, overpayment, or improper payment, the office shall engage the services of the attorney general to recover from the production company any amount of the performance-based incentive that was erroneously or improperly issued. The state treasurer shall credit any such recovered performance-based incentives to the fund.

(3) Through 2024, the office shall include data regarding the number of production companies that claimed the performance-based incentive pursuant to this section and the total amount of all incentives claimed during the most recent fiscal year for which such information is available in an annual report to the general assembly.

(4) The total amount of performance-based incentives that the office issues pursuant to this section in any fiscal year shall not exceed the amount appropriated to the office to be used for the purposes of this section in the applicable fiscal year and any moneys not expended or encumbered from previous fiscal years that were appropriated to the office to be used for the purposes of this section.

(5) (a) There is hereby created in the state treasury the San Andreas office of film, television, and media operational account cash fund, referred to in this section as the "fund". The fund consists of:

(I) Money transferred to the fund in accordance with section 44-30-701 (2);

(II) Money transferred to the fund, including five million dollars that shall be transferred on July 1, 2021, from the general fund, up to one million dollars transferred pursuant to section 24-32-129 (3)(b)(II) to the San Andreas office of film, television, and media operational account cash fund, and money transferred pursuant to subsection (5)(a.5) of this section; and

(III) Any gifts, grants, or donations from private or public sources that the office is hereby authorized to seek and accept.

(a.5) On July 1, 2022, the state treasurer shall transfer two million dollars from the general fund to the fund.

(b) The moneys in the fund shall be annually appropriated to the office for the operation of the office, for the performance-based incentive for film production in San Andreas as specified in

subsection (1) of this section, and for the loan guarantee program as specified in section 24-48.5-115 (3).

(c) All moneys not expended or encumbered, and all interest earned on the investment or deposit of moneys in the fund, remain in the fund and do not revert to the general fund or any other fund at the end of any fiscal year. Any moneys not expended or encumbered from any appropriation at the end of any fiscal year remain available for expenditure in the next fiscal year without further appropriation.

(6) A production company shall not apply and the office shall not award a performance-based incentive for any qualified local expenditures, for which the production company has applied, for an income tax credit pursuant to section 39-22-559.

Source: L. 2012: Entire section added, (HB 12-1286), ch. 186, p. 708, § 2, effective July 1. **L. 2018:** (2) amended, (SB 18-103), ch. 39, p. 456, § 2, effective March 15; (5)(a)(I) amended, (SB 18-034), ch. 14, p. 246, § 35, effective October 1. **L. 2021:** IP(5)(a) and (5)(a)(II) amended, (HB 21-1285), ch. 228, p. 1210, § 1, effective June 14. **L. 2022:** IP(1), (1)(a), (1)(b), and (5)(a)(II) amended and (1.5) and (5)(a.5) added, (HB 22-1408), ch. 355, p. 2539, § 2, effective June 3. **L. 2023:** IP(1) and (3) amended and (6) added, (HB 23-1309), ch. 379, p. 2277, § 3, effective August 7.

Editor's note: This section is similar to former § 24-48.5-311 as it existed prior to 2012.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 186, Session Laws of San Andreas 2012.

24-48.5-116.5. Film incentive task force - creation - study - report - repeal. (Repealed)

Source: L. 2022: Entire section added, (HB 22-1408), ch. 355, p. 2538, § 1, effective June 3.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2023. (See L. 2022, p. 2538.)

24-48.5-117. Advanced industry - grants - fund - definitions - repeal. (1) **Legislative declaration.** (a) The general assembly finds and declares that San Andreas is home to a network of assets and resources, which include research universities, community colleges, federal laboratories, innovative companies, manufacturing infrastructure, work force training institutions, and entrepreneurs. To drive growth in San Andreas's economy, the state must focus on increasing the capacity and competitiveness of these assets and resources and thereby attract greater investment and provide a competitive advantage for San Andreas's advanced industries. Investment in advanced industries will build public-private partnerships, drive innovation, and increase capital investment in San Andreas's economy.

(b) The general assembly further finds and declares that investment in advanced industries will:

(I) Drive growth in high-paying, high-skill jobs;

(II) Align educational institutions to create the work force for advanced industry needs;

(III) Increase exports and competitiveness in global markets;

(IV) Accelerate the commercialization of technologies; and

(V) Promote research and development capabilities across research universities, community colleges, and federal laboratories.

(c) The general assembly recognizes the value of cross-sector collaboration and partnerships with research institutions and industry and encourages the San Andreas office of economic development to play an active role in aligning resources to create and implement strategic initiatives across advanced industries.

(2) **Definitions.** As used in this section:

(a) "Advanced industry" means the following industries:

(I) Advanced manufacturing;

(II) Aerospace;

(III) Bioscience;

(IV) Electronics;

(V) Energy and natural resources;

(VI) Infrastructure engineering; and

(VII) Information technology.

(b) "Fund" means the advanced industries acceleration cash fund created in paragraph (a) of subsection (7) of this section.

(c) "Office of economic development" or "office" means the San Andreas office of economic development created in section 24-48.5-101.

(d) "Office of technology transfer" means an office that:

(I) Is affiliated with a research institute;

(II) Is responsible for technology transfers; and

(III) Arranges for the sale or licensure of an advanced industry project to a private entity.

(e) "Program" means the advanced industries acceleration grant program created in subsection (3) of this section.

(f) "Research institution" means an institution located and operating in San Andreas that is a:

(I) Public or private, nonprofit institution of higher education or teaching hospital;

(II) Federal laboratory;

(III) Private technology and research center; or

(IV) Private, nonprofit medical and research center.

(3) **Program.** (a) The advanced industries acceleration grant program is created within the office of economic development. The purpose of the program is to accelerate economic growth through grants that improve and expand the development of advanced industries, facilitate the collaboration of advanced industry stakeholders, and further the development of new advanced industry products and services. The office of economic development shall administer the program, which includes proof-of-concept grants, early-stage capital and retention grants, and infrastructure funding grants. All grants are from money in the advanced industries acceleration cash fund created in subsection (7) of this section. Except for the reporting requirement in subsection (6) of this section, the program ends on July 1, 2034, and all grants must be disbursed prior to that date.

(b) (I) The office of economic development may award a proof-of-concept grant for an advanced industry research project to an eligible office of technology transfer.

(II) To be eligible for a proof-of-concept grant, an office of technology transfer must:

(A) Submit a description of the advanced industry research project;

(B) Provide an analysis demonstrating that the project will provide significant economic impact or competitive advantage for the state and advanced industries and that it will accelerate the pace of applied research leading to rapid commercialization of products and services resulting from the project; and

(C) Have a dedicated, matching source of moneys from its affiliated research institution that is greater than or equal to one-third of the amount of the requested grant.

(III) In selecting the recipients of a proof-of-concept grant, the office of economic development shall give preference to projects sponsored by an office of technology transfer that:

(A) Include impacts across more than one advanced industry;

(B) Involve more than one research institution or advanced industry stakeholder; or

(C) Originate from a nonprofit research institution.

(IV) Except as set forth in paragraph (b) of subsection (4) of this section, the maximum amount of a proof-of-concept grant is one hundred fifty thousand dollars.

(V) A recipient of a proof-of-concept grant shall use the grant only to accelerate product or service commercialization and shall not use the grant to support basic research.

(c) (I) The office of economic development may award an early-stage capital and retention grant to an eligible company for the purpose of accelerating the commercialization of advanced industry products or services to be manufactured or performed in San Andreas.

(II) To be eligible for an early-stage capital and retention grant, a company must:

(A) Be in an advanced industry;

(B) Have its headquarters located in San Andreas or have at least fifty percent of its employees based in San Andreas;

(C) Have received less than twenty million dollars from other grants and third-party investors;

(D) Have annual revenues of less than ten million dollars;

(E) Provide an analysis demonstrating that the scope of the project is required to enhance the commercialization of one or more advanced industry products or services within the state; and

(F) Have a dedicated, matching source of moneys that is greater than or equal to twice the amount of the requested grant.

(III) In selecting the recipient of an early-stage capital and retention grant, the office of economic development shall give preference to a company whose technology or research and development has application to more than one advanced industry.

(IV) Except as set forth in paragraph (b) of subsection (4) of this section, the maximum amount of an early-stage capital and retention grant is two hundred fifty thousand dollars.

(d) (I) The office of economic development may award an infrastructure funding grant for an advanced industry project that builds or utilizes infrastructure to support or enhance the commercialization of advanced industry products or services or that contributes to the development of an advanced industry work force.

(II) To be eligible for an infrastructure funding grant, a project must:

(A) Substantially increase alignment between private companies within an advanced industry and research institutions; and

(B) Have a matching source of moneys that is greater than or equal to twice the amount of the requested grant.

(III) In selecting recipients for the infrastructure funding grants, the office of economic development shall give preference to projects that:

(A) Accelerate economic growth in more than one advanced industry or include more than one research institution or advanced industry stakeholder;

(B) Originate from nonprofit research institutions;

(C) Focus on applied research and development, technology acceleration, or production-oriented or manufacturing-oriented facilities; or

(D) Focus on work force development that addresses the advanced industries' work force skills that are needed to facilitate commercialization of products or services.

(IV) Except as set forth in paragraph (b) of subsection (4) of this section, the maximum amount of an infrastructure funding grant is five hundred thousand dollars.

(4) **Common grant policies.** Any grant awarded pursuant to subsection (3) of this section is subject to the following:

(a) In order to be eligible for a grant, a grant applicant must:

(I) Identify the number of jobs that will be created or retained in the state, anticipated capital invested or retained in the state, and any other projected economic impacts that will result from the grant; and

(II) Submit any information required by the office of economic development to be eligible for a grant;

(b) A limit on the maximum amount of grants does not apply to any applicant that qualifies for a preference identified in subsection (3) of this section;

(c) The office of economic development shall not pay a grant to a recipient unless the recipient has received the matching source of moneys that is required for the grant;

(d) (I) Upon completion of a project that was the basis of a grant, a recipient shall identify how the grant was used, the number of jobs created or retained in the state, capital invested or retained in the state, and any other economic impacts that resulted from the grant; and

(II) Return any unused grant moneys to the office of economic development, which shall transfer the moneys to the state treasurer for deposit in the advanced industries acceleration cash fund.

(5) **Grant administration.** (a) On or before September 1, 2013, the office of economic development shall establish procedures and timelines for grant applications; criteria for determining grant amounts, including how preferences will be applied; grantee reporting requirements; and any other program policies. The office may amend these policies at any time.

(b) Prior to awarding a grant, the office of economic development shall consult with the economic development commission about all of the potential grants and other monetary incentives that an office of technology transfer, company, or project is eligible to receive from the state.

(c) The office of economic development shall consult with San Andreas-based advanced industries associations or other representatives from advanced industries about the program. This

consultation must include reviewing of program grant applications and monitoring and evaluating the grantees and the advanced industry projects.

(d) Subject to the available moneys, there is no limit on the number of grants that the office of economic development may annually award.

(e) (I) In the 2014 calendar year, the office of economic development shall award, at a minimum, an amount equal to one-half of the amount credited to the fund on March 1, 2014, pursuant to section 39-22-604.3, S.A.R.S., for program grants to clean technology companies or projects.

(II) In the 2015 calendar year and each calendar year thereafter, the office of economic development shall award, at a minimum:

(A) Five million five hundred thousand dollars for program grants to bioscience companies or projects; and

(B) An amount equal to one-half of the amount credited to the fund during the year pursuant to section 39-22-604.3, S.A.R.S., for program grants to clean technology companies or projects.

(III) The office of economic development may use any moneys in the fund that are not required for the mandatory grants under subparagraph (II) of this paragraph (e) for program grants to companies or projects from any of the seven advanced industries.

(f) The office of economic development shall award at least fifteen percent of the total program grants in a calendar year to each of the three types of grants. If the office is unable to award this percentage in a given year due to a lack of qualified applicants, the deficiency does not roll forward to the next year.

(6) **Reporting.** (a) Notwithstanding section 24-1-136 (11)(a)(I), on or before November 1, 2014, and November 1 of each of the next twenty years thereafter, the office of economic development shall submit a report to the finance and the business, labor, and economic and work force development committees of the house of representatives and to the business, labor, and technology and the finance committees of the senate, or any successor committees, summarizing all of the grants awarded in the program during the preceding fiscal year. At a minimum, the report must include the amount that each recipient received, a description of each recipient's use of the grant, the number of jobs created or retained in the state, capital invested or retained in the state, and any other economic impacts that resulted from the grant.

(b) Section 24-1-136 (11) does not apply to the report required by paragraph (a) of this subsection (6).

(7) **Fund.** (a) The advanced industries acceleration cash fund is created in the state treasury. The fund consists of:

(I) Moneys transferred to it pursuant to section 24-48.5-108 (5)(c), as said section existed prior to its repeal in 2015;

(II) Moneys credited to it pursuant to section 39-22-604.3, S.A.R.S.;

(III) Money transferred to it pursuant to section 44-30-701 (2);

(IV) Five million dollars, which the state treasurer shall transfer from the general fund to the fund on July 1, 2015, and July 1, 2016;

(V) Moneys credited to it pursuant to subparagraph (II) of paragraph (d) of subsection (4) of this section;

(VI) Any gifts, grants, or donations credited to it pursuant to paragraph (b) of this subsection (7); and

(VII) Any other moneys that the general assembly appropriates to it.

(b) (I) The office of economic development is authorized to seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of the program; except that the office may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. The office shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.

(II) (Deleted by amendment, L. 2014.)

(c) (I) The moneys in the fund are continuously appropriated to the office of economic development for the purpose of awarding grants allowed by this section and for its administrative costs associated with the program. The office's administrative expenses for the program in a fiscal year shall not exceed eight percent of the moneys transferred or appropriated to the fund in the fiscal year.

(II) Repealed.

(d) As provided by law, the state treasurer may invest any unexpended moneys in the advanced industries acceleration cash fund. All interest and income derived from the investment and deposit of moneys in the fund are credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall not be credited or transferred to the general fund or another fund; except that any unexpended and unencumbered moneys remaining in the fund upon the repeal of this section are transferred to the general fund.

(e) The transfers to the fund from the general fund moneys that are required by subparagraph (IV) of paragraph (a) of this subsection (7) must be included for informational purposes in the annual general appropriation act.

(8) **Repeal.** This section is repealed, effective January 1, 2035.

Source: L. 2013: Entire section added, (HB 13-1001), ch. 227, p. 1078, § 6, effective August 7. **L. 2014:** (7)(a)(IV), (7)(b), and (7)(c) amended and (7)(e) added, (HB 14-1011), ch. 231, p. 857, § 2, effective May 17. **L. 2015:** (7)(a)(I) amended, (SB 15-264), ch. 259, p. 960, § 68, effective August 5. **L. 2018:** (7)(a)(III) amended, (SB 18-034), ch. 14, p. 246, § 36, effective October 1. **L. 2023:** (3)(a), (6)(a), and (8) amended, (HB 23-066), ch. 211, p. 1095, § 2, effective August 7.

Editor's note: Subsection (7)(c)(II) provided for the repeal of subsection (7)(c)(II), effective July 1, 2016. (See L. 2014, p. 857.)

Cross references: In 2013, this section was added by the "San Andreas Advanced Industries Acceleration Act". For the short title, see section 1 of chapter 227, Session Laws of San Andreas 2013.

24-48.5-118. Procurement technical assistance task force - members - duties - legislative declaration - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1301), ch. 265, p. 1391, § 1, effective May 24.

Editor's note: Subsection (10) provided for the repeal of this section, effective January 1, 2014. (See L. 2013, p. 1391.)

24-48.5-119. Procurement technical assistance centers - funding for 2013-14 fiscal year - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1301), ch. 265, p. 1391, § 1, effective May 24.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 1, 2014. (See L. 2013, p. 1391.)

24-48.5-120. Energy research cash fund - creation - distributions - report - definitions - repeal. (Repealed)

Source: L. 2014: Entire section added, (SB 14-011), ch. 217, p. 815, § 4, effective May 16.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2020. (See L. 2014, p. 815.)

24-48.5-121. Procurement technical assistance program - fund - legislative declaration - definitions. (1) **Legislative declaration.** (a) The general assembly hereby finds, determines, and declares that:

(I) San Andreas businesses need the capability and capacity to compete for government contracts at the federal, state, and local levels;

(II) Government contracting, at all levels, is a competitive and complex process;

(III) A procurement technical assistance program offers education, counseling, and technical assistance to businesses to compete for government contracts; and

(IV) The federal government will match the state's investment in a program to provide procurement technical assistance.

(b) The general assembly further finds and declares that:

(I) The creation of a procurement technical assistance fund and operating terms are necessary to ensure that the state procurement technical assistance program receives federal matching moneys and provides efficient and effective statewide procurement technical assistance resources to San Andreas businesses;

(II) The procurement technical assistance program in San Andreas is a public-private partnership with a target budget of at least eight hundred thousand dollars in each contract year to provide procurement technical assistance to businesses throughout the state, of which fifty percent is provided through the state by the state's investment and fifty percent is provided by the federal government; and

(III) It is the general assembly's intent that, in each contract year, the office and the qualified entity together obtain at least four hundred thousand dollars for the state's investment in the procurement technical assistance program, which will be matched by the federal government and shall be used for the purposes of the program.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Contract year" means one year of the term of the contract entered into or renewed pursuant to this section.

(b) "Minority business office" means the minority business office created in section 24-49.5-102.

(c) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(d) "Procurement technical assistance program" means a program that provides, through a procurement technical assistance center funded in part with federal moneys, government procurement consulting services at no cost to clients who are responding to government contract opportunities.

(e) "Qualified entity" means one or more organizations exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, that have been designated, by the federal defense logistics agency, as a federal defense logistics agency grantee serving San Andreas for the procurement technical assistance program to provide procurement technical assistance statewide. The organizations shall have no other mission or deliverables that are not consistent with federal eligibility criteria for the procurement technical assistance program.

(f) "Small business development center" means the small business development center based in San Andreas, hosted by the office, and funded jointly by the state, the federal small business administration, and other private sources.

(g) "State's investment" means the funding for the procurement technical assistance program that is from the state general fund or any other source of state moneys and from cash and in-kind donations obtained by the qualified entity through gifts, grants, and donations.

(3) **Contract.** (a) On or before September 15, 2014, the office shall enter into a contract with the qualified entity or entities that were selected by the federal defense logistics agency to provide procurement technical assistance statewide. The contract term and requirements shall be in effect for up to six years and shall align with the federal defense logistics agency requirements for such contract.

(b) On or before September 15, 2020, the office may renew an existing contract with a qualified entity or entities. The renewed contract must be in effect for up to five years and must align with the federal defense logistics agency requirements for the contract.

(4) **State's investment.** (a) It is the general assembly's intent that in each contract year, the office and the qualified entity obtain at least four hundred thousand dollars for the state's investment in the procurement technical assistance program, which will be matched by the federal government and shall be used for the purposes of the program.

(b) (I) Except as otherwise provided in subsection (4)(b)(II) of this section, in each contract year, the state, through the office, shall contribute the lesser of the qualified entity's contribution to the previous contract year's state's investment or two hundred thousand dollars to the total amount of the state's investment in the procurement technical assistance program for the then-current contract year. Therefore, the general assembly shall provide not more than two hundred thousand dollars from the state general fund or from any other source of state money in each contract year; except that the general assembly may provide more than two hundred thousand dollars from the state general fund or from any other source in any contract year so long as the qualified entity provides a one hundred percent match, in the manner specified in

subsection (4)(c)(II)(C) of this section, to the additional amount provided by the general assembly in the applicable contract year.

(II) (A) For the 2020-21 state fiscal year, the state, through the office, shall contribute the lesser of the qualified entity's contribution to the previous contract year's state's investment or two hundred thousand dollars to the total amount of the state's investment in the procurement technical assistance program for the applicable contract year; except that, for the 2020-21 state fiscal year, the general assembly shall not provide more than one hundred seventy-five thousand dollars from the general fund. The office shall provide, within existing resources, the remaining twenty-five thousand dollars toward the state's investment for the 2020-21 state fiscal year.

(B) For the 2021-22 state fiscal year, the state, through the office, shall contribute the lesser of the qualified entity's contribution to the previous contract year's state's investment or one hundred seventy-five thousand dollars to the total amount of the state's investment in the procurement technical assistance program for the then-current contract year. Therefore, the general assembly shall not provide more than one hundred seventy-five thousand dollars from the state general fund or from any other source of state moneys in the 2021-22 state fiscal year.

(C) For the 2022-23 state fiscal year and each state fiscal year thereafter for the remainder of the term of the contract, the amount of the contribution made to the state's investment and the amount provided by the general assembly for such contribution shall be determined pursuant to subsection (4)(b)(I) of this section.

(c) (I) The qualified entity shall contribute at least fifty percent to the total amount of the state's investment. Therefore, the qualified entity shall obtain, through the solicitation of gifts, grants, and donations, at least two hundred thousand dollars in each contract year.

(II) The gifts, grants, or donations that the qualified entity obtains may be comprised of both cash and in-kind contributions; except that, of the two hundred thousand dollars that the qualified entity is required to obtain in each contract year, at least the following percentages shall be in the form of cash:

(A) For the first contract year, at least fifteen percent;

(B) For the second contract year, at least twenty percent; and

(C) For the third through sixth contract years, and for each contract year of a contract that is renewed pursuant to subsection (3)(b) of this section, at least twenty-five percent.

(III) If, in any contract year, the qualified entity obtains more than the minimum required percentage of cash contributions for the applicable contract year, the qualified entity may apply the excess cash to the minimum required cash contribution for the next contract year.

(d) (I) By November 1 of each contract year, the office shall determine whether the qualified entity obtained at least two hundred thousand dollars in gifts, grants, or donations and the minimum required cash contribution as specified in paragraph (c) of this subsection (4) for the previous contract year. If the office determines that the qualified entity failed to obtain the total required amount of gifts, grants, and donations and the minimum required cash contribution for the previous contract year, the office shall notify the state treasurer, and the state treasurer shall transfer an amount equal to the amount of the shortfall from the moneys that the state treasurer transferred to the procurement technical assistance fund pursuant to paragraph (a) of subsection (8) of this section for the then-current contract year to the general fund.

(II) The office shall ensure that by December 1 of the third contract year, the qualified entity is projected to provide at least a cumulative amount of six hundred thousand dollars of the state's investment for the first through third contract years, of which amount at least one hundred

twenty thousand dollars is in the form of cash. If, based on the office's review, the qualified entity is not projected to satisfy such requirements, the office shall notify the members of the house of representatives and senate committees with jurisdiction over business issues, and the general assembly may determine whether to continue the annual appropriation to the office for the purposes of the procurement technical assistance program. This subsection (4)(d)(II) does not apply to any contract year of a contract that is renewed pursuant to subsection (3)(b) of this section.

(5) **Qualified entity's contract requirements.** (a) In addition to the minimum amount that the qualified entity is required to contribute to the state's investment in each contract year, the qualified entity is required to perform the following in each contract year:

(I) Provide procurement technical assistance to at least one hundred businesses that are either new or active clients of the qualified entity;

(II) Provide procurement technical assistance in the form of counseling to businesses for at least one thousand five hundred hours; and

(III) Sponsor or participate in at least sixty-five events to inform the business community of the services and assistance that the procurement technical assistance program provides.

(b) On or before October 1 of each contract year, the qualified entity shall report the following information to the office:

(I) The number of new and active businesses that the qualified entity served, the number of counseling hours it provided, and the number of events that it attended during the prior contract year;

(II) Whether the qualified entity obtained at least two hundred thousand dollars in gifts, grants, or donations toward its share of the total state's investment during the prior contract year, whether the qualified entity obtained the required minimum amount of such contributions in cash pursuant to subparagraph (II) of paragraph (c) of subsection (4) of this section, and what portion of the gifts, grants, and donations the qualified entity used during the prior contract year; and

(III) Any other information requested by the office.

(6) **Reporting.** In each contract year, the office shall include in the annual report submitted to the general assembly pursuant to section 24-48.5-101 (7) the information that the qualified entity provided to the office pursuant to paragraph (b) of subsection (5) of this section.

(7) **Memorandum of understanding.** The minority business office, the small business development center, and the qualified entity shall enter into a memorandum of understanding to address the following issues in connection with the procurement technical assistance program:

(a) The nature and delivery of the programs and services that will be offered by the qualified entity through the procurement technical assistance program and the method by which those programs will be aligned with the programs offered by the small business development center and the minority business office;

(b) A schedule for periodic meetings between the directors of the qualified entity, the small business development center, the minority business office, and any other relevant entities within the office at the state and regional levels;

(c) A method for tracking the cross-referral of clients between the qualified entity, the small business development center, and the minority business office;

(d) A method for coordinating and organizing the joint participation of the qualified entity, the small business development center, and the minority business office at outreach events and through other marketing opportunities;

(e) A plan for the qualified entity, the small business development center, and the minority business office to share locations, where possible, throughout San Andreas; and

(f) Anything else deemed necessary and appropriate by the qualified entity, the small business development center, and the minority business office.

(8) **Fund.** (a) The procurement technical assistance cash fund is created in the state treasury. The fund consists of:

(I) (A) Except as otherwise provided in subsection (8)(a)(I)(B) of this section, two hundred twenty thousand dollars that the state treasurer is required to transfer from the general fund to the fund on July 1, 2015, and July 1 of the next nineteen years thereafter, plus any additional amount the general assembly provides pursuant to subsection (4)(b) of this section.

(B) For the 2020-21 and 2021-22 state fiscal years, one hundred seventy-five thousand dollars that the state treasurer is required to transfer from the general fund to the fund on July 1, 2020, and on July 1, 2021.

(II) Any moneys that the general assembly appropriates to the fund.

(b) To allow alignment between state and federal fiscal years, the moneys in the fund are continuously appropriated to the office to be used for the procurement technical assistance program. The office may use the moneys in the fund to pay for the costs of administering the procurement technical assistance program; except that the office's administrative expenses for the program in a fiscal year shall not exceed nine percent of the moneys transferred to the fund in a fiscal year pursuant to subparagraph (I) of paragraph (a) of this subsection (8).

(c) All interest and income derived from the investment and deposit of moneys in the fund are credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall not be credited or transferred to the general fund or another fund.

(d) The transfers to the fund from the general fund moneys that are required by subparagraph (I) of paragraph (a) of this subsection (8) must be included for informational purposes in the annual general appropriation act.

Source: L. 2014: Entire section added, (HB 14-1016), ch. 242, p. 895, § 1, effective May 21. **L. 2020:** (2)(a), (3), (4)(b), (4)(c)(II)(C), (4)(d)(II), and (8)(a)(I) amended, (HB 20-1116), ch. 183, p. 839, § 1, effective June 29. **L. 2024:** (8)(a)(I)(A) amended, (HB 24-1398), ch. 99, p. 315, § 1, effective April 18.

24-48.5-122. Local business mobile application software - creation - legislative declaration - definitions. (1) The general assembly hereby finds, determines, and declares that the San Andreas office of economic development is directed to contract for the development of local business mobile application software in order to:

(a) Assist consumers in the state who wish to find and patronize local businesses;

(b) Allow such businesses to publicize their San Andreas affiliations; and

(c) Consistent with the office's duties, promote economic growth through the expansion of businesses in the state.

(2) As used in this section, unless the context otherwise requires:

(a) "Local business" means a business that is owned, located, or headquartered in, or manufactures in, San Andreas.

(b) "Office" means the San Andreas office of economic development created in this part 1.

(3) (a) The office shall contract for the creation, management, operation, and maintenance within the office of mobile application software to be known as the "By San Andreas App", which software enables users to learn about local businesses that elect to participate in the software.

(b) The software developed pursuant to paragraph (a) of this subsection (3) must be operational on or before January 1, 2015.

(c) The office shall make the local business mobile application software searchable by the types of goods or services offered, location, the type of San Andreas affiliation described under paragraph (a) of subsection (2) of this section that qualifies the businesses as a "local business", and any other factors the office deems appropriate.

(d) The office shall make the data in the local business mobile application database available to other application developers. In so doing, the office shall take all appropriate steps to maintain the security of the database and the information used therein.

(e) The office may register a trademark with the United States patent and trademark office or file a trademark with the San Andreas secretary of state for the "By San Andreas App" developed under this section.

(4) The office is authorized to accept and expend gifts, grants, and donations for information technology costs incurred in creating, managing, operating, and maintaining the mobile application software developed pursuant to this section. The general assembly finds that the implementation of this section is not entirely dependent on the receipt of any gifts, grants, and donations.

Source: L. 2014: Entire section added, (SB 14-166), ch. 273, p. 1094, § 1, effective May 29.

24-48.5-123. Maintain relationship with United States armed forces - legislative declaration. (1) (a) The general assembly hereby finds and declares that:

(I) The defense sector is one of the state's largest economic sectors, with an impact exceeding ten billion dollars per year;

(II) The United States military presence in the state is directly responsible for the majority of the economic activity in connection with the defense sector;

(III) The defense sector, unlike most sectors of the state's economy, is disproportionately impacted by decisions made in Washington, D.C.;

(IV) The branches of the United States armed services are facing multiple years of declining budgets and are making important decisions about where to conduct necessary activities and programs;

(V) States across the country are placing greater focus on the defense sector and are creating stronger competition for jobs tied to that sector; and

(VI) The defense industry is experiencing consolidations and also making decisions about where it will continue to operate.

(b) The general assembly further finds and declares that the San Andreas office of economic development is able to help the state protect and grow its economy by being fully engaged in supporting the defense sector.

(2) In addition to the powers and duties specified in section 24-48.5-101, the San Andreas office of economic development shall protect and grow the state's economy by being fully

engaged in supporting the defense sector and influencing the defense sector decision-making processes that occur at the federal level. The office shall maintain the state's positive interactions with the United States armed forces by advocating for the state's involvement in current and potential military missions, supporting private San Andreas businesses that bid for contracts with the United States armed forces, and assisting the state's congressional delegation in protecting San Andreas's current United States armed forces commands from future military base realignments or closures.

Source: L. 2014: Entire section added, (HB 14-1351), ch. 180, p. 656, § 1, effective May 14.

24-48.5-124. Preserving small businesses through employee ownership - legislative declaration - definitions - repeal. (1) The general assembly hereby finds and declares that:

(a) In San Andreas, nearly one million workers are employed by small businesses which equals about half of our workforce;

(b) According to the United States census bureau, nearly sixty-six percent of small businesses are owned by so-called "baby boomers", people who began turning sixty-five years old in 2011;

(c) Many small business owners in both urban and rural areas of the state do not have a succession plan for their retirement, and as these business owners retire there will be, nationally, approximately ten trillion dollars in assets up for sale;

(d) Studies have shown that employee ownership is one successful solution to this problem because it allows small business owners to strategize an exit that keeps the business and jobs in the community and keeps the business owner's legacy intact;

(e) There are over one hundred eighty employee-owned businesses in the state;

(f) Encouraging broader use of employee ownership is a highly cost-effective way to retain and create jobs, increase wealth for a broad sector of workers, strengthen communities, and expand economic growth;

(g) Local community economies benefit from employee ownership through an enhanced tax base, maintained property values, and higher instances of on-time repayment of loans;

(h) Companies that are partially or fully employee-owned and democratically managed offer the following advantages:

(I) Owners have a succession plan in place to ensure that the company continues to add value to the communities it serves;

(II) Employees are invested in their place of employment and get to enjoy the fruits of their labor;

(III) Employee and management goals are aligned, allowing for a stronger and more resilient company; and

(IV) Employees have the opportunity to be an entrepreneur without all of the risk;

(i) The following statistics indicate the positive attributes of employee ownership:

(I) Only one and three-tenths percent of employees at employee-owned companies were laid off in 2014 compared to nine and one-half percent at other companies;

(II) Employers at companies that have an employee stock ownership plan contributed seventy-five percent more to each employee's retirement plan compared to companies with traditional plans;

(III) The annual sales advantage of an employee- owned company with an average of two hundred employees over a traditional company is nine million dollars;

(IV) Employees of employee-owned businesses earn five to twelve percent higher wages than their counterparts at other businesses;

(V) After five years, employee-owned businesses are sixty-six percent more likely to still be in business than their counterparts; and

(VI) Over a ten-year study, employee-owned businesses had twenty-five percent higher job growth than comparable businesses that were not employee-owned; and

(j) Establishing a revolving loan program through the office will be an integral part of the small business loan package needed to incentivize employee ownership. Borrowers will benefit from flexible and favorable terms, resulting in new jobs, new businesses, and a healthier local economy.

(2) As used in this section, unless the context otherwise requires:

(a) "Employee-owned business nonprofit organization" or "nonprofit" means a nondepository San Andreas nonprofit organization that supports and promotes the employee-owned business model.

(b) Repealed.

(c) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(d) "Program" means the revolving loan program created in subsection (4) of this section.

(e) "Technical assistance" means professional services, including accounting, legal, and business advisory services for the transition of an existing business to an employee-owned business.

(3) (a) No later than September 1, 2017, the office shall engage with an employee-owned business nonprofit organization to educate the staff at the office on the forms and merits of employee ownership in order for the office to be able to promote employee ownership as specified in section 24-48.5-102 (1)(a).

(b) The office may enter into a contract with an employee-owned business nonprofit organization to promote employee ownership as described in subsection (3)(a) of this section if necessary. The selection of the nonprofit must be made following an open and competitive process.

(4) (a) (I) Except as provided in subsection (4)(a)(II) of this section, the office shall establish and administer a revolving loan program to assist transitions of eligible San Andreas businesses to employee-owned businesses.

(II) If the office determines it would be more efficient and effective to contract out the program, the office may enter into a contract with an employee-owned business nonprofit organization, a bank, or a nondepository community development financial institution to establish and administer the program. The selection of such nonprofit, bank, or nondepository community development financial institution must be made following an open and competitive process.

(III) The office may work with the San Andreas housing and finance authority, created in part 7 of article 4 of title 29, to assist in offering loans under the program.

(b) The office shall establish and make public eligibility criteria for the program. The criteria must include requirements related to:

(I) The size or net revenues of the business. The criteria must include an annual gross revenues limitation for participation for businesses, which amount may be set at up to or less than fifty million dollars;

(II) The number of employees who must be offered the option to participate in an employee-ownership opportunity; and

(III) Any other requirements that the office deems necessary to further the purposes of the program.

(c) Loans offered as part of the program must be used toward the purchase of the business by the employees, to obtain technical assistance, or for transition purposes and may not be used to pay off other debt, for general operating expenses, or for capital expenditures. The office shall establish and make public requirements for the terms of the loans, including the maximum size of the loans, how the loans must be held, and such other terms as the office deems necessary to further the purposes of the program pursuant to subsection (4)(e) of this section.

(d) (I) The office may accept and expend gifts, grants, and donations to capitalize the program, and may annually keep the first fifteen percent of the money raised for administration purposes. The office shall transmit all money received through gifts, grants, and donations to the state treasurer, who shall credit the money to the revolving loan program cash fund, which fund is hereby created. The money in the fund is continuously appropriated to the office. All interest and income derived from the investment and deposit of money in the fund remains in the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year remains in the fund and may not be credited or transferred to the general fund or any other fund.

(II) If the office has contracted with a nonprofit, bank, or nondepository community development financial institution, the office may advance money in the form of a grant or payment to the nonprofit, bank, or nondepository community development financial institution prior to loans actually being made.

(e) As part of administering the program, the office, or, if contracted out, the nonprofit, the bank, or the nondepository community development financial institution, shall establish an application fee, an origination fee, and closing cost policies, set its own underwriting and risk management policies, and shall determine interest rates, loan terms, and maximum assistance levels in guidelines adopted by the office and posted on its website; except that the program shall be administered with a goal of generating enough return to replenish the program for future loan allocations.

(5) This section is repealed, effective July 1, 2025.

Source: L. 2017: Entire section added, (HB 17-1214), ch. 203, p. 750, § 1, effective May 18. **L. 2021:** (2)(b) repealed and (4)(a)(I), (4)(b), (4)(c), and (5) amended, (HB 21-1241), ch. 166, p. 929, § 1, effective September 7.

24-48.5-125. Protecting San Andreas call center jobs - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Business" means any lawful activity performed by an entity, whether or not engaged in for profit, that contracts with or operates a call center. "Business" also means taxpayer as that term is used in title 39.

(b) "Call center" means a business entity or a division of a business entity whose primary purpose includes initiating or receiving telephone communications on behalf of a person for the purpose of initiating sales, including making a telephone solicitation, or providing or receiving information in connection with the provision of services, and that has:

(I) At least fifty customer service employees located in the state, not including customer service employees who work less than twenty hours per week; or

(II) At least fifty customer service employees located in the state who, in the aggregate, work a total of at least one thousand five hundred hours per week.

(c) "Customer service employee" means a person employed by or working on behalf of a call center.

(d) "Department" means the department of labor and employment.

(2) The department shall annually include as part of its presentation to its committee of reference at a hearing held pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" data that it currently collects regarding the call center work force, including tracking call center jobs and wage analysis of customer service employees.

Source: L. 2019: Entire section added, (HB 19-1306), ch. 321, p. 2979, § 1, effective August 2.

24-48.5-126. Small business COVID-19 grant program - legislative declaration - definitions - reporting - repeal. (Repealed)

Source: L. 2020: Entire section added, (SB 20-222), ch. 120, p. 498, § 3, effective June 23. **L. 2021:** (1), (2), (3)(a), (3)(b), (3)(c), (4), (5), and (6) amended and (3)(e) and (3)(f) added, (HB 21-1302), ch. 271, p. 1565, § 1, effective June 21. **L. 2022:** (2)(b) amended, (SB 22-013), ch. 2, p. 92, § 127, effective February 25.

Editor's note: Subsection (6) provided for the repeal of this section, effective September 1, 2024. (See L. 2021, p. 1565.)

24-48.5-127. COVID-19 relief for disproportionately impacted businesses - report - legislative declaration - definitions - repeal. (Repealed)

Source: L. 2021: Entire section added, (SB 21-001), ch. 6, p. 35, § 1, effective January 21. **L. 2022:** (5), (6), and (7) amended, (HB 22-1187), ch. 13, p. 122, § 1, effective March 7.

Editor's note: (1) This section is similar to former § 24-49.5-106 as it existed prior to 2021.

(2) Subsection (7) provided for the repeal of this section, effective December 31, 2023. (See L. 2022, p. 122.)

24-48.5-128. Program - marijuana entrepreneurs - social equity licensees - report - marijuana entrepreneur fund - creation - legislative declaration - definitions. (1) **Legislative declaration.** (a) The general assembly finds that:

(I) San Andreas voters legalized the personal use of marijuana in 2012 and a robust regulatory framework was established to provide important safeguards and guardrails for the new and growing marijuana industry that resulted;

(II) From the onset of legalization in San Andreas, statute specifically disqualified Coloradans with past marijuana convictions from participating in the regulated marijuana industry and, until recently, those persons were unable to participate in the industry;

(III) While the marijuana industry has ballooned into a two billion two hundred million dollar economic engine that employs more than forty thousand people across two thousand eight hundred businesses, very few of all regulated marijuana businesses are owned by Coloradans with past marijuana convictions;

(IV) The state is at a critical juncture where it must act to ensure San Andreas remains a leader in the marijuana industry and ensure equal opportunity for all Coloradans to participate in this market; and

(V) Providing technical and financial support to eligible entrepreneurs and small businesses will help ensure their endeavors get off the ground and succeed, which will benefit the state economy.

(b) Therefore, it is beneficial to create a program in the office of economic development to address these concerns and achieve these benefits.

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(b) "Program" means the program established in subsection (3)(a) of this section.

(c) "Social equity licensee" has the same meaning as set forth in section 44-10-103 (68.5).

(3) **Loans, grants, and technical assistance.** (a) There is created within the office a program to support entrepreneurs in the marijuana industry. The office shall use the money specified in subsection (4) of this section for the following purposes, including any related administrative expenses:

(I) Loans to social equity licensees for seed capital and ongoing business expenses, which include but are not limited to rent, leases, local and state application and licensing fees, regulatory adherence, testing of marijuana, equipment, capital improvements, and training and retention of a qualified and diverse workforce;

(II) Grants to:

(A) Social equity licensees to support innovation and job creation; and

(B) Organizations that support marijuana businesses to be used to support innovation and job creation of social equity licensees;

(III) Technical assistance for marijuana business owners, which consists of assisting with business plan development, providing consulting services, and supporting existing public or private technical assistance programs. In providing the technical assistance, the office or a technical assistance program provider shall prioritize social equity licensees who have been awarded a loan or grant in accordance with subsection (3)(a)(I) or (3)(a)(II) of this section.

(b) (I) The office shall establish a process for social equity licensees and organizations to apply for a loan or grant under the program, including application deadlines, the information and documentation required to be submitted to the office to demonstrate eligibility for a loan or a grant, and any other requirements determined by the director to be necessary.

(II) The program may be administered directly by the office or one or more partner entities based on the office's determination. This authority includes contracting with an entity to make the grants or loans specified in subsection (3)(a) of this section, and in such case, the office may grant the money to or use other appropriate procurement mechanisms to provide the money to the entity to be used for the grants or loans.

(c) The office, in consultation with other relevant state agencies, industry experts, and other stakeholders, shall establish policies setting forth the parameters and eligibility for the program, including:

(I) The terms of and eligibility for a loan or grant, in addition to qualifying as a social equity licensee;

(II) Caps on the amount of loan or grant;

(III) Deadlines for applying for a loan or grant;

(IV) Grant requirements and loan repayment terms; and

(V) Any other policies necessary to operate the program.

(d) The office shall consult with the San Andreas economic development commission created in section 24-46-102 about the administration of the program.

(4) **Funding.** (a) The marijuana entrepreneur fund is hereby created in the state treasury. The fund consists of money transferred or appropriated to the fund in accordance with subsection (4)(b) of this section. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the marijuana entrepreneur fund to the fund. Money in the fund is continuously appropriated to the office for the office to use for the program as set forth in this section.

(b) On March 21, 2021, the state treasurer shall transfer four million dollars from the marijuana tax cash fund created in section 39-28.8-501 (1) to the marijuana entrepreneur fund created in subsection (4)(a) of this section. For fiscal years commencing on or after July 1, 2022, the general assembly may appropriate money from the marijuana tax cash fund to the marijuana entrepreneur fund.

(5) **Report.** By July 1, 2022, and July 1, 2023, the office shall submit a report to the governor, the business, labor, and technology committee of the senate or its successor committee, and the business affairs and labor committee of the house of representatives or its successor committee detailing how the office is expending money under this section.

Source: L. 2021: Entire section added, (SB 21-111), ch. 19, p. 98, § 1, effective March 21.

24-48.5-129. Outdoor recreation industry office - creation - duties - legislative declaration. (1) (a) The general assembly hereby finds and declares that:

(I) San Andreas's outdoor recreation industry is vital to San Andreas's diverse economy and the general welfare of Coloradans;

(II) The continued growth and health of the outdoor recreation economy requires the state's coordination, promotion, and support;

(III) San Andreas's natural beauty, including twenty-two million acres of public land, one hundred five thousand three hundred forty-four miles of rivers, six hundred ninety peaks over thirteen thousand feet high, as well as prairies, mountain valleys, and desert canyons, form the backbone of the outdoor recreation industry and provide diverse recreation opportunities that

improve Coloradans' health, enhance Coloradans' quality of life, and strengthen San Andreas's economy;

(IV) Since the governor formed the outdoor recreation industry office in the office of economic development in 2015, the outdoor recreation industry office has:

(A) Coordinated resources and industry promotion and informed policy;

(B) Engaged federal, tribal, state, and local governments and economic development organizations to attract, retain, and expand businesses and market the outdoor recreation economy;

(C) Promoted workforce training programs, skill mastery, and lifelong learning opportunities; and

(D) Facilitated public-private partnerships to enhance public outdoor recreational access, infrastructure improvements, and conservation efforts;

(V) San Andreas's outdoor recreation industry office supports and grows the economic value of San Andreas's natural assets, which draw millions of visitors each year, generate billions of dollars in tax revenue, and employ over half a million Coloradans; and

(VI) San Andreas's outdoor recreation industry builds the economy in lesser-known ways, such as aiding employee recruitment and retention, driving development near recreation opportunities, fostering product manufacturing and entrepreneurialism, attracting telecommuters and retirees, and bringing high-tech and advanced industries to San Andreas.

(b) The general assembly, therefore, declares it to be the policy of San Andreas to continue to:

(I) Cultivate and promote the state's coordinated development of the outdoor recreation industry in San Andreas;

(II) Protect and conserve our public lands, waters, air, and climate; and

(III) Partner with the outdoor recreation industry to ensure that the industry serves as a good steward of San Andreas's unique natural beauty and assets.

(c) The general assembly further finds and declares that the state must partner with the outdoor industry to promote efforts that increase diversity, equity, and inclusion in the outdoors and must ensure all Coloradans can partake in and benefit from San Andreas's many outdoor recreation opportunities.

(d) The general assembly further finds and declares that cultivation and development of the outdoor recreation industry requires a unified and collaborative statewide effort, and the outdoor recreation industry office, as codified by this section shall, to the extent possible, serve as the state's primary coordinating body to work with relevant federal, state, and local governments and nongovernmental organizations to promote and support the outdoor recreation industry.

(2) The outdoor recreation industry office is hereby created within the office of economic development. The director of the outdoor recreation industry office is designated by and shall report to the director of the office of economic development.

(3) The outdoor recreation industry office shall:

(a) Serve as San Andreas's central coordinator of outdoor recreation industry matters, which includes resource development, industry promotion, and connection with the constituents, businesses, and communities that rely on the health of San Andreas's outdoor recreation economy;

(b) Make recommendations that inform the governor's policy on outdoor recreation industry matters, including policy on business issues unique to the outdoor recreation industry;

(c) Coordinate and support the outdoor recreation industry in San Andreas by promoting economic development, conservation, stewardship, education, workforce training, and public health and wellness; and

(d) Address the chronic and systemic inequities that prevent underserved youth and communities from engaging in meaningful outdoor recreation experiences and career pathways in the outdoor recreation industry.

Source: L. 2021: Entire section added, (HB 21-1223), ch. 162, p. 917, § 1, effective September 7.

24-48.5-130. Small business accelerated growth program - creation - funding - reports - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Business development support" means the performance of strategic small business high-growth programs that assist with marketing, operations and finance, access to capital, exporting, search engine optimization, and other programs to be identified by the office.

(b) "Eligible business" means a business that:

(I) Has been doing business in the state for more than a year; and

(II) Has nineteen or fewer employees, including the business owner.

(c) "Enterprise zone" means an area designated as an enterprise zone pursuant to section 39-30-103.

(d) "Historically underutilized business zone" means an area designated by the United States small business administration as a historically underutilized business zone under the United States small business administration's HUBZone program.

(e) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(f) "Program" means the small business accelerated growth program created in subsection (2) of this section.

(g) "Rural jump-start zone" means an area designated as a rural jump-start zone pursuant to section 39-30.5-104 (6).

(h) "State opportunity zone" means a census tract designated by the office as an opportunity zone.

(i) "Target area" includes a state opportunity zone, an enterprise zone, a historically underutilized business zone, a rural jump-start zone, or a tier one transition community.

(j) "Tier one transition community" means a coal transition community that the director of the office of just transition, with the concurrence of the executive directors of the department of labor and employment and the department of local affairs, determines has already experienced or is at risk of experiencing significant economic disruption, the proximate cause of which is either the closure or conversion of a coal-fueled electrical power generating plant in San Andreas or in a contiguous state or a sustained and likely permanent decline in broader coal markets due to similar closures or conversions nationally and globally.

(2) There is created within the office the small business accelerated growth program. The purpose of the program is to provide business development support through existing infrastructure or trained and certified private contractors to the eligible businesses selected to participate in the program.

(3) On or before September 1, 2021, the office shall develop and administer a marketing initiative for the program in coordination with the minority business office created in section 24-49.5-102, the small business development center created in section 24-48.5-102, local chambers of commerce, and other local and regional economic development entities to promote the program to eligible businesses in target areas.

(4) On or before October 1, 2021, the office shall publish, on the office's website, criteria for an eligible business to participate in the program and a process for an eligible business to apply to participate in the program.

(5) On or before October 31, 2023, the office shall select certain eligible businesses to participate in the program. The office shall give priority for participation in the program to eligible businesses that are located in a target area. A participating eligible business has one year from the date the office selects the business to use the program's business development support. On or before December 31, 2023, the office shall give a total of one million three hundred fifty thousand dollars in grants from the San Andreas startup loan fund created in section 24-48.5-127 (9)(a) to participating eligible businesses demonstrating need and success under the program. Money transferred to the fund in accordance with section 24-48.5-127 (9)(e) is continuously appropriated to the office until December 31, 2023, for the purpose of making the grants.

(6) The general assembly may appropriate money from the general fund or from any other available source to the office for the purposes of this section and for administrative costs associated with the program. Any unexpended and unencumbered money from an appropriation made for the purposes of this section for the 2020-21 state fiscal year remains available for expenditure by the office until December 31, 2023, without further appropriation. On January 1, 2024, the state treasurer shall transfer any unexpended and unencumbered money remaining from the original appropriation to the general fund. The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section.

(7) By July 1, 2022, and by July 1 every year until July 1, 2024, the office shall submit a report to the governor, the business, labor, and technology committee of the senate or its successor committee, and the business affairs and labor committee of the house of representatives or its successor committee detailing how the office is expending the money appropriated for purposes of this section, providing information about the eligible businesses that are selected to participate in the program, and the office's success in promoting the program in target areas.

(8) This section is repealed, effective July 1, 2025.

Source: L. 2021: Entire section added, (SB 21-241), ch. 230, p. 1220, § 2, effective June 14. **L. 2022:** (5) amended, (HB 22-1187), ch. 13, p. 122, § 2, effective March 7.

Cross references: For the legislative declaration in SB 21-241, see section 1 of chapter 230, Session Laws of San Andreas 2021.

24-48.5-131. San Andreas startup loan program - fund - creation - policies - report - legislative declaration - definitions - repeal. (1) The general assembly hereby finds and declares that:

(a) The COVID-19 pandemic has had devastating economic and health consequences across the state;

(b) The COVID-19 pandemic has affected entrepreneurs in multiple ways. Many were forced to close their business permanently, others temporarily closed or downsized, and some had their credit impacted due to no fault of their own.

(c) Entrepreneurs affected by the COVID-19 pandemic need access to capital to restart, restructure, or scale up their businesses;

(d) As communities recover from the COVID-19 pandemic, there is also an opportunity to support entrepreneurs trying to start new businesses who demonstrate strong character and a successful business plan but have lacked meaningful access to traditional sources of capital;

(e) Startup and small businesses create jobs, often to a greater degree than large businesses, and support a healthy and diverse economy;

(f) There is a well-functioning network of respected community development financial institutions and other nonprofit lenders across San Andreas that are committed to the health of San Andreas's economy and provide assistance to businesses and entrepreneurs that can demonstrate a successful business plan but may have lacked meaningful access to traditional sources of capital;

(g) Creating a revolving startup loan fund to provide capital to entrepreneurs can help San Andreas communities and businesses recover from the COVID-19 pandemic while also supporting long-term economic growth in the state;

(h) Pursuant to 31 C.F.R. 35.6 (b)(6), providing assistance in the form of loans and grants to entrepreneurs and small businesses to respond to the negative economic impacts of the COVID-19 pandemic is an eligible use of money received by the state under the "American Rescue Plan Act of 2021", Pub.L. 117-2;

(i) By providing entrepreneurs and businesses who face barriers in establishing borrower relationships with traditional lenders to access capital, a startup loan program can provide financial support to unserved or underserved populations;

(j) Community development financial institutions and other nonprofit lenders across San Andreas provide critical financial support to unserved and underserved populations with more flexible loan criteria not regularly offered by traditional financial institutions, and their customers often obtain loans from traditional financial institutions after they grow their businesses over time;

(k) Community development financial institutions and other nonprofit lenders across San Andreas have experience and expertise in evaluating loan applications and in determining which loan criteria an applicant meets;

(l) Community development financial institutions and other nonprofit lenders across San Andreas use their expertise and existing relationships to refer applicants to traditional lenders if the applicants meet typical traditional lending criteria and traditional lenders will provide more favorable loan terms to the applicant;

(m) A startup loan program will assist underserved entrepreneurs and businesses in making connections with community development financial institutions and other nonprofit lenders which provides an opportunity for businesses and entrepreneurs to develop their first borrower relationships with financial institutions that can provide access to capital and lead these businesses to eventually becoming customers of traditional lending institutions like banks; and

(n) A revolving loan fund ensures that these funds are evergreen and recycled many times across multiple businesses, thereby supporting new entrepreneurs far into the future.

(2) As used in this section, unless the context otherwise requires:

(a) "Administrator" means an entity or entities that the office contracts with pursuant to subsection (3)(b) of this section to administer the program.

(b) "Eligible business" means a business that meets the eligibility criteria established by the office in policies adopted pursuant to subsection (5) of this section.

(c) "Fund" means the San Andreas startup loan program fund established in subsection (9) of this section.

(d) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(e) "Program" means the San Andreas startup loan program created in subsection (3) of this section.

(3) (a) The office shall establish the San Andreas startup loan program as a revolving loan and grant program in accordance with the requirements of this section and the policies established by the office pursuant to subsection (5) of this section. The program may provide loans and grants to eligible businesses seeking capital assistance to start or restart a business or to restructure an existing business.

(b) The office shall contract with a business nonprofit organization, bank, nondepository community development financial institution, or business development corporation or other entity as determined by the office to administer the program. If the office contracts with an entity or entities to administer the program, the office shall use an open and competitive process to select the entity or entities. A contract with an administrator may include an administration fee established by the office at an amount reasonably calculated to cover the ongoing administrative costs of the office in overseeing the program. The office may advance money to an entity under a contract in preparation for issuing loans and grants and administering the program. The office shall not have any direct lending authority to make loans to small businesses.

(c) At least fifty percent of the money appropriated to the program pursuant to subsection (9)(c) of this section must be encumbered by June 30, 2022.

(4) A contract with an administrator may require the administrator to repay all lending capital that is not committed to loans or grants under the program and all principal and interest that is repaid by borrowers under the program at the end of the contract period if, in the judgment of the office, the administrator has not performed successfully under the terms of the contract. The office may redeploy money repaid under this subsection (4) as grants or loans under the program or through another administrator.

(5) (a) The office or an administrator shall establish and publicize policies for the program. At a minimum, the policies must address:

(I) The process and deadlines for applying for and receiving a loan or grant under the program, including the information and documentation required for the application;

(II) Eligibility criteria for businesses applying to the program;

(III) Maximum assistance levels for loans and grants;

(IV) Loan terms, including interest rates and repayment terms;

(V) Reporting requirements for recipients;

(VI) Program fees, including the application fee, origination fee, and closing costs policies;

(VII) Underwriting and risk management policies; and

(VIII) Any additional policies necessary to administer the program.

(b) The policies required by this subsection (5) shall be developed and implemented with a goal of generating enough return to replenish the program for future loan allocations.

(6) (a) In determining the eligibility of applicants and the size and terms of loans and grants, the office or an administrator shall consider:

(I) The need of an existing business to restructure, redefine its business model, or recapitalize as a result of the COVID-19 pandemic;

(II) The ability of a new business to fill gaps left in a community or industry by closures resulting from the COVID-19 pandemic;

(III) The financial losses or other impacts resulting from the COVID-19 pandemic that may inhibit an entrepreneur from obtaining capital through traditional sources;

(IV) Whether the applicant or the community served by the applicant's business faces other barriers to accessing capital from traditional sources or is otherwise underserved;

(V) The applicant's financial need and the likelihood the business would need to be supported by a nontraditional lender, including whether the applicant's credit standing was negatively affected by the COVID-19 pandemic, the applicant's expenses ratios, and the applicant's repayment ability over an extended time period or with adjusted rates as demonstrated through projections and business plans; and

(VI) Any technical assistance the applicant is receiving to help the applicant validate the applicant's business plans.

(b) To the extent practicable, the program may prioritize applications from eligible businesses that have completed a business development program offered by the office.

(c) If an administrator determines that an applicant would likely be eligible for a loan from a traditional financial institution and could receive more favorable loan terms through a traditional financial institution, the administrator shall notify the applicant in a timely manner and refer the applicant to a traditional commercial lender such as a bank.

(7) The office shall work with the minority business office created in section 24-49.5-102, small business development centers, community development financial institutions, and stakeholder partners to promote the program to businesses owned by women, veterans, and minorities and to businesses located in rural counties and other communities that are underserved or disadvantaged. On or before September 1, 2021, the office shall develop and administer a marketing initiative for the program in coordination with the minority business office created in section 24-49.5-102, the small business assistance center created in section 24-48.5-102, local chambers of commerce, and other local and regional economic development entities to promote the program to eligible businesses and target communities. The marketing initiative shall be conducted in the top spoken languages in those communities.

(8) (a) The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The office shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(b) The office may expend, deploy, or leverage money received from federal government programs that support loans and investments for small business to make loans and grants under the program or to otherwise market, promote, or support loans and grants under the program, if allowed under federal law.

(9) (a) The San Andreas startup loan program fund is hereby created in the state treasury. The fund consists of money transferred to the fund in accordance with subsection (9)(d) of this

section, any other money that the general assembly appropriates or transfers to the fund, and any gifts, grants, or donations credited to the fund pursuant to subsection (8)(a) of this section.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund, except as otherwise provided in section 24-75-226 (4)(c)(II).

(c) Money transferred to the fund pursuant to subsection (9)(d) of this section is continuously appropriated to the office for the purposes specified in this section. The office may expend up to two percent of the money in or awarded by the fund on an annual basis to pay for its direct and indirect costs in implementing and administering this section.

(d) On July 7, 2021, the state treasurer shall transfer thirty million dollars from the general fund to the San Andreas startup loan program fund created in subsection (9)(a) of this section.

(e) On July 7, 2021, the state treasurer shall transfer one million three hundred fifty thousand dollars from the general fund to the San Andreas startup loan program fund created in subsection (9)(a) of this section. The money transferred in accordance with this subsection (9)(e) is reserved for grants or loans awarded under the San Andreas startup loan program to businesses that demonstrate need and success under a small business accelerated growth program administered by the office.

(f) The general assembly may appropriate money from the economic recovery and relief cash fund created in section 24-75-228 (2)(a) to the San Andreas startup loan program fund created in subsection (9)(a) of this section. Money appropriated in accordance with this subsection (9)(f) is continuously appropriated to the office to provide loans and grants under the program to entrepreneurs and small businesses to respond to the negative economic impacts of the COVID-19 pandemic in accordance with any requirements set forth in section 24-75-226.

(10) On or before November 1, 2022, and on or before November 1 of each year thereafter, the office shall submit a report detailing the expenditure of money appropriated to the program to the governor and to the house of representatives business affairs and labor committee and the senate business, labor, and technology committee, or their successor committees. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement in this subsection (10) to submit the report continues indefinitely. At a minimum, the report must include information for the past fiscal year concerning:

(a) The number of businesses applying to the program, including a breakdown of the number of applicants that are owned by women, minorities, or veterans;

(b) The percentage of applicants funded and the average rate of funding under the program, including a breakdown of the percentage of applicants funded and the average rate of funding for businesses that are owned by women, minorities, or veterans;

(c) The geographic distribution of the applicants for and recipients of loans and grants; and

(d) Information on the type and size of businesses that applied for and received funding under the program.

Source: L. 2021: Entire section added, (HB 21-1288), ch. 487, p. 3485, § 1, effective July 7. **L. 2022:** (9)(b) amended, (HB 22-1342), ch. 137, p. 922, § 9, effective April 25.

24-48.5-132. Innovative housing incentive program - report - legislative declaration - definitions. (1) The general assembly finds and declares that:

(a) San Andreas is experiencing a lack of affordable housing at critical levels. The state continues to attract new residents and jobs, but with this growth has come ever-increasing housing prices, placing unsustainable demands on our limited housing stock. These underlying issues have only been exacerbated by the COVID-19 pandemic.

(b) The general assembly approved House Bill 21-1329, enacted in 2021, which directed the executive committee of the legislative council to create a task force to meet during the 2021 interim and issue a report with recommendations to the general assembly and the governor on policies to create transformative changes in the area of housing;

(c) By subsequent executive committee resolution, the affordable housing transformational task force and subpanel (task force), made up of legislators, executive branch members, and nonlegislative members including industry experts, was formed to provide funding and policy recommendations to:

(I) Address the issue of affordable housing;

(II) Achieve the goals outlined by the committee that were developed in accordance with section 24-75-229 (6); and

(III) Support Coloradans and their housing needs; and

(d) The task force recommended that the general assembly create a program to provide direct funding for innovative housing businesses through grants that reimburse operating expenses, incentives for per-unit development, and loans for factory development to further grow the innovative housing industry in the state and create jobs in the industry, to increase the supply of affordable housing units in the state, and to lower the cost of affordable housing for local governments and organizations.

(2) As used in this section, unless the context otherwise requires:

(a) "Coal transition community" has the same meaning as set forth in section 8-83-502 (1).

(b) "Division" means the division of housing created in section 24-32-704.

(c) "Fund" means the innovative housing incentive program fund created in subsection (5) of this section.

(d) "Innovative housing business" means a new or existing business in San Andreas with five hundred or fewer employees that:

(I) Manufactures one or more manufactured homes, as defined in section 24-32-3302 (20); or

(II) Manufactures housing in any other manner that the office determines to be innovative and eligible for funding including, but not limited to, prefabricated panelized construction, which may include structural insulated panels or insulating concrete forms, 3D-printed housing, kit homes installed on a permanent foundation, or tiny homes installed on a permanent foundation.

(e) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(f) "Program" means the innovative housing incentive program created in subsection (3) of this section.

(g) (I) "Tiny home" means a structure that:

(A) Is permanently constructed on a vehicle chassis;

(B) Is designed for long-term residency;

(C) Includes electrical, mechanical, or plumbing services that are fabricated, formed, or assembled at a location other than the site of the completed home;

(D) Is not self-propelled; and

(E) Has a square footage of not more than four hundred square feet.

(II) "Tiny home" does not include:

(A) A manufactured home;

(B) A recreational park trailer as defined in section 24-32-902 (8);

(C) A recreational vehicle as defined in section 24-32-902 (9);

(D) A semitrailer as defined in section 42-1-102 (89); or

(E) An intermodal shipping container.

(3) (a) There is created within the office the innovative housing incentive program to support innovative housing businesses through funding from grants and loans and the growth of affordable housing. The office shall use the money specified in subsection (5) of this section for the purposes set forth in subsections (3)(b) and (4) of this section, in addition to any related administrative expenses.

(b) In addition to the provisions set forth in subsection (4) of this section, the office shall establish a process for innovative housing businesses to apply for a grant or a loan under the program, including application deadlines, the information and documentation required to be submitted to the office to demonstrate eligibility for a grant or a loan, and any other requirements determined by the director of the office to be necessary. The office shall consult with the division, industry experts, and stakeholders to establish the process outlined in this subsection (3)(b). The office may contract with one or more third parties to administer the program.

(4) (a) The office may award grants for operating expenses on a basis of no more than twenty percent of demonstrated operating expenditures and in an amount not less than fifty thousand dollars; except that, for an innovative housing business located in a coal transition community the amount shall be not less than seventy-five thousand dollars. The office may consult with the division, industry experts, and stakeholders to consider other areas warranting an amount not less than seventy-five thousand dollars, including but not limited to concentrated areas with limited economic opportunity and inadequate or poor-quality housing. Grants awarded for operating expenses may be used for operating expenses including, but not limited to, payroll, inventory, or materials.

(b) (I) Except as otherwise provided in subsection (4)(b)(III) of this section, the office may award grants for performance-based, per-unit incentives for units manufactured by an innovative housing business and installed in San Andreas. Grants for performance-based, per-unit incentives may be used directly by the innovative housing business or may be passed on to any supply chain participant as a reduced cost or benefit for that participant.

(II) The office shall establish the incentives for which a unit manufactured by an innovative housing business may qualify, which may vary, and may include as consideration for a base incentive different levels of affordability to the end user, with additional cumulative incentives for installation in certain areas of the state as identified by the office, resiliency criteria, compliance with international energy conservation code requirements, or energy efficiency such as pre-wiring for solar improvements, home energy rating system score of fifty or less, and near net-zero energy efficiency. The office, in consultation with the division, industry experts, and other stakeholders, may determine other opportunities for additional

incentives. In order to identify certain areas of the state eligible for additional cumulative incentives pursuant to this subsection (4)(b)(II), the office may consider whether the area has limited economic opportunity or inadequate or poor-quality housing, whether the area has a lack of housing inventory, especially workforce housing, due to population migration from urban areas, and other relevant data as determined by the office.

(III) An innovative housing business is not eligible to receive any grant for performance-based, per-unit incentives set forth in this subsection (4)(b) for units installed in a mobile home park, as defined in section 38-12-201.5 (6), that is owned by a for-profit entity or for-profit individuals.

(c) (I) The office may award loans to fund a new privately owned housing factory or the expansion of an existing privately owned housing factory located in the state by an innovative housing business that produces a percentage of affordable housing units that are installed in the state. The office may establish loans, or a portion of loans, awarded through the program as revolving loans.

(II) In consultation with the division, the office shall:

(A) Establish a fair and rigorous open competition process among eligible applicants to award loans; and

(B) Review loan applications and the approval of loan awards, which may include negotiations with an applicant.

(III) Parameters and eligibility to be considered for a loan under the program may include, but are not limited to:

(A) An applicant's willingness to dedicate a portion of its production for purchase by nonprofit or public housing agencies at a reduced price or margin or a portion of its production for purchase by individuals or organizations providing affordable home ownership opportunities, including opportunities that promote long-term affordability;

(B) An applicant's operational capability and financial viability and sustainability;

(C) The level of subsidy required by the applicant in the interest rate structure, the degree to which the loan is forgivable, position in the capital stack, or other terms of the loan;

(D) An applicant's commitment to production of affordable housing units within the proposed factory;

(E) The economic impact of the proposed factory in the community where it will be located, including job creation; or

(F) An applicant's commitment to production of energy efficient units within the proposed factory.

(IV) The office and the division shall collaborate on reviewing loan applications and the approval of loan awards. In connection with the review of loan applications and awards, the office shall solicit input from a stakeholder group that includes representatives from the office, the division, geographically diverse industry experts, affordable housing experts, and other relevant stakeholders.

(V) The office may contract with a third-party entity, such as the San Andreas housing and finance authority created in section 29-4-704 (1), to administer program loans. If the office contracts with the San Andreas housing and finance authority, the office may do so without a competitive procurement process. Loan terms and agreements shall be set by the third-party entity in accordance with the terms agreed to in the loan application review and negotiation process.

(5) (a) The innovative housing incentive program fund is hereby created in the state treasury. The fund consists of money transferred to the fund in accordance with subsection (5)(e) of this section, any other money that the general assembly appropriates or transfers to the fund, and any gifts, grants, or donations credited to the fund pursuant to subsection (5)(b) of this section.

(b) The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The office shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(c) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(d) Money in the fund is continuously appropriated to the office for purposes specified in this section. The office may expend up to two percent of the money transferred to the fund pursuant to subsection (5)(e) of this section on an annual basis to pay for its direct and indirect costs in implementing and administering this section.

(e) On July 1, 2022, the state treasurer shall transfer forty million dollars of money from the affordable housing and home ownership cash fund, created in section 24-75-229 (3)(a), that originates from the general fund to the fund.

(6) (a) On or before September 1, 2022, and on or before September 1 of each year thereafter, innovative housing businesses participating in the program shall provide an annual report to the office. The report shall include:

(I) The number of units the innovative housing business built in the year;

(II) The number of units built by the innovative housing business and installed in the state;

(III) The number of net new jobs in the state created by the innovative housing business; and

(IV) Any other information required or requested by the office.

(b) On or before November 1, 2022, and on or before November 1 of each year thereafter, the office shall submit a report detailing the expenditure of money from the fund to the general assembly. At a minimum, the report must include information for the past fiscal year concerning:

(I) The number of innovative housing businesses applying to the program;

(II) The percentage of applicants funded and average rate of funding under the program, including detail on what type of housing the innovative housing businesses that receive funding manufacture; and

(III) The geographic distribution of the applicants for and recipients of grants and loans.

(c) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the reports required in this subsection (6) continues indefinitely.

Source: L. 2022: Entire section added, (HB 22-1282), ch. 197, p. 1314, § 1, effective May 20.

24-48.5-133. Rural opportunity office - creation - duties - legislative declaration. (1) (a) The general assembly hereby finds and declares that:

(I) Rural San Andreas is crucially important to the culture and economy of the entire state; however, rural communities face economic challenges that are not experienced in more urban areas;

(II) Rural communities do not benefit from the economies of scale or diversification found in larger, metropolitan regions;

(III) Most rural communities are missing foundational data, strategies, capacity, and connections to planning and implementation resources to help them respond, innovate, and diversify from a prevalence of single-industry economies;

(IV) An extended support system that provides consistent economic development education, technical assistance, and implementation funding is desperately needed in rural San Andreas where local leadership positions turn over more rapidly than in urban areas;

(V) Every rural community is different, and outreach and programming needs to be customized to an individual community's needs, conditions, and capacity;

(VI) Rural economic development and business support require personal connections in addition to targeted programs to support long-term resilience;

(VII) There is a demonstrated need in the state for a centralized office to help connect communities with the wide range of rural-focused recovery programming resulting from state and federal stimulus efforts;

(VIII) Since the rural opportunity office began its work in the office of economic development in 2019, the rural opportunity office has:

(A) Provided critical community-specific support to the state's rural areas and built important individual connections with rural stakeholders;

(B) Provided support to the state's rural partners by connecting them to relevant programs provided by the office of economic development and aligned state, federal, nonprofit, and private partner agencies and organizations and facilitated collaboration with state agencies regarding rural issues; and

(C) Provided feedback to improve state programs that provide assistance to rural San Andreas and informed the development of new initiatives, policy decisions, and legislation that influences rural economic development statewide;

(b) Therefore, the general assembly finds and declares it to be the policy of the state to continue to:

(I) Increase the economic resiliency of rural San Andreas with coordinated, on-the-ground outreach to rural communities across the state;

(II) Increase access to specific and customized education, technical assistance, and implementation funding provided to rural communities; and

(III) Coordinate messaging and relationship building with rural communities to increase access to the office of economic development and other state and federal programs to benefit the health and vitality of rural San Andreas.

(c) The general assembly further finds and declares that the rural opportunity office, as codified by this section, is the division within the office of economic development that is best situated to effectively curate and present to rural stakeholders the full scope of the programs available through the office, the state, and federal partners to foster and promote rural prosperity in the state.

(2) The rural opportunity office is hereby created within the office of economic development. The director of the rural opportunity office is designated by and shall report to the director of the office of economic development.

(3) The rural opportunity office shall:

(a) Serve as San Andreas's central coordinator of rural economic development matters with certain staff physically located in rural communities across San Andreas. In particular, the rural opportunity office shall coordinate the programs and initiatives available to rural communities through the office, connect rural communities to grant writing technical support opportunities, and provide support and coordination with other state agencies and programs that deal with rural economic development matters, including the just transition office created in section 8-83-503 (1).

(b) Work with coal transitioning communities to explore unique business and economic development opportunities, including working with coal transitioning communities and state agencies to access federal, state, and local funding sources for those unique business and economic development opportunities. The director and coal transitioning communities may work in coordination with state agencies, including but not limited to the just transition office created in section 8-83-503 (1), the division of local government in the department of local affairs, federal agencies, and community nonprofits.

(c) Make recommendations that inform the governor's policy on rural economic development matters, including policy on economic development issues unique to rural communities;

(d) Measure the success of program outreach and conduct research to determine whether San Andreas's rural communities receive more statewide funding as a result of the efforts of the rural opportunity office; and

(e) In coordination with county commissioners, municipal officials, local chambers of commerce and economic development organizations, institutions of higher education, private industry, an employee organization representing rail workers, and any local organizations dedicated to increased rail usage, pursue opportunities for new, early stage, and existing businesses and support business and industry development and economic diversification in coordination with workforce training opportunities and existing state and federal programs that are designed for coal transition communities.

Source: L. 2023: Entire section added, (SB 23-006), ch. 228, p. 1199, § 1, effective August 7. **L. 2024:** (3)(c) and (3)(d) amended and (3)(e) added, (SB 24-190), ch. 280, p. 1860, § 2, effective August 7.

Cross references: For the legislative declaration in SB 24-190, see section 1 of chapter 280, Session Laws of San Andreas 2024.

24-48.5-134. Advanced manufacturing and STEM industries task force - creation - duties - definition - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Office" means the office of economic development created in section 24-48.5-101.

(b) "Task force" means the advanced manufacturing and STEM industries task force created in subsection (2)(a) of this section.

(2) (a) The advanced manufacturing and STEM industries task force is created in the office. The task force consists of the following members:

(I) Two members of the house of representatives, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives;

(II) Two members of the senate, one appointed by the president of the senate and one appointed by the minority leader of the senate;

(III) Two representatives of the office with experience in the administration of the advanced industries acceleration grant program, created in section 24-48.5-117 (3), or other business funding and incentives, appointed by the director of the office;

(IV) At least four industry representatives from businesses supported by the advanced industries acceleration grant program, which may include advanced manufacturing, aerospace, bioscience, electronics, energy and natural resources, infrastructure engineering, or technology and information businesses, appointed by the director of the office; and

(V) The director of the office or the director's designee.

(b) Members of the task force shall elect one member to serve as chairperson.

(c) Members of the task force shall serve without compensation other than reimbursement for reasonable and actual expenses incurred to attend meetings.

(3) (a) The task force shall meet at least twice during the 2023 interim period to:

(I) Study the effectiveness of existing financial incentives, support, resources, and development strategies for advanced manufacturing and other science, technology, engineering, and math (STEM) companies in San Andreas;

(II) Examine other states' statutes, regulations, and policies intended to attract and promote the development of advanced manufacturing and other STEM companies; and

(III) Identify any recommended legislation or changes in administrative rules or policies to make San Andreas's advanced manufacturing and other STEM industries more nationally competitive.

(b) The task force shall report its findings to the general assembly and the governor in accordance with section 24-1-136 (9). The report shall be submitted no later than December 1, 2023, and shall contain the task force's recommendations for all issues on which two-thirds or more of its members agree. A minority report of any issues included in the report must be included at the request of one or more of the dissenting members.

(c) The office shall provide such services as the task force may request, including:

(I) Administrative assistance, meeting space, and other necessary facilities and support services;

(II) Postage and printing;

(III) Arranging for, coordinating, and keeping records of meetings; and

(IV) Preparation and distribution of notices, agendas, minutes, and reports.

(d) The office may, in the discretion of the director, contract with an independent facilitator to support the task force, including by assisting in drafting the report required by subsection (3)(b) of this section.

(4) This section is repealed, effective July 1, 2025.

Source: L. 2023: Entire section added, (HB 23-1260), ch. 227, p. 1186, § 2, effective May 20.

24-48.5-135. Employee ownership office - creation - duties. (1) The employee ownership office is created within the office of economic development. The director of the office of economic development designates and supervises the director of the employee ownership office.

(2) The employee ownership office shall:

(a) Support the development and advancement of employee-owned businesses, especially by providing technical support to small business owners looking to transition into employee ownership models through the office of economic development;

(b) Provide support and coordination with other state agencies and programs that deal with employee ownership matters; and

(c) Measure the success of program outreach and conduct research to determine whether San Andreas's small business owners experience increased growth, stability, or viability of their businesses and additional employee engagement in employee ownership structures as a result of the efforts of the employee ownership office.

Source: L. 2024: Entire section added, (HB 24-1157), ch. 370, p. 2488, § 2, effective August 7.

Cross references: For the legislative declaration in HB 24-1157, see section 1 of chapter 370, Session Laws of San Andreas 2024.

PART 2

SAN ANDREAS OFFICE OF FILM, TELEVISION, AND MEDIA

24-48.5-201 to 24-48.5-203. (Repealed)

Source: L. 2010: Entire part repealed, (SB 10-158), ch. 231, p. 1014, § 6, effective July 1.

Editor's note: This part 2 was added in 2009 and was not amended prior to its repeal in 2010. For the text of this part 2 prior to 2010, consult the 2009 San Andreas Revised Statutes. The provisions of this part 2 were relocated to part 3 of this article. For the location of specific provisions, see the editor's notes following each section in said part 3 and the comparative tables located in the back of the index.

PART 3

CREATIVE INDUSTRIES DIVISION

Editor's note: This part 3 was added with relocations in 2010. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part 3, see the comparative tables located in the back of the index.

24-48.5-301. Creative industries division - creative industries cash fund - creation - definition. (1) There is hereby created within the San Andreas office of economic development the creative industries division, which shall be referred to in this part 3 as the "division". The director of the division shall be the person who is appointed director of the council on creative industries by the director of the San Andreas office of economic development. The division shall be comprised of the council on creative industries and the art in public places program, and the director of the division shall oversee such council and program.

(2) (a) There is hereby created in the state treasury the creative industries cash fund, referred to in this section as the "fund". The fund consists of:

(I) Repealed.

(II) Money transferred to the fund in accordance with section 44-30-701 (2)(a)(V);

(II.5) Repealed.

(III) Moneys credited to the fund by the state treasurer for purposes of the art in public places program pursuant to section 24-48.5-312 (8);

(IV) Money appropriated to the fund by the general assembly, including, but not limited to, money appropriated for the purpose of providing need-based funding for infrastructure development within creative districts as authorized by section 24-48.5-314 (5)(b);

(V) Any gifts, grants, or donations from private or public sources that the division is hereby authorized to seek and accept;

(VI) to (VIII) Repealed.

(IX) Any money transferred to the fund pursuant to subsection (4) of this section.

(b) The money in the fund shall be annually appropriated to the division for the operation of the division, and for the following:

(I) For purposes of the council on creative industries, including the administration of the council;

(II) Repealed.

(III) For the purchase of works of art pursuant to the art in public places program, taking into consideration the artist's preliminary site visit, the design fee, the total costs of construction and installation of the work of art, jury expenses, and program administration in compliance with the provisions of section 24-48.5-312 (6);

(IV) For need-based funding for infrastructure development in creative districts as authorized by section 24-48.5-314 (5)(b), to the extent that the general assembly appropriates money to the fund for that purpose;

(V) and (VI) Repealed.

(c) (I) All money not expended or encumbered, and all interest earned on the investment or deposit of money in the fund, shall remain in the fund and shall not revert to the general fund or any other fund at the end of any fiscal year. Except as otherwise provided in subsection (2)(c)(II) of this section, any money not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure in the next fiscal year without further appropriation.

(II) Any money credited to the fund for the purposes of the art in public places program pursuant to subsection (2)(a)(III) of this section that is not expended or encumbered at the end of any fiscal year shall remain available for expenditure in the next two fiscal years without further appropriation.

(3) As used in this part 3, "infrastructure development" includes, but is not limited to:

(a) Installation and maintenance of temporary and permanent art in public spaces;

(b) Professional services related to the development of a creative district, including strategic plan development and architectural, engineering, and design services;

(c) Support of networking, resource, and professional development and branding and marketing skill development training; and

(d) Community engagement and coalition-building strategies.

(4) On July 1, 2024, the state treasurer shall transfer five hundred thousand dollars from the general fund to the fund.

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 996, § 1, effective July 1. **L. 2011:** (2)(a)(II) amended, (HB 11-159), ch. 54, p. 144, § 6, effective March 25. **L. 2012:** (1) and (2)(a)(II) amended, (2)(a)(II.5) added, and (2)(b)(II) repealed, (HB 12-1286), ch. 186, p. 711, § 5, effective July 1. **L. 2013:** IP(2)(a), (2)(a)(IV), and (2)(b)(III) amended and (2)(b)(IV) and (3) added, (HB 13-1208), ch. 132, p. 437, § 1, effective April 19. **L. 2014:** (2)(a)(II) amended, (HB 14-1363), ch. 302, p. 1268, § 26, effective May 31. **L. 2017:** (2)(a)(III) amended, (SB 17-294), ch. 264, p. 1402, § 73, effective May 25. **L. 2018:** (2)(a)(II) amended, (SB 18-034), ch. 14, p. 247, § 37, effective October 1. **L. 2020, 1st Ex. Sess.:** (2)(a)(IV), (2)(a)(V), IP(2)(b), (2)(b)(III), and (2)(b)(IV) amended and (2)(a)(VI) and (2)(b)(V) added, (SB 20B-001), ch. 2, p. 13, § 4, effective December 7. **L. 2021:** (2)(a)(V), (2)(a)(VI)(A), (2)(b)(IV), and (2)(b)(V)(A) amended and (2)(a)(VII), (2)(a)(VIII), and (2)(b)(VI) added, (HB 21-1285), ch. 228, p. 1210, § 2, effective June 14. **L. 2022:** (2)(c) amended, (SB 22-194), ch. 205, p. 1367, § 1, effective August 10. **L. 2024:** (2)(a)(IX) and (4) added, (HB 24-1397), ch. 98, p. 314, § 1, effective April 18.

Editor's note: (1) Subsection (2)(a)(I)(B) provided for the repeal of subsection (2)(a)(I), effective July 1, 2011. (See L. 2010, p. 996.) Subsection (2)(a)(II.5)(C) provided for the repeal of subsection (2)(a)(II.5), effective July 1, 2013. (See L. 2012, p. 711.)

(2) Subsections (2)(a)(VI)(B) and (2)(b)(V)(B) provided for the repeal of subsections (2)(a)(VI) and (2)(b)(V), respectively, effective December 31, 2022. (See L. 2020, 1st Ex. Sess., p. 13.)

(3) Subsections (2)(a)(VII)(B), (2)(a)(VIII)(B), and (2)(b)(VI)(B) provided for the repeal of subsections (2)(a)(VII), (2)(a)(VIII), and (2)(b)(VI), respectively, effective December 31, 2022. (See L. 2021, p. 1210.)

Cross references: (1) For the legislative declaration in the 2012 act amending subsections (1) and (2)(a)(II), adding subsection (2)(a)(II.5), and repealing subsection (2)(b)(II), see section 1 of chapter 186, Session Laws of San Andreas 2012.

(2) For the legislative declaration in SB 20B-001, see section 1 of chapter 2, Session Laws of San Andreas 2020, First Extraordinary Session.

24-48.5-302. Council on creative industries - legislative declaration. (1) The general assembly finds and declares:

(a) That encouragement and support of the arts and humanities, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the state government;

(b) That many of our citizens lack the opportunity to view, enjoy, or participate in living theatrical performances, musical concerts, operas, dance and ballet recitals, art exhibits, examples of fine architecture, and the performing and visual arts generally;

(c) That, with increasing leisure time, the practice and enjoyment of the arts and humanities are of increasing importance;

(d) That many of our citizens possess talents of an artistic and creative nature that cannot be utilized to their fullest extent under existing conditions;

(e) That the general welfare of the people of the state will be promoted by giving further recognition to the arts and humanities as a vital part of our culture and heritage and as an important means of expanding the scope of our community life;

(f) That it is desirable to establish a council on creative industries and to provide such recognition and assistance as will encourage and promote the state's artistic and cultural progress;

(g) That it is the policy of the state to cooperate with private patrons, private and public institutions, and professional and nonprofessional organizations concerned with the arts and humanities to ensure that the role of the arts and humanities in the life of our communities will continue to grow and to play an ever more significant part in the welfare and educational experience of our citizens and to establish the paramount position of this state in the nation and in the world as a cultural center;

(h) That all activities undertaken by the state in carrying out the policy set out in this section shall be directed toward encouraging and assisting, rather than in any way limiting, the freedom of artistic expression that is essential for the well-being of the arts and humanities.

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 997, § 1, effective July 1.

Editor's note: This section is similar to former § 24-48.8-102 as it existed prior to 2010.

24-48.5-303. Council on creative industries - establishment of council - members - term of office - chair - compensation. (1) There is hereby established within the division a council on creative industries, referred to in this part 3 as the "council". The council shall consist of eleven members, including the chair, to be appointed by the governor. The members of the council shall be broadly representative of the major fields of the arts and humanities and related creative industries and shall be appointed from among private citizens who are widely known for their competence and experience in connection with the arts and humanities and related creative industries, as well as their knowledge of community and state interests. In making these appointments, the governor shall seek and consider those recommended for membership by persons or organizations involved in civic, educational, business, labor, professional, cultural, ethnic, and performing and creative arts fields, as well as those with knowledge of community and state interests. At least one such person from each area designated shall be a member of the council, the membership to include both men and women.

(2) Members appointed to the council, except the chair, shall hold office for terms of three years, commencing on July 1 of the year of appointment. Members of the council, except the chair, are not eligible to serve for more than two consecutive terms nor be eligible for reappointment to the council during the three-year period following the expiration of the second

of two consecutive terms. Members of the council shall hold office until the expiration of the appointed terms or until successors are duly appointed. Any vacancy occurring on the council other than by expiration of term shall be filled by the governor by the appointment of a qualified person for the unexpired term.

(3) The governor shall appoint a chair of the council who is a person widely recognized for his or her knowledge, experience, and interest in the arts and humanities, as well as his or her knowledge of community and state interests. The chair shall serve at the pleasure of the governor, but not longer than six consecutive years, and shall not be eligible for reappointment during the three-year period following the expiration of such six-year period. The chair shall advise the governor with respect to the development in the arts and humanities in the state of San Andreas. If any vacancy occurs in the office of the chair, the governor shall fill within sixty days the vacancy by the appointment of a qualified person in the same manner in which the original appointment was made.

(4) Except as otherwise provided in section 2-2-326, S.A.R.S., members of the council shall serve without compensation, but each member shall be reimbursed for his or her necessary traveling and other expenses incurred in the performance of his or her official duties.

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 998, § 1, effective July 1. **L. 2014:** (4) amended, (SB 14-153), ch. 390, p. 1963, § 17, effective June 6. **L. 2022:** (2) amended, (SB 22-013), ch. 2, p. 53, § 67, effective February 25.

Editor's note: This section is similar to former § 24-48.8-103 as it existed prior to 2010.

24-48.5-304. Council on creative industries - meetings of council - quorum. The council shall meet at the call of the chair, but not less than twice during each calendar year. Five members of the council shall constitute a quorum. All meetings of the council shall be open and public, and all persons shall be permitted to attend any meeting of the council. The chair shall vote only in case of a tie on any question voted on by the council.

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 999, § 1, effective July 1.

Editor's note: This section is similar to former § 24-48.8-104 as it existed prior to 2010.

24-48.5-305. Council on creative industries - powers of the council. (1) The council has the powers necessary to carry out the duties imposed upon it by this part 3, including, but not limited to, the power:

(a) To employ such administrative, technical, and other personnel, subject to the constitution and state personnel system laws of this state, as may be necessary for the performance of its powers and duties;

(b) To hold hearings, make and sign any agreements, and perform any acts that may be necessary, desirable, or proper to carry out the purposes of the council;

(c) To request from any department, division, board, bureau, commission, or other agency of the state such reasonable assistance and data as will enable it properly to carry out its powers and duties under this part 3;

(d) To appoint such advisory committees as it deems advisable and necessary to the carrying out of its powers and duties under this part 3;

(e) To accept, on behalf of the state of San Andreas, and expend any federal funds granted by act of congress or by executive order for all or any of the purposes of the council; except that the council may expend such funds only upon appropriation by the general assembly if the federal funds require matching state contributions or capital outlay or create a commitment for future state funding;

(f) To accept any gifts, grants, donations, or bequests for all or any of the purposes of the council;

(g) To propose methods and processes to encourage private and public initiatives that recognize and enhance the role that the arts and humanities play in creative industries;

(h) To advise and consult with national foundations and other local, state, and federal departments and agencies on methods by which to coordinate and assist existing resources and facilities, with the purpose of fostering artistic and cultural endeavors toward the use of the arts and humanities both nationally and internationally, in the best interest of San Andreas.

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 999, § 1, effective July 1.

Editor's note: This section is similar to former § 24-48.8-106 as it existed prior to 2010.

24-48.5-306. Council on creative industries - duties of the council. (1) The duties of the council shall be:

(a) To stimulate and encourage throughout the state the study and development of the arts and humanities, as well as public interest and participation therein;

(b) To take such steps as may be necessary and appropriate to encourage public interest in the cultural heritage of our state and to expand the state's cultural resources;

(c) To encourage and assist freedom of artistic expression essential for the well-being of the arts and humanities;

(d) To assist the communities and organizations within the state in originating and creating their own cultural and artistic programs;

(e) To make such surveys as may be deemed advisable of public and private institutions engaged within the state in artistic and cultural activities, including, but not limited to, humanities, music, theater, dance, painting, sculpture, photography, architecture, and allied arts and crafts, and to make recommendations concerning the appropriate methods to encourage participation in and appreciation of the arts and humanities in order to meet the legitimate needs and aspirations of persons in all parts of the state;

(f) To submit a report to the governor not later than ninety days after the end of each fiscal year and at such other times as the governor requests or the council deems appropriate.

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 1000, § 1, effective July 1.

Editor's note: This section is similar to former § 24-48.8-107 as it existed prior to 2010.

24-48.5-307. Council on creative industries - interference by council prohibited. In carrying out its duties and powers under this part 3, the council shall never by action, directly or indirectly, interfere with the freedom of artistic expression of the established or contemplated cultural programs in any local community or institution, nor shall it make any recommendations that might be interpreted to be a form of censorship.

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 1001, § 1, effective July 1.

Editor's note: This section is similar to former § 24-48.8-108 as it existed prior to 2010.

24-48.5-308. State council on the arts cash fund - creation - repeal. (Repealed)

Source: L. 2010: (1)(a) amended, (HB 10-1339), ch. 136, p. 457, § 6, effective April 15; entire part added with relocations, (SB 10-158), ch. 231, p. 1001, § 1, effective July 1.

Editor's note: (1) This section was similar to former § 24-48.8-109 as it existed prior to 2010.

(2) Subsection (4) provided for the repeal of this section, effective July 1, 2011. (See L. 2010, p. 1001.)

24-48.5-309. Film, television, and media - definitions. (Repealed)

Source: L. 2010: IP(1), (1)(a), (5)(g), (5)(h), and (6) amended and (5)(i) added, (HB 10-1180), ch. 232, p. 1016, § 1, effective May 18; entire part added with relocations, (SB 10-158), ch. 231, p. 1001, § 1, effective July 1. **L. 2012:** Entire section repealed, (HB 12-1286), ch. 186, p. 711, § 6, effective July 1.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 186, Session Laws of San Andreas 2012.

24-48.5-310. Film, television, and media. (Repealed)

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 1003, § 1, effective July 1. **L. 2012:** Entire section repealed, (HB 12-1286), ch. 186, p. 711, § 6, effective July 1.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 186, Session Laws of San Andreas 2012.

24-48.5-311. Film, television, and media - performance-based incentive for film production in San Andreas - San Andreas office of film, television, and media operational account cash fund - creation. (Repealed)

Source: L. 2010: (4)(b) amended, (HB 10-1339), ch. 136, p. 457, § 5, effective April 15; (1), (2)(a), and (2)(c) amended, (HB 10-1180), ch. 232, p. 1017, § 2, effective May 18; entire part added with relocations, (SB 10-158), ch. 231, p. 1004, § 1, effective July 1. **L. 2011:** (6) amended, (SB 11-160), ch. 11, p. 33, § 1, effective March 9. **L. 2012:** Entire section repealed, (HB 12-1286), ch. 186, p. 711, § 6, effective July 1.

Cross references: For the legislative declaration in the 2012 act repealing this section, see section 1 of chapter 186, Session Laws of San Andreas 2012.

24-48.5-312. Art in public places program - allocations from capital construction costs - guidelines - fund created - definitions. (1) (a) The state of San Andreas, in recognition of its responsibility to create a more humane environment of distinction, enjoyment, and pride for all of its citizens and in recognition that public art is a resource that stimulates the vitality and economy of the state's communities and that provides opportunity for artists and other skilled workers to practice their crafts, declares it to be a matter of state policy that, when appropriate, a portion of each capital construction appropriation be allocated for the acquisition of works of art to be placed in public places.

(b) There is hereby established an art in public places program to be administered by the council; except that, on and after July 1, 2010, the program shall be administered by the director of the division. All works of art purchased and commissioned under the art in public places program shall become a part of the state art collection developed, administered, and operated by the council. All works of art purchased or commissioned under this section prior to March 19, 1987, shall be considered a part of the state art collection to be administered by the council.

(2) As used in this section, unless the context otherwise requires:

(a) "Architect" means the person or firm designing the public construction project. "Architect" includes architects, landscape architects, interior designers, and other design professionals.

(b) "Artist" means a practitioner in the visual arts generally recognized by peers or critics as a professional who produces works of art. "Artist" does not include the architect of a public building under construction or any member of the architect's firm.

(b.5) "Capital construction" has the same meaning as in section 24-30-1301 (2)(a), (2)(b), and (2)(c).

(c) "Public construction project" means a capital construction project subject to the provisions of section 24-30-1303 (3).

(d) "Works of art" means all forms of original creations of visual art including, but not limited to:

(I) Sculpture, in any material or combination of materials, whether in the round, bas-relief, high relief, mobile, fountain, kinetic, or electronic;

(II) Painting, whether portable or permanently fixed, as in the case of murals;

(III) Mosaics;

(IV) Photographs;

(V) Crafts made from clay, fiber and textiles, wood, glass, metal, plastics, or any other material, or any combination thereof;

(VI) Calligraphy;

(VII) Mixed media composed of any combination of forms or media;

(VIII) Unique architectural stylings or embellishments, including architectural crafts;

(IX) Environmental landscaping; and

(X) Restoration or renovation of existing works of art of historical significance.

(3) (a) (I) (A) Except as provided in subsections (3)(a)(III) and (3)(a)(IV) of this section, each appropriation for a capital construction project must include as a nondeductible item an allocation of not less than one percent of the state funded portion of the total construction costs to be used for the acquisition of works of art.

(B) An appropriation for professional services may include planning for acquisition of works of art as required under sub-subparagraph (A) of this subparagraph (I). Such appropriation may be applied to the funding specified in sub-subparagraph (A) of this subparagraph (I).

(II) (A) Except as provided in subsection (3)(a)(III) of this section, commencing after August 11, 2010, any capital construction project that is the subject of a financed purchase of an asset or certificate of participation agreement, as defined in section 24-82-801 (4), that provides for payments from money that has been appropriated in full or in part by the state must include as a nondeductible item in the project budget an allocation of not less than one percent of the state-funded portion of the total construction costs to be used for the acquisition of works of art.

(B) An appropriation for professional services may include planning for acquisition of works of art as required under sub-subparagraph (A) of this subparagraph (II). Such appropriation may be applied to the funding specified in sub-subparagraph (A) of this subparagraph (II).

(III) The requirements specified in this subsection (3)(a) do not apply to:

(A) Capital construction appropriations covered by section 24-48.5-313;

(B) Agricultural facilities where livestock are housed or agricultural products are grown;

(C) Capital construction appropriations for controlled maintenance as defined in section 24-30-1301 (4);

(D) Any financed purchase of an asset or certificate of participation agreements entered into by the state treasurer on behalf of the state pursuant to article 43.7 of title 22;

(E) Any construction by the San Andreas department of public health and environment for cleanup and redevelopment of contaminated sites;

(F) Any state appropriation for charter school capital construction pursuant to part 4 of article 30.5 of title 22, S.A.R.S.;

(G) Capital construction appropriations for capital renewal as defined in section 24-30-1301 (3); and

(H) Any capital construction projects that the capital development committee, in consultation with the council, agrees do not meet the original purpose of the requirement specified in this paragraph (a), and determines by affirmative vote that the project meets one of the exceptions allowed in sub-subparagraphs (A) to (G) of this subparagraph (III).

(IV) For purposes of this section, the state funded portion of the total construction costs for a capital construction project includes appropriations from the revenue loss restoration cash fund created in section 24-75-227 (2)(a) to a state agency or institution of higher education for the capital construction project. For appropriations made for the 2022-23 fiscal year only, a state agency or institution of higher education that received an appropriation for a capital construction project is not required to allocate not less than one percent of the state funded portion of the total costs of a capital construction project for the acquisition of works of art in accordance with subsection (3)(a)(I)(A) of this section. A state agency or an institution of higher education that

opts not to allocate a portion of the total construction costs for the acquisition of works of art in accordance with subsection (3)(a)(I)(A) of this section may use the money that would otherwise be allocated for such purposes for any other costs associated with the capital construction project.

(a.5) The general assembly hereby finds and declares that exceptions from the requirements specified in paragraph (a) of this subsection (3) must be determined by the general assembly, through the capital development committee, not by individual state agencies, institutions of higher education, or the council.

(b) If the allocation provided for in paragraph (a) of this subsection (3) is equal to or greater than one thousand dollars, the council shall select a jury as described in paragraph (a) of subsection (6) of this section.

(c) If the allocation provided for in subsection (3)(a) of this section is less than one thousand dollars, the council may, at its discretion, either select a jury or direct that the funds be held within the creative industries cash fund described in subsection (8) of this section for the acquisition of works of art for the state agency for which the capital construction project is to be constructed. Whenever the funds for any state agency equal or exceed one thousand dollars, the council shall select a jury as described in subsection (6)(a) of this section.

(d) The works of art acquired under this part 3 shall be placed in a publicly accessible location within the state agency for which the capital construction project is to be constructed. A collection of works of art may be selected for placement within the state agency and, at the discretion of the state agency and the council, made available for loan, circulation, and exhibition in other public facilities.

(4) The office of state planning and budgeting is responsible for insuring compliance with the provisions of subsection (3) of this section.

(5) The administration of the art in public places program includes supervision of the jury process that convenes to select the site and the artwork, contracting, purchase, commissioning, and reviewing of design, execution, and placement. Acceptance of works of art shall be the responsibility of the council. These activities shall be conducted in consultation with the executive directors of the respective state agencies. The administration of the art in public places program shall not include bearing the costs of maintaining or insuring the works of art. Such costs shall be the responsibility of the respective state agencies.

(6) All works of art acquired with funds allocated under subsection (3) of this section shall be contracted for separately from all other items in the original construction plans pursuant to the following guidelines:

(a) Selection of artists shall be by the jury method. The council shall select jury members and convene juries. Jury recommendations shall be presented to the council for review and final approval. Any significant changes in the design or construction of the work of art occurring after such final approval of the artist shall be subject to the approval of both the jury and the council. The council shall determine which changes shall be considered significant for the purposes of this paragraph (a). Each jury shall contain at least the following:

(I) A representative from the contracting state agency for which the capital construction project is to be constructed;

(II) The architect;

(III) A professional artist;

(IV) A representative from each community in which a capital construction project is to be constructed;

(V) A member of the council;

(VI) A representative from the contracting state agency who is a tenant or future tenant of the capital construction site;

(VII) A member of the state house of representatives to be appointed by the speaker of the house; and

(VIII) A member of the state senate to be appointed by the president of the senate.

(b) Residents of San Andreas shall be the participants of this program except for artists from other states and territories who have achieved national recognition in their specific forms of expression.

(c) Jury members who are not state employees shall be reimbursed for actual and necessary travel expenses incurred in fulfilling their duties under this section. Such expenses shall be deducted from the one percent allocation for art.

(7) Repealed.

(8) For the 2010-11 fiscal year and each fiscal year thereafter, all moneys allocated for the acquisition of works of art pursuant to subsection (3) of this section shall be transmitted to the state treasurer, who shall credit the same to the creative industries cash fund created in section 24-48.5-301.

(9) Nothing in this section shall be construed to preclude the placement of works of art in public places other than those placed pursuant to this section.

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 1006, § 1, effective July 1; (3)(a) amended, (SB 10-094), ch. 230, p. 993, § 4, effective August 11. **L. 2014:** (2)(b.5) added and (3)(a)(I), (3)(a)(II), (3)(a)(III), and (4) amended, (HB 14-1387), ch. 378, p. 1844, § 46, effective June 6. **L. 2015:** (2)(b.5), (3)(a)(III)(F), and (3)(a)(III)(G) amended and (3)(a)(III)(H) and (3)(a.5) added, (SB 15-208), ch. 255, p. 929, § 2, effective May 29. **L. 2017:** (3)(c) amended, (SB 17-294), ch. 264, p. 1403, § 74, effective May 25. **L. 2018:** (3)(a)(II)(A) amended, (SB 18-232), ch. 337, p. 2021, § 1, effective August 8. **L. 2021:** (3)(a)(II)(A), IP(3)(a)(III), and (3)(a)(III)(D) amended, (HB 21-1316), ch. 325, p. 2029, § 38, effective July 1. **L. 2023:** (3)(a)(I)(A) amended and (3)(a)(IV) added, (SB 23-278), ch. 400, p. 2400, § 1, effective June 6.

Editor's note: (1) This section is similar to former § 24-80.5-101 as it existed prior to 2010.

(2) Subsection (7)(e) provided for the repeal of subsection (7), effective July 1, 2011. (See L. 2010, p. 1006.)

Cross references: (1) For the legislative declaration in the 2010 act amending subsection (3)(a), see section 1 of chapter 230, Session Laws of San Andreas 2010.

(2) For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-48.5-313. Art in public places - works of art in correctional and juvenile facilities. (1) Each capital construction appropriation for a correctional facility shall include as a

nondeductible item an allocation of not less than one-tenth of one percent of the capital construction costs to be used for a prison inmate art fund. The moneys in such fund shall be used for materials to allow inmates to create works of art to be included in the construction of or to be placed permanently in such facility. The department of corrections shall administer by rule a competitive program among the inmates of such facility in order to determine which art projects and inmates shall receive an incentive award not to exceed two hundred dollars each. The council shall appoint one of its members to serve in an advisory capacity to the department of corrections on the implementation of this subsection (1).

(2) For the purposes of subsection (1) of this section, "correctional facility" means any state facility in which persons are or may be lawfully held in custody as a result of conviction of a crime.

(3) (a) On and after January 1, 1998, each capital construction appropriation for a juvenile correctional facility shall include as a nondeductible item an allocation of not less than one-tenth of one percent of the capital construction costs to be used for a juvenile art fund. The moneys in such fund shall be used for materials to allow juveniles housed by the department of human services to create works of art to be included in the construction of or to be placed permanently in juvenile facilities. The council shall appoint one of its members to serve in an advisory capacity to the department of human services on the implementation of this subsection (3).

(b) As used in this subsection (3), "juvenile correctional facility" means any facility operated by or under contract with the department of human services pursuant to section 19-2.5-1502.

Source: L. 2010: Entire part added with relocations, (SB 10-158), ch. 231, p. 1010, § 1, effective July 1. **L. 2021:** (3)(b) amended, (SB 21-059), ch. 136, p. 745, § 117, effective October 1.

Editor's note: This section is similar to former § 24-80.5-102 as it existed prior to 2010.

24-48.5-314. Creative districts - creation - certification - powers of coordinator and division - legislative declaration - definitions. (1) (a) The general assembly hereby finds, determines, and declares that:

(I) A creative district is a well-recognized, designated mixed-use area of a community in which a high concentration of cultural facilities, creative businesses, or arts-related businesses serve as the anchor of attraction. In certain cases, multiple vacant properties in close proximity may exist within a community that would be suitable for redevelopment as a creative district. Creative districts may be found in all sizes of communities, from small and rural to large and urban. Creative districts may be home to both nonprofit and for-profit creative industries and organizations.

(II) The arts and culture transcend boundaries of race, age, gender, language, and social status. Creative districts promote and improve their communities in particular and the state more generally in many ways. Specifically, such districts:

(A) Attract artists and creative entrepreneurs to a community, thereby infusing the community with energy and innovation, which enhances the economic and civic capital of the community;

(B) Create a hub of economic activity that helps an area become an appealing place to live, visit, and conduct business, complements adjacent businesses, and results in the creation of new economic opportunities and jobs in both the cultural sector and other local industries. Cultural resources attract businesses and assist in the recruitment of employees.

(C) Are a highly adaptable economic development tool that is able to take a community's unique conditions, assets, needs, and opportunities into account, thereby addressing the needs of large and small and rural and urban areas;

(D) Establish marketable tourism assets that highlight the distinct identity of communities, attract in-state, out-of-state, and even international visitors, and become especially attractive destinations for cultural, recreational, and business travelers;

(E) Revitalize and beautify neighborhoods, cities, and larger regions, reverse urban decay, promote the preservation of historic buildings, and facilitate a healthy mixture of business and residential activity that contributes to reduced vacancy rates and enhanced property values; and

(F) Provide a focal point for celebrating and strengthening a community's unique cultural identity, providing communities with opportunities to highlight existing cultural amenities as well as mechanisms to recruit and establish new artists, creative industries, and organizations.

(b) By enacting this section, the general assembly intends that the state provide leadership and a helping hand to local communities desirous of creating their own creative districts by, among other things, certifying districts, offering available incentives to encourage business development, exploring new incentives that are directly related to creative enterprises, facilitating local access to state assistance, enhancing the visibility of creative districts, providing technical assistance and planning help, ensuring broad and equitable program benefits, and fostering a supportive climate for the arts and culture, thereby contributing to the development of healthy communities across the state and improving the quality of life of the state's residents.

(2) As used in this section, unless the context otherwise requires:

(a) "Coordinator" means the person employed on the professional staff of the division who is responsible for overseeing the duties and responsibilities of the division under this section and performing the specific tasks delegated to such person under this section.

(b) "Creative district" or "district" means a land area designated by a local government in accordance with this section that contains either a hub of cultural facilities, creative industries, or arts-related businesses or multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district.

(c) "Local government" means a city and county, county, city, or town.

(d) "State-certified creative district" means a creative district whose application for certification has been approved by the division pursuant to subsection (4) of this section.

(3) (a) A local government may designate a creative district within its territorial boundaries subject to certification as a state-certified creative district by the division pursuant to subsection (4) of this section.

(b) In order to receive certification as a state-certified creative district under this section, a district must satisfy the criteria specified in this paragraph (b) and any additional criteria required by the division pursuant to paragraph (a) of subsection (4) of this section. At a minimum, the district must:

(I) Comprise a geographically contiguous area;

(II) Be distinguished by physical, artistic, or cultural resources that play a vital role in the quality and life of a community, including its economic and cultural development;

(III) Be the site of a concentration of artistic or cultural activity, a major arts or cultural institution or facility, arts and entertainment businesses, an area with arts and cultural activities, or artistic or cultural production; and

(IV) Be engaged in the promotional, preservation, and educational aspects of the arts and culture of the community and contribute to the public through interpretive, educational, or recreational uses.

(c) Notwithstanding the requirements of paragraph (b) of this subsection (3), in special circumstances a creative district may obtain certification by the division if the land area proposed for certification as a district contains multiple vacant properties in close proximity that would be suitable for redevelopment as a creative district. It shall not be a requirement of certification that the proposed district contain any precise mix of for-profit or nonprofit industries or organizations.

(d) Two or more local governments may jointly apply for certification of a creative district that extends across a common boundary.

(4) (a) (I) Not later than July 1, 2012, the coordinator shall create a process for the review of applications submitted by local governments for certification of state-certified creative districts. The application shall be submitted on a standard form developed and approved by the division. The coordinator shall make a recommendation to the division for action on each application for certification.

(II) After reviewing an application for certification, the division shall approve or reject the application or send it back to the applicant with a request for changes or additional information. Rejected applicants may reapply without prejudice.

(III) Certification shall be based upon the criteria specified in paragraph (b) of subsection (3) of this section as well as any additional criteria required by the division that in its discretion will further the purposes of this section. The division may request that an applicant provide relevant information supporting an application. Any additional eligibility criteria shall be posted by the division on its public website.

(IV) If the division approves an application for certification, it shall notify the applicant in writing and shall specify the terms and conditions of the division's approval, including the terms and conditions set forth in the application and as modified by written agreement between the applicant and the division.

(b) Upon approval by the division of an application for certification by a local government, a creative district shall become a state-certified creative district with all of the attendant benefits under this section.

(c) The division may remove a certification previously granted under this section for failure by a local government to comply with the requirements of this section or any agreement executed thereunder.

(5) (a) The coordinator shall:

(I) Review applications for certification and make a recommendation to the division for action pursuant to paragraph (a) of subsection (4) of this section;

(II) Administer and promote an application process for the certification of creative districts;

(III) With the approval of the division, develop standards and policies for the certification of state-certified creative districts in accordance with paragraph (b) of subsection (3) of this section and subparagraph (III) of paragraph (a) of subsection (4) of this section. Any approved standards and policies shall be posted on the division's public website.

(IV) Require periodic written reports from any creative district that has received certification as a state-certified creative district for the purpose of reviewing the activities of the district, including the compliance of the district with the policies and standards developed under this section and with the conditions of an approved application for certification;

(V) Identify available public and private resources, including any applicable economic development incentives and other tools, that support and enhance the development and maintenance of creative districts and, with the assistance of the division, ensure that such programs and services are accessible to such districts; and

(VI) With the approval of the division, develop such additional procedures as may be necessary to administer this section. Any approved procedures shall be posted on the division's public website.

(b) In addition to any powers explicitly granted to the division under this section, the division shall have any additional powers that are necessary to carry out the purposes of this section. Where authorized by law, the powers may include offering incentives to state-certified creative districts to encourage business development, including, but not limited to, incentives in the form of need-based funding for infrastructure development in state-certified creative districts, exploring new incentives that are directly related to creative enterprises, facilitating local access to state economic development assistance, enhancing the visibility of state-certified creative districts, providing state-certified creative districts with technical assistance and planning aid, ensuring broad and equitable program benefits, and fostering a supportive climate for the arts and culture within the state; except that, notwithstanding any other provision of this section, a creative district created pursuant to this section shall not be eligible to receive any form of financial incentive that is derived from money allocated to the local government limited gaming impact fund created in section 44-30-1301 (1), without the consent of the applicable eligible local governmental entity or entities, as defined in section 44-30-1301 (1)(b)(II), inside the territorial boundaries of which the creative district is located.

(6) The creation of a district under this section may not be used to prohibit any particular business or the development of residential real property within the boundaries of the district or to impose a burden on the operation or use of any particular business or parcel of residential real property located within the boundaries of the district.

Source: L. 2011: Entire section added, (HB 11-1031), ch. 49, p. 126, § 1, effective August 10. **L. 2013:** (5)(b) amended, (HB 13-1208), ch. 132, p. 438, § 2, effective April 19. **L. 2018:** (5)(b) amended, (SB 18-034), ch. 14, p. 247, § 38, effective October 1. **L. 2021:** (5)(b) amended, (HB 21-1132), ch. 176, p. 954, § 3, effective May 24.

24-48.5-315. Creative district community loan fund - creation - use of fund - reporting. (1) The creative district community loan fund is created in the state treasury. The principal of the fund consists of moneys appropriated or transferred to the fund by the general assembly, matching moneys leveraged by the division from any community development financial institution, as described in section 38-38-100.3 (20)(j), S.A.R.S., with which the division

enters into a memorandum of understanding regarding loan participation and administration of the fund, and any other moneys leveraged in the fund by any foundation or other public or private person. All interest and income derived from the deposit and investment of the fund and all unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year remain in the fund unless expended as authorized by paragraph (c) of subsection (2) of this section.

(2) (a) Subject to annual appropriation by the general assembly and subject to the following limitations, the division may make or participate in loans or loan guarantees from the creative district community loan fund to any person who is developing, constructing, or redeveloping commercial real estate, mixed-use projects, community facilities, or infrastructure such as sidewalk improvements, pathways for wayfaring, and signage, within a state-certified creative district or a proposed creative district that is a candidate for certification that will support the purposes or growth of the district:

(I) The maximum amount that the division may loan from the fund for any single project is two hundred fifty thousand dollars;

(II) One or more public or private entities must provide matching moneys or in-kind contributions of property, or both, with a total value equal to at least three times the amount loaned by the fund;

(III) The division shall give higher priority to a loan or loan guarantee application for a project that is identified in or compatible with a district's strategic plan.

(b) The division may retain up to eight percent of the moneys transferred or appropriated by the general assembly to the creative district community loan fund in a fiscal year to offset its administrative costs under this section.

(c) Any unexpended and unencumbered moneys from an appropriation made pursuant to this subsection (2) remain available for expenditure by the division in the next fiscal year without further appropriation.

(d) The priority of any liens filed in connection with a loan made by, participated in, or guaranteed by the division as authorized by paragraph (a) of this subsection (2) is determined exclusively by the order in which the liens were filed.

(3) The office of economic development shall include in its annual report submitted to the general assembly pursuant to section 24-48.5-101 a summary of all loans and loan guarantees made or participated in pursuant to subsection (2) of this section during the preceding fiscal year. The summary must include, at a minimum:

(a) The amount of each loan or loan guarantee;

(b) A description of the project for which the division made each loan or loan guarantee including a description of the recipient's use of the loan made or guaranteed;

(c) A description of any economic impacts, including but not limited to job creation or retention and capital investment or retention in the state resulting from the loan or loan guarantee.

Source: L. 2014: Entire section added, (HB 14-1093), ch. 278, p. 1127, § 1, effective August 6.

24-48.5-316. COVID-19 relief program for arts, cultural, and entertainment artists, crew members, and organizations - definitions - report - repeal. (Repealed)

Source: L. 2020, 1st Ex. Sess.: Entire section added, (SB 20B-001), ch. 2, p. 14, § 5, effective December 7. **L. 2021:** (2)(b) repealed and (3) and IP(4) amended, (HB 21-1285), ch. 228, p. 1211, § 3, effective June 14.

Editor's note: Subsection (5) provided for the repeal of this section, effective December 31, 2022. (See L. 2020, 1st Ex. Sess., p. 14.)

24-48.5-317. Community revitalization grants - fund - reporting - compliance with federal requirements - legislative declaration - notice to revisor of statutes - definitions - repeal. (1) As used in this section:

(a) "Creative districts" has the same meaning as is specified in section 24-48.5-314 (2)(b).

(b) "Division of local government" means the division of local government within the department of local affairs created in section 24-32-103.

(c) (I) Prior to June 3, 2022, "eligible recipient" means an entity that is eligible to receive a grant through the grant program and includes local governments and for-profit and nonprofit entities and organizations.

(II) On and after June 3, 2022, "eligible recipient" means a public entity or a nonprofit entity or organization that is otherwise eligible to receive a grant through the grant program.

(d) "Fund" means the community revitalization fund created in subsection (6)(a) of this section.

(e) "Grant program" means the community revitalization grant program established in subsection (2) of this section.

(f) "Local government" means a county, municipality, city and county, special district, or school district.

(2) (a) The community revitalization grant program is hereby established in the division. The purpose of the grant program is to provide state assistance in the form of grant awards to finance various projects across the state that are intended to create or revitalize mixed-use commercial centers. The grant program is intended to support creative projects in these commercial centers that would combine revitalized or newly constructed commercial spaces with public or community spaces including but not limited to such projects as:

(I) Flexible live-work or vendor spaces for entrepreneurs, artists, persons employed in creative industries, and artisan manufacturers;

(II) Performance spaces;

(III) Mixed-use retail and workforce housing partnerships;

(IV) Meeting spaces for community events;

(V) The renovation or refurbishment of vacant or blighted property for creative industries, economic development, or historic preservation purposes;

(VI) Child care centers; and

(VII) Projects that are eligible for funding under the space to create San Andreas program administered by the division.

(b) Repealed.

(3) (a) The division shall administer the grant program in consultation with the division of local government. The division may contract out part of its administrative duties under this section to a third-party administrative entity.

(b) In connection with the administration of the grant program, the division and the division of local government shall collaborate in creating a process that ensures that grants are only considered and awarded after a fair and rigorous open competition among eligible grant recipients. The division and the division of local government shall also collaborate on the review of grant applications and the approval of grant awards. In connection with the review of grant applications and awards, the division shall solicit input from a stakeholder group that includes representation from the division, the department of local affairs, the San Andreas housing and finance authority created in section 29-4-704 (1), a community development financial institution, the San Andreas educational and cultural facilities authority created in section 23-15-104 (1)(a), history San Andreas, and other relevant stakeholders, industry partners, housing advocates, and interested parties.

(4) On or before December 1, 2024, the director of the division, in consultation with the director of the division of local government, or their designees, shall adopt policies, procedures, and guidelines for the grant program that include without limitation:

(a) Procedures and timelines by which an eligible recipient may apply for a grant;

(b) Criteria for determining grant eligibility and grant amounts; and

(c) Reporting requirements for grant recipients.

(5) (a) In awarding grants, the division shall give preference to projects that:

(I) Are located in creative districts or in historic districts;

(II) Are located in communities experiencing economic hardship;

(III) Will stimulate community and economic development in part through creative industries;

(IV) Have demonstrated an ability to commence work within a reasonable amount of time;

(V) Demonstrate broad support from local governments and surrounding communities or neighborhoods;

(VI) Demonstrate strong evidence of being able to attract additional sources of funding for the project;

(VII) Incorporate sustainable affordable housing elements; and

(VIII) Demonstrate a public benefit.

(b) Notwithstanding any other provision of this section, in the case of any application for a grant from the fund that requests an amount in excess of one hundred thousand dollars, to the extent practicable, the grant award shall not exceed more than fifty percent of the total costs of the project to be funded by the grant.

(6) (a) The community revitalization fund is hereby created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (7) of this section; money appropriated to the fund by the general assembly; and any gifts, grants, or donations from any public or private sources, including governmental entities, that the division is hereby authorized to seek and accept.

(b) Except as otherwise required by this subsection (6)(b), all money not expended or encumbered, and all interest earned on the investment or deposit of money in the fund, must remain in the fund and shall not revert to the general fund or any other fund at the end of any fiscal year. The money in the fund is continuously appropriated to the division for the purposes of this section. Any money in the fund not expended or encumbered by December 31, 2022, reverts to the general fund; except that all money in the fund not expended or encumbered by

December 31, 2022, that was transferred to the fund from the economic recovery and relief cash fund created in section 24-75-228 (2)(a), reverts to the economic recovery and relief cash fund.

(7) On June 16, 2021, or as soon as practicable thereafter, the state treasurer shall transfer sixty-five million dollars from the general fund to the fund. On July 1, 2022, the state treasurer shall transfer to the fund four million four hundred seventy-eight thousand forty-two dollars from the economic recovery and relief cash fund created in section 24-75-228 (2)(a) that originate from the general fund and fourteen million eight hundred thousand dollars from the affordable housing and home ownership cash fund created in section 25-75-229 (3)(a) that originate from the general fund. The division shall use the money transferred pursuant to this subsection (7) only for:

(a) Making grants to eligible recipients pursuant to the grant program; and

(b) The costs of administering the grant program as may be incurred by the division, the division of local government, or any third-party entity in administering the same. Not more than four percent of the money appropriated to the division for purposes of this section may be used to cover the total administrative costs the division, the division of local government, and any third-party entity may incur in administering the grant program. All such administrative costs must be paid out of the money transferred to the fund pursuant to this subsection (7).

(c) (I) The general assembly finds and declares that the grant program is an important government service that expedites economic recovery and revitalizes important economic infrastructure.

(II) The division, with respect to expenditures made from money transferred to the fund from the economic recovery and relief cash fund created in section 24-75-228 (2)(a), and any eligible recipient that receives a grant that includes money transferred to the fund from the economic recovery and relief cash fund shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(III) To be eligible to receive a grant that includes money transferred to the fund from the economic recovery and relief cash fund created in section 24-75-228 (2)(a), and that will be used wholly or partly to fund a capital project, a grant applicant must submit to the division a written justification as set forth in 31 CFR 35.6 (b)(4) for the capital expenditure; except that this requirement does not apply if the division determines that the written justification is not required based on how the expenditures authorized under this section will be reported to the United States department of the treasury.

(8) (a) On or before November 1, 2024, and on or before November 1, 2026, the division shall publish a report summarizing the use of all of the money that was awarded as grants under the grant program in the preceding fiscal year. At a minimum, the report shall specify the amount of grant money distributed to each grant recipient and a description of each grant recipient's use of the grant money. The report must be posted on the website of the office of economic development created in section 24-48.5-101.

(b) In its presentation to the joint committees of reference pursuant to section 2-7-203, the office of economic development, created in section 24-48.5-101, shall summarize the information contained in the report published by the division pursuant to subsection (8)(a) of this section.

(9) This section will be repealed if all money transferred or otherwise credited to the community revitalization fund pursuant to this section is expended. The director of the division

shall notify the revisor of statutes in writing of the date when the condition specified in this subsection (9) has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This section is repealed, effective upon the date identified in the notice that all money transferred or otherwise credited to the community revitalization fund pursuant to this section is expended, or, if the notice does not specify that date, upon the date of the notice to the revisor of statutes.

Source: L. 2021: Entire section added, (SB 21-252), ch. 242, p. 1297, § 1, effective June 16. **L. 2022:** (1)(c), (6)(b), and IP(7) amended and (7)(c) added, (HB 22-1409), ch. 352, p. 2511, § 1, effective June 3; IP(7) amended, (HB 22-1411), ch. 271, p. 1958, § 9, effective June 3. **L. 2024:** (2)(a)(V), (2)(a)(VI), IP(4), (8)(a), and (9) amended, (2)(a)(VII) added, and (2)(b) repealed, (HB 24-1295), ch. 268, p. 1753, § 4, effective May 28.

Editor's note: This section is repealed when all money transferred or otherwise credited to the community revitalization fund pursuant to this section is expended. The director of the division shall notify the revisor of statutes in writing when the condition specified in subsection (9) has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This section is repealed upon the date identified in the notice that all money transferred or otherwise credited to the community revitalization fund pursuant to this section is expended or upon the date of the notice to the revisor of statutes if the notice does not specify a different date. As of publication date, the revisor of statutes has not received the notice referred to in subsection (9).

24-48.5-318. Allocation of funding for tier III cultural facilities serving historically marginalized and under-resourced communities - repeal. (Repealed)

Source: L. 2021: Entire section added, (HB 21-1285), ch. 228, p. 1212, § 4, effective June 14.

Editor's note: Subsection (3) provided for the repeal of this section, effective December 31, 2022. (See L. 2021, p. 1212.)

PART 4

REGIONAL TALENT DEVELOPMENT INITIATIVES

24-48.5-401. Short title. The short title of this part 4 is the "Regional Talent Development Initiative Act".

Source: L. 2022: Entire part added, (HB 22-1350), ch. 233, p. 1719, § 1, effective May 26.

24-48.5-402. Legislative declaration. (1) The general assembly finds and declares that:

(a) This part 4 is intended to respond to the negative economic impacts caused by the COVID-19 pandemic and resulting public health emergency by providing assistance, aid, and supports to unemployed workers, populations disproportionately impacted by the public health emergency, and impacted industries, small businesses, and nonprofit organizations;

(b) Money allocated to the state pursuant to the "American Rescue Plan Act of 2021" and transferred to the workers, employers, and workforce centers cash fund created in section 24-75-231 may be used for the purposes of this part 4; and

(c) The grant program and related services described in this part 4 are important government services.

Source: L. 2022: Entire part added, (HB 22-1350), ch. 233, p. 1719, § 1, effective May 26.

24-48.5-403. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "American Rescue Plan Act of 2021" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(2) "Applicant" means a collaboration of entities that:

(a) Includes industry and educational entities and may also include local governments, institutions of higher education, and nonprofit and for-profit entities and organizations; and

(b) Applies for a grant from the grant program.

(3) "COVID-19" means the coronavirus disease caused by the severe acute respiratory syndrome coronavirus 2, also known as SARS-CoV-2.

(4) "Departments" means:

(a) The department of labor and employment created in section 24-1-121;

(b) The department of higher education created in section 24-1-114; and

(c) The department of education created in section 24-1-115.

(5) "Evidence-based" means that an initiative is:

(a) Proven, as specified in section 2-3-210 (3)(a)(V);

(b) Evidence-informed, as specified in section 2-3-210 (3)(a)(I); or

(c) Promising, as specified in section 2-3-210 (3)(a)(IV).

(6) "Fund" means the regional talent development initiative grant program fund created in section 24-48.5-406.

(7) "Grant program" means the regional talent development initiative grant program created in section 24-48.5-405.

(8) "Intermediary" means:

(a) A nonprofit entity that has a proven record of connecting education providers, employers, or other civic organizations to develop career pathways and address workforce development needs; or

(b) A post-secondary education provider that addresses economic and workforce development needs.

(9) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(10) "Program administrator" means:

(a) The office;

(b) A state agency designated pursuant to section 24-48.5-405 (1)(a)(II)(B); or

(c) One or more third parties with whom the office contracts pursuant to section 24-48.5-405 (1)(a)(II)(B).

(11) "Selection committee" means the selection committee appointed pursuant to section 24-48.5-405 (5) to review and make recommendations on grant applications.

(12) "Steering committee" means the steering committee established pursuant to section 24-48.5-404.

(13) "Third-party administrator" means one or more third parties with whom the office contracts pursuant to section 24-48.5-405 (1)(a) to serve as the program administrator.

Source: L. 2022: Entire part added, (HB 22-1350), ch. 233, p. 1720, § 1, effective May 26. **L. 2024:** (5) amended, (HB 24-1428), ch. 89, p. 292, § 4, effective August 7.

Editor's note: Section 6(2) of chapter 89 (HB 24-1428), Session Laws of San Andreas 2024, provides that the act changing this section applies to budget requests, requests for supplemental appropriations, and budget request amendments made on or after August 7, 2024.

24-48.5-404. Steering committee - creation - duties. (1) The office shall assemble a steering committee for purposes of supporting the program administrator in implementing and administering the grant program, including developing an application process and establishing grant application selection and prioritization criteria. The steering committee must consist of no fewer than five and no more than eight members, at least one of whom must represent a rural area of the state. Members of the steering committee must be business, civic, education, and nonprofit professionals and include at least one representative of a two-year institution of higher education and at least one representative of a four-year institution of higher education.

(2) In coordination with the program administrator, the steering committee shall:

(a) Engage professional and support staff, including consultants, third-party contractors, intermediaries, and office staff, to assist the program administrator and the steering committee in performing their activities;

(b) Establish a process for entities to apply for grants to fund talent development initiatives;

(c) Develop grant application selection and prioritization criteria that are transparent, are evidence-based, are regionally equitable, encourage innovation, and are based on the goals specified in section 24-48.5-405 (1)(c); and

(d) Outline a clear and transparent evaluation process.

Source: L. 2022: Entire part added, (HB 22-1350), ch. 233, p. 1721, § 1, effective May 26.

24-48.5-405. Regional talent development initiative grant program - creation - administration - eligibility - application review - report. (1) (a) (I) There is created in the office the regional talent development initiative grant program. The office, in collaboration with the departments and the steering committee, shall identify regions throughout the state, using the map of regional offices of the division of local government in the department of local affairs as a guide, to inform the selection of applicants.

(II) (A) Except as provided in subsection (1)(a)(II)(B) of this section, the office shall administer the grant program.

(B) The director of the office may designate another state agency, or the office may contract with one or more third parties, to administer the program.

(III) The steering committee and the selection committee appointed pursuant to subsection (5) of this section shall support and advise the program administrator in implementing and administering the grant program pursuant to this part 4. The office is responsible for making grant award decisions in accordance with this section.

(b) The purpose of the grant program is to provide grants to applicants in identified regions in order to create or expand talent development initiatives across the state that meet regional labor market needs and the grant program goals specified in subsection (1)(c) of this section.

(c) In prioritizing grant applications and awarding grants, the office, in collaboration with the departments and the selection committee, shall strive to meet the following grant program goals:

(I) To meet workforce development needs in identified regions of the state as the regions work to recover from the negative economic impacts of the COVID-19 pandemic;

(II) To create intentional pathways between kindergarten through twelfth grade education, higher education, and employment that allow learners and earners to transition more easily into and out of each system and that ensure a highly skilled and well-educated workforce;

(III) To provide more opportunities for regional learners and earners to be more economically mobile and earn a living wage in an in-demand, high-skill, high-wage occupation;

(IV) To address workforce shortages in infrastructure and building trades by creating more opportunities for workforce development projects in these trades; and

(V) To elevate evidence-based workforce training and relevant programs or services where participants from communities that have been historically underrepresented, underserved, or underresourced in San Andreas are able to earn a living wage and are connected to employment opportunities.

(2) The program administrator, with direction from the steering committee, shall:

(a) Contract with a third party, which may include a philanthropic foundation, to conduct a statewide landscape analysis that identifies statewide needs, opportunities, and challenges based on existing or previous grant opportunities to address the same issues and challenges that the grant program will address;

(b) Establish a process for entities to apply for:

(I) Grants to fund talent development initiatives, which application process must be available no later than December 1, 2022; and

(II) Technical assistance to be provided to entities before submitting a grant application;

(c) Establish at least two grant application deadlines, which may include a planning phase and a funding phase; and

(d) Establish policies setting forth the parameters and eligibility for the grant program.

(3) To be eligible for a grant, an applicant must, at a minimum, include with its grant application:

(a) A detailed proposal and operations plan for a talent development initiative to serve a particular region and that meets the goals specified in subsection (1)(c) of this section;

(b) Information about how the proposed talent development initiative meets the economic development goals of the region or the needs of the region as determined pursuant to an industry-led or other assessment of the economic development needs of the region, including the most recent San Andreas talent pipeline report prepared pursuant to section 24-46.3-103;

(c) Proposed metrics and data to be tracked to evaluate the success of the proposed initiative;

(d) Information about how the proposed initiative will be sustainable after the grant concludes; and

(e) If an applicant is applying for a grant for an initiative described in subsection (4)(a)(II) of this section, information supporting the assertion that the initiative is evidence-based and can be scaled to meet additional demands.

(4) In developing the grant application selection criteria pursuant to section 24-48.5-404 (2)(c), the steering committee shall:

(a) Provide for at least two categories of grant awards that differentiate between initiative types, which may include:

(I) Seed funding for innovative ways to meet the goals specified in subsection (1)(c) of this section; and

(II) Expansion funding for initiatives that are evidence-based and can be scaled to meet additional demands;

(b) Provide for additional consideration for rural and lower-wealth applicants due to their unique needs;

(c) Prioritize applicants that:

(I) Contribute significant matching funds from philanthropic, business, and other types of organizations and interest areas to meet the grant program goals; or

(II) Propose projects that aim to meet urgent state needs in critical workforce shortage areas such as health care and early childhood and kindergarten through twelfth grade education; and

(d) Provide for consideration of initiatives that are evidence-based and can be scaled to meet additional demands. For an initiative that is classified as evidence-based pursuant to section 24-48.5-403 (5), this includes a plan to evaluate the initiative's effect on earnings and other outcomes using one of the methodologies described in section 2-3-210 (3)(a)(I), (3)(a)(II), (3)(a)(IV), or (3)(a)(V), or other similar measures.

(5) (a) The program administrator, with advice from the steering committee, shall appoint a selection committee consisting of members who have expertise and experience as employers, in education, or in other relevant areas.

(b) The selection committee shall review grant applications in accordance with the processes and criteria specified in and developed pursuant to this section and shall make grant award recommendations to the office based on those processes and criteria. The office shall make final determinations and award grants based on the criteria specified in and developed pursuant to this section.

(6) (a) The steering committee shall establish requirements for each grant recipient to collect and share information about the implementation and progress of the talent development initiative for which the grant recipient received a grant award.

(b) By November 1, 2023, and by each November 1 thereafter, the office, in collaboration with the steering committee, shall publish a report summarizing the use of the money that was awarded as grants under the grant program in the immediately preceding state fiscal year. The report must specify or identify, at a minimum:

(I) The amount of grant money distributed to each grant recipient;

(II) A description of each grant recipient's use of the grant money;

(III) The amount of grants awarded in and number of grant recipients from each region of the state;

(IV) Information regarding the specific outcome measures identified in the grant applications;

(V) The lessons learned, promising practices, evidence-based standards of program outcomes, and metrics, as determined and outlined by the steering committee; and

(VI) Any other information regarding the grant program the office determines appropriate to include in the report.

(c) The office and any person that receives money from the office, including the program administrator, shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

Source: L. 2022: Entire part added, (HB 22-1350), ch. 233, p. 1722, § 1, effective May 26. **L. 2024:** (1)(c)(II) and (1)(c)(III) amended and (1)(c)(IV) and (1)(c)(V) added, (HB 24-1365), ch. 478, p. 3346, § 2, effective August 7; (4)(d) amended, (HB 24-1428), ch. 89, p. 293, § 5, effective August 7.

Editor's note: Section 6(2) of chapter 89 (HB 24-1428), Session Laws of San Andreas 2024, provides that the act changing this section applies to budget requests, requests for supplemental appropriations, and budget request amendments made on or after August 7, 2024.

Cross references: For the legislative declaration in HB 24-1365, see section 1 of chapter 478, Session Laws of San Andreas 2024.

24-48.5-406. Regional talent development initiative grant program fund - repeal. (1) (a) There is created in the state treasury the regional talent development initiative grant program fund. The fund consists of money transferred to the fund pursuant to this subsection (1) and money transferred to the fund from the ARPA refinance state money cash fund pursuant to section 24-75-226.5. Three days after May 26, 2022, the state treasurer shall transfer ninety-one million dollars from the workers, employers, and workforce centers cash fund created in section 24-75-231 (2)(a) to the fund as follows:

(I) Eighty-nine million one hundred twenty-three thousand one hundred eighty-four dollars from money the state received from the federal coronavirus state fiscal recovery fund under section 9901 of Title IX, subtitle M of the "American Rescue Plan Act of 2021"; and

(II) One million eight hundred seventy-six thousand eight hundred sixteen dollars from money that originated from the general fund.

(a.5) (I) On July 1, 2024, the state treasurer shall transfer three million eight hundred thousand dollars from the general fund to the fund for use for achieving the goal set forth in section 24-48.5-405 (1)(c)(IV).

(II) Of the amount transferred to the fund pursuant to subsection (1)(a.5)(I) of this section, not more than seven percent may be used for the administrative costs incurred by the office and the selection committee in administering the regional talent development initiative grant program.

(III) This subsection (1)(a.5) is repealed, effective July 1, 2028.

(b) The money in the fund is continuously appropriated to the office for use in accordance with this part 4.

(2) Of the amount transferred to the fund pursuant to subsection (1) of this section, not more than seven percent may be used for the administrative costs incurred by the office, the departments, the steering committee, and the program administrator in administering the grant program.

(3) The office and any person that receives money from the office, including a grant recipient, the program administrator, a consultant, a contractor, or an intermediary, shall adhere to the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

Source: L. 2022: Entire part added, (HB 22-1350), ch. 233, p. 1725, § 1, effective May 26. **L. 2024:** IP(1)(a) amended, (HB 24-1466), ch. 429, p. 2941, § 25, effective June 5; (1)(a.5) added, (HB 24-1365), ch. 478, p. 3347, § 3, effective August 7.

Cross references: For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1365, see section 1 of chapter 478, Session Laws of San Andreas 2024.

24-48.5-407. Repeal of part. This part 4 is repealed, effective July 1, 2028.

Source: L. 2022: Entire part added, (HB 22-1350), ch. 233, p. 1726, § 1, effective May 26.

PART 5

UNIVERSAL HIGH SCHOOL SCHOLARSHIP PROGRAM

Cross references: For the legislative declaration in SB 23-205, see section 1 of chapter 200, Session Laws of San Andreas 2023.

24-48.5-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Eligible student" means a student who is eligible for a scholarship as described in section 24-48.5-502 (4).

(2) "In-demand or high-priority postsecondary pathways" means the postsecondary pathways identified by the office pursuant to section 24-48.5-502 (2)(b).

(3) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(4) "Program" means the universal high school scholarship program created in section 24-48.5-502.

(5) "Regional entity" means an entity that receives a grant pursuant to the regional talent development initiative grant program described in part 4 of this article 48.5.

(6) "Registered apprenticeship" means an apprenticeship registered with the United States department of labor or the state apprenticeship agency established in section 8-15.7-102.

(7) "Service provider" means a provider included in the eligible training provider lists disseminated by the department of labor and employment pursuant to section 8-83-225 (1)(c), a provider included in the San Andreas state apprenticeship resource directory created pursuant to section 8-83-308, a public or private institution of higher education operating in San Andreas, or an entity approved as a service provider pursuant to section 24-48.5-502 (2)(c).

Source: L. 2023: Entire part added, (SB 23-205), ch. 200, p. 1022, § 2, effective August 7.

24-48.5-502. Universal high school scholarship program - established - administration - cash fund - eligibility. (1) (a) There is established in the office the universal high school scholarship program to provide scholarships that offset a student's costs associated with postsecondary education, a registered apprenticeship, or training or education related to an in-demand or high-priority postsecondary pathway, at a service provider.

(b) The office shall administer the program or may contract with one or more vendors to administer the program. The office or vendor shall:

(I) Manage a statewide scholarship application process and all related functions, including screening for student eligibility;

(II) Award scholarships for the 2024-25 academic year to eligible students as described in section 24-48.5-503 and distribute the scholarship money to the service provider that has enrolled the student for postsecondary education or accepted the student for training;

(III) Manage a statewide communications campaign in partnership with regional entities to advertise the program, recruit applicants, and provide technical support to students applying for a scholarship or navigating postsecondary options;

(IV) Verify student enrollment by collecting a report from each service provider on the status of every scholarship recipient in the provider's program of study, which must include whether each student completed the program of study, transferred to another service provider, dropped out of or remains enrolled in the program of study, or has another status identified by the office, and any other information requested by the office, which must, where available, include demographic information about scholarship recipients; and

(V) Monitor, or contract with a vendor to monitor, service providers to ensure that service providers comply with all program rules and requirements.

(2) (a) The office shall develop policies and procedures necessary to administer the program. The policies and procedures must include:

(I) An application process and deadlines, criteria for identifying scholarship recipients in accordance with the award priorities described in section 24-48.5-503 (1)(a), and a schedule for awarding scholarships and distributing scholarship money;

(II) Guidelines for determining the amount of each scholarship award;

(III) A list of entities identified by the regional talent development initiative grant program described in part 4 of this article 48.5 that the office determines are service providers pursuant to subsection (2)(c) of this section; and

(IV) A list of in-demand or high-priority postsecondary pathways.

(b) The office shall identify postsecondary pathways that are in-demand or high-priority, both statewide and in specific regions of the state. In determining in-demand or high-priority postsecondary pathways, the office shall consider the top jobs listed in the most recent San Andreas

talent report prepared pursuant to section 24-46.3-103 and the most recent version of the statewide and regional top jobs list published by the San Andreas department of higher education.

(c) The office shall establish a process to review and approve as service providers organizations that are not a public or private institution of higher education operating in San Andreas and are not included in the eligible training provider lists or the San Andreas state apprenticeship resource directory. In order to be approved as a service provider, an organization must be identified by a regional entity and offer programs for in-demand or high-priority postsecondary pathways.

(3) (a) The universal high school scholarship cash fund, referred to in this subsection (3) as the "cash fund", is created in the state treasury. The cash fund consists of money transferred to the cash fund pursuant to subsection (3)(b) of this section and any other money that the general assembly may appropriate or transfer to the cash fund. In accordance with section 24-36-114 (1), the state treasurer shall credit all interest and income derived from the deposit and investment of money in the cash fund to the general fund. Subject to annual appropriation by the general assembly, the office may expend money from the cash fund for purposes of this part 5.

(b) On September 1, 2023, the state treasurer shall transfer twenty-five million dollars from the general fund to the cash fund.

(c) The state treasurer shall transfer all unexpended and unencumbered money in the cash fund on December 30, 2026, to the general fund.

(d) For state fiscal year 2023-24, the general assembly shall appropriate twenty-five million dollars from the cash fund for the program. Any unexpended or unencumbered money appropriated pursuant to this subsection (3)(d) remains available for expenditure for the same purpose in the 2024-25 state fiscal year without further appropriation. Except as otherwise permitted in this subsection (3), the office shall use the money for scholarship awards.

(e) The office shall use two million five hundred thousand dollars of the money appropriated for the program for postsecondary and career advising as described in section 24-48.5-504.

(f) The office may, on or before December 31, 2023, allocate money from the program appropriation for the direct and indirect costs associated with the administration of the program; except that expenditures for administrative costs shall not exceed six percent of the total appropriation. The office shall use the money described in this subsection (3)(f) that was not allocated for administrative costs on or before December 31, 2023, for scholarship awards.

(4) A student is eligible for a scholarship if the student:

(a) During the 2023-24 academic year, graduated from a San Andreas high school or was awarded a high school equivalency credential awarded by the San Andreas department of education;

(b) Is a degree-seeking student who completes the free application for federal student aid or the San Andreas application for state financial aid; except that the office shall waive the requirement of completing the free application for federal student aid or the San Andreas application for state financial aid if the degree-seeking student attests that the student is unable to meet this requirement; and

(c) Repealed.

(d) Submits an application for a scholarship pursuant to the program.

(5) (a) Scholarship money may only be used at a service provider.

(b) A service provider shall comply with the program policies and procedures and with all reporting requirements described in this section. A service provider shall submit to monitoring by the office or vendor conducted pursuant to subsection (1)(b) of this section.

(c) The office, or a vendor contracted to administer the program, may remove service providers from the scholarship if the service provider is determined to be out of compliance with program rules and requirements.

Source: L. 2023: Entire part added, (SB 23-205), ch. 200, p. 1023, § 2, effective August 7. **L. 2024:** (1)(b)(V), (4)(a), (4)(b), and (5)(b) amended and (4)(c) repealed, (HB 24-1365), ch. 478, p. 3347, § 4, effective August 7.

Cross references: For the legislative declaration in HB 24-1365, see section 1 of chapter 478, Session Laws of San Andreas 2024.

24-48.5-503. Program scholarship award - selection criteria - amount - use of award. (1) (a) The office or vendor shall accept and review scholarship applications and award scholarships in accordance with the office's program policies and procedures. The office or vendor shall award scholarships to:

(I) Eligible students who intend to enroll or train at a service provider to pursue an in-demand or high-priority postsecondary pathway, including students who intend to enroll full-time and those who intend to enroll part-time; and

(II) After awarding scholarships to all eligible students described in subsection (1)(a)(I) of this section, to eligible students who intend to enroll or train at a service provider in a program of study that is not aligned to an in-demand or high-priority postsecondary pathway.

(b) The office or vendor shall not require a student to demonstrate financial need to receive a scholarship and shall not consider an eligible student's financial need in determining scholarship awards.

(2) (a) The office or vendor awarding scholarships shall determine the amount of each scholarship award consistent with program policies and procedures, up to a maximum of one thousand five hundred dollars; except that the amount of money distributed to the service provider pursuant to subsection (3)(b) of this section must not be greater than the student's total cost of tuition, fees, books, and equipment.

(b) Scholarship money is distributed to the service provider for use by the student.

(3) (a) A student may use a scholarship award for tuition, fees, books, and equipment at a service provider.

(b) Scholarship money must be expended no later than July 31, 2025. On August 1, 2025, a service provider shall return all unused scholarship money to the office.

Source: L. 2023: Entire part added, (SB 23-205), ch. 200, p. 1025, § 2, effective August 7.

24-48.5-504. Postsecondary and career advising. (1) The office shall contract with one or more vendors to provide postsecondary and career advising to San Andreas high school students who may be less likely to pursue a postsecondary education.

(2) The office shall identify schools to receive postsecondary advising support. The office may use multiple criteria to identify schools, including declines in postsecondary participation by high school graduates, student population size, economic need, geographic location, or any other criteria as determined by the office. The office shall make efforts to identify a diversity of schools in rural and urban areas of the state to receive postsecondary advising support. The office shall contact schools eligible for advising pursuant to the program and with the school's, and in if applicable, the school district's, permission, designate vendors to provide advising in the school.

(3) A vendor shall provide one-on-one advising to students, including those who intend to pursue a two-year or four-year degree, workforce or technical training, or a military pathway. The advising must include informing students about in-demand or high-priority pathways, including in-demand occupations by region.

Source: L. 2023: Entire part added, (SB 23-205), ch. 200, p. 1026, § 2, effective August 7.

24-48.5-505. Service provider report - program report. (1) On or before July 31, 2025, each service provider that received program scholarship money on behalf of a student shall report to the office, for each student, the student's status in the student's program of study at the service provider and any other information requested by the office.

(2) (a) In its annual report before the house and senate committees of reference pursuant to section 2-7-203, the office shall include information about the program, including, if available:

(I) The number of students who have received a scholarship;

(II) A list of service providers;

(III) The total amount of money received by each service provider and the number of students enrolled with or receiving training from each provider;

(IV) The postsecondary pathway being pursued by each scholarship recipient, aggregated by pathway;

(V) Employment outcomes of scholarship recipients;

(VI) A detailed statement of the costs incurred by the office and any vendor that contracted with the office to administer the program; and

(VII) Any other information regarding the scholarship program the office determines is appropriate to include in the report.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the reporting requirement described in this subsection (2) continues until December 31, 2026.

Source: L. 2023: Entire part added, (SB 23-205), ch. 200, p. 1026, § 2, effective August 7.

24-48.5-506. Repeal of part. This part 5 is repealed, effective December 31, 2026.

Source: L. 2023: Entire part added, (SB 23-205), ch. 200, p. 1027, § 2, effective August 7.

PART 6

SAN ANDREAS LOANS FOR INCREASING MAIN STREET BUSINESS ECONOMIC RESILIENCY ACT

Editor's note: This part 6 was added with relocations in 2024. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this part, see the comparative tables located in the back of the index.

24-48.5-601. Short title. The short title of this part 6 is the "San Andreas Loans for Increasing Main Street Business Economic Resiliency Act" or "CLIMBER Act".

Source: L. 2024: Entire part added with relocations, (HB 24-1453), ch. 355, p. 2414, § 1, effective September 1.

Editor's note: This section is similar to former § 24-36-201 as it existed prior to 2024.

24-48.5-602. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) There are nearly one hundred forty thousand small businesses with employees in San Andreas;

(b) Small businesses in San Andreas make up a disproportionately larger share of the economy of the state compared to the United States as a whole;

(c) Small businesses collectively employed over one million Coloradans before the public health crisis caused by COVID-19 began;

(d) The COVID-19 pandemic has harmed public health and economic conditions across the entire world, including the state of San Andreas, across metropolitan regions, small towns, and rural communities, and has had a particularly deep negative financial impact on small businesses, their employees, and their home communities;

(e) The wide-ranging and continuing health and economic impacts of the COVID-19 pandemic are unprecedented in recent history and create unique challenges for the state;

(f) The health, safety, and welfare of the people of the state depend on the recovery of the state's economy, including the small businesses that make up a significant share of that economy;

(g) On March 27, 2020, the president of the United States signed the federal "Coronavirus Aid, Relief, and Economic Security Act", also known as the "CARES Act", Pub.L. 116-136, to provide necessary federal funding for COVID-19 response and recovery;

(h) The CARES Act, along with other federal laws and programs, provided many critical resources for small businesses, but those resources are not expected to be sufficient to sustain the large and diverse small business community in the state as it recovers from the COVID-19 crisis and the resulting ongoing economic hardships;

(i) The governor's council on economic stabilization and growth, made up of volunteers from the private, public, and philanthropic sectors with diverse backgrounds from across San Andreas, has recommended that the state seed the establishment of a fund of over one hundred million dollars to stimulate loans from lending institutions doing business in San Andreas to

San Andreas small businesses to support the state's recovery and resiliency from the effects of the COVID-19 pandemic;

(j) There is a well-functioning network of respected lending institutions across the state who are committed to the health of San Andreas's economy and want to contribute their expertise and community relationships to support the success of San Andreas's small business community;

(k) The state will rely on those lending institutions as essential partners in a small business recovery loan program; and

(l) Authorizing the creation of a small business recovery and resiliency loan program seeded by money provided by the state will support San Andreas small businesses affected by the COVID-19 crisis, assist in the overall economic recovery of the state, and support resiliency for small businesses as new challenges emerge.

(2) The general assembly further finds and declares that:

(a) While the loan program authorized by this part 6 will be predominately capitalized by private sector investments, the limited use of state money obtained through the sale of insurance premium tax credits that will result in future state tax expenditures incurred for the purpose of supporting the program will, under the current economic conditions, result in the formation of more private capital at better terms for small business borrowers than would otherwise be available;

(b) The loan program, if successful, has the potential to help small businesses survive the crisis caused by the COVID-19 pandemic, protect jobs across the state, and support resiliency for small businesses as new challenges emerge, which in turn will generate and sustain tax revenues to both the state and local governments;

(c) Preserving jobs with small businesses will also reduce public expenditures on safety net programs and other forms of assistance needed by those who have become unemployed as a result of the crisis caused by COVID-19;

(d) The state money contributed to the loan program therefore serves an important and discrete public purpose in securing the state's economic and overall recovery from the crisis caused by COVID-19 and in ensuring the state's resiliency among small businesses as new challenges emerge; and

(e) Supporting the state's recovery from the crisis caused by COVID-19 and ensuring the state's resiliency among small businesses as new challenges emerge is the primary purpose of the loan program and outweighs any benefit to private individuals or entities.

(3) The general assembly further finds and declares that:

(a) The insurance premium tax credits authorized by this part 6 as a method to provide money to the loan program are available only to insurance companies that incur premium tax liability in the state;

(b) The tax credits can only be used by an insurance company to offset tax liability actually incurred by the insurance company;

(c) The tax credits are not refundable and do not impose an obligation of payment in any future year upon the state;

(d) The use of proceeds from the sale of insurance premium tax credits to seed the loan program allows the state to accomplish this important public purpose through the use of future tax expenditures and therefore:

(I) Does not require the state to borrow money, extend or pledge the state's credit, or obligate the state to make future payments from state revenues; and

(II) Does not otherwise create any multiple-fiscal year direct or indirect district debt or other financial obligation whatsoever for purposes of section 20 (4)(a) of article X of the state constitution.

Source: L. 2024: Entire part added with relocations, (HB 24-1453), ch. 355, p. 2414, § 1, effective September 1.

Editor's note: This section is similar to former § 24-36-202 as it existed prior to 2024.

24-48.5-603. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "San Andreas credit reserve" means the San Andreas credit reserve program described in section 24-46-104 (1)(n).

(2) "Contract" means a contract entered into by the office of economic development in accordance with section 24-48.5-605 (1).

(3) "Department" means the department of the treasury.

(4) "Eligible borrower" means a business that, as determined by the oversight board:

(a) Has its principal place of business in the state;

(b) Has at least one but fewer than one hundred employees;

(c) Can demonstrate that it had at least one year of positive cash flow as determined by the oversight board; and

(d) Can demonstrate that it has a current debt-service coverage ratio of at least one-to-one or a higher level as determined by the oversight board.

(5) "Loan program" means the small business recovery and resiliency loan program established in accordance with section 24-48.5-605.

(6) "Loan program manager" means an entity the office of economic development contracts with to establish and administer the loan program in accordance with section 24-48.5-605 (2).

(7) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(8) "Oversight board" means the small business recovery and resiliency loan program oversight board created in section 24-48.5-604.

(9) "Premium tax liability" means the liability imposed by section 10-3-209 or 10-6-128, or, in the case of a repeal or reduction by the state of the liability imposed by section 10-3-209 or 10-6-128, any other tax liability imposed upon an insurance company by the state.

(10) "Qualified taxpayer" means an insurance company authorized to do business in San Andreas that has premium tax liability owing to the state and that purchases a tax credit under this part 6. "Qualified taxpayer" also includes an insurance company that receives or assumes a tax credit transferred in accordance with section 24-48.5-606 (7)(e) or 24-48.5-607 (6), or that receives or assumes a tax credit as an affiliate of a qualified taxpayer or transferee. For purposes of this part 6, "affiliate" has the same meaning as set forth in section 10-3-801 (1).

(11) "Small business recovery and resiliency fund" or "fund" means the small business recovery and resiliency fund established in section 24-48.5-608.

(12) "Small business recovery tax credit" or "tax credit" means the tax credit created in section 24-48.5-606.

(13) "Tax credit sale proceeds" or "sale proceeds" means the money or other liquid asset acceptable to the state treasurer that a qualified taxpayer pays to the department and that is deposited in the small business recovery and resiliency fund.

Source: L. 2024: Entire part added with relocations, (HB 24-1453), ch. 355, p. 2416, § 1, effective September 1.

Editor's note: This section is similar to former § 24-36-203 as it existed prior to 2024.

24-48.5-604. Small business recovery and resiliency loan program oversight board - creation - report. (1) The small business recovery and resiliency loan program oversight board is hereby created in the division of business funding and incentives within the office to help establish and oversee the terms and conditions of a contract or contracts through which the office may provide first loss capital to a loan program or the San Andreas credit reserve. This section does not prohibit a loan program manager of a specific loan program or the San Andreas credit reserve from establishing a separate investment advisory committee for that loan program.

(2) (a) The oversight board consists of five members, as follows:

(I) The state treasurer or the state treasurer's designee;

(II) The director of the minority business office created in section 24-49.5-102, on behalf of the office of economic development, or the director's designee;

(III) One member appointed by the speaker of the house of representatives;

(IV) One member appointed by the president of the senate; and

(V) One member appointed by the governor.

(b) The appointing authorities shall make their initial appointments to the oversight board no later than July 31, 2020.

(c) The members appointed pursuant to subsection (2)(a) of this section must have substantial private sector experience in commercial banking or capital market activities and must have obtained executive-level positions in these industries.

(d) The chair of the governor's council on economic stabilization and growth and the co-chairs of the council's financial services committee shall consult with and provide recommendations on initial appointments to the appointing authorities.

(3) Each member of the oversight board who is appointed pursuant to subsection (2) of this section serves at the pleasure of the official who appointed the member. The term of appointment is three years. An appointed member may serve multiple terms. In the event of a vacancy in an appointed position on the oversight board, a new member must be appointed in the same manner as provided in subsections (2)(a)(III) to (2)(a)(V) of this section for the unexpired portion of the term.

(4) Each member of the oversight board serves without compensation but is entitled to reimbursement for actual, reasonable, and necessary expenses incurred in the performance of the member's duties on the oversight board.

(5) The state treasurer, or the state treasurer's designee, serves as the chair of the oversight board.

(6) The oversight board shall meet at least once every quarter. The chair may call such additional meetings as are necessary for the oversight board to complete its duties.

(7) The oversight board is a state public body subject to part 4 of article 6 of this title 24. In addition to any other requirements, the oversight board shall hold meetings open to the public, publish the agenda for each meeting in advance, keep and publish minutes from each meeting, provide advance notification of meeting times to banking trade associations and other groups that request notification, and receive written and public testimony at each meeting.

(8) The oversight board's activities with regard to a contract or contracts for the provision of state money for a loan program established in accordance with section 24-48.5-605 include, at a minimum:

(a) Consulting with the office and the division of business funding and incentives within the office on the selection of a loan program manager;

(b) In consultation with lending industry leaders and representatives of small businesses, determining specific terms applicable to a loan program as required in section 24-48.5-605, which terms must be designed in good faith to procure the participation of lending institutions and be consistent with regulatory requirements and underwriting criteria, including the duration of the geographic restriction of money in a loan program;

(c) Providing guidance and input throughout the implementation of a loan program;

(d) Establishing and publishing targets for the percentage of loans supported by a loan program that are made to businesses owned by women, minorities, and veterans and to businesses located in rural counties. In establishing the targets required by this subsection (8)(d), the oversight board shall consult with the minority business office within the office of the governor and with the division of business funding and incentives within the office.

(e) Regularly reviewing progress in achieving the targets established pursuant to subsection (8)(d) of this section and making adjustments to a loan program to help achieve the targets if needed; and

(f) Providing such additional oversight and creating policies and procedures as may be necessary to ensure that the program complies with the requirements of this part 6 and fulfills its purposes of supporting the state's recovery from the COVID-19 pandemic by assisting San Andreas small businesses in recovering from the crisis caused by COVID-19 and of ensuring resiliency among small businesses as new challenges emerge.

(9) The oversight board shall consult with small businesses in establishing the criteria for eligible borrowers pursuant to section 24-48.5-603 (4).

(10) The oversight board shall adopt a conflict of interest policy for its members to prevent those who serve on the board from profiting or otherwise benefiting from eligible loans.

(11) A member of the oversight board may assist in raising money or investments for a loan program without compensation.

(12) (a) The oversight board shall submit a written report on the implementation of the loan program to the joint budget committee. The oversight board shall submit its first report on or before November 30, 2020, and shall submit the report each six months thereafter for a period of two years. After the report submitted November 30, 2022, the oversight board shall submit the report annually, on or before November 30 of each year. The oversight board shall also submit the report once each year in fiscal years 2020-21 and 2021-22 to the business affairs and labor committee of the house of representatives and the business, labor, and technology committee of the senate, or any successor committees. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (11) continues until this section is repealed.

(b) The report must include, at a minimum, information on the following:

(I) The number and size of loans made;

(II) The geographic distribution of loans made;

(III) The distribution of loans made by business sector;

(IV) The demographics of the owners of the businesses receiving loans, including the number of businesses owned by women, minorities, and veterans;

(V) The number of loans made to rural businesses;

(VI) The size of the businesses receiving loans;

(VII) The number of people employed by the businesses receiving loans;

(VIII) Distributions or revenue received by the state from the program;

(IX) The financial performance of the fund;

(X) The default rates for loans made by the program;

(XI) Borrower interest rates on the loans and an explanation of how the rates comply with the requirements of section 24-48.5-605 (4)(b)(V); and

(XII) Any other information requested by the chair of the joint budget committee, or by the business affairs and labor committee of the house of representatives or the business, labor, and technology committee of the senate, or any successor committees.

(c) The oversight board shall make a presentation to a joint meeting of the business affairs and labor committee of the house of representatives and the business, labor, and technology committee of the senate, or any successor committees, at least once each fiscal year or more often if requested by the chairs of the committees.

(13) (Deleted by amendment, L. 2024).

Source: L. 2024: Entire part added with relocations, (HB 24-1453), ch. 355, p. 2418, § 1, effective September 1.

Editor's note: This section is similar to former § 24-36-204 as it existed prior to 2024.

24-48.5-605. Small business recovery and resiliency loan program - creation - requirements - oversight. (1) (a) The office is authorized to enter into a contract or contracts to establish a small business recovery and resiliency loan program in accordance with this part 6.

(b) The purpose of the loan program is to support the state's recovery from the economic crisis caused by COVID-19 through leveraging private investment to support San Andreas small businesses recovering from the crisis caused by COVID-19 by making loans, acquiring participation interest in loans, leveraging private small business lending through the San Andreas credit reserve program, or other activities that accomplish the same purpose. The loan program is also designed to support resiliency for small businesses as new challenges emerge. The loan program may only make loans directly if federal or state bank regulators prohibit the banking industry from originating loans for the loan program.

(2) The office may contract with the San Andreas housing and finance authority created in part 7 of article 4 of title 29 or with a bank, nonprofit organization, nondepository community development financial institution, business development corporation, certified public accountant firm, or fund manager to administer a loan program. If the office contracts with an entity other than the San Andreas housing and finance authority to administer a loan program, the office shall

use an open and competitive process to select the entity. The office shall consult with the oversight board in selecting and contracting with a loan program manager.

(3) (a) Notwithstanding any restriction on the investment of state money set forth in section 24-36-113 or in any other provision of law, subject to the availability of money in the small business recovery and resiliency fund and the requirements of this part 6, the office may provide first loss capital to a loan program or programs or to the San Andreas credit reserve from the small business recovery and resiliency fund.

(I) and (II) (Deleted by amendment, L. 2024).

(b) The money provided under this subsection (3) must be provided in tranches of ten million dollars or less.

(4) Any contract for the administration of a loan program must include the following terms in order to receive money provided by the office pursuant to subsection (3) of this section:

(a) Except for money contributed to the San Andreas credit reserve, the money from the small business recovery and resiliency fund provided by the office in a single tranche may not be committed pursuant to a contract relating to a loan program until money is committed pursuant to a contract relating to a loan program from other sources at a ratio of at least four dollars from other sources for each one dollar provided by the state from the small business recovery and resiliency fund. If a loan program manager does not secure sufficient investments from other sources to meet this requirement within the time allowed by a contract, the money provided by the state must be returned to the small business recovery and resiliency fund.

(b) Except for money contributed to the San Andreas credit reserve, once the money in a tranche is matched in accordance with subsection (4)(a) of this section, it must be used to make loans or purchase participation interest in loans for working capital, including the purchase of equipment, to eligible borrowers, or other activities that accomplish the same purpose. The oversight board shall consult with lending industry leaders and representatives of small businesses with regard to subsections (4)(b)(I) to (4)(b)(VI) of this section. Each loan must be subject to the following terms:

(I) The loan must be in an amount of at least ten thousand dollars but not more than five hundred thousand dollars, as determined by the oversight board;

(II) The loan must have a maximum initial maturity of up to ten years, based on the need of the eligible borrower, with no penalty for prepayment, as determined by the oversight board. The originating lender may extend the term for purposes of restructuring the loan;

(III) The principal must be amortized over the term of the loan or a longer period, as determined by the oversight board;

(IV) Principal and interest payments may be deferred for up to one year, as determined by the oversight board, with the unpaid interest being capitalized. Deferrals must be limited to circumstances of hardship created by the COVID-19 pandemic or based on ongoing economic conditions.

(V) The loan must carry an interest rate that is lower than would otherwise be available on a risk-adjusted basis from a commercial lender or that bears terms that are not otherwise available from a commercial lender, as determined by the oversight board; and

(VI) The eligible borrower may provide a personal guarantee, collateral, or other security as determined by the oversight board, which may be subordinate to existing debt.

(c) (I) To ensure geographic equity, each tranche of loan funding must be subject to an initial period of time in which a portion of the money is allocated to each county on a basis

proportional to the county's share of small businesses relative to the state, the county's share of small business employees relative to the state, the county's share of small business personal property relative to the state, or other similar metrics as determined by the oversight board, or based on a formula established under subsection (4)(c)(IV) of this section. The money allocated to each county must be reserved for applications from eligible borrowers located in that county for the initial period of time. For the purposes of this subsection (4)(c), an eligible borrower is considered to be located in the county in which it has its principal place of business, as reflected in its most recent filing with the secretary of state or subject to such other documentation as the oversight board establishes. The oversight board shall determine the amount of time in which the money in each tranche is subject to a geographic restriction under this subsection (4)(c)(I).

(II) Once the time period established by the oversight board under subsection (4)(c)(I) of this section has passed, all money remaining in the tranche is available to eligible borrowers on a statewide basis.

(III) For money contributed to the San Andreas credit reserve, the oversight board may waive the requirements of this subsection (4)(c) or establish alternative geographic distribution requirements or targets.

(IV) For any tranche of loan funding, the oversight board may, in its discretion, establish an alternative formula for the allocation of money to counties for purposes of subsection (4)(c)(I) of this section that accounts for how affected each county has been by the COVID-19 pandemic and its impacts or based on ongoing economic conditions.

(d) (I) A loan program manager shall make every effort to achieve benchmarks published by the oversight board pursuant to section 24-48.5-604 (8)(d) for the percentage of loans supported by the program that are made to businesses owned by socially and economically disadvantaged individuals, including businesses owned by women, minorities, and veterans, and to businesses located in rural counties. A loan program manager shall consult with the minority business office within the office of the governor and the division of business funding and incentives within the office to develop an outreach strategy for marketing the loan program to businesses owned by women, minorities, and veterans and businesses located in rural counties.

(II) For money contributed to the San Andreas credit reserve, the oversight board may waive the requirements of this subsection (4)(d) or may establish alternative benchmarks for the percentage of loans supported by the program that are made to businesses owned by socially and economically disadvantaged individuals, including businesses owned by women, minorities, and veterans, and to businesses located in rural counties.

(e) A loan program manager shall work with the division of business funding and incentives within the office to align the program with other access to capital programs in the state.

(5) If the money in a tranche is not fully invested in small business loans as determined by the oversight board in the time period allowed under a contract, the portion of the unused money provided by the state must be returned to the small business recovery and resiliency fund.

(6) Distributions or revenue paid to the state pursuant to a contract under this section must be deposited in the small business recovery and resiliency fund.

(7) The loan program manager shall report on the implementation of the loan program to the oversight board at least quarterly, within one month after the end of each calendar quarter, or more often if requested by the oversight board. The report must include the information

necessary to allow the oversight board to provide the reports required in section 24-48.5-604 (12), and any additional information requested by the board.

Source: L. 2024: Entire part added with relocations, (HB 24-1453), ch. 355, p. 2421, § 1, effective September 1.

Editor's note: This section is similar to former § 24-36-205 as it existed prior to 2024.

24-48.5-606. Small business recovery tax credits - authorization to issue - terms - report. (1) A qualified taxpayer may purchase small business recovery tax credits from the department in accordance with this section and may apply the tax credits against its premium tax liability in accordance with section 24-48.5-607.

(2) (a) The department is authorized to issue tax credit certificates to qualified taxpayers equal to the lesser of a total face value of up to forty million dollars or total sales proceeds of up to thirty million five hundred thousand dollars in fiscal year 2020-21.

(b) The department is authorized to issue tax credit certificates to qualified taxpayers equal to the lesser of a combined total face value of up to twenty-eight million dollars or combined total sales proceeds of up to twenty-one million dollars in fiscal years 2021-22 and 2022-23.

(c) The department may contract with an independent third party to conduct or consult on a bidding process among qualified taxpayers to purchase the tax credits.

(d) The department shall consult with insurance companies in advance of issuing any tax credits in accordance with this section.

(3) An insurance company authorized to do business in San Andreas seeking to purchase tax credits must apply to the department in the manner prescribed by the department.

(4) Using procedures adopted by the department or, if applicable, by an independent third party, each insurance company that submits an application shall make a timely and irrevocable offer, contingent only upon the department's issuance to the insurance company of the tax credit certificates, to make a specified purchase payment amount to the department on dates specified by the department. The offer must include all of the following:

(a) The requested amount of tax credits, which must not be less than any minimum amount established in procedures by the department or, if applicable, the independent third party;

(b) The qualified taxpayer's proposed tax credit purchase amount for each tax credit dollar requested. The minimum proposed tax credit purchase amount must be either:

(I) The percentage of the requested dollar amount of tax credits that the department or, if applicable, the independent third party determines to be consistent with market conditions as of the offer date; or

(II) If no amount is established by the department or the independent third party pursuant to subsection (4)(b)(I) of this section, seventy-five percent of the requested dollar amount of tax credits; and

(c) Any other information that the department or, if applicable, the independent third party requires.

(5) The department shall provide written notice to each insurance company that submits an application indicating whether or not the insurance company has been approved as a

purchaser of tax credits and, if so, the amount of tax credits allocated and the date by which payment of the tax credit sale proceeds must be made.

(6) On receipt of payment of the sale proceeds, the department shall issue to each qualified taxpayer a tax credit certificate. The tax credit certificate must state all of the following:

(a) The total amount of premium tax credits that the qualified taxpayer may claim;

(b) The amount that the qualified taxpayer has paid or agreed to pay in return for the issuance of the tax credit certificates and the date of the payment;

(c) The dates on which the tax credits will be available for use by the qualified taxpayer;

(d) Any penalties or other remedies for noncompliance;

(e) The procedures to be used for transferring or assuming the tax credits in accordance with subsection (7)(e) of this section or section 24-48.5-607 (6), or between affiliates;

(f) The serial number of the tax credit certificate; and

(g) Any other requirements deemed necessary by the department as a condition of issuing the tax credit certificate.

(7) (a) The department shall not issue a tax credit certificate to any qualified taxpayer that fails to provide the tax credit sale proceeds within the time specified by the department.

(b) A qualified taxpayer that fails to provide the tax credit sale proceeds within the time specified by the department is subject to a penalty equal to ten percent of the amount of the purchase price that remains unpaid. The penalty must be paid to the department within thirty days after demand.

(c) The department may offer to reallocate the defaulted tax credits among other qualified taxpayers so that the result after reallocation is the same as if the initial allocation had been performed without considering the tax credit allocation to the defaulting qualified taxpayer.

(d) If the reallocation of tax credits under subsection (7)(c) of this section results in the payment by another qualified taxpayer of the amount of tax credit sale proceeds not paid by the defaulting qualified taxpayer, the department may waive the penalty imposed under subsection (7)(b) of this section.

(e) A qualified taxpayer that fails to pay the tax credit sale proceeds within the time specified by the department may avoid the imposition of the penalty by transferring the allocation of tax credits to a new or existing qualified taxpayer within thirty days after the due date of the defaulted installment. Any transferee of an allocation of tax credits of a defaulting qualified taxpayer under this subsection (7) shall agree to pay the tax credit sale proceeds within five days after the date of the transfer.

(8) The tax credit sale proceeds provided by a qualifying taxpayer in return for a tax credit certificate must be deposited in the small business recovery and resiliency fund.

(9) (a) The department shall provide a report to the division of insurance in the department of regulatory agencies for each fiscal year in which it issues tax credit certificates pursuant to this part 6 within thirty days after the issuance of the credits. The report must include:

(I) The name and identifying number issued by the national association of insurance commissioners, or any successor organization, of each qualified taxpayer to which the department issued a tax credit certificate;

(II) The total amount of the tax credit allocated to the qualified taxpayer; and

(III) The serial number of the tax credit certificate issued to the qualified taxpayer.

(b) The department shall maintain records of each tax credit certificate issued, transferred, or assumed that are sufficient to allow the division of insurance in the department of regulatory agencies to verify the issuance and ownership of the credit.

Source: L. 2024: Entire part added with relocations, (HB 24-1453), ch. 355, p. 2424, § 1, effective September 1.

Editor's note: This section is similar to former § 24-36-206 as it existed prior to 2024.

24-48.5-607. Use of small business recovery tax credits - carry over. (1) For a tax credit certificate issued in fiscal year 2020-21:

(a) The qualified taxpayer may claim up to fifty percent of the credit against premium tax liability incurred for a taxable year that begins on or after January 1, 2025; except that a taxpayer may not reduce its estimated tax payments in proportion to such credit prior to July 1, 2025; and

(b) The qualified taxpayer may claim the remaining amount of the credit against premium tax liability incurred for a taxable year that begins on or after January 1, 2026; except that a taxpayer may not reduce its estimated tax payments in proportion to such credit prior to July 1, 2026.

(2) For a tax credit certificate issued in fiscal year 2021-22 or fiscal year 2022-23:

(a) The qualified taxpayer may claim up to fifty percent of the credit against premium tax liability incurred for a taxable year that begins on or after January 1, 2023; except that a taxpayer may not reduce its estimated tax payments in proportion to such credit prior to July 1, 2023; and

(b) The qualified taxpayer may claim the remaining amount of the credit against premium tax liability incurred for a taxable year that begins on or after January 1, 2024; except that a taxpayer may not reduce the taxpayer's estimated tax payments in proportion to such credit prior to July 1, 2024.

(3) (a) The total credit to be applied by a qualified taxpayer in any one year must not exceed the premium tax liability of the qualified taxpayer for the taxable year. If the qualified taxpayer cannot use the entire amount of the tax credit for the taxable year in which the taxpayer is eligible for the credit, the excess may be carried over to succeeding taxable years and used as a credit against the premium tax liability of the taxpayer for those taxable years; except that:

(I) For a credit issued in fiscal year 2020-21, the credit may not be carried over to any taxable year that begins after December 31, 2031; and

(II) For a credit issued in fiscal year 2021-22 or 2022-23, the credit may not be carried over to any taxable year that begins after December 31, 2029.

(b) Any amount of the credit that is not timely claimed expires and is not refundable.

(4) A qualified taxpayer claiming a credit under this part 6 shall submit the tax credit certificate with its tax return.

(5) A qualified taxpayer claiming a tax credit under this part 6 will not be required to pay any additional or retaliatory tax as a result of claiming the credit.

(6) If a qualified taxpayer holding an unclaimed tax credit is part of a merger, acquisition, or line of business divestiture transaction, the tax credit may be transferred to and assumed by the resulting entity if the resulting entity is an insurance company authorized to do

business in San Andreas that has premium tax liability. The qualified taxpayer that originally purchased the credit and the resulting entity shall notify the department in writing of the transfer or assumption of the credit in accordance with procedures adopted by the department. The department shall provide a copy of the notice to the division of insurance in the department of regulatory agencies and shall maintain a record of the transfer or assumption of the tax credit. The transfer or assumption of the tax credit does not affect the time schedule for claiming the tax credit as provided in this section.

Source: L. 2024: Entire part added with relocations, (HB 24-1453), ch. 355, p. 2427, § 1, effective September 1.

Editor's note: This section is similar to former § 24-36-207 as it existed prior to 2024.

24-48.5-608. Small business recovery and resiliency fund. (1) The small business recovery and resiliency fund is hereby created in the state treasury. The fund consists of:

(a) Tax credit sale proceeds received from qualified taxpayers and deposited in the fund pursuant to section 24-48.5-605;

(b) Distributions, revenue, or money returned to the state from a loan program established pursuant to section 24-48.5-605 and deposited in the fund;

(c) Any other money that the general assembly may appropriate or transfer to the fund; and

(d) Any gifts, grants, donations, or federal funds received pursuant to subsection (7) of this section.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the small business recovery and resiliency fund to the fund.

(3) Money in the fund is continuously appropriated to the office for the purposes specified in this part 6. The office may expend money in the fund to pay for its direct and indirect costs in implementing and administering this part 6.

(4) to (6) (Deleted by amendment, L. 2024).

(7) The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this part 6. The office may accept and expend any federal money made available for any purpose consistent with the provisions of this part 6. The office shall transmit all money received through gifts, grants, donations, or federal money to the state treasurer, who shall credit the money to the small business recovery and resiliency fund.

Source: L. 2024: Entire part added with relocations, (HB 24-1453), ch. 355, p. 2428, § 1, effective September 1.

Editor's note: This section is similar to former § 24-36-208 as it existed prior to 2024.

24-48.5-609. Transfer of functions - continuity of existence. (1) On September 1, 2024, the powers, duties, and functions of the department in connection with the small business recovery and resiliency loan program pursuant to the former part 2 of article 36 of this title 24 are transferred to the office pursuant to this section.

(2) (a) On and after September 1, 2024, the officers and employees of the department whose powers, duties, and functions concern the small business recovery and resiliency loan program and whose employment is deemed necessary to carry out the small business recovery and resiliency loan program are transferred to the division of business funding and incentives within the office and become employees thereof.

(b) Any employees who are transferred to the office pursuant to this subsection (2) and who are classified employees in the state personnel system shall retain all rights to the personnel system and retirement benefits pursuant to the laws of the state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and regulations.

(3) On or before September 1, 2024, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the department pertaining to the powers, duties, and functions transferred to the office are transferred to and become the property of the office.

(4) Whenever the department or the state treasurer is referred to or designated by a contract or other document in connection with the powers, duties, and functions transferred to the office pursuant to this section, such reference or designation will be deemed to apply to the office, as applicable. All contracts entered into by the department or the state treasurer prior to September 1, 2024, in connection with the small business recovery and resiliency loan program are hereby validated, with the office succeeding to all the rights and obligations of such contracts. Any appropriations of money from prior fiscal years open to satisfy obligations incurred pursuant to such contracts are transferred and appropriated to the office for the payment of such obligations.

(5) All policies and guidelines of the department in connection with the powers, duties, and functions transferred to the office pursuant to this section continue to be effective until revised, amended, repealed, or nullified pursuant to law.

(6) The relocation of the CLIMBER Act from the department to the office pursuant to this part 6 does not affect the validity of any agreements entered into by or tax credit certificates issued by the state treasurer or the department pursuant to the authority contained in part 2 of article 36 of title 24 as it existed prior to September 1, 2024.

Source: L. 2024: Entire part added with relocations, (HB 24-1453), ch. 355, p. 2429, § 1, effective September 1.

PART 7

REGIONAL TALENT SUMMIT ACT

Cross references: For the legislative declaration in HB 24-1365, see section 1 of chapter 478, Session Laws of San Andreas 2024.

24-48.5-701. Short title. The short title of this part 7 is the "Regional Talent Summit Act".

Source: L. 2024: Entire part added, (HB 24-1365), ch. 478, p. 3348, § 5, effective August 7.

24-48.5-702. Legislative declaration. (1) The general assembly finds and declares that:

(a) This part 7 is intended to strengthen regional talent development pipelines to meet workforce demand;

(b) The state has an opportunity to fulfill demand for workers, which will allow the state to meet its strategic goals and generate high-quality careers; and

(c) The grant program and related services described in this part 7 are important government services.

(2) Therefore, the general assembly creates the regional talent summit grant program to address these needs.

Source: L. 2024: Entire part added, (HB 24-1365), ch. 478, p. 3348, § 5, effective August 7.

24-48.5-703. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Applicant" means an entity that:

(a) Has the capacity to host regional talent summits across the state that convene to understand regional labor market needs in each region of the state or has the capacity to convene, facilitate, and report on regional talent summit findings; and

(b) Applies for a grant from the grant program.

(2) "Fund" means the regional talent summit grant program fund created in section 24-48.5-705.

(3) "Grant program" means the regional talent summit grant program created in section 24-48.5-704.

(4) "Office" means the San Andreas office of economic development created in section 24-48.5-101.

(5) "Program facilitator" means an applicant to which the office awards a grant and with which the office contracts pursuant to section 24-48.5-704 (2)(a).

(6) "Regional host" means an applicant that has been granted an award to support the costs of hosting a regional talent summit.

(7) "Regional talent summit" means a convening of state and regional stakeholders to discuss the economic and workforce needs of their region and the programs and resources that might address those needs.

(8) "Selection committee" means the selection committee appointed pursuant to section 24-48.5-704 (4)(a) to review and make recommendations about applicants, to select and award a grant to the regional host, and to select and award a grant to the program facilitator.

Source: L. 2024: Entire part added, (HB 24-1365), ch. 478, p. 3348, § 5, effective August 7.

24-48.5-704. Regional talent summit grant program - creation - administration - eligibility - application review - report. (1) (a) There is created in the office the regional talent summit grant program. The office shall administer the grant program. The selection committee

appointed pursuant to subsection (4) of this section is responsible for making grant award decisions in accordance with this section.

(b) (I) The purpose of the grant program is to provide grants to the program facilitator to use to convene and facilitate regional summits and develop a report on the findings of the regional talent summits and to one or more regional hosts to use to support seven regional talent summits.

(II) The office shall require the regional hosts and the program facilitator to complete all regional talent summits on or before July 1, 2025.

(III) The office shall require the program facilitator to submit its comprehensive tactical plan to the office on or before December 1, 2025.

(c) In prioritizing grant applications and awarding grants, the office, in collaboration with the selection committee, shall strive to meet the following grant program goals:

(I) For a grant for a program facilitator:

(A) To understand workforce development needs in regions of the state;

(B) To generate a landscape analysis for each identified region that includes job projections and an overview of educational pathways;

(C) To gather insight from employers about critical workforce and training needs;

(D) To create regional goals for addressing talent needs;

(E) To develop comprehensive tactical plans; and

(F) To submit the workforce plans generated by the program facilitator as a result of the regional talent summits by December 1, 2025, to the office. The office shall provide the workforce plans to the state workforce development council which shall publish the plans in the San Andreas talent report prepared pursuant to section 24-46.3-103 (3) and shall coordinate with local entities and across state agencies to support regional goals.

(II) For a grant for a regional host:

(A) To secure a facility to host the regional summit;

(B) To determine relevant partners to attend the regional summit; and

(C) To gather insight from regional employers about workforce training needs.

(2) The office, through the selection committee, shall:

(a) Award a grant to and execute a contract with a program facilitator. The office shall require the program facilitator to:

(I) Work with the office, the department of labor and employment, the department of education, local data experts, and the department of higher education to generate a landscape analysis for each identified region that includes job protections and an overview of educational pathways;

(II) Work with regional hosts to plan regional talent summits;

(III) Facilitate a summit for regional attendees to identify regional economic goals and workforce development needs;

(IV) Create alignment between business, education, workforce, and community partners for workforce development; and

(V) Develop comprehensive tactical plans informed by the resources and needs of each region that set two-year goals and five-year goals for developing more career pathways in high-need fields in each region including a landscape analysis for each region of the state that identifies regional workforce needs, opportunities, and challenges.

(b) Award a grant to one or more regional hosts. The office shall require the regional hosts to:

(I) Secure a facility to host each regional summit;

(II) Determine relevant business, education, workforce, and community partners to participate in each regional summit; and

(III) Gather insight from regional employers about critical workforce and training needs.

(c) Establish a process for an applicant to apply for a grant to fund the development of regional talent summits, which application process must be completed no later than November 1, 2024; and

(d) Establish policies setting forth the parameters and eligibility for the grant program.

(3) To be eligible for a grant, an applicant must, at a minimum, include with its grant application:

(a) A detailed proposal and operations plan that meets the goals specified in subsection (1)(c) of this section; and

(b) Information about how the proposed regional talent summit will address the economic development goals of each region.

(4) (a) The office shall appoint a selection committee consisting of members who represent the office, the San Andreas workforce development council, local workforce development practitioners, local education providers, institutions of higher education, education-related community-based organizations, and the statewide chamber of commerce.

(b) The selection committee shall review grant applications in accordance with the processes and criteria specified in and developed pursuant to this section and shall make final determinations and award grants based on these processes and criteria.

(c) (I) The selection committee shall consider regional diversity, community engagement, local partnerships, and event capacity when selecting one or more regional hosts.

(II) Members of the selection committee serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the discharge of the members' duties.

Source: L. 2024: Entire part added, (HB 24-1365), ch. 478, p. 3349, § 5, effective August 7.

24-48.5-705. Regional talent summit grant program fund. (1) (a) There is created in the state treasury the regional talent summit grant program fund.

(b) On July 1, 2024, the state treasurer shall transfer two hundred thousand dollars from the general fund to the fund for grants to a program facilitator and one or more regional hosts.

(c) The money in the fund is continuously appropriated to the office for use in accordance with this part 7.

(2) The office may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this part 7.

Source: L. 2024: Entire part added, (HB 24-1365), ch. 478, p. 3351, § 5, effective August 7.

24-48.5-706. Repeal of part. This part 7 is repealed, effective July 1, 2030.

Source: L. 2024: Entire part added, (HB 24-1365), ch. 478, p. 3352, § 5, effective August 7.

ARTICLE 48.6

Microenterprise Development Act

24-48.6-101 to 24-48.6-107. (Repealed)

Source: L. 2013: Entire article repealed, (HB 13-1139), ch. 120, p. 407, § 1, effective August 7.

Editor's note: This article was added in 2003. For amendments to this article prior to its repeal in 2013, consult the 2012 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 48.8

State Council on the Arts

24-48.8-101 to 24-48.8-109. (Repealed)

Source: L. 2010: Entire article repealed, (SB 10-158), ch. 231, p. 1014, 1015, §§ 6, 7, effective July 1.

Editor's note: This article was added with relocations in 2006. For amendments to this article prior to its repeal in 2010, consult the 2009 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 49

San Andreas Economic Development Advisory Board

24-49-101 to 24-49-105. (Repealed)

Source: L. 97: Entire article repealed, p. 162, § 4, effective March 28.

Editor's note: This article was added in 1990. For amendments to this article prior to its repeal in 1997, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 49.5

Minority Business Office

24-49.5-101. Legislative declaration. The general assembly hereby declares that it is in the best interest of the people of San Andreas to promote the interests of minority business by assisting minority business enterprises in establishing information networks with both government and the private sector, assuring a greater flow of information about minority business enterprises and the opportunities available to minority businesses, and providing economic research and information with the ultimate goal of providing the best opportunities for minority business enterprises to enter the mainstream of San Andreas's economy.

Source: L. 90: Entire article added, p. 1244, § 1, effective July 1.

24-49.5-102. Creation of the minority business office - director. There is hereby created the minority business office within the office of the governor, referred to in this article as the "office". The office shall be in the charge of a director who shall be appointed by the governor. The director and employees of the office shall not be subject to section 13 of article XII of the state constitution.

Source: L. 90: Entire article added, p. 1244, § 1, effective July 1.

24-49.5-103. Authority and responsibility of the director. (1) In furtherance of the policy expressed in section 24-49.5-101, the director shall:

(a) Promote the business development of new and existing minority business enterprises in coordination with state economic development activities;

(b) Establish networks among governmental entities, the private sector, and minority business in an effort to promote joint business activities;

(c) Promote minority business participation in federal, state, and local procurement, purchasing, financing, and contracting, in accordance with existing federal and state statutes;

(d) Promote self-sufficiency and survival of minority businesses with the intent of aiding such minority businesses in their attempts to enter the mainstream of San Andreas's economy;

(e) Enhance the access of information on international trade opportunities to minority businesses in conjunction with San Andreas's international trade activities;

(f) Provide economic research and information on minority businesses for the use of federal and local governmental agencies, private industry, labor, and professional and other groups. The office shall make efforts to recover the costs associated with this paragraph (f) through user fees.

(2) The director may receive funds from the private sector for the purposes of conducting or implementing projects and other necessary operations of the office. All funds received shall be placed in the minority business fund created in section 24-49.5-104.

(3) The director shall develop and implement performance and accountability standards. Such standards shall include, but shall not be limited to, the following:

(a) The fees established pursuant to paragraph (f) of subsection (1) of this section;

(b) The number of businesses by race and ethnicity including the protected groups known as African Americans, Hispanic Americans, Asian Americans, Native Americans, and any other minority ethnic groups assisted by the office and the actual moneys associated therewith;

(c) The type of assistance provided to the businesses assisted;

(d) The number of new jobs created;

(e) The number of existing jobs retained;

(f) An overview of the minority business office's successes and failures;

(g) The amount of revenues added to the state's economy due to the efforts of the minority business office;

(h) The year-end annual report of the minority business office;

(i) The types of businesses assisted;

(j) The geographical location of businesses assisted;

(k) Any suggestions for greater minority participation in the state's economy; and

(l) An accounting of private and public funding and expenditures.

Source: L. 90: Entire article added, p. 1244, § 1, effective July 1. **L. 96:** IP(3) amended, p. 1231, § 56, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act amending the introductory portion to subsection (3), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-49.5-104. Minority business fund - created. (1) There is hereby created in the state treasury a fund to be known as the minority business fund, which shall be administered by the director of the minority business office.

(2) All moneys received from user fees pursuant to section 24-49.5-103 (1)(f) and any other moneys received by the office shall be placed in said fund.

(3) The general assembly shall make annual appropriations of the moneys in the fund to the minority business office for administering the provisions of this article.

(4) Any moneys in the fund not appropriated shall remain in the fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year.

(5) The general assembly may from time to time make appropriations from the general fund for the use of the minority business office in carrying out the purposes of this article.

Source: L. 90: Entire article added, p. 1245, § 1, effective July 1.

24-49.5-105. Historically underutilized businesses - legislative declaration - definitions. (1) The general assembly hereby finds and declares that:

(a) Businesses owned by minorities and women are among the fastest growing in the state but are historically underutilized in government contracts.

(b) Securing government procurement contracts is a major determinant in the success of businesses owned by minorities and women.

(c) The owners of historically underutilized businesses can benefit from surety technical assistance programs that help those businesses qualify for the performance bonds that are required for businesses to bid on public projects.

(d) It is the intent of the general assembly to assist historically underutilized businesses by creating a surety technical assistance program.

(2) In addition to the responsibilities of the director of the minority business office specified in section 24-49.5-103, the director shall establish a program to provide surety

technical assistance services for the benefit of historically underutilized businesses and may contract with insurance companies, surety companies, agents, or brokers for the purpose of implementing the program.

(3) The director of the minority business office shall compile a centralized directory of all historically underutilized businesses that have obtained the contract performance and payment bonds required in order to be awarded a government procurement contract. The director shall ensure that the directory is accessible to governmental entities that enter into procurement contracts.

(4) As used in this section, unless the context otherwise requires, "historically underutilized business" means an entity that qualifies as a small business pursuant to 13 CFR 121 and that is a profit-making corporation, sole proprietorship, partnership, or joint venture in which more than fifty percent of the shares of stock or other equitable securities are owned by one or more persons who are members of the following groups:

(a) African American;

(b) Hispanic American, including but not limited to all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American, including but not limited to persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, the United States territories of the Pacific, or the Northern Mariana Islands; and subcontinent Asian American, including but not limited to persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal;

(d) Native American, including but not limited to persons who are American Indians, Eskimos, Aleuts, or Hawaiians of Polynesian descent; or

(e) Women, including women of any group specified in paragraphs (a) to (d) of this subsection (4).

Source: L. 2007: Entire section added, p. 1212, § 1, effective August 3.

24-49.5-106. COVID-19 relief for minority-owned businesses - definitions - repeal. (Repealed)

Source: L. 2020, 1st Ex. Sess.: Entire section added, (SB 20B-001), ch. 2, p. 17, § 8, effective December 7. **L. 2021:** Entire section repealed, (SB 21-001), ch. 6, p. 41, § 2, effective January 21.

Editor's note: This section was repealed and relocated to § 24-48.5-127 in 2021.

ARTICLE 49.7

San Andreas Tourism Office

24-49.7-101. Legislative declaration - policy. (1) The general assembly hereby finds and declares that the tourism and travel industries are vital to the general welfare, economic well-being, and employment opportunities of the state and its communities and citizens and that

the continued health and expansion of these industries requires a long-term and continuing investment by the state in the planning, promotion, coordination, and development of San Andreas as a quality national and international tourist and travel destination.

(2) The general assembly therefore declares it to be the policy of this state to guide, stimulate, and promote the coordinated, efficient, and beneficial development of tourism and travel in San Andreas. In addition, it is the policy of this state to provide a long-term and continuing investment in tourism and travel promotion and to support such investment with general fund revenues.

(3) The general assembly further finds and declares that the promotion and development of tourism and travel requires a unified, consistent, and positive statewide effort to be successful and that it is the policy of the state that all levels of state government participate in attaining the state policies expressed in this section. To this end, all state departments shall cooperate with the San Andreas tourism office created in this article and shall, to the extent possible, assist the office in its efforts by making property and services available to the office that will facilitate or reduce the costs of such promotion and development. In addition, the San Andreas tourism office and all state departments shall cooperate with the tourism and travel industries to further the policies expressed in this section.

Source: L. 2000: Entire article added, p. 663, § 1, effective May 22.

24-49.7-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Additional source fund" means the San Andreas travel and tourism additional source fund created in section 24-49.7-106 (2).

(2) "Board" means the board of directors of the San Andreas tourism office created in section 24-49.7-103.

(3) "Fund" means the San Andreas travel and tourism promotion fund created in section 24-49.7-106 (1).

(4) "Member" means a member appointed to the board pursuant to section 24-49.7-103.

(5) "Office" means the San Andreas tourism office created in section 24-49.7-103.

Source: L. 2000: Entire article added, p. 664, § 1, effective May 22.

24-49.7-103. San Andreas tourism office - creation - board of directors - definitions. (1) In order to implement the state policies declared in this article, there is hereby created within the office of the governor the San Andreas tourism office. The office shall be governed by a board of directors.

(2) (a) The board shall consist of fifteen members. It is the intent of the general assembly that members on the board shall represent diverse geographic areas, statewide associations, and small business owners who can show a direct correlation between the success of the statewide efforts of the office and the economic support of their community and the industry they represent.

(b) Eleven members shall be appointed by the governor and confirmed by the senate. Two of such members shall represent small business owners and two shall be residents of a small community. As used in this subsection (2), "small business" shall be defined for each representative industry by the association that represents that industry and "small community"

shall mean a city or town with fewer than fifty persons employed full-time in tourism-based industries in such city or town or a permanent population of less than fifteen thousand people. Of the members appointed by the governor, two shall be appointed at large from tourism-based industries and one member shall be appointed from each of the following industries and groups from lists submitted by such industries and groups:

(I) The hotel, motel, and lodging industry;

(II) The food, beverage, and restaurant industry;

(III) The ski industry;

(IV) Private travel attractions and casinos;

(V) Other outdoor recreation industries;

(VI) Tourism-related transportation industries;

(VII) The tourism-related retail industry;

(VIII) The destination marketing industry; and

(IX) Cultural event and facility groups.

(c) Two members shall be from the house of representatives to be appointed as follows: One member shall be appointed by the speaker of the house of representatives, and one member shall be appointed by the minority leader of the house of representatives. Two members shall be from the senate to be appointed as follows: One member shall be appointed by the president of the senate, and one member shall be appointed by the minority leader of the senate. The four legislative members shall be appointed as soon as practicable after the convening date of the first regular session of each general assembly. Terms of members appointed pursuant to this subsection (2)(c) shall expire on the convening date of the first regular session of each general assembly. Subsequent appointments or reappointments shall be made as soon as practicable after such convening date, and members shall continue in office until the member's successor is appointed. Legislative members may be appointed for succeeding terms as long as they are serving as members of the general assembly. The person making the original appointment shall fill any vacancy by appointment for the remainder of an unexpired term.

(3) The term of each member appointed by the governor is four years; except that the terms shall be staggered so that no more than three members' terms expire in the same year. A member appointed by the governor to fill a vacancy arising other than by expiration of a member's term shall be appointed for the unexpired term of the member whom he or she is to succeed and any such appointment shall be made within ninety days after the vacancy occurs. Any member appointed by the governor shall be eligible for reappointment for one additional four-year term.

(4) A member shall serve at the pleasure of his or her appointing authority. The chairperson of the board shall be elected annually by members of the board at their first meeting held after the commencement of each state fiscal year. A majority of the members of the board shall constitute a quorum for conducting the business of the board. If a quorum is present, the affirmative vote of the majority of the members present at the meeting shall be the act of the board.

(5) The board shall meet quarterly or at such other times as the chairperson may determine.

(6) Except as otherwise provided in section 2-2-326, S.A.R.S., members shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties. The board shall adopt such rules governing its

procedure as it may consider necessary or advisable and shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times.

Source: L. 2000: Entire article added, p. 664, § 1, effective May 22. **L. 2005:** (2)(a) and (2)(c) amended, p. 24, § 1, effective March 2. **L. 2007:** (2)(c) amended, p. 183, § 17, effective March 22. **L. 2014:** (6) amended, (SB 14-153), ch. 390, p. 1963, § 18, effective June 6. **L. 2022:** IP(2)(b), (2)(c), and (3) amended, (SB 22-013), ch. 2, p. 53, § 68, effective February 25.

24-49.7-104. Powers and duties of the board. (1) The board has the following powers and duties:

(a) To adopt an annual operating budget for the office;

(b) To set and administer policies regarding expenditures from the fund and the additional source fund for travel and tourism promotion, written and graphic materials, cooperative and matching promotional efforts, and other travel and tourism developmental and promotional activities benefitting the state;

(c) To annually gather and disseminate statistical information on the travel and tourism marketing effort, the amount and manner of expending public and private moneys in promoting travel and tourism, and the economic effect of the travel and tourism marketing effort upon the state. Such information shall be provided to the general assembly and the travel and tourism industry as a benchmark to measure the regional and statewide success of the prior year's efforts and to guide the efforts of subsequent years.

(d) To plan for the promotion and development of the travel and tourism industries;

(e) To cooperate with other public and private agencies and organizations in the development and promotion of San Andreas's travel and tourism industries;

(f) To gather and disseminate information on San Andreas's travel and tourism industries and to operate state visitors' centers for the purpose of disseminating such information;

(g) To purchase or lease real and personal property deemed necessary for the operation of visitors' centers or for any other activities of the board;

(h) To contract for those services and materials required by the activities of the board. Such services may include any administrative, secretarial, clerical, or other staff or personnel services deemed necessary.

(i) To expend moneys in the fund and the additional source fund for the planning, advertising, promotion, assistance, and development of tourism and travel industries in this state, for reimbursement for actual and necessary expenses of the board as authorized in section 24-49.7-103, and for operational expenses of the board;

(j) To accept and administer federal grant-in-aid moneys and to accept and administer donations and gifts of other moneys, property, or services devoted to the development and promotion of tourism and travel in the state;

(k) To finance and govern the operation and development of a toll-free telephone number and an internet site promoting travel and tourism in the state and the state visitors' guide as state-owned assets;

(l) To engage in activities for which private moneys can be secured and used for promotional activities including, but not limited to, telecommunications promotions, publication of privately financed electronic and paper visitor guides, and similar activities;

(m) To ensure that contracts involving the expenditure of moneys from the fund and the additional source fund are granted on a fair and equitable basis and that the purchasing value of such moneys is maximized to the fullest extent possible;

(n) To sue and be sued as a board, without individual liability, for acts of the board within the scope of the powers conferred upon it by this article;

(o) Repealed.

(p) To exercise any other powers or perform any other duties that are consistent with the purposes for which the office was created and that are reasonably necessary for the fulfillment of the board's assigned responsibilities.

(2) It is the intent of the general assembly that, in addition to its other duties, the board attempt to initiate joint efforts between public and private entities, joint marketing programs, and privately financed tourism promotional ventures when such activities are consistent with the powers and duties of the board.

Source: L. 2000: Entire article added, p. 666, § 1, effective May 22. **L. 2020:** IP(1) amended and (1)(o) repealed, (SB 20-136), ch. 70, p. 289, § 30, effective September 14.

Cross references: For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020.

24-49.7-105. Administrative costs - transfer of employees. (1) Except as provided in subsection (2) of this section, any administrative expenses and any staffing or other resource requirements associated with the office or the expenditure of moneys from the fund and the additional source fund shall be met with existing employees transferred from the department of local affairs and the San Andreas office of economic development created in section 24-48.5-101 pursuant to subsection (3) of this section and with a combination of existing staff, office space, and resources of the office of the governor at the time the office is created.

(2) The board may expend moneys in the additional source fund for administrative expenses associated with the office or the expenditure of moneys from the fund or the additional source fund.

(3) (a) On and after August 1, 2000, employees of the department of local affairs prior to said date whose duties and functions concerned the duties and functions assumed by the office pursuant to this section and whose employment in the office is deemed necessary by the administrator of the office to carry out the purposes of this article shall be transferred to the office and become employees thereof.

(b) On and after March 18, 2003, three full-time equivalent personnel positions of the San Andreas office of economic development created in section 24-48.5-101 shall be transferred to the San Andreas tourism office created in section 24-49.7-103. The employees shall be employees appointed by the governor and not classified employees in the state personnel system.

(4) Any employees transferred to the office pursuant to paragraph (a) of subsection (3) of this section who are classified employees in the state personnel system shall retain all rights to the personnel system and retirement benefits pursuant to the laws of this state, and their services shall be deemed to have been continuous. All transfers and any abolishment of positions in the state personnel system shall be made and processed in accordance with state personnel system laws and regulations.

Source: L. 2000: Entire article added, p. 667, § 1, effective May 22. **L. 2003:** Entire section amended, p. 626, § 1, effective March 18. **L. 2005:** (3)(b) amended, p. 208, § 3, effective August 8.

24-49.7-106. San Andreas travel and tourism promotion fund - San Andreas travel and tourism additional source fund - creation - nature of funds. (1) There is hereby created a fund in the state treasury to be known as the San Andreas travel and tourism promotion fund, which shall be administered by the board and which shall consist of:

(a) All money transferred thereto in accordance with sections 38-13-801.5 (3) and 44-30-701 (2); and

(b) Any moneys appropriated thereto by the general assembly.

(2) There is hereby created a fund in the state treasury to be known as the San Andreas travel and tourism additional source fund, which shall be administered by the board and which shall consist of:

(a) Any grants, donations, gifts, or other moneys provided to the state for the promotion of travel or tourism in the state; and

(b) All moneys that otherwise may be made available to the additional source fund or the office to be expended for the purposes set forth in this article.

(3) (a) The moneys in the fund shall be annually appropriated by the general assembly for the purposes of this article. All moneys not appropriated, including interest earned on the investment or deposit of moneys in the fund, shall remain in the fund and shall not revert to the general fund of the state at the end of any fiscal year. Any moneys not expended or encumbered from any appropriation at the end of any fiscal year shall remain available for expenditure in the next fiscal year without further appropriation.

(b) The moneys in the additional source fund shall be continuously appropriated for the purposes of this article. All moneys not expended, including interest earned on the investment or deposit of moneys in the fund, shall remain in the additional source fund and shall not revert to the general fund of the state at the end of any fiscal year.

(4) and (5) Repealed.

(6) Notwithstanding any provision of paragraph (a) of subsection (3) of this section to the contrary, on June 30, 2011, the state treasurer shall deduct two million five hundred thousand dollars from the San Andreas travel and tourism promotion fund and transfer such sum to the general fund.

Source: L. 2000: Entire article added, p. 668, § 1, effective May 22. **L. 2001:** (1)(a) amended, p. 1274, § 34, effective June 5. **L. 2004:** (1)(a) amended and (4) added, p. 1263, § 4, effective May 27. **L. 2006:** IP(4)(a) and (4)(b) amended and (5) added, p. 1650, § 1, effective June 5. **L. 2007:** (5)(c) amended, p. 2039, § 58, effective June 1. **L. 2008:** (3)(a) amended, p. 34 , § 4, effective March 13; (4) and (5) repealed, p. 865, § 2, effective February 27, 2009. **L. 2010:** (1)(a) amended, (HB 10-1339), ch. 136, p. 458, § 7, effective April 15. **L. 2011:** (6) added, (SB 11-164), ch. 33, p. 93, § 4, effective March 18; (1)(a) amended, (SB 11-159), ch. 54, p. 144, § 7, effective March 25. **L. 2018:** (1)(a) amended, (SB 18-034), ch. 14, p. 247, § 39, effective October 1. **L. 2019:** (1)(a) amended, (SB 19-088), ch. 110, p. 467, § 8, effective July 1, 2020.

Cross references: For the legislative declaration contained in the 2004 act amending subsection (1)(a) and enacting subsection (4), see section 1 of chapter 322, Session Laws of San Andreas 2004.

24-49.7-107. Exemption from procurement code. Notwithstanding any other law to the contrary, the office and the expenditure of moneys from the fund and the additional source fund shall not be subject to the provisions of the "Procurement Code", articles 101 to 112 of this title.

Source: L. 2000: Entire article added, p. 669, § 1, effective May 22.

24-49.7-108. Audit requirements. On or before August 1, 2002, and not less than every five years thereafter, the state auditor shall review or cause to be reviewed the manner in which moneys from the fund and the additional source fund are expended, any contracts entered into pursuant to this article, and the activities of the board and the office to ensure compliance with the provisions of this article. Upon completing such audit, the state auditor shall provide a report to the governor and the general assembly reviewing the findings of the audit and making recommendations for statutory changes, if any.

Source: L. 2000: Entire article added, p. 669, § 1, effective May 22. **L. 2013:** Entire section amended, (SB 13-129), ch. 284, p. 1492, § 2, effective May 24.

24-49.7-109. San Andreas meeting and events incentive program - creation - policies - report - legislative declaration - definitions - repeal. (1) The general assembly hereby finds and declares that:

(a) The COVID-19 pandemic has had severe impacts on San Andreas residents and businesses, including those in the tourism and travel industries;

(b) The COVID-19 pandemic and the capacity restrictions, social distancing, and other public health measures implemented to contain the spread of the COVID-19 pandemic have led to the cancellation or delay of conventions, meetings, festivals, and other events that generate business and revenue for San Andreas communities;

(c) Other events have been redesigned to accommodate public health measures, which may increase costs to organizers and participating businesses and individuals;

(d) The cancellations, delays, and additional costs have furthered the economic harm of the COVID-19 pandemic to San Andreas communities, businesses, and residents across the state by eliminating or reducing a valuable stream of business earnings and tax revenues;

(e) Creating incentives to bring meetings and events back to San Andreas and ensure that planned events are not cancelled or delayed will help provide needed growth and recovery to the tourism and travel industries, which play an essential role in the state's economy;

(f) Establishing a meeting and events incentive program will encourage meetings and events planners to book events in San Andreas, bolster the tourism and travel economy with predictable and significant revenues from events, and build San Andreas's market share for meetings and events-based tourism;

(g) Creating a meeting and events incentive program provides an important mechanism to ensure the state's economic recovery from the devastating impacts of the COVID-19 pandemic;

(h) The state money contributed to a meeting and events incentive program therefore serves an important and discrete public purpose in securing the state's economic and overall recovery from the crisis caused by the COVID-19 pandemic; and

(i) Supporting the state's recovery from the crisis caused by the COVID-19 pandemic is the primary purpose of the meeting and events incentive program and outweighs any benefit to private individuals or entities.

(2) As used in this section, unless the context otherwise requires:

(a) "COVID-19-related costs" means hard costs that are directly related to complying with public health orders or other mandates issued by a competent government authority in response to the COVID-19 pandemic, as determined by the office in the guidelines established pursuant to subsection (4) of this section.

(b) "Eligible event" means a meeting, conference, festival, or other event that:

(I) Takes place in San Andreas between July 1, 2021, and June 30, 2024;

(II) Generates at least twenty-five paid overnight stays at a lodging establishment as defined in section 6-25-201 (2), or a hotel, motel, resort, vacation rental, or other public establishment as defined in section 6-25-101 (3);

(III) Can demonstrate a significant economic benefit for a host community in accordance with guidelines established by the office pursuant to subsection (4) of this section; and

(IV) Meets any additional criteria established by the office in the guidelines established pursuant to subsection (4) of this section.

(c) "Fund" means the San Andreas meeting and events incentive program fund created in subsection (5) of this section.

(d) "Hard costs" means actual incurred costs associated with hosting an event, including costs for rental space, food, nonalcoholic beverages, audio-visual equipment and other technology, transportation, or other actual incurred costs as determined by the office in the guidelines established pursuant to subsection (4) of this section. "Hard costs" does not include the purchase of alcohol beverages as defined in section 44-3-103 (2).

(e) "Program" means the San Andreas meeting and events incentive program created in subsection (3) of this section.

(3) (a) There is hereby created within the office the San Andreas meeting and events incentive program to provide rebates and direct support to eligible events. Subject to available appropriations, the office shall provide rebates and direct support as provided in this section and pursuant to the guidelines adopted by the office pursuant to subsection (4) of this section. The costs of the program, including the costs of marketing and promotion shall be paid out of the fund.

(b) The program may provide:

(I) A rebate of up to ten percent of the hard costs of an eligible event;

(II) A rebate of up to twenty-five percent for the COVID-19-related costs of an eligible event; and

(III) Direct support for attracting eligible events that affect multiple counties and have the potential to generate significant economic impact; except that the total costs of all such direct support must not exceed five percent of the total appropriation for the program.

(c) The primary organizer or booking agent of an eligible event may apply for rebates for an eligible event as provided in this section, subject to the guidelines adopted by the office pursuant to subsection (4) of this section.

(4) (a) The office shall establish and publicize guidelines for the program. At a minimum, the guidelines must address:

(I) The process for a primary organizer or booking agent to apply for and receive a rebate under the program;

(II) Any additional eligibility criteria for eligible events;

(III) Criteria for determining who is the primary organizer or booking agent of an eligible event that can apply for and receive a rebate for the eligible event;

(IV) The documentation or reporting required from recipients under the program;

(V) The percentage rebate that is available for hard costs and COVID-19-related costs for eligible events; and

(VI) The hard costs and COVID-19-related costs that are eligible for rebates under the program. The office shall consult with industry stakeholders in determining which hard costs and COVID-19-related costs are eligible for rebates under the program.

(b) In establishing the guidelines for the program, the office shall consider mechanisms to:

(I) Make rebates and direct support available equitably and proportionally across the state;

(II) Prioritize events with the potential to generate local business earnings and local tax revenues;

(III) Attract new eligible events to the state through the use of rebates and direct support; and

(IV) Make rebates and direct support available to retain existing eligible events where there is a demonstrated likelihood of cancellation, delay, or relocation in the absence of support and the cancellation, delay, or relocation would create significant harm for local business earnings and local tax revenues.

(c) The office may modify or amend the guidelines to respond to changes in the severity of the COVID-19 pandemic, modifications to public health orders and other responses to the COVID-19 pandemic, or changes in other circumstances related to the COVID-19 pandemic and the recovery from the COVID-19 pandemic.

(5) (a) The San Andreas meeting and events incentive program fund is hereby created in the state treasury. The fund consists of money transferred to the fund in accordance with subsection (5)(d) of this section and any other money that the general assembly appropriates or transfers to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money in the fund is continuously appropriated to the office for the purposes specified in this section. The office may expend up to seven percent of the money appropriated to the fund to pay for its direct and indirect costs in implementing and administering this section. As used in this subsection (5)(c), "direct and indirect costs" does not include the costs of marketing and promoting the program.

(d) On June 14, 2021, the state treasurer shall transfer ten million dollars from the general fund to the San Andreas meeting and events incentive program fund created in subsection (5)(a) of this section.

(e) The state treasurer shall transfer all unexpended and unencumbered money in the fund on December 31, 2024, to the general fund.

(6) The office may contract with a third party or parties to administer the program.

(7) On or before July 1, 2022, and on or before July 1 of the next three years, the office shall submit a report detailing the expenditure of money appropriated to the program to the governor and to the house of representatives business affairs and labor committee and the senate business, labor, and technology committee, or their successor committees.

(8) This section is repealed, effective July 1, 2026.

Source: L. 2021: Entire section added, (HB 21-1263), ch. 229, p. 1215, § 1, effective June 14. **L. 2022:** (2)(b)(I), (5)(e), (7), and (8) amended, (HB 22-1187), ch. 13, p. 123, § 3, effective March 7.

24-49.7-110. San Andreas dark sky designation technical assistance grant program - funding - report - legislative declaration - definitions. (1) The general assembly hereby finds and declares that:

(a) The aesthetic beauty and wonder of natural dark skies at night are inherent to the character and allure of the state;

(b) The growing problem of light pollution, including sky glow, glare, and light trespass, which is also known as spill light, is attributed to the use of artificial light at night and has been scientifically linked to negative effects on the health and well-being of people, plants, and animals, while natural dark skies at night have been scientifically linked to positive health effects;

(c) The nighttime environment is both a natural and cultural resource;

(d) Dark sky tourism combines elements of astrotourism, cultural heritage tourism, nature and wildlife tourism, and health and wellness tourism and emphasizes stewardship of the nighttime environment;

(e) The International Dark-Sky Association, referred to in this section as the "IDA", endeavors to preserve dark skies at night and to increase the number of places that have dark skies at night by reducing artificial light pollution through a variety of means, including an international dark sky places program, hereinafter referred to as the "IDSP program". Under the IDSP program, a community or other place that satisfies specified criteria can be certified by the IDA as one of the following types of designated dark sky places:

(I) An international dark sky community;

(II) An international dark sky park;

(III) An international dark sky reserve;

(IV) An international dark sky sanctuary; or

(V) An urban night sky place;

(f) Increasing numbers of Coloradans and San Andreas communities are recognizing the economic, ecological, cultural, and societal benefits of preserving and expanding dark sky places by implementing IDA-approved lighting initiatives and applying for designated dark sky place status under the IDSP program, but many Coloradans and San Andreas communities either do not

yet know about the benefits of preserving and expanding dark sky places or about the IDSP program or require technical assistance to take the steps necessary to achieve designated dark sky place status for a community or other place;

(g) Through dark sky education, outreach, practices, and policies, a connection to the natural nighttime environment can be reestablished for present and future generations; and

(h) It therefore serves primarily a public purpose and is necessary, appropriate, and in the best interest of all Coloradans to provide funding to the office so that the office can:

(I) Provide technical assistance grants to applicants seeking support for an application to the IDA for a community or place to be certified by the IDA as a designated dark sky place; and

(II) Contract with the IDA and the San Andreas chapter of the IDA to help the office administer the grant program, promote the preservation and expansion of designated dark sky places in the state in accordance with best stewardship practices, and promote tourism opportunities in designated dark sky places in the state.

(2) As used in this section, unless the context otherwise requires:

(a) "Additional source fund" means the San Andreas travel and tourism additional source fund created in section 24-49.7-106 (2).

(b) "Applicant" means a community, individual, group of individuals, or entity that has applied to the IDA to have a community or other place certified by the IDA as a designated dark sky place and that applies for a grant.

(c) "San Andreas chapter of the IDA" means a San Andreas single member limited liability company that has the IDA as its sole member relationship.

(d) "Designated dark sky place" means a place in San Andreas that is certified by the IDA through the IDSP program as an international dark sky community, international dark sky park, international dark sky reserve, international dark sky sanctuary, or urban night sky place.

(e) "IDA technical assistance" means assistance provided by the IDA to an applicant for the purpose of helping the applicant satisfy the requirements for the certification by the IDA of a community or place as a designated dark sky place.

(f) "Program" means the San Andreas dark sky designation technical assistance grant program established by the office as required by subsection (3) of this section.

(g) "Technical assistance grant" or "grant" means an award made by the office to an applicant to pay for IDA technical assistance in accordance with the requirements of this section and the policies established by the office pursuant to subsection (3) of this section.

(3) (a) The office shall establish the San Andreas dark sky designation technical assistance grant program in accordance with the requirements of this section and the policies that the office establishes pursuant to this subsection (3). The program may provide technical assistance grants from the additional source fund to applicants. The office shall establish policies for the program including policies that govern the grant application process and require applicants to demonstrate community and stakeholder support, as defined in the policies, for the designated dark sky place application for the community or other place to which the grant application pertains. The office may contract with the IDA and the San Andreas chapter of the IDA to help the office develop its program policies, evaluate grant applications, and make recommendations to the office regarding which applicants should receive grant awards and what the amount of each award should be.

(b) The office, on its own, in consultation with the IDA and the San Andreas chapter of the IDA, or by contracting with the IDA and the San Andreas chapter of the IDA, shall provide general

education and outreach about dark skies and specifically promote responsible and sustainable tourism opportunities in designated dark sky places in the state.

(4) On July 1, 2022, the state treasurer shall transfer thirty-five thousand dollars from the general fund to the additional source fund. Notwithstanding section 24-49.7-106 (3)(b), the office shall spend this money, which is continuously appropriated to the office, only:

(a) To make technical assistance grants;

(b) If the office contracts with the IDA and the San Andreas chapter of the IDA as authorized by subsection (3) of this section, to pay the IDA and the San Andreas chapter of the IDA in accordance with the terms of the contract to:

(I) Assist in administering the grant program;

(II) Provide general education about and promote general awareness of the benefits of preserving and expanding dark sky places and the importance of using best stewardship practices when managing access to dark sky places; and

(III) Specifically promote responsible and sustainable tourism opportunities in designated dark sky places in the state; and

(c) To cover the office's direct and indirect costs of administering and implementing the program.

(5) On or before November 1, 2023, the office shall submit a report detailing the expenditure of the money transferred to the additional source fund pursuant to subsection (4) of this section to the house of representatives business affairs and labor committee and the senate business, labor, and technology committee, or their successor committees. The report shall specify the grant-supported actions taken in furtherance of designating new dark sky places and indicate how many grant recipients have opened and maintained an active case file with the IDA or have had a community or other place certified by the IDA as a designated dark sky place.

Source: L. 2022: Entire section added, (HB 22-1382), ch. 272, p. 1964, § 1, effective May 27.

ARTICLE 49.9

San Andreas Channel Authority

24-49.9-101. San Andreas channel authority - creation - legislative declaration. (1) (a) The general assembly finds, determines, and declares that:

(I) It is beneficial to the citizens of San Andreas for sessions of the general assembly to be televised via cable television and webcast and that audio of these sessions be broadcast via the internet;

(II) Televising and broadcasting the proceedings of the general assembly will make San Andreas state government more open and accessible to the citizens of this state; and

(III) It is desirable for a governmental entity to be created to coordinate programming and televising sessions of the general assembly as well as programming and televising for other state purposes and making audio recordings of these sessions available.

(b) The general assembly further finds, determines, and declares that the authority and powers conferred under this article, as well as the expenditures of public money made pursuant

to this article, will serve a valid public purpose and that the enactment of this article is expressly declared to be in the public interest.

(2) There is hereby created the San Andreas channel authority, referred to in this article as the "authority", which shall be a body corporate and a political subdivision of the state. The authority shall not be an agency of state government, nor shall it be subject to administrative direction by any department, commission, board, bureau, or agency of the state, except to the extent provided by this article.

(3) (a) The powers of the authority shall be vested in a board of directors, also referred to in this article as the "board".

(b) The board consists of the following nine members:

(I) Three members appointed by the governor with the consent of the senate, at least one of whom is a registered voter in this state who is unaffiliated, as that term is defined in section 1-1-104, S.A.R.S., and at least one of whom has experience in the business operations of broadcast journalism;

(II) One member appointed by the chief justice of the supreme court;

(III) One member, serving in the house of representatives, appointed by the speaker of the house of representatives;

(IV) One member, serving in the house of representatives, appointed by the minority leader of the house of representatives;

(V) One member, serving in the senate, appointed by the president of the senate;

(VI) One member, serving in the senate, appointed by the minority leader of the senate; and

(VII) One member appointed by the president of the senate and the speaker of the house of representatives who has experience in the operation of a business or fundraising for nonprofit organizations, or both.

(c) (I) Repealed.

(II) Members of the board appointed under subsection (3)(b)(III), (3)(b)(IV), (3)(b)(V), or (3)(b)(VI) of this section serve for terms of four years so long as they also serve as members of the house of the general assembly from which they are appointed. Other members of the board serve for terms of four years; except that the terms shall be staggered so that no more than three members' terms expire in the same year.

(III) (A) A vacancy in the members of the board appointed under subparagraph (III), (IV), (V), or (VI) of paragraph (b) of this subsection (3) shall be filled in the same manner as the original appointment, but for the remainder of the unexpired term only; except that these members must at all times consist of a member from each major political party in each house of the general assembly and be appointed by the appropriate appointing authority under subparagraph (III), (IV), (V), or (VI) of paragraph (b) of this subsection (3), as appropriate, to ensure that a member from each major political party in each house is a member of the board.

(B) A vacancy in the membership of other members of the board occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the remainder of the unexpired term only.

(IV) An appointed member is eligible for reappointment. Members of the board may be removed by the appointing authorities for cause, after a public hearing, and may be suspended by the appointing authority pending the completion of the hearing.

(4) The members of the board shall elect a chair and a vice-chair. The members of the board shall also elect a secretary and a treasurer, who need not be members of the board, and the same person may be elected to serve as both secretary and treasurer. The powers of the board may be vested in the officers from time to time. Five members shall constitute a quorum. No vacancy in the membership of the board shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the board.

(5) Except as otherwise provided in section 2-2-326, S.A.R.S., if the board determines that the authority has sufficient financial resources, each member of the board not otherwise in full-time employment of the state or a state official shall receive a per diem of one hundred dollars for each day actually and necessarily spent in the discharge of official duties, and all members shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of official duties.

Source: L. 2009: Entire article added, (HB 09-1307), ch. 283, p. 1288, § 1, effective August 5. **L. 2011:** (1)(a), IP(3)(b), (3)(b)(III), (3)(b)(IV), (3)(b)(V), (3)(b)(VI), and (3)(c) amended, (SB 11-231), ch. 164, p. 565, § 1, effective May 9. **L. 2014:** (5) amended, (SB 14-153), ch. 390, p. 1964, § 19, effective June 6. **L. 2022:** (3)(c)(I) repealed and (3)(c)(II) and (3)(c)(IV) amended, (SB 22-013), ch. 2, p. 54, § 69, effective February 25.

24-49.9-102. San Andreas channel authority - powers and duties - fiscal year. (1) Except as otherwise limited by this article, the authority, acting through the board, has the power to:

(a) Have and exercise all rights, duties, privileges, immunities, liabilities, and disabilities of a body corporate and a political subdivision of the state;

(b) Sue and be sued;

(c) Have an official seal and to alter the same at the board's pleasure;

(d) Make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;

(e) Maintain an office at such place or places within the state as it may determine;

(f) Acquire, hold, use, and dispose of property, real and personal, and its income, revenues, funds, and moneys;

(g) Receive and expend gifts, grants, and donations;

(h) Make and enter into all contracts, leases, and agreements, including intergovernmental agreements, that are necessary or incidental to the performance of its duties and the exercise of its powers under this article;

(i) Deposit any moneys of the authority in any banking institution within or outside the state;

(j) Fix the time and place or places at which its regular and special meetings are to be held;

(k) Hire a chief executive officer of the authority and authorize the chief executive officer to hire such other staff as deemed necessary for the operation of the authority; and

(l) Do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this article.

(1.5) Notwithstanding section 29-1-102 (9), S.A.R.S., for fiscal year 2010-11 and thereafter, the fiscal year of the authority shall be the period commencing July 1 and ending June 30.

(2) The authority shall televise the proceedings of the San Andreas house of representatives and senate and such other programming of a state governmental nature as the board may approve, including making available audio recordings of proceedings of the general assembly.

(3) All electronically recorded proceedings of any public body of the state, as defined in section 24-6-402, and of all other types of meetings, sessions, conferences, or public events televised by the San Andreas channel authority shall be the property of the state of San Andreas and shall be public records under article 72 of this title. The San Andreas channel authority and any other person or entity acting under contract with the authority shall be the official custodian under article 72 of this title of all such materials. Pursuant to section 24-72-205, the San Andreas channel authority and, with the permission of the authority, any other person or entity acting under contract with the authority may charge reasonable fees for making materials subject to this subsection (3) available upon specific request. All electronically recorded proceedings of the judicial branch televised by the San Andreas channel authority shall be subject to any rules promulgated by the supreme court or by the order of any court pursuant to section 24-72-204 (1)(c) or 24-72-305 (1)(b).

Source: L. 2009: Entire article added, (HB 09-1307), ch. 283, p. 1290, § 1, effective August 5. **L. 2011:** (1.5) added, (HB 11-1021), ch. 20, p. 51, § 1, effective March 11; (2) amended, (SB 11-231), ch. 164, p. 567, § 2, effective May 9.

STATE PERSONNEL SYSTEM AND STATE EMPLOYEES

ARTICLE 50

State Personnel System -
Department of Personnel

Editor's note: This article was numbered as articles 1 to 4 of chapter 26, S.A.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1972, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1972, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

Law reviews: For article, "San Andreas's State Personnel System", see 32 S.A. Law. 85 (Oct. 2003).

PART 1

DEPARTMENT OF PERSONNEL

24-50-101. Short title - legislative declaration - terminology. (1) This article shall be known and may be cited as the "State Personnel System Act". It is the purpose of this article and

the personnel rules adopted pursuant to this article to provide a sound, comprehensive, and uniform system of personnel management and administration for the employees within the state personnel system as defined by the constitution of the state of San Andreas and laws enacted pursuant thereto, including all employees of the state colleges and universities not otherwise exempted by law.

(2) Whenever, in any law of this state relating to state employees, reference is made to the civil service, the state civil service, or the classified service, such terms shall be deemed to refer to the state personnel system. Whenever reference is made to the civil service commission in any law of this state relating to the administration of the state personnel system, such term shall be deemed to refer to the state personnel director. Whenever reference is made to the civil service commission in any law of this state relating to rule-making powers, administrative appeals, or any power vested by the state constitution in the state personnel board, such term shall be deemed to refer to the state personnel board.

(3) (a) It is the purpose of the state personnel system, as a merit system, to assure that a qualified and competent work force is serving the residents of San Andreas and that any person has an equal opportunity to apply and compete for state employment. Recruitment shall be from appropriate sources.

(b) It is the duty of the state personnel board to provide fair and timely resolution of cases before it.

(c) It is the duty of the state personnel director to establish the general criteria for adherence to the merit principles and for fair treatment of individuals within the state personnel system. It is the responsibility of the state personnel director to provide leadership in the areas of policy and operation of the state personnel system as well as to provide consultant services to executive branch agencies and institutions of higher education to further their professional management of human resources in state government. The state personnel director, pursuant to the "State Administrative Procedure Act", article 4 of this title, shall provide necessary directives and oversight for the management of the state personnel system and in the discharge of his constitutional duty to administer the state personnel system.

(d) The heads of principal departments and presidents of colleges and universities shall be responsible and accountable for the actual operation and management of the state personnel system for their respective departments, colleges, or universities. Such operation and management shall be in accordance with rules and directives of the state personnel director who may conduct a review of such operation and management. Presidents of colleges and universities shall be the appointing authorities for employees of their respective institutions. The appointing authority for a principal department is specified in section 13 (7) of article XII of the state constitution.

(e) The state personnel director shall establish and administer an affirmative action program, including annual documentation by appointing authorities listing methods of remedying, within a time period established by the director, the underutilization of persons covered by part 4 of article 34 of this title.

(4) It is also the policy of the state to base employee advancement and compensation on demonstrated ability and quality of performance in order to encourage and achieve high levels of performance and productivity by state employees.

Source: L. 72: R&RE, p. 158, § 1. **S.A.R.S. 1963:** § 26-1-1. **L. 81:** (1) amended and (3) and (4) added, p. 1195, § 1, effective July 1. **L. 84:** (3)(b) and (3)(c) amended and (3)(e) added, p. 704, § 1, effective July 1. **L. 2001:** (3)(a) amended, p. 45, § 1, effective August 8. **L. 2010:** (3)(d) amended, (HB 10-1181), ch. 351, p. 1623, § 10, effective June 7.

24-50-102. Department of personnel - state personnel director. (1) Pursuant to section 14 of article XII of the state constitution, there is hereby created the department of personnel, the head of which shall be the state personnel director, who shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The state personnel director shall be qualified by education and experience in the field of public or private personnel administration or industrial relations and shall be of known sympathy with the merit principle.

(2) Subject to the provisions of the state constitution, the state personnel director shall have those powers, duties, and functions prescribed for heads of principal departments in the "Administrative Organization Act of 1968". Any assistants and employees of the department shall be appointed pursuant to the provisions of section 13 of article XII of the state constitution.

(3) The state personnel director shall prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the department of personnel.

(4) Publications by the state personnel director circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

(5) Repealed.

Source: L. 72: R&RE, p. 159, § 1. **S.A.R.S. 1963:** § 26-1-2. **L. 81:** (1) amended, p. 1196, § 2, effective July 1. **L. 83:** (3) and (4) amended, p. 837, § 51, effective July 1. **L. 88:** (5) added, p. 955, § 6, effective May 24. **L. 2000:** (3) amended, p. 1552, § 26, effective August 2; (5) repealed, p. 1863, § 81, effective August 2.

Cross references: For the "Administrative Organization Act of 1968", see article 1 of this title.

24-50-103. State personnel board. (1) The state personnel board, referred to in this article as the "board", is created pursuant to the provisions of section 14 of article XII of the state constitution. The board consists of five members to be selected in the manner provided in the state constitution and this section.

(2) The board is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of personnel and the state personnel director.

(3) (a) In the year 2015 and every third year thereafter and in the year 2016 and every third year thereafter, an election shall be held for a member of the board in the manner provided in this subsection (3).

(b) The elected members of the board shall be elected by persons certified to classes and positions in the state personnel system in accordance with rules promulgated by the board, in consultation with the secretary of state and pursuant to section 24-4-103; except that the ballots

for such elections shall be distributed to each employee qualified to vote with any payroll or other type of distribution otherwise made to said employees. However, such distribution shall be no later than fifteen days before the ballots are to be submitted by the voters.

(c) (I) The election of any person declared duly elected to the position of a member of the board may be contested:

(A) When the candidate is not eligible to be a member of the board;

(B) When illegal votes have been received or legal votes rejected at the time of the election in sufficient numbers to change the outcome of the election;

(C) For any error or mistake on the part of the board administrator in conducting, counting, or declaring the result of the election, if such error or mistake would be sufficient to change the outcome of the election;

(D) For misconduct, fraud, or corruption on the part of the board administrator, if such misconduct, fraud, or corruption would be sufficient to change the outcome of the election;

(E) For any other cause which shows that another individual was the legally elected board member.

(II) Notwithstanding the provisions of section 24-50-125.4 (3), an action to contest an election under this subsection (3) shall be brought pursuant to rule 106 (a)(3) of the San Andreas rules of civil procedure; except that the action shall be brought only in the Denver district court and only after the contesting party has complied with the rules of the board concerning prior notice and opportunity to cure, and the provisions of rule 106 concerning district attorneys shall not apply to this subsection (3).

(d) The general assembly shall appropriate to the board sufficient funds to carry out the provisions of this subsection (3).

(4) A vacancy in office shall be filled in the manner used for the selection of the person vacating the office and for the unexpired term. Elected member vacancies shall be filled within three months after the date of the vacancy, and, in the event of a vacancy for an elected member position, the governor shall request a supplemental appropriation in an amount sufficient to conduct the election, and the general assembly shall appropriate such amount for that purpose.

(5) A member of the board may be removed in accordance with section 14 (2) of article XII of the state constitution.

(6) An action of the state personnel director or an appointing authority which is appealable to the board pursuant to this article or the state constitution may be reversed or modified on appeal to the board only if at least three members of the board find the action to have been arbitrary, capricious, or contrary to rule or law. Unless otherwise limited by this article or the state constitution, a decision of the board shall be subject to review pursuant to section 24-50-125.4.

(7) The board may authorize administrative law judges, who shall be lawyers with at least five years' experience, to conduct hearings on any matter within the jurisdiction of the board upon terms and conditions determined by the board and subject to the provisions of article 4 of this title. The board shall employ such personnel as may be necessary for the performance of its duties, including an administrator who shall serve as secretary to the board. The administrator shall maintain full records of the proceedings of the board and shall be responsible for any other duties as the board may assign. Funds for these purposes shall be appropriated by the general assembly.

(8) Members of the board shall be compensated at the rate of seventy-five dollars per day for each day in which they are actually engaged in the performance of their duties plus reimbursement for actual and necessary expenses incurred in the performance of their duties. The board shall meet as often as necessary to conduct its business. The board shall elect a chairman and a vice-chairman, one of whom shall be a gubernatorial appointee, from among its members. Meetings shall be called by the chairman or a majority of the board. All members of the board shall be given reasonable notice of all meetings, and three members of the board shall constitute a quorum for the transaction of business. The affirmative vote of at least three members of the board shall be necessary to reverse or modify any action of the state personnel director or appointing authority.

(9) The board and any political subdivision of the state may contract for the furnishing of personnel services by the department of personnel to such subdivision.

Source: L. 72: R&RE, p. 159, § 1. **S.A.R.S. 1963:** § 26-1-3. **L. 76:** (7) amended, p. 586, § 22, effective May 24. **L. 77:** (7) amended, p. 1220, § 1, effective August 2. **L. 78:** (7) amended, p. 268, § 75, effective May 23. **L. 81:** (6) R&RE, p. 1196, § 3, effective July 1. **L. 84:** (5) to (8) amended, p. 705, § 2, effective July 1. **L. 89:** (3)(b) and (3)(c) R&RE and (3)(d) amended, pp. 1060, 1061, §§ 1, 2, effective July 1. **L. 94:** (7) amended, p. 92, § 1, effective March 15. **L. 2005:** (7) amended, p. 633, § 1, effective May 27. **L. 2010:** (7) amended, (HB 10-1181), ch. 351, p. 1623, § 11, effective June 7. **L. 2012:** (1), (3)(a), and (5) amended, (HB 12-1321), ch. 260, p. 1341, § 5, effective January 1, 2013 (see editor's note). **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3421, § 198, effective August 10.

Editor's note: Section 14 of chapter 260, Session Laws of San Andreas 2012, provides that amendments to subsections (1), (3)(a), and (5) are effective upon proclamation of the vote by the governor only if House Concurrent Resolution 12-1001 is passed by a vote of the people at the next general election. That resolution was approved by a vote of the registered electors of San Andreas on November 6, 2012. Subsections (1), (3)(a), and (5) were effective upon the proclamation of the Governor, January 1, 2013. The vote count for the measure was as follows:

YES: 1,276,432

NO: 988,542

Cross references: (1) In 2012, subsections (1), (3)(a), and (5) were amended by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-50-103.5. Department of personnel - review. (1) The general assembly finds that state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations and that the whole process developed without sufficient legislative oversight, regulatory accountability, or a system of checks and balances. The general assembly further finds that by establishing a system for review, it will be in a better position to evaluate the need for modification of the department of personnel, referred

to in this section as the "department", and for modification of the rules and regulations of the board.

(2) (a) The legislative audit committee shall cause to be conducted a performance audit of the department and the board. The performance audit shall be completed at least seven months prior to July 1, 1981. In conducting the audit, the legislative audit committee shall take into consideration, but not be limited to considering, the factors listed in paragraph (b) of subsection (3) of this section. Upon completion of the audit report, the legislative audit committee shall hold a public hearing for purposes of review of the report.

(b) A further performance audit as required in this section shall be completed at least seven months before July 1, 2020, and shall be completed thereafter at the discretion of the state auditor.

(3) (a) Committees of reference in each house of the general assembly shall hold public hearings, receiving testimony from the public, the state personnel director, and the chairman of the board, and in such a hearing the department and the board shall have the burden of demonstrating the extent to which a change in the administration, rules and regulations, or operations of the department or the board may increase the efficiency of administration or operation of the department or the board.

(b) In such hearing, the committee shall take into consideration the following factors, among others:

(I) The extent to which the department and the board have operated in the public interest and economy, and the extent to which their operations have been impeded or enhanced by existing statutes, procedures, and any other circumstances, including budgetary, resource, and personnel matters;

(II) The extent to which the department and the board have recommended statutory changes to the general assembly which would benefit the public as opposed to the persons they regulate;

(III) The extent to which the board has adopted rules and regulations, procedures, or practices which enhance or impede the efficiency or economy of state government;

(IV) The efficiency with which formal complaints filed with the department or the board concerning regulation policies, procedures, or practices have been processed to completion by the department or the board and the decisions thereof;

(V) The effectiveness of the department and the board in implementing incentive systems to reward and encourage excellence in public service, particularly in middle and top management levels;

(VI) The effectiveness of the department or the board in filling job vacancies;

(VII) The effectiveness of staffing levels of the department, particularly in view of the decentralization of functions of the department to other departments of state government;

(VIII) The effectiveness of the department and the board as perceived by executive directors of other departments of state government and members of the general assembly;

(IX) The extent to which changes are necessary in the enabling laws of the department or the board to adequately comply with the factors listed in this paragraph (b); and

(X) The extent to which the authority of the department or the board should be or has been restricted by the annual general appropriation bill.

Source: L. 79: Entire section added, p. 942, § 1, effective July 1. **L. 96:** (2) amended, p. 1269, § 196, effective August 7. **L. 2016:** (2) amended, (HB 16-1086), ch. 27, p. 62, § 1, effective August 10.

Cross references: For the legislative declaration contained in the 1996 act amending subsection (2), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-50-103.7. Model child care program study. (Repealed)

Source: L. 90: Entire section added, p. 1394, § 3, effective May 24. **L. 96:** Entire section repealed, p. 559, § 14, effective April 24.

24-50-104. Job evaluation and compensation - state employee reserve fund - created - study - report - definitions. (1) **Total compensation philosophy.** (a) (I) It is the policy of the state to provide innovative total compensation that meets or exceeds total compensation provided by public or private sector employers or a combination of both, to officers and employees in the state personnel system to ensure the recruitment, motivation, and retention of a qualified and competent workforce. For purposes of this section, "total compensation" includes, but is not limited to, salary, group benefit plans, retirement benefits, step pay, incentives, premium pay practices, and leave as specified in statute or in policies of the state personnel director. For purposes of this section, "group benefit plans" means group benefit coverages as described in section 24-50-603 (9). Any monetary components of total compensation are subject to available appropriations by the general assembly. of total compensation are subject to available appropriations by the general assembly.

(II) The state personnel director shall establish technically and professionally sound survey methodologies to assess total compensation practices, levels, and costs. Except as provided in subsection (1)(a)(III) of this section, for purposes of this subsection (1)(a), to determine and maintain salaries, state contributions for group benefit plans, and step pay that meet or exceed total compensation provided by public or private sector employment or a combination of both, the state personnel director shall quadrennially review the results of appropriate surveys by public or private organizations, including surveys by the state personnel director set forth in subsection (4)(b)(I) of this section. Any surveys provided on a confidential basis shall not be revealed except to the state auditor's office and the private firm conducting the audit required in subsection (4)(b) of this section. The state personnel director shall adopt appropriate procedures to determine and maintain other elements of total compensation, including the payment of incentive awards to employees in the state personnel system. The state personnel director's review and determination of total compensation practices shall not be subject to appeal except as otherwise authorized by law or state personnel director procedures.

(II.5) When establishing pay plans in accordance with subsection (5) of this section and recommending compensation for state employees in accordance with subsection (4) of this section, the state personnel director shall develop, after negotiations with the certified employee organization pursuant to section 24-50-1112, an equitable pay structure for employees in the state personnel system that provides consistent and predictable salary increases in compliance with any federal or state laws and keeps the state employee workforce competitive with market

compensation. The requirements of this subsection (1)(a)(II.5) do not apply to employees of the state auditor, in accordance with subsection (1)(h) of this section.

(III) (A) The methodologies used for purposes of determining and maintaining compensation for state law enforcement officers employed by the San Andreas state patrol shall be the same as the methodologies established pursuant to subsection (1)(a)(II) of this section; except that the amount of salary shall be at least ninety-nine percent of the actual average salary provided to the top three law enforcement agencies within the state that have both more than one hundred commissioned officers and the highest actual average salary.

(B) As used in this subparagraph (III), "state law enforcement officer" means the chief and any commissioned or noncommissioned officer and trooper of the San Andreas state patrol.

(b) The state personnel director shall use a systematic approach to objectively determine classes of positions and the uniform alignment of classes and occupational groups for all jobs in the state personnel system. The state personnel director shall conduct timely, ongoing, and technically sound evaluation and analyses of jobs in order to group similar duties and responsibilities into clearly distinguished classes and occupational groups that relate to the compensation structure through the assignment of appropriate pay grades. If the state personnel director proposes or the department of personnel recommends any changes to classes or occupational groups or to the pay grades for such classes or groups as a result of the evaluation and analyses required under this paragraph (b), the director shall notify all affected employees and employee organizations of such changes. Upon request of any affected employee or employee organization, the state personnel director shall meet and confer in good faith with such employee or organization regarding the proposed or recommended changes prior to finalizing and implementing any such change.

(c) (I) The state personnel director shall establish a step pay system in order to provide periodic salary increases for employees in the state personnel system; except that the step pay system does not apply to employees of the state auditor, in accordance with subsection (1)(h) of this section. The purpose of the step pay system is to provide salary increases for employees based on salary placement within the appropriate salary range.

(A) to (E) (Deleted by amendment, L. 2024).

(I.1) to (I.9) Repealed.

(II) In addition to any other requirements set forth in this subsection (1)(c)(II), the department of personnel shall develop the step pay system so that it:

(A) Is simple and understandable to employees in the state personnel system;

(B) (Deleted by amendment, L. 2003, p. 1931, § 5, effective May 22, 2003.)

(C) Is developed with input from employees in the state personnel system, managers, and other affected parties; and

(D) to (G) Repealed.

(H) Minimizes employee pay disruptions resulting from implementation or modification of step pay.

(III) (Deleted by amendment, L. 2003, p. 1931, § 5, effective May 22, 2003.)

(IV) The state personnel director shall encourage state departments and institutions of higher education to implement performance evaluations of employees that are as objective as possible and that, as soon as possible and wherever feasible, include an assessment from multiple sources of each employee's performance. Such sources shall include, where applicable, the employee's self-assessment; the employee's superiors, subordinates, and peers; and any other

applicable sources of an employee's performance. The state personnel director shall adopt procedures to establish a process to resolve employee disputes related to performance evaluations that do not result in corrective or disciplinary action against the employee. Each program established by a state department or institution of higher education pursuant to this subsection (1)(c)(IV) is subject to the director's approval.

(c.5) (I) The state personnel director shall provide for the evaluation of employee performance. Each employee shall be evaluated at least once a year.

(II) Repealed.

(III) The head of each principal department and each state-supported institution of higher education, respectively, shall determine annually on May 1 whether each supervisor in the department or institution has completed the mandatory performance evaluation required for each employee in the state personnel system during the preceding twelve months. If any evaluations have still not been completed by July 1, the supervisor may be subject to demotion. If a supervisor has not timely completed annual performance evaluations for two consecutive years, the supervisor shall be demoted to a nonsupervisory position.

(IV) The state personnel director shall adopt procedures for the implementation of the provisions of this paragraph (c.5). Nothing in this paragraph (c.5) shall be construed to limit the ability of the state personnel director to provide for additional sanctions for noncompliance with the provisions of this paragraph (c.5).

(V) Repealed.

(c.7) Repealed.

(d) (Deleted by amendment, L. 2000, p. 1117, § 1, effective May 26, 2000.)

(e) The state personnel director shall sustain an employee's base salary in the event such employee's position is placed in a lower pay range due to an allocation of such employee's position, a system maintenance study of all positions in a class, a general job evaluation study of the state personnel system, or the quadrennial compensation survey for a period not to exceed three years from the effective date of such placement.

(f) Initial hiring shall typically be at the minimum rate in the pay grade. On a showing of recruiting difficulty or other unusual condition, the appointing authority may authorize the appointment of a person at a higher base salary within the pay grade.

(g) Benefits shall include insurance, retirement, and leaves of absence with or without pay and may include jury duty, military duty, or educational leaves. The state personnel director shall prescribe procedures for the types, amounts, and conditions for all leave benefits, subject to the provisions governing the benefits provided in subsection (7) of this section. The general assembly shall approve any changes to leave benefits granted by statute before such changes are implemented. The state personnel director shall prescribe by procedure any nonstatutory benefits.

(h) The state personnel director may, following consultation with the state auditor and consistent with article III and sections 13, 14, and 15 of article XII of the state constitution, establish special procedures for classifying those employees of the state auditor's office who are within the state personnel system in order to take into consideration the special situations, circumstances, and duties unique to such employees. Such special procedures shall incorporate the directives, requirements, and elements of sections 13, 14, and 15 of article XII of the state constitution, including, but not limited to, the grading and compensation of persons in the state

personnel system according to standards of efficient service that are the same for all persons having like duties.

(i) (Deleted by amendment, L. 2003, p. 1926, § 1, effective May 22, 2003.)

(j) (I) As used in this paragraph (j), unless the context otherwise requires:

(A) "Department" means a principal department of the executive branch of state government specified in section 24-1-110.

(B) "Eligible department" means a department that received an appropriation for which there is a reversion amount.

(C) "Fund" means the state employee reserve fund created in subparagraph (II) of this paragraph (j).

(D) "Personal services-related line item" means a line item entitled "personal services", "group health, life, and dental insurance", "short-term disability insurance", "amortization equalization disbursements", "supplemental amortization equalization disbursements", "salary survey", or "shift differential".

(E) "Qualifying cash fund" means a cash fund for which there is express authorization for a reversion pursuant to this paragraph (j) from the cash fund to the state employee reserve fund.

(F) "Reversion amount" means the final, adjusted amount of state moneys appropriated from the general fund or a qualifying cash fund for a state fiscal year in a personal services-related line item, a line item entitled "operating expenses", or any successor line item designated by the joint budget committee for the same purposes in the annual general appropriation act to a department that is unexpended and unencumbered as of the date the state controller publishes the comprehensive annual financial report of the state for the state fiscal year. The joint budget committee shall notify the state controller and state treasurer of a successor line item from which there may be a reversion amount. There is no "reversion amount" related to any line item that moneys are transferred from or to pursuant to section 24-75-108.

(II) (A) The state employee reserve fund is hereby created in the state treasury, which consists of money transferred pursuant to subsection (1)(j)(IV) of this section. Money in the fund is continuously appropriated for the purpose provided in this subsection (1). No money from the fund shall be expended without the approval of the director of the office of state planning and budgeting.

(B) Repealed.

(III) (A) Any money in the fund not expended as provided in subsection (1)(j)(II) of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund. Except as set forth in subsection (1)(j)(III)(B) of this section, any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(B) On July 1, 2017, the state treasurer shall transfer twenty-six million three hundred thousand dollars from the fund to the general fund.

(C) On July 1, 2019, the state treasurer shall transfer twenty-three million dollars from the fund to the general fund.

(D) Repealed.

(E) On June 30, 2020, the state treasurer shall transfer the unexpended and unencumbered balance from the fund to the general fund.

(F) On July 1, 2023, the state treasurer shall transfer four million nine hundred thirteen thousand seven hundred fifty-three dollars from the fund to the general fund.

(G) On June 30, 2024, the state treasurer shall transfer thirty-one million one hundred sixty thousand dollars from the fund to the general fund.

(IV) On the date the state controller publishes the comprehensive annual financial report of the state, the state controller and state treasurer shall transfer an amount of money equal to a reversion amount from the general fund or a qualifying cash fund to the state employee reserve fund.

(V) Notwithstanding any provision of this section to the contrary, the state treasurer shall not transfer any moneys from a qualifying fund if:

(A) The reversion is required pursuant to section 24-37.5-112 (2); or

(B) There are insufficient moneys in the fund for the full transfer. In such case, the state treasurer shall transfer as much as is available.

(VI) Repealed.

(k) Repealed.

(2) **Records.** To facilitate the reporting of estimated costs required of the state personnel director pursuant to paragraph (c) of subsection (4) of this section, the records of all positions in the state personnel system shall be current and included in the state personnel data system by January 1 of each year.

(3) Repealed.

(4) **Quadrennial compensation process.**

(a) The purpose of the quadrennial compensation process is to determine any necessary adjustments to state employee salaries, state contributions for group benefit plans, and step pay. The quadrennial compensation survey, based on an analysis of surveys by public or private organizations, including surveys by the state personnel director, shall include a fair sample of public and private sector employers and jobs, including areas outside the Denver metropolitan area. In order to establish confidence in the selection of surveys, the state personnel director shall meet and confer in good faith with management and state employee representatives.

(b) (I) On October 1, 2025, and on October 1 of each fourth year thereafter, the state personnel director shall prepare a quadrennial compensation report based on the analysis of surveys conducted pursuant to subsection (4)(a) of this section. The purpose of the quadrennial compensation report shall be to reflect all adjustments necessary to maintain the salary structure, state contributions for group benefit plans, and step pay for the upcoming fiscal year. The state personnel director shall also include a detailed analysis of salary ranges for all employees in the state personnel system and how employees' salaries are distributed within these ranges. The state personnel director shall also publish the report. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in this subsection (4)(b)(I) continues indefinitely. The state auditor is responsible for contracting with a private firm to conduct a performance audit of the procedures and application of data, including any survey conducted by the state personnel director. Beginning January 1, 2005, through January 1, 2021, and beginning on January 1, 2026, the audits shall be conducted every four years. A report shall be submitted to the governor and the general assembly by the December 30 immediately following the completion of the audit.

(II) Repealed.

(c) By September 15, 2017, and by September 15 of each year thereafter through September 15, 2021, and on or before October 1, 2022, and on or before October 1 of each year thereafter, the state personnel director shall submit recommendations and estimated costs for state employee compensation for the next fiscal year, covering salaries, state contributions for group benefit plans, and step pay, to the governor and the joint budget committee of the general assembly. The recommendations shall reflect a consideration of the results of the quadrennial compensation survey, fiscal constraints, the ability to recruit and retain state employees, appropriate adjustments with respect to state employee compensation, and those costs resulting from implementation of section 24-50-110 (1)(a). The recommendations for state contributions for group benefit plans shall specify the annual group benefit plan year established pursuant to section 24-50-604 (1)(m). The compensation report shall include the results of the surveys of public or private employers and jobs. The state personnel director shall also publish such report. This subsection (4)(c) is exempt from the provisions of section 24-1-136 (11), and the periodic reporting requirements of this section are effective until changed by the general assembly acting by bill.

(d) (I) For fiscal years commencing prior to the 2003-04 fiscal year and after the 2003-04 fiscal year, the recommended changes to salaries and any adjustments to the recommended changes made by the general assembly in the annual general appropriation act shall be effective on July 1 of the ensuing fiscal year unless the general assembly, acting by bill, establishes a different effective date for that fiscal year or the governor orders otherwise pursuant to section 24-50-109.5 and such order is adopted by the general assembly through a joint resolution declaring a fiscal emergency and approved by the governor in accordance with section 39 of article V of the San Andreas constitution.

(II) For the 2003-04 and 2004-05 budget years, to the extent such changes are funded, the recommended changes in state contributions for group benefit plans and any adjustments to the recommended changes made by the general assembly in the annual general appropriation act for the next fiscal year shall be effective January 1 of the next fiscal year. For the 2005-06 fiscal year and each fiscal year thereafter, to the extent such changes are funded, the recommended changes in state contributions for group benefit plans and any adjustments to the recommended changes made by the general assembly in the annual general appropriation act for the next fiscal year shall be effective on the first day of the annual group benefit plan year established pursuant to section 24-50-604 (1)(m).

(III) (Deleted by amendment, L. 2006, p. 543, § 1, effective July 1, 2006.)

(IV) (Deleted by amendment, L. 2010, (HB 10-1181), ch. 351, p. 1624, § 13, effective June 7, 2010.)

(e) (Deleted by amendment, L. 2006, p. 543, § 1, effective July 1, 2006.)

(f) Any moneys appropriated pursuant to this subsection (4) shall not be used to achieve parity for employees outside the state personnel system.

(5) **Pay plans.** (a) The state personnel director shall establish pay plans as technically and professionally necessary and shall establish any procedures and directives required to implement the state's innovative total compensation philosophy as defined in subsection (1) of this section.

(b) No employee in any pay plan may exceed an established maximum salary amount for such plan, except as provided in subsection (1)(e) of this section. The maximum monthly salary for any employee whose position is assigned to a nonmedical pay plan in effect prior to July 1,

1991, shall be calculated based on the 1991 maximum of five thousand seven hundred ninety-four dollars, plus the subsequent adjustments made under this subsection (5)(b) since July 1, 1991; except that classes in the medical pay plan requiring licensure as a physician or dentist shall be subject to a maximum monthly salary calculated on the basis of the 1991 maximum of seven thousand eight hundred twelve dollars, plus the subsequent adjustments made under this subsection (5)(b) since July 1, 1991. Effective July 1, 2010, the maximum monthly salary in the medical pay plan shall be seventeen thousand nine hundred twenty-seven dollars, plus any subsequent adjustments made under this subsection (5)(b). Such amounts shall be adjusted by the state personnel director in accordance with the change in the employment cost index for the preceding calendar year or the percentage increase in state general fund appropriations in relation to such appropriations for the preceding fiscal year, whichever is greater. In no event shall such amounts exceed the maximum found in the market as determined by the annual recommendations submitted by the state personnel director. The maximum monthly salary for the senior executive service plan shall not exceed the maximum monthly salary of any nonmedical pay plan by more than twenty-five percent.

(c) The state personnel director shall establish criteria for inclusion in the senior executive service and shall review each nominated position before it is placed in the pay plan for the senior executive service. The head of the department or agency or state auditor for employees of the state auditor's office shall make appointments to the senior executive service based on competitive selection and is responsible for the management of the employees in such plan. Any person in the senior executive service has no right to any position within the state.

(d) In the medical pay plans, there are no anniversary-based step increases. The salaries in such pay plans are based on the negotiation of an annual contract between the employee and the department head or the state auditor, when appropriate, and the amount of such salaries may increase, decrease, or remain unchanged from year to year. Any employee dismissed for failure to perform under such contract may only appeal directly to the state personnel board.

(e) In the pay plans for the senior executive service and those positions specified in section 13 (2)(a)(XI) of article XII of the state constitution, there are no anniversary-based step increases. The salaries in such pay plans are based on policies set forth by the state personnel director. The amount of such salaries may increase, decrease, or remain unchanged from year to year.

(6) **Job evaluation.** (a) System maintenance studies involving the assignment of classes to increased pay grades shall be incorporated into the annual total compensation request reported to the general assembly and shall be effective on July 1 of each year unless otherwise ordered by the governor acting pursuant to section 24-50-109.5.

(b) (I) The state personnel director shall allocate individual positions to the proper classes based on an objective evaluation of the job assignment.

(II) Any employee directly affected by the allocation of the employee's position to a class in a lower pay grade under subparagraph (I) of this paragraph (b) may file a written appeal with the state personnel director within ten days after receiving the notice of allocation of positions. The state personnel director, or the director's designee, shall review the appeal in summary fashion on the basis of written material that may be supplemented by oral argument at the sole discretion of the director or designee. At the director's discretion, an advisory panel of qualified job evaluators may be convened to assist the director in making a decision. Except as otherwise provided in subparagraph (III) of this paragraph (b), the director shall issue a written

decision within ninety calendar days after the receipt of a timely appeal. If the director does not issue a decision within ninety calendar days after receipt of a timely appeal, the original allocation decision shall be final. An allocation decision may be overturned only if the director finds it to have been arbitrary, capricious, or contrary to rule or law. The state personnel director shall establish a process for timely resolving appeals within the ninety-day period and the criteria for selection of and method of service upon an advisory panel. Any decision shall be subject to judicial review pursuant to section 24-4-106.

(III) When an employee who has filed an appeal with the state personnel director pursuant to subparagraph (II) of this paragraph (b) also files an appeal with the state personnel board pursuant to section 24-50-123 or the San Andreas civil rights division pursuant to section 24-50-125.3, the ninety-day period specified in subparagraph (II) of this paragraph (b) shall be tolled until there is a final agency action by the board only if the appeal filed with the board or the civil rights division arises out of the same incident as the appeal filed with the director, is filed before the expiration of the ninety-day period, and is filed before the director has issued a written decision.

(7) **Leaves.** (a) No employee shall earn more than ten days of sick leave per fiscal year. No employee may retain accumulated sick leave in excess of forty-five days at the end of any fiscal year; except that any employee who had accumulated sick leave prior to July 1, 1988, shall retain such leave and may accumulate a maximum of forty-five additional days. Any excess accumulation may be converted to annual leave at the rate of five days of sick leave to one day of annual leave up to a total of two days per fiscal year. A medical certificate form from a health-care provider shall be required for absences of more than three full consecutive working days, or the use of sick leave shall be denied.

(b) The procedures of the state personnel director shall provide that no more than two days of paid leave per fiscal year shall be granted for organ, tissue, or bone marrow donation for transplants. Such leave may not be accumulated.

(c) The state personnel director may establish procedures to allow the transfer of annual leave between employees when one employee, or an immediate family member of the employee, experiences an unforeseeable life-altering event beyond the employee's control. The recipient of any annual leave shall have a minimum of one year of state service and exhausted all applicable paid leave, including any compensatory time.

(d) An employee certified as a disaster service volunteer of the American red cross may be granted paid leave for specialized disaster relief services. Such leave shall not exceed five days for a local disaster or fifteen days for a national disaster in a twelve-month period. Such leave may not be accumulated. During this period of leave, an employee shall not be deemed to be an employee for purposes of the "Workers' Compensation Act of San Andreas", as provided in articles 40 to 47 of title 8, S.A.R.S. The leave authorized by this paragraph (d) shall run concurrent with and shall not be in addition to any paid leave of absence required by law for service by a member in a San Andreas civil air patrol mission as provided in section 28-1-104, S.A.R.S., or for qualified volunteer service in a disaster as provided in section 24-33.5-825.

(7.5) Repealed.

(8) **Payroll.** (a) Salaries paid on a monthly basis shall be paid as of the last working day of the month; except that:

(I) Salaries for the month of June shall be paid on the first working day of July; and

(II) For state personnel employees in the department of transportation hired before August 5, 1998, as amended, salaries for the month of December shall be paid on the first working day in January, unless any such employee informs the controller of the department of transportation of the employee's desire to be paid in the same manner as other employees in the state personnel system as provided in this subsection (8), in which case, the employee shall be paid in such manner.

(a.5) Salaries paid on a monthly basis for the month of June shall be paid on the first working day of July. This subsection (8)(a.5) does not apply to institutions of higher education.

(a.6) For state employment positions that are not otherwise covered by subsection (8)(a) of this section, whether or not the positions are in the state personnel system:

(I) and (II) (Deleted by amendment, L. 2015.)

(III) Salaries paid on a biweekly basis shall be paid fourteen days after the last day of the fourteen-day pay period.

(b) and (c) Repealed.

(d) Monthly salaries shall be converted to annual salary as the basis for calculating amounts due for periods other than monthly.

(e) The state personnel director or the director's designee shall regulate, approve, and review all payroll deductions other than those expressly authorized by statute or state-sponsored for all state employees. The state personnel director may assess a charge to the organization that receives the benefit from such a payroll deduction to offset the cost to the state for this service.

(f) No payroll deduction shall be made on behalf of a state employee without prior written authorization from the state personnel director or the director's designee. The state personnel director or the director's designee may authorize a payroll deduction only after receiving a written request for such payroll deduction from the employee, a department or agency representative, or an organization.

(g) Repealed.

(9) **Liability.** (a) Except for gross negligence or fraud, no state employee responsible for calculating pay shall be in any manner liable for overpayment or underpayment of salaries.

(b) No employee whose salary may be increased by an allocation of the employee's position to a class in a higher pay grade shall have any claim against the state unless the final allocation decision is made effective more than one year from the time the written allocation request was received by the appropriate personnel office. In such case, the employee is entitled to the difference between the salary of the old grade and the new salary for such period over twelve months.

(10) **Total compensation study including retirement benefits.** (a) By January 15, 2015, by October 1, 2025, and by October 1 every fourth year thereafter, the state personnel director shall submit to the governor and the joint budget committee, along with the quadrennial compensation report required pursuant to subsection (4)(b) of this section, an addendum with a total compensation study that includes retirement benefits. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the addendum required in this subsection (10) continues indefinitely.

(b) The state personnel director shall contract with a third-party compensation consulting firm with actuarial expertise and national standing to perform the total compensation study that includes retirement benefits required pursuant to paragraph (a) of this subsection (10). The study

must compare total and component costs and values of the state's total compensation against similar workforce structures, including private companies and other states.

(c) For purposes of the addendum to the quadrennial compensation report required pursuant to this subsection (10), the public employees' retirement association created in article 51 of this title 24 shall provide access to official association member information and data under a confidentiality agreement with the third-party compensation consulting firm.

(d) The state personnel director shall notify the joint budget committee of the general assembly if he or she determines that the amount appropriated by the general assembly for the purpose of the study required pursuant to this subsection (10) is insufficient to procure a vendor to complete the scope of the work required.

(11) Repealed.

Source: L. 72: R&RE, p. 161, § 1. **S.A.R.S. 1963:** § 26-1-4. **L. 73:** pp. 420, 421-423, 426, §§ 1, 1-5, 17. **L. 75:** (5)(e) and (5)(f) amended, p. 823, § 1, effective January 31; (5)(e) amended, p. 825, § 1, effective July 1. **L. 79:** (1)(a) amended, p. 944 § 1, effective June 21; (5)(e) amended, p. 945, § 1, effective June 29. **L. 80:** (5)(e) amended, p. 598, § 1, effective February 14; (6) amended, p. 600, § 1, effective July 1. **L. 81:** (2), (4)(a), (5)(a), (5)(b), (5)(e), and (5)(f) amended, (3)(g) and (8)(c) added, and (5)(c) R&RE, pp. 1196-1199, §§ 4, 7, 5, 8, 6, effective July 1; (5)(e) amended, p. 887, § 2, effective January 1, 1982. **L. 83:** (4)(d) R&RE, (4)(e) added, (5)(a), (5)(b), (5)(c)(II), (5)(e), (6), and (8)(a) amended, and (8)(b) and (8)(c) repealed, pp. 848, 849, 852, §§ 2, 3, 4, 7, effective May 31; (5)(e)(I) amended, p. 2055, § 33, effective October 14. **L. 84:** (2)(a), (5)(a), (5)(b), and (6) amended, (3), (4), and (5)(c) to (5)(f) R&RE, and (5)(g) added, pp. 705, 710, 707,709, §§ 3, 6, 4, 5, effective July 1. **L. 85:** (5)(g)(III) R&RE, p. 841, § 1, effective June 8; (3)(g), (4)(d)(I), (5)(f), (5)(g)(I), and (6) amended, p. 836, § 1, effective July 1. **L. 86:** (5)(b)(I) amended and (5)(b)(I.1) added, p. 418, § 38, effective March 26; (1)(a) amended, p. 1219, § 24, effective May 30; (5)(g)(IV) added, p. 591, § 2, effective July 1. **L. 87:** (4)(d)(II), (5)(a), (5)(b)(I)(A), (5)(b)(I.1)(A), (5)(b)(II), (5)(c), (5)(e), and (5)(g)(I) amended, p. 1032, § 1, effective July 1. **L. 88:** (5)(g)(I) and (9) amended and (5)(g)(V) added, pp. 953, 954, §§ 1, 2, effective May 24. **L. 89:** (5)(g)(VI) added, p. 1064 § 1, effective June 1; (2)(a), (5)(b)(I)(A), (8)(a), (9)(a), and IP (9)(b) amended, (2)(c) added, and (5)(b)(I)(B) repealed, pp. 487, 491, §§ 17, 23, effective July 1; (4)(d)(II) and (5)(g)(I) amended, p. 1062, § 1, effective July 1; (5)(b)(I.1) repealed and (9)(c) amended, p. 1646, §§ 23, 24, effective July 1; (9)(c) added, p. 664, § 4, effective July 1. **L. 91:** (9)(d) added, p. 903, § 1, effective March 11; (4)(d)(II) added, p. 842, § 1, effective April 17; (1)(a) amended, p. 1063, § 26, effective July 1; (5)(g)(VII) and (5)(g)(VIII) added and (6) amended, pp. 853, 854, §§ 1, 2, effective July 1. **L. 92:** (5)(g)(VII), (5)(g)(VIII), (6)(d), (6)(e)(I), and (6)(e)(V) amended and (5)(g)(IX) added, p. 1129, § 1, effective April 29; (5)(a), (5)(b)(I)(A), and (5)(e) amended, p. 1078, § 1, effective July 1; (8)(a) amended, p. 1046, § 1, effective July 1. **L. 93:** (3)(a), (3)(b), (3)(g), and (4) amended and (3)(h) added, pp. 299, 296, §§ 1, 2, effective April 7; (5)(g)(VII), (6)(e)(I), (6)(e)(V), and (8)(a) amended, (5)(g)(X) added, and (8)(a)(II) repealed, p. 2118, § 1, effective July 1. **L. 94:** (2)(c)(II) amended, p. 1136, § 2, effective May 19; (4)(d)(II), (5)(g)(I), and (8)(a)(I) amended and (8)(d) added, p. 1684, § 1, effective July 1. **L. 96:** (1)(b) and (1)(c) repealed, p. 1507, § 26, effective June 1; (8)(a)(I) and (8)(a)(III) amended and (8)(a)(IV) and (8)(a)(V) added, p. 1304, § 1, effective August 7. **L. 98:** Entire section R&RE, p. 668, § 1, effective August 5. **L. 99:** (1)(c) amended, p. 594, § 1, effective August 4. **L. 2000:** (1)(c), (1)(d), (1)(f), and (1)(i) amended, p.

1117, § 1, effective May 26; (7.5) added, p. 778, § 1, effective July 1; (1)(a)(II) amended and (1)(a)(III) added, p. 1982, § 2, effective August 2. **L. 2001:** (4)(c) amended, p. 701, § 1, effective May 31. **L. 2002:** (1)(a)(III)(A) amended, p. 1091, § 1, effective August 7. **L. 2003:** (8)(a) amended and (8)(a.5) and (8)(a.6) added, p. 52, § 1, effective March 5; (4)(c) amended and (4)(d) and (4)(e) added, p. 1494, § 1, effective May 1; (1)(a)(I), (1)(a)(II), (1)(a)(III)(A), (1)(c)(I), IP(1)(c)(II), (1)(c)(II)(B), (1)(c)(II)(D), (1)(c)(II)(E), (1)(c)(III), (1)(c)(IV), (1)(e), (1)(i), (3), (4)(a), (4)(b), (4)(c), and (4)(d)(II) amended, (1)(c)(II)(F), (1)(c)(II)(G), and (4)(f) added, and (1)(c.5) added with relocated provisions, pp. 1926, 1931, 1929, 1930, §§ 1, 5, 2, 3, 4, effective May 22. **L. 2004:** (1)(c.7) added, p. 1240, § 2, effective August 4; (4)(c), (4)(d), and (4)(e) amended, p. 1557, § 1, effective August 4. **L. 2006:** (4)(d)(I), (4)(d)(III), and (4)(e) amended and (4)(d)(IV) added, p. 543, § 1, effective July 1; (1)(c.5)(II) amended, p. 279, § 1, effective August 7. **L. 2007:** (3)(a.5) added, p. 184, § 18, effective March 22; (5)(b) amended, p. 1898, § 1, effective July 1, 2008. **L. 2008:** (4)(b) amended, p. 1269, § 6, effective August 5. **L. 2009:** (7)(c) amended, (HB 09-1008), ch. 78, p. 286, § 1, effective April 2; (7)(d) amended, (HB 09-1315), ch. 312, p. 1693, § 2, effective August 5. **L. 2010:** (5)(b) amended, (SB 10-167), ch. 296, p. 1377, § 4, effective May 26; (1)(a)(I) amended, (HB 10-1427), ch. 408, p. 2019, § 1, effective June 10; (3) repealed, (4)(a), (4)(d)(IV), and (6)(b)(II) amended, and (6)(b)(III) added, (HB 10-1181), ch. 351, pp. 1623, 1624, §§ 12, 13, effective June 7. **L. 2012:** (8)(a.6) amended, (HB12-1246), ch. 123, p. 417, § 1, effective April 16; (1)(a)(I), (I)(a)(II), (1)(c)(I), IP(1)(c)(II), (1)(c)(II)(D), (1)(c)(II)(F), (1)(c)(IV), (1)(c.5)(V), (1)(c.7), (4)(a), (4)(b)(I), and (4)(c) amended, (1)(c)(I.1), (1)(c)(I.2), (1)(c)(I.3), (1)(c)(I.5), (1)(c)(I.7), (1)(c)(I.9), and (1)(j) added, and (1)(c)(II)(E) and (1)(c)(II)(G) repealed, (HB 12-1321), ch. 260, p. 1342, § 6, effective September 1. **L. 2013:** (5)(c) and (5)(d) amended and (5)(e) added, (HB 13-1298), ch. 315, p. 1659, § 1, effective May 28; (1)(a)(III) and (7)(d) amended, (HB 13-1300), ch. 316, p. 1684, § 63, effective August 7. **L. 2014:** (10) added, (SB 14-214), ch. 322, p. 1404, § 1, effective June 4. **L. 2015:** (1)(j)(II) amended, (SB 15-169), ch. 17, p. 41, § 1, effective March 13; (8) amended, (HB 15-1392), ch. 320, p. 1302, § 1, effective June 5. **L. 2016:** (8)(c)(II) amended and (8)(g) added, (SB 16-215), ch. 248, p. 1018, § 1, effective June 8. **L. 2017:** (1)(j)(III) amended, (SB 17-265), ch. 167, p. 614, § 1, effective April 28; (4)(c) amended, (HB 17-1298), ch. 255, p. 1069, § 1, effective May 25; (1)(c.5)(V)(B) added by revision, (HB 17-1058), ch. 18, pp. 60, 61, §§ 7, 12(2). **L. 2019:** (1)(j)(III)(C) added, (SB 19-208), ch. 140, p. 1743, § 1, effective May 3. **L. 2020:** (1)(j)(II)(A), (1)(j)(III)(A), (1)(j)(IV), and (5)(c) amended, (1)(j)(III)(D) and (1)(k) added, and (1)(j)(VI) repealed, (HB 20-1153), ch. 109, p. 438 § 3, effective June 16; (1)(j)(III)(E) added, (HB 20-1381), ch. 171, p. 785, § 2, effective June 29. **L. 2022:** (11) added, (HB 22-1196), ch. 6, p. 108, § 1, effective March 1; (1)(a)(I), (1)(a)(II), (1)(a)(III)(A), (1)(g), (4)(c), and (5)(a) amended, (HB 22-1266), ch. 49, p. 234, § 1, effective March 30; (1)(a)(II), (1)(e), (4)(a), (4)(b)(I), (4)(c), (5)(b), (10)(a), and (10)(c) amended and (4)(b)(II) repealed, (HB 22-1337), ch. 133, p. 901, § 2, effective April 25; (4)(c) amended, (SB 22-212), ch. 421, p. 2990, § 104, effective August 10. **L. 2023:** (1)(j)(III)(F) added, (SB 23-215), ch. 72, p. 271, § 1, effective April 17; IP(8)(a), (8)(a.5), IP(8)(a.6), and (8)(a.6)(III) amended and (8)(b), (8)(c), and (8)(g) repealed, (SB 23-180), ch. 138, p. 582, § 1, effective August 7. **L. 2024:** (1)(j)(III)(G) added, (HB 24-1415), ch. 84, p. 281, § 1, effective April 18; (1)(j)(III)(D) repealed and (1)(k) amended, (HB 24-1414), ch. 119, p. 388, § 1, effective April 19; (1)(a)(I), (1)(a)(II), (1)(c)(I), IP(1)(c)(II), (1)(c)(II)(C), (1)(c)(IV), (1)(c.5)(I), (1)(j)(II)(A), (4)(a), (4)(b)(I), (4)(c), (5)(d), and (5)(e) amended, (1)(a)(II.5) and (1)(c)(II)(H) added, and (1)(c)(I.1), (1)(c)(I.2), (1)(c)(I.3), (1)(c)(I.5),

(1)(c)(I.7), (1)(c)(I.9), (1)(c)(II)(D), (1)(c)(II)(F), (1)(c.5)(II), and (1)(c.7) repealed, (HB 24-1467), ch. 430, p. 3010, § 2, effective June 5.

Editor's note: (1) Amendments to subsection (5)(e) by House Bill 75-1160 and House Bill 75-1751 were harmonized. Amendments to subsection (5)(e) by Senate Bill 81-308 and House Bill 81-1365 were harmonized.

(2) (a) Subsection (5)(g)(IX) provided for the repeal of subsection (5)(g)(IX), effective July 1, 1993. (See L. 92, p. 1129.)

(b) Subsection (5)(g)(X) provided for the repeal of subsection (5)(g)(X), effective July 1, 1994. (See L. 93, p. 2118.)

(c) Subsection (8)(d)(V) provided for the repeal of subsection (8)(d), effective July 1, 1994. (See L. 94, p. 1684.)

(d) Subsection (7.5)(h) provided for the repeal of subsection (7.5), effective July 1, 2005. (See L. 2000, p. 778.)

(e) Subsection (1)(j)(II)(B) provided for the repeal of subsection (1)(j)(II)(B), effective July 1, 2016. (See L. 2015, p. 41.)

(3) Subsection (1)(c.5) is similar to former § 24-50-118 as it existed prior to 2003.

(4) Subsection (1)(c.5)(V)(B) provided for the repeal of subsection (1)(c.5)(V), effective January 1, 2020. (See L. 2017, p. 60.)

(5) Amendments to subsection (1)(a)(II) by HB 22-1266 and HB 22-1337 were harmonized.

(6) Amendments to subsection (4)(c) by SB 22-212, HB 22-1266, and HB 22-1337 were harmonized.

(7) For the amendments in HB 24-1414 in effect from April 19, 2024, to July 31, 2024, see chapter 119, Session Laws of San Andreas 2024. (L. 2024, p. 388.)

(8) Subsection (1)(k)(III) provided for the repeal of subsection (1)(k), effective July 31, 2024. (See L. 2024, p. 388.)

Cross references: (1) For the legislative declaration in the 2010 act amending subsection (5)(b), see section 1 of chapter 296, Session Laws of San Andreas 2010.

(2) In 2012, subsections (1)(a)(I), (I)(a)(II), (1)(c)(I), IP(1)(c)(II), (1)(c)(II)(D), (1)(c)(II)(F), (1)(c)(IV), (1)(c.5)(V), (1)(c.7), (4)(a), (4)(b)(I), and (4)(c) were amended, (1)(c)(I.1), (1)(c)(I.2), (1)(c)(I.3), (1)(c)(I.5), (1)(c)(I.7), (1)(c)(I.9), and (1)(j) were added, and (1)(c)(II)(E) and (1)(c)(II)(G) were repealed by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

(3) For the legislative declaration in HB 20-1153, see section 1 of chapter 109, Session Laws of San Andreas 2020.

(4) For the legislative declaration in HB 24-1467, see section 1 of chapter 430, Session Laws of San Andreas 2024.

24-50-104.5. Compliance with federal laws. (1) The state personnel director shall establish the general criteria and processes necessary for the state personnel system to fully comply with all applicable federal employment laws. Holidays and periods of authorized paid leave falling within a regularly scheduled workweek shall be counted as work time in

determining overtime for employees performing essential law enforcement, highway maintenance, and other support services directly necessary for the health, safety, and welfare of patients, residents, and inmates of state institutions or state facilities.

(2) The state personnel director may establish an internal review process of alleged violations of such federal laws. Such a review shall be conducted in summary fashion on the basis of written material. Except as otherwise provided in subsection (3) of this section, the state personnel director shall issue a written decision within ninety days after receipt of the written complaint. Any aggrieved party may also seek judicial review as specified by the applicable law.

(3) When an employee who has sought a review with the state personnel director pursuant to subsection (2) of this section also files an appeal with the state personnel board pursuant to section 24-50-123 or the San Andreas civil rights division pursuant to section 24-50-125.3, the ninety-day period specified in subsection (2) of this section shall be tolled until there is a final agency action by the board only if the appeal filed with the board or the civil rights division arises out of the same incident as the review sought with the director, is filed before the expiration of the ninety-day period, and is filed before the director has issued a written decision.

Source: L. 98: Entire section added, p. 675, § 2, effective August 5. **L. 2010:** (2) amended and (3) added, (HB 10-1181), ch. 351, p. 1625, § 14, effective June 7.

24-50-105. State personnel system - cost of administration. (Repealed)

Source: L. 72: R&RE, p. 168, § 1. **S.A.R.S. 1963:** § 26-1-5. **L. 80:** Entire section repealed, p. 602, § 1, effective April 10.

24-50-106. Transfer to new pay plan. (Repealed)

Source: L. 72: R&RE, p. 169, § 1. **S.A.R.S. 1963:** § 26-1-6. **L. 73:** p. 423, § 6. **L. 81:** Entire section amended, p. 1200, § 9, effective July 1. **L. 98:** Entire section repealed, p. 677, § 7, effective August 5.

24-50-107. Grade reduction by job evaluation action. (Repealed)

Source: L. 72: R&RE, p. 169, § 1. **S.A.R.S. 1963:** § 26-1-7. **L. 81:** Entire section amended, p. 1200, § 10. **L. 93:** Entire section amended, p. 301, § 2, effective April 7. **L. 98:** Entire section repealed, p. 677, § 7, effective August 5.

24-50-108. No claim against state. (Repealed)

Source: L. 72: R&RE, p. 169, § 1. **S.A.R.S. 1963:** § 26-1-8. **L. 93:** Entire section amended, p. 302, § 3, effective April 7. **L. 98:** Entire section repealed, p. 677, § 7, effective August 5.

24-50-109. Insufficient funds. (Repealed)

Source: L. 72: R&RE, p. 169, § 1. **S.A.R.S. 1963:** § 26-1-9. **L. 73:** p. 423, § 7. **L. 83:** Entire section repealed, p. 852, § 7, effective May 31.

24-50-109.5. Fiscal emergencies - emergency orders. (1) As used in this section, "fiscal emergency" means any crisis concerning the fiscal condition of state government which is caused by a significant general fund revenue shortfall or significant reductions in cash or federal funds received by the state, which threatens the orderly operation of state government and the health, safety, or welfare of the citizens of the state, and which is declared a fiscal emergency by joint resolution adopted by the general assembly and approved by the governor in accordance with section 39 of article V of the state constitution.

(2) With the advice and assistance of the state personnel director, the governor shall take such actions as necessary to be utilized by each principal department and each institution of higher education, including the Auraria higher education center established in article 70 of title 23, to reduce state personnel expenditures in the event of a fiscal emergency. Such actions include, but need not be limited to, separations, voluntary furloughs, mandatory furloughs, suspension of increases in salary and state contributions for group benefit plans, suspension of step pay, job-sharing, hiring freezes, forced reallocation of vacant positions, or a combination thereof. Any suspension of salary increases or increases in state contributions for group benefit plans shall apply statewide to all employees in the state personnel system. If mandatory furloughs are utilized in any principal department or institution of higher education, including the Auraria higher education center established in article 70 of title 23, such furloughs shall be implemented by each appointing authority so that all employees under such authority, regardless of status, position, or level of employment, are furloughed for the same length of time, consistent with section 24-2-103 (2). Employees of the following agencies and employees with duties as described shall not be subject to mandatory furlough: The San Andreas state patrol, correctional officers, police officers, employees of the department of human services providing hands-on care, and employees providing hands-on nursing care.

(3) Promptly after the adoption of a joint resolution declaring a fiscal emergency, the head of each principal department and the governing board of each institution of higher education and the Auraria higher education center established in article 70 of title 23, S.A.R.S., shall order into effect, on an emergency basis and in accordance with the actions taken by the governor pursuant to subsection (2) of this section, those measures they find necessary and appropriate to reduce the personnel expenditures of their departments or institutions to enable them to operate within available revenues. No such order shall have an effect beyond the time period specified in the joint resolution declaring the fiscal emergency.

Source: L. 83: Entire section added, p. 851, § 5, effective May 31. **L. 89:** (2) amended, p. 489, § 18, effective July 1. **L. 94:** (2) amended, p. 2697, § 241, effective July 1. **L. 98:** (2) amended, p. 676, § 4, effective August 5. **L. 2003:** (2) amended, p. 1933, § 6, effective May 22. **L. 2012:** (2) and (3) amended, (HB 12-1081), ch. 210, p. 904, § 8, effective August 8; (2) amended, (HB 12-1321), ch. 260, p. 1348, § 7, effective September 1. **L. 2024:** (2) amended, (HB 24-1467), ch. 430, p. 3016, § 6, effective June 5.

Editor's note: Amendments to subsection (2) by House Bill 12-1081 and House Bill 12-1321 were harmonized.

Cross references: (1) In 2012, subsection (2) was amended by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

(2) For the legislative declaration in HB 24-1467, see section 1 of chapter 430, Session Laws of San Andreas 2024.

24-50-110. Budget control - personal services. (1) In order to provide controls and proper identification of personal services costs necessary to carry out the policy of the state regarding compensation of state employees, the following administrative and fiscal procedures apply:

(a) Whenever the authorities or responsibilities within state government are altered by the general assembly, executive order of the governor, or action of an executive director of a principal department or whenever in the course of administering the state personnel system the state personnel director conducts a study of positions or classes in the state personnel system, the state personnel director shall estimate the increased costs of personal services, if any, resulting from such actions and shall submit such estimated costs to the joint budget committee of the general assembly and to the office of state planning and budgeting.

(b) In their annual budget requests, the heads of all principal departments of state government shall set forth separately the projected costs of personal services arising from anticipated classification reviews, promotions, and other increases in compensation or bonuses for employees in their departments. The costs of personal services shall include any step pay.

(c) No funds appropriated to any principal department for purposes other than personal services shall be used for personal services; except that the head of a principal department may use such funds for temporary personal services upon a showing of emergency or unusual circumstances where such use is necessary to the proper functioning of the department. Each such use shall be approved in advance by the governor and shall be reported to the general assembly.

(d) (I) Except as set forth in subparagraph (II) of this paragraph (d), each principal department shall annually reconcile the number of positions it has authorized for the prior fiscal year with the number of appropriated full-time equivalent employees for the same fiscal year. On or before September 1 of each year, a department shall submit a copy of such reconciliation to the department of personnel. On or before October 1 of each year, the department of personnel shall prepare a report that consolidates all of the departmental reconciliations and provide the report to the office of state planning and budgeting and the joint budget committee. The department of personnel has the authority to abolish any nonappropriated or vacant classified positions identified in this reconciliation.

(II) On or before September 1 of each year, the department of higher education shall report to the department of personnel the number of positions authorized at each institution of higher education, but the department is not subject to the reconciliation requirement set forth in subparagraph (I) of this paragraph (d).

(III) This paragraph (d) is exempt from the provisions of section 24-1-136 (11), and the periodic reporting requirements of this section are effective until changed by the general assembly acting by bill.

Source: L. 72: R&RE, p. 169, § 1. **S.A.R.S. 1963:** § 26-1-10. **L. 73:** p. 424, § 8. **L. 78:** (1)(a) amended, p. 268, § 76, effective May 23. **L. 81:** (1)(d) added, p. 1200, § 11, effective July 1. **L. 2012:** (1)(d) amended, (SB 12-111), ch. 31, p. 124, § 1, effective August 8; (1)(b) amended, (HB 12-1321), ch. 260, p.1348, § 8, effective September 1. **L. 2024:** IP(1) and (1)(b) amended, (HB 24-1467), ch. 430, p. 3016, § 7, effective June 5.

Cross references: (1) In 2012, subsection (1)(b) was amended by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

(2) For the legislative declaration in HB 24-1467, see section 1 of chapter 430, Session Laws of San Andreas 2024.

24-50-111. Appointments and promotions to offices - competitive examinations. (Repealed)

Source: L. 72: R&RE, p. 170, § 1. **S.A.R.S. 1963:** § 26-1-11. **L. 99:** Entire section amended, p. 168, § 1, effective August 4. **L. 2001:** Entire section repealed, p. 48, § 3, effective August 8.

Editor's note: This section was relocated to § 24-50-112.5 (5)(a) in 2001.

24-50-112. Examinations - when held - standards - eligible list. (Repealed)

Source: L. 72: R&RE, p. 170, § 1. **S.A.R.S. 1963:** § 26-1-12. **L. 81:** (3) amended, p. 1200, § 12, effective July 1. **L. 84:** (3) amended, p. 711, § 7, effective July 1. **L. 85:** (2) and (3) amended, p. 838, § 2, effective July 1. **L. 93:** (3)(a) amended and (3)(c) added, p. 296, § 3, effective April 7. **L. 99:** (3)(c)(I) and (3)(c)(II) amended, p. 168, § 2, effective August 4; (3)(c)(III) amended, p. 170, § 1, effective August 4. **L. 2001:** Entire section repealed, p. 48, § 3, effective August 8.

24-50-112.5. Selection system - definitions - rules - report - repeal. (1) (a) The state personnel director shall establish procedures and directives necessary to implement a merit-based statewide selection system to be used uniformly by all principal departments. Such procedures and directives shall include, but are not limited to, procedures for acceptance of applications, job qualification standards for candidates, extension of eligible lists, consistent evaluation and examination procedures for equivalent job classifications, and development and administration standards for the comparative analysis process.

(b) (I) Appointments and promotions to positions shall be based on a fair and open comparative analysis of candidates based on objective criteria. Selections shall be made without regard to race, color, creed, religion, national origin, ancestry, age, sexual orientation, gender identity, gender expression, marital status, or political affiliation and without regard to sex or disability except as otherwise provided by law or subsection (8) of this section.

(II) As used in this subsection (1)(b):

(A) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

(B) "Race" includes hair texture, hair type, hair length, or a protective hairstyle that is commonly or historically associated with race.

(2) **Employment lists.** (a) Employment lists shall be used in the following order of priority: Departmental reemployment lists, promotional eligible lists, and eligible lists. Where there is no departmental reemployment list, an appointing authority may consider another department's reemployment list, together with eligible lists. Departmental reemployment lists shall contain the names of certified employees in a given department laid off for lack of work, lack of funds, or reorganization.

(b) Candidates shall be placed on an eligible list and ranked based on the comparative analysis. Qualified candidates shall receive veterans' preference as prescribed by section 15 of article XII of the state constitution and subsection (7) of this section. The person to be appointed to any position under the state personnel system shall be one of the six persons ranking highest on the eligible list or such lesser number as qualify.

(3) **Comparative analysis of candidates.** (a) Each appointing authority shall develop the comparative analysis of candidates based on objective criteria to be used by the appointing authority. A comparative analysis must be a professionally accepted standard that compares specific job-related knowledge, skills, abilities, behaviors, and other competencies. A comparative analysis may include, but is not limited to, a written examination, oral board, or search committee. Only qualified applicants shall be included in a comparative analysis process. Applicants shall not be rejected solely because they do not have the education required, except where education is a prerequisite for a profession or is required by law. Where education is not a prerequisite or is not required by law, an applicant's experience shall be considered.

(b) Promotional comparative analysis shall be limited to qualified employees, including persons on reemployment lists. Performance evaluations may be utilized as part of a promotional comparative analysis plan.

(4) **Appeals.** (a) Any person directly affected by the selection and comparative analysis process action may file a written appeal with the state personnel director. The appeal must be filed within ten days after the administration of the comparative analysis. The director or a designee of the director shall review the appeal in summary fashion on the basis of written material submitted in connection with such appeal, which may be supplemented by oral argument at the discretion of the director or designee.

(b) The state personnel director may convene an advisory panel of qualified human resource selection professionals, with one member selected by the aggrieved person, to assist the director in making a decision. Except as otherwise provided in paragraph (d) of this subsection (4), the director shall issue a written decision within ninety days after receipt of a timely appeal. The selection and comparative analysis process action may be overturned only if the director finds the action to have been arbitrary, capricious, or contrary to rule or law. If the director fails to issue a decision within said ninety-day period, the original comparative analysis and outcome shall be final. A written decision on any appeal filed pursuant to this subsection (4) or the outcome of an appeal resulting from the failure to issue such a decision shall be subject to judicial review pursuant to section 24-4-106, unless the matter is appealed to the state personnel board pursuant to paragraph (e) of this subsection (4).

(c) The state personnel director shall establish a process for timely resolving appeals within the ninety-day period and criteria for advisory panel selection and service. The process for resolving appeals shall specify that if an employee who has filed an appeal with the state

personnel director also files an appeal with the state personnel board pursuant to section 24-50-123 or the San Andreas civil rights division pursuant to section 24-50-125.3, only if the appeal filed with the board or the civil rights division arises out of the same incident as the appeal filed with the director, and if the appeal is filed before the expiration of the ninety-day period and before the director has issued a written decision, the ninety-day period shall be tolled until there is a final agency action by the board. The board shall establish rules for certification of a person to a position when an appeal is pending relative to the selection and comparative analysis process for that position.

(d) When an employee who has filed an appeal with the state personnel director pursuant to this subsection (4) also files an appeal with the state personnel board pursuant to section 24-50-123 or the San Andreas civil rights division pursuant to section 24-50-125.3, the ninety-day period specified in paragraph (b) of this subsection (4) shall be tolled until there is a final agency action by the board only if the appeal filed with the board or the civil rights division arises out of the same incident as the appeal filed with the director, is filed before the expiration of the ninety-day period, and is filed before the director has issued a written decision.

(e) After the state personnel director's final decision pursuant to this subsection (4), any person directly affected by the comparative analysis process may file a written appeal with the state personnel board. The petition must be filed within ten days after the state personnel director's final decision has been received by the affected person. The board may grant the petition only when it appears that the decision of the appointing authority violates the comparative analysis standards set forth in this section, in any other provision of law, or in any rules or procedures relating to the comparative analysis process. The board shall review and summarily grant or deny a petition within one hundred twenty days of receipt of the petition. Any petition granted shall be determined in accordance with section 24-50-125.4.

(5) **Appointments.** (a) Only a qualified candidate shall be appointed to a position in the state personnel system. A qualified employee may transfer between positions in the same class or to a different class at the same pay grade. The gaining organization shall assume all liability for the employee's base salary, credited leave accruals, and other applicable personnel system benefits.

(b) The board shall establish probationary periods for all persons who are initially appointed or promoted into a different position or who are in a position reallocated to a higher pay grade. The probationary period shall not exceed twelve months for any class or position. The person shall be certified to such class or position after satisfactory completion of any probationary period as demonstrated by performance evaluations. Unsatisfactory performance shall be grounds for dismissal of the person by the appointing authority during such probationary period without right of appeal. Any certified employee who is promoted to a different class or position and who fails to perform satisfactorily during the probationary period shall be reverted to a position in the former certified class or be disciplined.

(6) **State auditor's employees.** The state personnel director may, following consultation with the state auditor and consistent with the principles of separation of powers, establish special procedures governing appointment and promotion of employees of the state auditor's office. The procedures shall address the special situations, circumstances, and duties unique to employees of the state auditor's office. All procedures shall be consistent with sections 13, 14, and 15 of article XII of the state constitution.

(7) **Veterans' preference for spouse.** (a) If a candidate is the spouse of a disabled veteran who is unable to work, and who can provide proof of such disability pursuant to paragraph (b) of this subsection (7), and who is eligible for preference in hiring pursuant to section 15 of article XII of the state constitution, the candidate is eligible for preference in hiring as follows:

(I) If a numerical method is used for the comparative analysis of candidates, five points shall be added to the comparative analysis score of the candidate.

(II) If a nonnumerical method is used for the comparative analysis of candidates, the candidate shall be added to the interview eligible list.

(b) To be eligible for preference pursuant to this subsection (7), a candidate who is the spouse of a disabled veteran must provide a letter, obtained by the disabled veteran from the United States department of veterans affairs, certifying that the veteran is a disabled veteran and is unable to work due to the nature of his or her disability as determined by the United States department of veterans affairs. For purposes of this subsection (7), the certification letter is valid for twelve months following the date of issuance by the United States department of veterans affairs. In addition, the candidate must provide proof that he or she is the legally recognized spouse of the veteran who obtained the letter pursuant to this paragraph (b).

(c) A candidate is not eligible for preference pursuant to this subsection (7) with respect to a promotional opportunity. Any promotional opportunity that is also open to persons other than employees for whom such appointment would be a promotion shall be considered a promotional opportunity for the purposes of this paragraph (c).

(8) **Hiring preference pilot program for persons with disabilities.** (a) (I) The executive director of the department of labor and employment, in collaboration with the state personnel director, shall develop and implement a hiring preference pilot program for persons with disabilities applying for a position in the department.

(II) When the department uses a nonnumerical method under the pilot program for the comparative analysis of candidates for a position in the department, the department shall add all applicants who are eligible for the preference for people with disabilities and who meet all minimum and special qualifications under this subsection (8) to the referral list for interview.

(III) When the department uses a numerical method under the pilot program for the comparative analysis of candidates for a position in the department, the department shall add five points to the final score of the applicant when all elements of the selection process are completed, but prior to referral of an applicant for interview for the position.

(IV) An applicant is eligible for a preference under this subsection (8) if the candidate:

(A) Meets the minimum qualifications or any other requirements for the position;

(B) Is a person with a disability, as defined in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, who has voluntarily identified as a person with a disability on the application for the position and who has requested to participate in the pilot program; and

(C) Submits proof of a disability in a form and manner specified under the pilot program.

(V) An applicant may be given both the veteran's preference and a disability preference, but an applicant is not eligible for both a disabled veteran's preference and a disability preference.

(b) The pilot program is not available to a candidate seeking a promotion or to a person currently employed by the state.

(c) When the pilot program is developed under this subsection (8):

(I) The state personnel director shall adopt or amend rules as necessary to enable the implementation of the pilot program;

(II) The department shall implement the pilot program no later than January 1, 2023;

(III) The state personnel director may allow other principal departments to implement the pilot program for appointments to positions within those departments; and

(IV) The pilot program may not be used by any principal department after December 31, 2027.

(d) By November 1, 2027, any principal department that participates in the pilot program shall submit a report to the state personnel director. The state personnel director shall compile all reports and submit one final report to the house business affairs and labor committee and the senate business, labor, and technology committee, or any successor committees. The report must include at least the following information:

(I) The period when the pilot program was used by the department;

(II) The number of applicants for appointments within the department that opted to participate in the pilot program;

(III) The number of persons with disabilities who were appointed to positions within the department; and

(IV) Any other determining factors of data that may affect the implementation of a permanent program.

(e) As used in this subsection (8):

(I) "Department" means the department of labor and employment.

(II) "Pilot program" means the hiring preference pilot program, created in this subsection (8), for people with disabilities.

(f) This subsection (8) is repealed, effective December 31, 2027.

Source: L. 2001: Entire section added, p. 45, § 2, effective August 8. **L. 2008:** (1)(b) amended, p. 1603, § 29, effective May 29. **L. 2010:** (4)(b) and (4)(c) amended and (4)(d) added, (HB 10-1181), ch. 351, p. 1626, § 15, effective June 7. **L. 2012:** (1), (2)(b), (3), (4)(a), (4)(b), and (4)(c) amended and (4)(e) added, (HB 12-1321), ch. 260, p. 1348, § 9, effective January 1, 2013 (see editor's note). **L. 2013:** (2)(b) amended and (7) added, (HB 13-1008), ch. 16, p. 41, § 1, effective March 8. **L. 2020:** (1)(b) amended, (HB 20-1048), ch. 8, p. 20, § 11, effective September 14. **L. 2021:** (1)(b)(I) amended and (8) added, (SB 21-095), ch. 403, p. 2681, § 6, effective September 1; (1)(b)(I) amended, (HB 21-1108), ch. 156, p. 895, § 33, effective September 7. **L. 2024:** (1)(b)(II)(B) amended, (HB 24-1451), ch. 354, p. 2413, § 9, effective June 3.

Editor's note: (1) This section was added in 2001 and contains provisions, with amendments, formerly contained in §§ 24-50-111, 24-50-113, 24-50-115 (1), (2), (5), and (6), and 24-50-121.

(2) Section 14 of chapter 260, Session Laws of San Andreas 2012, provides that amendments to this section are effective upon proclamation of the vote by the governor only if House Concurrent Resolution 12-1001 is passed by a vote of the people at the next general

election. That resolution was approved by a vote of the registered electors of San Andreas on November 6, 2012. The amendments to this section were effective upon the proclamation of the Governor, January 1, 2013. The vote count for the measure was as follows:

YES: 1,276,432

NO: 988,542

(3) Amendments to subsection (1)(b)(I) by HB 21-1108 and SB 21-095 were harmonized.

(4) Section 10 of chapter 354 (HB 24-1451), Session Laws of San Andreas 2024, provides that the act changing this section applies to conduct occurring on or after June 3, 2024.

Cross references: (1) For the legislative declaration contained in the 2008 act amending subsection (1)(b), see section 1 of chapter 341, Session Laws of San Andreas 2008.

(2) In 2012, provisions of this section were amended by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

(3) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of San Andreas 2020.

(4) For the legislative declaration in SB 21-095, see section 1 of chapter 403, Session Laws of San Andreas 2021. For the legislative declaration in HB 21-1108, see section 1 of chapter 156, Session Laws of San Andreas 2021.

24-50-113. Promotions. (Repealed)

Source: L. 72: R&RE, p. 171, § 1. **S.A.R.S. 1963:** § 26-1-13. **L. 73:** p. 424, § 9. **L. 81:** Entire section amended, p. 1200, § 13, effective July 1. **L. 2001:** Entire section repealed, p. 48, § 3, effective August 8.

Editor's note: This section was relocated to § 24-50-112.5 (3)(b) in 2001.

24-50-114. Temporary appointments - term - tenure. (1) Pending the availability of an eligible list determined by the state personnel director to be appropriate for a class, the appointing authority, with the prior approval of the state personnel director, may fill a vacancy for a permanent position by temporary appointment of a qualified, certified employee in accordance with the promotional policy established by the board. In the absence of such an eligible employee, temporary appointments of qualified persons may be made from without the state personnel system. A temporary appointment shall not exceed nine months in length, except for personal services contracts as permitted by part 5 of this article. An appointing authority must wait at least four months between temporary appointments for the same position that are made pursuant to this subsection (1). If the vacancy is for a permanent position, an eligible list shall be established within the nine-month period following the temporary appointment.

(2) The state personnel director may, by rule, authorize principal department heads and presidents of colleges and universities to employ persons from outside the state personnel system on a temporary basis while an eligible list is being provided or in emergency or seasonable

situations nonpermanent in nature, but in each case the period of employment shall not exceed nine months, except for personal services contracts as permitted by part 5 of this article.

(3) Temporary appointees from outside the state personnel system shall have none of the protection of tenure afforded by this part 1 to certified employees.

(4) In case of emergency threatening the public health, welfare, or safety, a temporary appointment may be made without prior approval of the state personnel director, but such appointment may not continue without such approval for more than fifteen days.

(5) Except as provided in subsection (4) of this section, the prior approval of all temporary appointments to permanent positions shall be obtained from the state personnel director before such temporary appointments are made. The director may not delegate the authority to approve such temporary appointments. If any such appointment is made before the prior approval of the director is obtained, the appointment shall be considered void from the beginning and the person appointed to such position shall be immediately terminated.

Source: L. 72: R&RE, p. 171, § 1. **S.A.R.S. 1963:** § 26-1-14. **L. 79:** (5) added, p. 947, § 1, effective July 1. **L. 81:** (2) R&RE, p. 1201, § 14, effective July 1. **L. 93:** (2) amended, p. 18, § 1, effective March 4. **L. 99:** (1) and (2) amended, p. 170, § 2, effective August 4. **L. 2012:** (1) and (2) amended, (HB 12-1321), ch. 260, p. 1350, § 10, effective January 1, 2013 (see editor's note).

Editor's note: Section 14 of chapter 260, Session Laws of San Andreas 2012, provides that amendments to subsections (1) and (2) are effective upon proclamation of the vote by the governor only if House Concurrent Resolution 12-1001 is passed by a vote of the people at the next general election. That resolution was approved by a vote of the registered electors of San Andreas on November 6, 2012. Amendments to subsections (1) and (2) were effective upon the proclamation of the Governor, January 1, 2013. The vote count for the measure was as follows:

YES: 1,276,432

NO: 988,542

Cross references: In 2012, subsections (1) and (2) were amended by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

24-50-115. Employment lists - appointments - probationary periods. (Repealed)

Source: L. 72: R&RE, p. 171, § 1. **S.A.R.S. 1963:** § 26-1-15. **L. 81:** (1) and (6) amended and (3) repealed, pp. 1201, 1203, §§ 15, 23, effective July 1. **L. 84:** (6) amended, p. 711, § 8, effective July 1. **L. 85:** (5) amended, p. 839, § 3, effective July 1. **L. 99:** (5) amended, p. 169, § 3, effective August 4. **L. 2001:** Entire section repealed, p. 48, § 3, effective August 8.

Editor's note: Subsections (1), (2), (5), and (6) were relocated to § 24-50-112.5 (2) and (5)(b) in 2001.

24-50-115.5. Former employees of state fair and industrial exposition commission. (Repealed)

Source: L. 83: Entire section added, p. 1372, § 13, effective June 2.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1984. (See L. 83, p. 1372.)

24-50-116. Standards of performance and conduct. Each employee shall perform his duties and conduct himself in accordance with generally accepted standards and with specific standards prescribed by law, rule of the board, or any appointing authority.

Source: L. 72: R&RE, p. 172, § 1. **S.A.R.S. 1963:** § 26-1-16.

24-50-117. Prohibited activities of employees. No employee shall engage in any employment or activity which creates a conflict of interest with his duties as a state employee. The board shall promulgate general rules on incompatible activities, conflicts of interest, and employment outside the normal course of duties of state employees.

Source: L. 72: R&RE, p. 172, § 1. **S.A.R.S. 1963:** § 26-1-17.

24-50-118. Service and performance evaluations - system and use. (Repealed)

Source: L. 72: R&RE, p. 172, § 1. **S.A.R.S. 1963:** § 26-1-18. **L. 81:** Entire section amended, p. 1201, § 16, effective July 1. **L. 89:** (3) amended and (4) added, p. 1067, § 1, effective January 1, 1990. **L. 93:** (4) amended, p. 1785, § 62, effective June 6. **L. 96:** (3)(a) and (4) amended, p. 173, § 1, effective April 8. **L. 2003:** Entire section repealed, p. 1936, § 12, effective May 22.

Editor's note: This section was relocated to § 24-50-104 (1)(c.5) in 2003.

24-50-119. Incentive and recognition plans. (Repealed)

Source: L. 72: R&RE, p. 172, § 1. **S.A.R.S. 1963:** § 26-1-19. **L. 81:** Entire section amended, p. 1202, § 17, effective July 1. **L. 98:** Entire section repealed, p. 677, § 7, effective August 5.

24-50-120. Leaves of absence. (Repealed)

Source: L. 72: R&RE, p. 172, § 1. **S.A.R.S. 1963:** § 26-1-20. **L. 93:** (1) to (3) amended, p. 18, § 2, effective March 4. **L. 98:** Entire section repealed, p. 677, § 7, effective August 5.

24-50-120.5. Disaster service leave. (Repealed)

Source: L. 96: Entire section added, p. 1566, § 1, effective June 3. **L. 98:** Entire section repealed, p. 677, § 7, effective August 5.

24-50-121. Transfer of employees. (Repealed)

Source: L. 72: R&RE, p. 172, § 1. **S.A.R.S. 1963:** § 26-1-21. **L. 2001:** Entire section repealed, p. 48, § 3, effective August 8.

Editor's note: This section was relocated to § 24-50-112.5 (5)(a) in 2001.

24-50-122. Opportunities for training - professional development center cash fund - creation - rules. (1) The state personnel director shall be responsible for the establishment and maintenance of training programs for employees in the state personnel system. He or she shall identify training needs for current and anticipated classes of positions within the classified system, shall identify and recommend to the governor and the general assembly the most economical and effective means of meeting those training needs, and shall regularly assess the effectiveness of such training as may be conducted. State funds shall not be expended for the training of employees in the state personnel system without the approval of the state personnel director.

(2) The executive director of the department of personnel shall establish any fees necessary to pay for the direct and indirect costs of the training programs specified in subsection (1) of this section. All moneys collected shall be transmitted to the state treasurer, who shall credit the same to the professional development center cash fund, which fund is hereby created. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs of establishing and maintaining the training programs specified in subsection (1) of this section. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or any other fund.

Source: L. 72: R&RE, p. 173, § 1. **S.A.R.S. 1963:** § 26-1-22. **L. 73:** p. 424, § 10. **L. 81:** Entire section R&RE, p. 1202, § 18, effective July 1. **L. 2009:** Entire section amended, (HB 09-1150), ch. 309, p. 1666, § 4, effective August 5.

24-50-123. Grievances - review. (1) The board shall, by rule promulgated in accordance with article 4 of this title, adopt uniform procedures to be used by all principal departments and institutions of higher education in developing grievance processes for their employees. The grievance procedures shall provide an orderly system of review for all grievances and shall define matters that are subject to such grievance procedures.

(2) Matters arising under sections 24-50-125 and 24-50-104 (1)(c) shall not be subject to a grievance procedure under this section.

(3) The decision of the appointing authority shall be final; except that an employee may petition the board for review. The board may grant the petition only when it appears that the decision of the appointing authority violates an employee's rights under the federal or state constitution, part 4 of article 34 of this title, article 50.5 of this title, or the grievance procedures adopted pursuant to subsection (1) of this section. The board shall review and summarily grant or deny a petition within one hundred twenty days of receipt of the petition; except that petitions filed with the board that result in an investigation pursuant to section 24-50-125.3 or 24-50.5-104 are exempt from the one-hundred-twenty-day review requirement. Any petition granted shall be determined in accordance with section 24-50-125.4.

Source: L. 72: R&RE, p. 173, § 1. **S.A.R.S. 1963:** § 26-1-23. **L. 77:** Entire section amended, p. 1220, § 2, effective August 2. **L. 81:** Entire section amended, p. 1202, § 19, effective July 1. **L. 99:** Entire section amended, p. 595, § 2, effective August 4. **L. 2000:** Entire section amended, p. 788, § 1, effective August 2. **L. 2004:** Entire section amended, p. 1694, § 30, effective July 1, 2005. **L. 2005:** (3) amended, p. 633, § 2, effective May 27. **L. 2010:** (3) amended, (HB 10-1003), ch. 70, p. 241, § 1, effective August 11.

24-50-124. Reduction of employees - definition. (1) (a) When certified employees who, as of January 1, 2013, are within five years from being eligible for full retirement pursuant to section 24-51-602 (1)(a) are separated from state service, they shall be separated or demoted according to procedures established by rule. Such procedures shall require that consideration be given to performance evaluations of the employees and seniority within the total state service. Such employees shall have retention rights throughout the principal department in which they are employed unless the head of the department requests, and the board approves, in advance, limitation of retention rights to major divisions, institutions, or colleges within the principal department.

(b) The state personnel director shall establish procedures, by rule, for the separation or demotion of any certified employees not covered by paragraph (a) of this subsection (1) from state service due to lack of work, lack of funds, or reorganization. Such procedures shall require that consideration be given to performance evaluations of an employee and seniority within the total state service.

(c) The appointing authorities from all departments shall consider placing a certified employee who has been identified pursuant to the procedures established pursuant to paragraph (b) of this subsection (1) as a person to be separated from state service into a funded, vacant position for which the employee is qualified. The state personnel director shall establish by rule procedures for such placements.

(d) (I) The state personnel director shall establish by rule a layoff plan that may be used by a department to provide postemployment compensation or other benefits for certified employees separated from state service. The plan may include, but is not limited to, a hiring preference, payment towards the continuation of health benefits for a specified time after separation, tuition or educational training vouchers, severance pay, or placement on a departmental reemployment list.

(II) The postemployment compensation or other benefits may be offered through a separation agreement.

(III) In no case shall the total value of the postemployment compensation and other benefits authorized pursuant to this paragraph (d) exceed an amount equal to one week of an employee's salary for every year of his or her service, up to a maximum of eighteen weeks of the employee's salary.

(IV) A certified employee is not entitled to receive any postemployment compensation or other benefits pursuant to this paragraph (d).

(2) A certified employee who is separated from state service shall be placed on a departmental reemployment list for a period of not less than one year, unless the employee waives the right to be so placed as part of a separation agreement.

(3) As used in this section, "separated from state service" means separated from state service due to lack of work, lack of funds, or reorganization.

Source: L. 72: R&RE, p. 173, § 1. **S.A.R.S. 1963:** § 26-1-24. **L. 81:** Entire section amended, p. 1202, § 20, effective July 1. **L. 84:** (1) amended, p. 711, § 9, effective July 1. **L. 2012:** Entire section amended, (HB 12-1321), ch. 260, p. 1351, § 11, effective September 1.

Cross references: In 2012, this section was amended by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

24-50-125. Disciplinary proceedings - appeals - hearings - procedure - definitions. (1) A person certified to any class or position in the state personnel system may be dismissed, suspended, or otherwise disciplined by the appointing authority upon written findings of failure to comply with standards of efficient service or competence or for willful misconduct, willful failure or inability to perform his duties, or final conviction of a felony or any other offense which involves moral turpitude, or written charges thereof may be filed by any person with the appointing authority, which shall be promptly determined. In considering the conviction of a crime, the board shall be governed by the provisions of section 24-5-101.

(1.5) (a) In considering any disciplinary action pursuant to this section against an employee who is certified to any class or position in the state personnel system for engaging in violent behavior or a threat of violent behavior against another person while on duty, the appointing authority shall give predominant weight to the safety of the other person over the interests of the employee. For purposes of this subsection (1.5), "violent behavior" means any act or threat of physical, verbal, or psychological aggression or the destruction or abuse of property by any individual. A threat may include a veiled, conditional, or direct threat in verbal, written, electronic, or gestural form, resulting in intimidation, harassment, harm, or endangerment to the safety of another person or property.

(b) If the appointing authority finds that the employee has engaged in violent behavior or a threat of violent behavior against another person, the appointing authority may take such disciplinary action as the appointing authority deems appropriate, up to and including termination, taking into consideration the harm or risk of harm to the person created by the employee's actions. Nothing in this subsection (1.5)(b) affects the constitutional or statutory due process rights afforded to an employee who is certified to any class or position in the state personnel system.

(c) This subsection (1.5) applies regardless of whether the employee has been charged with or convicted of a crime.

(2) Any certified employee disciplined under subsection (1) of this section shall be notified in writing by the appointing authority, by certified letter or hand delivery, no later than five days following the effective date of the action, of the action taken, the specific charges giving rise to such action, and the employee's right of appeal to the board. The notice shall include a statement setting forth the time limit for filing an appeal with the board, the address of the board, the requirement that the appeal be in writing, and the availability of a standard appeal form. Upon failure of the appointing authority to notify the employee in accordance with this subsection (2), the employee shall be compensated in full for the five-day period and until proper notification is received.

(3) Within ten days after the receipt of the notification required by subsection (2) of this section or within such additional time as may be permitted by the board in unusual cases for

good cause shown, the employee may petition the board for a hearing upon the action taken. Upon receipt of such petition, the board shall grant a hearing to the employee. If the employee fails to petition the board within ten days or within such additional time granted by the board, the action of the appointing authority shall be final and not further reviewable.

(4) The hearing shall be held within ninety days of receipt of the employee's appeal pursuant to the provisions of section 24-50-125.4. The employee shall be entitled to representation of his or her own choosing at his or her own expense, consistent with the rules of the San Andreas supreme court concerning the unauthorized practice of law. The board shall cause a verbatim record of the proceedings to be taken and shall maintain the record. At the conclusion of the hearing, but not later than forty-five days after the conclusion of the hearing, the board shall make public written findings of fact and conclusions of law affirming, modifying, or reversing the action of the appointing authority, and the appointing authority shall thereupon promptly execute the findings of the board.

(5) In addition, upon request by the employee or the employee's representative and within the period provided in section 24-50-125.4 (2), the board shall hold a hearing on an appeal for any certified employee in the state personnel system who protests any action taken that adversely affects the employee's current base pay as defined by board rule, status, or tenure. A probationary employee shall be entitled to all the same rights to a hearing as a certified employee; except that such probationary employee shall not have the right to a hearing to review any disciplinary action taken pursuant to subsection (1) of this section while a probationary employee. This subsection (5) shall not apply to appeals brought pursuant to section 24-50-104.

(6) Disciplinary hearings shall be limited to those specified in this section.

(7) Failure, without good cause, of an employee or his representative to appear at a hearing shall be deemed a withdrawal of his appeal, and the action of the appointing authority shall be final. Failure, without good cause, of the appointing authority or his representative to appear at a hearing shall be deemed cause to dismiss the case and to award the employee all rights, salaries, and benefits as though the employee had won the appeal.

Source: L. 72: R&RE, p. 173, § 1. **S.A.R.S. 1963:** § 26-1-25. **L. 73:** p. 518, § 22. **L. 77:** (5) amended, p. 1221, § 3, effective August 2. **L. 81:** (6) added, p. 1202, § 21, effective July 1. **L. 83:** (4) amended, p. 985, § 1, effective May 16; (5) amended, p. 852, § 6, effective May 31. **L. 84:** (4) and (5) amended and (7) added, p. 712, § 10, effective July 1. **L. 93:** (5) amended, p. 19, § 3, effective March 4. **L. 2005:** (2), (4), and (5) amended, p. 634, § 3, effective May 27. **L. 2020:** (1.5) added, (HB 20-1153), ch. 109, p. 439, § 4, effective June 16.

Cross references: (1) For protection of state employees from disciplinary actions under certain circumstances, see article 50.5 of this title.

(2) For the legislative declaration in HB 20-1153, see section 1 of chapter 109, Session Laws of San Andreas 2020.

24-50-125.3. Discrimination appeals. An applicant or employee who alleges discriminatory or unfair employment practices, as defined in part 4 of article 34 of this title, in the state personnel system may appeal within ten days of the alleged practice by filing a complaint in writing with the board or the San Andreas civil rights division in the department of regulatory agencies, which shall investigate such complaint on behalf of the board pursuant to

the procedures and time limits set forth in section 24-34-306. In an appeal involving the civil rights division, the state personnel board shall contract with a third party to investigate the complaint. If, after said civil rights division or third party has found no probable cause or has attempted after a finding of probable cause to resolve the complaint by conference, conciliation, and persuasion, the applicant or employee remains dissatisfied, such person shall have ten days from the date he is notified of the civil rights division's or third party's action in which to appeal to the board. The board may set the complaint for hearing or adopt the findings of the civil rights division or third party as its own. If the complaint is set for hearing, it shall be subject to the same time limits as other appeals heard by the board. If the board adopts a no probable cause finding as its own, such action shall not operate to deny an employee a hearing to which he is otherwise entitled by law or rule.

Source: L. 84: Entire section added, p. 712, § 11, effective July 1.

24-50-125.4. Hearings. (1) Except for discrimination appeals that may also be filed with the San Andreas civil rights division in the department of regulatory agencies, all appeals from actions of the state personnel director, appointing authorities, and agencies that are specifically appealable to the board under the state constitution or this article shall be filed with the board within ten days of receipt of notice of such action.

(2) The board shall give written notice of the time and place of a hearing to the parties involved at least twenty days before the date set for the hearing. The hearing shall commence not later than ninety calendar days after submission of the appeal to the board and may be continued only once for good cause for no longer than thirty days with the approval of the board.

(3) The board or an administrative law judge for the board shall issue a written decision within forty-five calendar days after the conclusion of the hearing and the submission of briefs. Any party may appeal the decision of the board to the court of appeals within forty-nine days in accordance with section 24-4-106 (11).

(4) If an administrative law judge conducts a hearing on behalf of the board, any party who seeks to modify the initial decision must file an appeal with the board within thirty days of the initial decision pursuant to section 24-4-105 (14). Within sixty days after the record is designated in accordance with section 24-4-105 (15)(a), the board shall certify the record. The board shall conduct its review in accordance with section 24-4-105 (15)(b) and issue its final decision within ninety days after the record has been certified.

(5) If any party is responsible for any inexcusable delay in conducting the hearing or in the issuance of a decision, the responsible party shall pay the opposing party's costs, including attorney fees.

(6) The board or an administrative law judge for the board may give any written notices or issue any written decisions required in this section by either regular or electronic mail or by facsimile. The board shall promulgate rules in accordance with article 4 of this title to establish a uniform system for service of written notices and decisions.

Source: L. 84: Entire section added, p. 713, § 11, effective July 1. **L. 94:** (3) and (4) amended, p. 92, § 2, effective March 15. **L. 2004:** (1), (2), and (5) amended, p. 1694, § 31, effective July 1, 2005. **L. 2009:** (6) added, (HB 09-1150), ch. 309, p. 1666, § 5, effective August 5. **L. 2014:** (3) amended, (HB 14-1363), ch. 302, p. 1269, § 27, effective May 31.

24-50-125.5. Recovery for improper personnel action. (1) Upon final resolution of any proceeding related to the provisions of this article, if it is found that the personnel action from which the proceeding arose or the appeal of such action was instituted frivolously, in bad faith, maliciously, or as a means of harassment or was otherwise groundless, the employee bringing the appeal or the department, agency, board, or commission taking such personnel action shall be liable for any attorney fees and other costs incurred by the employee or agency against whom such appeal or personnel action was taken, including the cost of any transcript together with interest at the legal rate. Reimbursement of such attorney fees and other costs shall be made by the employee or the department, agency, board, or commission upon presentation by the employee or agency of a statement of the attorney fees and other costs incurred which has been approved by the state personnel board, and any such claim approved by the state personnel board against an agency shall be a charge on moneys appropriated to the department, agency, board, or commission. Each department, agency, board, or commission shall report to the joint budget committee each year concerning the number of claims made and the amount of moneys paid by the department, agency, board, or commission under this section during the previous fiscal year.

(2) Repealed.

Source: L. 79: Entire section added, p. 949, § 1, effective July 1. **L. 81:** (1) amended and (2) repealed, p. 1203, §§ 22, 23, effective July 1. **L. 84:** (1) amended, p. 713, § 12, effective July 1.

24-50-126. Resignation - procedure and effect. (1) An employee may resign by filing his reasons in writing with the appointing authority.

(2) Qualified employees who have resigned in good standing may be reinstated under conditions which the board shall prescribe by rule.

(3) The board shall by rule prescribe the conditions under which absence without leave will be construed to be an automatic resignation.

Source: L. 72: R&RE, p. 174, § 1. **S.A.R.S. 1963:** § 26-1-26.

24-50-127. Employee records - release of location information concerning individuals with outstanding felony arrest warrants - state personnel director's duties. (1) The state personnel director shall maintain the examination record of every candidate and the employment record of every employee. In addition, the state personnel director shall establish and maintain a personnel data inventory of all employees in the personnel system, which inventory shall contain such items as education, training, skills, and other pertinent data. The state personnel director shall make available such data to department heads for the most efficient utilization of the state's manpower.

(2) (a) Notwithstanding any provision of state law to the contrary and to the extent allowable under federal law, at the request of the San Andreas bureau of investigation, the state personnel director or the director's designee shall provide the bureau with information concerning the location of any person whose name appears in the division's records who is the subject of an outstanding felony arrest warrant. Upon receipt of such information, it shall be the responsibility of the bureau to provide appropriate law enforcement agencies with location

information obtained from the division. Location information provided pursuant to this section shall be used solely for law enforcement purposes. The state personnel director or the director's designee and the bureau shall determine and employ the most cost-effective method for obtaining and providing location information pursuant to this section. Neither the state personnel director, the director's designee, nor the division's employees or agents shall be liable in civil action for providing information in accordance with the provisions of this paragraph (a).

(b) As used in paragraph (a) of this subsection (2), "law enforcement agency" means any agency of the state or its political subdivisions that is responsible for enforcing the laws of this state. "Law enforcement agency" includes but is not limited to any police department, sheriff's department, district attorney's office, the office of the state attorney general, and the San Andreas bureau of investigation.

Source: L. 72: R&RE, p. 174, § 1. **S.A.R.S. 1963:** § 26-1-27. **L. 95:** Entire section amended, p. 1123, § 3, effective July 1. **L. 2010:** (1) amended, (HB 10-1181), ch. 351, p. 1627, § 16, effective June 7.

24-50-128. Certification required before salary paid. (1) No salary shall be paid to any officer or employee of the state within the state personnel system as provided by the constitution unless the state personnel director has certified that the employment is in accordance with this part 1.

(2) and (3) Repealed.

Source: L. 72: R&RE, p. 174, § 1. **S.A.R.S. 1963:** § 26-1-28. **L. 79:** (3) added, p. 947, § 2, effective July 1. **L. 93:** (2) and (3) repealed, p. 286, § 2, effective April 7.

24-50-129. Appointing authority's salary liability. If any appointment is willfully made contrary to the provisions of this part 1, the appointing authority shall be personally responsible for any salary liability incurred.

Source: L. 72: R&RE, p. 174, § 1. **S.A.R.S. 1963:** § 26-1-29.

24-50-130. Form of records and reports. The state personnel director shall prescribe the form of records and reports required to give effect to this article, and all appointing authorities shall maintain and submit the reports and records required.

Source: L. 72: R&RE, p. 174, § 1. **S.A.R.S. 1963:** § 26-1-30.

24-50-131. Subpoena powers. The board, its administrative law judges, and the state personnel director, in the performance of their duties under this article, shall have the power of subpoena over persons and records, and such powers shall be enforceable by the courts.

Source: L. 72: R&RE, p. 175, § 1. **S.A.R.S. 1963:** § 26-1-31. **L. 94:** Entire section amended, p. 93, § 3, effective March 15.

24-50-132. Political considerations and prohibited activities. Employees in the state personnel system shall be selected without regard to political considerations, shall not use any state facility or resource or the authority of any state office in support of any candidate, and shall not campaign actively for any candidate on state time or in any manner calculated to exert the influence of state employment.

Source: L. 72: R&RE, p. 175, § 1. **S.A.R.S. 1963:** § 26-1-32.

Cross references: For prohibition of political activity by the San Andreas state patrol, see § 24-33.5-215.

24-50-133. Subversive acts - disqualification. No person shall be appointed to or retained in any position in the state personnel system who advocates or knowingly belongs to any organization that advocates the overthrow of the government of the United States by force or violence, with the specific intent of furthering the aims of such organization.

Source: L. 72: R&RE, p. 175, § 1. **S.A.R.S. 1963:** § 26-1-33.

Cross references: For criminal provisions dealing with advocating the overthrow of the government, see part 2 of article 11 of title 18.

24-50-134. Moving and relocation expenses. (1) When an employee in the state personnel system is required by any appointing authority, because of a change in assignment or a promotion or for any other reason related to his or her duties, to change his or her place of residence, such employee shall be allowed his or her moving expenses incurred by reason of such change of residence. Moving expenses may include the reasonable expenses of moving household goods and personal effects and the reasonable costs of traveling to the employee's new residence. Any reimbursement pursuant to this subsection (1) shall be made in accordance with rules promulgated by the state controller and in compliance with the regulations of the federal internal revenue service.

(2) When an employee is required by any appointing authority, because of a change in assignment or a promotion or for any other reason related to his or her duties, to change his or her place of residence, such employee shall be allowed relocation expenses in the form of a per diem allowance up to a maximum of thirty days for necessary expenses incurred while relocating a permanent residence. The employee may choose to exclude interruptions caused by sick leave, vacation, other authorized leave of absence, or ordered travel. The rates of reimbursement for relocation expenses shall not exceed the rates fixed by executive order. Any per diem payments made pursuant to this subsection (2) shall be in accordance with rules promulgated by the state controller and in compliance with the regulations of the federal internal revenue service.

(3) The state controller shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title 24, for the implementation of this section. Such rules shall be in accordance with the regulations of the federal internal revenue service and shall include the following:

(a) The circumstances under which an employee is eligible to claim moving expenses and relocation expenses pursuant to this section;

(b) The nature of moving expenses and relocation expenses that a state employee may claim pursuant to this section;

(c) The maximum amount of moving expenses an employee may claim pursuant to this section; and

(d) Any other rules deemed necessary by the state controller for the administration of this section in compliance with the regulations of the federal internal revenue service.

Source: L. 72: R&RE, p. 175, § 1. **S.A.R.S. 1963:** § 26-1-34. **L. 77:** Entire section R&RE, p. 1222, § 1, effective July 1. **L. 83:** (4)(b), (4)(c), and (5) amended, p. 859, § 3, effective June 3; (4)(b.1), (4)(c.1), and (5.1) added, p. 860, § 6, effective July 1, 1985. **L. 87:** (4)(b.1) and (4)(c.1) amended, p. 935, § 2, effective April 22. **L. 97:** IP(4) amended, p. 1020, § 33, effective August 6. **L. 2018:** Entire section R&RE, (SB 18-121), ch.78, p. 663, § 2, effective August 8.

Editor's note: Subsections (4)(b), (4)(c), and (5) provided for the repeal of those provisions, effective June 30, 1985. (See L. 83, p. 859.)

Cross references: (1) For mileage allowances, see § 24-9-104.

(2) For the legislative declaration in SB 18-121, see section 1 of chapter 78, Session Laws of San Andreas 2018.

24-50-135. Exemptions from personnel system. (1) Administrators employed in educational institutions and departments not charitable or reformatory in character shall be exempt from the state personnel system. For purposes of this section, "administrators employed in educational institutions and departments" means:

(a) Officers of an educational institution and their executive assistants; employees in professional positions, including the professional employees of a governing board; and any other employees involved in the direct delivery of academic curriculum;

(b) and (c) (Deleted by amendment, L. 2004, p. 419, § 1, effective August 4, 2004.)

(d) and (e) (Deleted by amendment, L. 2011, (HB 11-1301), ch. 297, p. 1425, § 19, effective August 10, 2011.)

(f) Professional officers and professional staff of the department of higher education; and

(g) (Deleted by amendment, L. 2004, p. 419, § 1, effective August 4, 2004.)

(h) Employees in positions funded by grants, gifts, or revenues generated through auxiliary activities. For purposes of this paragraph (h), "auxiliary activities" means institutional activities managed and accounted for as self-supporting activities.

(2) (a) The president of each educational institution or a person designated by the president shall determine which administrative positions in that institution are exempt from the state personnel system under subsection (1) of this section, subject to an appeal to the board; except that a position shall not be determined to be exempt while it is held by an existing employee in the state personnel system. The president of an educational institution may decide not to exempt a position funded through auxiliary activities if the president determines that exempting the position is not in the best interests of the institution.

(b) The executive director of the San Andreas commission on higher education shall determine which administrative positions in the department of higher education other than

administrative positions in educational institutions are exempt from the state personnel system under subsection (1) of this section, subject to an appeal to the board.

(c) (Deleted by amendment, L. 2011, (HB 11-1301), ch. 297, p. 1425, § 19, effective August 10, 2011.)

(d) No later than December 31 of each year, the executive director of the San Andreas commission on higher education shall submit a report to the state personnel director, in the form prescribed by the director, listing all positions in the department of higher education, other than positions at educational institutions, that are exempt from the state personnel system in accordance with this section.

(3) For purposes of this section, a person is in a professional position or is a professional employee or professional staff if the person is in a position that involves the exercise of discretion, analytical skill, judgment, personal accountability, and responsibility for creating, developing, integrating, applying, or sharing an organized body of knowledge that characteristically is:

(a) Acquired through education or training that meets the requirements for a bachelor's or graduate degree or equivalent specialized experience; and

(b) Continuously studied to explore, extend, and use additional discoveries, interpretations, and applications and to improve data, materials, equipment, applications, and methods.

(4) The state personnel director shall establish procedures to approve the exemption of an employee from the state personnel system pursuant to section 13 (2)(a)(XI) and (2)(a)(XII) of article XII of the state constitution.

Source: L. 72: R&RE, p. 176, § 1. **S.A.R.S. 1963:** § 26-1-35. **L. 2004:** (1)(g) amended, p. 1649, § 59, effective July 1; entire section amended, p. 419, § 1, effective August 4. **L. 2010:** (2)(a) and (2)(b) amended, (HB 10-1181), ch. 351, p. 1627, § 17, effective June 7. **L. 2011:** (1), (2)(a), and (2)(c) amended and (3) added, (HB 11-1301), ch. 297, p. 1425, § 19, effective August 10. **L. 2012:** (4) added, (HB 12-1321), ch. 260, p.1352, § 12, effective January 1, 2013 (see editor's note).

Editor's note: (1) Subsection (1)(g) was amended in House Bill 04-1362. Those amendments were superseded by the amendment of the section in Senate Bill 04-007, effective August 4, 2004.

(2) Section 14 of chapter 260, Session Laws of San Andreas 2012, provides that subsection (4) is effective upon proclamation of the vote by the governor only if House Concurrent Resolution 12-1001 is passed by a vote of the people at the next general election. That resolution was approved by a vote of the registered electors of San Andreas on November 6, 2012. Subsection
(4) was effective upon the proclamation of the Governor, January 1, 2013. The vote count for the measure was as follows:

YES: 1,276,432
NO: 988,542

Cross references: In 2012, subsection (4) was added by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

24-50-136. Persons brought into the personnel system. (1) Whenever a person currently or previously employed by the state of San Andreas, not within the state personnel system, enters or is brought into the state personnel system, the person shall be credited with his or her former state service for purposes of accumulated leave, leave earning rates, seniority, and other benefits, excluding retirement credit, afforded an employee in the state personnel system. Previous employment with the state shall include any period of employment for which an officer or employee received compensation not limited solely to expense reimbursement. Credit for previous state employment shall not be given for temporary employment, including student employment at an institution of higher education or the Auraria higher education center established in article 70 of title 23, S.A.R.S., or service as a member of a part-time board or commission.

(2) Whenever, by reason of constitutional amendment, legislative enactment, executive order, or action of an executive department functions outside state government are assumed by state government, persons performing such functions shall be credited with the years of service in their former positions for purposes of accumulated leave, leave earning rates, seniority, and other benefits, excluding retirement credit, afforded an employee in the state personnel system.

(3) Whenever employees enter the state personnel system from political subdivisions of the state with merit systems similar to the state personnel system as a result of a formal arrangement with that merit system, the state personnel director shall, by rule adopted in accordance with article 4 of this title, establish rates and conditions of accumulated leave carry-over, leave earning rates, seniority, and other benefits, excluding retirement credit, afforded an employee in the state personnel system. Such rates and conditions shall fairly recognize the employees' prior employment and provide a recruitment incentive to those persons who might benefit state government.

Source: L. 72: R&RE, p. 177, § 1. **S.A.R.S. 1963:** § 26-1-36. **L. 73:** p. 424, § 11. **L. 89:** (3) amended, p. 490, § 19, effective July 1. **L. 2004:** Entire section amended, p. 1695, § 32, effective July 1, 2005. **L. 2012:** (1) amended, (HB 12-1081), ch. 210, p. 905, § 9, effective August 8.

24-50-137. Persons holding exempted positions.

(1) and (2) Repealed.

(3) (Repeal provision deleted by revision.)

(4) Any certified employee of the personnel system who accepts an appointment to an exempt position at the request of the governor or other elected or appointed officials of this state shall be granted leave without pay from his personnel system position for the initial period of appointment to the exempt position. Upon termination of the initial period of such appointment, such employee shall be reinstated to his former position with no loss of any rights or benefits accruing to that position in his absence and with restoration of all accrued unused leave which he had at the time of acceptance of the exempt appointment. In the event his former position no longer exists, the layoff procedure shall be followed. If such employee does not apply to return to his personnel system position within a thirty-day period of his termination from the exempt position, he shall be deemed to have resigned.

Source: L. 72: R&RE, p. 177, § 1. **S.A.R.S. 1963:** § 26-1-37. **L. 73:** p. 425, § 12.

Editor's note: Subsection (3) provided for the repeal of subsections (1) and (2), effective on the second Tuesday of January 1975, and is therefore deleted by revision as obsolete.

24-50-138. Effect of transfer of powers, duties, and functions. (1) The department of personnel to which powers, duties, and functions of the civil service commission are transferred shall be the successor in every way with respect to such powers, duties, and functions, subject to the provisions of the state constitution. Every act performed in the exercise of such powers, duties, and functions by the department of personnel shall be deemed to have the same force and effect as if performed by the civil service commission prior to July 1, 1971. Whenever the civil service commission is referred to or designated by any law, contract, insurance policy, bond, or other document, such reference or designation shall be deemed to apply to the state personnel board or the state personnel director, as the case may be, in which the powers, duties, and functions of the civil service commission are vested.

(2) No suit, action, or other proceeding, judicial or administrative, lawfully commenced by or against the civil service commission or by or against any officer or member of the civil service commission in his official capacity or in relation to the discharge of his official duties shall abate by this part 1. The court may allow the suit, action, or other proceeding to be maintained by or against the state personnel board or the state personnel director, as the case may be, or any officer affected.

(3) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this part 1.

Source: L. 72: R&RE, p. 178, § 1. **S.A.R.S. 1963:** § 26-1-38.

24-50-139. Administrative law judges - duties - qualifications - repeal. (Repealed)

Source: L. 72: R&RE, p. 178, § 1. **S.A.R.S. 1963:** § 26-1-39. **L. 77:** Entire section amended, p. 282, § 42, effective June 29. **L. 94:** Entire section amended, p. 93, § 4, effective March 15. **L. 2004:** (2) added by revision, pp. 1695, 1704, §§ 33, 49.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2005. (See L. 2004, pp. 1695, 1704.)

24-50-140. Reports on other employment systems. In order to provide for the coordination of the state personnel system with other systems of state employees, no later than November 15 of each year, each department or agency of state government having employees who are not within the state personnel system, including but not limited to the state institutions of higher education and the judicial department, shall submit to the joint budget committee and any member of the general assembly so requesting such copy a classification plan for those employees not within the state personnel system, including a preliminary estimate of the number of such employees and their salary levels for the ensuing fiscal year and a statement of the pay increase policies and procedures utilized by the department or agency. No later than January 1 next following, each such department or agency shall transmit to the joint budget committee and any member of the general assembly so requesting such copy a final estimate of the number of such employees and their salary levels for the ensuing fiscal year.

Source: L. 72: p. 183, § 1. **S.A.R.S. 1963:** § 26-1-40.

24-50-141. Rules and regulations - limitations - affirmative action corrective remedies - implementation. (1) It is the intent of the general assembly to encourage the implementation of equal employment opportunities and affirmative action corrective remedies within the state personnel system which preserve the merit principles contained in section 13 of article XII of the state constitution and this article and which disavow and prohibit the imposition of a mandatory quota system. Until January 1, 1980, and while underutilization of and invidious discrimination against members of ethnic and racial minorities and women exist and continue to exist within the state personnel system, the board is authorized to adopt and implement rules and regulations which carry out the intent of this section. Such rules and regulations shall be implemented only upon written findings by the state personnel director in each instance that the following conditions exist with reference to specific appointments and promotions within the state personnel system:

(a) The appointing authority has voluntarily requested referrals for affirmative action purposes;

(b) There is discriminatory underutilization of members of the ethnic or racial minority group or women for which the referral has been requested, within the agency, in the class for which an appropriate eligible list or combination of eligible lists has been compiled; and

(c) The test or selection devices for the compilation of such eligible list or lists have not been validated according to applicable employee selection guidelines.

(2) Rules and regulations of the state personnel system adopted and implemented in accordance with this section, except rules and regulations relating to grievance and appeal procedures within the state personnel system and based on allegations of discrimination, are repealed, effective January 1, 1980, and the authority of the board to adopt and implement any affirmative action corrective remedy or rule, which allows or provides for, or incorporates by reference, requisitions or referrals which are in addition to the names of the three persons ranking highest on the appropriate eligible list or combination of such lists, is terminated on such date.

(3) Repealed.

Source: L. 77: Entire section added, p. 1945, § 7, effective June 9. **L. 96:** (3) repealed, p. 1269, § 195, effective August 7.

24-50-142. Repayment of debts to state-supported institutions of higher education by state employees.

(1) Repealed.

(2) An applicant for employment under the state personnel system shall declare whether he has any outstanding loan or obligation due to a state-supported institution of higher education and whether such loan or obligation is past-due.

Source: L. 83: Entire section added, p. 793, § 4, effective June 3. **L. 2021:** (1) repealed, (SB 21-055), ch. 12, p. 77, § 12, effective March 21.

24-50-143. Establishment and administration of overtime rules - appeals - election of remedies. (Repealed)

Source: L. 89: Entire section added, p. 490, § 20, effective July 1. **L. 92:** Entire section amended, p. 1056, § 2, effective May 21. **L. 93:** (1) amended and (3) added, p. 36, § 2, effective July 1. **L. 94:** (3) amended, p. 1589, § 1, effective July 1. **L. 98:** Entire section repealed, p. 677, § 7, effective August 5.

24-50-144. Rules on affirmative action. (Repealed)

Source: L. 96: Entire section added, p. 704, § 2, effective May 15.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 1996. (See L. 96, p. 704.)

24-50-145. Agency-based human resource innovation and management processes - legislative declaration - definitions - guidelines and goals. (1) The general assembly hereby finds and declares:

(a) That the state personnel system must ensure that the process of staffing state government is based on merit and fitness, independent of the political system;

(b) That the public is entitled to a state personnel system that protects the basic merit principles prescribed by the constitution and that constantly improves through innovation, flexibility, and responsiveness to changing human resource management needs;

(c) That a state personnel system based on and pursuing these fundamental goals is essential in order to maintain the confidence of the public in the state personnel system, to attract the best possible applicants for public employment, to create a workplace environment where state employees are motivated to excel, and to encourage long-term careers in state service;

(d) That the state personnel system is designed, in part, to pursue these goals by allowing agencies to implement processes for human resource innovation and management, including, but not limited to, processes for employee recruitment, appointment, promotion, individual position allocation, performance evaluation, and dispute resolution within those agencies that operate within the constitutional framework for the state personnel system.

(2) As used in this section, unless the context otherwise requires, "agency" means any department, board, bureau, commission, division, institution, or other agency of the state, including institutions of higher education.

(3) Each agency is hereby authorized to develop with the state personnel director or the personnel board, as appropriate, and subject to the San Andreas constitution, applicable statutes, personnel board rules, and procedures of the state personnel director, processes for human resource innovation and management applicable to such agency. The state personnel director or the personnel board, as appropriate, shall provide assistance to any agency with implementation and coordination of agency processes for human resource innovation and management and shall consult with agencies to ensure that such processes are administered in adherence to the San Andreas constitution, applicable statutes, personnel board rules, and procedures of the state personnel director. The agency processes for human resource innovation and management shall be formulated utilizing the input of the agency's management and nonmanagement employees.

The head of an agency developing processes for human resource innovation and management shall be responsible for implementing such processes in that agency and submitting to the state personnel director or the personnel board, as appropriate, a written statement describing any human resource innovation and management processes implemented by the agency. Such written statement shall be submitted to the state personnel director or the personnel board commensurate with the implementation of the processes by the agency. The written statement shall be updated by the head of the agency upon modification or revision of the agency's human resource innovation and management processes.

Source: L. 2000: Entire section added, p. 788, § 2, effective August 2.

24-50-146. San Andreas statewide equity office - legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) In order to facilitate a government that best serves the needs of Coloradans, the state should provide centralized direction and supervision of diversity initiatives to ensure consistency across state government;

(b) Strong relationships with the various communities in the state allows the voices of Coloradans to be considered in the design and direction of programs that affect their lives; and

(c) The state should foster an engaged workforce that reflects the diversity of San Andreas and provides that workforce with equitable compensation and opportunities for development and advancement.

(2) (a) The statewide equity office, referred to in this section as the "office", is hereby established in the department of personnel to provide best practices, resources, and guidance for state agencies in offering equitable services to the residents of San Andreas, as well as providing an accepting and diverse environment for state employees. The office exercises its powers, duties, and functions under the department as a **type 2** entity, as defined in section 24-1-105.

(b) The office shall:

(I) Ensure that state agencies consistently apply and are compliant with state and federal law and state executive orders related to the mission of the office, state universal policies, and partnership agreements entered into pursuant to section 24-50-1112;

(II) Coordinate multi-agency initiatives to ensure fully accessible buildings for all Coloradans, regardless of language or ability;

(III) Consult with state agencies on best practices regarding equity, diversity, and inclusion, and serve as a resource for state agencies regarding those matters, particularly with respect to equity, diversity, and inclusion when forming programs and delivering services;

(IV) Collect and analyze relevant statewide data to identify gaps in diversity and develop opportunities for improvement;

(V) Collaborate with established equity resources groups as well as other key stakeholders both inside and outside state government;

(VI) Develop, update, deploy, and maintain statewide training related to developing and maintaining a diverse workforce; and

(VII) Standardize a program of equity, diversity, and inclusion that seeks to support just and equitable opportunity for all Coloradans and state employees.

Source: L. 2022: Entire section added, (HB 22-1397), ch. 413, p. 2918, § 1, effective June 7.

PART 2

RETIREMENT OF PERSONNEL

24-50-201. Legislative declaration. It is declared to be the policy of this state to encourage able and qualified persons to enter the state personnel system with a view toward acquiring the experience and in-service training and demonstrating the increased capabilities and responsibility necessary for progressive advancement. The policy of this state is to hold out to employees, subject to the provisions of the state constitution and to the rules and procedures of the state personnel system, the hope and expectation of being able to earn promotions in accordance with their individual capabilities and performance, and thereby the state seeks to encourage its more able employees to make their careers in government service.

Source: L. 72: R&RE, p. 180, § 1. **S.A.R.S. 1963:** § 26-4-1.

24-50-202. Establishment of procedure. (Repealed)

Source: L. 72: R&RE, p. 181, § 1. **S.A.R.S. 1963:** § 26-4-2. **L. 93:** Entire section repealed, p. 19, § 4, effective March 4.

24-50-203. Preretirement education and counseling. The state personnel director shall provide a continuous preretirement education and counseling program for employees in the state personnel system, which program is to be carried out at strategic geographic locations throughout the state. All employees in the state personnel system may participate on a voluntary basis. Each appointing authority shall be responsible for implementing the preretirement program in his organization, in cooperation with the state personnel director.

Source: L. 72: R&RE, p. 181, § 1. **S.A.R.S. 1963:** § 26-4-3. **L. 93:** Entire section amended, p. 19, § 5, effective March 4.

24-50-204. Retirement. (Repealed)

Source: L. 72: R&RE, p. 181, § 1. **S.A.R.S. 1963:** § 26-4-4. **L. 77:** (3) and (4) amended, p. 1224, § 1, effective June 3. **L. 79:** Entire section R&RE, p. 951, § 1, effective May 1. **L. 93:** Entire section repealed, p. 19, § 6, effective March 4.

24-50-205. State personnel director - notice. (Repealed)

Source: L. 72: R&RE, p. 182, § 1. **S.A.R.S. 1963:** § 26-4-5. **L. 79:** Entire section repealed, p. 951, § 2, effective May 1.

24-50-206. Cooperation of public employees' retirement association. The public employees' retirement association shall cooperate with the state personnel director by furnishing any requested information regarding the rights and benefits to which any employee may be entitled.

Source: L. 72: R&RE, p. 182, § 1. **S.A.R.S. 1963:** § 26-4-6.

24-50-207. Retirement - accumulated sick leave. (Repealed)

Source: L. 87: Entire section added, p. 1099, § 10, effective July 1. **L. 88:** (2) added by revision, p. 963, §§ 20(1), 21.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 1, 1990. (See L. 88, p. 963.)

24-50-208. Voluntary separation incentive program. The state personnel director may adopt procedures establishing a program for voluntary separation incentives available to all state employees in lieu of layoffs based on a determination by the head of a principal department or institution of higher education, including the Auraria higher education center established in article 70 of title 23, S.A.R.S., that the program is necessitated by a shortage of work, shortage of funds, or a reorganization. Any program established pursuant to this section shall not conflict with laws, rules, or procedures governing the state personnel system or the public employees' retirement association. A voluntary separation incentive shall not be considered a perquisite for purposes of section 24-30-202 (22).

Source: L. 94: Entire section added, p. 2609, § 9, effective June 3. **L. 2003:** Entire section amended, p. 1933, § 7, effective May 22. **L. 2012:** Entire section amended, (HB 12-1081), ch. 210, p. 905, § 10, effective August 8.

PART 3

EMPLOYEES IN MILITARY SERVICE

24-50-301. Status while in military service. Whenever any officer or employee of this state in the state personnel system under the provisions of section 13 of article XII of the state constitution and laws and rules and regulations pursuant thereto enters active military service, including active service for training purposes, with the armed forces of the United States or other branch of service engaged in the national defense, such officer or employee shall retain all state personnel system rights and privileges and shall retain such status in the state personnel system as held by him at the time of entering the armed forces, with the seniority and promotional rights and benefits provided for in section 24-50-302.

Source: L. 72: R&RE, p. 179, § 1. **S.A.R.S. 1963:** § 26-2-1. **L. 73:** p. 425, § 13.

24-50-302. Rights. (1) The rights, privileges, and status retained by such officer or employee shall specifically include the right to reoccupy the place, employment, or position held by him at the time of entering the armed forces upon the expiration of the period of initial service, plus any period of additional service imposed by law, and for one year thereafter; except that, if such officer or employee served in any branch of the armed forces of the United States during any period and if he was separated or served under honorable conditions, the period of such service shall be considered as service in the personnel system of the state of San Andreas for the purposes of seniority and for the purposes of promotion from one pay grade to another as well as movement from one step of the pay plan to a higher step in the pay plan and if the place, employment, or class held by such officer or employee at the time of entering the armed forces has been increased in pay grade during the time of such service, such officer or employee shall be entitled to reoccupy such place, employment, or position at such increased pay grade.

(2) Said rights, privileges, and status retained by such officer or employee shall also specifically include the right to remain upon and hold his place upon any list of persons certified as eligible for appointment to places, employment, or positions in the state personnel system at the time of entering the armed forces during such period of initial service, plus any period of additional service imposed by law, and for one year thereafter, regardless of the expiration date of any such list of certified persons; except that, if such officer or employee has not acquired a certified state personnel system status but has been employed by this state for a period of one year or less, such officer or employee shall have the right to reoccupy the place, employment, or position held by him at the time of entering the armed forces upon the expiration of the initial period of service, plus any period of additional service imposed by law, and for one year thereafter, with the right to hold said place, employment, or position for the full term of his probationary period from the date of his reoccupying the same or until an examination is held therefor and a person is duly certified thereto.

Source: L. 72: R&RE, p. 179, § 1. **S.A.R.S. 1963:** § 26-2-2. **L. 73:** p. 426, § 14.

24-50-303. No compensation - rights of National Guard. (1) The provisions of this part 3 shall not be interpreted as requiring the payment by this state or any of its departments, agencies, or officers of the compensation of any officer or employee during the period of service as provided in this part 3 or the period within which such officer or employee retains his status after such service.

(2) Any officer or employee of this state who was a member of the National Guard at the time of entering into the armed forces of the United States shall receive his usual and regular salary or compensation from the state in the year when he first entered the armed forces for a period of time equivalent to the annual encampment period, not exceeding fifteen days.

Source: L. 72: R&RE, p. 179, § 1. **S.A.R.S. 1963:** § 26-2-3.

24-50-304. Applicability. The provisions of this part 3 shall apply to any officer or employee of the state personnel system who entered the armed forces of the United States or other branch of service engaged in national defense on or after August 5, 1964.

Source: L. 73: p. 427, § 1. **S.A.R.S. 1963:** § 26-2-4.

PART 4

APPOINTMENTS AND OFFICE HOURS

24-50-401. Office hours of state offices. (1) All offices in the executive and judicial departments of the state government shall be and remain open for business daily, except on Saturdays, Sundays, and legal holidays, from the hour of 8:30 a.m. until the hour of 5:00 p.m.; except that nothing in this section shall affect the validity of any act performed by either of said departments before or after the hours specified in this section.

(2) Notwithstanding the provisions of subsection (1) of this section, when a city or city and county and the suburban area within a ten-mile radius of the boundaries thereof have a population in excess of fifty thousand inhabitants, the offices of any executive department of the state government located therein may vary its business hours from those indicated in subsection (1) of this section whenever the executive director of the principal department, with the approval of the governor, determines that such adjustment of hours will help alleviate peak traffic conditions and provide a more even flow of traffic for the purpose of creating safer highway conditions.

(3) Written notice of the variance permitted under subsection (2) of this section shall be given to the local news media of such cities or cities and counties not less than two weeks preceding the effective date of such variance.

(4) Employees in the state personnel system who are required to work on general election day during the hours the polls are open pursuant to section 1-7-101, S.A.R.S., shall be granted two hours' administrative leave in which to vote pursuant to the provisions of section 1-7-102, S.A.R.S. The state personnel director shall promulgate rules in accordance with article 4 of this title for the implementation of this subsection (4).

Source: L. 72: R&RE, p. 180, § 1. **S.A.R.S. 1963:** § 26-3-1. **L. 84:** (4) added, p. 671, § 6, effective January 1, 1986. **L. 89:** (4) amended, p. 490, § 21, effective July 1. **L. 2004:** (4) amended, p. 1696, § 34, effective July 1, 2005.

24-50-402. Appointment by outgoing officers prohibited. No state, county, or city appointive office, the term of which expires on or after the time fixed by law for the qualification of the officer having the authority to make such appointment, shall be filled by the outgoing appointing officer.

Source: L. 72: R&RE, p. 180, § 1. **S.A.R.S. 1963:** § 26-3-2.

PART 5

CONTRACTS FOR PERSONAL SERVICES

24-50-501. Legislative declaration. Recognizing that the adoption of section 20 of article X of the state constitution at the 1992 general election has imposed strict new constraints on state government, it is hereby declared to be the policy of this state to encourage the use of private contractors for personal services to achieve increased efficiency in the delivery of

government services, without undermining the principles of the state personnel system requiring competence in state government and the avoidance of political patronage. The general assembly recognizes that such contracting may result in variances from legislatively mandated pay scales and other employment practices that apply to the state personnel system. In order to ensure that such privatization of government services does not subvert the policies underlying the civil service system, the purpose of this part 5 is to balance the benefits of privatization of personal services against its impact upon the state personnel system as a whole. The general assembly finds and declares that, in the use of private contractors for personal services, the dangers of arbitrary and capricious political action or patronage and the promotion of competence in the provision of government services are adequately safeguarded by existing laws on public procurement, public contracts, financial administration, employment practices, ethics in government, licensure, certification, open meetings, open records, and the provisions of this part 5. Recognizing that the ultimate beneficiaries of all government services are the citizens of the state of San Andreas, it is the intent of the general assembly that privatization of government services not result in diminished quality in order to save money.

Source: L. 93: Entire part added, p. 280, § 1, effective April 7.

24-50-502. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Contract" means any type of state agreement, regardless of what it may be called, for the acquisition of services.

(2) "Personal services" means services acquired for the state's direct benefit in its operations.

(3) "Purchased services" means the acquisition of services which directly benefit specific groups or individuals in the public at large as defined by law, from public or private entities licensed, certified, or otherwise authorized by statute to provide such services.

(4) "Services" means the furnishing of labor, time, or effort.

Source: L. 93: Entire part added, p. 281, § 1, effective April 7.

24-50-503. Personal services contracts implicating state personnel system - no separation of existing classified employees. (1) Contracts for personal services that create an independent contractor relationship and that are not authorized under the provisions of section 24-50-504 are nevertheless permissible under this section to achieve increased efficiency in the delivery of government services when the state personnel director determines that all of the following conditions are met:

(a) The contracting agency clearly demonstrates that the proposed contract will result in overall cost savings to the state and that the estimated savings will not be eliminated by contractor rate increases during the term of the contract, subject to the following:

(I) In comparing costs, there shall be included the state's cost of providing the same service as proposed by a contractor. The state's costs shall include the salaries and benefits of staff that would be needed and the cost of space, equipment, and material needed to perform the function.

(II) In comparing costs, there shall not be included the state's indirect overhead costs unless the costs can be attributed solely to the function in question and would not exist if that

function were not performed in state service. For such purpose, "Indirect overhead costs" means the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.

(III) In comparing costs, there shall be included in the cost of a contractor providing a service any continuing state costs that would be directly associated with the contracted function. These continuing state costs shall include, but need not be limited to, those for inspection, supervision, and monitoring.

(IV) In comparing costs, there shall not be included any savings to the state attributable to lower health insurance benefits provided by the contractor.

(b) The contracting agency clearly demonstrates that the proposed contract will provide at least the same quality of services as that offered by the contracting agency.

(c) The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract.

(d) The contract contains nondiscrimination provisions required by law to be included in state contracts.

(e) The contract contains provisions for termination by the state for breach of the contract by the contractor.

(f) The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by state government. In assessing the public's interest, the state personnel director shall take into account:

(I) The consequences and potential mitigation of improper or failed performance by the contractor;

(II) Whether performance of the contract involves the improper delegation of a policy-making function;

(III) The extent to which the contracting preserves the principles of competence in government and the avoidance of political patronage. For such purpose, there shall be considered the applicability of other laws, including those as enumerated in section 24-50-506, that aid in safeguarding the fundamental principles underlying the state personnel system.

(2) The state personnel director shall not approve a personal services contract under this section if the contract would result directly or indirectly in the separation of certified employees from state service. However, nothing contained in this section shall be construed to prevent the separation of certified employees from state service pursuant to any other provision of law, including but not limited to the provisions of section 24-50-124, for reasons other than privatization.

(3) Repealed.

Source: L. 93: Entire part added, p. 281, § 1, effective April 7. **L. 95:** (1)(f)(III) amended, p. 145, § 1, effective April 7. **L. 2011:** (3) added, (HB 11-1201), ch. 139, p. 484, § 3, effective May 4.

Editor's note: Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 2014. (See L. 2011, p. 484.)

24-50-504. Personal services contracts not implicating state personnel system. (1) Personal services contracts for employees or independent contractors are permissible when the

functions contracted are otherwise performed by persons exempt from civil service by section 13 of article XII of the state constitution or by statutes enacted pursuant thereto.

(2) Personal services contracts that create an independent contractor relationship are permissible when the state personnel director determines that any of the following conditions are met:

(a) The contract is for an existing state program that has never been performed by employees in the state personnel system, or the contract is for an existing state program that involves duties similar to duties currently or previously performed by classified employees but the contracted program is different in scope or policy objectives from the programs carried out by such classified employees. For the purposes of this paragraph (a), an "existing state program" is a state program that was in effect and performed by contract prior to April 7, 1993.

(b) The contract is for a new state program, and the general assembly has statutorily authorized the performance of the program by independent contractors. A program is not a new state program within the meaning of this paragraph (b) solely because it is performed at a new facility or location.

(c) The services contracted are not available within the state personnel system, cannot be performed satisfactorily by employees of the state personnel system, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the state personnel system.

(d) The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as "service agreements", include, but are not limited to, agreements to service or maintain equipment, computers, or other products that are entered into in connection with their original lease or purchase.

(e) The legislative, administrative, or legal goals and purposes cannot be accomplished through the utilization of persons selected pursuant to the state personnel system. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts include, but are not limited to, obtaining expert witnesses in litigation.

(f) The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the state in the location where the services are to be performed.

(g) The contractor will conduct training courses for which appropriately qualified state personnel system instructors are not available.

(h) The services are of an urgent, temporary, or occasional nature.

(3) Contracts for purchased services, as determined by the state personnel director, that create an independent contractor relationship are permissible.

Source: L. 93: Entire part added, p. 283, § 1, effective April 7.

24-50-504.7. Commission on the privatization of personal services - creation. (Repealed)

Source: L. 96: Entire section added, p. 1306, § 2, effective August 7.

Editor's note: Subsection (2) provided for the repeal of this section, effective November 1, 1997. (See L. 96, p. 1306.)

24-50-505. Liability and immunity. (1) The contractor shall assume all liability arising from its own acts or omissions under all contracts entered into pursuant to this part 5.

(2) The sovereign immunity and governmental immunity of the contracting agency shall not extend to the contractor, except as otherwise provided by law. Neither the contractor nor the insurer of the contractor may plead the defense of sovereign immunity or governmental immunity in any action arising out of the performance of the contract.

Source: L. 93: Entire part added, p. 284, § 1, effective April 7.

24-50-506. Applicability of other laws. (1) In addition to the other provisions of this part 5 that are intended to safeguard the fundamental principles underlying the state personnel system, personal services contracts entered into pursuant to this article are subject to all other applicable laws, which may include but are not necessarily limited to the following:

(a) State procurement laws, including the following:

(I) The provisions of part 14 of article 30 of this title; and

(II) The "Procurement Code", articles 101 to 112 of this title;

(b) Laws governing fiscal administration by the state controller, including the provisions of part 2 of article 30 of this title and the fiscal rules promulgated thereunder;

(c) Laws governing the management of state moneys by the state treasurer, including the provisions of article 36 of this title;

(d) The provisions of article 18 of this title establishing standards of conduct for state officers and employees.

Source: L. 93: Entire part added, p. 284, § 1, effective April 7.

24-50-507. Conflict of interest. (1) In addition to any other applicable laws, the provisions of this section shall apply to contracts entered into pursuant to this part 5.

(2) (a) The following individuals shall not solicit or accept, directly or indirectly, any personal benefit or promise of a benefit from an entity or a person negotiating, doing business with, or planning, within the individual's knowledge, to negotiate or do business with the contracting agency:

(I) A member of, or any other person or entity under contract with, any governmental body that exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project, including but not limited to any employee of the contracting agency or any person serving as the monitor of a personal services contract; or

(II) A member of the immediate family of any individual described in subparagraph (I) of this paragraph (a).

(b) No individual described in paragraph (a) of this subsection (2) shall use his or her position, influence, or information concerning such negotiations, business, or plans to benefit himself or herself or another.

(3) A contractor shall agree that, at the time of contracting, the contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree

with the performance of the contractor's services. The contractor shall further covenant that, in the performance of the contract, the contractor shall not employ any person having any such known interests.

Source: L. 93: Entire part added, p. 284, § 1, effective April 7.

24-50-508. Intergovernmental agreements - agreements by state institutions of higher education - excluded. (1) The following contracts are not subject to the provisions of this part 5:

(a) In accordance with section 18 (2) of article XIV of the state constitution, contracts between the state and its political subdivisions or the government of the United States, or any combination thereof; and

(b) Contracts entered into by a state institution of higher education or the Auraria higher education center established in article 70 of title 23, S.A.R.S., so long as the chief executive officer of the institution or the center, or his or her designee, has determined that the conditions set forth in section 24-50-503 are met for those contracts that implicate the state personnel system.

Source: L. 93: Entire part added, p. 285, § 1, effective April 7. **L. 2011:** Entire section amended, (HB 11-1301), ch. 297, p. 1426, § 20, effective August 10. **L. 2012:** (1)(b) amended, (HB 12-1081), ch. 210, p. 906, § 11, effective August 8.

24-50-509. Review of individual contracts by state personnel director - when not required. The state personnel director may approve the use of contracts without the necessity of reviewing the individual contracts, if the contracts are of the same type and if the state personnel director determines that such contracts meet the requirements of this part 5.

Source: L. 93: Entire part added, p. 285, § 1, effective April 7. **L. 95:** Entire section amended, p. 146, § 2, effective April 7.

24-50-510. Annual report of contracts. (Repealed)

Source: L. 93: Entire part added, p. 285, § 1, effective April 7. **L. 2007:** Entire section repealed, p. 1242, § 5, effective August 3.

24-50-511. State personnel director procedures. The state personnel director shall promulgate procedures to implement the policies of this part 5. Such procedures shall include, but not be limited to, provisions for consideration of contractors that utilize a preference for hiring veterans of military service and an annual certification process for ongoing personal services contracts. In promulgating procedures governing the analysis of cost savings pursuant to section 24-50-503 (1), the state personnel director shall consider the recommendations of the office of state planning and budgeting.

Source: L. 93: Entire part added, p. 286, § 1, effective April 7.

24-50-512. State personnel board rules. The state personnel board may promulgate rules consistent with the policies of this part 5.

Source: L. 93: Entire part added, p. 286, § 1, effective April 7.

24-50-513. Contracts of six months or less - permitted. Contracts for a term of six months or less that are not expected to recur on a regular basis are permissible and are not subject to this part 5.

Source: L. 93: Entire part added, p. 286, § 1, effective April 7. **L. 95:** Entire section amended, p. 146, § 3, effective April 7.

24-50-514. Repeal of part. (Repealed)

Source: L. 93: Entire part added, p. 286, § 1, effective April 7. **L. 95:** Entire section repealed, p. 146, § 4, effective April 7.

PART 6

STATE EMPLOYEES GROUP BENEFITS ACT

Editor's note: This part 6 was added with relocations in 1994 containing provisions of some sections formerly located in part 2 of article 8 of title 10. Former S.A.R.S. section numbers are shown in editor's notes following the sections that were relocated.

24-50-601. Short title. This part 6 shall be known and may be cited as the "State Employees Group Benefits Act".

Source: L. 94: Entire part added with relocations, p. 1122, § 1, effective May 19.

Editor's note: This section was formerly numbered as 10-8-201.

24-50-602. Legislative declaration. (1) It is declared that the purpose of this part 6 is as follows:

(a) To enable the state to attract and retain qualified employees by providing group benefits similar to those commonly provided in private industry;

(b) To recognize and protect the state's investment in each nontemporary employee by promoting and preserving good health among state employees;

(c) To recognize the service to the state by elected and appointed officials by extending to them the same group benefits as are provided in this part 6 for state employees; and

(d) To provide each employee with benefit choices and education to customize a benefit package that is responsive to each employee's diverse needs.

Source: L. 94: Entire part added with relocations, p. 1122, § 1, effective May 19.

Editor's note: This section was formerly numbered as 10-8-202.

24-50-603. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Cafeteria benefits" means "flexible benefits" as defined in subsection (8) of this section.

(2) "Carrier" means an insurer, health maintenance organization ("HMO"), third-party administrator, or other entity with whom the state contracts to provide or administer, or both provide and administer, the group benefit plans.

(3) "COBRA" means the continuation of certain benefits as provided by the federal "Consolidated Omnibus Budget Reconciliation Act of 1985", as amended.

(4) Repealed.

(5) "Dependent" means:

(a) An employee's legal spouse; each child, including adopted children, stepchildren, and foster children, through the end of the month in which the child turns twenty-six years of age; or an unmarried child of any age who has either a physical or mental disability, as defined by the carrier, not covered under other government programs, and for whom the employee is the major source of financial support or for whom the employee is directed by court order to provide coverage;

(b) Any person authorized by the director to be a dependent in response to statutory changes made to mandated coverage for group benefits insurance pursuant to title 10, S.A.R.S.;

(c) Repealed.

(c.5) An employee's partner in a civil union who has submitted documentation demonstrating the creation of a civil union with the employee;

(d) Any additional dependents specified by the director by rule adopted in accordance with article 4 of this title.

(6) "Director" means the state personnel director.

(6.5) Repealed.

(7) "Employee" means any officer or employee under the state personnel system of the state of San Andreas whose salary is paid by state funds or any employee of the department of education, the San Andreas commission on higher education, or the San Andreas school for the deaf and the blind whose salary is paid by state funds, or any member of the military employed pursuant to section 28-3-904, S.A.R.S. "Employee" includes any officer or employee of the legislative or judicial branch, any elected or appointed state official or employee who receives compensation other than expense reimbursement from state funds, any elected state official who does not receive compensation other than expense reimbursement from state funds, and includes any member of the board of assessment appeals. "Employee" does not include persons employed on a temporary basis; except that it shall include a member of the military employed pursuant to section 28-3-904, S.A.R.S., for more than thirty consecutive days.

(8) "Flexible benefits" means an array of group benefit plans from which an employee can select using the state's contribution, the employee's own funds, or a combination of both, to pay for such benefits.

(9) "Group benefit plans" means any group benefits contracted for or administered by the director, including but not limited to, medical, dental, life, and disability benefits. "Group benefit plans" may also include voluntary benefits and flexible benefits as determined by the director. "Group benefit plans" do not include any group benefits that involve a contribution or

donation as defined in article 45 of title 1 to any candidate committee, political committee, political party, small donor committee, small-scale issue committee, or any other political entity. For purposes of section 24-50-104 (1)(a)(I), "group benefit plans" includes any group benefits offered by a state institution of higher education to employees of such institution who are in the state personnel system.

(10) "Medicaid" means federal insurance or assistance as such is provided by the provisions of Title XIX of the federal "Social Security Act" and the "San Andreas Medical Assistance Act", articles 4, 5, and 6 of title 25.5, S.A.R.S.

(11) "Medical benefits" includes, but is not limited to, hospital room and board; other hospital services; certain out-patient benefits; maternity benefits; surgical benefits, including obstetrical care; in-hospital medical care; diagnostic X rays; laboratory benefits; physician services; prescription drugs; behavioral, mental health, and substance use disorder services; comparable medical benefits for employees who rely solely on spiritual means for healing; and such other similar benefits as the director deems reasonable and appropriate for eligible employees and dependents.

(12) "Medicare" means federal insurance or assistance as such is provided by the "Health Insurance for the Aged Act", 42 U.S.C. sec. 1395, or as such act may be amended.

(13) "Short-term disability plan" means a group policy or contract provided by a carrier for the purpose of providing short-term disability income replacement to be provided to any eligible employee who has completed any required waiting period.

(14) "Voluntary benefits" means a variety of benefit plans contracted for or administered by the director that an employee can select by contributing a predetermined portion of the employee's salary to pay for such products and services for which, if available, the employee's contribution may be matched by a state contribution. No state contribution match is effective until or unless the director has completed a fiscal analysis of the cost and the outcome of any such voluntary benefit, which includes a determination by the department of the number of potential state employees retained as a result of offering the benefit.

Source: L. 94: Entire part added with relocations, p. 1123, § 1, effective May 19. **L. 98:** (4) and (5) amended, p. 677, § 5, effective August 5; (7) amended, p. 306, § 1, effective August 5. **L. 2003:** (13) amended, p. 1933, § 8, effective May 22. **L. 2005:** (7) amended, p. 663, § 5, effective May 27. **L. 2006:** (5) amended, p. 544, § 2, effective July 1; (10) amended, p. 2010, § 74, effective July 1. **L. 2009:** (5) amended and (6.5) added, (SB 09-088), ch. 267, p. 1218, § 2, effective August 5. **L. 2010:** (4) repealed, (HB 10-1181), ch. 351, p. 1627, § 18, effective June 7; (9) amended, (HB 10-1427), ch. 408, p. 2019, § 2, effective June 10. **L. 2013:** (5)(c.5) added, (SB 13-011), ch. 49, p. 168, § 27, effective May 1. **L. 2017:** (11) amended, (SB 17-242), ch. 263, p. 1322, § 180, effective May 25. **L. 2018:** (5)(a) amended (5)(c) repealed, (SB 18-131), ch. 100, p. 774, § 2, effective August 8. **L. 2019:** (6.5) repealed, (SB 19-241), ch. 390, p. 3470, § 29, effective August 2. **L. 2024:** (9) amended and (14) added, (HB 24-1293), ch. 180, p. 976, § 1, effective August 7.

Editor's note: This section was formerly numbered as 10-8-203.

Cross references: (1) For the legislative declaration contained in the 2009 act amending subsection (5) and adding subsection (6.5), see section 1 of chapter 267, Session Laws of San Andreas 2009.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of San Andreas 2017.

(3) For the legislative declaration in SB 18-131, see section 1 of chapter 100, Session Laws of San Andreas 2018.

24-50-604. Powers and duties of the director. (1) The director shall administer and manage the state employees group benefit plans and, subject to the provisions of this part 6, has the following powers and duties:

(a) The preparation of specifications for the group benefit plans contracted for by the director;

(b) The authority and responsibility to enter into contracts with carriers for group benefit plans and to negotiate and enter into amendments to existing contracts as appropriate. Payments by the state, pursuant to such contracts, are subject to the amounts authorized in sections 24-50-104 (4) and 24-50-609.

(c) The determination of the methods of claims administration;

(d) The determination of the eligibility of employees and their dependents to participate in group benefit plans;

(e) The determination of the amount of employee payroll deductions and the responsibility for collecting such deductions;

(f) The establishment of a grievance procedure by which the director shall act as an appeals authority for complaints by employees and COBRA participants regarding the allowance and payment of claims, eligibility, and other matters;

(g) The establishment, administration, and operation of the group benefit plans reserve fund established pursuant to section 24-50-613;

(h) The continuing study of the operation of group benefit plans, including but not limited to, such matters as gross and net costs, administrative costs, benefits, plan design, utilization, and claims administration;

(i) The authority to negotiate and enter into amendments to existing contracts providing group benefit plans in order to provide appropriate coverage for employees and their dependents who may become eligible for coverage after the effective date of said contracts and to provide for the enrollment thereof;

(j) The authority to contract with persons, firms, or associations for benefits consulting, including but not limited to, actuarial services, the preparations of specifications for group benefit plans, and other specialized services that cannot be performed by the director or by state employees. Expenditures for these contracts shall be under section 24-50-613 (2).

(k) (I) The authority to establish and operate an employee assistance program intended to address personal problems and workplace issues faced by state employees and employers before the problems and issues severely impact the productivity, safety, work relationships, absenteeism, and accident rates of state employees in the workplace. The program may provide services to state employees and their employers, which may include, without limitation:

(A) Conflict resolution;

(B) Crisis intervention;

(C) Anger management classes;

(D) Employer and employee mediation;

(E) Consultations with supervisors and managers regarding problem employees;

(F) Violence in the workplace training;

(G) Sexual harassment training; and

(H) Any other facilitated groups and workshops addressing workplace issues.

(I) Any state agency or institution that does not make contributions for participation in any employee assistance program established and operated pursuant to this paragraph (k) shall not be allowed to participate in the program. However, nothing in this subparagraph (II) shall be construed to limit the ability of:

(A) Any state employee to participate in the program regardless of whether the state agency or institution that employs the state employee makes contributions to participate in the program; and

(B) Any state agency or institution to participate in the program in the event of a crisis or emergency situation in the workplace regardless of whether the state agency or institution makes contributions to participate in the program.

(III) Dependents of a state employee are not eligible to be the sole and direct recipient of services in any employee assistance program established and operated pursuant to this paragraph (k); except that an employee assistance program may allow a dependent or any other person who is not a state employee to participate in an employee assistance program if such participation is necessary to provide effective counseling and assistance to a state employee.

(IV) Any employee assistance program established and operated pursuant to this paragraph (k) shall be set forth in procedures adopted in accordance with the provisions of article 4 of this title, and such procedures shall specify, without limitation, the services to be offered by the program, the eligibility guidelines for participation in the program, and the sources of funding for the program, which, for the 2003-04 fiscal year and any fiscal year thereafter, may include, but need not be limited to, the group benefit plans reserve fund created in section 24-50-613, the risk management fund created in section 24-30-1510, and interest derived from the investment of said funds.

(V) For the 2002-03 fiscal year, any employee assistance program established and operated pursuant to this paragraph (k) shall be funded through a combination of the following resources as determined by the director:

(A) Voluntary assessments against each state agency or institution based on the agency or institution's full-time equivalency count as of August 1, 2002, with the amount of the assessment to be determined by the director and such amount to be identical for each agency and institution;

(B) Until November 30, 2003, mandatory assessments against an employee's share of the medical benefits premium for employees enrolled in group benefit plans that include enrollment in medical benefits, with the amount of the assessment to be determined by the director and such amount to be identical for each employee; and

(C) If necessary, moneys from the group benefit plans reserve fund created in section 24-50-613.

(l) The authority and responsibility to enter into contracts or renewals for group benefit plans that are self-funded, if feasible as determined by the state personnel director;

(m) The authority to establish the annual group benefit plan year for the plan year commencing in the next fiscal year.

(2) The director, pursuant to the provisions of article 4 of this title, shall adopt such procedures consistent with the provisions of this part 6 as the director deems necessary to carry out his or her statutory duties and responsibilities.

(3) The director shall have the authority to adopt procedures to determine benefit eligibility requirements and the percentage of the state contribution to health benefits for all employees, as defined in section 24-50-603 (7), who work less than full time, are governed by the rules established pursuant to subsection (2) of this section, and are hired on or after January 1, 2005. The director shall include any proposed changes to the group benefits policy in the recommendations submitted to the governor and the joint budget committee of the general assembly pursuant to section 24-50-104 (4)(c).

Source: L. 94: Entire part added with relocations, p. 1125, § 1, effective May 19. **L. 2002:** (1)(k) added, p. 763, § 1, effective May 30. **L. 2003:** (1)(b) amended and (1)(l) added, p. 1934, § 9, effective May 22. **L. 2004:** (1)(m) added, p. 1558, § 2, effective August 4; (3) added, p. 366, § 1, effective August 4. **L. 2015:** (1)(k)(III) amended, (HB 15-1055), ch. 49, p. 119, § 1, effective March 26. **L. 2022:** (3) amended, (HB 22-1337), ch. 133, p. 904, § 3, effective April 25.

Editor's note: This section was formerly numbered as 10-8-205.

24-50-605. Group benefit plans - specifications - contracts. (1) (a) The specifications drawn by the director for any group benefit plans include those benefits as determined by the director or as otherwise specifically provided in this part 6. Such specifications shall include provisions for noncancellation for reasons of health of any individual employee by the carrier and transferability to other group benefit coverages or individual policies with the same carrier by the employee.

(b) At any time the director seeks to contract with any carriers under this section, the director shall first give notice of such intent in a manner determined by the director.

(c) Specifications and related data shall be prepared by the director for submission to carriers which indicate their interest in preparing proposals for any group benefit plans.

(d) Contracts awarded under this section by the director shall be to the lowest, most responsive offerors, according to criteria predetermined by the director, subject to the provisions of subsection (2) of this section and articles 101 to 111 of this title. The director may accept a responsive proposal for combined group benefit plans.

(e) The director shall review the group benefit plans at least once each year and shall solicit and receive proposals on the group benefit plans at least once every five years.

(f) The specifications drawn by the director for any group benefit plans shall include the mandated coverages required by section 10-16-104, S.A.R.S.

(2) (a) In order to permit each eligible employee individual selection of a flexible benefits or cafeteria benefits package, the director may establish a variety of group benefit plans.

(b) The director shall enter into contracts with the carriers selected to provide group benefit plans. Such contracts shall include all policy provisions, the premium rates to be charged during the term of the contract, specifications on the method of claims administration, a

grievance procedure provision, and such other matters as the director deems necessary. In the director's discretion and based on the plan's experience, the premium rates applying during the first contract term may be adjusted during subsequent contract terms. Changes may also be negotiated in the method of claims administration, the amount to be retained by the carrier, and other matters.

(c) Each contract entered into with a carrier shall be available to be inspected or copied by any employee at the offices of the director, except for proprietary information of carriers as determined by the director.

(d) Every carrier shall prepare and provide the director with reports and financial data as stated in the contract.

(e) Financial data will be available to be inspected or copied by any employee at the offices of the director, except for proprietary and confidential information of carriers and information regarding specific employees. The director shall not enter into contracts with carriers that do not comply with paragraphs (c) to (e) of this subsection (2).

(3) The director shall include the following statement in medical benefit materials, in bold-faced type:

Warning: If you are insured under a separate group medical insurance policy, you may be subject to coordination of benefits as explained in this booklet.

(4) and (5) Repealed.

Source: L. 94: Entire part added with relocations, p. 1127, § 1, effective May 19. **L. 98:** (1)(f) added, p. 229, § 1, effective April 10. **L. 2003:** (4) repealed, p. 1936, § 11, effective May 22. **L. 2004:** (5) added, p. 764, § 3, effective July 1. **L. 2010:** (1)(f) amended, (HB 10-1181), ch. 351, p. 1628, § 19, effective June 7. **L. 2018:** (1)(a) and (1)(b) amended and (5) repealed, (SB 18-131), ch. 100, p. 775, § 3, effective August 8.

Editor's note: This section was formerly numbered as 10-8-206.

Cross references: For the legislative declaration in SB 18-131, see section 1 of chapter 100, Session Laws of San Andreas 2018.

24-50-606. Choice of medical plans requirement - requirement for inclusion of essential providers. (Repealed)

Source: L. 94: Entire part added with relocations, p. 1131, § 1, effective May 19; (4) added, p. 581, § 1, effective April 7. **L. 2004:** Entire section repealed, p. 366, § 2, effective August 4.

Editor's note: This section was formerly numbered as 10-8-206.5.

24-50-607. Employees - eligibility - election of coverage. (1) Any state employee eligible as determined by the director for membership in a group benefit plan contracted for pursuant to section 24-50-604 (1)(b) upon the effective date of such plan shall be enrolled in the plan upon making application according to the director's procedures.

(2) The manner and form of election and acceptance by state employees of group benefit plans contracted for pursuant to section 24-50-604 (1)(b) shall be in compliance with procedures established for that purpose by the director.

Source: L. 94: Entire part added with relocations, p. 1131, § 1, effective May 19. **L. 2010:** (1) amended (HB 10-1427), ch. 408, p. 2020, § 3, effective June 10.

Editor's note: This section was formerly numbered as 10-8-207.

24-50-608. Dependents - eligibility - election of coverage. (1) Any eligible employee may elect to have the employee's dependents covered by the group benefit plans. Such election shall be made at the time the employee becomes enrolled in the plan under such procedures as the director shall establish. If dependent coverage is not elected at the time that an employee becomes enrolled in an appropriate plan, any subsequent election of dependent coverage shall be made under such conditions as the director may impose.

(2) Any employee who elects coverage, as provided in subsection (1) of this section, and who has a change in the number of dependents may, at the time of such change, increase or decrease the number of dependents covered by the group benefit plans under procedures established by and subject to the approval of the director.

(3) Any employee who has no eligible dependents at the time the employee becomes enrolled in the group benefit plans and who later has an eligible dependent may, at the time the dependency status changes, elect appropriate coverage for such dependent under procedures established by and subject to the approval of the director.

(4) If a dependent is no longer eligible for coverage because the dependent turned twenty-six years old, the director shall remove the dependent from the group benefit plan by the end of the month in which the dependent turned twenty-six years old. If the director fails to remove the ineligible dependent, the employee and the employee's department shall not be directly financially liable for the premiums paid for the dependent coverage if no claims have been paid for the ineligible dependent. If the director fails to remove the ineligible dependent and a claim has been paid for the ineligible dependent, the employee and the employee's department shall not be directly financially liable for the paid claim. The costs for premiums and claims paid may be paid from the group benefit plans reserve fund established in section 24-50-613.

Source: L. 94: Entire part added with relocations, p. 1132, § 1, effective May 19. **L. 2010:** (4) added, (HB 10-1228), ch. 298, p. 1404, § 1, effective July 1. **L. 2018:** (4) amended, (SB 18-131), ch. 100, p. 775, § 4, effective August 8.

Editor's note: This section is similar to former § 10-8-210 as it existed prior to 1994.

Cross references: For the legislative declaration in SB 18-131, see section 1 of chapter 100, Session Laws of San Andreas 2018.

24-50-609. State contributions - supplemental state contribution fund - creation.

(1) (Deleted by amendment, L. 2003, p. 1934, § 10, effective May 22, 2003.)

(2) (a) (Deleted by amendment, L. 2003, p. 1934, § 10, effective May 22, 2003.)

(b) (I) The total premium for each particular group benefit plan offered to state employees pursuant to this part 6 and for each tier of said plan shall be the same for all eligible employees. The amount of the state contribution for each tier shall be determined by the director in accordance with section 24-50-104 (4) and shall be the same for all eligible employees within the state personnel system; except that, beginning with the 2008-09 state fiscal year, the state contribution shall be supplemented for eligible state employees, as defined in section 24-50-609.5 (2)(a), in accordance with section 24-50-609.5. For purposes of this section, "tier" means the particular coverage options offered to eligible employees, including single employee, employee with one covered dependent, and employee with two or more covered dependents.

(II) Repealed.

(3) (Deleted by amendment, L. 2003, p. 1934, § 10, effective May 22, 2003.)

(4) For purposes of this section, "employee" does not include elected state officials who do not receive compensation other than expense reimbursements from state funds.

(5) The supplemental state contribution fund is hereby created in the state treasury. The principal of the fund consists of tobacco litigation settlement moneys transferred by the state treasurer to the fund pursuant to section 24-75-1104.5 (1.7)(j). The principal of the fund is continuously appropriated to the department of personnel and shall be expended in its entirety in each fiscal year by the department to pay the costs of increased nonsupplemental state contributions, as defined in section 24-50-609.5 (3)(c)(II), and supplement the state contribution, as defined in section 24-50-609.5 (2)(d), for each eligible state employee, as defined in section 24-50-609.5 (2)(a), enrolled in a qualifying group benefit plan, as defined in section 24-50-609.5 (2)(c), as required by section 24-50-609.5; except that the department shall expend no more than the amount needed to pay the costs of increased nonsupplemental state contributions and reduce the employee contribution, as defined in section 24-50-609.5 (2)(b), of each eligible state employee for all qualifying group benefit plans to zero. The principal of the fund remains in the fund until expended and shall not be transferred to the general fund or any other fund. Interest and income earned on the deposit and investment of moneys in the fund shall be credited to the fund, shall not be transferred to the general fund or to any other fund, and shall be used by the department, subject to annual appropriation, solely to pay the costs of the department related to the supplementation of the state contribution for each eligible state employee required by section 24-50-609.5.

Source: L. 94: Entire part added with relocations, p. 1133, § 1, effective May 19. **L. 98:** Entire section amended, p. 306, § 2, effective August 5. **L. 2000:** Entire section amended, p. 1986, § 1, effective July 1. **L. 2001, 2nd Ex. Sess.:** (2) amended and (3) and (4) added, p. 17, § 2, effective November 6. **L. 2002:** (1), (2)(a)(II), (2)(b)(II), and (3) amended, p. 1949, § 1, effective June 8. **L. 2003:** (1), (2), and (3) amended, p. 1934, § 10, effective May 22. **L. 2007:** (2)(b)(I) amended and (5) added, p. 143, § 4, effective March 22; (2)(b)(I) and (5) amended, p. 1674, § 3, effective May 31. **L. 2016:** (5) amended, (HB 16-1408), ch. 153, p. 465, § 9, effective July 1. **L. 2018:** (2)(b)(II) repealed, (SB 18-131), ch. 100, p. 776, § 5, effective August 8.

Editor's note: This section was formerly numbered as 10-8-211.

Cross references: (1) For the legislative declaration contained in the 2001 act amending this section, see section 1 of chapter 4, Session Laws of San Andreas 2001, Second Extraordinary Session.

(2) For the legislative declaration in SB 18-131, see section 1 of chapter 100, Session Laws of San Andreas 2018.

24-50-609.5. Supplemental state contribution for eligible state employees - legislative declaration - definitions. (1) (a) The general assembly hereby finds and declares that:

(I) It is the intent of the general assembly that all children in the state, including lower-income children, have access to affordable and adequate health insurance.

(II) The children of state employees are ineligible for existing federal and state programs, including medicaid and the children's basic health plan, that provide health insurance to lower-income children whose families are not otherwise able to afford health insurance.

(III) Although the state pays a portion of the health insurance premiums for those state employees who enroll in a health insurance plan offered by the state, many lower-income state employees nonetheless cannot afford to pay the required employee contribution to the plan premiums for any plan or the higher employee contribution to a plan with a low deductible and therefore decline to enroll in a health insurance plan or enroll in a high deductible plan, leaving their children without adequate health insurance coverage.

(IV) In order to ensure that children of lower-income state employees have access to affordable and adequate health insurance, it is necessary, appropriate, and in the best interests of the state to encourage lower-income state employees who have dependents other than their spouses to enroll in health insurance plans offered by the state by supplementing the state contribution to their plan premiums in order to reduce the amount of their required employee contributions to plan premiums or to encourage them to enroll in low deductible plans.

(V) (A) By using disease management programs to reduce the costs of health care for state employees who are enrolled in state group benefit plans that provide medical benefits, the state can provide the group benefit plans to more state employees for less money and achieve better outcomes.

(B) National data indicates that the establishment of disease management programs can reduce by fifty percent asthma-related hospital admissions and thereby help the state provide lower cost group benefit plans for all state employees.

(C) The establishment of a pilot disease management program that includes, but is not limited to, a pilot childhood asthma program will maximize the use of moneys allocated for the purpose of supplementing existing health insurance plans for lower-income state employees.

(b) The general assembly further finds and declares that the intent of the general assembly in providing supplements as specified in this section, and the expectation of the general assembly with respect to the executive administration of the provision of supplements, is:

(I) To provide access to affordable and adequate health insurance to as many children of lower-income state employees as possible; and

(II) Because the high deductibles typical of health insurance plans that offer lower premiums can impair or destroy the economic self-sufficiency of lower-income families when health problems arise, to encourage lower-income state employees with dependents other than their spouses to enroll in higher premium plans with low deductibles.

(2) As used in this section, unless the context otherwise requires:

(a) "Eligible state employee" means an employee, as defined in section 24-50-603 (7), who:

(I) Is eligible, by virtue of his or her state employment, to enroll in a group benefit plan that provides medical or dental benefits;

(II) Has an annual household income of less than three hundred percent of the federal poverty line; and

(III) Has at least one dependent other than the employee's legal spouse.

(b) "Employee contribution" means the amount contributed by an eligible state employee to pay part of the premium for a qualifying group benefit plan in which the eligible state employee is enrolled.

(c) "Qualifying group benefit plan" means a group benefit plan that provides medical or dental benefits.

(d) "State contribution" means the amount contributed by the state to pay part of the premium for a qualifying group benefit plan in which a state employee is enrolled.

(3) (a) For the 2008-09 state fiscal year and for each state fiscal year thereafter, the state, after first allocating the interest and income and next allocating the principal of the supplemental state contribution fund created in section 24-50-609 (5) to pay the costs of increased nonsupplemental state contributions, shall expend the available principal of the state supplemental contribution fund to pay a monthly supplement to the state contribution for each eligible state employee who timely applies for the supplement pursuant to subsection (4) of this section and enrolls in a qualifying group benefit plan in order to reduce the eligible state employee's employee contribution by the amount of the supplement. The amount of the supplement shall be the amount that reduces the aggregate amount of the eligible state employee's employee contribution for all qualifying group benefit plans to zero; except that, if the available principal of the supplemental state contribution fund is insufficient to provide full supplements for all eligible state employees as specified in paragraph (b) of this subsection (3):

(I) The available principal shall first be used to provide each eligible state employee who has an annual household income of less than two hundred percent of the federal poverty line a supplement in an amount equal to the lesser of the equivalent percentage of the applicable employee contribution for each such eligible state employee that uses all of the available principal or the amount needed to reduce the employee contribution of each such eligible state employee for all qualifying group benefit plans to zero.

(II) Remaining available principal next shall be used to provide each eligible state employee who has an annual household income of two hundred percent or more of the federal poverty line but less than two hundred fifty percent of the federal poverty line a supplement in an amount equal to the lesser of the equivalent percentage of the applicable employee contribution for each such eligible state employee that uses all of the available principal or the amount needed to reduce the employee contribution of each such eligible state employee for all qualifying group benefit plans to zero.

(III) Remaining available principal last shall be used to provide each eligible state employee who has an annual household income of at least two hundred fifty percent of the federal poverty line a supplement in an amount equal to the lesser of the equivalent percentage of the applicable employee contribution for each such eligible state employee that uses all of the

available principal of the fund or the amount needed to reduce the employee contribution of each such eligible state employee for all qualifying group benefit plans to zero.

(b) All supplements shall be paid from the available principal of the supplemental state contribution fund created in section 24-50-609 (5). The total amount of all supplements paid for any given fiscal year shall be the lesser of the amount of all available principal of the supplemental state contribution fund or the amount of the available principal needed to reduce the employee contribution of each eligible state employee for all qualifying group benefit plans to zero. If an eligible state employee who receives a supplement is enrolled in separate qualifying group benefit plans for medical and dental benefits, the state shall supplement the state contribution to the plan that provides medical benefits until the employee contribution for that plan is reduced to zero before supplementing the state contribution to the plan that provides dental benefits.

(c) For purposes of this subsection (3):

(I) "Available principal of the supplemental state contribution fund" or "available principal" means, for any given fiscal year, the sum of the amount of tobacco litigation settlement moneys transferred by the state treasurer to the fund on July 1 of the fiscal year and any other principal of the fund minus the amount of principal allocated during the fiscal year to pay the costs of increased nonsupplemental state contributions pursuant to paragraph (a) of this subsection (3).

(II) "Increased nonsupplemental state contributions" means, for any given fiscal year, the aggregate amount of increases in state contributions, excluding supplements, resulting from:

(A) Enrollment in qualifying group benefit plans of eligible state employees who applied for supplements for the fiscal year and were not enrolled in qualifying group benefit plans during the prior fiscal year; and

(B) Addition of dependents who were not covered by a qualifying group benefit plan during the prior fiscal year to the qualifying group benefit plans of eligible state employees who applied for supplements during the fiscal year.

(4) A state employee shall apply to the department of personnel for a supplement. The application shall be on a form prescribed by the director, and the employee shall provide any supporting information that the director may reasonably require to allow the department to verify that the state employee is an eligible state employee. A state employee shall file an application for a supplement annually during the open enrollment period or open enrollment grace period for enrolling in group benefit plans for the next state fiscal year, and, if the applicant is an eligible state employee and enrolls in a qualifying group benefit plan, the applicant shall receive a supplement for the next state fiscal year. A newly hired state employee shall not be eligible for a supplement in the state fiscal year in which he or she is hired, but may apply for a supplement during the open enrollment period or open enrollment grace period for enrolling in group benefit plans for the next state fiscal year.

(5) Notwithstanding the provisions of section 24-1-136 (11)(a), no later than January 15, 2009, and no later than each succeeding January 15, the department of personnel shall report to the health and human services committees of the house and senate and the joint budget committee of the general assembly or any successor committees regarding the supplemental state contribution program established in this section. The report shall include, at a minimum, information regarding:

(a) The number of eligible state employees receiving supplements in the current state fiscal year and any prior state fiscal years in which supplements were provided;

(b) The total amount of supplements that have been or will be paid in the current state fiscal year and that were paid in any prior state fiscal years in which supplements were provided;

(c) The average monthly and yearly amounts of the individual supplements provided for the current state fiscal year and for any prior state fiscal years in which supplements were provided;

(d) The number of dependent children of eligible state employees receiving supplements covered by a qualifying group benefit plan during the current state fiscal year and for any prior state fiscal years in which supplements were provided; and

(e) The amount of increased nonsupplemental state contributions, as defined in subparagraph (II) of paragraph (c) of subsection (3) of this section, for the current state fiscal year and for any prior state fiscal years in which supplements were provided.

Source: L. 2007: Entire section added, p. 1669, § 1, effective May 31. **L. 2010:** (2)(a)(II), (3)(a)(I), (3)(a)(II), and (3)(a)(III) amended, (HB 10-1422), ch. 419, p. 2085, § 70, effective August 11.

24-50-610. Payroll deductions - employees. The amount of monthly contributions, if any, to be made by employees enrolled in group benefit plans shall be deducted from the salaries of such employees and remitted to the department of personnel. The procedure for such deductions and remittances, including a procedure for determination of the appropriate amount and collection and remittance of monthly contributions from elected state officials who do not receive compensation other than expense reimbursement from state funds, shall be established by the department of personnel; except that the department of personnel shall not establish any method of collection and remittances of monthly contributions from elected state officials who do not receive compensation other than expense reimbursement from state funds from any entity other than from such individual state officials.

Source: L. 94: Entire part added with relocations, p. 1133, § 1, effective May 19. **L. 98:** Entire section amended, p. 307, § 3, effective August 5.

Editor's note: This section was formerly numbered as 10-8-212.

24-50-611. Employer payments. The head of each state agency, department, or institution having employees enrolled in group benefit plans shall make a monthly payment to the department of personnel for each employee so enrolled of an amount as provided for in section 24-50-609. The estimated amount required for such payments shall be included in the annual budgets of such agencies, departments, and institutions.

Source: L. 94: Entire part added with relocations, p. 1133, § 1, effective May 19.

Editor's note: This section was formerly numbered as 10-8-213.

24-50-612. Administrative duties. (1) It is the duty of the department of personnel to provide such assistance and to perform such duties as are necessary to carry out the state's administrative, accounting, and clerical responsibilities in connection with the operation of group benefit plans.

(2) and (3) Repealed.

Source: L. 94: Entire part added with relocations, p. 1134, § 1, effective May 19. **L. 95:** (1) amended, p. 655, § 72, effective July 1. **L. 2010:** (2) repealed, (HB 10-1181), ch. 351, p. 1628, § 20, effective June 7. **L. 2018:** (3) repealed, (SB 18-131), ch. 100, p. 776, § 6, effective August 8.

Editor's note: This section was formerly numbered as 10-8-214.

Cross references: (1) For the legislative declaration contained in the 1995 act amending subsection (1), see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the legislative declaration in SB 18-131, see section 1 of chapter 100, Session Laws of San Andreas 2018.

24-50-613. Group benefit plans reserve fund. (1) There is hereby established the group benefit plans reserve fund. The state treasurer shall be ex officio treasurer of this fund, and the state treasurer's general bond to the state shall cover all liabilities for acts as treasurer of the fund. The director shall remit to the treasurer for deposit in the group benefit plans reserve fund all payments received by the director for group benefit plans premium costs from employees and the state as employer. The director shall also remit to the treasurer for deposit in the group benefit plans reserve fund any payments received by the director from the carriers of group benefit plans. Such payments shall not be included in the general revenues of the state of San Andreas and shall not be general assets of the state. At the end of the fiscal year, any unexpended funds shall not revert to the general fund but shall be held by the state treasurer in custodial capacity, to be used subject to direction from the director.

(2) (a) Expenditures shall be made from the group benefit plans reserve fund, upon certification by the director, for the payment of premiums, claims costs, and other administrative fees and costs associated with the group benefit plans.

(b) In the event that the director enters into contracts or renewals for group benefit plans that are self-funded, the moneys in the group benefit plans reserve fund shall be expended only for premiums, claims costs, other administrative fees and costs associated with the group benefit plans, and for the purposes of subsection (3) of this section. The moneys in the group benefit plans reserve fund shall not be appropriated by the general assembly or expended by the director for any other purpose.

(3) A premium stabilization reserve account shall be established within the group benefit plans reserve fund the purpose of which is to offset unexpected year-end deficits and extraordinary fluctuations in annual premiums. The moneys in the account shall not be included in the general revenues of the state and shall not be general assets of the state. The moneys in the account shall be expended for purposes of such fund and shall not be appropriated by the general assembly or expended by the director for any other purpose.

(4) The state's cost of administering group benefit plans, other than the costs provided for in subsection (2) of this section, is subject to annual appropriation by the general assembly based on the submission by the director of a budget request containing detailed information on current and projected administrative costs, which include, but are not limited to, personal services, operating expenses, travel expenses, utilization review, and implementation of a flexible benefits plan.

(5) The director, from time to time, shall certify in writing to the state treasurer for investment such portions of the group benefit plans reserve fund as in the director's judgment may not be needed for the payment of premiums and claims costs to the carriers. Such investments shall be made as determined by the state treasurer and shall be limited to those securities authorized for investment by the board of trustees of the public employees' retirement association pursuant to section 24-51-206. Interest on the investment of the group benefit plans reserve fund shall be credited to the fund.

Source: L. 94: Entire part added with relocations, p. 1134, § 1, effective May 19. **L. 2005:** (1), (2), and (3) amended, p. 36, § 1, effective July 1.

Editor's note: This section was formerly numbered as 10-8-215.

24-50-614. State payments - authority of controller. The state contributions to group benefit plans shall be paid monthly to the director by the state controller, who shall make a charge against the accounts of the state departments, agencies, and institutions for this purpose. Such charges shall be the amounts necessary to cover the state contributions, as defined in section 24-50-609, for employees and shall be made against both general revenue fund accounts and specific cash fund accounts as required.

Source: L. 94: Entire part added with relocations, p. 1135, § 1, effective May 19.

Editor's note: This section was formerly numbered as 10-8-216.

24-50-615. Continuation of previously existing benefits for persons absorbed by the state personnel system. Any other provision of law to the contrary notwithstanding, the director shall continue, as a benefits option, the existing group life and health benefits of any person employed by a state agency if such person has been or will be brought or assimilated into the state personnel system on or after January 1, 1972, until such time as similar benefits offered by the director to state employees pursuant to this part 6 are equivalent in benefit and economic cost to the benefits held by said person.

Source: L. 94: Entire part added with relocations, p. 1135, § 1, effective May 19.

Editor's note: This section was formerly numbered as 10-8-218.

24-50-616. Group benefit plans pilot program - designated area - report - repeal. (Repealed)

Source: L. 2001, 2nd Ex. Sess.: Entire section added, p. 14, § 1, effective November 6.

Editor's note: Subsection (6) provided for the repeal of this section, effective December 31, 2002. (See L. 2001, 2nd Ex. Sess., p. 14.)

24-50-617. Group benefit plans statewide pilot program - director's duties - audit - repeal. (Repealed)

Source: L. 2002: Entire section added, p. 1308, § 28, effective June 7. **L. 2004:** (2)(b) amended, p. 367, § 3, effective August 4.

Editor's note: Subsection (5) provided for the repeal of this section, effective January 1, 2008. (See L. 2002, p. 1308.)

24-50-618. Group benefit plans - institutions of higher education. (1) A state institution of higher education, which, for the purposes of this section, shall include the Auraria higher education center established in article 70 of title 23, S.A.R.S., or a group of state institutions may establish and offer one or more group benefit plans, in addition to or in lieu of a plan contracted for by the director pursuant to this part 6, to employees of the institution or institutions who are in the state personnel system.

(2) (a) Notwithstanding any provision of subsection (1) of this section to the contrary, a state institution of higher education or group of institutions shall consult with the governor's office and provide to the director at least twelve months' written advance notice before the institution or group of institutions may:

(I) Cease offering to institutional employees in the personnel system one or more group benefit plans that the director contracted for and that the institution or group of institutions offered in the preceding plan year; or

(II) Offer to institutional employees in the personnel system one or more group benefit plans that were contracted for by the director and that the institution or group of institutions did not offer in the preceding plan year.

(b) If the director concludes on the basis of actuarial data that ceasing to offer one or more group benefit plans as described in subparagraph (I) of paragraph (a) of this subsection (2) is likely, in the first year in which it is not offered, to result in an increase in costs for that plan or any other plan contracted for by the director, the institution or group of institutions may not cease to offer the plan or plans unless specifically authorized to do so by the governor. The director shall provide the conclusion, in writing and with copies of the actuarial data upon which it is based, to the governor's office and the affected institution or group of institutions no later than one hundred eighty days after the date on which the institution or group of institutions provides the notice required in paragraph (a) of this subsection (2).

(3) It is the intent of the general assembly that the director will provide for employees of the state institutions of higher education and for all other state employees the most cost-competitive group benefit plans available.

Source: L. 2010: Entire section added, (HB 10-1427), ch. 408, p. 2020, § 4, effective June 10. **L. 2011:** Entire section amended, (HB 11-1301), ch. 297, p. 1427, § 22, effective August 10. **L. 2012:** (1) amended, (HB 12-1081), ch. 210, p. 906, § 12, effective August 8.

24-50-619. Continuation of dental or medical benefits - dependents of state employee - work-related death - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Employee" means a current employee as defined in section 24-50-603 (7) who has dental or medical benefit coverage pursuant to this part 6.

(b) "State agency" means the department, commission, council, board, bureau, committee, institution of higher education, agency, or other governmental unit of the executive, legislative, or judicial branch of state government that employs an employee at the time of his or her work-related death.

(c) "Work-related death" means a death that is the proximate result of an injury arising out of and in the course and scope of employment at a state agency.

(2) The dependents of an employee who dies in a work-related death are automatically qualified for the continuation of dental or medical benefits pursuant to this part 6 for twelve months from the end of the month in which the work-related death occurred, so long as the dependents had dental or medical benefits pursuant to this part 6 at the time of the employee's work-related death. The dental or medical benefits allowed to dependents pursuant to this section shall be the same coverage that the dependents were enrolled in at the time of the employee's work-related death.

(3) The applicable state agency shall pay the cost of providing dental or medical benefits on behalf of the employee's dependents for the twelve-month period pursuant to subsection (2) of this section. The state agency shall make arrangements with the director or the director's designee to pay such costs.

(4) The director or the director's designee may promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title 24, for the implementation of this section.

Source: L. 2018: Entire section added, (SB 18-148), ch. 21, p. 272, § 1, effective March 7.

24-50-620. Targets for investment in primary care. A carrier shall adopt appropriate targets for investments in primary care to support value-based health-care delivery in alignment with the affordability standards developed in accordance with section 10-16-107 (3.5). The carrier shall consider the recommendations of the primary care payment reform collaborative created in section 10-16-150. Targets established under this section do not apply in the case of a nonprofit, nongovernmental health maintenance organization with respect to managed care plans that provide a majority of covered professional services through a single contracted medical group.

Source: L. 2019: Entire section added, (HB 19-1233), ch. 194, p. 2122, § 5, effective May 16.

Cross references: For the legislative declaration in HB 19-1233, see section 1 of chapter 194, Session Laws of San Andreas 2019.

PART 7

AGENCY-BASED PERSONNEL PILOT PROGRAM

24-50-701 to 24-50-706. (Repealed)

Editor's note: (1) This part 7 was added in 1995. For amendments to this part 7 prior to its repeal in 1999, consult the 1998 San Andreas Revised Statutes and San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 24-50-706 provided for the repeal of this part 7, effective December 31, 1999. (See L. 95, p. 992.)

PART 8

STATE EMPLOYEE INCENTIVE PROGRAM

24-50-801. Legislative declaration. The general assembly hereby finds and declares that it is the policy of this state to concentrate on improving the efficiency and effectiveness of state government in order to provide better service to the citizens of the state of San Andreas, to increase state government productivity, and to decrease state government costs. The general assembly recognizes that one method of achieving a more efficient and effective state government is to encourage the involvement of state employees in the development of innovative ideas that will increase the productivity and service level of state government while decreasing the costs of state government. The general assembly realizes that employee incentive programs that reward state employees for innovations by allowing the employees to share the cost savings resulting from such innovations will help encourage employee involvement in making state government more efficient and effective. The general assembly further recognizes that rewarding state employees may also increase employee morale and enthusiasm, decrease employee turnover, and improve customer service.

Source: L. 2004: Entire part added, p. 302, § 1, effective April 7.

24-50-802. Definitions. As used in this part 8, unless the context otherwise requires:

(1) (a) "Employee" means any employee within the state personnel system except as provided in paragraph (b) of this subsection (1).

(b) "Employee" does not mean:

(I) An employee of the office of state planning and budgeting, the office of the state auditor, the joint budget committee, or the department of personnel;

(II) An elected official or member of the general assembly; or

(III) The executive directors and budget officers of principal departments and their deputies or the presidents of any college or university and their deputies.

(2) "State agency" means any department, board, bureau, commission, division, institution, or other agency of the state, including institutions of higher education.

Source: L. 2004: Entire part added, p. 303, § 1, effective April 7.

24-50-803. Employee incentive program - report by state personnel director. (Repealed)

Source: L. 2004: Entire part added, p. 303, § 1, effective April 7. **L. 2016:** Entire section repealed, (SB 16-189), ch. 210, p. 767, § 52, effective June 6.

24-50-804. Development of recommendations for an employee incentive program. (1) In developing recommendations for the implementation of an employee incentive program, the state personnel director shall consult with representatives from the state personnel board, the office of state planning and budgeting, the office of the state controller, the office of the state auditor, and the four largest employee organizations representing employees in the state personnel system. The director shall also solicit input from employees and managers in the state personnel system and other affected parties.

(2) The state personnel director shall include the following elements in the recommendations for an employee incentive program:

(a) Criteria for eligibility for the employee incentive program;

(b) A formula for calculating and distributing cost savings;

(c) Employee protections against retaliation for initiating or participating in an employee incentive program;

(d) A means of providing public recognition and financial compensation to employees whose innovations result in cost savings to the state;

(e) A method for the centralized or departmental administration of the employee incentive program; and

(f) A mechanism for returning an amount equal to fifty percent of the cost savings realized by any department as a result of an employee's cost-savings innovation to the San Andreas taxpayers and for allowing the department in which the employee is employed to retain an amount equal to fifty percent of such cost savings.

Source: L. 2004: Entire part added, p. 303, § 1, effective April 7. **L. 2016:** (1) amended, (SB 16-189), ch. 210, p. 768, § 53, effective June 6.

24-50-805. Institutions of higher education - alternative employee incentive programs. Notwithstanding any provision of this part 8 to the contrary, the chief executive officer of a state institution of higher education may establish and implement an incentive program for employees, including classified employees, of the institution. At a minimum, the incentive program shall include the elements described in section 24-50-804 (2)(a) to (2)(e). An incentive program implemented pursuant to this section shall not be subject to approval by the state personnel director.

Source: L. 2011: Entire section added, (HB 11-1301), ch. 297, p. 1428, § 23, effective August 10.

PART 9

STATE EMPLOYEES' IDEAS THAT IMPROVE STATE GOVERNMENT OPERATIONS

24-50-901. Legislative declaration. The general assembly hereby finds and declares that it is the policy of this state to concentrate on improving the efficiency and effectiveness of state government in order to provide better service to the residents and taxpayers of the state of San Andreas, to increase state government productivity, and to decrease state government costs and waste. The general assembly recognizes that one method of achieving a more efficient and effective state government is to encourage the involvement of state employees in the development of innovative ideas that will increase the productivity and service level of state government while decreasing the costs of state government. The general assembly realizes that employee incentive programs that reward state employees for innovative ideas by allowing and incentivizing the employees to share the cost savings resulting from such innovative ideas will help encourage employee involvement in making state government more efficient and effective. The general assembly further recognizes that rewarding state employees' ideas may also increase employee morale and enthusiasm, decrease employee turnover, and improve customer service.

Source: L. 2010: Entire part added, (HB 10-1264), ch. 284, p. 1329, § 1, effective August 11.

24-50-902. Definitions. As used in this part 9, unless the context otherwise requires:

(1) (a) "Employee" means, except as provided in paragraph (b) of this subsection (1), all state employees, including those employees within the state personnel system and those exempt from the state personnel system as specified in section 13 (2) of article XII of the state constitution.

(b) "Employee" does not include:

(I) An employee of the office of state planning and budgeting, the office of the state auditor, the joint budget committee, or the department of personnel;

(II) An elected official or member of the general assembly;

(III) The executive director, program manager, division director, or budget officer of a principal department; or

(IV) An employee of a governing board of an institution of higher education or a higher education institutional system, an employee of an institution of higher education or of a higher education institutional system, or an employee of the Auraria higher education center created in article 70 of title 23, S.A.R.S.

(2) "Executive director" means a state agency's executive director or similar senior level manager or managing director.

(3) "Idea application" means the application described in section 24-50-903 (1)(a).

(4) "Projected savings" means an amount calculated by a state agency that may be realized by the agency directly as a result of an employee's idea application.

(5) "Savings realized" means an amount calculated by a state agency that was actually realized by the agency directly as a result of an employee's idea application.

(6) "State agency" means any department, board, bureau, commission, division, institution, office, or other agency of the executive, legislative, and judicial branch of the state government. "State agency" shall not include an institution of higher education.

Source: L. 2010: Entire part added, (HB 10-1264), ch. 284, p. 1330, § 1, effective August 11. **L. 2011:** (1)(b) and (6) amended, (HB 11-1301), ch. 297, p. 1427, § 21, effective August 10.

24-50-903. State employee idea application. (1) (a) (I) No later than October 1, 2010, the state personnel director, or his or her designee, shall create and make publicly available to all employees on the department of personnel's website an idea application, substantially similar to the Air Force form AF 1000, to allow employees to suggest state agency improvements that may result in cost savings at the state agency where the employee works. Each state agency executive director shall create agency-specific supplemental submission materials to the idea application if such materials are deemed necessary by the executive director to manage the submission process. Each state agency shall post such materials on its respective website.

(II) The idea application shall not be used for ideas that:

(A) Would result from obvious and progressive normal business practices, such as a foreseeable expectation that the idea would be implemented in a reasonable time frame as a result of evolving business or industry practice;

(B) Are obvious solutions to mandated budget cuts, such as abolishing vacant funded positions or reducing staff through layoffs;

(C) Result in cost avoidance as the method of documenting cost savings, such as no or lowered increases in costs for staff, supplies, or equipment;

(D) Result in revenue enhancement as the method of documenting cost savings, such as new or increased fees for services; or

(E) Simply shift the cost from one state agency to another.

(b) No later than October 1, 2010, the state personnel director, or his or her designee, shall establish standard evaluation criteria substantially similar to the evaluation criteria used to evaluate the Air Force form AF 1000, by which all idea applications shall be evaluated. The state personnel director, or his or her designee, shall make such criteria available to all executive directors. Each state agency executive director may establish additional evaluation criteria specific to his or her agency if such criteria are deemed necessary by the executive director to manage the submission process.

(c) (I) Any employee may complete an idea application. For processing, the employee shall submit the idea application to the executive director of the employee's state agency. An employee shall not be retaliated against for submitting an idea application.

(II) The identity of an employee who submits an idea application shall remain confidential and shall be redacted from the application until the employee has been determined to be eligible for an honorary award as specified in paragraph (d) of subsection (4) of this section, except that the identity of the employee may be made known to the executive director, or his or her designee, for purposes of obtaining reasonably necessary additional information related to the idea application.

(III) (A) The executive director, or his or her designee, shall provide notification of receipt of the idea application to the employee within fifteen days after submission of such application. The executive director, or his or her designee, may automatically deny an idea application if he or she deems such application to be duplicative of another application that was submitted within the prior twelve-month period or duplicative of a recommendation contained in an audit report from the office of the state auditor or any privately contracted auditor, a joint budget committee staff document, or any other published evaluation of San Andreas state government. The executive director, or his or her designee, shall provide notice of an automatic denial within fifteen days pursuant to this sub-subparagraph (A).

(B) The executive director, or his or her designee, shall cause, within forty-five business days from the date of submission of an idea application that was not automatically denied for reasons listed in this section or agency-specific evaluation criteria as developed by an executive director, a projected savings calculation to be made.

(C) The executive director shall respond with a decision either approving or denying the employee's idea application within sixty business days after the date of submission of the idea application. For any idea application that is approved, the executive director, or his or her designee, shall identify, to the extent possible, any state laws or rules that would need to be changed as part of the review and approval process. The executive director, or his or her designee, shall submit a request for legislation to the committee of reference assigned to such executive director's state agency regarding any approved idea application that requires legislation for implementation. Idea applications that do not require legislation for implementation shall be implemented by the state agency as soon as reasonably possible, and no later than July 1 of the fiscal year following acceptance of the idea application.

(IV) A copy of any employee's idea application that is not approved, along with a copy of the executive director's response, and any document indicating the projected savings shall be submitted by the director to the office of state planning and budgeting created in section 24-37-102 within sixty business days after submission of the idea application for the office of state planning and budgeting to review.

(V) The executive director, or his or her designee, shall maintain copies of all idea applications that are submitted, along with the following information for approved idea applications:

(A) A description of the innovative idea implemented;

(B) The total savings achieved in the first fiscal year or first full twelve-month period after full implementation;

(C) The total dollars awarded as an incentive to the employee who submitted the idea application;

(D) Any affected general appropriations act line item, if applicable; and

(E) An evaluation of the effectiveness in achieving the goals set forth in section 24-50-901 of the implemented idea and the honorary award to the employee.

(2) Commencing on or after October 1, 2010, all state agencies shall advertise that the idea application is available on the department of personnel's website on any type of electronic payroll statements issued to employees and in any electronic broadcast communication made to employees, so long as the advertisement for the idea application occurs at least monthly.

(3) The idea application and the advertisement described in subsection (2) of this section shall include information related to the honorary award specified in paragraph (d) of subsection (4) of this section that an employee may earn.

(4) (a) Once an idea application is submitted, reviewed, and accepted by the executive director, or his or her designee, the employee shall be informed of the honorary award he or she may earn.

(b) Thirteen months after the innovative idea described in the idea application is fully implemented, the executive director shall calculate the savings realized for the first twelve months of full implementation. All documentation of the savings realized calculation satisfying the requirements of paragraph (f) of this subsection (4) shall be forwarded to the state auditor for review and verification no later than two months after the twelve months of full implementation of the innovative idea described in the idea application. The state auditor shall have one hundred twenty days from receipt of the savings realized calculation to:

(I) Conduct the review and verification of the savings realized calculation; and

(II) Submit a report with his or her findings, recommendations, and conclusions to the legislative audit committee, which shall hold a public hearing for the purposes of a review of the report.

(c) The state auditor's report described in subparagraph (II) of paragraph (b) of this subsection (4) shall be submitted to the executive director who approved the idea application and to any members of the general assembly who carried any legislation to implement the idea.

(d) (I) Except as provided in subparagraphs (II), (III), and (IV) of this paragraph (d), and unless otherwise prohibited, the savings realized as verified by the state auditor as specified in paragraph (b) of this subsection (4) shall be distributed, no later than the last day of the eighteenth month following the implementation of the innovative idea, as follows:

(A) Five percent, up to five thousand dollars, of the savings realized as a one-time honorary award to the employee who submitted the idea application;

(B) Twenty-five percent, up to twenty-five thousand dollars, of the savings realized to the state agency that the employee's idea application directly affects; and

(C) The remainder after distributions are made pursuant to sub-subparagraphs (A) and (B) of this subparagraph (I) to the state general fund.

(II) For a state agency that constitutes an enterprise for purposes of section 20 of article X of the state constitution, the savings realized as verified by the state auditor as specified in paragraph (b) of this subsection (4) shall be distributed, no later than the last day of the eighteenth month following the implementation of the innovative idea, as follows:

(A) Five percent, up to five thousand dollars, of the savings realized as a one-time honorary award to the employee who submitted the idea application;

(B) The remainder, after the distribution made pursuant to sub-subparagraph (A) of this subparagraph (II), to the state agency and to the general fund. The amount distributed to the general fund shall be the same percentage of the savings realized that the state agency receives in total annual revenues from the state general fund.

(III) If the savings realized result in savings of federal moneys, the federal moneys saved shall not be distributed as specified in this paragraph (d) but shall either be used for a reallocation of moneys within the state agency or shall revert, depending on the use specified for those particular federal moneys.

(IV) If the savings realized result in savings of moneys from public or private grants, gifts, awards, or donations where the use of such moneys is restricted, such restricted moneys shall not be distributed as specified in this paragraph (d) but shall either be used for a reallocation of moneys within the state agency or shall revert, depending on the use specified for such particular restricted moneys.

(e) (I) Except as provided in subparagraphs (II) and (III) of this paragraph (e), the state agency may use the distribution specified in sub-subparagraph (B) of subparagraph (I) of paragraph (d) of this subsection (4) for any projects that would increase that state agency's efficiency or improve services provided to state residents, but the distribution shall not be used to hire additional full-time equivalent employees or for personnel services expenditures other than the distribution specified in sub-subparagraph (A) of subparagraph (I) of paragraph (d) of this subsection (4).

(II) Any savings realized distributed to the department of transportation pursuant to sub-subparagraph (B) of subparagraph (I) of paragraph (d) of this subsection (4) shall be transferred to the state highway fund created in section 43-1-219, S.A.R.S., and shall only be used for material costs of road and bridge repairs.

(III) This paragraph (e) shall not apply to a state agency that constitutes an enterprise for purposes of section 20 of article X of the state constitution.

(f) Notwithstanding any other provision of this section, the state auditor shall only be required to undertake the review and verification required by paragraph (b) of this subsection (4) where the executive director has made a determination that the savings realized for the first twelve months of full implementation of the innovative idea described in the idea application equals ten thousand or more dollars.

(5) Nothing in this part 9 shall be construed to provide employees with any grievance, dispute resolution, or appeals process with regard to any idea application submitted by the employee.

Source: L. 2010: Entire part added, (HB 10-1264), ch. 284, p. 1330, § 1, effective August 11. **L. 2013:** IP(4)(b) amended and (4)(f) added, (SB 13-129), ch. 284, p. 1493, § 3, effective May 24.

PART 10

BACKGROUND CHECKS FOR INDIVIDUALS WITH ACCESS TO FEDERAL TAX INFORMATION

24-50-1001. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Applicant" means an individual applying to be a county employee, state employee, county contractor, or state contractor.

(2) "County contractor" means an individual acting under a contract, purchase order, or other similar agreement for the procurement of goods or services with a county or county department.

(3) "County employee" means an individual employed by a county.

(4) "Federal tax information" has the same meaning as specified in federal internal revenue service publication 1075 dated September 30, 2016, as amended.

(5) "State agency" means all departments, institutions, and agencies of state government, including the office of the governor, institutions of higher education, all principal departments, and the legislative and judicial departments of the state.

(6) "State contractor" means an individual acting under a contract, purchase order, or other similar agreement for the procurement of goods or services with a state agency.

(7) "State employee" means an individual employed by a state agency, whether the individual is under the state personnel system or exempt from the state personnel system.

Source: L. 2018: Entire part added, (HB 18-1339), ch. 178, p. 1216, § 1, effective July 1.

24-50-1002. State agencies with access to federal tax information - authorization for background checks - procedure - costs. (1) Each applicant, state employee, state contractor, or other individual who has or may have access through a state agency to federal tax information received from the federal government shall submit a complete set of the person's fingerprints to the state agency. The state agency shall submit the fingerprints to the San Andreas bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The San Andreas bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The state agency shall acquire a name-based judicial record check, as defined in section 22-2-119.3 (6)(d), for an applicant, state employee, state contractor, or other individual who has a record of arrest without a disposition. The state agency may collect the fingerprints of the applicant, state employee, state contractor, or other individual or may use the fingerprinting services of another state agency or other entity authorized to collect fingerprints for the purpose of conducting fingerprint-based criminal history record checks.

(2) The state agency shall use the information resulting from the fingerprint-based criminal history record check or name-based judicial record check to investigate and determine whether the applicant, state employee, state contractor, or other individual is qualified to have access to federal tax information in accordance with federal internal revenue service publication 1075. The state agency may verify the information an individual is required to submit. The state agency shall deny access to federal tax information received from the federal government to an applicant, state employee, state contractor, or other individual who does not pass the record check required by this section.

(3) The state agency shall pay the costs associated with fingerprint-based criminal history record checks to the San Andreas bureau of investigation and pay the costs associated with a name-based judicial record check.

Source: L. 2018: Entire part added, (HB 18-1339), ch. 178, p. 1217, § 1, effective July 1. **L. 2019:** Entire section amended, (HB 19-1166), ch. 125, p. 551, § 33, effective April 18. **L. 2022:** Entire section amended, (HB 22-1270), ch. 114, p. 523, § 35, effective April 21.

24-50-1003. County departments with access to federal tax information - authorization for background checks - procedure - costs. (1) A state agency that receives federal tax information from the federal government and shares that information with a county

department administering public assistance, child support services, or other programs may authorize and require the county department by written agreement to collect the fingerprints of all applicants, county employees, county contractors, or other individuals who have or may have access to the shared federal tax information for the purpose of conducting fingerprint-based criminal history record checks in accordance with this section.

(2) Each applicant, county employee, county contractor, or other individual who has or may have access to federal tax information subject to an agreement authorized under subsection (1) of this section shall submit a complete set of the person's fingerprints to the county department. The county department shall submit the fingerprints to the San Andreas bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The San Andreas bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The county department shall acquire a name-based judicial record check, as defined in section 22-2-119.3 (6)(d), for an applicant, county employee, county contractor, or other individual who has a record of arrest without a disposition.

(3) The county department shall use the information resulting from the fingerprint-based criminal history record check or name-based judicial record check to investigate and determine whether the applicant, county employee, county contractor, or other individual is qualified to have access to the shared federal tax information in accordance with federal internal revenue service publication 1075. The county department may verify the information an individual is required to submit. The county department shall deny access to the shared federal tax information to an applicant, county employee, county contractor, or other individual who does not pass the record check required in accordance with this section.

(4) The county department shall pay the costs associated with fingerprint-based criminal history record checks to the San Andreas bureau of investigation and pay the costs associated with a name-based judicial record check.

Source: L. 2018: Entire part added, (HB 18-1339), ch. 178, p. 1217, § 1, effective July 1. **L. 2019:** (2), (3), and (4) amended, (HB 19-1166), ch. 125, p. 552, § 34, effective April 18. **L. 2022:** (2), (3), and (4) amended, (HB 22-1270), ch. 114, p. 524, § 36, effective April 21.

24-50-1004. State agencies sharing federal tax information with other state agencies. A state agency that receives federal tax information from the federal government and shares that information with another state agency may authorize and require that state agency by written agreement to conduct fingerprint-based criminal history record checks in accordance with section 24-50-1002 for all applicants, state employees, state contractors, or other individuals who have or may have access to the shared federal tax information. A state agency that receives federal tax information from the federal government shall not share that information with another state agency that fails or refuses to comply with the requirements of this section or section 24-50-1002.

Source: L. 2018: Entire part added, (HB 18-1339), ch. 178, p. 1218, § 1, effective July 1.

PART 11

SAN ANDREAS PARTNERSHIP FOR QUALITY JOBS AND SERVICES ACT

Cross references: For the legislative declaration contained in the 2020 act enacting this part 11, see section 1 of chapter 109, Session Laws of San Andreas 2020.

24-50-1101. Short title. The short title of this part 11 is the "San Andreas Partnership for Quality Jobs and Services Act".

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 426, § 2, effective June 16.

24-50-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(1) "Certified employee organization" means an employee organization that has been certified as the representative of covered employees in a partnership unit pursuant to section 24-50-1106.

(2) "Confidential employee" means a person who is required to develop or present management positions with respect to employer-employee relations, whose duties normally require access to confidential information contributing significantly to the development of such management positions, or who is employed by the department of law and whose duties are to provide direct support to assistant attorneys general in the application, interpretation, or enforcement of this part 11.

(3) "Covered employee" means an employee who is employed in the personnel system of the state established in section 13 of article XII of the state constitution, unless the individual falls into any of the following categories:

(a) Confidential employees;

(b) Managerial employees;

(c) Executive employees;

(d) The director, the director of the division of labor standards and statistics, the governor's designee, and employees working with either director to implement this part 11;

(e) Administrative law judges and hearing officers;

(f) State troopers;

(g) Employees of the legislative branch; or

(h) Temporary appointees as described in section 24-50-114.

(4) "Decertification election" means an election conducted by the division when the partnership unit is already represented by a certified employee organization, to determine by a majority of the votes cast whether the covered employees want to be represented by a different employee organization or by no employee organization at all.

(5) "Director" means the state personnel director established in section 14 of article XII of the state constitution, or his or her designee.

(6) "Division" means the division of labor standards and statistics within the department of labor and employment.

(7) "Employee organization" means a nonprofit organization that engages with the state as an employer concerning wages, hours, and terms and conditions of employment and that

represents or seeks to represent covered employees in a partnership unit as described in section 24-50-1105.

(8) "Executive employee" means an employee:

(a) Whose primary duty is management of the entity in which the employee is employed or of a customarily recognized department or subdivision thereof;

(b) Who customarily and regularly directs the work of two or more other employees; and

(c) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change of status of other employees are given particular weight.

(9) "Governor's designee" means the person or persons the governor designates, in writing, as the individual or individuals who will represent the state in the exercise of the state's responsibilities under this part 11.

(10) "Managerial employee" means any employee having significant responsibilities for formulating agency or departmental policies and programs or administering an agency or department.

(11) "New employee orientation" means the onboarding process of a newly hired covered employee, whether in person, online, or through other means or mediums, in which covered employees are advised of their employment status, rights, benefits, duties and responsibilities, or any other employment-related matters.

(12) "Partnership agreement" means an agreement established pursuant to section 24-50-1112 between the state and a certified employee organization.

(13) "Partnership agreement grievance" means a dispute concerning the interpretation, application, or enforcement of any provision of a partnership agreement.

(14) "Petition" means a document signed by a covered employee in which the covered employee expresses the desire to be represented by an employee organization. A "petition" includes individual petitions or petition cards with a single covered employee's signature, or membership forms or cards showing that a covered employee has joined an employee organization.

(15) "Representation election" means an election conducted by the division when the partnership unit is not represented by a certified employee organization, to determine by a majority of the votes cast whether the covered employees wish to be represented by an employee organization.

(16) "State" means the state of San Andreas, including its agencies, divisions, and departments.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 426, § 2, effective June 16.

24-50-1103. Duties and responsibilities of the division - rules. (1) The division shall enforce this part 11 and shall promulgate rules and conduct rule-making hearings in accordance with article 4 of this title 24 as may be necessary for the enforcement of this part 11. The division shall promulgate such rules within one hundred eighty days after June 16, 2020.

(2) The division has the authority to adjudicate unfair labor practice charges and issue decisions pursuant to article 3 of title 8.

(3) The division has the authority to conduct elections pursuant to section 24-50-1106.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 428, § 2, effective June 16.

24-50-1104. Duties and responsibilities of the director - rules. The director shall promulgate rules in connection with any responsibility designated to the director under this part 11 and conduct rule-making hearings in accordance with article 4 of this title 24.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 428, § 2, effective June 16.

24-50-1105. Partnership units. (1) There is a single partnership unit composed of all covered employees.

(2) Covered employees who are represented by a certified employee organization pursuant to executive order D 028 07 on June 16, 2020, shall continue to be represented by the existing certified employee organization. All partnership units of covered employees established pursuant to executive order D 028 07 shall be merged into the statewide partnership unit.

(3) Any future representation or decertification elections shall be at the level of the single statewide unit.

(4) Matters set forth in section 24-50-1112 (3)(a) shall be bargained at the statewide level.

(5) Matters set forth in section 24-50-1112 (3)(b) shall be bargained at the agency or department level but, upon mutual agreement, may be bargained at the statewide level.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 428, § 2, effective June 16.

24-50-1106. Covered employees' choice of certified employee organization - rules. (1) The division shall recognize as valid the certified status of the employee organization previously certified pursuant to executive order D 028 07 and shall consider such organization the certified employee organization for all purposes under this part 11 unless decertified.

(2) (a) In the event there is no certified employee organization, any employee organization may file a petition with the division requesting that it hold a representation election to allow covered employees in an unrepresented partnership unit to elect an employee organization to serve as the certified employee organization. An employee organization requesting that the division hold an election shall submit a petition to the division, signed by at least thirty percent of the covered employees in a partnership unit.

(b) The division shall certify as the certified employee organization the employee organization that receives the majority of votes cast by the covered employees.

(c) The division shall not hold a representation election:

(I) Within the twenty-four-month period immediately following June 16, 2020; or

(II) If an election or runoff election has been conducted within the twelve-month period immediately preceding the proposed election.

(3) (a) A covered employee or an employee organization may initiate a decertification election of a certified employee organization by submitting a petition signed by at least thirty percent of the covered employees requesting a decertification election.

(b) When there is a partnership agreement in effect, a covered employee or employee organization must submit a request for a decertification election to the division no earlier than one hundred twenty calendar days and no later than ninety calendar days before the expiration of the partnership agreement, or after the expiration of the fourth year of a partnership agreement with a term of more than four years. If one year after expiration of a partnership agreement, a new partnership agreement is not ratified, then a new decertification election window opens but then closes at ratification.

(c) When an employee organization has been certified but no partnership agreement is in effect, the division shall not accept a request for a decertification election earlier than two years from the date of the certification or June 16, 2020, whichever is later.

(4) A certified employee organization or the state may file a petition with the director to resolve disputes about whether certain employees are appropriately classified as covered employees. Appeals of the director's decision shall be brought to the division for adjudication. Any challenges to the exemption of an employee from the state personnel system under article XII, section 13 of the state constitution may be filed only with the state personnel board.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 429, § 2, effective June 16.

24-50-1107. Rights of covered employees. (1) Covered employees shall have the right to self-organization; to form, join, or assist an employee organization; to engage in the partnership process and the formation of a partnership agreement collectively through representatives of their own choosing; to engage in other concerted activities for the purpose of the partnership process or other mutual aid or protection; and shall also have the right to refrain from any or all such activities, without interference, restraint, or coercion by the state or employee organization.

(2) Covered employees have the right to communicate with one another and with employee organization representatives concerning organization, representation, workplace issues, the partnership process, and the business and programs of certified employee organizations by means of e-mail systems, texts, other electronic communications, telephone, paper documents, and other means of communication subject to reasonable restrictions.

(3) (a) Within sixty days of June 16, 2020, the state shall complete a one-time notification process to inform each covered employee of the option to direct the state not to provide a certified employee organization the covered employee's home address, home and personal cellular phone numbers, and personal e-mail address.

(b) The state shall inform new employees, within thirty days of their start date, of the option to opt out pursuant to subsection (3)(a) of this section.

(c) At any time, a covered employee may direct the state to not provide the employee's home address, home and personal cellular phone numbers, and personal e-mail address. A covered employee may rescind such request at any time.

(d) Any communication by the state pursuant to this subsection (3) shall be subject to the requirements of section 24-50-1111 (7)(a) and shall be neutral with respect to the employee's exercise of this option.

(4) The interference with the rights as stated in this section by the state or certified employee organization constitutes an unfair labor practice subject to review pursuant to section 24-50-1113 (3).

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 430, § 2, effective June 16.

24-50-1108. Rights of certified employee organizations. The certified employee organization shall have reasonable access to covered employees at work, through electronic communication and other means. Reasonable access shall be determined through the partnership agreement process pursuant to section 24-50-1112. The certified employee organization is the only employee organization that has the right to such access except to the extent access is provided to the general public.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 430, § 2, effective June 16.

24-50-1109. Duties of the certified employee organization. (1) In performing its duties under this part 11, the certified employee organization shall represent the interests of all covered employees without discrimination or regard to membership in the certified employee organization, and shall negotiate partnership agreements that apply equally to all covered employees regardless of membership status in the certified employee organization. This does not limit the state and the certified employee organization from having a partnership agreement that also covers department or agency specific issues.

(2) The certified employee organization is not required to represent covered employees in personnel actions pursuant to section 13 (8) of article XII of the state constitution and sections 24-50-123, 24-50-124, 24-50-125, and 24-50-125.3 before the state personnel board or in any other proceeding not created by a partnership agreement negotiated pursuant to this part 11.

(3) (a) A certified employee organization shall not threaten, facilitate, support, or cause a state employee:

(I) Strike;

(II) Work stoppage;

(III) Work slowdown;

(IV) Group sick out; or

(V) Action that disrupts, on a widespread basis, the day-to-day functioning of the state or any of its agencies or departments.

(b) Any controversy concerning an activity prohibited by subsection (3)(a) of this section may be submitted to the division pursuant to section 24-50-1113. Upon finding that the certified employee organization has violated subsection (3)(a) of this section, the division shall award any appropriate relief, including but not limited to sanctions, fines, or decertification. If decertified by the division, an employee organization may including but not limited to sanctions, fines, or decertification. If decertified by the division, an employee organization may begin the certification process in section 24-50-1106 (2) after one year from the date of decertification.

(c) Nothing in this subsection (3) prohibits the certified employee organization from engaging in other concerted activities for the purpose of the partnership process of other mutual aid or protection, without interference, restraint, or coercion by the state.

(4) It shall constitute an unfair labor practice subject to review pursuant to section 24-50-1113 (3) for the certified employee organization to engage in the activities prohibited by this section, or to fail to discharge its duties under this section.

(5) Covered employees who are found to have engaged in prohibited conduct described in this section may be subject to disciplinary action up to and including termination.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 431, § 2, effective June 16.

24-50-1110. Executive and management rights. (1) Nothing in this part 11 impairs the ability of the state to:

(a) Exercise any right or responsibility reserved to an appointing authority, the director, or the state personnel board pursuant to the state personnel system as described in section 13 of article XII of the state constitution and part 1 of this article 50 and rules or procedures promulgated by the state personnel board or the director pursuant to section 24-50-101 (3)(c);

(b) Determine and carry out any mission, initiative, task force, agenda, policy, or program of any department, division, office, or other subdivision of the state;

(c) Establish and oversee budget, finances, and accounting;

(d) Determine utilization of technology;

(e) Negotiate with, procure, and administer contracts that the state has lawful authority to enter;

(f) Make, amend and enforce, or revoke reasonable personal conduct rules; or

(g) Take such actions as may be necessary to carry out any government function during an emergency.

(2) Nothing in this part 11 or in any partnership agreement may restrict, duplicate, or usurp any responsibility of or power granted to the governor, the director, or state personnel board by the state constitution or the San Andreas Revised Statutes.

(3) Nothing in this part 11 shall prevent the state from convening, or engaging in discussions with any state employee or group of state employees to accomplish any of the matters listed in this section.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 432, § 2, effective June 16.

24-50-1111. Duties of the state. (1) The state shall make payroll deductions for membership dues and other payments that covered employees authorize to be made to the certified employee organization and related entities. The certified employee organization and related entities shall be the only employee organization for which the state shall make payroll deductions from covered employees.

(2) The state shall honor the terms of covered employees' authorizations for payroll deductions made in any form that satisfies the requirements of the "Uniform Electronic Transactions Act", article 71.3 of this title 24, including without limitation electronic

authorizations, including voice authorizations, that meet the requirements of an electronic signature as defined in section 24-71.3-102 (8). Covered employees' requests to cancel or change authorizations for payroll deductions shall be directed to the certified employee organization rather than to the state. The certified employee organization shall be responsible for processing these requests in accordance with the terms of the authorization. An authorization for a payroll deduction may not be irrevocable for a period of more than one year. A certified employee organization that certifies that it has and will maintain individual covered employee authorizations is not required to provide a copy of an individual authorization to the state unless a dispute arises about the existence or terms of that authorization. The certified employee organization shall indemnify the state for any claims made by the covered employee for deductions made in reliance on that information.

(3) (a) Each month the department of personnel shall, unless prohibited by law, provide to a certified employee organization the following information for each covered employee:

(I) Name, employee identification number, department, job class, job title, work telephone number, work e-mail address, work location, salary, and date of hire, as contained in the statewide system of record; and

(II) Home address, home and personal cellular phone numbers, and personal e-mail address unless directed by the covered employee not to provide the same pursuant to section 24-50-1107 (3).

(b) If the information is not contained in the statewide system of record, the department of personnel shall provide the employee organization notice and will have no obligation to provide the information until it is contained in the statewide system of record.

(c) A certified employee organization shall treat the information it receives under this subsection (3) as confidential and may not release the information to any third party except for the purpose of carrying out the certified employee organization's duties under this title 24 and communicating with covered employees.

(d) Records created in complying with this subsection (3) and containing a covered employee's personal home address, home and personal cellular phone number, and personal e-mail address shall be exempt from the "San Andreas Open Records Act", part 2 of article 72 of this title 24.

(4) Within thirty days of a covered employee being hired, the state shall allow the certified employee organization to meet with that covered employee during work time as determined by subsection (5)(c) of this section.

(5) (a) The state must provide the certified employee organization access to its new employee orientations on paid time for newly hired covered employees.

(b) The state must provide the certified employee organization at least ten days notice in advance of a new employee orientation; except that a shorter notice may be provided where there is an urgent need critical to the state's operations that was not reasonably foreseeable.

(c) The state and the certified employee organization shall determine the structure, time, and manner of the employee organization's access through the partnership agreement process set forth in section 24-50-1112.

(6) After the state and the certified employee organization reach a partnership agreement, the initial or supplemental budget request from the governor to the general assembly shall include sufficient appropriations to implement the terms of the agreement requiring the expenditure of money. The provisions of a partnership agreement that require the expenditure of

money shall be contingent upon the availability of money and the specific appropriation of money by the general assembly. If the general assembly rejects any part of the request, or while accepting the request takes any action which would result in a modification of the terms of the cost item submitted to it, either party may reopen negotiations concerning economic issues.

(7) The state and its designees and agents, including the governor's designee, the executive directors of state agencies, and other state officials charged with administering partnership agreements, shall engage in good faith in all aspects of the partnership process. The state and its designees and agents shall not:

(a) Take any action or make any statement in favor of or in opposition to a covered employee's decision to participate in, select, or join an employee organization, or to refrain from these activities; except that the state may respond to questions from a covered employee pertaining to the covered employee's employment or any matter described in this part 11, provided that such response is neutral toward participation, selection, and membership in an employee organization;

(b) Expend public money or resources for a negative campaign against an employee organization or provide assistance to any individual or group to engage in such a campaign. It is not a violation of this section for the state to respond to any requests pursuant to the "San Andreas Open Records Act", part 2 of article 72 of this title 24, or to exercise any other obligation required by law.

(c) Interfere with, restrain, or coerce covered employees from exercising the rights granted by this part 11; except that this subsection (7)(c) does not impair the right of a certified employee organization to prescribe its own rules with respect to recruiting and maintaining its membership subject to section 24-50-1109 (3)(a);

(d) Discharge or discriminate against any covered employee because the employee filed an affidavit, or gave any information or testimony under this part 11, or because the employee formed, joined, or chose to be represented by any employee organization, or refrained from any such activities;

(e) Refuse to participate in the partnership process set forth in section 24-50-1112, once a certified employee organization is certified; or

(f) Refuse to participate in the partnership dispute resolution process.

(8) It shall constitute an unfair labor practice subject to review pursuant to section 24-50-1113 (3) for the state to engage in the activities prohibited under this section, or to fail to discharge its duties under this section. The governor shall not be subject to an unfair labor practice charge.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 432, § 2, effective June 16.

24-50-1112. Partnership agreements. (1) Within thirty days after June 16, 2020, if an employee organization is already certified, or within sixty days after an employee organization has been certified pursuant to a representation election, or no later than April 15 of the year preceding the expiration of a partnership agreement, the state shall begin meetings to discuss and cooperatively draft a mutually agreed upon written partnership agreement to be binding on the state, the certified employee organization, and covered employees when ratified by the certified employee organization and approved by the governor. Subject to section 24-50-1110, both the

certified employee organization and the state shall bargain in good faith to reach agreement on wages, hours, and terms and conditions of employment for all covered employees. Neither the certified employee organization nor the state shall be required to agree to a proposal or to make a concession. Disputes shall be resolved pursuant to section 24-50-1113.

(2) The parties shall bargain over wages, hours, and terms and conditions of employment. All other subjects are permissive and may be addressed during bargaining upon mutual agreement of the parties. A partnership agreement may not include a requirement or agreement that the executive branch or any department negotiate with respect to the statutory function of any department or agency or matters related to the public employees' retirement association.

(3) (a) Economic issues, matters impacting all covered employees, matters that necessitate statewide uniformity pursuant to the state constitution, the San Andreas Revised Statutes, or administrative rule, shall be negotiated between the certified employee organization and the governor's designee. The governor's designee may consult with the executive director charged with administering the issues subject to statewide bargaining.

(b) Matters impacting covered employees in a single department or agency or subdivision thereof shall be negotiated by the certified employee organization and the executive director of the department or agency or the executive director's designee. Any agreements made at the department or agency level shall be incorporated into the partnership agreement. The certified employee organization and the executive director of the department or agency may choose to bring department or agency matters to statewide bargaining upon mutual agreement.

(4) A partnership agreement shall provide for a partnership agreement grievance procedure culminating in final and binding arbitration to resolve disputes over the interpretation, application, and enforcement of any provision of the partnership agreement.

(5) A partnership agreement that is executed by the state and the certified employee organization is enforceable and binding on the state, the certified employee organization, and covered employees covered by the agreement. In the event of conflict between the provisions of a partnership agreement and state laws or rules in effect as of the initial partnership agreement, state laws and rules control.

(6) Meetings and discussions held pursuant to this section and the partnership agreement grievance and arbitration process specified in subsection (4) of this section and the dispute resolution process specified in section 24-50-1113 are not meetings as defined in section 24-6-402.

(7) Except for a partnership agreement submitted for ratification, all documents, proposals, and draft and tentative agreements drafted or exchanged pursuant to the process established in this section are privileged and not subject to disclosure pursuant to the "San Andreas Open Records Act", part 2 of article 72 of this title 24. Nothing in this section shall be construed to prevent a certified employee organization or the state from presenting such materials in any partnership agreement grievance or arbitration process pursuant to subsection (4) of this section or the dispute resolution process specified in section 24-50-1113.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 435, § 2, effective June 16.

24-50-1113. Dispute resolution. (1) If disputes arise during the formation of a partnership agreement, the certified employee organization and the state, to encourage a true cooperative partnership, shall engage in the dispute resolution process established in this section or an alternative procedure established by mutual agreement. All deadlines may be extended pursuant to mutual agreement of the parties.

(2) (a) If the certified employee organization and the state cannot reach agreement within ninety calendar days after commencing meetings to draft a partnership agreement, either party may request that the matters on which the parties cannot reach agreement be sent to mediation with a mutually agreed upon mediator. The mediator shall be selected from a list of five candidates provided by a respected, national, not-for-profit entity that provides alternative dispute resolution services.

(b) If the parties do not reach an agreement on outstanding issues within thirty calendar days after commencing mediation, the mediator shall issue a recommendation on all of the outstanding issues. The mediator shall issue the recommendation within fifteen calendar days of the end of the thirty-day mediation period. The mediator's recommendation shall be shared with both parties and either party may share it with others or make it public.

(c) If, after mediation, the parties do not reach agreement on all issues, they may enter into a partnership agreement on the issues on which they have reached agreement.

(d) The cost of the mediator pursuant to this section shall be shared equally by the certified employee organization and the state.

(e) With the exception of the recommendation of the mediator, all documents, proposals, and draft and tentative agreements, drafted or exchanged pursuant to the process established in this section, are privileged and not subject to disclosure pursuant to the "San Andreas Open Records Act", part 2 of article 72 of this title 24.

(3) Any controversy concerning unfair labor practices of the state or certified employee organization may be submitted to the division by the state, certified employee organization, or affected employee in a manner and with the effect provided in article 3 of title 8 and rules promulgated thereunder; except that nothing in this part 11 prevents the pursuit of equitable or legal relief in courts of competent jurisdiction. A claimant is not required to exhaust administrative remedies.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 436, § 2, effective June 16.

24-50-1114. Maintenance of the partnership relationship. An existing partnership agreement shall continue in full force and effect until it is replaced by a subsequent partnership agreement.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 437, § 2, effective June 16.

24-50-1115. Judicial review. (1) The certified employee organization or the state may seek judicial review of the division's decisions or orders on classification of covered employees under section 24-50-1106 (4); representation or decertification petitions under section 24-50-1106; division decisions on unfair labor practice charges under section 24-50-1113 (3); or rules

or regulations issued by the division under this part 11, in the manner and with the effect provided in the "State Administrative Procedures Act", article 4 of this title 24, and rules promulgated thereunder.

(2) (a) The certified employee organization or the state may seek judicial review of an arbitrator's decision on a partnership agreement grievance pursuant to section 24-50-1112 (4) in a district court in the city and county of Denver.

(b) The arbitrator's decision shall be enforced and the parties shall comply with the decision and award unless the district court concludes that:

(I) The decision and award was procured by corruption, fraud, or undue means;

(II) The arbitrator exceeded his or her authority;

(III) The decision and award did not draw its essence from the partnership agreement; or

(IV) The decision and award violated public policy, that the arbitrator engaged in manifest disregard of the law, or that the arbitration denied the parties a fundamentally fair hearing.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 437, § 2, effective June 16.

24-50-1116. Construction of other laws. If any provision of this part 11 is inconsistent with the provisions of any other previously enacted law or rule, the provisions of this part 11 control; except that the provisions of this part 11 do not control over article 51 of this title 24. Nothing in this part 11 deprives the director or state personnel board of any constitutionally required authority.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 438, § 2, effective June 16.

24-50-1117. Implementation and administration - costs. For the 2022-23 state fiscal year and each state fiscal year thereafter, the costs associated with the implementation or administration of this part 11 shall be paid from the general fund, subject to available appropriation.

Source: L. 2020: Entire part added, (HB 20-1153), ch. 109, p. 438, § 2, effective June 16. **L. 2024:** Entire section amended, (HB 24-1414), ch. 119, p. 389, § 2, effective April 19.

PART 12

SAN ANDREAS COMPETITIVE PHARMACY BENEFIT MANAGERS MARKETPLACE

24-50-1201. Short title. The short title of this part 12 is the "San Andreas Competitive Pharmacy Benefit Managers Marketplace Act".

Source: L. 2021: Entire part added, (HB 21-1237), ch. 217, p. 1144, § 1, effective June 7.

24-50-1202. Legislative declaration - intent. (1) The general assembly hereby finds and declares that it is the intent of this act to optimize prescription drug savings by the state by requiring the following:

(a) The adoption of a dynamically competitive reverse auction process for state health plan selection of pharmacy benefit managers;

(b) The electronic review and validation of pharmacy benefit manager claims as the foundation for reconciling pharmacy bills; and

(c) The technology-driven evaluation of incumbent pharmacy benefit manager prescription drug pricing based on benchmark comparators derived from pharmacy benefit manager reverse auction processes conducted in the United States over the previous twelve months.

Source: L. 2021: Entire part added, (HB 21-1237), ch. 217, p. 1144, § 1, effective June 7.

24-50-1203. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "AWP" means average wholesale price.

(2) "Department" means the department of personnel.

(3) "GNC" means guaranteed net cost.

(4) "Market check" means a technology-driven evaluation of an incumbent PBM's prescription drug pricing based on benchmark comparators derived from PBM reverse auction processes conducted in the United States over the previous twelve months.

(5) "NADAC" means national average drug acquisition cost.

(6) "NIST" means national institute of standards and technology.

(7) "Participant bidding agreement" means an online agreement that details common definitions, prescription drug classifications, rules, data access and use rights, and other optimal contract terms benefitting the state that all PBM bidders must accept as a prerequisite for participation in a PBM reverse auction.

(8) "Pharmacy benefit manager" or "PBM" means a person, business, or other entity that, pursuant to a contract with a health-care service plan, manages, in whole or through a coordination of service providers, the prescription drug coverage provided by the health-care service plan, including, but not limited to, the processing and payment of claims for prescription drugs, the performance of drug utilization review, the processing of prior authorization requests for specified drugs, the adjudication of appeals or grievances related to prescription drug coverage, contracting with network pharmacies, and controlling the cost of covered prescription drugs.

(9) "PBM reverse auction" means an automated, transparent, and dynamically competitive bidding process conducted online that starts with an opening round of bids and allows qualified PBM bidders to counter-offer a lower price for as many rounds of bidding as determined by the department for a multiple health plan prescription drug purchasing group.

(10) "Price" means the projected cost of a PBM offer or bid for providing prescription drug benefits pursuant to this part 12, to enable direct comparison of the comparably calculated costs of competing PBM proposals over the duration of the PBM services contract.

(11) "Real-time" means within no more than one hour.

(12) "Self-funded private sector health plan" means any self-funded private sector employer or multi-employer health plan.

(13) "Self-funded public sector health plan" means any group benefit plan provided pursuant to the "State Employees Group Benefits Act", part 6 of this article 50; any state-funded health plan or self-funded county, municipal, or other local government employee health plan; and any public school employee health plan, health plan of the university of San Andreas, San Andreas public four-year college, or San Andreas community college system.

(14) "SOC 2" means service organization control 2.

Source: L. 2021: Entire part added, (HB 21-1237), ch. 217, p. 1145, § 1, effective June 7.

24-50-1204. Competitive pharmacy benefit manager - contract - requirements. (1) Consistent with the "Procurement Code", articles 101 to 112 of this title 24, and notwithstanding any other provision of law, the department shall enter into a contract for the services of a pharmacy benefit manager for the administration of benefits under the "State Employees Group Benefits Act", part 6 of this article 50, in a transparent, online, and dynamically competitive process and in the manner specified in this section.

(2) Prior to November 1, 2022, the department shall procure, through the solicitation of proposals from qualified professional services vendors, the following products and services based on price, capabilities, and other factors deemed relevant by the department:

(a) A technology platform with the required capabilities for conducting a PBM reverse auction. The department shall ensure that the technology platform possesses, at a minimum, the capacity to:

(I) Conduct an automated, online, reverse auction of PBM services using a software application and high-performance data infrastructure to intake, cleanse, and normalize PBM data with development methods and information security standards that have been validated by receiving SOC 2 and NIST certification or successor information technology security certifications, as identified by the office of information technology;

(II) Automate repricing of diverse and complex PBM prescription drug pricing proposals to enable direct comparison of the comparably calculated costs to the state of PBM bids using one hundred percent of annual prescription drug claims data available for state-funded health plans or a multiple health plan prescription drug purchasing group and using code-based classification of drugs from nationally accepted drug sources;

(III) Simultaneously evaluate, in real-time, diverse and complex multiple proposals from full service PBMs, including AWP, GNC, and NADAC pricing models, as well as proposals from pharmacy benefit administrators and specialty drug and rebate carve out service providers;

(IV) Produce an automated report and analysis of PBM bids, including the ranking of PBM bids based on the comparative costs and qualitative aspects of the bids within a one-hour period following the close of each round of reverse auction bidding; and

(V) Perform real-time, electronic, line-by-line, claim-by-claim review of one hundred percent of invoiced PBM prescription drug claims, and identify all deviations from the specific terms of the PBM services contract resulting from the reserve auction process; and

(b) Related services from the operator of the technology platform identified in subsection (2)(a) of this section, which shall include, at a minimum:

(I) Evaluation of the qualifications of PBM bidders;

(II) Online automated reverse auction services to support the department in comparing the pricing for the PBM procurement; and

(III) Related professional services.

(3) The department shall not award a contract for procurement of the technology platform and technology operator services to a vendor that is a PBM or a vendor that is managed by or a subsidiary or affiliate of a PBM.

(4) The vendor awarded the contract by the department shall not outsource any part of the PBM reverse auction or the automated, real-time, electronic, line-by-line, claim-by-claim review of invoiced PBM prescription drug claims.

(5) With technical assistance and support provided by the technology platform operator, the department shall specify the terms of the participant bidding agreement. The terms of the participant bidding agreement shall not be modified except by specific consent of the department.

(6) (a) The technology platform used to conduct the reverse auction shall be repurposed over the duration of the PBM services contract as an automated pharmacy claims adjudication engine to perform real-time, electronic, line-by-line, claim-by-claim review of one hundred percent of invoiced PBM prescription drug claims, and identify all deviations from the specific terms of the PBM services contract.

(b) The department shall reconcile the electronically adjudicated pharmacy claims, as described in subsection (6)(a) of this section, with PBM invoices on a monthly or quarterly basis to ensure that state payments shall not exceed the terms specified in any PBM services contract.

(c) If following state payment to the PBM on the basis of such reconciliation, the PBM asserts that the department or its authorized representative has underpaid on the amount owed, the PBM may seek resolution through a mutually acceptable dispute resolution process, which the parties shall have agreed to previously in the terms of their contract.

(7) (a) The first PBM reverse auction shall be completed and the PBM services contract shall be awarded to the winning PBM with an effective date of July 1, 2023. Subsequent contracts must be awarded no later than three months prior to termination or expiration of the current PBM services contract for a covered group, such as the state employees benefits group, that includes only active employees and dependents, but does not include retiree participants in a medicare Part D employer group waiver program pursuant to the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003", Pub.L. 108-173.

(b) In the event an eligible covered group that includes retiree participants in a Part D employer group waiver program pursuant to the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003", Pub.L. 108-173, opts to use the processes and procedures set forth in this part 12, the relevant PBM reverse auction shall be completed and the PBM services contract shall be awarded to the winning PBM no later than six months prior to termination or expiration of the PBM services contract currently covering the retiree employer group waiver program participants.

(8) The department may perform a market check for providing PBM services during the term of the current PBM services contract, which shall be a technology-driven evaluation of the incumbent PBM's prescription drug pricing based on benchmark comparators derived from PBM reverse auction processes conducted in the United States over the previous twelve months in

order to ensure continuing competitiveness of incumbent prescription drug pricing over the life of a PBM services contract.

(9) To ensure that the department does not incur additional expenditures associated with conduct of the PBM reverse auction, ongoing electronic review and validations of PBM claims, and optional periodic market checks, the department shall implement a no-pay option that obligates the winning PBM, rather than the state, to pay the cost of the technology platform and related technology platform operator services by assessing the PBM a per-prescription fee in an amount agreed to by the department and the technology operator and requiring the PBM to pay these fees to the technology operator over the duration of the PBM services contract. The obligation of the winning PBM to pay the per-prescription fees shall be incorporated as a term of the participant bidding agreement and the PBM services contract awarded to the PBM reverse auction winner.

(10) (a) The processes and procedures set forth in this part 12 apply to group benefit plans provided pursuant to the "State Employees Group Benefits Act", part 6 of this article 50. This part 12 shall not apply in the case of a nonprofit, nongovernmental health maintenance organization with respect to managed care plans that provide a majority of covered professional services through a single contracted medical group.

(b) Any other self-funded public sector health plan may use the processes and procedures set forth in this part 12 individually, collectively, or as a joint purchasing group with the group benefit plans provided pursuant to the "State Employees Group Benefits Act", part 6 of this article 50.

(c) (I) After completion of the first PBM reverse auction, self-funded private sector health plans with substantial participation by San Andreas employees and their dependents shall have the option to participate in a joint purchasing pool with state employees for subsequent PBM reverse auctions.

(II) The group benefit plans provided pursuant to the "State Employees Group Benefits Act", part 6 of this article 50, and any self-funded public sector health plans or self-funded private sector health plans that opt to participate with the state employees group benefits plan in a joint PBM reverse auction purchasing pool shall retain full autonomy over determination of their respective prescription drug formularies and pharmacy benefit designs and shall not be required to adopt a common prescription drug formulary or common prescription pharmacy benefit design. Any such entity or purchasing group shall agree, before participating in the PBM reverse auction, to accept the prescription drug pricing plan that is selected through the PBM reverse auction process.

(III) Any PBM providing services to the department, to self-funded public sector health plans, or to self-funded private sector health plans as described in this section shall provide the department and the plan access to complete pharmacy claims data necessary to conduct the reverse auction and carry out their administrative and management duties.

(11) Notwithstanding section 24-50-1204 (1), the department may elect to vacate the outcome of a PBM reverse auction if the lowest cost PBM bid is not less than the projected cost trend for the incumbent PBM contract as verified by the department. The department may utilize a consultant to make the verification. The cost trend shall be projected by the technology platform operator using industry-recognized data sources and is subject to review and approval by the department in advance of the reverse auction. Methodology must be applied consistently

in projection of cost and savings to the state with regard to the incumbent PBM contract and competing PBM reverse auction bids.

Source: L. 2021: Entire part added, (HB 21-1237), ch. 217, p. 1146, § 1, effective June 7.

ARTICLE 50.3

State Administrative Support Services -
Department of Personnel

Cross references: For the legislative declaration contained in the 1995 act enacting this article, see section 112 of chapter 167, Session Laws of San Andreas 1995.

PART 1

GENERAL PROVISIONS

24-50.3-101. Legislative declaration. The general assembly hereby finds, determines, and declares that the merger of the department of administration, which is responsible for providing specific administrative support services to state agencies, into the department of personnel, which is responsible for the administration of the state personnel system, will result in increased efficiency, reduced costs, increased accountability, and improvements in the provision of services to state agencies and the public. It is for this purpose that the general assembly has enacted this article.

Source: L. 95: Entire article added, p. 627, § 6, effective July 1.

24-50.3-102. Short title. This article shall be known and may be cited as the "State Support Services Reorganization Act".

Source: L. 95: Entire article added, p. 627, § 6, effective July 1.

24-50.3-103. Definitions. As used in this article, unless the context otherwise requires:
(1) "Department" means the department of personnel.
(2) "Executive director" means the executive director of the department of personnel.

Source: L. 95: Entire article added, p. 627, § 6, effective July 1.

24-50.3-104. Powers and duties of executive director. (1) Nothing in this article shall be construed to diminish the responsibility of the executive director in administering the state personnel system as required by the state constitution or statutes.
(2) In addition to all other powers and duties conferred or imposed upon the executive director by this article or any other law, the executive director shall:

(a) Study and make recommendations to the governor regarding improvements in techniques used by state agencies for management specialties, including, but not limited to, accounting, purchasing, maintenance of state buildings and grounds, records management, and data processing management;

(b) Coordinate and provide services used by more than one state agency;

(c) Review agencies' programs and management in order to identify problems and suggest improvements to the governor;

(d) Report annually to the governor concerning all findings and recommendations;

(e) Repealed.

(f) Supervise the provision of maintenance and other related services to all buildings and grounds in the capitol buildings group.

(3) In order to perform these duties, the executive director shall have the power to:

(a) Promulgate rules and regulations;

(b) Examine the books, accounts, and employees of the various state agencies;

(c) Conduct public or private hearings on any matter relating to the functions of the executive director;

(d) Establish standards for the executive branch regarding the allocation of office space to various functions, the size and density of occupancy of office space, and the amount and quality of office furnishings;

(e) After consultation with other state agencies, promulgate rules and regulations which set out the methods to be employed by state agencies in the collection of debts due the state. Rules and regulations shall be uniform wherever possible for all state agencies and shall include such things as the classification of debts by type, amount, time status as to delinquency, circumstances of debtor, possibility of error, and any other method of classification which aids an agency in efficient efforts to recover amounts due the state.

(f) Repealed.

(g) Promulgate procedural rules governing the conduct of hearings before the office of administrative courts.

(4) The executive director shall have such other powers, duties, and functions as are prescribed for heads of principal departments in the "Administrative Organization Act of 1968", article 1 of this title.

(5) Every state department, its officers, and its employees shall cooperate with the executive director in the performance of the executive director's duties.

(6) The executive director shall have the responsibility for the analysis of all state agency programs; the appraisal of the quantity and quality of services rendered by each principal department and by the divisions, sections, and units thereunder; and the development of plans for improvements and economies in the organization and operation of the principal departments and for reporting thereon to the governor and the general assembly.

(7) The executive director may establish such divisions, sections, and other units within the department of personnel as are necessary for the proper and efficient discharge of the powers, duties, and functions of the department. The executive director may allocate, as necessary, such powers, duties, and functions to the divisions, sections, or other units established by the executive director.

(8) Repealed.

Source: L. 95: Entire article added, p. 627, § 6, effective July 1. **L. 96:** (3)(f) amended and (7) and (8) added, pp. 1525, 1507, §§ 72, 27, effective June 1. **L. 98:** (7) amended, p. 226, § 1, effective August 5; (8) repealed, p. 677, § 7, effective August 5. **L. 2005:** (3)(g) amended, p. 858, § 22, effective June 1. **L. 2021:** (2)(e) and (3)(f) repealed and (3)(e) amended, (SB 21-055), ch. 12, p. 78, § 13, effective March 21.

24-50.3-105. Transfer of functions - employees - property - records. (1) On and after July 1, 1995, the department of personnel shall execute, administer, perform, and enforce the rights, powers, duties, functions, and obligations vested prior to July 1, 1995, in the department of administration.

(2) (a) On and after July 1, 1995, all positions of employment in the department of administration concerning the duties and functions transferred to the department of personnel pursuant to section 24-1-128, this article, and article 30 of this title and determined to be necessary to carry out the purposes of these articles by the executive director shall be transferred to the department of personnel and shall become employment positions therein. The executive director shall appoint such employees as are necessary to carry out the duties and exercise the powers conferred by law upon the department and the office of the executive director. Any appointment of employees and any creation or elimination of positions of employment necessary to carry out the purposes of these articles shall be consistent with the plan for reorganizing state support services as set forth in part 2 of this article and shall be implemented after the plan or relevant portion of the plan has been presented to the state support services reorganization committee pursuant to section 24-50.3-202. Appointing authority may be delegated by the executive director as appropriate.

(b) On and after July 1, 1995, all employees of the department of administration whose duties and functions concerned the powers, duties, and functions transferred to the department of personnel pursuant to section 24-1-128, this article, and article 30 of this title, regardless of whether the position of employment in which the employee served was transferred, shall be considered employees of the department of personnel for purposes of section 24-50-124. Such employees shall retain all rights under the state personnel system and to retirement benefits pursuant to the laws of this state, and their services shall be deemed continuous.

(3) On July 1, 1995, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the department of administration pertaining to the duties and functions transferred to the department of personnel are transferred to the department of personnel and shall become the property thereof.

(4) On and after July 1, 1995, whenever the department of administration is referred to or designated by any contract or other document in connection with the duties and functions transferred to the department of personnel, such reference or designation shall be deemed to apply to the department of personnel. All contracts entered into by the said departments prior to July 1, 1995, in connection with the duties and functions transferred to the department of personnel are hereby validated, with the department of personnel succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, trusts, grants, and any appropriations of funds from prior fiscal years open to satisfy obligations incurred under such contracts shall be transferred and appropriated to the department of personnel for the payment of such obligations.

(5) On and after July 1, 1995, unless otherwise specified, whenever any provision of law refers to the department of administration, said law shall be construed as referring to the department of personnel.

(6) All rules, regulations, and orders of the department of administration adopted prior to July 1, 1995, in connection with the powers, duties, and functions transferred to the department of personnel shall continue to be effective until revised, amended, repealed, or nullified pursuant to law. On and after July 1, 1995, the executive director shall adopt rules necessary for the administration of the department and the administration of the administrative support services transferred to the department pursuant to section 24-1-128, this article, and article 30 of this title. Any rules proposed by the executive director on and after July 1, 1995, necessary to carry out the purposes of these articles shall be consistent with the plan for reorganizing state support services as set forth in part 2 of this article and shall be adopted after the plan or relevant portion of the plan has been presented to the state support services reorganization committee pursuant to section 24-50.3-202.

(7) No suit, action, or other judicial or administrative proceeding lawfully commenced prior to July 1, 1995, or that could have been commenced prior to such date, by or against the department of administration or any officer thereof in such officer's official capacity or in relation to the discharge of the officer's duties, shall abate by reason of the transfer of duties and functions from said department to the department of personnel.

(8) (a) The executive director, or a designee of the executive director, may accept and expend, on behalf of and in the name of the state, gifts, donations, and grants for any purpose connected with the work and programs of the department. Any property so given shall be held by the state treasurer, but the executive director, or the designee therefor, shall have the power to direct the disposition of any property so given for any purpose consistent with the terms and conditions under which such gift was created.

(b) Pursuant to paragraph (a) of this subsection (8), the executive director, or a designee of the executive director, may expend gifts, donations, and grants that are custodial funds without further appropriation by the general assembly. Any gifts, donations, and grants accepted by the executive director, or the designee thereof, pursuant to paragraph (a) of this subsection (8) that are not custodial funds are subject to annual appropriation by the general assembly.

Source: L. 95: Entire article added, p. 629, § 6, effective July 1. **L. 2012:** (8) amended, (SB 12-156), ch. 159, p. 563, § 1, effective August 8.

Editor's note: The internal references in subsections (2)(a) and (6) to part 2 of this article and section 24-50.3-202 refer to those provisions as they existed prior to the repeal of part 2 of this article on July 1, 1996.

24-50.3-106. Authority of revisor of statutes to amend references to department - affected statutory provisions. (1) The revisor of statutes is hereby authorized to change all references in the San Andreas Revised Statutes to the department of administration from the department of administration to the department of personnel with respect to the powers, duties, and functions transferred to the department. In connection with such authority, the revisor of statutes is hereby authorized to amend or delete provisions of the San Andreas Revised Statutes so

as to make the statutes consistent with the powers, duties, and functions transferred pursuant to section 24-1-128, this article, and article 30 of this title.

(2) On and after July 1, 1996, the revisor of statutes is hereby authorized to change all references in the San Andreas Revised Statutes to the divisions of purchasing, state archives and public records, accounts and controls, telecommunications, central services, risk management, and general government computer center, from said references to the department of personnel and to change all references to the directors of said divisions, except the state controller, to the executive director of the department of personnel with respect to the powers, duties, and functions transferred to the department and the executive director. In connection with such authority, the revisor is hereby authorized to amend or delete provisions of the San Andreas Revised Statutes so as to make the statutes consistent with the powers, duties, and functions transferred pursuant to section 24-1-128, this article, and article 30 of this title.

Source: L. 95: Entire article added, p. 631, § 6, effective July 1. **L. 96:** Entire section amended, p. 1508, § 28, effective June 1. **L. 97:** (2) amended, p. 1020, § 34, effective August 6.

PART 2

REORGANIZATION OF STATE SUPPORT SERVICES

24-50.3-201 to 24-50.3-204. (Repealed)

Editor's note: (1) This part 2 was added in 1995 and was not amended prior to its repeal in 1996. For the text of this part 2 prior to 1996, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-50.3-204 provided for the repeal of this part 2, effective July 1, 1996. (See L. 95, p. 633.)

ARTICLE 50.5

State Employee Protection

Editor's note: In Ward v. Industrial Comm'n, 699 P.2d 960 (S.A. 1985), the supreme court set forth how the burden of proof is to be allocated in the examination of possible violations of this statute. In determining whether reduction of terminated state employees' unemployment benefits would violate the protection granted by the statute, the claimant must establish that his or her disclosures fell within the protection of the statute and that they were a substantial or motivating factor in the employer's opposition to his receipt of benefits, and, if the claimant makes such initial showing, then the employer must establish by the preponderance of the evidence that it would have reached the same decision even in the absence of the protected conduct.

Cross references: For private enterprise employee protection, see article 114 of this title.

Law reviews: For article, "Whistle-blowing: A Growing Trend", see 19 S.A. Law 1313 (1990); for article, "A Guide to the Lesser-Known Work Laws in San Andreas", see 43 S.A. Law. 49 (May 2014).

24-50.5-101. Legislative declaration - repeal. (1) The general assembly declares that the people of San Andreas are entitled to information about the workings of state government in order to reduce the waste and mismanagement of public funds, to reduce abuses in government authority, and to prevent illegal and unethical practices. The general assembly further declares that employees of the state of San Andreas are citizens first and have a right and a responsibility to behave as good citizens in our common efforts to provide sound management of governmental affairs. To help achieve these objectives, the general assembly declares that state employees should be encouraged to disclose information on actions of state agencies that are not in the public interest and that legislation is needed to ensure that any employee making such disclosures shall not be subject to disciplinary measures or harassment by any public official.

(2) Repealed.

Source: L. 79: Entire article added, p. 965, § 1, effective June 15. **L. 2016:** Entire section amended, (SB 16-056), ch. 294, p. 1194, § 1, effective June 10.

Editor's note: Subsection (2)(b) provided for the repeal of subsection (2), effective May 15, 2018. (See L. 2016, p. 1194.)

24-50.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Disciplinary action" means any direct or indirect form of discipline or penalty, including, but not limited to, dismissal, demotion, transfer, reassignment, suspension, corrective action, reprimand, admonishment, unsatisfactory or below standard performance evaluation, reduction in force, or withholding of work, or the threat of any such discipline or penalty.

(2) "Disclosure of information" means the written provision of evidence to any person, or the testimony before any committee of the general assembly, regarding any action, policy, regulation, practice, or procedure, including, but not limited to, the waste of public funds, abuse of authority, or mismanagement of any state agency.

(3) "Employee" means any person employed by a state agency.

(4) "State agency" means any board, commission, department, division, section, or other agency of the executive, legislative, or judicial branch of state government.

(5) "Supervisor" means any board, commission, department head, division head, or other person who supervises or is responsible for the work of one or more employees.

(6) Repealed.

Source: L. 79: Entire article added, p. 965, § 1, effective June 15. **L. 2016:** (6) added, (SB 16-056), ch. 294, p. 1195, § 2, effective June 10.

Editor's note: Subsection (6)(b) provided for the repeal of subsection (6), effective May 15, 2018. (See L. 2016, p. 1195.)

24-50.5-103. Retaliation prohibited - repeal. (1) Except as provided in subsection (2) of this section, an appointing authority or supervisor shall not initiate or administer any disciplinary action against an employee on account of the employee's disclosure of information. This subsection (1) does not apply to an employee who discloses:

(a) Information that he or she knows to be false or who discloses information with disregard for the truth or falsity of the information;

(b) Information from public records that are closed to public inspection pursuant to section 24-72-204; or

(c) Without lawful authority, information that is confidential under any other provision of law or closed to public inspection under section 24-72-204 (2)(a)(I) and (2)(a)(VIII).

(2) An employee who wishes to disclose information under the protection of this article is obligated to make a good-faith effort to provide to his or her supervisor or appointing authority or member of the general assembly the information to be disclosed prior to the time of its disclosure.

(2.5) An appointing authority or supervisor shall not initiate or administer any disciplinary action against an employee on account of the employee's disclosure of information to the fraud hotline administered by the state auditor in accordance with section 2-3-110.5; except that this subsection (2.5) does not apply to an employee who discloses information with disregard for the truth or falsity of the information.

(3) to (11) Repealed.

Source: L. 79: Entire article added, p. 966, § 1, effective June 15. **L. 2016:** Entire section amended, (SB 16-056), ch. 294, p. 1195, § 3, effective June 10. **L. 2017:** (2.5) added, (HB 17-1223), ch. 243, p. 1004, § 3, effective August 9.

Editor's note: Subsection (11) provided for the repeal of subsections (3) to (11), effective May 15, 2018. (See L. 2016, p. 1195.)

24-50.5-104. Complaints by state personnel system employees - limitation period. (1) Any employee in the state personnel system may file a written complaint with the state personnel board within ten days after the employee knew or should have known of a disciplinary action alleging a violation of section 24-50.5-103 if the employee demonstrates that reasonable communication to the employee's supervisor, appointing authority, or member of the general assembly has occurred in regard to the alleged violation. Within ten days after receiving the complaint, the state personnel board shall send a copy of the complaint to the affected state agency and shall provide the employee with written notice that the complaint has been received and docketed and that sets forth the process for reviewing such complaint. The affected state agency shall submit a written response to the complaint within forty-five days after the date the complaint was filed with the state personnel board. The state personnel board shall set the matter for review in accordance with section 24-50-123 or for hearing to commence not later than ninety days after the receipt of the written response filed by the agency. The hearing date may be continued once only for good cause shown for no longer than thirty days with the approval of the state personnel board. Any hearing conducted pursuant to this section shall take precedence over any other matter pending before the state personnel board.

(2) If the state personnel board after hearing determines that a violation of section 24-50.5-103 has occurred, the state personnel board shall order, within forty-five days after such hearing, the appropriate relief, including, but not limited to, reinstatement, back pay, restoration of lost service credit, and expungement of the records of the employee who disclosed information, and, in addition, the state personnel board shall order that the employee filing the complaint be reimbursed for any costs, including any court costs and attorney fees, if any, incurred in the proceeding. Such reimbursement shall be made out of moneys appropriated to the agency that employs such employee. Judicial review of any determination by the state personnel board under this subsection (2) may be had in accordance with section 24-4-106.

(3) It shall be a defense in any grievance or appeal before the state personnel board that the disciplinary action against an employee was initiated in violation of section 24-50.5-103, and the issue of the violation of section 24-50.5-103 shall be determined by the state personnel board as a part of the related grievance or appeal. The failure to raise any such defense shall bar any subsequent cause of action for a violation of section 24-50.5-103 arising out of the same set of facts at issue in the related grievance or appeal.

(4) Whenever the state personnel board determines that an appointing authority or supervisor has violated section 24-50.5-103, the appointing authority or supervisor shall receive a disciplinary action which shall remain a permanent part of the appointing authority's or supervisor's personnel file, and a copy of the disciplinary action shall be provided to the employee. The disciplinary action shall be appropriate to the circumstances, from a mandatory minimum of one week suspension or equivalent up to and including termination. In considering the appropriate disciplinary action pursuant to this subsection (4), the appointing authority or supervisor of the appointing authority or supervisor who has committed such violation shall consider the nature and severity of the retaliatory conduct involved.

(5) The state personnel board shall promulgate rules consistent with the provisions of this article that establish the procedures for filing complaints with the state personnel board under this section and that identify the rights and obligations of employees under this article.

Source: L. 79: Entire article added, p. 966, § 1, effective June 15. **L. 97:** Entire section amended, p. 1417, § 1, effective July 1. **L. 2006:** (1) and (2) amended, p. 99, § 1, effective August 7.

24-50.5-105. Civil action. Any employee not in the state personnel system, or any employee in the state personnel system who filed a complaint under section 24-50.5-104 (1) but the state personnel board determined after review or hearing that no violation of section 24-50.5-103 occurred, may bring a civil action in the district court alleging a violation of section 24-50.5-103. If the employee prevails, the employee may recover damages, together with court costs, and the court may order such other relief as it deems appropriate.

Source: L. 79: Entire article added, p. 967, § 1, effective June 15. **L. 2006:** Entire section amended, p. 100, § 2, effective August 7.

24-50.5-105.5. Nondisclosure agreements - protection of state employees - definitions. (1) (a) Neither the state nor any department, institution, or agency of the state shall make it a condition of employment that an employee executes a contract or other form of

agreement that prohibits, prevents, or otherwise restricts the employee from disclosing factual circumstances concerning the employee's employment with the state or any of its departments, institutions, or agencies unless the prohibition or restriction in the contract or agreement is necessary to prevent disclosure of:

(I) The employee's identity, facts that might lead to the discovery of the employee's identity, or factual circumstances relating to the employment that reasonably implicate legitimate privacy interests of the employee who is a party to the agreement if the employee elects in the employee's sole discretion to restrict disclosure of the employee's identity or such facts and circumstances;

(II) Data; information, including personal identifying information, as defined in section 24-74-102 (1); or matters that are required to be kept confidential by federal law or regulations, the state constitution, state law, state regulations, or state rules, or a court of law or as attorney-client privileged communications, as privileged work product, as communications related to a threatened or pending legal or administrative action, or as materials related to personnel or regulatory investigations by the employer;

(III) Nonpublic and confidential labor relations positions and strategies;

(IV) Attorney work product;

(V) Vendor lists and vendor preferences;

(VI) State business-related information received from a third party that the third party has designated confidential;

(VII) Information and matters related to state active duty orders of national guard soldiers and airmen and personnel disputes subject to the jurisdiction of the United States department of defense;

(VIII) Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by a current or prospective contractor, vendor, grantee or as part of a public-private partnership, or entity working with the state as part of an economic development activity;

(IX) Information bearing on the specialized details of security arrangements or investigations including for elected officials or other individuals, physical infrastructure, or cybersecurity;

(X) Information derived from communications of the employer related to threatened or pending legal or administrative action;

(XI) Discussions that occur in an executive session authorized by section 24-6-402;

(XII) Trade secrets or information derived from trade secrets or proprietary information of the employer;

(XIII) Information and records not subject to disclosure under the "San Andreas Open Records Act", part 2 of article 72 of this title 24; or

(XIV) Trade secrets owned by the employer.

(b) Any provision in any contract or agreement that violates subsection (1)(a) of this section is deemed to be against public policy and is unenforceable against an employee unless the provision is intended to prevent disclosure of:

(I) The employee's identity, facts that might lead to the discovery of the employee's identity, or factual circumstances relating to the employment that reasonably implicate legitimate privacy interests of the employee who is a party to the agreement if the employee elects in the

employee's sole discretion to restrict disclosure of the employee's identity or such facts and circumstances;

(II) Data; information, including personal identifying information, as defined in section 24-74-102 (1); or matters that are required to be kept confidential by federal law or regulations, the state constitution, state law, state regulations, or state rules, or a court of law or as attorney-client privileged communications, as privileged work product, as communications related to a threatened or pending legal or administrative action, or as materials related to personnel or regulatory investigations by the employer;

(III) Nonpublic and confidential labor relations positions and strategies;

(IV) Attorney work product;

(V) Vendor lists and vendor preferences;

(VI) State business-related information received from a third party that the third party has designated confidential;

(VII) Information and matters related to state active duty orders of national guard soldiers and airmen and personnel disputes subject to the jurisdiction of the United States department of defense;

(VIII) Trade secrets or other confidential or sensitive information provided to or made accessible to the employee by a current or prospective contractor, vendor, grantee or as part of a public-private partnership, or entity working with the state as part of an economic development activity;

(IX) Information bearing on the specialized details of security arrangements or investigations including for elected officials or other individuals, physical infrastructure, or cybersecurity;

(X) Information derived from communications of the employer related to threatened or pending legal or administrative action;

(XI) Discussions that occur in an executive session authorized by section 24-6-402;

(XII) Trade secrets or information derived from trade secrets or proprietary information of the employer;

(XIII) Information and records not subject to disclosure under the "San Andreas Open Records Act", part 2 of article 72 of this title 24; or

(XIV) Trade secrets owned by the employer.

(2) (a) Neither the state nor any of its departments, institutions, or agencies shall take any materially adverse employment-related action, including, without limitation, withdrawal of an offer of employment, discharge, suspension, demotion, discrimination in the terms, conditions, or privileges of employment, or other adverse action against an employee on the grounds that the employee does not enter into a contract or agreement deemed to be against public policy and unenforceable under subsection (1)(b) of this section. The taking of such a materially adverse employment-related action after an employee has refused to enter into such a contract or agreement is prima facie evidence of retaliation.

(b) Any employer who enforces or attempts to enforce a provision deemed by a court to be against public policy and unenforceable pursuant to subsection (1) of this section is liable for the employee's reasonable attorney fees and costs in defending against the action.

(c) An action to enforce a provision of this section must be brought in the district court for the district in which the employee is primarily employed.

(3) A settlement agreement between an employer that is the state or a department, institution, or agency of the state and an employee of the state or the department, institution, or agency of the state must be signed by both the employer and the employee.

(4) A nondisclosure agreement must state that state employees are protected from retaliation for disclosure of information about state agencies that are working outside the public interest in accordance with the provisions of this article 50.5.

(5) A nondisclosure agreement may not prohibit the release of information required to be released under the "San Andreas Open Records Act", part 2 of article 72 of this title 24.

(6) Nothing in this section prevents an employer from requiring an employee to enter into a nondisclosure agreement with a third party in the employee's official capacity and on behalf of the employer.

(7) As used in this section:

(a) "Condition of employment" means an employment-related policy, practice, requirement, or restriction dictated by an employer that an individual must agree to abide by in order to be hired by or retain employment with the employer.

(b) "Employee" means an applicant for employment with or a current or past employee of the state or a department, institution, or agency of the state.

(c) "The state" includes without limitation each of the state officers listed in section 1 of article IV of the state constitution as well as the executive, legislative, and judicial departments of the government of the state.

Source: L. 2023: Entire section added, (SB 23-053), ch. 230, p. 1932, § 3, effective August 7.

Cross references: For the legislative declaration in SB 23-053, see section 1 of chapter 230, Session Laws of San Andreas 2023.

24-50.5-106. Notice to state auditor. Whenever the state personnel board finds that a violation of section 24-50.5-103 involving the disclosure of information concerning waste of public funds or mismanagement of a state agency has occurred, it shall transmit a copy of the investigation report to the state auditor, who shall proceed in accordance with section 2-3-101 (3)(e), S.A.R.S.

Source: L. 79: Entire article added, p. 967, § 1, effective June 15.

24-50.5-107. Reports to the governor. The state personnel board shall report annually to the governor concerning the complaints filed, hearings held, and actions taken pursuant to this article.

Source: L. 79: Entire article added, p. 967, § 1, effective June 15. **L. 2000:** Entire section amended, p. 1552, § 27, effective August 2.

24-50.5-108. Working group - broadening protections for state employee whistleblowers - confidential information subject of whistleblowing - preserving confidentiality of confidential information - repeal. (Repealed)

Source: L. 2016: Entire section added, (SB 16-056), ch. 294, p. 1198, § 4, effective June 10.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2018. (See L. 2016, p. 1198.)

PUBLIC EMPLOYEES' RETIREMENT SYSTEMS

ARTICLE 51

Public Employees' Retirement Association

Editor's note: This article was numbered as articles 1 to 11 of chapter 111, S.A.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1987, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1987, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated. For a detailed comparison of this article, see the comparative tables located in the back of the index.

PART 1

DEFINITIONS

24-51-101. Definitions. As used in this article 51, unless the context otherwise requires and except as otherwise defined in part 17 of this article 51:

(1) "Actuarial equivalent" means an amount equal to a specified benefit based on an assumed interest rate and life expectancy.

(2) "Actuarial investment assumption rate" means the assumed rate of return from investments as set by the board with the advice of the actuary.

(3) "Actuarial valuation" means the determination, as of a valuation date, of the normal cost, actuarial accrued liability, actuarial value of assets, and related actuarial present values of the plan.

(4) "Actuary" or "actuaries" means the professional consultants retained by the board to review statistics and make periodic evaluations of the finances needed for the payment of future retirement benefits, survivor benefits, and health-care subsidies.

(5) "Amortization period" means the number of years which is required to gradually extinguish the unfunded actuarial accrued liabilities of the plan if future actuarial experience exactly matches the assumptions set by the board.

(6) "Association" means the public employees' retirement association created pursuant to the provisions of section 24-51-201.

(6.5) "Base benefit" means the initial benefit for a benefit that becomes effective after March 1, 2009. For a benefit that became effective on or before March 1, 2009, "base benefit"

means the total benefit payable as of June 30, 2010, including the sum of the initial benefit, accumulated annual increases, and cost of living increases.

(7) "Benefit" means the monthly payment for service retirement, disability retirement, or survivor benefits. A refund pursuant to the provisions of section 24-51-405 or a single payment to a survivor is not a "benefit".

(8) "Benefit recipient" means a retiree, spouse, cobeneficiary, qualified child, or dependent parent receiving monthly service retirement, disability retirement, or survivor benefits. "Benefit recipient" does not include a person who has received a refund pursuant to the provisions of section 24-51-405 or a single payment.

(9) "Board" means the board of trustees created pursuant to the provisions of section 24-51-202 which has such duties and powers authorized by this article for the management of the association.

(10) "Cobeneficiary" means:

(a) The person or supplemental needs trust selected by the member or ordered by court decree prior to retirement to be the person selected under option 2 or 3 pursuant to the provisions of section 24-51-801 to receive a continuing benefit upon the retiree's death; or

(b) The person or supplemental needs trust designated by a member eligible for service retirement or ordered by a court decree prior to retirement to be the person selected to receive option 3 upon the member's death pursuant to the provisions of section 24-51-906.

(11) Repealed.

(12) (Deleted by amendment, L. 2000, p. 779, § 2, effective March 1, 2001.)

(13) "Contributions" means the total of employer and member contributions paid to the association.

(13.5) "Deferred compensation plan" means an eligible deferred compensation plan established and administered pursuant to the provisions of 26 U.S.C. sec. 457 (b), as amended.

(14) "Dependent parents" means, for survivor benefits purposes, parents who received fifty percent or more of their support from the member at the time of the member's death. "Dependent parents" also means parents who receive fifty percent or more of their support from a benefit recipient at the time they request eligibility for the health care program.

(15) "Dependents" means the spouse, qualified children, and dependent parents of a benefit recipient.

(16) "Disability" means mental or physical incapacitation as determined pursuant to part 7 of this article.

(17) "Disabled" means mentally or physically incapacitated as determined pursuant to part 7 of this article.

(18) "Division" means the state, school, local government, judicial, or Denver public schools division, each of which is identified by a separate trust fund, amortization period, and membership.

(18.2) "DPS" means Denver public schools.

(18.3) "DPS member" means any person who has an existing member account in the DPS plan on December 31, 2009, or has an existing member account based on service performed prior to January 1, 2010, for which such member received compensation on or after January 1, 2010.

(18.5) "DPS plan" means the Denver public schools retirement system retirement and benefit plan enacted by the Denver public schools board of education pursuant to section 22-64-

202, S.A.R.S., and governed by article 64 of title 22 and related plan documents, as amended, from inception to the repeal of said article. After May 21, 2009, the DPS plan may be amended solely for the purposes of complying with the federal "Internal Revenue Code of 1986", as amended, and such amendments shall be included in the DPS plan.

(18.7) "DPS retiree" means a person who is receiving a service retirement or disability benefit from the association pursuant to part 17 of this article.

(19) "Effective date of retirement" means the date after termination of employment on which the member becomes eligible for benefits.

(20) "Employer" means the state of San Andreas, the general assembly, any state department, board, commission, bureau, agency, or institution, the San Andreas association of school boards, the San Andreas high school activities association, the San Andreas association of school executives, the fire and police pension association, the special districts association, the San Andreas water resources and power development authority, the public employees' retirement association, the San Andreas consortium for earth and space science education, all school districts in San Andreas, and any political subdivision, city, municipality, county, housing authority, special district, library district, regional planning commission, public hospital, county or district public health agency, state university, state college, state local district college, or other public entity that is affiliated with the plan.

(21) "Employer contribution" means the money paid by an employer to the association pursuant to the provisions of section 24-51-401 (1.7) for all member salaries paid and other required employer contributions made pursuant to the provisions of section 24-51-402.

(21.5) "Erroneous contribution" means an amount contributed in error to a member contribution account based on compensation that is not salary as defined in subsection (42) of this section.

(22) "Former member" means an individual who received a refund upon termination of employment pursuant to the provisions of section 24-51-405.

(23) "Fund" means the total assets of the association which are credited to the various trust funds established and invested by the association pursuant to the provisions of this article.

(24) "Health care" means the program provided for in part 12 of this article.

(25) (a) "Highest average salary" means:

(I) (A) For a member or inactive member who has five years of service credit on December 31, 2019, or a retiree who was retired on December 31, 2019, one-twelfth of the average of the highest annual salaries upon which contributions were paid, whether earned from one or more employers, that are associated with three periods of twelve consecutive months of service credit;

(B) For a member or inactive member who does not have five years of service credit on December 31, 2019, or a member who was not a member, inactive member, or retiree on December 31, 2019, one-twelfth of the average of the highest annual salaries upon which contributions were paid, whether earned from one or more employers, that are associated with five periods of twelve consecutive months of service credit;

(II) For a member who does not have the requisite years of service credit, one-twelfth of the average of the total annual salaries earned during membership upon which contributions were paid;

(III) For benefits that become effective on or after January 1, 1982, where the individual earned less than one year of service credit after December 31, 1980, one-twelfth of the average

of the highest annual salaries upon which contributions were paid which were associated with five consecutive years of service credit;

(IV) Notwithstanding any other provision of this subsection (25)(a) to the contrary, for members of the judicial division who have five years of service credit on December 31, 2019, retiring on or after July 1, 1997, one-twelfth of the highest annual salary upon which contributions were paid for twelve consecutive months; or

(V) Notwithstanding any other provision of this subsection (25)(a) to the contrary, for members of the judicial division who do not have five years of service credit on December 31, 2019, or for members of the judicial division who were not members, inactive members, or retirees on December 31, 2019, one-twelfth of the average of the highest annual salaries upon which contributions were paid that are associated with three periods of twelve consecutive months of service credit.

(b) (I) In calculating highest average salary pursuant to subparagraph (I) of paragraph (a) of this subsection (25), for a member who was a member, inactive member, or retiree on December 31, 2006, and who has an effective date of retirement before January 1, 2009, if any annual salary used in said calculation was associated with service credit earned during the last three years of membership, each annual salary increase shall be limited to fifteen percent. This limitation shall not apply to salary decreases.

(II) In calculating highest average salary pursuant to subparagraph (I) of paragraph (a) of this subsection (25), for a member who was a member, inactive member, or retiree on December 31, 2006, and who has an effective date of retirement before January 1, 2009, if all annual salaries used in said calculation were associated with service credit earned prior to the last three years of membership, no fifteen percent limit shall be applied to the salary differences.

(III) In calculating highest average salary for a member who was a member, inactive member, or retiree on December 31, 2006, and who has an effective date of retirement on or after January 1, 2009, the association shall determine the highest annual salaries associated with four periods of twelve consecutive months of service credit. The lowest of such annual salaries shall be the base salary. The first annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred fifteen percent of the base salary. The second annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred fifteen percent of the first annual salary used in the highest average salary calculation. The third annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred fifteen percent of the second annual salary used in the highest average salary calculation.

(IV) In calculating highest average salary for a member who was not a member, inactive member, or retiree on December 31, 2006, the association shall determine the highest annual salaries associated with four periods of twelve consecutive months of service credit. The lowest of such annual salaries shall be the base salary. The first annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the base salary. The second annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the first annual salary used in the highest average salary calculation. The third annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the second annual salary used in the highest average salary calculation.

(V) Notwithstanding any other provision of this subsection (25)(b), in calculating highest average salary for a member or inactive member not eligible for service or reduced service retirement on January 1, 2011, and who was a member or inactive member with five years of service credit on December 31, 2019, or a retiree on December 31, 2019, the association shall determine the highest annual salaries associated with four periods of twelve consecutive months of service credit. The lowest of such annual salaries shall be the base salary. The first annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the base salary. The second annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the first annual salary used in the highest average salary calculation. The third annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the second annual salary used in the highest average salary calculation. This subsection (25)(b)(V) shall not apply to members of the judicial division, except for DPS members of the judicial division who have exercised portability pursuant to section 24-51-1747 and selected the Denver public schools benefit structure. This subsection (25)(b)(V) shall apply to DPS members in accordance with section 24-51-1702 (17).

(VI) Notwithstanding any other provision of this subsection (25)(b), in calculating highest average salary for a member or inactive member who does not have five years of service credit on December 31, 2019, or who was not a member, inactive member, or retiree on December 31, 2019, the association shall determine the highest annual salaries associated with six periods of twelve consecutive months of service credit. The lowest of such annual salaries shall be the base salary. The first annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the base salary. The second annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the first annual salary used in the highest average salary calculation. The third annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the second annual salary used in the highest average salary calculation. The fourth annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the third annual salary used in the highest average salary calculation. The fifth annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the fourth annual salary used in the highest average salary calculation. This subsection (25)(b)(VI) does not apply to members of the judicial division, except for DPS members of the judicial division who have exercised portability pursuant to section 24-51-1747 and selected the DPS benefit structure. This subsection (25)(b)(VI) applies to DPS members in accordance with section 24-51-1702 (17).

(VII) Notwithstanding any other provision of this subsection (25)(b), for members of the judicial division who do not have five years of service credit on December 31, 2019, or for members of the judicial division who were not members, inactive members, or retirees on December 31, 2019, the association shall determine the highest annual salaries associated with four periods of twelve consecutive months of service credit. The lowest of such annual salaries shall be the base salary. The first annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the base salary. The second annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the first annual salary used in the highest

average salary calculation. The third annual salary to be used in the highest average salary calculation shall be the actual salary reported up to one hundred eight percent of the second annual salary used in the highest average salary calculation.

(c) For retirements on or before January 1, 1989, if a member had a rate of pay reduction occur within any calendar year used in the calculation of highest average salary, the calculation shall be the average of the highest three periods of twelve consecutive months of salary if this results in a higher average salary.

(d) (I) If a member has a rate of pay reduction resulting from the furloughing of such member during the 2002-03 or 2003-04 state fiscal years and the reduction occurs during any period of twelve consecutive months used to calculate the member's highest average salary, the member may pay during the three months prior to the effective date of retirement the full member contribution upon and be credited with an amount equal to any such reduction for the period used in the calculation of highest average salary. If a member pays the member contribution pursuant to this paragraph (d), the employer shall forward to the association the full amount of the employer contribution on the amount of pay reduction within ten business days following notice by the association of the amount due. The rate of employer and employee contributions shall be as set forth in section 24-51-401 (1.7).

(II) Each employer shall forward to the association a list of its retired employees who had a furlough from July 1, 2002, through June 30, 2003. The list shall show the amount of pay reduction that resulted from the furlough of such employee for each month during that period. The retiree may pay the member contribution on such amount in full within thirty days of the date the association notifies the retiree of the amount due. If the employee pays that contribution, then the employer shall forward to the association the full amount of the employer contribution on the amount of pay reduction within ten business days following notice by the association of the amount due pursuant to subparagraph (I) of this paragraph (d). Upon receipt of both contributions, the association shall include the amount of pay reduction that resulted from the furlough for the period used in the calculation of highest average salary.

(26) "Inactive member" means a person who has terminated membership and is not making member contributions but who has money in a member contribution account. "Inactive member" includes persons making continuing payments in lieu of member contributions pursuant to the provisions of section 24-51-606 (2). Inactive members are not "members" as defined in subsection (29) of this section.

(27) "Initial benefit" means the first full monthly benefit paid to the benefit recipient or the first full monthly benefit paid to a benefit recipient after recalculation of the benefit pursuant to the provisions of sections 24-51-1103 and 24-51-1104.

(28) "Interest" means:

(a) The actuarial investment assumption rate compounded annually for any interest charged to a member or benefit recipient pursuant to the provisions of this article;

(b) The applicable actuarial investment assumption rate compounded annually for any interest charged to an employer pursuant to the provisions of this article; and

(c) The rate established by the board for each calendar year pursuant to the provisions of section 24-51-407 for interest on member contributions.

(28.5) "Matching employer contributions" means:

(a) The portion of employer contributions used together with the member contribution account to determine the amount of a member's money purchase retirement benefit pursuant to the provisions of sections 24-51-408 (1) and 24-51-605.5 (2); and

(b) The portion of employer contributions paid together with the refund of the member contribution account to members who have terminated membership pursuant to the provisions of sections 24-51-405 and 24-51-408 (2).

(29) "Member" means any employee of an employer defined in subsection (20) of this section who works in a position which is subject to membership in the association and for whom contributions are made. "Member" includes such employee during leaves of absence without pay during which the employer-employee relationship continues if the period of leave is certified to the association by the employer. "Member" also includes any person hired by an employer affiliated with the Denver public schools division who is not a DPS member, unless otherwise indicated. "Member" does not include persons who have terminated employment or died.

(30) "Member contribution" means the money paid to the association that equals a percentage of the member's salary as determined pursuant to the provisions of section 24-51-401 (1.7). "Member contribution" does not include working retiree contributions as defined in subsection (53) of this section.

(31) "Member contribution account" means an account maintained for each member in the member contribution reserve to which member contributions, interest on member contributions, payments in lieu of member contributions, and payments and interest made for purchases of service credit are credited.

(32) "Members of the judicial division" means justices of the supreme court and judges of the court of appeals, district courts, county courts, probate courts, and juvenile courts.

(33) "Named beneficiary" means any person designated in writing by a member to receive a single payment upon the death of the member when survivor benefits are not payable.

(34) "Plan" means the design of the association which is established for the purpose of providing employers, members, and cobeneficiaries and named beneficiaries of such members, such rights, obligations, and duties as provided for in the provisions of this article.

(34.5) "Portability" means the provisions of section 24-51-1747.

(35) "Premium" means the total amount charged by a life insurer, health insurer, health maintenance organization, health-care provider, or by the association for each participant and shall be equal to the total of the amount paid by the participant and the premium subsidy, if any, paid by the plan.

(36) "Projected service credit" means the service credit which would have been earned if the retiree receiving disability retirement benefits had continued membership until reaching sixty-five years of age; except that a member's service credit, including any projected service credit, cannot exceed twenty years.

(37) "Qualified children" means natural or adopted children of a member who are unmarried and under eighteen years of age or who are unmarried and eighteen years of age or older but under twenty-three years of age if enrolled full time in an accredited school within six months after the date of death of such member. "Qualified children" includes any children who become mentally or physically incapacitated prior to attaining such age or marital status which precludes them from obtaining gainful employment, and such children shall continue to be considered qualified children so long as such disability continues.

(38) Repealed.

(39) "Retiree" means a person who is receiving a service or disability retirement benefit from the association pursuant to part 6 or 7 of this article.

(40) "Retirement" means the time when the retiree is receiving retirement benefits pursuant to part 6 or 7 of this article.

(41) "Retirement benefit" means the monthly service retirement benefit or the disability retirement benefit provided for in this article.

(42) (a) (I) "Salary" means, for members who were members, inactive members, or retirees of the association on June 30, 2019, compensation for services rendered to an employer and includes: Regular salary or pay; any pay for administrative, sabbatical, annual, sick, vacation, or personal leave and compensation for unused leave converted to cash payments; pay for compensatory time or holidays; payments by an employer from grants; amounts deducted from pay pursuant to tax-sheltered savings or retirement programs; amounts deducted from pay for a health savings account as defined in 26 U.S.C. sec. 223, as amended, or any other type of retirement health savings account program; performance or merit payments, if approved by the board; special pay for work-related injuries paid by the employer prior to termination of membership; and retroactive salary payments pursuant to court orders, arbitration awards, or litigation and grievance settlements.

(II) For members who were members, inactive members, or retirees of the association on June 30, 2019, "salary" does not include: Commissions; compensation for unused sick, annual, vacation, administrative, or other accumulated paid leave contributed to a health savings account as defined in 26 U.S.C. sec. 223, as amended, or a retirement health savings program; housing allowances; uniform allowances; automobile usage; insurance premiums; dependent care assistance; reimbursement for expenses incurred; tuition or any other fringe benefits, regardless of federal taxation; bonuses for services not actually rendered, including, but not limited to, early retirement inducements, Christmas bonuses, cash awards, honorariums and severance pay, damages, except for retroactive salary payments paid pursuant to court orders or arbitration awards or litigation and grievance settlements, or payments beyond the date of a member's death.

(b) (I) "Salary" means, for members who were not members, inactive members, or retirees of the association on June 30, 2019, compensation for services rendered to an employer and includes: Regular salary or pay; any pay for administrative, sabbatical, annual, sick, vacation, or personal leave and compensation for unused leave converted to cash payments; pay for compensatory time or holidays; payments by an employer from grants; amounts deducted from pay pursuant to tax-sheltered savings or retirement programs; amounts deducted from pay for a health savings account as defined in 26 U.S.C. sec. 223, as amended, or any other type of retirement health savings account program; amounts deducted from pay pursuant to a cafeteria plan as defined in 26 U.S.C. sec. 125, as amended; a qualified transportation fringe benefit plan as defined in 26 U.S.C. sec. 132, as amended; performance or merit payments, if approved by the board; special pay for work-related injuries paid by the employer prior to termination of membership; and retroactive salary payments pursuant to court orders, arbitration awards, or litigation and grievance settlements.

(II) For members who were not members, inactive members, or retirees of the association on June 30, 2019,"salary" does not include: Commissions; compensation for unused sick, annual, vacation, administrative, or other accumulated paid leave contributed to a health savings account as defined in 26 U.S.C. sec. 223, as amended, or a retirement health savings program; housing allowances; uniform allowances; automobile usage; insurance premiums paid

by employers; reimbursement for expenses incurred; tuition or any other fringe benefits, regardless of federal taxation; bonuses for services not actually rendered, including, but not limited to, early retirement inducements, Christmas bonuses, cash awards, honorariums and severance pay, damages, except for retroactive salary payments paid pursuant to court orders or arbitration awards or litigation and grievance settlements, or payments beyond the date of a member's death.

(c) Compensation received by DPS members on or before December 31, 2009, shall be governed by part 17 of this article for purposes of determining includable salary. On and after January 1, 2010, compensation received by DPS members shall be governed by paragraphs (a) and (b) of this subsection (42) for purposes of determining includable salary. Any adjustments to compensation shall be governed by the provisions in effect for the period for which the adjustment applied.

(43) "Service credit" means the total of all earned, purchased, projected, and uniformed service credit; however, it does not necessarily equal the number of years employed.

(44) "Service credit purchase agreement" means the agreement between the member and the association with regard to the service credit eligible for purchase, the cost of the purchase, the date the payment is to begin and end, and the method of payment.

(45) "Single payment" means the one-time payment of the moneys credited to the member contribution account of a deceased member or deceased inactive member, together with matching employer contributions. A "single payment" is not a benefit.

(46) "State trooper" means an employee of the San Andreas state patrol, San Andreas bureau of investigation, or successors to these agencies, who is vested with the powers of peace officers as provided for in section 24-33.5-409. In addition, for members who were not members, inactive members, or retirees on December 31, 2019, "state trooper" includes a county sheriff, undersheriff, deputy sheriff, noncertified deputy sheriff, or detention officer hired by a local government division employer on or after January 1, 2020, and a corrections officer classified as I through IV hired by a state division employer on or after January 1, 2020. Beginning July 1, 2020, "state trooper" also includes an employee of the division of fire prevention and control in the department of public safety who is classified in the firefighter I through firefighter VII class titles. Beginning July 1, 2023, "state trooper" also includes a wildlife officer as defined in section 16-2.5-116 (1), and a parks and recreation officer as defined in section 16-2.5-117 (1), who is employed by the division of parks and wildlife in the department of natural resources and was hired on or after January 1, 2011. Beginning January 1, 2025, "state trooper" also includes a person who is elected, reelected, or appointed by a local government division employer as a county coroner or deputy coroner pursuant to part 6 of article 10 of title 30 on or after January 1, 2021. Beginning July 1, 2025, "state trooper" also includes a duly sworn employee of the division of fire prevention and control in the department of public safety whose duties include structural or wildfire management, wildfire response, live-fire training, or wildfire leadership, as determined by the executive director of the department of public safety.

(46.5) "Supplemental needs trust" means a valid third-party special needs trust established for a member's or retiree's child as the beneficiary of the trust that complies with the "San Andreas Medical Assistance Act", articles 4 to 6 of title 25.5, S.A.R.S., and the federal "Social Security Act", as amended. The department of health care policy and financing shall review any trust established during the determination or redetermination of an individual's eligibility for medical assistance and specifically as to the effect of any trust on such eligibility for medical

assistance. The trust must be for the benefit of a single beneficiary and must be coterminous with the lifetime of such beneficiary.

(47) "Surviving spouse" means the surviving spouse of a deceased member or a deceased inactive member and includes a widow and a widower.

(48) "Survivor benefits" means the monthly benefit payable pursuant to part 9 of this article upon the death of a member or inactive member prior to retirement but does not include a single payment made upon the death of a member or inactive member.

(49) "Termination of employment" means the last day of employment for which a member receives compensation on which contributions are remitted, including payment for accumulated sick or annual leave, or the last day of a period of unpaid leave of absence, whichever is later.

(50) "Termination of membership" means the loss of membership which occurs on the date the member terminates employment, retires, or dies.

(51) "Vested benefit" means an entitlement to a future monthly benefit which is earned upon completion of five years of service credit.

(52) "Voluntary investment program" means a voluntary tax-deferred investment program established and administered pursuant to the provisions of 26 U.S.C. sec. 401 (k), as amended.

(53) "Working retiree contributions" means an amount paid to the association that equals the percentage of salary that would be paid as member contributions pursuant to section 24-51-401 (1.7)(a); except that working retiree contributions shall not be considered member contributions and shall not be deposited in the member contribution account.

Source: L. 87: Entire article R&RE, p. 1041, § 1, effective July 1. **L. 88:** (10)(a) amended, p. 958, § 1, effective April 20. **L. 90:** (11) repealed and (16) and (17) amended, pp. 1249, 1247, §§ 11, 3, effective April 5; (37) amended, p. 1256, § 1, effective April 12. **L. 91:** (27), (29), (39), and (40) amended, p. 873, § 1, effective July 1. **L. 91, 2nd Ex. Sess.:** (28), (31), and (45) amended, p. 70, § 1, effective October 11. **L. 93:** (6.5) added, p. 478, § 5, effective March 1, 1994. **L. 95:** (21.5) added, p. 518, § 1, effective May 16; (28)(b) amended, p. 556, § 15, effective May 22; (21) and (30) amended, p. 1104, § 40, effective May 31; (7), (8), (22), (28)(c), and (45) amended and (28.5) added, p. 551, § 1, effective July 1; (25)(a)(I), (35), and (43) amended, p. 262, § 1, effective July 1. **L. 96:** (20) amended, p. 667, § 2, effective May 2. **L. 97:** (18) amended and (25)(a)(IV) added, pp. 770, 771, §§ 2, 3, effective July 1; (16) and (17) amended, p. 770, § 1, effective January 1, 1999; (38)(b) added by revision, pp. 771, 783, §§ 4, 20. **L. 98:** (37) amended, p. 128, § 1, effective March 27. **L. 2000:** (6.5) and (12) amended, p. 779, § 2, effective March 1, 2001. **L. 2003:** (25)(d) added, p. 1507, § 1, effective May 1; (20) amended, p. 2607, § 1, effective June 5; (20) amended, p. 2657, § 2, effective June 5. **L. 2004:** (28)(c) amended, p. 695, § 1, effective July 1; (42) amended, p. 765, § 4, effective July 1; (18) amended, p. 1938, § 2, effective January 1, 2006. **L. 2005:** (20) amended, p. 527, § 4, effective May 24. **L. 2006:** (25)(b) amended, p. 1173, § 1, effective May 25. **L. 2007:** (20) amended, p. 2073, § 1, effective June 1. **L. 2009:** (13.5) added, (SB 09-066), ch. 73, p. 255, § 14, effective March 31; (18.2), (18.3), (18.5), and (18.7) added, (SB 09-282), ch. 288, p. 1331, § 1, effective May 21; IP, (18), (20), (29), and (42) amended and (34.5) added, (SB 09-282), ch. 288, p. 1331, § 1, effective January 1, 2010. **L. 2010:** (6.5) amended, (SB 10-001), ch. 2, p. 4, § 1, effective February 23; (20) amended, (HB 10-1422), ch. 419, p. 2086, § 71, effective August 11;

(25)(b)(V) and (53) added and (30) amended, (SB 10-001), ch. 2, pp. 5, 4, §§ 2, 1, effective January 1, 2011. **L. 2015:** (10) amended and (46.5) added, (SB 15-097), ch. 111, p. 325, § 2, effective April 16. **L. 2018:** IP, (25)(a), (25)(b)(V), (42)(a), (42)(b), and (46) amended and (25)(b)(VI) and (25)(b)(VII) added, (SB 18-200), ch. 370, p. 2234, § 2, effective June 4. **L. 2020:** (46) amended, (SB 20-057), ch. 143, p. 622, § 3, effective June 29. **L. 2023:** (46) amended, (SB 23-163), ch. 386, p. 2310, § 1, effective June 6. **L. 2024:** (46) amended, (SB 24-169), ch. 249, p. 1652, § 1, effective August 7; (46) amended, (SB 24-186), ch. 414, p. 2845, § 1, effective August 7.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Subsection (38)(b) provided for the repeal of subsection (38), effective January 1, 1999. (See L. 97, pp. 771, 783.)

(3) Amendments to subsection (20) by Senate Bill 03-250 and Senate Bill 03-098 were harmonized.

(4) Amendments to subsection (46) by SB 24-169 and SB 24-186 were harmonized.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015. For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

PART 2

ADMINISTRATION

24-51-201. Public employees' retirement association - creation. (1) There is hereby created the public employees' retirement association, for the purpose of providing the benefits and programs specified in this article, which shall be a body corporate with the right to sue and be sued and the right to hold property for its use and purposes. Notwithstanding the applicability of article 54.8 of this title and sections 2-3-103, 24-4-103, 24-6-202, and 24-6-402, S.A.R.S., as provided for in this article, the association shall not be subject to administrative direction by any department, commission, board, bureau, or agency of the state. The association is an instrumentality of the state.

(2) The public employees' retirement association, created pursuant to the provisions of subsection (1) of this section, shall consist of the following divisions:

(a) The state division;

(a.5) The school division;

(b) (Deleted by amendment, L. 97, p. 771, § 5, effective July 1, 1997.)

(c) The local government division;

(d) The judicial division; and

(e) The Denver public schools division.

Source: L. 87: Entire article R&RE, p. 1046, § 1, effective July 1. **L. 97:** (2) amended, p. 771, § 5, effective July 1. **L. 2004:** (2) amended, p. 1939, § 3, effective January 1, 2006. **L.**

2007: (1) amended, p. 577, § 2, effective April 19. **L. 2009:** (2)(c) and (2)(d) amended and (2)(e) added, (SB 09-282), ch. 288, p. 1333, § 2, effective January 1, 2010.

Editor's note: This section is similar to former § 24-51-102 as it existed prior to 1987.

Cross references: For the provisions that designate the public employees' retirement association as a "special purpose authority" for purposes of section 20 of article X of the San Andreas constitution, see § 24-77-102 (15).

24-51-202. Board of trustees - creation. There is hereby created the board of trustees of the association, which shall have the responsibilities, duties, and authorities as set forth in this article.

Source: L. 87: Entire article R&RE, p. 1047, § 1, effective July 1.

Editor's note: This section is similar to former §§ 24-51-103, 24-51-209, and 24-51-606 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-203. Board - composition and election. (1) The board consists of the following fifteen trustees:

(a) The state treasurer;

(b) Three members of the state division elected by the members of that division, at least one of whom shall be an employee of a state institution of higher education and at least one of whom shall not be an employee of a state institution of higher education;

(c) Four members of the school division elected by the members of that division;

(d) One member of the local government division elected by the members of that division;

(e) One member of the judicial division elected by the members of that division;

(f) Two retirees, one of whom shall be elected by those members who have retired from the local government division, the judicial division, or from the state division and one of whom shall be elected by those members who have retired from the local government division, the judicial division, or the school division; except that both retiree trustees cannot have retired from the same division; and

(g) Three trustees appointed by the governor and confirmed by the senate who shall not be members, inactive members, or retirees of the association and who shall have significant experience and competence in investment management, finance, banking, economics, accounting, pension administration, or actuarial analysis. Of the three trustees appointed by the governor, no more than two shall be from the same political party.

(1.5) In addition to the board members specified in subsection (1) of this section, there shall be one ex officio board member from the Denver public schools division. The ex officio board member shall be elected by the Denver public schools division through a Denver public schools division member election administered by the association. The Denver public schools division ex officio member position exists so long as the Denver public schools division remains as a separate division of the association. The Denver public schools division ex officio member

shall be a member or retiree of the Denver public schools division and shall be treated like all other members of the board, subject to the following:

(a) The ex officio member may sit with the board and participate in discussions of agenda items, but shall not be allowed to vote on any matter coming before the board or any committee of the board, or to make any motion regarding any matter before the board or any committee of the board;

(b) The ex officio member may be reimbursed for his or her actual and necessary expenses incurred in the execution of his or her duties as an ex officio member of the board, subject to the same requirements and restrictions as apply to reimbursement of expenses of statutory members of the board;

(c) The ex officio member's fiduciary obligations and responsibilities shall be the same as any other board member, shall flow to the entire association membership, and are not limited to those of the Denver public schools division;

(d) The ex officio member shall be provided the same board and committee meeting materials as are provided to other members of the board, including any information that may be deemed confidential;

(e) The ex officio member shall be allowed to participate in or attend executive or closed sessions of the board or of any committee of the board subject to all association board rules, regulations, and policies, including, but not limited to, confidentiality and conflict of interest;

(f) The ex officio member may not be elected as an officer of the board;

(g) At the request of the ex officio member, the chair of the board may appoint the ex officio member as an ex officio member of any standing committee of the board;

(h) The ex officio member shall be allowed to attend and participate in any open meeting discussion at any board or committee meeting; and

(i) The ex officio member shall observe all rules, regulations, and policies applicable to members of the board and any other conditions, restrictions, or requirements established or directed by vote of a majority of the members of the board.

(2) The board shall set the time and manner for the elections of trustees representing members and retirees. Elected trustees may be reelected to the board for an unlimited number of terms but, except for the state treasurer, no term for any trustee shall exceed four years.

(3) The term for each of the trustees appointed by the governor is four years; except that the terms shall be staggered so that no more than one trustee's term expires in one year. Appointed trustees may be reappointed to the board for an unlimited number of terms.

(4) When a vacancy occurs on the board among the elected trustees, the person who received the next highest number of votes in the most recent election of trustees shall be appointed to serve as trustee until the next election of trustees. If the person who received the next highest number of votes is unwilling to serve as a trustee or if the trustee who created the absence ran unopposed, the board shall appoint a trustee. In either case, the appointed trustee shall be from the same division as the trustee whose absence created the vacancy.

(5) When a vacancy occurs among the three appointed trustees, the governor shall appoint, with consent of the senate, a new trustee with the experience and competence specified in paragraph (g) of subsection (1) of this section to serve the remainder of any unexpired term. Such appointee may serve on a temporary basis if the general assembly is not in session when he or she is appointed until the general assembly is in session and the senate is able to consent to such appointment.

(6) The elected trustees shall serve without compensation but shall be reimbursed by the association for any necessary expenses incurred in the conduct of their official duties and shall suffer no loss of salary from an employer for service on the board.

(7) The appointed trustees shall be compensated by the association for their service on the board.

(8) No person can be or can continue to be a trustee of the board who has been adjudicated of having violated any provisions of this article or who has been convicted of a felony or any crime involving the misappropriation of funds.

Source: L. 87: Entire article R&RE, p. 1047, § 1, effective July 1; (1) amended, p. 1587, § 62, effective July 10. **L. 88:** (1) amended, p. 1432, § 14, effective June 10. **L. 97:** (1) amended, p. 771, § 6, effective July 1. **L. 2004:** (1) amended, p. 1939, § 4, effective January 1, 2006. **L. 2006:** Entire section R&RE, p. 1174, § 2, effective January 1, 2007. **L. 2009:** (1.5) added, (SB 09-282), ch. 288, p. 1333, § 3, effective May 21. **L. 2022:** IP(1), (1)(b), (1)(c), (1)(d), IP(1.5), and (3) amended, (SB 22-013), ch. 2, p. 55, § 70, effective February 25.

Editor's note: This section is similar to former § 24-51-103 as it existed prior to 1987.

24-51-204. Duties of the board. (1) The trustees shall elect from among themselves a chairman and any other officers as may be necessary for the board to carry out its duties and responsibilities.

(2) The board shall set the time and place for meetings and conduct those meetings in accordance with the provisions of part 4 of article 6 of this title and shall maintain a record of its proceedings.

(3) No vote of the board shall take place without a quorum present.

(4) The board shall appoint and set the compensation for an executive director to administer the association.

(5) The board shall adopt and promulgate such rules for the administration of the association and to specify the factors to be used in actuarial determinations or calculations required by this article. All rules shall be promulgated in accordance with the provisions of section 24-4-103, and such rules shall be consistent with the provisions of this article or other provisions of law.

(6) The board shall submit to and the state auditor shall conduct or cause to be conducted financial and performance audits of all financial transactions and accounts kept by or for the association in a manner consistent with the requirements set forth in section 2-3-103, S.A.R.S.

(7) (a) The board or its designated agent shall submit an annual actuarial valuation report to the legislative audit committee and the joint budget committee of the general assembly, together with any recommendations concerning such liabilities that have accrued.

(b) In the annual actuarial valuation, the board shall first determine the total aggregate actuarial funded ratio of the association, apply the adjustments pursuant to section 24-51-1009.5, and then determine the actuarial funded ratio of each division separately.

(7.5) (a) The board or its designated agent shall perform an annual sensitivity analysis to determine when, from an actuarial perspective, model assumptions are meeting targets and achieving sustainability. In furtherance of making this determination, the board or its designated agent shall examine the data that the association currently collects. The board or its designated

agent shall deliver an annual report detailing the findings of the analysis to the office of the governor, the joint budget committee, the legislative audit committee, and the finance committees of the senate and the house of representatives, or any successor committees.

(b) For purposes of the analysis required by subsection (7.5)(a) of this section, the association shall provide access to official member information and data under a confidentiality agreement with its designated agent, if applicable.

(8) The board or its designated agent shall prepare and transmit annually a report to the governor regarding the policies, financial condition, and administration of the association.

(9) The board shall obtain, and the association shall pay for, insurance or shall self-insure against liability which arises out of, or in connection with, the performance of duties by any trustee or employee of the association.

(10) The board shall perform all duties imposed on it by law, including but not limited to administering the provisions of the DPS plan for qualifying DPS members. The board shall not be liable for actions of members that do not comply with court orders.

(11) The board shall be immune from claims arising from the enforcement and implementation of laws regarding the consolidation or merger of retirement plans under its administration that are made a part of the association.

Source: L. 87: Entire article R&RE, p. 1047, § 1, effective July 1. **L. 97:** (5) amended, p. 63, § 1, effective July 1. **L. 2000:** (8) amended, p. 1552, § 28, effective August 2. **L. 2009:** (10) amended and (11) added, (SB 09-282), ch. 288, p. 1334, § 4, effective May 21. **L. 2010:** (7) amended, (SB 10-001), ch. 2, p. 5, § 3, effective January 1, 2011. **L. 2018:** (7.5) added, (SB 18-200), ch. 370, p. 2238, § 3, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-205. General authority of the board. (1) The board shall have the authority to determine membership status within the state, school, local government, judicial, and Denver public schools divisions; exemptions from membership; eligibility for benefits, life insurance, health care, the voluntary investment program, the association's defined contribution plan, and the deferred compensation plan; and service credit and salary to be used in calculations pursuant to the provisions of this article. Such decisions by the board may be appealed through the administrative review procedures set forth in the board rules. Such final decision by the board shall be subject only to review by proper court action.

(2) The board is authorized to accept on behalf of the association any moneys or properties received in the form of donations, gifts, appropriations, bequests, forfeitures, or otherwise, or income derived therefrom. This subsection (2) does not allow the board to accept or retain money held by the association that is presumed to be abandoned pursuant to section 38-13-216.

(3) The board is authorized to recover, through legal process or offset, any amount paid as benefits, refunds, single payments, premium subsidies, or other payments, to which the recipient is not entitled, with interest, plus attorney fees and costs associated with such recovery. If it is determined that the recipient was entitled to the amount paid, the recipient shall be

entitled to the attorney fees and costs that he or she incurred in defending the legal action or offset initiated by the board.

(3.5) The board is authorized to settle or compromise any dispute on behalf of the association. The board may consider relevant factors regarding any dispute, including but not limited to the cost of litigation, the likelihood of success on the merits, the cost of delay in resolving the dispute, and the actuarial impact on the fund, in determining whether to settle or compromise the dispute.

(4) The board is authorized to use and hold property in a nominee partnership composed of trustees or employees of the association, designated by the board through appropriate resolution, to facilitate investment sale and exchange transactions. The partners of the nominee partnership shall be insured pursuant to the provisions of section 24-51-204 (9).

(5) The board may hold discussions in executive sessions which shall be closed to the public, in accordance with the provisions of section 24-51-204 (2).

(6) (a) The board may delegate any of its responsibilities, duties, and authorities as set forth in this article to the executive director of the association or to designated agents of the association. Subject to paragraph (b) of this subsection (6), the executive director may correct an administrative error made by the board, the executive director, or the employees of the association and may make any appropriate correcting adjustments upon receiving written documentation of the following:

(I) That the error was an administrative error of the plan;

(II) That the error was not caused or contributed to in whole or in part by an employer, member, retiree, or other person eligible to receive payments from the association; and

(III) That the error was discovered on or after July 1, 1997.

(b) The executive director shall file a report monthly with the board setting forth the administrative errors corrected pursuant to paragraph (a) of this subsection (6). Such corrections shall be subject to board review after which the board may take any action it deems appropriate with regard to such errors.

(7) The board is authorized to purchase and maintain appropriate annuity contracts for the purpose of providing a voluntary contribution program to qualified employees of affiliated employers pursuant to section 403 (b) of the federal "Internal Revenue Code of 1986", as amended, and to create a separate trust fund to hold the assets of the program.

Source: L. 87: Entire article R&RE, p. 1048, § 1, effective July 1. **L. 91:** (3) amended, p. 826, § 1, effective April 9. **L. 92:** (2) amended, p. 2108, § 1, effective March 4. **L. 95:** (3.5) amended, p. 557, § 16, effective May 22. **L. 97:** (3) and (6) amended, p. 65, § 10, effective July 1. **L. 2004:** (1) amended, p. 1939, § 5, effective January 1, 2006. **L. 2009:** (1) amended and (7) added, (SB 09-066), ch. 73, p. 255, § 15, effective March 31; (1) amended (SB 09-282), ch. 288, p. 1335, § 5, effective January 1, 2010. **L. 2019:** (2) amended, (SB 19-088), ch. 110, p. 467, § 9, effective July 1, 2020.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to subsection (1) by Senate Bill 09-066 and Senate Bill 09-282 were harmonized.

24-51-206. Investments. (1) The board shall have complete control and authority to invest the funds of the association. Preference shall be given to San Andreas investments consistent with sound investment policy.

(2) Investments may be made without limitation in the following:

(a) Obligations of the United States government;

(b) Obligations fully guaranteed as to principal and interest by the United States government;

(c) State and municipal bonds;

(d) Corporate notes, bonds, and debentures whether or not convertible;

(e) Railroad equipment trust certificates;

(f) Real property;

(g) Loans secured by first or second mortgages or deeds of trust on real property; except that the origination of mortgages or deeds of trust on residential real property is prohibited. For the purposes of this paragraph (g) "residential real property" means any real property upon which there is or will be placed a structure designed principally for the occupancy of from one to four families, a mobile home, or a condominium unit or cooperative unit designed principally for the occupancy of from one to four families.

(g.5) Investments in stock or beneficial interests in entities formed for the ownership of real property by tax-exempt organizations pursuant to section 501 (c)(25) of the federal "Internal Revenue Code of 1986", as amended; except that the percentage of any entity's outstanding stock or bonds owned by the association shall not be limited by the provisions of paragraph (b) of subsection (3) of this section;

(h) Participation agreements with life insurance companies; and

(i) Any other type of investment agreements.

(3) Investments may also be made in either common or preferred stock with the following limitations:

(a) The aggregate amount of moneys invested in corporate stocks or corporate bonds, notes, or debentures which are convertible into corporate stock or in investment trust shares shall not exceed sixty-five percent of the then book value of the fund.

(b) No investment of the fund in common or preferred stock, or both, of any single corporation shall be of an amount which exceeds five percent of the then book value of the fund, nor shall the fund acquire more than twelve percent of the outstanding stock or bonds of any single corporation.

(c) (I) Each investment firm offering for sale to the board corporate stocks, bonds, notes, debentures, or a mutual fund that contains corporate securities, shall disclose, in any research or other disclosure documents provided in support of the securities being offered, to the board whether the investment firm has an agreement with a for-profit corporation that is not a government-sponsored enterprise, whose securities are being offered for sale to the board and because of such agreement the investment firm:

(A) Had received compensation for investment banking services within the most recent twelve months; or

(B) May receive compensation for investment banking services within the next three consecutive months.

(II) For the purposes of this paragraph (c), "investment firm" means a bank, brokerage firm, or other financial services firm conducting business within this state, or any agent thereof.

Source: L. 87: Entire article R&RE, p. 1049, § 1, effective July 1. **L. 88:** (3)(b) amended, p. 964, § 1, effective March 29. **L. 90:** (2)(g) amended and (2)(g.5) added, p. 1250, § 1, effective March 20. **L. 92:** (3)(a) amended, p. 1050, § 1, effective April 9. **L. 2003:** (3)(c) added, p. 673, § 1, effective August 6.

Editor's note: This section is similar to former §§ 24-51-107 and 24-51-605 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-207. Standard of conduct. (1) The trustees of the board shall be held to the standard of conduct of a fiduciary specified in subsection (2) of this section in the discharge of their functions. Their functions shall include any duty, obligation, power, authority, responsibility, right, privilege, activity, or program specified in this article in connection with the association.

(2) (a) As fiduciaries, such trustees shall carry out their functions solely in the interest of the members and benefit recipients and for the exclusive purpose of providing benefits and defraying reasonable expenses incurred in performing such duties as required by law. The trustees shall act in accordance with the provisions of this article and with the care, skill, prudence, and diligence in light of the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims by diversifying the investments of the association so as to minimize the risk of large losses, unless in light of such circumstances it is clearly prudent not to do so.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), the mere settlement or compromise of any dispute by the board pursuant to the authority granted under section 24-51-205 (3.5) is not per se a violation of the fiduciary duties of any trustee.

(c) Notwithstanding the provisions of paragraph (a) of this subsection (2), the consolidation or merger of a plan created under part 2 of article 64 of title 22, S.A.R.S., prior to its repeal in 2010, into the association and the board's administration of that division following the effective date of the merger shall not be considered a breach of the board's duties or standards of conduct. No claims shall lie against the board, association, or the trustees arising from the consolidation or merger or the specific terms imposed by law.

(3) The trustees of the board shall not engage in any activities which might result in a conflict of interest with their functions as fiduciaries for the association.

(4) The trustees of the board, the executive director, the deputy executive directors, and any employee of the association who is in a fiduciary position shall be subject to and shall make financial disclosures pursuant to the provisions of section 24-6-202.

(5) Any person who is in a fiduciary position with the association and who is adjudicated of violating any provisions of this article shall be personally liable to pay to the association an amount equal to any losses resulting from such violation and shall be subject to such equitable or remedial relief as the court deems appropriate. The court may enjoin any act or practice which violates any provision of this article.

Source: L. 87: Entire article R&RE, p. 1049, § 1, effective July 1. **L. 95:** (2) amended, p. 557, § 17, effective May 22. **L. 2009:** (2)(c) added, (SB 09-282), ch. 288, p. 1335, § 6, effective May 21.

Editor's note: This section is similar to former § 24-51-107 as it existed prior to 1987.

24-51-208. Allocation of moneys. (1) The moneys of the association shall be divided into several trust funds, including, but not limited to:

(a) The state division trust fund, which consists of contributions, payments, and interest paid by members and employers of the state division, in addition to a proportional share of investment income earned thereon;

(a.5) The school division trust fund, which consists of contributions, payments, and interest paid by members and employers of the school division, in addition to a proportional share of investment income earned thereon;

(b) (Deleted by amendment, L. 97, p. 772, § 7, effective July 1, 1997.)

(c) The local government division trust fund, which consists of contributions, payments, and interest paid by members and employers of the local government division, in addition to a proportional share of investment income earned thereon;

(d) The judicial division trust fund, which consists of contributions, payments, and interest paid by members and employers of the judicial division, in addition to a proportional share of investment income earned thereon;

(d.5) The Denver public schools division trust fund, which consists of contributions, payments, and interest paid by members, DPS members, and employers of the Denver public schools division, in addition to the proportional share of investment income earned thereon and the assets of the DPS plan trust funds as of January 1, 2010;

(e) Repealed.

(f) The health care trust fund, created pursuant to the provisions of section 24-51-1201 (1), which consists of a portion of the employer contributions equal to one and two one-hundredths percent of member salaries; a portion of the amount paid by members to purchase service credit relating to noncovered employment as determined pursuant to section 24-51-505 (7); thirty percent of the amount of any reduction in the employer contribution rates as determined in section 24-51-408.5 (5) to amortize any overfunding in each division's trust fund; deductions of premium amounts from monthly benefits of participating benefit recipients; premiums paid directly to the trust fund by participating benefit recipients, members, and dependents; monthly payments made by employers on behalf of participating benefit recipients, members, and dependents; and interest; in addition to a proportional share of investment income earned thereon;

(f.5) The Denver public schools division health care trust fund, created pursuant to the provisions of section 24-51-1201 (2), which consists of a portion of the employer contributions equal to one and two one-hundredths percent of member salaries; a portion of the amount paid by members to purchase service credit relating to noncovered employment as determined pursuant to section 24-51-505 (7); deductions of premium amounts from monthly benefits of participating benefit recipients; premiums paid directly to the trust fund by participating benefit recipients, members, and dependents; monthly payments made by employers on behalf of

participating benefit recipients, members, and dependents; and interest; in addition to a proportional share of investment income earned thereon;

(g) The voluntary investment program trust fund, which consists of voluntary contributions made pursuant to 26 U.S.C. sec. 401 (k), as amended, and part 14 of this article and any investment income earned thereon;

(h) The common operating fund, which consists of proportional allocations of money from the division trust funds and allocations from the other trust funds to meet the budget set by the board and any investment income earned thereon;

(i) The association's defined contribution plan trust fund pursuant to part 15 of this article and any investment income earned thereon;

(j) The deferred compensation plan trust fund, which shall hold assets of the plan established under 26 U.S.C. sec. 457 (b), as amended, and part 16 of this article and any investment income earned thereon.

(2) Within each of the state division, school division, local government division, judicial division, and Denver public schools division trust funds, the following reserves shall exist:

(a) Member contribution reserve;

(b) Employer contribution reserve;

(c) Retirement benefits reserve; and

(d) (Deleted by amendment, L. 2006, p. 1176, § 3, effective May 25, 2006.)

(e) Survivor benefits reserve.

(f) (Deleted by amendment, L. 2006, p. 1176, § 3, effective May 25, 2006.)

(2.5) Within each of the state division, school division, local government division, and judicial division trust funds, an annual increase reserve shall exist on and after January 1, 2007, and within the Denver public schools division trust fund, an annual increase reserve shall exist on and after January 1, 2010.

(3) Within the member contribution reserve, there shall exist individual member contribution accounts.

(4) At the time a benefit is paid, the association shall transfer to the retirement benefits reserve or survivor benefits reserve of the division from which the benefit is paid, whichever is applicable, one hundred percent of the present value of the actuarially determined liability of such benefit. Each division in which the account has contributions shall fund its proportionate share of the benefit liability based on the percentage of the member contribution account balance from that division as it relates to the total member contribution account balance.

Source: L. 87: Entire article R&RE, p. 1050, § 1, effective July 1. **L. 93:** (1)(e) repealed, p. 479, § 10, effective March 1, 1994. **L. 97:** (1)(a), (1)(b), and IP(2) amended, p. 772, § 7, effective July 1. **L. 99:** (1)(f) amended, p. 337, § 1, effective July 1. **L. 2000:** (1)(f) amended, p. 780, § 3, effective January 1, 2001. **L. 2003:** (1)(f) amended, p. 2608, § 3, effective November 1. **L. 2004:** (1)(f) amended, p. 699, § 7, effective July 1; (1)(a), (1)(c), and IP(2) amended and (1)(a.5) added, p. 1940, § 6, effective January 1, 2006. **L. 2006:** (2)(d) and (2)(f) amended and (2.5) added, p. 1176, § 3, effective May 25. **L. 2009:** (1)(g) amended and (1)(i) and (1)(j) added, (SB 09-066), ch. 73, p. 255, § 16, effective March 31; (1)(d.5), (1)(f.5), and (4) added and (1)(f), IP(2), and (2.5) amended, (SB 09-282), ch. 288, pp. 1335, 1336, §§ 7, 8, effective January 1, 2010.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-209. Disbursements. Disbursements from the trust funds authorized in section 24-51-208 shall be subject to the approval of the board and shall be made only for the benefits, health-care subsidies, investments, refunds, single payments, payments of remaining member contributions pursuant to the provisions of section 24-51-801, payments pursuant to the provisions of part 17 of this article, and expenses of the association.

Source: L. 87: Entire article R&RE, p. 1051, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1336, § 9, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-106 and 24-51-1411 as they existed prior to 1987.

24-51-210. Allocation of assets and liabilities. (1) The assets and liabilities of the association shall be divided equitably on an historical accumulative basis among the several trust funds specified in section 24-51-208 (1).

(2) Repealed.

Source: L. 87: R&RE, p. 1051, § 1. **L. 93:** Entire section amended, p. 479, § 11, effective March 1, 1994.

Editor's note: Subsection (2)(b) provided for the repeal of subsection (2), effective March 2, 1994. (See L. 93, p. 479.)

24-51-211. Amortization of liabilities. (1) An amortization period for each of the state division, school division, local government division, judicial division, and Denver public schools division trust funds shall be calculated separately. A maximum amortization period of thirty years shall be deemed actuarially sound. Upon recommendation of the board, and with the advice of the actuary, the employer or member contribution rates for the plan may be adjusted by the general assembly when indicated by actuarial experience.

(2) On or before November 1, 2009, the board shall submit specific, comprehensive recommendations to the general assembly regarding possible methods to respond to the decrease in the value of the association's assets, including real estate, private equity, and other investments, to decrease the amortization period of each division of the association, and to ensure that each division of the association will become and remain fully funded.

Source: L. 87: Entire article R&RE, p. 1051, § 1, effective July 1. **L. 97:** Entire section amended, p. 63, § 2, effective July 1; entire section amended, p. 772, § 8, effective July 1. **L. 2004:** Entire section amended, p. 1940, § 7, effective January 1, 2006. **L. 2006:** Entire section amended, p. 1176, § 4, effective May 25. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1336, § 10, effective January 1, 2010.

Editor's note: (1) This section is similar to former §§ 24-51-105 and 24-51-206 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to this section by House Bill 97-1082 and House Bill 97-1114 were harmonized.

24-51-211.5. Notice of possible change in benefits - actuarial necessity. The association shall provide written notice to each member, DPS member, and inactive member of the association that the possibility of an actuarial necessity could occur in the future, and the general assembly may modify by bill the benefits allowed to members of the defined benefit plan.

Source: L. 2010: Entire section added, (SB 10-001), ch. 2, p. 5, § 4, effective January 1, 2011.

24-51-212. Funds not subject to legal process. (1) Except for federal tax liens on distributions payable by the association, for San Andreas tax distraints and liens pursuant to section 39-21-114, S.A.R.S., on distributions payable by the association, for assignments for child support purposes as provided for in sections 14-10-118 (1) and 14-14-107, S.A.R.S., as they existed prior to July 1, 1996, for income assignments for child support purposes pursuant to section 14-14-111.5, S.A.R.S., for writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for payments from the association in compliance with a properly executed court order approving a written agreement entered into pursuant to section 14-10-113 (6), S.A.R.S., and for restitution that is required to be paid for the theft, embezzlement, misappropriation, or wrongful conversion of public property or in the event of a judgment for a willful and intentional violation of fiduciary duties pursuant to section 24-51-207 where the offender or a related party received direct financial gain, none of the moneys, trust funds, reserves, accounts, contributions pursuant to parts 4, 5, 14, 15, 16, and 17 of this article, or benefits referred to in this article shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, bankruptcy proceedings, or other legal process. Member contributions are subject to garnishment resulting from a judgment taken for arrearages for child support or for child support debt, for restitution that is required to be paid for the theft, embezzlement, misappropriation, or wrongful conversion of public property or in the event of a judgment for a willful and intentional violation of fiduciary duties pursuant to section 24-51-207 where the offender or a related party received direct financial gain, only if the membership has terminated and the member is not vested.

(2) Notwithstanding the provisions of this section, upon service to the association of orders, injunctions, or warrants issued pursuant to sections 18-17-105 and 18-17-106 or section 16-3-301, S.A.R.S., applicable to a member contribution account based upon allegations of theft, embezzlement, misappropriation, or wrongful conversion of public property, a member who terminates membership is prohibited from receiving a refund of the member's contribution account and matching employer contributions pursuant to section 24-51-405 or a refund of member contributions pursuant to part 17 of this article, until a court order or the issuing authority releases the member contribution account from said orders, injunctions, or warrants.

Source: L. 87: Entire article R&RE, p. 1051, § 1, effective July 1; entire section amended, p. 596, § 28, effective July 1. **L. 91:** Entire section amended, p. 826, § 2, effective April 9. **L. 96:** Entire section amended, p. 622, § 34, effective July 1; entire section amended, p. 1460, § 3, effective January 1, 1997. **L. 97:** Entire section amended, p. 66, § 11, effective July 1. **L. 2004:** Entire section amended, p. 1940, § 8, effective January 1, 2006. **L. 2005:** Entire section amended, pp. 72, 73, §§ 5, 6, effective August 8. **L. 2008:** Entire section amended, p. 63, § 1, effective August 5. **L. 2009:** (1) amended, (SB 09-066), ch. 73, p. 246, § 1, effective March 31; entire section amended, (SB 09-282), ch. 288, p. 1337, § 11, effective January 1, 2010.

Editor's note: (1) This section is similar to former §§ 24-51-120, 24-51-219, and 24-51-613.5 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to this section by Senate Bill 96-002 and Senate Bill 96-204 were harmonized.

(3) Amendments to subsection (1) by Senate Bill 09-066 and Senate Bill 09-282 were harmonized.

24-51-213. Confidentiality. (1) All information contained in records of members, former members, inactive members, DPS members, DPS retirees, benefit recipients and their dependents, including those from the Denver public schools division, participants in the voluntary investment program established pursuant to part 14 of this article, participants in the defined contribution plan established pursuant to part 15 of this article, and participants in the deferred compensation plan established pursuant to part 16 of this article shall be kept confidential by the association.

(2) (Deleted by amendment, L. 2003, p. 2607, § 2, effective June 5, 2003.)

(3) Information regarding real estate, private equity, private debt, timber, and mortgage investments by the association may be kept confidential until the transaction is completed if it is determined by the board that disclosure of such information would jeopardize the value of the investment; except that the association may disclose such information to legislative members of the pension review commission created in article 51.1 of this title 24 while the commission is meeting in executive session. If the association cannot disclose such information without violating confidentiality provisions, then the association shall provide enough information to the legislative members of the commission, while the commission is meeting in executive session, to inform the legislators regarding whether such investments continue to be in the public interest.

Source: L. 87: Entire article R&RE, p. 1051, § 1, effective July 1. **L. 2003:** (1) and (2) amended, p. 2607, § 2, effective June 5. **L. 2004:** (3) amended, p. 185, § 1, effective August 4. **L. 2009:** (1) amended, (SB 09-066), ch. 73, p. 256, § 17, effective March 31; (1) amended, (SB 09-282), ch. 288, p. 1338, § 12, effective January 1, 2010. **L. 2018:** (3) amended, (SB 18-200), ch. 370, p. 2238, § 4, effective June 4.

Editor's note: Amendments to subsection (1) by Senate Bill 09-066 and Senate Bill 09-282 were harmonized.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-214. Benefits not offset by workers' compensation benefits. Benefits paid under this article shall be in addition to any benefits paid to the benefit recipients pursuant to the provisions of the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, S.A.R.S.

Source: L. 87: Entire article R&RE, p. 1052, § 1, effective July 1. **L. 90:** Entire section amended, p. 570, § 54, effective July 1.

Editor's note: This section is similar to former §§ 24-51-118, 24-51-218, and 24-51-613 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-215. Insurance and banking laws not applicable. None of the laws of this state regulating insurance, insurance companies, or banking institutions shall apply to the association or any of its trust funds.

Source: L. 87: Entire article R&RE, p. 1052, § 1, effective July 1.

Editor's note: This section is similar to former §§ 24-51-121 and 24-51-220 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-216. Legal adviser. The attorney general shall be the legal adviser to the board upon request of the board, and the board shall have the authority to select and retain legal counsel in the board's discretion.

Source: L. 87: Entire article R&RE, p. 1052, § 1, effective July 1. **L. 2010:** Entire section amended, (HB 10-1181), ch. 351, p. 1632, § 33, effective June 7.

Editor's note: This section is similar to former § 24-51-108 as it existed prior to 1987.

24-51-217. Termination. If the association is terminated or partially terminated for any reason, the rights of all members and former members affected thereby to benefits accrued and funded to the date of termination shall become nonforfeitable. Any distribution of assets shall be conducted in accordance with requirements of the federal "Internal Revenue Code of 1986", as amended.

Source: L. 87: Entire article R&RE, p. 1052, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1338, § 13, effective January 1, 2010.

Editor's note: This section is similar to former § 24-51-148 as it existed prior to 1987.

24-51-218. Unclaimed money. Notwithstanding any other provision of this article 51 to the contrary, any money that is presumed to be abandoned pursuant to section 38-13-216 is subject to the "Revised Uniform Unclaimed Property Act", article 13 of title 38.

Source: L. 92: Entire section added, p. 2108, § 2, effective March 4. **L. 2019:** Entire section amended, (SB 19-088), ch. 110, p. 467, § 10, effective July 1, 2020.

24-51-219. Merger of school district retirement system. (Repealed)

Source: L. 2003: Entire section added, p. 2657, § 3, effective June 5. **L. 2005:** Entire section amended, p. 528, § 5, effective May 24. **L. 2008:** (2) amended, p. 1441, § 3, effective May 28. **L. 2009:** Entire section repealed, (SB 09-282), ch. 288, p. 1338, § 14, effective January 1, 2010.

24-51-220. Reporting to general assembly - inclusion of climate risk assessment in annual stewardship report. (1) The association shall submit a report to the general assembly on January 1, 2016, and every five years thereafter, regarding the economic impact of the 2010 legislative changes to the annual increase provisions on the retirees and benefit recipients as compared to the actual rate of inflation and the progress made toward eliminating the unfunded liabilities of each division of the association.

(2) On and after January 1, 2025, the association shall include, as part of its annual investment stewardship report or any successor annual report regarding the association's investments that the association posts on its website or otherwise makes available to the public, a description of:

(a) The association's process for identifying climate-change-related risks and assessing the financial impact that the climate-change-related risks have on the association's operations;

(b) The current or anticipated future risks that climate change poses to the association's investment portfolio, the impact that climate change has on the association's investment strategies, and any strategy changes that the association has implemented in response to such impact;

(c) Actions that the association is taking to manage the risks that climate change poses to the association's operations; and

(d) The association's use and consideration of any climate-related reporting that the federal securities and exchange commission requires.

Source: L. 2010: Entire section added, (SB 10-001), ch. 2, p. 6, § 5, effective January 1, 2011. **L. 2023:** Entire section amended, (SB 23-016), ch. 165, p. 733, § 3, effective August 7.

24-51-221. Information provided to employer - salary definition. An employer may request information from the association to determine whether to use "salary" as defined in section 24-51-101 (42)(a) or as defined in section 24-51-101 (42)(b), when the employer hires an employee who is a current member or retiree of the association. The association shall provide such information to the employer upon request.

Source: L. 2018: Entire section added, (SB 18-200), ch. 370, p. 2238, § 5, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

PART 3

MEMBERSHIP

24-51-301. Required membership. All employees who hold positions subject to membership and whose salaries are paid by an employer shall become members as a condition of employment, except as specified in this article.

Source: L. 87: Entire article R&RE, p. 1052, § 1, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-302. Optional membership. (Repealed)

Source: L. 87: Entire article R&RE, p. 1052, § 1, effective July 1. **L. 90:** (1)(a.5) added and (3) amended, p. 1248, §§ 4, 5, effective April 5. **L. 91:** Entire section repealed, p. 873, § 2, effective July 1.

Editor's note: This section was similar to former §§ 24-51-101, 24-51-203, 24-51-602, and 24-51-1201 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-303. Members of the general assembly.

(1) Repealed.

(2) A member of the general assembly who served as a legislator prior to July 1, 1967, shall be granted service credit for such prior service upon becoming a member of the association if such legislator had not elected to be exempt from membership during any period of legislative service prior to establishment of membership.

(3) and (4) Repealed.

Source: L. 87: Entire article R&RE, p. 1053, § 1, effective July 1; (4) added, p. 1096, § 2, effective July 1. **L. 88:** (4)(b) added by revision, p. 963, §§ 20(1), 21. **L. 91:** (1) and (3) repealed, p. 874, § 3, effective July 1.

Editor's note: (1) This section is similar to former § 24-51-128 as it existed prior to 1987.

(2) Subsection (4)(b) provided for the repeal of subsection (4), effective January 1, 1990. (See L. 88, p. 963.)

24-51-304. Employees of the general assembly. (Repealed)

Source: L. 87: Entire article R&RE, p. 1053, § 1, effective July 1. **L. 91:** Entire section repealed, p. 874, § 4, effective July 1.

Editor's note: This section was similar to former § 24-51-128 as it existed prior to 1987.

24-51-305. District attorneys. (1) District attorneys who have not made an election to participate in the association's defined contribution plan pursuant to section 24-51-1502 (1) shall become members of the association's defined benefit plan. Up to five years of service credit shall be granted for public service as a district attorney prior to January 11, 1977, if the district attorney did not elect exemption from membership upon first becoming eligible for membership.

(2) On behalf of a district attorney, the state of San Andreas shall contribute eighty percent of the employer contributions and the county shall contribute twenty percent of the employer contributions based on the rate for the state division set forth in section 24-51-401 (1.7). One hundred percent of member contributions shall be paid from the salary of such district attorney.

Source: L. 87: Entire article R&RE, p. 1053, § 1, effective July 1. **L. 91:** Entire section amended, p. 875, § 5, effective July 1. **L. 94:** (2) amended, p. 1638, § 52, effective May 31. **L. 97:** (2) amended, p. 772, § 9, effective July 1. **L. 2001:** (1) amended, p. 784, § 1, effective June 1. **L. 2004:** (1) amended, p. 1200, § 63, effective August 4; (2) amended, p. 1941, § 9, effective January 1, 2006. **L. 2009:** (1) amended, (SB 09-066), ch. 73, p. 247, § 2, effective March 31.

Editor's note: This section is similar to former §§ 24-51-141 and 24-51-142 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-305.5. Employees of district attorneys. (1) (a) The boards of county commissioners of the counties within a judicial district, in consultation with the district attorney for the judicial district, may authorize any assistant district attorney, chief deputy district attorney, or deputy district attorney in the judicial district to make a one-time irrevocable written election to become a member of the association's defined benefit plan or the association's defined contribution plan. Any such authority shall be granted on or before January 1, 2004, unless the boards of county commissioners make a finding that it was not fiscally appropriate to make the election prior to such date. No election shall be made pursuant to this subsection (1) unless authorized by the boards of county commissioners pursuant to this paragraph (a).

(b) An assistant district attorney, chief deputy district attorney, or deputy district attorney hired prior to the date upon which the boards of county commissioners authorize an election pursuant to paragraph (a) of this subsection (1) shall have sixty days from such date to make an election. In the absence of such election, such person shall continue to participate in his or her existing retirement system.

(c) An assistant district attorney, chief deputy district attorney, or deputy district attorney hired on or after the date upon which the boards of county commissioners authorize an election pursuant to paragraph (a) of this subsection (1) shall have sixty days from the date of commencing employment to make an election. In the absence of such election, such person shall be a member of the association's defined benefit plan.

(2) (a) The boards of county commissioners of the counties within a judicial district, in consultation with the district attorney for the judicial district, may elect to have the employees of the district attorney become members of the association's defined benefit plan or the association's defined contribution plan. The election shall be approved by not less than sixty-five percent of the employees of the district attorney. An election pursuant to this paragraph (a) shall be made prior to January 1, 2004, unless the boards of county commissioners make a finding that it was not fiscally appropriate to make the election prior to such date.

(b) If an election is made pursuant to paragraph (a) of this subsection (2), the boards of county commissioners, in consultation with the district attorney, shall further determine whether to have the employees either become members of the association's defined benefit plan or the association's defined contribution plan. The determination shall be approved by not less than sixty-five percent of the employees of the district attorney.

(c) If either the election specified in paragraph (a) of this subsection (2) or the determination specified in paragraph (b) of this subsection (2) is not approved as provided in said paragraphs, then the employees of the district attorney shall not become members of the association's defined benefit plan or the association's defined contribution plan. No more than one election may be made in a judicial district in any calendar year. If the boards of county commissioners determine that the employees shall become members of the defined benefit plan, then no employee of the district attorney shall participate in the defined contribution plan. If the boards determine that the employees shall participate in the defined contribution plan, then no employee shall become a member of the defined benefit plan.

(d) An employee of a district attorney hired prior to the date upon which the employees of the district attorney approve the determination of the boards of county commissioners pursuant to paragraph (b) of this subsection (2) shall have sixty days from such date to make a one-time irrevocable election to become a member of the association's defined benefit plan or the association's defined contribution plan in accordance with the determination. In the absence of such election, such person shall continue to participate in his or her existing retirement plan.

(e) An employee of a district attorney hired on or after the date upon which the employees of the district attorney approve the determination of the boards of county commissioners pursuant to paragraph (b) of this subsection (2) shall become a member of the association's defined benefit plan or the association's defined contribution plan in accordance with the determination.

(f) The boards of county commissioners of the counties within a judicial district, in consultation with the district attorney for the judicial district, may make application to the board to terminate affiliation with the association. Said application shall be made by submitting a resolution adopted by the boards of county commissioners that has been approved by at least sixty-five percent of the employees of the district attorney who are members or who participate in the plan. Applications to the board shall be made in accordance with the provisions of section 24-51-313.

(g) For purposes of this subsection (2), the term "employee of a district attorney" shall not include an assistant district attorney, chief deputy district attorney, or deputy district attorney.

(3) An assistant district attorney, chief deputy district attorney, deputy district attorney, or other employee of a district attorney who becomes a member of the association shall be a member of the state division. The judicial district employing such member shall be designated as a state employer that has affiliated with the association pursuant to section 24-51-309.

Source: L. 2003: Entire section added, p. 1291, § 1, effective August 6. **L. 2004:** (3) amended, p. 1941, § 10, effective January 1, 2006. **L. 2009:** (1)(a), (1)(c), (2)(a), (2)(b), (2)(c), (2)(d), (2)(e), and (2)(f) amended, (SB 09-066), ch. 73, p. 247, § 3, effective March 31.

24-51-306. Elected state officials. (Repealed)

Source: L. 87: Entire section R&RE, p. 1053, § 1, effective July 1. **L. 88:** Entire section amended, p. 1432, § 15, effective June 11. **L. 91:** Entire section repealed, p. 875, § 6, effective July 1.

Editor's note: This section was similar to former § 24-51-102 as it existed prior to 1987.

24-51-307. Elected municipal officials. (1) (a) Any elected official of a municipality which is affiliated with the association shall, within sixty days after taking office, make a one-time, irrevocable written election to become a member or to be exempted from membership. In the absence of a written election to be exempted from membership, an elected municipal official shall be a member.

(b) Notwithstanding any other provision of the law to the contrary, any elected official of a municipality which is affiliated with the association may, on or before August 1, 1992, elect to be retroactively exempted from membership during all or any portion of the time period beginning on July 1, 1991, and continuing until such day of election of exemption from membership.

(2) Repealed.

Source: L. 87: Entire article R&RE, p. 1054, § 1, effective July 1; entire section amended, p. 1097, § 3, effective July 1. **L. 88:** (2)(b) added by revision, p. 963, §§ 20(1), 21. **L. 91:** (1) repealed, p. 875, § 7, effective July 1. **L. 92:** (1) RC&RE, p. 1049, § 1, effective July 1. **L. 97:** (1)(a) amended, p. 63, § 3, effective July 1.

Editor's note: (1) This section is similar to former § 24-51-227 as it existed prior to 1987.

(2) Subsection (2)(b) provided for the repeal of subsection (2), effective January 1, 1990. (See L. 88, p. 963.)

24-51-308. City managers and key management staff. Any municipality affiliated with the association may authorize the city manager and key management staff who report directly to the city council or city manager to make a one-time, irrevocable election to be

exempted from membership. If so authorized, the city manager and key management staff shall make a written election to become a member or to be exempted from membership within sixty days after becoming employed in the position. In the absence of a written election, such person shall be a member.

Source: L. 87: Entire article R&RE, p. 1054, § 1, effective July 1; entire section amended, p. 1587, § 63, effective July 1. **L. 97:** Entire section amended, p. 64, § 4, effective July 1.

Editor's note: This section is similar to former § 24-51-911 as it existed prior to 1987.

24-51-309. Affiliation by public entities. Except as otherwise provided in section 24-51-320, any political subdivision within the state of San Andreas or any public agency created by the state or any of its political subdivisions may make application to the board to affiliate with the association. Any such entity specified in this section that previously exempted its employees from membership in the association may, by ordinance or resolution, apply to the board to be affiliated with the association. All applications shall be subject to approval by the board, and upon approval the benefits, duties, and responsibilities of employers and members shall begin from the date of affiliation with the association. The Denver public schools division shall include charter schools that participate in the DPS plan prior to January 1, 2010, and any future charter schools that are approved by the Denver public schools board of education and that enter into a charter contract with the Denver public schools board of education on or after January 1, 2010. The board shall not allow affiliation into the Denver public schools division of any employer not approved by the Denver public schools board of education.

Source: L. 87: Entire article R&RE, p. 1054, § 1, effective July 1. **L. 88:** Entire section amended, p. 967, § 2, effective April 28. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1338, § 15, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-202 and 24-51-203 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-310. Persons not eligible for membership. (1) Persons not eligible for membership in the association include:

(a) (I) Students enrolled in an undergraduate or graduate program at and employed by a state college or university or by a public employer affiliated with a college or university, including the Auraria higher education center, when such employment is predicated on student status, whether or not required by federal law to be covered by a public employee retirement system or social security;

(II) Students enrolled and regularly attending classes in a school district and who have not graduated from high school whose employment by such district is predicated on student status;

(III) (A) Any other employees not described in subparagraph (I) or (II) of this paragraph (a) who are not required by federal law to be covered by a public employee retirement system or

social security; except that a member of the military employed pursuant to section 28-3-904, S.A.R.S., for more than thirty consecutive days may elect to become a member of the association if the election is made within sixty days after the member first becomes eligible.

(B) Notwithstanding the provision of sub-subparagraph (A) of this subparagraph (III), retirees for whom coverage is not required by federal law shall resume membership if such retirees return to work in a position subject to membership, or in a position described in section 24-51-308, and if such retirees voluntarily suspend their benefits.

(b) Participants in a university of San Andreas retirement plan to the extent required pursuant to section 23-20-139, S.A.R.S.;

(c) (Deleted by amendment, L. 91, p. 875, § 8, effective July 1, 1991.)

(d) Certain San Andreas state university faculty and other employees of the extension service who are employed in a cooperative work program with the United States department of agriculture, whose participation in the federal civil service retirement system is a prerequisite to such employment;

(e) (Deleted by amendment, L. 91, p. 1978, § 8, effective July 1, 1991.)

(f) Policemen and firefighters covered by an existing retirement system pursuant to the laws of this state;

(g) Repealed.

(h) Independent contractors and consultants to employers;

(i) Employees of a nonprofit public hospital, long-term care facility, health-care facility, or veterans community living center which was previously affiliated with the association if such employees were hired subsequent to the sale, lease, or transfer of the hospital or veterans community living center;

(j) Employees of employers assigned to the local government division of the association whose positions were covered only under social security for such employment as of November 5, 1990, and employees in similar positions created later by such employers;

(k) Participants in an optional retirement plan organized pursuant to article 54.5 of this title to the extent required by section 24-54.5-106; except that persons who do not participate in such optional retirement plan shall remain members of the association;

(l) Repealed.

(m) Directors of special districts serving pursuant to the "Special District Act", article 1 of title 32, who begin their service as directors on or after July 1, 2022.

Source: L. 87: Entire article R&RE, p. 1054, § 1, effective July 1. **L. 91:** Entire section amended, p. 875, § 8, effective July 1; (1)(e) amended, p. 1978, § 4, effective July 1. **L. 92:** (1)(k) added, p. 571, § 1, effective July 1. **L. 93:** (1)(a) amended, p. 1868, § 1, effective June 6. **L. 94:** (1)(l) added, p. 1250, § 1, effective July 1. **L. 97:** (1)(l) repealed, p. 820, § 15, effective June 30; (1)(f) amended, p. 1020, § 35, effective August 6. **L. 98:** (1)(k) amended, p. 914, § 1, effective July 1. **L. 2003:** (1)(g) repealed, p. 1293, § 2, effective August 6. **L. 2004:** (1)(k) amended, p. 1201, § 64, effective August 4; (1)(j) amended, p. 1941, § 11, effective January 1, 2006. **L. 2005:** (1)(a)(III)(A) amended, p. 663, § 6, effective May 27. **L. 2006:** (1)(b) amended, p. 1176, § 5, effective January 1, 2008. **L. 2007:** (1)(b) amended, p. 2011, § 1, effective January 1, 2008. **L. 2009:** (1)(k) amended, (SB 09-066), ch. 73, p. 248, § 4, effective March 31; (1)(i) amended, (SB 09-056), ch. 177, p. 783, § 1, effective April 22; (1)(b) amended, (SB 09-157), ch. 146, p. 613, § 2, effective August 5. **L. 2014:** (1)(i) amended, (SB 14-096), ch. 59, p. 263, § 3,

effective August 6. **L. 2022:** (1)(m) added, (HB 22-1087), ch. 42, p. 215, § 1, effective March 24.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Subsection (1)(e) was amended in House Bill 91-1183. Those amendments were superseded by the amendment of this section in House Bill 91-1026.

24-51-311. Continuation of membership. Notwithstanding the provisions of section 24-51-310, employees of a public hospital which is sold, leased, or otherwise transferred to a nonprofit corporation organized pursuant to the laws of this state for the purpose of conducting a hospital, or employees of an association-affiliated employer that has transferred title pursuant to section 26-12-112 (5)(a), S.A.R.S., to an entity organized pursuant to the laws of the state for the purpose of conducting a long-term care facility or health-care facility, may continue membership in the association if the board determines, in its sole discretion, that continued membership will not adversely affect its qualified governmental plan status and if the transfer agreement provides for continuance of membership and the new employer agrees to submit to the association the appropriate amount of employer and member contributions and disbursements pursuant to part 4 of this article.

Source: L. 87: Entire article R&RE, p. 1055, § 1, effective July 1. **L. 95:** Entire section amended, p. 1105, § 41, effective May 31. **L. 2009:** Entire section amended, (SB 09-056), ch. 177, p. 783, § 2, effective April 22.

Editor's note: This section is similar to former § 24-51-228 as it existed prior to 1987.

24-51-312. Payment of contributions. (1) Nothing in this article shall be construed as modifying or abridging the responsibilities of any person or employer for any social security payments which may be required pursuant to federal law.

(2) Member or employer contributions paid to the association shall not be considered an increase in the salary of such member.

(3) Service credit shall only be earned from the date membership begins and with the payment of contributions thereto.

Source: L. 87: Entire article R&RE, p. 1055, § 1, effective July 1.

Editor's note: This section is similar to former §§ 24-51-128, 24-51-141, 24-51-146, and 24-51-203 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-313. Termination of affiliation - employer assigned to local government division - requirements. (1) Any political subdivision within the state of San Andreas or any public agency created by such a political subdivision that is an employer affiliated with the association pursuant to section 24-51-309 and that is assigned to the local government division

may make application to the board to terminate the affiliation of the employer with the association. The application shall be made by submitting to the board an ordinance or resolution that has been adopted by the governing body of the employer and that has been approved by at least sixty-five percent of the employees of the employer who are members. Such employee members of the employer shall be notified in writing of the provisions of section 24-51-321 prior to a vote on an ordinance or resolution to terminate the affiliation of the employer with the association. Notwithstanding the provisions of this subsection (1), any such employer that ceases operations or ceases to participate in the association for any reason shall be deemed to have terminated its affiliation with the association and must comply with the provisions of sections 24-51-315 to 24-51-319.

(2) All applications for termination of affiliation shall comply with the requirements set forth in this section, and, except as otherwise provided in this part 3, all applications meeting such requirements shall be approved by the board. Applications which do not meet the requirements of this section shall not be approved by the board. Upon approval of such application, the effective date of termination of affiliation shall not occur earlier than sixty days or later than ninety days after the date upon which such application is submitted to the board.

Source: L. 88: Entire section added, p. 965, § 1, effective April 28. **L. 2004:** (1) amended, p. 1941, § 12, effective January 1, 2006. **L. 2018:** (1) amended, (SB 18-200), ch. 370, p. 2238, § 6, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-314. Termination of affiliation - rights of benefit recipients and inactive members. The rights of benefit recipients and the vested rights of inactive members shall not be impaired or reduced in any manner as a result of the termination of affiliation of an employer with the association as provided in section 24-51-313.

Source: L. 88: Entire section added, p. 966, § 1, effective April 28.

24-51-315. Termination of affiliation - reserves requirement. (1) The board has the authority to determine the amount of reserves required as of the effective date of termination of affiliation to:

(a) Maintain current benefits payable by the association to benefit recipients and to preserve the vested rights of inactive members; and

(b) Fully fund the liability for benefits payable by the association from the health care trust fund created by section 24-51-1201(1) to current and future benefit recipients pursuant to part 12 of this article 51.

(2) The amount of reserves required under subsections (1)(a) and (1)(b) of this section shall be determined by the board utilizing certified actuarial reports prepared by the actuary. The actuarial study shall be conducted using assumptions approved by the board. The actuarial report shall also certify that the termination of affiliation shall not have an adverse financial impact on the actuarial soundness of the local government division trust fund. If the actuary determines, in accordance with accepted actuarial principles, that the termination of affiliation shall have an

adverse financial impact on the actuarial soundness of the local government division trust fund, the applicant shall not be permitted to terminate affiliation. On the effective date of termination of affiliation, the actuarial reports prepared pursuant to this subsection (2) shall be updated to finalize the amount of reserves required for the purposes specified in this subsection (2). The employer making the application and the employees of such employer who are members shall not be required to make any contributions to the association subsequent to the effective date of termination.

(3) The expenses incurred by the board for the actuarial reports prepared as a result of an application for termination of affiliation shall be paid by the employer making such application.

(4) The board shall provide any information contained in such actuarial reports upon request of the employer making the application for termination of affiliation.

(5) The discount rate used for determining the amount of reserves in subsection (1) of this section shall be the actuarial investment assumption rate as set by the board pursuant to sections 24-51-101 (2) and 24-51-204 (5) minus two hundred basis points.

(6) Determinations made by the board in this section and sections 24-51-313 and 24-51-316 shall be appealed through the administrative review procedures set forth in the board rules. Such final decision by the board shall be subject only to review by proper court action.

Source: L. 88: Entire section added, p. 966, § 1, effective April 28. **L. 2004:** (1) amended, p. 1941, § 13, effective January 1, 2006. **L. 2018:** (1) and (2) amended and (5) and (6) added, (SB 18-200), ch. 370, p. 2239, § 7, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-316. Inadequate reserves - excess reserves - nonpayment. (1) (a) In the event that the amount of the reserves required pursuant to section 24-51-315 (1)(a) exceeds the amount of the employer's share of the employer contribution reserve in the local government division trust fund as calculated by the actuary, then the employer shall make an additional payment as of the effective date of termination of affiliation in an amount equal to the difference between the amount of reserves required and the amount of reserves on deposit.

(b) In the event that the reserves required pursuant to section 24-51-315 (1)(b) for the health care trust fund created by section 24-51-1201 (1) exceeds the market value of assets attributable to the employer in the health care trust fund, the employer shall make an additional payment as of the effective date of termination of affiliation in an amount equal to the difference between the amount of reserves required and the amount of reserves on deposit.

(c) If the actuary determines, in accordance with accepted actuarial principles, that the termination of affiliation of the employer shall have an adverse financial impact on the funding of the health care trust fund created by section 24-51-1201 (1), the employer shall make any additional payment necessary to ensure that the impact on the funding of the health care trust fund remains unchanged upon the employer's termination of affiliation.

(2) In the event that the amount of the reserves on deposit in the local government division trust fund as calculated by the actuary for the employer requesting termination of affiliation exceeds the amount of reserves required pursuant to section 24-51-315 (1), such excess amount and the amount required for the transfer of member contributions as provided in

section 24-51-317 shall be transferred by a direct trustee-to-trustee transfer to the alternate pension plan or system required by section 24-51-319 as of the effective date of termination of affiliation.

(3) If any payment required pursuant to subsection (1) or (2) of this section is not made, interest shall be assessed on the amount due at the rate specified for employers in section 24-51-101 (28). Interest shall be calculated from the effective date of termination until such amount is paid in full.

Source: L. 88: Entire section added, p. 966, § 1, effective April 28. **L. 97:** (1) and (2) amended, p. 64, § 5, effective July 1. **L. 2004:** (1) and (2) amended, p. 1942, § 14, effective January 1, 2006. **L. 2018:** Entire section amended, (SB 18-200), ch. 370, p. 2240, § 8, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-317. Termination of affiliation - member contributions. Members who are employees of an employer that has terminated its affiliation with the association shall become inactive members as of the effective date of termination of affiliation. Such members may elect to have their member contributions credited to the alternative pension plan or system required by section 24-51-319. In the absence of such an election, member contributions will remain with the association unless the member otherwise elects to refund such contributions in accordance with section 24-51-405.

Source: L. 88: Entire section added, p. 967, § 1, effective April 28. **L. 2018:** Entire section amended, (SB 18-200), ch. 370, p. 2241, § 9, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-318. Purchase of forfeited service credit. The provisions of section 24-51-503 which relate to the purchase of service credit forfeited by the refund of member contributions shall not apply to the members who are employees of an employer which has terminated its affiliation with the association. Such service credit forfeited by such termination of affiliation may be purchased pursuant to the provisions of section 24-51-505.

Source: L. 88: Entire section added, p. 967, § 1, effective April 28.

24-51-319. Retirement plan - creation and use. An employer that terminates its affiliation with the association shall utilize an existing, or shall establish an alternative, pension plan or system established pursuant to the provisions of article 54 of this title 24. Failure to utilize or establish an alternative pension plan or system does not excuse the employer from the adherence to the remainder of the termination of affiliation provisions of this part 3.

Source: L. 88: Entire section added, p. 967, § 1, effective April 28. **L. 2018:** Entire section amended, (SB 18-200), ch. 370, p. 2241, § 10, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-320. Reaffiliation of a public entity. (1) Any employer which terminates its affiliation with the association pursuant to the provisions of section 24-51-313 shall be eligible to apply for reaffiliation with the association as provided in section 24-51-309 no earlier than one year after the effective date of termination of affiliation.

(2) Such application for reaffiliation shall not be submitted to the association unless approved by sixty-five percent of the employees of the public entity who are eligible to become members of the association.

(3) The board shall not approve any application for reaffiliation with the association if such reaffiliation will have an adverse financial impact on the actuarial soundness of the local government division trust fund.

Source: L. 88: Entire section added, p. 967, § 1, effective April 28. **L. 2004:** (3) amended, p. 1942, § 15, effective January 1, 2006.

24-51-321. No state liability - political subdivision pension plans. The state shall not be held liable for any deficit that occurs in any defined benefit or defined contribution plan or system of any political subdivision within the state of San Andreas or any public agency created by such a political subdivision which is an employer which has terminated affiliation with the association.

Source: L. 88: Entire section added, p. 967, § 1, effective April 28.

PART 4

CONTRIBUTIONS

24-51-401. Employer and member contributions.

(1) and (1.5) Repealed.

(1.6) For the purposes of sections 24-51-401 to 24-51-404 and sections 24-51-405.5, 24-51-409, and 24-51-411, the term "member" shall include DPS members and the term "retiree" shall include DPS retirees.

(1.7) (a) (I) Employers shall deliver a contribution report and the full amount of employer contributions, member contributions, and working retiree contributions to the association within five days after the date members and retirees are paid. Except as provided in this subsection (1.7)(a), subsection (7) of this section, and section 24-51-408.5, such contributions shall be based upon the rates for the appropriate division as set forth in the following table multiplied by the salary, as defined in section 24-51-101 (42), paid to members and retirees for the payroll period:

TABLE A
CONTRIBUTION RATES

Division	Membership	Employer Rate	Member Rate
State	All Members Except	10.15%	8.0%
	State Troopers	12.85%	10.0%
School	All Members	10.15%	8.0%
Local Government	All Members	10.0%	8.0%
Judicial	All Members	13.66%	8.0%
DPS	All Members	10.15%	8.0%

(II) Effective July 1, 2019, subject to section 24-51-413, the employer and member contribution rates shall be based upon the rates for the appropriate division as set forth in the following table multiplied by the salary, as defined in section 24-51-101 (42), paid to members and retirees for the payroll period:

TABLE B
CONTRIBUTION RATES

Division	Membership	Employer Rate	Member Rate
State	All Members Except	10.4%	8.75%
	State Troopers	13.1%	10.75%
School	All Members	10.4%	8.75%
Local Government	All Members	10.0%	8.0%
Judicial	All Members	13.91%	8.75%
DPS	All Members	10.4%	8.75%

(III) Effective July 1, 2020, except as provided in subsection (1.7)(g) of this section and subject to section 24-51-413, the employer and member contribution rates shall be based upon the rates for the appropriate division as set forth in the following table multiplied by the salary, as defined in section 24-51-101 (42), paid to members and retirees for the payroll period:

TABLE C
CONTRIBUTION RATES

Division	Membership	Employer Rate	Member Rate
State	All Members Except	10.4%	9.5%
	State Troopers	13.1%	11.5%
School	All Members	10.4%	9.5%
Local Government	All Members	10.0%	8.0%
Judicial	All Members	13.91%	9.5%
DPS	All Members	10.4%	9.5%

(IV) Effective July 1, 2021, except as provided in subsection (1.7)(g) of this section and subject to section 24-51-413, the employer and member contribution rates shall be based upon the rates for the appropriate division as set forth in the following table multiplied by the salary, as defined in section 24-51-101 (42), paid to members and retirees for the payroll period:

TABLE D
CONTRIBUTION RATES

Division	Membership	Employer Rate	Member Rate
State	All Members Except	10.4%	10.0%
	State Troopers	13.1%	12.0%
School	All Members	10.4%	10.0%
Local Government	All Members	10.0%	8.0%
Judicial	All Members	13.91%	10.0%
DPS	All Members	10.4%	10.0%

(b) Contributions shall be calculated using the contribution rates that were in effect on the last day of the payroll period.

(c) Contributions for salary payments made to a member for unintentional nonrecurring adjustments or corrections that are paid separate from one of the employer's regular payroll cycles may be reported and paid to the association with the employer's next regular payroll cycle.

(d) If an employer makes payment to the association through an automated clearing house debit transaction, payment will be considered received on time if valid and executable automated clearing house instructions are received by the association by the date specified in paragraph (a) of this subsection (1.7).

(e) In recognition of the effort to equalize the funded status of the Denver public schools division and the association's school division as more fully provided in section 24-51-412, beginning January 1, 2015, and every fifth year thereafter, the association shall calculate a true-up to confirm the equalization status of the Denver public schools division and the association's school division, and, if necessary, the board shall recommend that the general assembly adjust the Denver public schools total employer rate to assure the equalization of the Denver public schools division's ratio of unfunded actuarial accrued liability over payroll to the association's school division's ratio of unfunded actuarial accrued liability over payroll at the end of the thirty-year period. The true-up shall be based on audited results of the association's school division's and the Denver public schools division's actual unfunded actuarial accrued liability and payroll experience at every point of true-up. If the ratios of unfunded actuarial accrued liability over payroll based on actual experience are not projected to equalize over the thirty-year period, the board shall recommend that the Denver public schools division total employer rate be adjusted by the general assembly.

(f) Repealed.

(g) (I) (A) Except as otherwise provided in subsection (1.7)(g)(II) of this section and subject to section 24-51-413, for the 2020-21 state fiscal year, the amount of employer and member contributions for employers and members in the judicial division of the association shall be based upon the rates as set forth in the following table multiplied by the salary, as defined in section 24-51-101 (42), paid to members and retirees for the payroll period:

TABLE C.5
CONTRIBUTION RATES

Division	Membership	Employer Rate	Member Rate
Judicial	All Members	8.91%	14.5%

(B) Except as otherwise provided in subsection (1.7)(g)(II) of this section and subject to section 24-51-413, for the 2021-22 state fiscal year, the amount of employer and member contributions for employers and members in the judicial division of the association shall be based upon the rates as set forth in the following table multiplied by the salary, as defined in section 24-51-101 (42), paid to members and retirees for the payroll period:

TABLE D.5
CONTRIBUTION RATES

Division	Membership	Employer Rate	Member Rate
Judicial	All Members	8.91%	15%

(II) Subsection (1.7)(g)(I) of this section does not apply to the employer or member contribution for judges employed by the Denver county court. For the 2020-21 and 2021-22 state fiscal years, the employer and member contribution rates for judges employed by the Denver county court shall be calculated pursuant to subsections (1.7)(a)(III) and (1.7)(a)(IV) of this section, as applicable, and subject to section 24-51-413.

(1.8) (Deleted by amendment, L. 2006, p. 1177, § 6, effective May 25, 2006.)

(2) Along with such contributions, the employer shall deliver to the association by the date established in subsection (1.7) of this section a contribution report containing any member

information required by the board to properly credit money to the employer contribution reserve and the member contribution accounts in the member contribution reserve.

(3) The employer shall be assessed by the association, pursuant to rules adopted by the board, interest on the contributions, including working retiree contributions, if either contributions or member information is not submitted by the date established in subsection (1.7) of this section.

(4) and (5) (Deleted by amendment, L. 91, p. 876, § 9, effective, July 1, 1991.)

(6) For all members, contributions will be subject to any maximum limits imposed under federal income tax law including the limitations set forth in section 401 (a)(17) of the federal "Internal Revenue Code of 1986", as amended, and any other limit on the members' total gross salary that may be taken into account for purposes of determining member contributions.

(7) If a final judicial determination provides that an employer is obligated to pay damages to the association for unpaid contributions and the damages awarded are greater than the amounts provided pursuant to section 24-51-402, then the association shall reduce the employer contribution rate for the employer to a level that will offset the additional damages paid. If possible, the association shall set a rate of employer contributions that is sufficient to offset the additional damages over a twelve-month period. If the employer does not owe sufficient employer contributions to offset the additional damages over a twelve-month period, then the association shall eliminate the employer contributions for the employer until the excess damages are fully offset.

Source: L. 87: Entire article R&RE, p. 1055, § 1, effective July 1; (1) amended and (4) added, p. 1097, § 4, effective July 1; (1) amended and (5) added, p. 1094, § 1, effective July 14. **L. 89:** (1) amended, p. 1069, § 1, effective July 1. **L. 90:** (6) added, p. 1248, § 6, effective April 5. **L. 91:** Entire section amended, p. 876, § 9, effective July 1. **L. 92:** (1) amended and (1.5) and (1.7) added, p. 1132, § 1, effective May 1; (1) repealed, p. 1132, § 1, effective July 1. **L. 95:** (1.7) amended and (7) added, p. 557, § 18, effective May 22; (6) amended, p. 262, § 2, effective December 31. **L. 97:** (1.7), (2), and (3) amended, p. 773, § 10, effective July 1. **L. 98:** (1.7) amended, p. 660, § 1, effective July 1. **L. 99:** (1.7) amended, p. 337, § 2, effective July 1. **L. 2000:** (1.7) amended, p. 780, § 4, effective July 1. **L. 2003:** IP(1.7) amended, p. 2657, § 4, effective June 5. **L. 2004:** (1.7) and (2) amended and (1.8) added, p. 696, § 3, effective July 1; (1.7) and (2) amended and (1.8) added, p. 1942, § 16, July 1, 2005; (1.7)(a) amended, p. 1943, § 17, January 1, 2006. **L. 2006:** (1.7)(a) and (1.8) amended, p. 1177, § 6, effective May 25. **L. 2009:** (1.6) and (1.7)(e) added and (1.7)(a) amended, (SB 09-282), ch. 288, p. 1339, §§ 16, 17, effective January 1, 2010. **L. 2010:** (1.7)(a) amended and (1.7)(f) added, (SB 10-146), ch. 65, p. 228, § 1, effective March 31; (1.7)(a) and (3) amended, (SB 10-001), ch. 2, p. 6, § 6, effective January 1, 2011. **L. 2011:** (1.7)(f) amended, (SB 11-076), ch. 204, p. 870, § 1, effective May 23. **L. 2015:** (1.7)(a) amended, (HB 15-1391), ch. 265, p. 1033, § 1, effective January 1. **L. 2018:** (1.7)(a) amended and (1.7)(f) repealed, (SB 18-200), ch. 370, p. 2241, § 11, effective June 4. **L. 2019:** (1.7)(a)(II), (1.7)(a)(III), and (1.7)(a)(IV) amended, (HB 19-1217), ch. 240, p. 2366, § 1, effective May 20. **L. 2020:** (1.7)(a)(III) and (1.7)(a)(IV) amended and (1.7)(g) added, (HB 20-1394), ch. 175, p. 803, § 1, effective June 29.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Subsection (1.5)(b) provided for the repeal of subsection (1.5), effective July 1, 1993. (See L. 92, p. 1132.)

(3) Although section 19 of chapter 175, Session Laws of San Andreas 1992, provided that section 1 of said chapter amending this section was to take effect May 1, 1992, the governor did not approve the act until May 19, 1992.

(4) Amendments to subsection (1) by Senate Bill 87-061 and Senate Bill 87-239 were harmonized. Amendments to subsection (1.7) by Senate Bill 04-132 were harmonized with section 16 of Senate Bill 04-257, effective July 1, 2005, and with section 17 of Senate Bill 04-257, effective January 1, 2006.

(5) Amendments to subsection (1.7)(a) by Senate Bill 10-001 and Senate Bill 10-146 were harmonized.

(6) Section 2 of chapter 265 (HB 15-1391), Session Laws of San Andreas 2015, provides that the act amending subsection (1.7)(a) takes effect January 1, 2015, but the governor did not approve the act until June 3, 2015.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-402. Unpaid contributions for any member - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The litigation of disputes regarding the payment of contributions by employers to the public employees' retirement association represents an inappropriate allocation of public moneys. Courts already suffer from overcrowded dockets, and the use of judicial resources to resolve such disputes means that taxpayers foot the bill for plaintiffs, defendants, and judges alike. Once all appropriate benefits have been accorded to members or inactive members of the association, any dispute then remaining is solely between governmental entities. The general assembly finds that the litigation of these disputes is an inappropriate use of the limited resources of the association, public employers, and the courts because it is possible to establish reasonable and fair rules for the resolution of such disputes without any need for judicial involvement. The general assembly therefore intends to resolve any current disputes and to clearly delineate the responsibilities of governmental entities so that future disputes do not require any litigation or unnecessary expenditure of state moneys.

(b) Fairness requires that the general assembly prescribe uniform results in every circumstance, a goal that is not obtainable when varying results arise from litigation of contributions disputes in the courts;

(c) Under the provisions of this section, members and inactive members will receive the full benefits promised by law and, therefore, there is no question regarding the equal treatment of any individual;

(d) In order to minimize the risk of future litigation between the public employees' retirement association and other governmental entities, it is appropriate to clarify under sections 24-51-205 (3.5) and 24-51-207 (2) that the board of trustees of the association may reasonably settle or compromise disputes without violating any principle of fiduciary responsibility;

(e) Should any judicial determination regarding an employer's liability for contributions be contrary to the results provided under this section, the association will be required under section 24-51-401 (7) to accept a reduced employer contribution level to offset all excess damages above the level of contributions the general assembly has established. The general assembly further finds that the establishment of a proper rate of contributions is clearly a legislative function and that it is appropriate for the general assembly to modify the level of employer contributions when necessary to offset the results of judicial awards that are contrary to the amounts established by the general assembly. The general assembly declares that it is its express intent to overrule any judicial decision entered prior to May 22, 1995, that is contrary to the provisions of this section.

(2) The provisions of this section and sections 13-80-103.5 (1)(d) and 13-80-108 (13), S.A.R.S., apply to the following:

(a) Any cause of action accruing on or after May 22, 1995;

(b) Any unresolved cause of action accruing prior to May 22, 1995; and

(c) (I) Any cause of action resolved on or after July 1, 1994, but prior to May 22, 1995. The following shall govern the application of this section to the causes of action specified in this paragraph (c):

(A) This section shall affect only the total amount of the payments in any cause of action specified by this paragraph (c). Such total amount of payments shall not exceed the amount specified under subsection (3)(a) or (3)(b)(I) of this section, whichever is applicable. The association shall refund, or shall not collect, any difference between the amount paid, agreed to be paid, or awarded in any such cause of action and the amount specified under subsection (3)(a) or (3)(b)(I) of this section. Subsection (3)(b)(II) of this section shall not affect the allocation of payments pursuant to an agreement, settlement agreement, or judgment resolving a cause of action specified by this paragraph (c).

(B) This section shall not require any member or inactive member to make any payment of unpaid contributions with respect to any cause of action specified by this paragraph (c) if such member or inactive member is not required to make such payment under the agreement, settlement agreement, or judgment resolving the cause of action.

(C) This section shall not affect any benefits provided to individuals as the result of the payment of unpaid contributions with respect to any cause of action specified by this paragraph (c).

(II) For the purposes of this paragraph (c), a cause of action is resolved if there is an agreement to make payment under the cause of action, whether or not the full payment has been made, if there is a settlement agreement in a lawsuit between the parties, whether or not the full payment under the settlement agreement has been made, or if there is a final judgment entered, whether or not the judgment has been fully paid or collected.

(3) If an employer fails to provide membership in the association to an individual so entitled pursuant to the provisions of this article or fails to provide the required level of employer contributions for an individual pursuant to the provisions of this article, the following payment shall be made to the association:

(a) If the individual is not a member or inactive member at the time the association first notifies the employer of its claim for unpaid contributions, the employer shall pay the unpaid employer contributions on behalf of the individual for the period contributions should have been made at the contribution rate applicable during such period, plus the amortization equalization

disbursement in effect pursuant to section 24-51-411 for the period contributions should have been made, plus interest on such employer contributions and the amortization equalization disbursement at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, until such contributions are paid. If an employer pays contributions pursuant to this paragraph (a) on behalf of an individual who was not a member or inactive member when the association first notifies the employer and such individual subsequently becomes a member and completes one year of earned service credit, the member may purchase service credit for the appropriate period by paying the unpaid member contributions for the period for which contributions should have been made at the contribution rate applicable during such period, plus interest on such member contributions at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, until such contributions are paid.

(b) (I) If the individual is a member or inactive member at the time the association first notifies the employer of its claim for unpaid contributions, the payment equals the lesser of the following amounts:

(A) For a member, the cost to purchase the appropriate amount of service credit at the rate established pursuant to section 24-51-505, plus the amortization equalization disbursement in effect pursuant to section 24-51-411 for the period contributions should have been made; and, for an inactive member, the cost to purchase the appropriate amount of service credit at the rate established pursuant to section 24-51-505, based upon the salary at the date of last employment, plus the amortization equalization disbursement that should have been made, plus interest at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, from the date of last employment until the date contributions are paid; or

(B) The unpaid employer and member contributions and amortization equalization disbursement for the period contributions should have been made, plus interest on such employer and member contributions and the amortization equalization disbursement at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, until such contributions are paid.

(II) The amounts paid to the association shall be allocated and collected in the following order until the full amount that is owed under subparagraph (I) of this paragraph (b) is reached:

(A) The employer shall first pay the unpaid employer contributions and amortization equalization disbursement on behalf of the member or inactive member for the period contributions should have been made, plus interest on such employer contributions and amortization equalization disbursement at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, until such contributions are paid;

(B) The member or inactive member shall next pay the unpaid employee contributions for the period contributions should have been made, without interest; and

(C) The employer shall next pay interest on the unpaid employee contributions for the period contributions should have been made at the applicable actuarial investment assumption rate, as such interest rate is from time to time adjusted, until such contributions are paid; except that the employer is only required to pay interest on the amount of employee contributions owed by the member or inactive member under sub-subparagraph (B) of this subparagraph (II) that the member or inactive member actually pays.

(III) If the full amount owed pursuant to the provisions of this paragraph (b) is not paid because the member or inactive member pays less than the full amount of employee contributions, then:

(A) If the member or inactive member was not provided membership during the applicable time period, the association shall provide partial service credit to the member or inactive member in the same proportion to the total amount of service credit that would have been earned if contributions had been made as the amount actually paid to the association bears to the amount that was owed to the association; and

(B) If the member or inactive member was provided membership during the applicable time period, the association shall provide a partial increase in the highest average salary of the member or inactive member in the same proportion to the increase in highest average salary that would have been earned if contributions had been paid as the amount actually paid to the association bears to the amount that was owed to the association.

(4) Within ninety days after the time the association first notifies an employer of its claim for unpaid contributions, the association shall attempt to notify all members and inactive members regarding their rights to pay unpaid employee contributions pursuant to subsection (3)(b)(II)(B) of this section. Any member or inactive member who elects to pay all or any portion of unpaid employee contributions shall notify the association of such election within one year after the date the employer pays the unpaid employer contributions pursuant to subsection (3)(b)(II)(A) of this section. If a member or inactive member fails to notify the association of the member's or inactive member's intent to pay as allowed under this subsection (4), the association may elect to treat the member or inactive member as having forfeited the right to make such contributions. Any member or inactive member who elects to pay all or any portion of unpaid employee contributions may pay employee contributions in installment payments over a period not to exceed sixty months or over a period equal to the amount of service credit that would have been earned if contributions had been made, whichever period is shorter.

(5) If an individual for whom contributions are being claimed is not a member of the association at the time the association first notifies an employer of its claim for unpaid contributions, an action to collect unpaid contributions is subject to the limitations provided in section 13-80-103.5 (1)(d), S.A.R.S. If an individual for whom contributions are being claimed is a member or inactive member at the time the association first notifies an employer of its claim for unpaid contributions, an action to collect unpaid contributions is not subject to any limitation under article 80 of title 13, S.A.R.S.

Source: L. 87: Entire article R&RE, p. 1056, § 1, effective July 1. **L. 88:** Entire section amended, p. 1432, § 16, effective June 11. **L. 95:** Entire section R&RE, p. 558, § 19, effective May 22. **L. 2006:** (3)(a), (3)(b)(I), and (3)(b)(II)(A) amended, p. 1177, § 7, effective May 25.

Editor's note: The provisions of this section are similar to §§ 24-51-101 and 24-51-203 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-403. Contributions assumed and paid by the employer. For purposes of deferring federal income tax imposed on salary, the member contributions and the working retiree contributions assumed and paid for by the employer shall be in lieu of paying such

amounts as salary and shall be treated as employer contributions pursuant to the provisions of 26 U.S.C. sec. 414 (h)(2), as amended. For all other purposes of this article, member contributions assumed and paid for by the employer shall be considered member contributions.

Source: L. 87: Entire article R&RE, p. 1056, § 1, effective July 1. **L. 2010:** Entire section amended, (SB 10-001), ch. 2, p. 7, § 7, effective January 1, 2011.

Editor's note: This section is similar to former §§ 24-51-104, 24-51-143, 24-51-204, and 24-51-603 as they existed prior to 1987.

24-51-404. Combining member contributions. Any member whose previous member contribution account has not been refunded shall be credited with such member contributions in said account upon a resumption of membership. Notwithstanding the provisions of this section, members exercising portability between the Denver public schools division and the other association divisions shall be governed by the provisions of section 24-51-1747.

Source: L. 87: Entire article R&RE, p. 1056, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1340, § 18, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-110 and 24-51-128 as they existed prior to 1987.

24-51-405. Refund of the member contribution account. (1) Subject to portability, any member who terminates membership for any reason other than retirement or death may request a refund of all moneys credited to the member contribution account and payment of matching employer contributions if said member has not resumed membership. Upon request, a refund shall be made by the association within ninety days after the date of termination of employment covered by membership or the date the association received the refund request, whichever is later.

(2) A member contribution account shall not be refunded and matching employer contributions shall not be paid to such member for any reason other than termination of membership.

(3) Repealed.

(4) All rights of membership and any future benefits associated with a member contribution account and matching employer contributions are forfeited when a refund is made.

(5) Employer contributions made to the association are nonrefundable to an employer.

(6) Partial refunds are prohibited.

(7) The amount of matching employer contributions shall be determined pursuant to the provisions of section 24-51-408.

(8) An individual who refunded his or her member contribution account pursuant to this section and again commences membership on or after July 1, 2005, but before January 1, 2007, whether or not the individual purchases all or part of the period associated with the refunded member contribution account, shall have no rights associated with membership prior to July 1, 2005, except as mandated by federal law, and such individual shall not be considered to have been a member, inactive member, or retiree on June 30, 2005.

(9) An individual who refunded his or her member contribution account pursuant to this section and again commences membership on or after January 1, 2007, whether or not the individual purchases all or part of the period associated with the refunded member contribution account, shall not have any rights associated with membership prior to January 1, 2007, except as mandated by federal law, and such individual shall not be considered to have been a member, inactive member, or retiree on December 31, 2006.

(10) Subject to portability, the amount available to DPS members in the event of a refund shall be governed by section 24-51-1711.

Source: L. 87: Entire article R&RE, p. 1056, § 1, effective July 1. **L. 91, 2nd Ex. Sess.:** (3) repealed, p. 71, § 2, effective October 11. **L. 95:** Entire section amended, p. 552, § 2, effective July 1. **L. 2006:** (8) and (9) added, p. 1178, § 8, effective May 25. **L. 2009:** (1) amended and (10) added, (SB 09-282), ch. 288, p. 1340, § 19, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-109 and 24-51-611 as they existed prior to 1987.

24-51-405.5. Direct rollovers. Notwithstanding any other provision of this article, effective January 1, 1993, a terminated member, a surviving spouse, or a named beneficiary may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover in accordance with section 401 (a)(31) of the federal "Internal Revenue Code of 1986", as amended.

Source: L. 2002: Entire section added, p. 139, § 4, effective March 27. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1340, § 20, effective May 21.

24-51-406. Payments from the judicial division. Any member of the judicial division who was a member of that division on or before July 1, 1973, and who retires from the judicial division with more than sixteen years of service credit may elect prior to retirement to receive, within ninety days following the effective date of retirement, a payment of the member contributions and interest together with matching employer contributions, calculated pursuant to the provisions of section 24-51-408 (1), that are associated with the service credit earned during the seventeenth through the twentieth years. This payment shall negate the service credit earned during those years.

Source: L. 87: Entire article R&RE, p. 1056, § 1, effective July 1. **L. 88:** Entire section amended, p. 969, § 1, effective April 14. **L. 95:** Entire section amended, p. 553, § 3, effective July 1.

Editor's note: This section is similar to former § 24-51-607 as it existed prior to 1987.

24-51-407. Interest. (1) Member contributions shall earn interest beginning with the date of the first contribution, and, on succeeding balances, from the date of the first contribution through either the date the member contribution account is refunded and matching employer

contributions are paid, the date a single payment is paid to the beneficiary, the date survivor benefits become payable, or the date of retirement, whichever occurs first.

(2) Member contributions made prior to July 1, 1995, shall earn interest at the rate of six and eight-tenths percent per year, compounded annually, in lieu of the former rate, if a member contribution account exists for the person on July 1, 1995.

(3) From July 1, 1995, to June 30, 2004, member contributions shall earn interest at a rate equal to eighty percent of the actuarial investment assumption rate, compounded annually, that was in effect at the time interest was earned.

(4) On and after July 1, 2004, member contributions shall earn interest at a rate specified by the board, compounded annually, that is in effect at the time interest is earned. In no event shall the board specify a rate pursuant to this subsection (4) that exceeds five percent.

(5) Notwithstanding the provisions of this section, DPS member accounts existing as of December 31, 2009, shall be credited regular interest in accordance with section 24-51-1702 (31) through and including December 31, 2009. Thereafter, Denver public schools division member accounts shall earn interest in accordance with subsection (4) of this section.

Source: L. 95: Entire section added, p. 553, § 4, effective July 1. **L. 2004:** (3) amended and (4) added, p. 695, § 2, effective July 1. **L. 2009:** (5) added, (SB 09-282), ch. 288, p. 1341, § 21, effective January 1, 2010. **L. 2010:** (5) amended, (HB 10-1422), ch. 419, p. 2086, § 72, effective August 11.

24-51-408. Matching employer contributions. (1) For members who receive a benefit or who receive a refund payable after meeting the age and service requirements for a service or reduced service retirement benefit, or for payments made to survivors or beneficiaries of members who die before retirement, matching employer contributions shall be an amount equal to the member contribution account less:

(a) Any amounts paid for the purchase of service credit;

(b) Any payments in lieu of member contributions; and

(c) Any interest accrued on the amounts specified in paragraphs (a) and (b) of this subsection (1).

(2) For members who have five or more years of earned service credit and receive a refund prior to sixty-five years of age and prior to meeting the age and service requirements for a service or reduced service retirement benefit, the amount of matching employer contributions paid shall be one-half of an amount equal to the member contribution account less:

(a) Any amounts paid for the purchase of service credit;

(b) Any payments in lieu of member contributions; and

(c) Any interest accrued on the amounts specified in paragraphs (a) and (b) of this subsection (2).

(2.5) Notwithstanding subsection (2) of this section, for a member who has less than five years of earned service credit as of the date of refund and who receives a refund prior to sixty-five years of age and prior to meeting the age and service requirements for a service or reduced service retirement benefit, the amount of matching employer contributions paid shall be one-half of an amount equal to the member contribution account accumulated prior to January 1, 2011, less:

(a) Any amounts paid for the purchase of service credit;

(b) Any payments in lieu of member contributions; and

(c) Any interest accrued on the amounts specified in paragraphs (a) and (b) of this subsection (2.5).

(3) Notwithstanding subsections (1) and (2) of this section, for members of the local government division and for payments made to survivors or beneficiaries of such members who die before retirement, the amount of matching employer contributions shall be eighty percent of the amount that would be paid to members, survivors, or beneficiaries in divisions of the association other than the local government division if the local government division members had the same contribution history and age as the members of the other divisions. Notwithstanding any other provision of this subsection (3) to the contrary, the amount of matching employer contributions for members of the local government division shall be as provided in subsections (1) and (2) of this section effective on July 1 of any year in which the most recent determination of the association's actuary specifies that such contributions for the local government division will not cause the amortization period in such division to exceed thirty years.

(4) The provisions of this section shall not apply to DPS member contribution accounts that exist on December 31, 2009, with regard to past contributions or future contributions. Member contribution accounts in the Denver public schools division created on or after January 1, 2010, shall be governed by this section.

Source: L. 95: Entire section added, p. 553, § 4, effective July 1. **L. 99:** IP(1) and IP(2) amended and (3) added, p. 338, § 3, effective July 1. **L. 2004:** (3) amended, p. 1944, § 18, effective January 1, 2006. **L. 2005:** (3) amended, p. 769, § 40, effective June 1. **L. 2009:** (4) added, (SB 09-282), ch. 288, p. 1341, § 22, effective January 1, 2010. **L. 2010:** IP(2) and (4) amended and (2.5) added, (SB 10-001), ch. 2, p. 7, § 8, effective January 1, 2011.

24-51-408.5. Matching employer contribution on voluntary contributions made by members to tax-deferred retirement programs. (1) For any member who makes a voluntary contribution to any eligible tax-deferred retirement program, the employer shall make a matching contribution on such voluntary contribution to the eligible tax-deferred retirement program subject to the provisions of this section. A member of the defined contribution plan pursuant to part 15 of this article shall not be eligible for matching contributions under this section on voluntary contributions made from salary earned as a member of the defined contribution plan.

(2) The tax-deferred retirement programs that are eligible to receive matching employer contributions in accordance with subsection (1) of this section shall include any tax-deferred retirement program in which the member participates:

(a) That is available to members and is either established in accordance with state law or sponsored by the employer; and

(b) (I) That is authorized under section 401 (k), 403 (b), or 457 of the federal "Internal Revenue Code of 1986", as amended; or

(II) That is authorized as a defined contribution plan under section 401 (a) of the federal "Internal Revenue Code of 1986", as amended.

(3) The level of the matching employer contribution on voluntary contributions by members to eligible tax-deferred retirement programs shall be set by the board annually not later

than September 1 of each year. The level set by the board shall apply for the following calendar year. The level shall be set separately for each division of the association and shall be based on the percentage of salary for each division available for matching contributions according to subsection (4) of this section. When setting the level of the matching employer contribution on voluntary contributions to eligible tax-deferred retirement programs, the board shall specify the percentage of a member's voluntary contribution to be matched by the employer and the maximum voluntary contribution by any member subject to the matching employer contribution.

(4) The matching employer contribution on voluntary contributions to eligible tax-deferred retirement programs shall terminate for payroll periods that end after the last day of the calendar month following April 2004 and thereafter shall resume only when the actuary determines that the actuarial value of assets exceeds one hundred ten percent of actuarial accrued liabilities. One-half of the amount of a reduction in the employer contribution rates as determined in subsection (5) of this section to amortize any overfunding in the respective division's trust fund shall be available for matching employer contributions.

(5) If the actuarial value of assets exceeds one hundred ten percent of the actuarial accrued liabilities in any division, as determined by the association's actuary, the division shall be considered overfunded by the amount of the difference. If a division is overfunded, the association's actuary shall determine not later than September 1 of each year the reduction in the employer contribution rates specified in section 24-51-401(1.7) necessary to amortize the overfunding in excess of one hundred ten percent up to one hundred fifteen percent of actuarial accrued liabilities over a period of thirty years. The amount of any overfunding in excess of one hundred fifteen percent of actuarial accrued liabilities shall be amortized over a period of twenty years. The calculation of the amount for any fiscal year of any decrease in the employer contribution rates due to overfunding shall be determined using the actuary's calculation from the preceding September 1.

(6) (a) If a division's trust fund is determined to be overfunded pursuant to subsection (5) of this section, then commencing with the fiscal year that begins following the actuary's calculation from the preceding September 1, the employer contribution rate specified in section 24-51-401 (1.7) for state division employers, for school division employers, local government division employers, and judicial division employers shall be reduced to amortize any overfunding in the respective division's trust fund by twenty percent of the amount of any reduction in the employer contribution rates as determined in accordance with subsection (5) of this section. The calculation of the amount of any reduction in the employer contribution rates due to overfunding shall be determined using the actuary's calculation from the preceding September 1.

(a.5) (Deleted by amendment, L. 2004, pp. 698, 1945, §§ 5, 19, effective July 1, 2004, and January 1, 2006.)

(b) Each employer shall subtract from their regular contribution to the association an amount equal to the amount that the employer paid as matching contributions on members' voluntary contributions to eligible tax-deferred retirement programs pursuant to this section.

(c) In no event shall the total reduction in any division's employer contribution rate pursuant to this subsection (6) cause the employer contribution rate to be inadequate to pay contributions required for the health care trust fund as specified in section 24-51-208 (1)(f).

(7) Employers shall pay a matching contribution on a member's voluntary contribution directly to the eligible tax-deferred retirement program or programs to which the member

contributes. Employers shall submit a report to the association concerning payments made pursuant to this subsection (7). The report shall include the amount of the voluntary contributions and matching employer contributions and the programs to which the contributions were paid.

(8) The provisions of this section shall not apply to employers affiliated with the Denver public schools division or DPS members.

Source: L. 99: Entire section added, p. 339, § 4, effective July 1, 2000. **L. 2000:** (5) and (6)(a) amended and (6)(a.5) added, p. 781, § 5, effective January 1, 2001. **L. 2004:** (4) and (5) amended, p. 697, § 4, effective April 30 and (6)(a), (6)(a.5), (6)(b), and (7) amended, p. 698, § 5, effective July 1; (1), (5), (6)(a), (6)(a.5), (6)(b), and (7) amended, p. 1945, § 19, effective January 1, 2006. **L. 2005:** (6)(a) amended, p. 769, § 41, effective June 1. **L. 2009:** (8) added, (SB 09-282), ch. 288, p. 1341, § 23, effective January 1, 2010.

Editor's note: Amendments to subsections (6)(a) and (7) by Senate Bill 04-132 and Senate Bill 04-257, effective January 1, 2006, were harmonized.

24-51-409. Refund of erroneous member contribution. (1) It is the intent of the general assembly that the association consider the payment of interest on any erroneous contribution made to a member contribution account and later refunded to the member. It is the further intent of the general assembly that, if the member was intentionally and actively involved in an erroneous contribution with an intent to increase a retirement benefit by including contributions to the member contribution account that were not based on salary, then interest may be withheld by the association as provided in this section.

(2) The association shall refund to an employer, for payment to a member, any erroneous contribution, as defined in section 24-51-101 (21.5), that was made by the employer to a member contribution account. The association shall refund to the employer for payment to such member, in addition to the amount of the erroneous contribution, interest in the amount specified in section 24-51-101 (28)(c) for the period beginning on the date of the contribution and ending on the date of the refund; except that, if the member was intentionally and actively involved in the erroneous contribution made to his or her member contribution account, the refund of interest on that amount may be withheld by the association.

Source: L. 95: Entire section added, p. 518, § 2, effective May 19.

Editor's note: This section was originally numbered as 24-51-407 in House Bill 95-1281 but has been renumbered on revision for ease of location.

24-51-410. Anticipation of forfeitures in determining plan cost. Any benefits forfeited upon a termination of membership in the association shall be anticipated in determining the cost of the plan.

Source: L. 97: Entire section added, p. 64, § 6, effective July 1.

24-51-411. Amortization equalization disbursement. (1) Beginning January 1, 2006, each employer shall deliver to the association an amortization equalization disbursement and, beginning January 1, 2008, a supplemental amortization equalization disbursement pursuant to the same procedures specified for employer contributions in section 24-51-401 (1.7).

(2) For the calendar year beginning January 1, 2006, the amortization equalization disbursement shall be one-half of one percent of the employer's total payroll. The amortization equalization payment shall increase by one-half of one percent of total payroll on January 1, 2007, and, subject to subsection (4) of this section, shall increase by four-tenths of one percent of total payroll at the start of each of the calendar years following 2007 through 2012. For purposes of this section, the employer's total payroll shall be calculated by applying the definition of salary, pursuant to section 24-51-101 (42), to the payroll for all employees working for the employer who are members of the association, or who were eligible to elect to become members of the association on or after January 1, 2006, including any amounts paid in connection with the employment of a retiree by an employer pursuant to section 24-51-1101 (2). Beginning January 1, 2010, employers of the Denver public schools division shall pay the then-applicable accumulated rate of amortization equalization disbursement and the escalating rate in accordance with the provisions of this section.

(3) For the calendar year beginning January 1, 2013, for employers in the school and Denver public schools divisions, the amortization equalization disbursement payment shall increase by four-tenths of one percent of total payroll at the start of each of the calendar years through 2015. For the calendar year 2016, for employers in the school and Denver public schools divisions, the amortization equalization disbursement payment shall increase by three-tenths of one percent of total payroll at the start of the 2016 calendar year. For purposes of this section, the employer's total payroll shall be calculated by applying the definition of salary, pursuant to section 24-51-101 (42), to the payroll for all employees working for the employer who are members of the association, or who were eligible to elect to become members of the association on or after January 1, 2006, including any amounts paid in connection with the employment of a retiree by an employer pursuant to section 24-51-1101 (2).

(3.5) For the calendar year beginning January 1, 2013, for employers in the state division, the amortization equalization disbursement payment shall increase by four-tenths of one percent of total payroll at the start of each of the calendar years through 2017. For purposes of this section, the employer's total payroll shall be calculated by applying the definition of salary, pursuant to section 24-51-101 (42), to the payroll for all employees working for the employer who are members of the association, or who were eligible to elect to become members of the association on or after January 1, 2006, including any amounts paid in connection with the employment of a retiree by an employer pursuant to section 24-51-1101 (2).

(4) For employers in the local government division and the judicial division, the amortization equalization disbursement shall not exceed the 2010 calendar year rates unless the rates are required to increase in accordance with subsection (4.5) or (9) of this section.

(4.5) For the calendar year beginning January 1, 2019, for the employers in the judicial division, the amortization equalization disbursement payment shall be three and four-tenths percent of the employer's total payroll. The amortization equalization disbursement payment for employers in the judicial division shall increase by four-tenths of one percent of total payroll on January 1, 2020, and shall increase by four-tenths of one percent of total payroll at the start of each of the calendar years following 2020 through 2023. For purposes of this section, the

employer's total payroll shall be calculated by applying the definition of salary, as defined in section 24-51-101 (42), to the payroll for all employees working for the employer who are members of the association, including any amounts paid in connection with the employment of a retiree by an employer pursuant to section 24-51-1101 (2).

(5) For the calendar year beginning January 1, 2008, the supplemental amortization equalization disbursement shall be one-half of one percent of the employer's total payroll. The supplemental amortization equalization disbursement, subject to subsection (7) of this section, shall increase by one-half of one percent of total payroll on January 1 of each year following 2008 through 2013. For purposes of this section, the employer's total payroll shall be calculated by applying the definition of salary, pursuant to section 24-51-101 (42), to the payroll for all employees working for the employer who are members of the association, or who were eligible to elect to become members of the association on or after January 1, 2006, including any amounts paid in connection with the employment of a retiree by an employer pursuant to section 24-51-1101 (2). Beginning on January 1, 2010, employers of the Denver public schools division shall pay the then-applicable accumulated rate of supplemental amortization equalization disbursement and the escalating rate in accordance with the provisions of this section.

(6) For the calendar year beginning January 1, 2014, for employers in the school and Denver public schools divisions, the supplemental amortization equalization disbursement payment shall increase by one-half of one percent of total payroll at the start of each of the calendar years through 2018. For purposes of this section, the employer's total payroll shall be calculated by applying the definition of salary, pursuant to section 24-51-101 (42), to the payroll for all employees working for the employer who are members of the association, or who were eligible to elect to become members of the association on or after January 1, 2006, including any amounts paid in connection with the employment of a retiree by an employer pursuant to section 24-51-1101 (2).

(6.5) For the calendar year beginning January 1, 2014, for employers in the state division, the supplemental amortization equalization disbursement payment shall increase by one-half of one percent of total payroll at the start of each of the calendar years through 2017. For purposes of this section, the employer's total payroll shall be calculated by applying the definition of salary, pursuant to section 24-51-101 (42), to the payroll for all employees working for the employer who are members of the association, or who were eligible to elect to become members of the association on or after January 1, 2006, including any amounts paid in connection with the employment of a retiree by an employer pursuant to section 24-51-1101 (2).

(7) For employers in the local government division and the judicial division, the supplemental amortization equalization disbursement shall not exceed the 2010 calendar year rates unless the rates are required to increase in accordance with subsection (7.5) or (9) of this section.

(7.5) For the calendar year beginning January 1, 2019, for the employers in the judicial division, the supplemental amortization equalization disbursement payment shall be three and four-tenths percent of the employer's total payroll. The supplemental amortization equalization disbursement payment for employers in the judicial division shall increase by four-tenths of one percent of total payroll on January 1, 2020, and shall increase by four-tenths of one percent of total payroll at the start of each of the calendar years following 2020 through 2023. For purposes of this section, the employer's total payroll shall be calculated by applying the definition of salary, as defined in section 24-51-101 (42), to the payroll for all employees working for the

employer who are members of the association, including any amounts paid in connection with the employment of a retiree by an employer pursuant to section 24-51-1101 (2).

(8) The amortization equalization disbursement and the supplemental amortization equalization disbursement payments by employers in the state, school, and Denver public schools divisions shall continue at the rate specified in subsections (3), (3.5), (6), and (6.5) of this section until adjusted pursuant to this subsection (8). When the actuarial funded ratio of the state, school, or Denver public schools division of the association, based on the actuarial value of assets, is at or above one hundred three percent as determined in the annual actuarial study of the association, the amount of the amortization equalization disbursement and supplemental amortization equalization disbursement shall be reduced, in equal parts, for that particular division by one-half of one percent each. If the actuarial funded ratio of the division based on the actuarial value of assets reaches one hundred three percent and subsequently the actuarial funded ratio of the division is below ninety percent, the amortization equalization disbursement and supplemental amortization equalization disbursement shall be increased by one-half of one percent each; except that, at no time shall the amortization equalization disbursement for the school and Denver public schools divisions exceed four and one-half percent or for the state division exceed five percent nor shall the supplemental amortization equalization disbursement for the school and Denver public schools divisions exceed five and one-half percent each or for the state division exceed five percent.

(9) The amortization equalization disbursement and the supplemental amortization equalization disbursement payments by employers in the local government division shall continue at the rate specified in subsections (4) and (7) of this section until adjusted pursuant to this subsection (9). The amortization equalization disbursement and the supplemental amortization equalization disbursement payments by employers in the judicial division shall continue at the rates specified in subsections (4), (4.5), (7), and (7.5) of this section until adjusted pursuant to this subsection (9). When the actuarial funded ratio of the local government division or judicial division of the association, based on the actuarial value of the assets, is at or above one hundred three percent as determined in the annual actuarial study of the association, the amount of the amortization equalization disbursement and supplemental amortization equalization disbursement shall be reduced for employers in that particular division by one-half of one percent each. If the actuarial funded ratio of the division based on the actuarial value of the assets reaches ninety percent and subsequently the actuarial funded ratio of the division is below ninety percent, the amortization equalization disbursement and supplemental amortization equalization disbursement shall be increased by one-half of one percent each; except that, at no time shall the amortization equalization disbursement or the supplemental amortization equalization disbursement exceed five percent each.

(10) For state employers in the state division, for the 2007-08 state fiscal year and for each fiscal year through the 2016-17 state fiscal year, from the amount of changes to state employees' salaries and any adjustments to the annual general appropriation act pursuant to section 24-50-104, an amount equal to one-half of one percent of total salary shall be deducted and such amount shall be utilized by the employer to fund the supplemental amortization equalization disbursement. For the school, local government, judicial, and Denver public schools divisions, and the remaining employers in the state division who are not state employers, the supplemental amortization equalization disbursement shall, to the extent permitted by law, be

funded by allocation of funds otherwise available for use as employee compensation increases prior to award as salary or other compensation to employees.

(11) Moneys made available due to any reduction in the supplemental amortization equalization disbursement pursuant to subsection (8) or (9) of this section, whichever is applicable, shall, to the extent permitted by law, be allocated to employee compensation increases to the extent such source was originally used by an employer to fund the supplemental amortization equalization disbursement.

Source: L. 2004: Entire section added, p. 1946, § 20, effective January 1, 2006. **L. 2005:** (2) amended, p. 901, § 1, effective June 2. **L. 2006:** Entire section amended, p. 1179, § 9, effective May 25. **L. 2009:** (2), (3.2), and (3.7) amended, (SB 09-282), ch. 288, p. 1341, § 24, effective January 1, 2010. **L. 2010:** Entire section amended, (SB 10-001), ch. 2, p. 7, § 9, effective January 1, 2011. **L. 2017:** (4), (7), and (9) amended and (4.5) and (7.5) added, (HB 17-1265), ch. 265, p. 1432, § 1, effective August 9.

24-51-412. Denver public schools district - contributions and disbursements - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The Denver public schools has ongoing payment obligations related to certain pension certificates of participation that were issued in 1997 and 2008, referred to in this section as "PCOPS";

(b) Proceeds of the PCOPS were contributed to the Denver public schools retirement system trust fund, resulting in a funded ratio of the Denver public schools retirement system that exceeds the funded ratio of the school division of the association;

(c) As specified in section 24-51-401, "Table A - Contribution Rates", the employers in the Denver public schools division are scheduled to pay a contribution rate three and six-tenths percent higher than employers in the school division of the association;

(d) In recognition of the fact that Denver public schools retirement system's funded ratio exceeds that of the school division of the association as a result of the contributions from the PCOPS, the payments the Denver public schools makes in respect to the PCOPS provides a basis for the use of an offset in calculating the total of its employer contribution and the amortization equalization disbursement and supplemental amortization equalization disbursement.

(2) Due to the circumstances specified in subsection (1) of this section, contributions required to be made by employers in the Denver public schools division pursuant to section 24-51-401 (1.7)(a) and disbursements required to be made pursuant to section 24-51-411 shall be reduced by an amount in each year equal to the obligations of the Denver public schools with respect to outstanding PCOPS, or any obligations incurred to refinance the PCOPS, at a fixed effective annual interest rate of eight and one-half percent and with principal maturities as they exist on January 1, 2010, or on the date of issuance of any obligations to refinance the PCOPS, recognizing that it is not the intention to increase substantially the offset by accelerating principal maturities through refinancing. The annual offset may be applied by the Denver public schools in installments as it determines so long as there are sufficient monthly contributions to fund the DPS health care trust fund and the annual increase reserve required pursuant to section 24-51-1009, taking into account the true-up provisions in section 24-51-401, and the calculation of the offset shall be included in the contribution reports required by section 24-51-401 (1.7)(a). Since, as stated in paragraph (b) of subsection (1) of this section, the funded ratio of the Denver

public schools retirement system trust fund presently exceeds that of the school division of the association, the anticipated equalization of the funded ratios over a thirty-year period of the two divisions provided in section 24-51-401 (2) may necessarily result in a decline in the funded ratio of the Denver public schools division trust fund. Denver public schools shall annually submit to the association audited financial statements showing the actual debt service experience related to the PCOPS.

(3) Pursuant to section 24-51-1701, the board of the association presently intends to present recommendations to the general assembly concerning the association's defined benefit plans, including the school division and the Denver public schools division, to attempt to assure security and sustainability of the plans. Nothing contained in these findings and declarations or elsewhere in this article is intended to restrict the powers of the general assembly to fix and adjust the level of contributions or disbursements required of employers hereafter.

(4) (a) Under no circumstance shall any debt obligations of the Denver public schools become obligations of the association, any other employer affiliated with the association, or the state. In addition, under no circumstance shall any obligations of the association under a debt instrument issued by the association become obligations of the Denver public schools.

(b) Nothing in this subsection (4) shall limit the application of any of the following provisions to Denver public schools, any charter school that is chartered by Denver public schools, or any charter school that serves students of Denver public schools: Section 22-41-110, S.A.R.S., relating to timely payment of school district obligations; section 22-30.5-406, S.A.R.S., relating to direct payment of charter school bonds; section 22-30.5-408, S.A.R.S., relating to the replenishment of charter school debt service reserve funds; or any other program that is available to school districts or charter schools that meet the conditions set forth in state law.

Source: L. 2009: Entire section added, (SB 09-282), ch. 288, p. 1342, § 25, effective January 1, 2010.

24-51-413. Contribution and annual increase amount changes - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Blended total contribution amount" means the weighted average of the total amounts paid by the employer and the member to the association for each of the five divisions pursuant to sections 24-51-401 (1.7) and 24-51-411, and the amount the association receives pursuant to section 24-51-414, but shall not include the portion of the employer contribution remitted to the health care trust fund pursuant to section 24-51-208 (1)(f) and (1)(f.5) and the portion of the employer contribution remitted to the annual increase reserve.

(b) "Blended total required contribution" means the weighted average of the total of the association's reported actuarially determined contribution rates and member contribution rates of the five division trust funds.

(c) "Weighted average" means the proportion of unfunded actuarial accrued liability attributable to each division reported as of the most recent valuation date.

(2) Beginning July 1, 2019, and each July 1 thereafter, employer contribution rates, member contribution rates, annual increase amounts, and the direct distribution amount shall remain unchanged until such time as changes are required pursuant to this section.

(3) When the blended total contribution amount is less than ninety-eight percent of the blended total required contribution, the following adjustment shall occur:

(a) The annual increase percentage determined pursuant to sections 24-51-1002 and 24-51-1009 (4)(a) shall be reduced by up to one-quarter of one percent, but at no time will the annual increase percentage be reduced to equal less than one-half of one percent, except as provided in sections 24-51-1002 (1.5) and 24-51-1009 (1.5);

(b) The employer contribution rate will be increased by up to one-half of one percent, but at no time will the employer contribution rate be increased to exceed the employer contribution rates under section 24-51-401 (1.7)(a)(II), plus two percent;

(c) The member contribution rate will be increased by up to one-half of one percent, but at no time will the member contribution rate be increased to exceed the member contribution rates under section 24-51-401 (1.7)(a)(IV), plus two percent; and

(d) The amount of the direct distribution pursuant to section 24-51-414 will be increased by up to twenty million dollars, but at no time will the amount of the direct distribution exceed two hundred twenty-five million dollars in a fiscal year.

(4) The adjustment in subsection (3) of this section shall be determined by the association, shall be equally apportioned among the annual increases, the employer contributions, the member contributions, and, if applicable, the direct distribution amount, and shall be the maximum yearly adjustment allowed unless an adjustment less than the maximum adjustment is sufficient to bring the blended total contribution amount to one hundred three percent of the blended total required contribution. In no event shall a yearly adjustment cause the blended total contribution amount to exceed one hundred three percent of the blended total required contribution. The adjustment shall be made once in any calendar year and shall not exceed the maximum yearly amounts indicated in subsections (3)(a), (3)(b), (3)(c), and (3)(d) of this section.

(5) In the event any one of the four component parts of the adjustment as outlined in subsection (3) of this section has reached its total maximum, then no further adjustment shall be made to that component. Only the adjustments to the other three components shall continue as specified in subsections (3) and (4) of this section, even if the fully required adjustment to bring the blended total contribution amount to one hundred three percent of the blended total required contribution is not achieved.

(6) When the blended total contribution amount is greater than or equal to one hundred twenty percent of the blended total required contribution, the following adjustment shall occur:

(a) Subject to sections 24-51-1002 (1.5) and 24-51-1009 (1.5), the annual increase percentage determined pursuant to sections 24-51-1002 and 24-51-1009 (4)(a) shall be increased by up to one-quarter of one percent, but at no time will the annual increase percentage be greater than two percent, except as provided in section 24-51-1009.5;

(b) The employer contribution rate will be reduced by up to one-half of one percent, but at no time will the employer contribution rate be less than the employer contribution rates under section 24-51-401 (1.7)(a)(I);

(c) The member contribution rate will be reduced by up to one-half of one percent, but at no time will the member contribution rate be less than the member contribution rates under section 24-51-401 (1.7)(a)(I); and

(d) The amount of the direct distribution pursuant to section 24-51-414 will be reduced by up to twenty million dollars in a fiscal year.

(7) The adjustment in subsection (6) of this section shall be determined by the association, shall be equally apportioned among the annual increases, the employer

contributions, the member contributions, and, if applicable, the direct distribution amount, and shall be the maximum yearly adjustment allowed unless an amount lower than the maximum adjustment is necessary to keep the blended total contribution amount equal to one hundred three percent of the blended total required contribution. In no event shall a yearly adjustment cause the blended total contribution amount to fall below one hundred three percent of the blended total required contribution. The adjustment shall be made once in any calendar year and shall not exceed the maximum yearly amounts specified in subsections (6)(a), (6)(b), (6)(c), and (6)(d) of this section.

(8) The adjustments pursuant to this section shall be determined based on the blended total contribution amount and blended total required contribution as reported in the annual actuarial valuation report required under section 24-51-204 (7) and shall be effective July 1 of the next calendar year. The first adjustment pursuant to this section shall not occur before July 1, 2020.

Source: L. 2018: Entire section added, (SB 18-200), ch. 370, p. 2243, § 12, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-414. Direct distribution. (1) (a) Except as otherwise provided in subsections (6), (7), and (8) of this section, on July 1, 2018, on July 1, 2019, on July 1, 2021, and on July 1 each year thereafter until there are no unfunded actuarial accrued liabilities of any division of the association that receives the distribution pursuant to this section, the state treasurer shall issue a warrant to the association in an amount equal to two hundred twenty-five million dollars. Such amount shall be paid to the association from the general fund, or any other fund, subject to section 24-51-413.

(b) The state treasurer shall not issue a warrant to the association pursuant to subsection (1)(a) of this section during the 2020-21 state fiscal year.

(2) For the purpose of allocating appropriate indirect, cash funded, or federal costs for the direct distribution pursuant to subsection (1) of this section, the office of state planning and budgeting may include funding sources other than the general fund in the governor's annual budget request for the 2019-20 fiscal year and each fiscal year thereafter to satisfy the funding amounts of the direct distribution.

(3) The distribution pursuant to subsection (1) of this section shall end when there are no unfunded actuarial accrued liabilities of any division of the association that receives such distribution. By September 1, 2019, and by September 1 of each year thereafter, until the distribution pursuant to subsection (1) of this section is no longer required, the board shall determine whether the sum of the employer and member contributions pursuant to section 24-51-401 (1.7)(a), the contributions pursuant to section 24-51-411, and the distribution pursuant to subsection (1) of this section, is greater than the amount necessary to eliminate the unfunded actuarial accrued liability of each division of the association that receives the distribution in the next fiscal year. If the board determines that the total amount of the distribution pursuant to subsection (1) of this section will not be required to eliminate the unfunded actuarial accrued liability of each division of the association that receives the distribution, the board shall notify

the office of state planning and budgeting and the joint budget committee of the general assembly by September 1 of the applicable year.

(4) The association shall allocate the direct distribution to the trust funds of each division of the association as it would an employer contribution, in a manner that is proportionate to the annual payroll of each division as reported to the association; except that the association shall not allocate any portion of the direct distribution amount to the local government division of the association.

(5) (a) Beginning with the annual general appropriation act for the 2019-20 state fiscal year, and for each annual general appropriation act thereafter, money distributed to the association pursuant to subsection (1) of this section shall be included for informational purposes in the annual general appropriation bill or in supplemental appropriation bills for the purpose of complying with the limitation on state fiscal year spending imposed by section 20 of article X of the state constitution and section 24-77-103. The information included in the annual general appropriation bill shall include an estimate of the amount of the distribution pursuant to subsection (1) of this section that is attributable to the state and the amount that is attributable to public education from kindergarten through the twelfth grade.

(b) Subsection (5)(a) of this section does not apply for the 2020-21 state fiscal year.

(6) In order to recompense the association for a distribution in an amount equal to two hundred twenty-five million dollars that it had been scheduled to receive on July 1, 2020, pursuant to subsection (1)(a) of this section but did not receive due to the enactment of House Bill 20-1379, which amended subsection (1)(a) of this section and added subsection (1)(b) of this section to eliminate the distribution, in addition to the warrants issued pursuant to subsection (1)(a) of this section, on June 7, 2022, or as soon as possible thereafter, the state treasurer shall issue a warrant to the association in the amount of three hundred eighty million dollars. The warrant shall be paid to the association from the PERA payment cash fund created in section 24-51-416.

(7) The amount of the warrant to be issued on July 1, 2023, to the association pursuant to subsection (1) of this section is reduced by the sum of one hundred fifty-five million dollars and an amount equal to seven and one-quarter percent multiplied by three hundred eighty million dollars; except that, if the 2021 annual rate of return on investments as reported in the association's annual report for 2021 exceeds seven and one-quarter percent, then the reduction shall be the sum of one hundred fifty-five million dollars and an amount equal to the association's rate of return on investments multiplied by three hundred eighty million dollars. If the annual rate of return is less than seven and one-quarter percent but greater than zero, then the reduction shall be the sum of one hundred fifty-five million dollars and an amount equal to the annual rate of return in the association's annual report for 2021 multiplied by three hundred eighty million dollars. In no event shall the total reduction be less than one hundred fifty-five million dollars or be greater than one hundred ninety million dollars.

(8) The amount of the warrant to be issued on July 1, 2024, to the association pursuant to subsection (1) of this section is reduced by the lesser of an amount equal to seven and one-quarter percent multiplied by three hundred eighty million dollars or an amount equal to the association's annual rate of return on investments as reported in the association's annual report for 2022 multiplied by three hundred eighty million dollars; except that there shall be no reduction if the rate of return is zero or less.

(9) In addition to any other distributions to the association pursuant to this section, on June 2, 2023, or as soon as possible thereafter, the state treasurer shall issue a warrant to the association that consists of the balance of the PERA payment cash fund created in section 24-51-416, as of the date the payment is made, plus ten million dollars paid from the general fund. The amount paid to the association pursuant to this subsection (9) is to recompense the association, in addition to the amount already paid to the association as partial recompensation pursuant to subsection (6) of this section, for the distribution that it was scheduled to receive on July 1, 2020, pursuant to subsection (1)(a) of this section, that the association did not receive due to the enactment of House Bill 20-1379.

Source: L. 2018: Entire section added, (SB 18-200), ch. 370, p. 2246, § 12, effective June 4. **L. 2020:** (1) and (5) amended, (HB 20-1379), ch. 169, p. 776, § 1, effective June 29. **L. 2022:** (1)(a) amended and (6), (7), and (8) added, (HB 22-1029), ch. 390, p. 2768, § 1, effective June 7. **L. 2023:** (9) added, (SB 23-056), ch. 322, p. 1944, § 1, effective June 2.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-415. Defined contribution supplement. Beginning January 1, 2021, and every year thereafter, employer contribution rates will be adjusted to include a defined contribution supplement, which will be calculated separately for the state and local government divisions, as applicable. The defined contribution supplement for each division will be the employer contribution amount paid to defined contribution plan participant accounts that would have otherwise gone to the defined benefit trusts to pay down the unfunded liability, plus any defined benefit investment earnings thereon, expressed as a percentage of salary on which employer contributions have been made. The employer contribution amounts in the sum shall only include contributions made on behalf of eligible employees, as defined in section 24-51-1502, who commence employment on or after January 1, 2019.

Source: L. 2018: Entire section added, (SB 18-200), ch. 370, p. 2247, § 12, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-416. PERA payment cash fund - creation - repeal. (Repealed)

Source: L. 2021: Entire section added, (SB 21-228), ch. 94, p. 377, § 1, effective May 4. **L. 2022:** (1) amended, (SB 22-214), ch. 168, p. 1035, § 1, effective May 17. **L. 2023:** (4) added, (SB 23-056), ch. 322, p. 1944, § 2, effective June 2.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2023. (See L. 2023, p. 1944.)

PART 5

24-51-501. Earned service credit. (1) Service credit is earned for periods of employment with an employer during which salary is received by such employee and contributions are made to the association pursuant to the provisions of section 24-51-401 (1.7). No service credit shall be earned in connection with the payment of working retiree contributions.

(2) One year of service credit is earned for twelve calendar months of employment, for which contributions to the association are made, in which a member in each month earns salary greater than or equal to eighty times the federal minimum wage hourly rate in effect at the time of service. A member who is employed in a position in which the employment pattern covers a period of at least eight months but less than twelve months per year shall earn one year of service credit if at least eight months of service credit are earned during the months in which the member is employed during the year.

(3) Earned service credit for periods of employment which do not meet the requirements described in subsection (2) of this section shall be determined by the ratio of actual salary received to eighty times the federal minimum wage hourly rate in effect at the time of service and the ratio of the number of months for which contributions are remitted to the number of months required for one year of service credit.

(4) Earned service credit shall be recorded on an annual basis.

(5) Earned service credit shall not extend beyond the date of death of a member.

(6) Service credit of DPS members prior to or on December 31, 2009, shall be governed by section 24-51-1710. Beginning January 1, 2010, DPS members shall earn service credit pursuant to this section and shall purchase service credit relating to a refunded member contribution account and noncovered employment pursuant to this part 5; except that purchases by DPS members that are ongoing as of January 1, 2010, shall be governed by section 24-51-1705.

Source: L. 87: Entire article R&RE, p. 1057, § 1, effective July 1. **L. 95:** (1) amended, p. 1105, § 42, effective May 31; (2) to (4) amended, p. 263, § 3, effective July 1. **L. 2009:** (6) added, (SB 09-282), ch. 288, p. 1344 § 26, effective January 1, 2010. **L. 2010:** (1) amended, (SB 10-001), ch. 2, p. 11, § 10, effective January 1, 2011.

Editor's note: This section is similar to former §§ 24-51-101, 24-51-200.5, and 24-51-215 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-502. Purchased service credit. (1) A member may qualify earlier for service retirement, reduced service retirement, or increased benefits through the purchase of additional service credit.

(2) Service credit purchases are limited to those specified in this part 5.

(3) Service credit purchased pursuant to this part 5 by members who were members, inactive members, or retirees on December 31, 2006, shall be subject to the benefit provisions in effect for the existing member contribution account. Service credit purchased pursuant to this part 5 by members who were not members, inactive members, or retirees on December 31, 2006,

shall be subject to the benefit provisions in effect for such member at the time of the initiation of payment of the purchase.

Source: L. 87: Entire article R&RE, p. 1057, § 1, effective July 1. **L. 2006:** (3) added, p. 1181, § 10, effective May 25.

Editor's note: This section is similar to former §§ 24-51-1202 and 24-51-1203 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-503. Purchase of service credit relating to a refunded member contribution account. (1) Except as otherwise provided in section 24-51-318, the service credit forfeited with a refund pursuant to the provisions of section 24-51-405 may be purchased upon the former member's resumption of membership and after completion of one year of earned service credit by such member.

(2) For members who were members, inactive members, or retirees on December 31, 2006, and for DPS members, the cost to purchase the forfeited service credit shall be the amount refunded plus interest accrued from the date of refund to completion of purchase.

(3) Repealed.

(4) For members who were not members, inactive members, or retirees on December 31, 2006, the cost to purchase the forfeited service credit shall be the amount refunded, plus interest accrued from the date of refund to completion of purchase, plus an amount equal to one percent of the member's highest average salary for each month or partial month of service credit to be purchased. The highest average salary shall be calculated either based on the salary currently reflected in the member account or by assuming the member's account has been credited with the service credit and salary associated with the forfeited service credit which is the subject of the purchase, whichever is higher. The one percent of highest average salary for each month or partial month of service credit purchased shall be allocated to the annual increase reserve pursuant to part 10 of this article. This subsection (4) shall not apply to DPS members.

Source: L. 87: Entire article R&RE, p. 1057, § 1, effective July 1. **L. 88:** (1) amended, p. 968, § 3, effective April 28. **L. 95:** (1) amended, p. 554, § 5, effective July 1; (3) repealed, p. 263, § 4, effective July 1. **L. 2006:** (2) amended and (4) added, p. 1181, § 11, effective May 25. **L. 2009:** (2) and (4) amended, (SB 09-282), ch. 288, p. 1344, § 27, effective January 1, 2010.

Editor's note: This section is similar to former § 24-51-110 as it existed prior to 1987.

24-51-504. Purchase of service credit relating to a paid sabbatical leave. (1) The portion of service credit not earned during a paid sabbatical leave granted after July 1, 1966, may be purchased if the member makes member contributions on the difference between the partial salary paid and the salary which would have been paid if the paid sabbatical leave had not been taken.

(2) Such member contributions made pursuant to the provisions of subsection (1) of this section may be made concurrently with member contributions on the partial salary paid for such sabbatical leave or after the sabbatical leave has ended at the applicable rate of member

contributions pursuant to section 24-51-401 (1.7), plus interest from the date the sabbatical leave began until such purchase is complete.

Source: L. 87: Entire article R&RE, p. 1057, § 1, effective July 1. **L. 2018:** (2) amended, (SB 18-200), ch. 370, p. 2247, § 13, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-505. Purchase of service credit relating to noncovered employment. (1) Service credit may be purchased for any period of previous employment with any public or private employer in the United States, its territories, or any foreign country subject to the following conditions:

(a) If the service credit to be purchased is for noncovered employment with an employer affiliated with the association, the member must have one year of earned service credit with the association at the time of the purchase. If the service credit to be purchased is for previous employment with a nonaffiliated employer, the member must have one year of earned service credit with the association at the time of the purchase; except that, if the previous employment for which the service credit is to be purchased is nonqualified service, as defined in section 415 (n)(3)(C) of the federal "Internal Revenue Code of 1986", as amended, and the member first became a member of the association on or after January 1, 1999, the member must have five years of earned service credit with the association at the time of the purchase.

(b) The member must provide documentation of the dates of employment and a record of salary received.

(c) The member must provide certification from any retirement program covering such employment that the service credit to be purchased has not vested with that program, except to the extent otherwise required by federal law.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), one year of service credit may be purchased for each year of noncovered employment determined pursuant to the provisions of section 24-51-501 (2) to (4) applicable to earned service credit.

(b) Members who first became members on or after January 1, 1999, may purchase no more than five years of service credit for noncovered employment that is nonqualified service, as defined in section 415 (n)(3)(C) of the federal "Internal Revenue Code of 1986", as amended.

(c) Members who initiate a purchase on or after November 1, 2003, may not purchase service credit that would cause the total years of noncovered service purchased during their membership to exceed ten years. This limit shall not apply to members who provide all required documentation of previous service to the association by October 31, 2003, together with application to purchase the service if the purchase is successfully completed pursuant to the service credit purchase agreement resulting from said application.

(d) Members employed by a public entity affiliated with the association pursuant to section 24-51-309 may purchase service credit for years employed by the entity without limit, if the purchase is completed before the member terminates employment with the entity, and any such purchase for years employed by the entity in excess of ten years is completed or installment payments initiated within three years after the date the employer affiliates with the association or November 1, 2006, whichever is later.

(3) The cost to purchase service credit for noncovered employment shall be determined by the board and shall be sufficient to pay the actuarial liability associated with the purchase.

(4) (Deleted by amendment, L. 95, p. 263, § 5, effective July 1, 1995.)

(5) Repealed.

(6) Service credit purchased pursuant to the provisions of this section for periods of nonmembership shall not be credited toward the earned service credit requirement for disability retirement benefits as provided for in part 7 of this article or the earned service credit requirement for survivor benefit coverage as provided for in part 9 of this article.

(7) A portion of the amount paid by a member to purchase service credit related to noncovered employment shall be transferred to the health care trust fund on the effective date of the member's retirement or, in case of death prior to retirement, on the effective date of the survivor benefit. The amount transferred shall be one and two one-hundredths percent of the member's highest average salary at the time of the purchase, with interest at the rate specified in section 24-51-101 (28)(a).

Source: L. 87: Entire article R&RE, p. 1057, § 1, effective July 1. **L. 89:** (1) R&RE and (2) and (3) amended, p. 1072, §§ 1, 2, effective April 19. **L. 92:** (4) and (5) amended, p. 1108, § 1, effective May 14; (4) amended and (5) repealed, p. 1134, §§ 2, 3, effective July 1. **L. 95:** (1)(b), (1)(c), (2), and (4) amended, p. 263, § 5, effective July 1. **L. 97:** (1)(b) amended, p. 65, § 7, effective July 1. **L. 99:** (1)(a) amended, p. 6, § 1 , effective February 19. **L. 2003:** IP(1) amended and (2)(c), (2)(d), and (7) added, p. 2608, §§ 4, 5, effective November 1. **L. 2006:** (3) and (7) amended, p. 1181, § 12, effective May 25.

Editor's note: (1) This section is similar to former §§ 24-51-1202 and 24-51-1203 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to subsections (4) and (5) by House Bill 92-1205 and House Bill 92-1335 were harmonized.

24-51-506. Payments for purchased service credit. (1) Service credit purchases may be made by a lump-sum payment, by installment payments, by a trustee-to-trustee transfer or a direct rollover of an eligible rollover distribution from a plan described in section 402 (c)(8)(B)(iii) to (vi) of the federal "Internal Revenue Code of 1986", as amended, including but not limited to the voluntary investment program established pursuant to part 14 of this article and the deferred compensation plan established pursuant to part 16 of this article, or by a rollover of a distribution from an individual retirement account or annuity described in section 408 (a) or 408 (b) of such code that is eligible to be rolled over and would otherwise be included in gross income. Service credit purchases shall be initiated and payment received in full during membership.

(2) Installment payments for service credit purchases are subject to the following provisions:

(a) Repealed.

(b) The first installment payment shall be paid to the association on the date required by the service credit purchase agreement, and all subsequent payments are due on the tenth calendar day of each month thereafter. Failure to make timely installment payments shall cause the

service credit purchase agreement to be canceled, and all payments received will be returned to the member.

(c) Purchased service credit shall be credited to the member upon completion of all installment payments due.

(3) Installment payments and interest shall be credited to the member contribution account. After installment payments are completed, they may not be withdrawn except with a refund pursuant to the provisions of section 24-51-405.

(4) Upon the death of a member prior to completion of the service credit purchase, any installment payments made up to the date of death shall be refunded to the person eligible to receive survivor benefits, or a single payment shall be made to such person.

(5) Any moneys a member pays for the purchase of service credit shall qualify for income tax deferral to the extent allowed by federal law.

Source: L. 87: Entire article R&RE, p. 1058, § 1, effective July 1. **L. 89:** (5) amended, p. 1073, § 3, effective April 19. **L. 92:** (1) amended, p. 1108, § 2, effective May 14. **L. 95:** (2)(a) repealed, p. 264, § 6, effective July 1; (3) amended, p. 554, § 6, effective July 1. **L. 97:** (1) amended, p. 65, § 8, effective July 1. **L. 2002:** (1) amended, p. 138, § 2, effective March 27. **L. 2009:** (1) amended, (SB 09-066), ch. 73, p. 256, § 18, effective March 31.

Editor's note: This section is similar to former §§ 24-51-1202 and 24-51-1203 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-507. Uniformed service credit. (1) A member shall be granted additional service credit for uniformed service, as defined for reemployment right purposes under federal law, if:

(a) Such member had membership in the association at the time the uniformed service began;

(b) Such member was discharged from uniformed service and returned from the leave of absence for uniformed service to membership;

(c) The period of uniformed service is verified and is not already covered by association service credit upon return from uniformed service to membership; and

(d) All service credit forfeited by a refund pursuant to the provisions of section 24-51-405 is purchased.

(2) Uniformed service credit shall be limited to a maximum of five years.

(3) Death or any disability arising from uniformed service shall be excluded as a basis for disability retirement benefits or survivor benefits pursuant to the plan.

(4) The provisions of this section shall not apply to DPS members.

Source: L. 87: Entire article R&RE, p. 1059, § 1, effective July 1. **L. 95:** Entire section amended, p. 264, § 7, effective July 1. **L. 2009:** (4) added, (SB 09-282), ch. 288, p. 1344, § 28, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-113, 24-51-124, and 24-51-216 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-508. Leave of absence for uniformed service. An employee who is on a leave of absence for uniformed service at the time his or her employer becomes affiliated with the association shall be entitled to service credit as provided for in section 24-51-507 upon becoming a member after returning to such employment.

Source: L. 87: Entire article R&RE, p. 1059, § 1, effective July 1. **L. 95:** Entire section amended, p. 265, § 8, effective July 1.

Editor's note: This section is similar to former § 24-51-216 as it existed prior to 1987.

24-51-509. Combining service credit. Service credit earned by a member during the most recent period of membership shall be combined with the service credit associated with the existing member contribution account of such member. Notwithstanding the provisions of this section, members exercising portability between the Denver public schools division and other association divisions are governed by the provisions of section 24-51-1747, retirees suspending retirement or reduced service retirement benefits are governed by section 24-51-1103 (1), and DPS retirees suspending retirement benefits are governed by section 24-51-1726.5.

Source: L. 87: Entire article R&RE, p. 1059, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1344, § 29, effective January 1, 2010. **L. 2010:** Entire section amended, (SB 10-001), ch. 2, p. 11, § 11, effective January 1, 2011.

Editor's note: This section is similar to former §§ 24-51-1110, 24-51-128, and 24-51-215 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

PART 6

SERVICE RETIREMENT

24-51-601. Retirement benefit reserve. A retirement benefit reserve is hereby created to provide retirement benefits to retirees and cobeneficiaries.

Source: L. 87: Entire article R&RE, p. 1060, § 1, effective July 1.

Editor's note: This section is similar to former § 24-51-106 as it existed prior to 1987.

Cross references: For retirement of supreme court justices, other than under this article, see § 13-2-115; for retirement age of justices or judges, see § 23 of art. VI, S.A. Const.

24-51-601.5. Legislative declaration. (Repealed)

Source: L. 87: Entire section added, p. 1096, § 1, effective July 1. **L. 88:** (2) added by revision, p. 963, §§ 20(1), 21.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 1, 1990. (See L. 88, p. 963.)

24-51-602. Service retirement eligibility. (1) (a) Members, except state troopers, who have five years of service credit as of January 1, 2011, and who have met the age and service credit requirements stated in the following table shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603 (1)(a), (2), and (3):

TABLE B
SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)	Service Credit Requirement (years)
50	30
60	20
65	5

(a.5) Notwithstanding paragraph (a) of this subsection (1), any person except a state trooper who had five years of service credit as of January 1, 2011, and who was not a member, inactive member, or retiree on June 30, 2005, but was a member, inactive member, or retiree on December 31, 2006, shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603 (1)(a), (2), and (3) if the member has met the age and service credit requirements stated in the following table:

TABLE B.05
SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)	Service Credit Requirement (years)
Any Age	35
55	30
60	20
65	5

(a.7) Notwithstanding paragraphs (a) and (a.5) of this subsection (1), any person except a state trooper who was not a member, inactive member, or retiree on December 31, 2006, or who was a member, inactive member, or retiree on December 31, 2006, but as of January 1, 2011, did not have five years of service credit, or who is a DPS member with less than five years of service credit as of January 1, 2011, shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603 (1)(a), (2), and (3), if the member has met the age and service credit requirements stated in the following table:

TABLE B.07

SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)	Service Credit Requirement (years)
Any Age	35
55	30
60	25
65	5

(b) State troopers who have met the age and service credit requirements stated in the following table shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603 (1) and (3):

TABLE B.1
SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)	Service Credit Requirement (years)
Any Age	30
50	25
55	20
65	5

(c) Members who were members, inactive members, or retirees on December 31, 2006, who had five years of service credit as of January 1, 2011, and who are fifty-five years of age or older shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603, without reduction pursuant to section 24-51-604, if they have at least five years of service credit and if the number of years of their age plus the number of years of their service credit equals eighty years or more.

(d) Members who were not members, inactive members, or retirees on December 31, 2006, but who were members, inactive members, or retirees on December 31, 2010, or members who were members, inactive members, or retirees on December 31, 2006, but as of January 1, 2011, did not have five years of service credit, or DPS members with less than five years of service credit as of January 1, 2011, and who are fifty-five years of age or older shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603, without reduction pursuant to section 24-51-604, if they have at least five years of service credit and if the number of years of their age plus the number of years of their service credit equals eighty-five years or more.

(1.5) (a) Members, except state troopers, who were not members, inactive members, or retirees on December 31, 2010, but who were members, inactive members, or retirees on December 31, 2016, and who have met the age and service requirements stated in the following table shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603:

TABLE B.2

SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)	Service Credit Requirement (years)
Any Age	35
58	30
65	5

(b) Members who are eligible for a benefit pursuant to this subsection (1.5) and who are fifty-eight years of age or older shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603, without reduction pursuant to section 24-51-604, if they have at least five years of service credit and if the number of years of their age plus the number of years of their service credit equals eighty-eight years or more.

(1.7) (a) Members, except state troopers, who were not members, inactive members, or retirees on December 31, 2016, but who were members, inactive members, or retirees on December 31, 2019, who have met the age and service requirements stated in the following table and who are not eligible for service retirement benefits pursuant to subsection (1.8) of this section shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603:

TABLE B.3
SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)	Service Credit Requirement (years)
Any Age	35
60	30
65	5

(b) Members who are eligible for a benefit pursuant to this subsection (1.7) and who are sixty years of age or older shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603, without reduction pursuant to section 24-51-604, if they have at least five years of service credit and if the number of years of their age plus the number of years of their service credit equals ninety years or more.

(1.8) (a) Members of the school division or Denver public schools division who were not members, inactive members, or retirees on December 31, 2016, but who were members, inactive members, or retirees on December 31, 2019, who have met the age and service requirements stated in the following table shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603; except that at least the most recent ten years of service credit used in meeting the requirements of the table below must be earned in the school or Denver public schools divisions in order for the member to be eligible pursuant to this subsection (1.8)(a):

TABLE B.4
SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)	Service Credit Requirement (years)
Any Age	35
58	30
65	5

(b) Members who are eligible for a benefit pursuant to this subsection (1.8) and who are fifty-eight years of age or older shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603, without reduction pursuant to section 24-51-604, if they have at least five years of service credit and if the number of years of their age plus the number of years of their service credit equals eighty-eight years or more.

(1.9) (a) Members, except state troopers, who were not members, inactive members, or retirees on December 31, 2019, who have met the age and service requirements stated in the following table shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603 (1), (2), and (3):

TABLE B.5
SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)	Service Credit Requirement (years)
Any Age	35
64	30
65	5

(b) Members who are eligible for a benefit pursuant to this subsection (1.9) and who are sixty-four years of age or older shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603, without reduction pursuant to section 24-51-604, if they have at least five years of service credit and if the number of years of their age plus the number of years of their service credit equals ninety-four years or more.

(c) This subsection (1.9) does not create a contractual right for any member to the age requirement specified in table B.5 to receive a full service retirement benefit.

(2) (a) State troopers who were not members, inactive members, or retirees on December 31, 2019, who have met the age and service requirements stated in the following table shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603 (1) and (3):

TABLE B.6
SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)	Service Credit Requirement (years)
Any Age	35
55	25
65	5

(b) State troopers who are eligible for a benefit pursuant to this subsection (2) and who are fifty-five years of age or older shall, upon written application and approval of the board, receive service retirement benefits pursuant to the benefit formula set forth in section 24-51-603, without reduction pursuant to section 24-51-604, if they have at least five years of service credit and if the number of years of their age plus the number of years of their service credit equals eighty years or more. This subsection (2) does not create a contractual right for any member to the age requirement specified in table B.6 to receive a full service retirement benefit.

(2.3) Members with less than five years of service credit shall be eligible for service retirement benefits pursuant to section 24-51-605.5 upon reaching sixty-five years of age if contributions were made for sixty months.

(2.5) Members with less than five years of service credit who have not made contributions for sixty months shall be eligible for money purchase retirement benefits calculated pursuant to section 24-51-605.5 (2), upon reaching sixty-five years of age.

(3) Repealed.

(4) (Deleted by amendment, L. 2009, (SB 09-282), ch. 288, p. 1345, § 30, effective January 1, 2010.)

(5) (Deleted by amendment, L. 2010, (SB 10-001), ch. 2, p. 11, § 12, effective January 1, 2011.)

Source: L. 87: Entire article R&RE, p. 1060, § 1, effective July 1; (3) added, p. 1097, § 5, effective July 1. **L. 88:** (3)(c) added by revision, p. 963, §§ 20(1), 21. **L. 89:** (1) amended, p. 1069, § 2, effective July 1. **L. 93:** (1)(b) amended, p. 1785, § 63, effective June 6. **L. 95:** (2) amended and (2.5) added, p. 554, § 7, effective July 1. **L. 98:** (1)(a) amended, p. 914, § 2, effective July 1. **L. 2000:** (1)(c) added, p. 781, § 6, effective June 1. **L. 2004:** (1)(a.5) added, p. 699, § 8, effective July 1, 2005. **L. 2005:** (4) added, p. 528, § 6, effective May 24. **L. 2006:** (1)(a.5) and (1)(c) amended and (1)(a.7) and (1)(d) added, p. 1182, § 13, effective May 25. **L. 2009:** (4) amended and (5) added, (SB 09-282), ch. 288, p. 1345, § 30, effective January 1, 2010. **L. 2010:** (1) and (5) amended and (1.5), (1.7), and (1.8) added, (SB 10-001), ch. 2, p. 11, § 12, effective January 1, 2011. **L. 2018:** (1.7)(a), (1.8)(a), and (2) amended and (1.9) and (2.3) added, (SB 18-200), ch. 370, p. 2247, § 14, effective June 4.

Editor's note: (1) The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Subsection (3)(c) provided for the repeal of subsection (3), effective January 1, 1990. (See L. 88, p. 963.)

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-603. Benefit formula for service retirement. (1) (a) Except as otherwise provided in subsection (2) of this section, effective July 1, 1997, the option 1 benefit or option A benefit, whichever is applicable, for service retirement for members shall be calculated by multiplying the highest average salary by two and one-half percent times each year and fraction of a year of service credit. The following formula shall be used for this calculation:

Highest Average Salary x (.025 x Years and Fraction of a Year).

(b) (Deleted by amendment, L. 92, p. 1134, § 4, effective July 1, 1992.)

(2) (a) (Deleted by amendment, L. 97, p. 773, § 11, effective July 1, 1997.)

(b) Except as otherwise provided in paragraph (c) of this subsection (2), on and after July 1, 1999, members of the judicial division who were members of that division on or before July 1, 1973, shall be eligible to receive an option 1 benefit upon retiring, which shall be calculated by multiplying the highest average salary by four percent times each year and fraction of a year for the first ten years of service credit, and by one and two-thirds percent times each year and fraction of a year in excess of ten years up to sixteen years of service credit, and by one and one-half percent times each year and fraction of a year in excess of sixteen years up to twenty years of service credit, and by two and one-half percent times each year and fraction of a year in excess of twenty years of service credit. The following formula shall be used for this calculation:

Highest Average Salary x [(.04 x Years and Fraction of a Year through 10 Years) + (.0166 x Years and Fraction of a Year over 10 and up to 16 Years) + (.015 x Years and Fraction of a Year over 16 and up to 20 Years) + (.025 x Years and a Fraction of a Year over 20 Years)].

(c) For any member of the judicial division who retires on or after July 1, 1999, and who is eligible to receive a benefit under this subsection (2), the association shall calculate the member's option 1 benefit under either subsection (1) of this section or this subsection (2), whichever results in the greater benefit.

(d) On July 1, 1999, for any member of the judicial division whose benefit became effective prior to July 1, 1999, and who is eligible to receive a benefit under this subsection (2), the association shall calculate the member's option 1 base benefit prospectively for benefit payments payable on or after July 1, 1999, under either subsection (1) of this section or this subsection (2), whichever results in the greater benefit. The association shall provide benefits to all such benefit recipients based upon such recalculated base benefits effective July 1, 1999.

(3) (a) Regardless of total years of service credit, the option 1 benefit or option A benefit, whichever is applicable, calculated pursuant to the provisions of this part 6 shall not exceed an amount equal to one hundred percent of the highest average salary, nor shall the option 1 benefit or option A benefit, whichever is applicable, exceed the maximum permitted under federal income tax law.

(b) (Deleted by amendment, L. 97, p. 773, § 11, effective July 1, 1997.)

(c) Except as provided in subsection (2) of this section, on July 1, 1997, for benefit recipients whose benefits became effective prior to July 1, 1997, the association shall recalculate each recipient's option 1 base benefit as set forth in subsection (1) of this section, prospectively for benefit payments payable on or after July 1, 1997. The association shall provide benefits to all such benefit recipients based upon such recalculated base benefits effective July 1, 1997.

Source: L. 87: Entire article R&RE, p. 1060, § 1, effective July 1; (1) and (2) amended, p. 1098, § 6, effective July 1. **L. 88:** (1) amended and (2) and (3) R&RE, p. 969, 970, §§ 2, 3, effective July 1. **L. 89:** (1) amended, p. 1070, § 3, effective July 1. **L. 92:** (1) and (3) amended, p. 1134, § 4, effective July 1. **L. 95:** (3) amended, p. 265, § 9, effective July 1. **L. 97:** Entire section amended, p. 773, § 11, effective July 1. **L. 99:** (2)(b), (2)(c), and (2)(d) amended, p. 341, § 5, effective July 1. **L. 2010:** IP(1)(a) and (3)(a) amended, (SB 10-001), ch. 2, p. 15, § 13, effective January 1, 2011.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-604. Reduced service retirement eligibility. (1) DPS members with less than five years of service credit as of January 1, 2011, and members who were members, inactive members, or retirees on December 31, 2019, and who have met the age and service credit requirements stated in the following table and who do not meet the requirements of section 24-51-602 shall, upon written application and approval of the board, receive reduced service retirement benefits pursuant to the benefit formula set forth in section 24-51-605:

TABLE C
REDUCED SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)		**Service Credit Requirement (years)**
50		25
50	State Troopers only	20
55		20
60		5

(2) Members who were not members, inactive members, or retirees on December 31, 2019, who have met the age and service credit requirements stated in the following table and who do not meet the requirements of section 24-51-602 shall, upon written application and approval of the board, receive reduced service retirement benefits pursuant to the benefit formula set forth in section 24-51-605:

TABLE C.1
REDUCED SERVICE RETIREMENT ELIGIBILITY

Age Requirement (years)		**Service Credit Requirement (years)**
55		25
55	State Troopers only	20
60		5

Source: L. 87: Entire article R&RE, p. 1060, § 1, effective July 1. **L. 93:** Entire section amended, p. 476, § 1, effective July 1. **L. 2010:** IP amended, (SB 10-001), ch. 2, p. 15, § 14, effective January 1, 2011. **L. 2018:** Entire section amended, (SB 18-200), ch. 370, p. 2249, § 15, effective June 4.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-605. Benefit formula for reduced service retirement. (1) (a) For a member who is a state trooper, who is eligible to retire on and after July 1, 1998, but on or before January 1, 2011, and who retires upon reaching fifty years of age or older but before reaching sixty years of age, a reduced service retirement benefit shall be the option 1 benefit for service retirement, as calculated according to the formula set forth in section 24-51-603, reduced by three percent for each year and a proportional percentage for each fraction of a year from the effective date of reduced service retirement to the date the member would have become eligible for a service retirement pursuant to the provisions of section 24-51-602 (1).

(b) For a member who is not a state trooper, who is eligible to retire on and after July 1, 1998, but on or before January 1, 2011, and who retires upon reaching fifty-five years of age or older but before reaching sixty years of age, a reduced service retirement benefit shall be the option 1 benefit for service retirement, as calculated according to the formula set forth in section 24-51-603, reduced by:

(I) Three percent for each year and a proportional percentage for each fraction of a year from the effective date of reduced service retirement to the date the member would have reached sixty years of age, or the date the member would have become eligible for a service retirement pursuant to the provisions of section 24-51-602 (1), if earlier than sixty years of age; and

(II) Four percent for each year and a proportional percentage for each fraction of a year from the date the member reaches sixty years of age to the date the member would have become eligible for a service retirement pursuant to the provisions of section 24-51-602 (1), if on such date the member would have been older than sixty years of age.

(c) For a member who is not a state trooper, who is eligible to retire on and after July 1, 1998, but on or before January 1, 2011, and who retires upon reaching sixty years of age or older but before reaching sixty-five years of age, a reduced service retirement benefit shall be the option 1 benefit for service retirement, as calculated according to the formula set forth in section 24-51-603, reduced by four percent for each year and a proportional percentage for each fraction of a year from the effective date of reduced service retirement to the date the member would have become eligible for a service retirement pursuant to the provisions of section 24-51-602 (1).

(2) Repealed.

(3) Notwithstanding the provisions of subsection (1) of this section, on and after July 1, 1993, for a member who is not a state trooper, who is eligible for a reduced service retirement benefit as of January 1, 2011, and who retires upon reaching fifty years of age or older but before reaching fifty-five years of age, a reduced service retirement benefit shall be the option 1 benefit

for service retirement, as calculated according to the formula set forth in section 24-51-603, reduced by:

(a) Six percent for each year and a proportional percentage for each fraction of a year from the effective date of reduced service retirement to the date the member would have reached fifty-five years of age, or the date the member would have become eligible for a service retirement pursuant to the provisions of section 24-51-602 (1) if earlier than fifty-five years of age; and

(b) Three percent for each year and a proportional percentage for each fraction of a year from the date the member reaches fifty-five years of age to the date the member would have become eligible for a service retirement pursuant to the provisions of section 24-51-602 (1), if on such date the member would have been older than fifty-five years of age.

(4) For a member, DPS member, or inactive member who is not eligible for a retirement benefit as of January 1, 2011, the following provisions shall apply:

(a) For a member or inactive member who retires prior to reaching eligibility for a full service retirement benefit pursuant to section 24-51-602, a reduced service retirement benefit shall be the option 1 benefit for service retirement, as calculated according to the formula set forth in section 24-51-603, reduced by an actuarially determined percentage to ensure that, as of the effective date of retirement, the benefit is the actuarial equivalent of the service retirement benefit.

(b) For a DPS member who retires prior to reaching eligibility for retirement pursuant to section 24-51-1713 or 24-51-602, whichever is applicable, a retirement with an actuarial reduction shall be the option A benefit as calculated according to the formula set forth in section 24-51-1715 (1)(a)(I) or 24-51-603, whichever is applicable, reduced by an actuarially determined percentage to ensure that the benefit, as of the effective date of retirement, is the actuarial equivalent of the retirement benefit without an actuarial reduction.

Source: L. 87: Entire article R&RE, p. 1061, § 1, effective July 1; (1) amended and (2) repealed, pp. 1098, 1100, §§ 7, 11, effective July 1. **L. 88:** (1) amended, p. 970, § 4, effective July 1. **L. 93:** (3) added, p. 477, § 2, effective July 1. **L. 98:** (1) and (3)(b) amended, p. 915, § 3, effective July 1. **L. 2006:** (1)(b) amended, p. 1183, § 14, effective May 25. **L. 2010:** (1) and IP(3) amended and (4) added, (SB 10-001), ch. 2, p. 16, § 15, effective January 1, 2011.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-605.5. Benefit calculation for money purchase retirement benefit. (1) Members and vested inactive members who have met the age and service credit requirements for eligibility for a service retirement benefit or a reduced service retirement benefit shall, upon written application and approval of the board, receive the greater of:

(a) The retirement benefit calculated pursuant to section 24-51-603 or 24-51-605 for which the member is eligible; or

(b) The money purchase retirement benefit.

(2) The money purchase retirement benefit referred to in paragraph (b) of subsection (1) of this section shall be actuarially determined and shall be based upon the value on the effective

date of retirement of the member contribution account and matching employer contributions. The benefit shall be considered a service retirement benefit for all purposes of this article.

Source: L. 95: Entire section added, p. 555, § 8, effective July 1.

24-51-606. Vested inactive member rights. (1) Any member who was a member, inactive member, or retiree on December 31, 2006, who has earned at least five years of service credit and who terminates membership and does not elect to receive a refund pursuant to the provisions of section 24-51-405 shall be eligible for a benefit to become effective upon reaching the age specified in table B in section 24-51-602 for a service retirement or in table C in section 24-51-604 for a reduced service retirement.

(1.5) Any member who was not a member, inactive member, or retiree on December 31, 2006, who has earned at least five years of service credit and who terminates membership and does not elect to receive a refund pursuant to section 24-51-405 shall be eligible for a benefit to become effective upon written application and approval by the board and upon reaching the age specified in table B.05, B.07, B.1, B.2, B.3, B.4, B.5, or B.6 of section 24-51-602, as applicable, for a service retirement or in table C or C.1 of section 24-51-604 for a reduced service retirement. Notwithstanding the provisions of this subsection (1.5), for such a member who applies for retirement within ninety days after the member attains age and service eligibility, the effective date of retirement shall be the date the member attains such age and service eligibility.

(2) (a) A vested inactive member may make direct payments to the association in lieu of member contributions in order to acquire eligibility for retirement pursuant to the provisions of section 24-51-602 or 24-51-604. Said payments do not purchase service credit for benefit calculation purposes pursuant to the provisions of section 24-51-603 or 24-51-605.

(b) Direct payments in lieu of member contributions are calculated at the applicable member contribution rates pursuant to section 24-51-401 (1.7), multiplied by the most recent full-time monthly salary paid for the position previously held by the vested inactive member.

(c) Direct payments may be made by a lump-sum payment or by monthly installments. Lump-sum payments shall not cause the benefit to become payable earlier than the first eligible date for reduced service retirement.

(d) Retroactive lump-sum payments shall include interest assessed from the date of termination of membership until the date on which direct payments begin.

(e) Installment payments, if made, shall be made from the date of termination of membership until the first date of eligibility for service retirement or reduced service retirement, as elected by the vested inactive member.

(f) Installment payments shall become due without notice on the tenth calendar day of each month. Failure to make timely installment payments shall cause all such payments to be refunded to the vested inactive member, and eligibility for retirement which was to be acquired by such payments shall be negated.

(g) Upon the death of a vested inactive member prior to the conclusion of direct payments in lieu of member contributions as authorized pursuant to the provisions of this section and prior to retirement, payments made up to the date of death shall be refunded to the person eligible to receive survivor benefits.

(h) Eligibility to make direct payments in lieu of member contributions shall be limited to vested inactive members who terminate membership before July 1, 2003, and make payments as specified in this section.

Source: L. 87: Entire article R&RE, p. 1061, § 1, effective July 1. **L. 95:** (1) amended, p. 555, § 9, effective July 1. **L. 2003:** (2)(h) added, p. 2609, § 6, effective July 1. **L. 2006:** (1) amended and (1.5) added, p. 1183, § 15, effective May 25. **L. 2018:** (1.5) and (2)(b) amended, (SB 18-200), ch. 370, p. 2250, § 16, effective June 4.

Editor's note: This section is similar to former §§ 24-51-109 and 24-51-611 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-606.5. Indexation of benefits for vested inactive members. A vested inactive member who was a member or inactive member on December 31, 2006, who has reached the age and service requirements for a service or reduced service retirement benefit on or before January 1, 2011, and who has at least twenty-five years of service credit prior to terminating membership shall be eligible, upon retirement, for a benefit, as calculated pursuant to the provisions of section 24-51-603 or 24-51-605, which has been increased by the annual increase specified in sections 24-51-1001 to 24-51-1003, from the date of termination of membership or July 1, 1993, whichever is later, to the effective date of retirement.

Source: L. 93: Entire section added, p. 477, § 3, effective July 1. **L. 95:** Entire section amended, p. 555, § 10, effective July 1. **L. 2006:** Entire section amended, p. 1184, § 16, effective May 25. **L. 2010:** Entire section amended, (SB 10-001), ch. 2, p. 17, § 16, effective January 1, 2011.

24-51-607. Benefit formula for service retirement or reduced service retirement involving direct payments. A benefit for service retirement or reduced service retirement involving direct payments made by a vested inactive member shall be the option 1 benefit for service retirement, as calculated according to the formula set forth in section 24-51-603 or 24-51-605; except that the amount of the benefit shall then be multiplied by the ratio of service credit to the service credit required for eligibility as set forth in table B in section 24-51-602 or table C in section 24-51-604, whichever is applicable.

Source: L. 87: Entire article R&RE, p. 1062, § 1, effective July 1. **L. 88:** Entire section amended, p. 970, § 5, effective July 1.

Editor's note: This section is similar to former §§ 24-51-109 and 24-51-611 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For retirement of supreme court justices, other than under this article, see § 13-2-115; for retirement age for justices or judges, see § 23 of art. VI, S.A. Const.

24-51-608. Retirement from the judicial division. (Repealed)

Source: L. 87: Entire article R&RE, p. 1062, § 1, effective July 1. **L. 88:** Entire section repealed, p. 971, § 10, effective July 1.

Editor's note: Before its repeal, this section was similar to former § 24-51-607 as it existed prior to 1987.

24-51-609. Service credit exceeding twenty years. (1) Service credit in excess of twenty years accrued on or before July 1, 1969, shall be included in the computation of the option 1 initial benefit for service retirement pursuant to the provisions of section 24-51-603 or 24-51-605, whichever is applicable.

(2) On or before July 1, 1993, the association shall recalculate the initial benefit for all benefit recipients whose benefits became effective prior to July 1, 1992, pursuant to the benefit formula specified by the provisions of section 24-51-603 or 24-51-605, whichever is applicable. The association shall provide benefits to all such benefit recipients based upon such recalculated initial benefits effective from July 1, 1992.

Source: L. 87: Entire article R&RE, p. 1063, § 1, effective July 1. **L. 92:** Entire section amended, p. 1135, § 5, effective July 1.

Editor's note: This section is similar to former § 24-51-139 as it existed prior to 1987.

24-51-610. Division from which a member retires. The division in which the retiree had membership immediately preceding the date of retirement shall be the division from which the member retires.

Source: L. 87: Entire article R&RE, p. 1063, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1345, § 31, effective January 1, 2010.

24-51-611. Maximum limit under federal law. Notwithstanding any other provision of this article, no benefit paid to any benefit recipient shall exceed the maximum permitted for qualified retirement plans pursuant to section 401 (a)(17) or section 415 of the federal "Internal Revenue Code of 1986", as amended, including but not limited to all cost-of-living adjustments permitted by such code. Any changes in the maximum compensation limit under said section 401 (a)(17) shall be applied prospectively. No contribution made pursuant to part 5 of this article or to section 24-51-606 (2) shall cause the limits in section 415 (n) of such code to be exceeded.

Source: L. 90: Entire section added, p. 1248, § 7, effective April 5. **L. 95:** Entire section amended, p. 265, § 10, effective December 31. **L. 97:** Entire section amended, p. 65, § 9, effective July 1. **L. 99:** Entire section amended, p. 7, § 2, effective February 19. **L. 2002:** Entire section amended, p. 139, § 3, effective March 27.

24-51-612. Required benefit commencement date. (1) Payment of retirement benefits, for vested inactive members and deferred DPS members who are eligible to receive retirement benefits and who have not applied for such pursuant to the provisions of section 24-51-602, shall commence no later than April 1 of the calendar year following the calendar year in which the vested inactive member or deferred DPS member attains seventy and one-half years of age.

(2) Payment of retirement benefits, for members and DPS members who are eligible to receive retirement benefits and who have not applied for such pursuant to the provisions of section 24-51-602, and who continue membership after attaining seventy and one-half years of age, shall commence on the effective date of retirement.

Source: L. 90: Entire section added, p. 1248, § 7, effective April 5. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1345, § 32, effective January 1, 2010.

24-51-613. Transfer mechanism between PERA and the Denver public schools employees' pension and benefit association. (Repealed)

Source: L. 93: Entire section added, p. 315, § 2, effective April 7.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 1, 1994. (See L. 93, p. 315.)

24-51-614. Employee retirement benefit study. (1) (a) The state auditor, with the concurrence of the association, shall retain a nationally recognized and enrolled actuarial firm with experience in public sector pension plans to conduct the study described in subsection (2) of this section. The state auditor shall administer a competitive source selection process pursuant to the "Procurement Code", articles 101 to 112 of this title 24, to solicit independent third-party firms with the necessary credentials to bid for performance of the study. The state auditor shall select a firm that has a history of unbiased, peer-reviewed results and shall not select a firm that has a known conflict of interest that may interfere with its ability to produce an objective report. A firm that responds to the solicitation shall disclose any association that it had or currently has with a biased group. If, following good faith efforts, the state auditor and the association do not concur regarding the selection of the firm by October 1, 2024, the state auditor shall retain the firm preferred by the state auditor. The state auditor shall enter into a contract with the selected firm by October 31, 2024.

(b) The state auditor and the association shall confer with the office of state planning and budgeting to determine the scope of the study required by subsection (2) of this section.

(2) (a) The firm selected pursuant to subsection (1) of this section to perform the study required by this subsection (2) shall perform a comprehensive study comparing the cost and effectiveness of the current hybrid defined benefit plan design established in this article 51 to alternative plan designs in the public and private sector. The study must include the following:

(I) A comparison of the benefits, cost, and portability of benefits provided by the association in its current plan design with the benefits, cost, and portability of benefits provided by alternative plan designs;

(II) A comparison of the current plan design to other statewide plans, private sector retirement plans, and any other appropriate plans as determined by the association and the office of the state auditor;

(III) An analysis of the cost to employees and employers that would be incurred by transitioning from the current plan design administered by the association to alternative plan designs;

(IV) The impact that a change from the current plan design to alternative plan designs would have on expected retirement benefits for current and future retirees of the association;

(V) The incremental impacts that a change from the current plan design to alternative plan designs would have on the association's ability to fully amortize the unfunded actuarial accrued liability of each division of the association; and

(VI) The impact that a change from the current plan design to alternative plan designs would have on employers, members, and taxpayers relative to the plan design currently specified in law.

(b) The firm selected pursuant to subsection (1) of this section shall include in the study conducted pursuant to subsection (2)(a) of this section an analysis of the following aspects of the defined benefit plan and the defined contribution plan established by this article 51 and administered by the association:

(I) A determination of the ways in which members with different job classifications and varying salaries benefit differently from the defined benefit plan versus the defined contribution plan;

(II) A determination of whether the defined benefit plan or the defined contribution plan is more advantageous for state employees and retirees; and

(III) A determination of the extent to which the defined benefit plan, as opposed to the defined contribution plan, entices individuals to work for state government instead of working in the private sector or for another governmental entity.

(c) On or before August 15, 2025, the association and the office of the state auditor shall deliver a report detailing the findings of the study conducted pursuant to this subsection (2) to the office of the governor, the joint budget committee, the legislative audit committee, and the finance committees of the senate and the house of representatives, or any successor committees.

(3) For purposes of the study required by subsection (2) of this section, the association shall provide access to anonymized member information and data under a confidentiality agreement with the retained actuarial firm.

(4) The state auditor shall notify the joint budget committee of the general assembly if the state auditor determines that the amount appropriated by the general assembly for the purpose of the study required by subsection (2) of this section is insufficient to procure a vendor to complete the scope of the work required.

Source: L. 2001: Entire section added, p. 785, § 4, effective June 1. **L. 2004:** (3) repealed, p. 622, § 1, effective August 4. **L. 2014:** (4) to (8) added, (SB 14-214), ch. 322, p. 1405, § 2, effective June 4. **L. 2017:** Entire section repealed, (SB 17-294), ch. 264, p. 1403, § 75, effective May 25. **L. 2024:** Entire section RC&RE, (HB 24-1427), ch. 88, p. 286, § 1, effective April 18.

24-51-615. Distribution of benefits. Distribution of benefits from each division trust fund shall be made in accordance with section 401 (a)(9) of the federal "Internal Revenue Code of 1986", as amended, including the incidental death benefit requirement in section 401 (a)(9)(G), and the applicable treasury regulations and internal revenue service rulings and other interpretations issued thereunder, including treasury regulations sections 1.401 (a)(9)-2 to 1.401 (a)(9)-9. The provisions of this section shall override any distribution options that are inconsistent with section 401 (a)(9) of the federal "Internal Revenue Code of 1986", as amended, to the extent that those distribution options are not grandfathered under treasury regulations section 1.401 (a)(9)-6.

Source: L. 2006: Entire section added, p. 1184, § 17, effective May 25.

PART 7

SHORT-TERM DISABILITY AND DISABILITY RETIREMENT

Editor's note: This article was repealed and reenacted in 1987, and this part 7 was subsequently repealed and reenacted in 1997, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 7 prior to 1997, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the article heading. Former S.A.R.S. section numbers prior to 1997 are shown in editor's notes following those sections that were relocated.

24-51-701. Eligibility to apply for short-term disability program payments and disability retirement. (1) Except as otherwise provided for in this section, any member shall be eligible to apply for disability retirement benefits or short-term disability program payments if:

(a) Application is received by the association within ninety days after the date of termination of employment;

(b) The member contribution account has not been refunded;

(c) The member has at least five years of earned service credit, of which at least six months have been earned during the most recent period of membership;

(d) The member is not eligible for service retirement pursuant to the provisions of section 24-51-602.

(2) State troopers shall be eligible to apply for disability retirement or short-term disability program payments immediately upon becoming state troopers if the disability resulted from injuries sustained during the performance of duties as a state trooper.

(3) Members of the judicial division shall be eligible to apply for disability retirement or short-term disability program payments without regard to the amount of earned service credit or to eligibility for service retirement.

(4) Applications for disability for DPS members filed on or before December 31, 2009, shall be governed by the disability provisions of section 24-51-1734, and on or after January 1, 2010, disability shall be governed by the provisions of this part 7. Persons receiving disability benefits under the DPS plan as of December 31, 2009, shall continue to receive such benefits in accordance with the DPS plan.

Source: L. 97: Entire part R&RE, p. 775, § 12, effective January 1, 1999. **L. 2009:** (4) added, (SB 09-282), ch. 288, p. 1345, § 33, effective January 1, 2010.

Editor's note: This section is similar to former § 24-51-701 as it existed prior to 1997.

24-51-702. Disability programs. (1) The association shall provide for two types of disability programs for disabilities incurred on or before termination of employment:

(a) **Short-term disability.** A member who is found by the disability program administrator to be mentally or physically incapacitated from performance of the essential functions of the member's job with reasonable accommodation as required by federal law, but who is not totally and permanently incapacitated from regular and substantial gainful employment, shall be provided with reasonable income replacement, or rehabilitation or retraining services, or a combination thereof, under a program provided by the disability program administrator for a period specified in the rules adopted by the board. The cost of the program shall be funded by the association.

(b) **Disability retirement.** A member who is found by the disability program administrator to be totally and permanently mentally or physically incapacitated from regular and substantial gainful employment as of the date of termination of employment shall be placed on disability retirement, and the association shall provide to such person a benefit as calculated in section 24-51-704. The benefit shall be paid directly by the association. A member of the judicial division shall also be eligible for disability retirement upon the entry of an order of retirement pursuant to section 23 of article VI of the state constitution for a disability interfering with the performance of the member's duties that is, or is likely to become, of a permanent nature.

Source: L. 97: Entire part R&RE, p. 776, § 12, effective January 1, 1999.

Editor's note: This section is similar to former §§ 24-51-703, 24-51-704, and 24-51-705 as they existed prior to 1997.

24-51-703. Disability program design and administration. The association shall contract with a disability program administrator to determine disability, to provide short-term disability insurance coverage, and to administer the short-term disability program. A contract shall conform to rules adopted by the board, which rules shall include but not be limited to standards relating to the determination of disability; the independent review, by a qualified panel, of determinations made by the disability program administrator and challenged by the applicant; requirements for medical or psychological examinations; the adjustment or termination of payments based on the mental or physical condition of the program participant; the change of status of a program participant from short-term disability to disability retirement or from disability retirement to short-term disability based on the mental or physical condition, education, training, and experience of the program participant; and the monitoring of the disability program administrator's performance by the association.

Source: L. 97: Entire part R&RE, p. 776, § 12, effective January 1, 1999.

Editor's note: This section is similar to former §§ 24-51-702 and 24-51-703 as they existed prior to 1997.

24-51-704. Calculation of disability retirement benefit. Except as otherwise provided in this section, the disability retirement benefit shall be equal to the amount of the benefit payable pursuant to the provisions of section 24-51-603 which would have been payable upon reaching sixty-five years of age. Such calculation shall include earned and purchased service credit accumulated up to the date of disability plus projected service credit up to sixty-five years of age but not to exceed a total of twenty years of service credit. In no case shall the amount of any disability retirement benefit exceed fifty percent of the highest average salary of said member unless the member has earned and purchased service credit in excess of twenty years which entitles the member to receive the benefit provided pursuant to the provisions of section 24-51-603, based on the actual service credit of said member.

Source: L. 97: Entire part R&RE, p. 777, § 12, effective January 1, 1999.

Editor's note: This section is similar to former § 24-51-704 as it existed prior to 1997.

24-51-705. Ineligibility. If any disability is the direct result of any intentionally self-inflicted injury, the member shall not be eligible for short-term program participation or disability retirement benefits.

Source: L. 97: Entire part R&RE, p. 777, § 12, effective January 1, 1999.

Editor's note: This section is similar to former § 24-51-710 as it existed prior to 1997.

24-51-706. Disability determination for members of the judicial division. The earned service credit of a member of the judicial division who retires due to disability shall include such service credit as would have been earned had membership continued to the end of the term of office which the member was serving at the time of termination of employment.

Source: L. 97: Entire part R&RE, p. 777, § 12, effective January 1, 1999.

Editor's note: This section is similar to former § 24-51-711 as it existed prior to 1997.

24-51-707. Continuation of disability retirement benefits - reduction based on earned income - applications made prior to January 1, 1999. (1) For any disability retiree whose disability retirement date is on or after July 1, 1988, and whose application for disability retirement was received by the association prior to January 1, 1999, the amount of the annual disability benefit shall be reduced by one-third of the amount by which the income earned by such retiree in the preceding calendar year plus the amount of the initial benefit multiplied by twelve exceeds the highest average salary of such retiree multiplied by twelve. The following formula shall be used to determine said reduction:

[Earned Income + (Initial Benefit x 12) - (Highest Average Salary x 12)] x 1/3

(2) The provisions of this section shall apply from the date of disability retirement or January 1, 1989, whichever is later, to the date the retiree meets the requirements for service retirement set forth in section 24-51-602 (1). Unless such disability benefit has been terminated, the provisions of this section shall apply regardless of whether the retiree is disabled or has recovered from such disability.

Source: L. 97: Entire part R&RE, p. 777, § 12, effective January 1, 1999.

Editor's note: This section is similar to former § 24-51-707 as it existed prior to 1997.

24-51-708. Division from which a disabled member retires. The division in which the retiree had membership immediately preceding the date of retirement shall be the division from which the member retires.

Source: L. 97: Entire part R&RE, p. 778, § 12, effective January 1, 1999. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1346, § 34, effective January 1, 2010.

Editor's note: This section is similar to former § 24-51-712 as it existed prior to 1997.

PART 8

BENEFIT OPTIONS

24-51-801. Benefit options. (1) Any member applying for service retirement or disability retirement may elect to receive a monthly retirement benefit paid in accordance with any one of the following options:

(a) **Option 1.** A single life benefit payable for the life of the retiree and, upon the death of the retiree, the benefit ends. If, upon the death of the retiree, the total amount of benefits that have been paid to the retiree does not exceed the amount of moneys credited to the member contribution account, an amount equal to twice the amount of any remaining moneys shall be paid to the named beneficiary of the retiree or, if no named beneficiary exists, to the estate of the retiree.

(b) **Option 2.** A joint life benefit payable for the life of the retiree and, upon the death of the retiree, one-half of the benefit becomes payable to the cobeneficiary of said retiree for life. Upon the death of the cobeneficiary prior to the death of the retiree, an option 1 benefit shall become payable to the retiree. If, upon the death of both the retiree and the cobeneficiary, the total amount of benefits that have been paid to them does not exceed the amount of moneys credited to the member contribution account, an amount equal to twice the amount of any remaining moneys shall be paid to the named beneficiary of the retiree or, if no named beneficiary exists, to the estate of the person who survived the death of the other.

(c) **Option 3.** A joint life benefit payable for the life of the retiree and, upon the death of the retiree, the same benefit becomes payable to the cobeneficiary of the retiree for life. Upon the death of the cobeneficiary prior to the death of the retiree, an option 1 benefit shall become payable to the retiree. If, upon the death of both the retiree and the cobeneficiary, the total amount of benefits that have been paid to them does not exceed the amount of moneys credited

to the member contribution account, an amount equal to twice the amount of any remaining moneys shall be paid to the named beneficiary of the retiree or, if no named beneficiary exists, to the estate of the person who survived the death of the other.

(d) Repealed.

(2) Options 2 and 3 shall be the actuarial equivalent of option 1.

(3) If an option is not elected by a member prior to the effective date of retirement, the member shall be deemed to have elected option 1.

(4) Benefits calculated pursuant to part 17 of this article shall be subject to the benefit payment options provided in sections 24-51-1716 to 24-51-1725.

(5) (a) Upon the termination of a supplemental needs trust due to the death of the beneficiary of such trust prior to the death of the retiree, an option 1 benefit becomes payable to the retiree.

(b) If a supplemental needs trust is determined to be invalid or is terminated during the life of the retiree, the beneficiary that was named in the trust is the cobeneficiary.

(c) If a supplemental needs trust is not established before or within ninety days after the death of the retiree, is determined to be invalid, or is terminated on or after the death of the retiree, the beneficiary that was named in the trust is the cobeneficiary.

Source: L. 87: Entire article R&RE, p. 1065, § 1, effective July 1. **L. 88:** (1)(b), (1)(c), and (2) amended and (1)(d) repealed, pp. 959, 963, §§ 7, 20 (2), effective July 1. **L. 2003:** (1) amended, p. 2609, § 7, effective June 5. **L. 2009:** (4) added, (SB 09-282), ch. 288, p. 1346, § 35, effective January 1, 2010. **L. 2015:** (5) added, (SB 15-097), ch. 111, p. 326, § 3, effective April 16.

Editor's note: This section is similar to former §§ 24-51-112, 24-51-212, and 24-51-608 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-802. Change in option or cobeneficiary. (1) Except as otherwise provided in this part 8, the election of an option and the designation of a cobeneficiary for options 2 and 3 shall not be changed after sixty days have elapsed from issuance of the initial benefit payment.

(2) The election of an option or the designation of a cobeneficiary may be changed if the retiree returns to membership and thereafter earns one year of service credit; however, a member whose retirement or reduced service retirement benefits are in separate benefit segments pursuant to section 24-51-1103 (1.5) shall elect the same option and designate the same cobeneficiary for all of his or her separate benefit segments.

(3) A retiree who was not married on the effective date of retirement may elect option 2 or 3 upon marriage and designate the spouse as cobeneficiary. If a retiree is married on the effective date of retirement and the spouse on said date subsequently dies, the retiree may elect option 2 or 3 upon remarriage and designate the spouse as cobeneficiary.

(3.5) In any dissolution of marriage action in any district court of the state, the court shall have the jurisdiction to order or allow a retiree who is a petitioner or respondent in such action to change the cobeneficiary that was named by such retiree at retirement.

(3.8) In any dissolution of marriage action in any district court of the state that becomes final on or after July 1, 2003, in which the retiree retired on or after July 1, 1988, and elected to receive an option 2 or 3 benefit and designated his or her spouse as cobeneficiary, the court shall have the jurisdiction to order or allow a retiree who is a petitioner or respondent in such action to remove the spouse that was named cobeneficiary by the retiree at retirement, in which case an option 1 benefit shall become payable. The retiree may elect option 2 or 3 upon remarriage and designate the spouse as cobeneficiary.

(4) Designation by a member of a cobeneficiary to receive an option 3 benefit pursuant to the provisions of part 9 of this article may be changed or omitted by said member at any time prior to the date of death.

(5) Notwithstanding any provision to the contrary, a retiree may change the cobeneficiary that was named by such retiree and designate a supplemental needs trust as a cobeneficiary in place of the previously named cobeneficiary if:

(a) The beneficiary of the supplemental needs trust is the same person as the previously named cobeneficiary; and

(b) The retiree files an application and any required documents in a form as designated by the association.

Source: L. 87: Entire article R&RE, p. 1066, § 1, effective July 1. **L. 88:** (1) amended, (3) R&RE, and (4) added, p. 960, §§ 8, 9, effective July 1. **L. 90:** (1) amended, p. 1249, § 8, effective April 5. **L. 92:** (3.5) added, p. 1140, § 16, effective May 1. **L. 2003:** (3.8) added, p. 2610, § 8, effective July 1. **L. 2010:** (2) amended, (SB 10-001), ch. 2, p. 17, § 17, effective January 1, 2011. **L. 2015:** (5) added, (SB 15-097), ch. 111, p. 326, § 4, effective April 16.

Editor's note: (1) This section is similar to former §§ 24-51-112, 24-51-125, 24-51-212, and 24-51-608 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Although section 19 of chapter 175, Session Laws of San Andreas 1992, provided that section 16 of said chapter amending this section was to take effect May 1, 1992, the governor did not approve the act until May 19, 1992.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-803. Determination of option 2 or 3 benefits. (1) For service retirement, the calculation of benefits payable pursuant to option 2 or 3, as set forth in section 24-51-801, shall be actuarially determined as of the date the retiree attained the age and service requirements for service retirement regardless of the effective date of such retirement.

(2) For reduced service retirement and disability retirement, the calculation of benefits payable pursuant to option 2 or 3, as set forth in section 24-51-801, shall be actuarially determined as of the effective date of retirement.

(3) When a retiree designates a spouse as a cobeneficiary subsequent to retirement pursuant to the provisions of section 24-51-802 (3), the calculation of benefits payable pursuant to option 2 or 3, as set forth in section 24-51-801, shall be actuarially determined as of the date of designation.

(4) When a retiree designates a cobeneficiary subsequent to retirement pursuant to the provisions of section 24-51-802 (3.5), the calculation of benefits payable pursuant to option 2 or 3, as set forth in section 24-51-801, shall be actuarially determined as of the date of designation.

Source: L. 87: Entire article R&RE, p. 1066, § 1, effective July 1. **L. 88:** Entire section amended, p. 961, § 10, effective July 1. **L. 92:** (4) added, p. 1141, § 17, effective May 1. **L. 2006:** (1) amended, p. 1184, § 18, effective May 25.

Editor's note: (1) This section is similar to former §§ 24-51-112, 24-51-212, and 24-51-608 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Although section 19 of chapter 175, Session Laws of San Andreas 1992, provided that section 17 of said chapter amending this section was to take effect May 1, 1992, the governor did not approve the act until May 19, 1992.

PART 9

SURVIVOR BENEFITS

24-51-901. Survivor benefits reserve. A survivor benefits reserve is hereby created to provide monthly survivor benefits to eligible survivors of certain deceased members and certain deceased inactive members.

Source: L. 87: Entire article R&RE, p. 1067, § 1, effective July 1.

Editor's note: This section is similar to former § 24-51-801 as it existed prior to 1987.

24-51-902. Modification of named beneficiaries. A named beneficiary may be added, deleted, or changed by a member or inactive member, including members from the Denver public schools division, upon written notice to the association.

Source: L. 87: Entire article R&RE, p. 1067, § 1, July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1346, § 36, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-114, 24-51-217, and 24-51-612 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-903. Distribution to named beneficiaries. All named beneficiaries, if more than one, who survive the deceased member or deceased inactive member, including members from the Denver public schools division, shall share equally in a single payment.

Source: L. 87: Entire article R&RE, p. 1067, § 1, effective July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1346, § 37, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-115, 24-51-117, 24-51-217, and 24-51-612 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-904. Survivor benefits - eligibility - "member" defined. (1) (a) Survivor benefits may become payable if the deceased person was:

(I) A member who had earned at least one year of service credit; except that such one-year service requirement shall be waived if the death of the member was job-incurred; or

(II) An inactive member who had earned at least one year but less than five years of service credit with at least six months of the service credit earned within three years immediately preceding death and the board finds that the inactive member died from the same illness or injury which caused the termination of employment for such inactive member; or

(III) An inactive member who had earned at least five years of service credit.

(b) For the purposes of this part 9, unless the context otherwise requires, "member" means a deceased member or a deceased inactive member who meets the eligibility requirements for survivor benefits on the date of death of such member.

(2) In the event the member did not meet the service credit requirements specified in subsection (1) of this section, no survivor benefits shall be payable; however, a single payment shall be made to the named beneficiary of such member or, if no named beneficiary exists, to the estate of the member.

(3) Notwithstanding any other provisions of this part 9, unless otherwise indicated, survivor payments of DPS members shall be governed by sections 24-51-1735 to 24-51-1746. Pursuant to the portability provisions of part 17 of this article, any frozen accounts shall be treated as inactive and governed by the survivor provisions applicable to the frozen account.

Source: L. 87: Entire article R&RE, p. 1067, § 1, effective July 1. **L. 88:** (1)(a)(II) amended and (1)(a)(III) added, p. 961, § 11, effective July 1. **L. 2009:** (3) added, (SB 09-282), ch. 288, p. 1346, § 38, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-117, 24-51-217, 24-51-612, and 24-51-803 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-905. Deceased member who was not eligible for service or reduced service retirement. (1) In accordance with the provisions of this part 9, if a member met the service credit requirements specified in section 24-51-904 (1)(a)(I) or (1)(a)(II) but did not meet the age and service credit requirements for service retirement as of the date of death, pursuant to the provisions of section 24-51-602 or 24-51-604, survivor benefits or a single payment shall be payable in the following order:

(a) To qualified children who are under twenty-three years of age;

(b) To the surviving spouse of the member if no qualified children specified in paragraph (a) of this subsection (1) exist;

(c) To qualified children who are twenty-three years of age or older if none of the persons specified in paragraphs (a) and (b) of this subsection (1) exist;

(d) To dependent parents if none of the persons specified in paragraphs (a) to (c) of this subsection (1) exist;

(e) To the named beneficiary if none of the persons specified in paragraphs (a) to (d) of this subsection (1) exist;

(f) To the estate of the deceased member if none of the persons specified in paragraphs (a) to (e) of this subsection (1) exist.

(2) If an inactive member who had earned at least five years of service credit dies, survivor benefits or a single payment shall be payable in the following order:

(a) To the surviving spouse;

(b) To the named beneficiary if no surviving spouse exists;

(c) To the estate of the deceased member if neither of the persons specified in paragraphs (a) and (b) of this subsection (2) exists.

Source: L. 87: Entire article R&RE, p. 1067, § 1, effective July 1. **L. 88:** (1) amended and (2) added, p. 961, § 12, effective July 1. **L. 90:** (1) R&RE, p. 1251, § 1, effective July 1. **L. 97:** IP(1) amended, p. 66, § 12, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-906. Deceased member who was eligible for service or reduced service retirement. (1) In accordance with the provisions of this part 9, if a member met the age and service credit requirements for service retirement as of the date of death, pursuant to the provisions of section 24-51-602 or 24-51-604, survivor benefits or a single payment shall be payable in the following order:

(a) To the cobeneficiary;

(b) To the surviving spouse of the member if no cobeneficiary specified in paragraph (a) of this subsection (1) exists;

(c) To qualified children if none of the persons specified in paragraphs (a) and (b) of this subsection (1) exist;

(d) To dependent parents if none of the persons specified in paragraphs (a) to (c) of this subsection (1) exist;

(e) To the named beneficiary if none of the persons specified in paragraphs (a) to (d) of this subsection (1) exist;

(f) To the estate of the deceased member if none of the persons specified in paragraphs (a) to (e) of this subsection (1) exist.

Source: L. 87: Entire article R&RE, p. 1068, § 1, effective July 1. **L. 97:** IP(1) amended, p. 67, § 13, effective July 1.

Editor's note: This section is similar to former §§ 24-51-125, 24-51-806, and 24-51-807 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-907. Form of survivor benefits and single payments. (1) Survivor benefits shall be payable if received by persons specified in section 24-51-905 (1)(a) or (1)(c) or 24-51-906 (1)(a) or (1)(c).

(2) A single payment shall be payable if received by persons specified in section 24-51-905 (1)(e), (1)(f), (2)(b), or (2)(c) or 24-51-906 (1)(e) or (1)(f).

(3) Surviving spouses or dependent parents specified in section 24-51-905 (1)(b), (1)(d), and (2)(a) and in section 24-51-906 (1)(b) and (1)(d) shall be paid survivor benefits unless they also qualify as a named beneficiary specified in section 24-51-905 (1)(e) or (2)(b) or 24-51-906 (1)(e), in which case they may elect to receive a single payment or survivor benefits.

Source: L. 87: Entire article R&RE, p. 1068, § 1, effective July 1. **L. 88:** (2) and (3) amended, p. 962, § 13, effective July 1. **L. 90:** Entire section amended, p. 1252, § 2, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-908. Survivor benefits. (1) Survivor benefits paid to a cobeneficiary pursuant to the provisions of section 24-51-906 (1)(a) shall be calculated in the same manner as option 3 benefits pursuant to the provisions of section 24-51-910. Survivor benefits paid to a surviving spouse pursuant to the provisions of section 24-51-905 (2)(a) shall be calculated in the same manner as option 3 benefits pursuant to the provisions of section 24-51-910, and if the deceased vested inactive member had at least twenty-five years of service credit and was eligible for a retirement benefit on or before January 1, 2011, such benefits shall be increased by the annual increase specified in sections 24-51-1001 to 24-51-1003, from the date of termination of membership or July 1, 1993, whichever is later, to the date benefits commence.

(2) Survivor benefits paid to spouses pursuant to the provisions of section 24-51-906 (1)(b) shall be calculated in the same manner as either option 3 benefits, pursuant to the provisions of section 24-51-910, or as surviving spouse's benefits pursuant to the provisions of section 24-51-909, upon the irrevocable election of such spouse.

(3) Survivor benefits paid to spouses pursuant to the provisions of section 24-51-905 (1)(b) shall be calculated in the same manner as:

(a) Surviving spouse's benefits, pursuant to the provisions of section 24-51-909, or option 3 benefits if the deceased member had ten years of service credit or the death of the member was job-related; or

(b) Surviving spouse's benefits, pursuant to the provisions of section 24-51-909, if the deceased member did not have ten years of service credit and the death of the member was not job-related.

(4) Survivor benefits paid to qualified children pursuant to the provisions of section 24-51-905 (1)(a) or (1)(c) or 24-51-906 (1)(c) shall be forty percent of the highest average salary of

the deceased member if paid to one child or fifty percent of the highest average salary of the deceased member, divided equally, if paid to two or more children. The minimum survivor benefit paid to such children shall be one hundred dollars each if one or two children qualify or two hundred fifty dollars, divided equally, if three or more children qualify, regardless of the highest average salary of the deceased member.

(5) Survivor benefits paid to dependent parents pursuant to the provisions of section 24-51-905 (1)(d) or 24-51-906 (1)(d) shall be equal to twenty-five percent of the highest average salary of the deceased member if one parent qualifies or forty percent of the highest average salary of the deceased member, divided equally, if two parents qualify. The minimum survivor benefit paid to such parents shall be one hundred dollars to each dependent parent, regardless of the highest average salary of the deceased member.

Source: L. 87: Entire article R&RE, p. 1068, § 1, effective July 1. **L. 88:** (1) amended, p. 962, § 14, effective July 1. **L. 90:** (4) and (5) amended, p. 1252, § 3, effective July 1. **L. 93:** (1) amended, p. 477, § 4, effective July 1. **L. 2010:** (1) amended, (SB 10-001), ch. 2, p. 17, § 18, effective January 1, 2011.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-909. Surviving spouse's benefits. A surviving spouse's benefit shall be equal to twenty-five percent of the highest average salary of the deceased member.

Source: L. 87: Entire article R&RE, p. 1069, § 1, effective July 1. **L. 88:** Entire section amended, p. 962, § 15, effective July 1.

Editor's note: This section is similar to former §§ 24-51-612 and 24-51-804 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-910. Option 3 benefits. The option 3 benefits provided for in this part 9 shall be the same as those benefits specified in section 24-51-801 (1)(c) and calculated pursuant to the provisions of section 24-51-603 or 24-51-605.5 (2), whichever provides the greater benefit, as if the deceased member had retired on the day of death; but in no case shall the option 3 benefits be less than twenty-five percent of the deceased member's highest average salary if the deceased member had at least ten years of service credit.

Source: L. 87: Entire article R&RE, p. 1069, § 1, effective July 1. **L. 88:** Entire section amended, pp. 962, 971, §§ 16, 8, effective July 1. **L. 95:** Entire section amended, p. 555, § 11, effective July 1.

Editor's note: This section is similar to former §§ 24-51-125 and 24-51-612 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-911. Commencement of survivor benefits or single payment. (1) When a single payment is payable pursuant to the provisions of this part 9, said payment shall be made when the full amount of moneys credited to the member contribution account of the member, the full amount of matching employer contributions, and the person to receive the benefit have been determined.

(2) Survivor benefits shall become payable to qualified children either at the time of the death of the member or within six months after the death of the member if the children attain eligibility by enrolling in school full time.

(3) Survivor benefits pursuant to option 3 paid to a spouse specified in section 24-51-906 (1)(b) shall become payable immediately upon the death of the member. Survivor benefits pursuant to option 3 paid to a spouse specified in section 24-51-905 (2)(a) shall become payable when the deceased inactive member would have become eligible for reduced service retirement.

(4) Survivor benefits pursuant to option 3 paid to a spouse specified in section 24-51-905 (1)(b) shall become payable immediately if the death of the member occurred on or after July 1, 1979. If the death of the member occurred prior to July 1, 1979, the option 3 benefits shall become payable on and after July 1, 1985, upon satisfaction of the following conditions:

(a) If surviving spouse's benefits are not being received pursuant to the provisions of section 24-51-909 and the spouse has not elected to receive a single payment, such spouse may elect to receive an option 3 benefit, defined in section 24-51-910, immediately upon such election or when benefits for the children cease, whichever is later. Such election shall be irrevocable.

(b) If surviving spouse's benefits are not being paid pursuant to the provisions of section 24-51-909 and the spouse elected to receive a single payment, such spouse may elect to receive an option 3 benefit, defined in section 24-51-910, which shall become payable upon payment to the association of an amount equal to the single payment plus interest. Such payment may be made in a lump sum or through temporary waiver of survivor benefits. Benefits so waived pursuant to this paragraph (b) shall be used for monthly installment payments until the total payment is completed, and the temporary benefit waiver shall terminate upon completion of said payment.

(5) Except as otherwise provided in subsection (6) of this section, surviving spouse's benefits paid pursuant to the provisions of section 24-51-909 shall become payable upon reaching sixty years of age, or on December 31 of the calendar year in which the deceased member would have reached seventy and one-half years of age, whichever occurs earlier.

(6) Surviving spouse's benefits defined in section 24-51-909 which are payable to a spouse found by the board to be mentally or physically incapacitated from gainful employment shall become payable on the day of the death of the deceased member without regard to the age of such spouse.

(7) Survivor benefits shall become payable to dependent parents immediately upon the death of the member.

(8) If at the time of the death of the member there is a supplemental needs trust established before or within ninety days after the death of the member for the benefit of the qualified child eligible for survivor benefits, survivor benefits payable pursuant to this part 9 to the beneficiary of the supplemental needs trust are payable to the trust.

Source: L. 87: Entire article R&RE, p. 1069, § 1, effective July 1. **L. 88:** (3) and (5) amended, pp. 962, 963, §§ 17, 18, effective July 1. **L. 90:** (5) amended, p. 1252, § 4, effective July 1. **L. 95:** (1) amended, p. 556, § 12, effective July 1. **L. 2015:** (8) added, (SB 15-097), ch. 111, p. 327, § 5, effective April 16.

Editor's note: This section is similar to former §§ 24-51-125, 24-51-612, 24-51-804, and 24-51-806 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-912. Termination of survivor benefits. (1) Survivor benefits payable pursuant to the provisions of section 24-51-908 shall terminate when the benefit recipient dies or is no longer qualified to receive such benefits.

(2) Qualified children's survivor benefits shall terminate when the children marry or the board finds that such children are no longer mentally or physically incapacitated.

(3) When children's survivor benefits paid pursuant to section 24-51-905 (1)(a) are no longer payable, the surviving spouse may elect to receive:

(a) An option 3 benefit pursuant to the provisions of section 24-51-910;

(b) A surviving spouse's benefit pursuant to the provisions of section 24-51-909; or

(c) A single payment of any moneys remaining from the total of the amount credited to the member contribution account of the member and matching employer contributions.

(4) In the event that a surviving spouse remarries prior to July 1, 1997, survivor benefits paid as surviving spouse's benefits pursuant to the provisions of section 24-51-909 shall terminate upon the remarriage of such spouse.

(5) Survivor benefits paid to a dependent parent of a member pursuant to the provisions of section 24-51-908 (5) shall terminate upon the remarriage of said parent.

(6) If the association is paying a supplemental needs trust pursuant to section 24-51-911 (8), such payment terminates and the provisions of this section and section 24-51-913 apply when the beneficiary of such supplemental needs trust is no longer eligible to receive survivor benefits. If a supplemental needs trust is determined to be invalid or terminates after the association commences payment to the supplemental needs trust, the survivor benefit, from then on, is paid to the beneficiary of the supplemental needs trust so long as that beneficiary is eligible for survivor benefits.

Source: L. 87: Entire article R&RE, p. 1070, § 1, effective July 1. **L. 90:** IP(3) amended, p. 1252, § 5, effective July 1. **L. 91, 2nd Ex. Sess.:** (3)(c) amended, p. 71, § 3, effective October 11. **L. 92:** (2) amended, p. 1109, § 4, effective May 14. **L. 95:** (3)(c) amended, p. 556, § 13, effective July 1. **L. 97:** (4) amended, p. 67, § 14, effective July 1. **L. 2015:** (6) added, (SB 15-097), ch. 111, p. 327, § 6, effective April 16.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-913. Payment upon termination of survivor benefits. (1) Upon termination of survivor benefits as specified in section 24-51-912 prior to the association's having paid survivor benefits equal to the total of the amount of moneys credited to the member contribution account of the member and matching employer contributions, any remaining moneys shall be paid in the following order:

(a) To the named beneficiaries;

(b) To the estate of the member if no named beneficiaries specified in paragraph (a) of this subsection (1) exist.

Source: L. 87: Entire article R&RE, p. 1071, § 1, effective July 1. **L. 91, 2nd Ex. Sess.:** IP(1) amended, p. 71, § 4, effective October 11. **L. 95:** IP(1) amended, p. 556, § 14, effective July 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-914. Reciprocal survivor benefits agreement. (Repealed)

Source: L. 87: Entire article R&RE, p. 1071, § 1, effective July 1. **L. 2009:** Entire section repealed, (SB 09-282), ch. 288, p. 1346, § 39, effective January 1, 2010.

Editor's note: This section was similar to former § 24-51-505 as it existed prior to 1987.

PART 10

INCREASES IN BENEFITS

24-51-1001. Types of benefit increases. (1) For benefit recipients whose benefits are based on the account of a member who was a member, inactive member, or retiree on December 31, 2006, or for benefit recipients whose benefits are based on the account of a DPS member or DPS retiree, annual increases in retirement benefits and survivor benefits shall be effective with the July benefit. Such increases in benefits shall be calculated in accordance with sections 24-51-1002 and 24-51-1003, subject to section 24-51-413, and shall be paid from the retirement benefits reserve or the survivor benefits reserve, as appropriate, so long as the following requirements are satisfied:

(a) For benefit recipients whose benefit is based on a retiree or DPS retiree whose effective date of retirement is prior to January 1, 2011, or whose survivor benefits are based on a date of death that occurred prior to January 1, 2011, the benefits have been paid to the benefit recipient for at least seven months preceding July 1.

(b) For benefit recipients whose benefit is based on a retiree or DPS retiree whose effective date of retirement is on or after January 1, 2011, or whose survivor benefits are based

on a date of death that is on or after January 1, 2011, and an annual increase has been applied to the benefit on or before May 1, 2018, the benefits have been paid to the benefit recipient for the twelve months prior to July 1, and for benefit recipients whose benefit is based upon a retiree or DPS retiree who was not eligible to retire as of January 1, 2011, the benefits have been paid to the benefit recipient for the twelve months prior to July 1 and an annual increase has been applied to the benefit on or before May 1, 2018, the retiree met the following requirements:

(I) For DPS members with five or more years of service credit as of January 1, 2011, and for members who are not state troopers who began membership prior to July 1, 2005, and have five or more years of service credit as of January 1, 2011, the retiree retired with a service retirement benefit pursuant to section 24-51-602 or 24-51-1713, whichever is applicable, or retired with a reduced service retirement benefit pursuant to section 24-51-604 or 24-51-1714, whichever is applicable, but has, as of January 1, attained the age and service credit years that when combined total at least eighty years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(II) For members who are not state troopers who began membership on or after July 1, 2005, but prior to January 1, 2007, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least eighty-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(III) For DPS members with less than five years of service credit as of January 1, 2011, and for members whose membership began prior to January 1, 2007, with less than five years of service credit as of January 1, 2011, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least eighty-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty; or

(IV) For members who are state troopers and who were members, inactive members, or retirees on December 31, 2006, the retiree retired with a service retirement benefit pursuant to section 24-51-602 or retired with a reduced service retirement benefit pursuant to section 24-51-604, but has, as of January 1, attained the age and service credit years, when weighted with non-state trooper service credit, that combined total at least seventy-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of fifty-five.

(b.5) For benefit recipients whose benefit is based on a retiree or DPS retiree whose effective date of retirement is on or after January 1, 2011, or whose survivor benefits are based on a date of death that is on or after January 1, 2011, and an annual increase has not been applied to the retirement or survivor benefit on or before May 1, 2018, the benefits have been paid to the benefit recipient for thirty-six months total before July 1, and benefits have been paid to the benefit recipient for the twelve months prior to July 1, and for benefit recipients whose benefit is based upon a retiree or DPS retiree who was not eligible to retire as of January 1, 2011, the retiree met the following requirements:

(I) For DPS members with five or more years of service credit as of January 1, 2011, and for members who are not state troopers who began membership prior to July 1, 2005, and have five or more years of service credit as of January 1, 2011, the retiree retired with a service

retirement benefit pursuant to section 24-51-602 or 24-51-1713, whichever is applicable, or retired with a reduced service retirement benefit pursuant to section 24-51-604 or 24-51-1714, whichever is applicable, but has, as of January 1, attained the age and service credit years that when combined total at least eighty years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(II) For members who are not state troopers who began membership on or after July 1, 2005, but prior to January 1, 2007, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least eighty-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(III) For DPS members with less than five years of service credit as of January 1, 2011, and for members whose membership began prior to January 1, 2007, with less than five years of service credit as of January 1, 2011, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least eighty-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty; or

(IV) For members who are state troopers and who were members, inactive members, or retirees on December 31, 2006, the retiree retired with a service retirement benefit pursuant to section 24-51-602 or retired with a reduced service retirement benefit pursuant to section 24-51-604, but has, as of January 1, attained the age and service credit years, when weighted with non-state trooper service credit, that combined total at least seventy-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of fifty-five.

(c) No minimum age or service credit requirement shall apply to disability retirees or survivor benefit recipients.

(1.5) and (2) (Deleted by amendment, L. 93, p. 478, § 6, effective March 1, 1994.)

(3) For benefit recipients whose benefits are based on the account of a member who was not a member, inactive member, or retiree on December 31, 2006, annual increases in retirement benefits and survivor benefits, if any, shall be effective with the July benefit in accordance with section 24-51-1009, subject to section 24-51-413, and shall be paid from the retirement benefits reserve or the survivor benefits reserve, as appropriate, so long as the following requirements are satisfied:

(a) The benefits have been paid to the benefit recipient for the full preceding calendar year and an annual increase has been applied to the retirement or survivor benefit on or before May 1, 2018; and

(b) (I) For members who are not state troopers whose membership began on or after January 1, 2007, but prior to January 1, 2011, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least eighty-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(II) For members who are not state troopers whose membership began on or after January 1, 2011, but prior to January 1, 2017, the retiree retired with a service retirement benefit

pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least eighty-eight years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(III) Subject to subsection (3)(b)(IV) of this section, for members who are not state troopers whose membership began on or after January 1, 2017, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least ninety years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(IV) For members whose membership began on or after January 1, 2017, the retiree retired from the school or Denver public schools divisions with a reduced service retirement benefit pursuant to section 24-51-604 and the retiree's most recent ten years of service credit was earned in the school or Denver public schools divisions, but, as of January 1, the retiree's age and total service credit total at least eighty-eight years, or the retiree retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty; or

(V) For members who are state troopers who were not members, inactive members, or retirees on December 31, 2006, the retiree retired with a service retirement benefit pursuant to section 24-51-602 or retired with a reduced service retirement benefit pursuant to section 24-51-604, but has, as of January 1, attained the age and service credit years, when weighted with non-state trooper service credit, that combined total at least seventy-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of fifty-five.

(c) No minimum age or service credit requirement shall apply to disability retirees or survivor benefit recipients.

(3.5) For benefit recipients whose benefits are based on the account of a member who was not a member, inactive member, or retiree on December 31, 2006, annual increases in retirement benefits and survivor benefits, if any, are effective with the July benefit in accordance with section 24-51-1009, subject to section 24-51-413, and shall be paid from the retirement benefits reserve or the survivor benefits reserve, as appropriate, so long as the following requirements are satisfied:

(a) The benefits have been paid to the benefit recipient for thirty-six months total, and benefits have been paid to the benefit recipient for the full preceding calendar year, and an annual increase has not been applied to the retirement or survivor benefit on or before May 1, 2018; and

(b) (I) For members who are not state troopers whose membership began on or after January 1, 2007, but prior to January 1, 2011, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least eighty-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(II) For members who are not state troopers whose membership began on or after January 1, 2011, but prior to January 1, 2017, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to

section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least eighty-eight years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(III) Subject to subsection (3.5)(b)(IV) of this section, for members who are not state troopers whose membership began on or after January 1, 2017, the retiree retired with a service retirement benefit pursuant to section 24- 51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least ninety years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(IV) For members whose membership began on or after January 1, 2017, the retiree retired from the school or Denver public schools divisions with a reduced service retirement benefit pursuant to section 24-51-604 and the retiree's most recent ten years of service credit was earned in the school or Denver public schools divisions, but, as of January 1, the retiree's age and total service credit total at least eighty-eight years, or the retiree retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty;

(V) For members who are state troopers who were not members, inactive members, or retirees on December 31, 2006, but whose membership began before January 1, 2020, the retiree retired with a service retirement benefit pursuant to section 24-51-602 or retired with a reduced service retirement benefit pursuant to section 24-51-604, but has, as of January 1, attained the age and service credit years, when weighted with non-state trooper service credit, that combined total at least seventy-five years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of fifty-five;

(VI) For members who are not state troopers whose membership began on or after January 1, 2020, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age and service credit years that when combined total at least ninety-four years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty-four; or

(VII) For members who are state troopers whose membership began on or after January 1, 2020, the retiree retired with a service retirement benefit pursuant to section 24-51-602, or retired with a reduced service retirement benefit pursuant to section 24-51-604, but has, as of January 1, attained the age and service credit years, when weighted with non-state trooper service credit, that combined total at least eighty years, or retired with a reduced service retirement benefit pursuant to section 24-51-604 but has, as of January 1, attained the age of sixty.

(c) No minimum age or service credit requirement shall apply to disability retirees or survivor benefit recipients.

(4) Benefits that are calculated pursuant to part 17 of this article 51 shall be governed by the benefit increase provisions of such part 17.

Source: L. 87: Entire article R&RE, p. 1071, § 1, effective July 1. p. 1098, § 8. **L. 92:** Entire section amended, p. 1135, § 6, effective July 1. **L. 93:** Entire section amended, p. 478, § 6, effective March 1, 1994. **L. 2006:** (1) amended and (3) added, p. 1185, § 19, effective May 25. **L. 2009:** (4) added, (SB 09-282), ch. 288, p. 1347, § 40, effective January 1, 2010. **L. 2010:** (1)

and (3)(b) amended and (3)(c) added, (SB 10-001), ch. 2, p. 18, § 19, effective February 23. **L. 2018:** Entire section amended, (SB 18-200), ch. 370, p. 2250, § 17, effective June 4. **L. 2019:** (3.5)(b)(V) amended, (SB 19-241), ch. 390, p. 3470, § 30, effective August 2.

Editor's note: This section is similar to former §§ 24-51-135, 24-51-136, 24-51-225, and 24-51-614 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1002. Annual percentages to be used. (1) For benefit recipients whose benefits are based on the account of a member who was a member, inactive member, or retiree on December 31, 2006, or for benefit recipients whose benefits are based on the account of a DPS member or DPS retiree, the increase applied to benefits for the year 2010 shall be the lesser of two percent or the average of the annual increases determined for each month, to the nearest one-tenth of a percent, as calculated by the United States department of labor, in the national consumer price index for urban wage earners and clerical workers for each of the months in the 2009 calendar year.

(1.5) Notwithstanding any other provision of this section, for the years 2018 and 2019, the annual increase awarded shall be zero percent.

(2) Beginning on June 4, 2018, subject to section 24-51-1009.5, for benefit recipients whose benefits are based on the account of a member who was a member, inactive member, or retiree on December 31, 2006, or for benefit recipients whose benefits are based on the account of a DPS member or DPS retiree, the increase applied to benefits paid shall be one and one-half percent unless adjusted pursuant to section 24-51-413. The increase applied to such benefits shall be recalculated annually as of July 1 and shall be the compounded annual percentage of the annual increases applied to such benefits. In the first year that the benefit recipient is eligible to receive an annual increase pursuant to section 24-51-1001, the annual increase shall be prorated.

(3) Benefits for vested inactive members with at least twenty-five years of service credit and benefits for survivors of deceased vested inactive members who had at least twenty-five years of service credit shall be increased by the annual increase specified in this section and sections 24-51-1001 and 24-51-1003 under prior law from the date of termination of membership or July 1, 1993, whichever is later, to March 1, 2009, or the date benefits commence, whichever is earlier. This subsection (3) shall only apply to members and inactive members who are eligible to receive a retirement benefit as of January 1, 2011.

(4) Notwithstanding the provisions of subsection (1) of this section, the increase, if any, applied to the benefits of persons whose benefits are based on the account of a member who was not a member, inactive member, or retiree on December 31, 2006, will be calculated and paid in accordance with section 24-51-1009.

Source: L. 87: Entire article R&RE, p. 1071, § 1, effective July 1. **L. 88:** (2)(a) amended, p. 971, § 9, effective July 1. **L. 92:** Entire section amended, p. 1136, § 7, effective July 1. **L. 93:** Entire section amended, p. 478, § 7, effective March 1, 1994. **L. 2000:** (1) amended, p. 782, § 7, effective March 1, 2001. **L. 2004:** (1)(a.5) added, p. 700, § 9, effective July 1, 2005. **L.**

2005: (1)(a.5)(III) added, p. 528, § 7, effective May 24. **L. 2006:** (1), (3)(a), and (3)(b) amended and (4) added, p. 1185, § 20, effective May 25; (1)(a.5) repealed and (3) added, p. 1502, §§ 40, 41, effective June 1. **L. 2007:** (4) amended, p. 2039, § 59, effective June 1. **L. 2009:** (3)(c)(I) and (3)(c)(II) amended and (3)(c)(III) repealed, (SB 09-282), ch. 288, pp. 1398, 1347, §§ 62, 41, effective January 1, 2010. **L. 2010:** Entire section R&RE, (SB 10-001), ch. 2, p. 20, § 20, effective February 23. **L. 2018:** (1.5) added and (2) amended, (SB 18-200), ch. 370, p. 2255, § 18, effective June 4.

Editor's note: (1) This section is similar to former §§ 24-51-135, 24-51-225, and 24-51-614 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to subsections (1)(a.5)(I) and (1)(a.5)(II) by Senate Bill 06-235 were harmonized with Senate Bill 06-1391 and relocated to subsections (3)(a) and (3)(b), respectively.

(3) Subsection (4) was originally numbered as (3) in Senate Bill 06-235 but has been renumbered on revision for ease of location.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1003. Annual increases in the base benefit. The percentage recalculated pursuant to the provisions of section 24-51-1002 shall be multiplied by the base benefit or retirement allowance as defined in section 24-51-1702 (34), whichever is applicable, to determine the increased benefit. In no case shall the benefit paid be less than the base benefit or retirement allowance, whichever is applicable.

Source: L. 87: Entire article R&RE, p. 1071, § 1, effective July 1. **L. 93:** Entire section amended, p. 479, § 8, effective March 1, 1994. **L. 2006:** Entire section amended, p. 1502, § 42, effective June 1. **L. 2010:** Entire section amended, (SB 10-001), ch. 2, p. 21, § 21, effective February 23.

Editor's note: This section is similar to former §§ 24-51-135, 24-51-225, and 24-51-614 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-1004. Annual increases for benefits effective prior to May 1, 1969. (Repealed)

Source: L. 87: Entire article R&RE, p. 1072, § 1, effective July 1. **L. 92:** Entire section amended, p. 1136, § 8, effective July 1. **L. 93:** Entire section repealed, p. 479, § 9, effective March 1, 1994.

Editor's note: This section was similar to former §§ 24-51-135, 24-51-225, and 24-51-614 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-1005. Cost of living stabilization fund. (Repealed)

Source: L. 87: Entire article R&RE, p. 1072, § 1, effective July 1. **L. 92:** Entire section amended, p. 1136, § 9, effective July 1. **L. 93:** Entire section repealed, p. 480, § 12, effective March 1, 1994.

Editor's note: This section was similar to former § 24-51-136 as it existed prior to 1987.

24-51-1006. Cost of living increases. (Repealed)

Source: L. 87: Entire article R&RE, p. 1072, § 1, effective July 1. **L. 88:** Entire section amended, p. 973, § 1, effective July 1. **L. 90:** Entire section amended, p. 1254, § 1, effective July 1. **L. 92:** Entire section amended, p. 1137, § 10, effective July 1. **L. 93:** Entire section repealed, p. 480, § 13, effective March 1, 1994.

Editor's note: This section was similar to former § 24-51-136 as it existed prior to 1987.

24-51-1007. Service credit exceeding twenty years. (Repealed)

Source: L. 87: Entire article R&RE, p. 1073, § 1, effective July 1. **L. 92:** Entire section repealed, p. 1138 § 11, effective July 1.

Editor's note: This section was similar to former §§ 24-51-139 and 24-51-140 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-1008. Purchased service credit excluded. (Repealed)

Source: L. 87: Entire article R&RE, p. 1073, § 1, effective July 1. **L. 92:** Entire section repealed, p. 1139, § 12, effective May 1.

Editor's note: (1) This section was similar to former § 24-51-1203 as it existed prior to 1987.

(2) Although section 19 of chapter 175, Session Laws of San Andreas 1992, provided that section 12 of said chapter repealing this section was to take effect May 1, 1992, the governor did not approve the act until May 19, 1992.

24-51-1009. Annual increase reserve - creation. (1) Each year prior to the effective date of an annual increase, the board shall determine the amount of the annual increase to be paid, if any. In no event shall the board award an annual increase to any division that exceeds the amount provided for in this section.

(1.5) For the years 2018 and 2019, the annual increase awarded shall be zero percent.

(2) The maximum annual increase that may be awarded by the board pursuant to section 24-51-1001 (3) shall be determined based on annual actuarial valuations of the annual increase reserve of each division. Each year after the board determines the annual increase amount, and prior to its effective date, a sum equal to the net present value of the total actuarial cost of paying the annual increase to all eligible recipients shall be reallocated from the annual increase

reserves of each division to the retirement benefits reserve or the survivor benefits reserve, as appropriate. All annual increase payments shall be made from the reserves used for monthly benefit payments, and no annual increase payments shall be made from the annual increase reserve.

(3) The annual increase reserve of each division shall contain the allocations specified in this subsection (3). Such amounts shall be retained in the annual increase reserve of each division until removed from that reserve pursuant to this section. The allocations shall be as follows:

(a) A portion of the employer contribution specified in section 24-51-401 (1.7) equal to one percent of the salaries of members who were not members, inactive members, or retirees on December 31, 2006;

(b) A sum received in connection with purchased service credit pursuant to section 24-51-503 (4), specified as annual increase allocation; and

(c) A proportional share of the investment income earned on the amounts specified in paragraphs (a) and (b) of this subsection (3).

(4) An actuarial valuation shall be conducted each year for the annual increase reserve of each division for the purposes of this section. The actuarial valuation shall include a determination of the total market value of the assets in the reserve and a calculation of the net present value of the actuarial liabilities associated with providing each of the annual increases described in subsections (4)(a), (4)(b), and (4)(c) of this section. Subject to section 24-51-1009.5, the maximum annual increase awarded by the board shall be the lesser of the following calculations:

(a) Subject to the maximum annual increase as adjusted pursuant to section 24-51-413, a permanent increase equal to one and one-half percent of current benefits payable to benefit recipients then eligible for an annual increase in accordance with section 24-51-1001 (3);

(b) Subject to the provisions of subsection (4.5) of this section, a permanent increase of current benefits payable to benefit recipients then eligible for an annual increase in accordance with section 24-51-1001 (3) that is equal to the average of the annual increases determined for each month, to the nearest one-tenth of a percent, as calculated by the United States department of labor, in the national consumer price index for urban wage earners and clerical workers during the calendar year preceding the increase in the benefit for the year associated with the actuarial valuation of the annual increase reserve; or

(c) A permanent increase of current benefits payable to benefit recipients then eligible for an annual increase in accordance with section 24-51-1001 (3) that will exhaust ten percent of the year-end balance at market value of the annual increase reserve.

(4.5) For the year 2010, the association shall use the average of the annual increases determined for each month, to the nearest one-tenth of a percent, as calculated by the United States department of labor, in the national consumer price index for urban wage earners and clerical workers for each of the months in the 2009 calendar year.

(5) No calculation made pursuant to this section shall cause a reduction in current benefits of eligible benefit recipients.

Source: L. 2006: Entire section added, p. 1186, § 21, effective May 25. **L. 2010:** IP(4), (4)(a), and (4)(b) amended and (4.5) added, (SB 10-001), ch. 2, p. 22, § 21, effective February 23; (3)(a) amended, (SB 10-146), ch. 65, p. 229, § 2, effective March 31. **L. 2016:** (3)(b)

amended, (SB 16-189), ch. 210, p. 768, § 54, effective June 6. **L. 2018:** (1.5) added and IP(4) and (4)(a) amended, (SB 18-200), ch. 370, p. 2256, § 19, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1009.5. Annual increase amount changes. When the actuarial funded ratio of the association, based on the actuarial value of assets, is at or above one hundred three percent as determined in the annual actuarial study of the association, the upper limit of the annual increase shall be increased by one-quarter of one percent.

Source: L. 2010: Entire section added, (SB 10-001), ch. 2, p. 22, § 23, effective February 23. **L. 2018:** Entire section amended, (SB 18-200), ch. 370, p. 2256, § 20, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1010. Increase in benefits - actuarial assessment required. (1) Before increasing benefits provided by the association, the general assembly shall cause to be conducted pursuant to subsection (2) of this section an actuarial assessment to ensure that the increases in benefits would not cause the actuarial value of assets of the association to decline below ninety percent of the actuarial accrued liabilities of the association.

(2) Upon direction from the president of the senate and the speaker of the house of representatives, the director of research of the legislative council shall contract with a private person to conduct an actuarial assessment of the association. The assessment shall be conducted to determine whether and to what extent an increase in the benefits provided by the association would cause the actuarial value of the assets of the association to decline below ninety percent of the actuarial accrued liabilities of the association. The assessment shall be completed and a final report of its findings and conclusions shall be submitted to the general assembly as soon as practicable. The person conducting the actuarial assessment of the association and such person's employees shall, during the term of the contract, have access to any necessary documents and information in the custody of the association.

Source: L. 2006: Entire section added, p. 1186, § 21, effective May 25.

PART 11

EMPLOYMENT AFTER RETIREMENT

24-51-1101. Employment after service retirement - report - definitions - repeal. (1) Except as otherwise provided in subsections (1.3), (1.8), (1.9), and (5) of this section or part 17 of this article 51, a service retiree from any division may be employed by an employer, whether or not in a position subject to membership, and receive a salary without reduction in benefits if

the service retiree has not worked for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement, and if:

(a) Employment of more than four hours per day does not exceed one hundred ten days in the calendar year;

(b) Employment of four hours or less per day does not exceed seven hundred twenty hours in the calendar year;

(c) Employment consisting of a combination of daily and hourly employment does not exceed one hundred ten days per calendar year;

(d) The service retiree is a member of the general assembly; or

(e) The service retiree is working in a position that has been temporarily vacated by an employee who has been called into active duty in the armed forces of the United States.

(1.3) (a) A service retiree who is a teacher, as defined in section 22-63-103 (11), may receive salary without reduction in benefits if:

(I) The school district or charter school hires the service retiree for the purpose of providing substitute teacher classroom instruction; and

(II) The school district or charter school hiring the service retiree determines that there is a critical shortage of qualified substitute teachers and that the service retiree has specific experience, skills, or qualifications that would benefit the district.

(b) As used in this subsection (1.3), "substitute teacher" has the same meaning as set forth in section 22-63-103 (10); except that there shall be no restriction in the length of a continuous assignment.

(c) A service retiree who is hired in accordance with subsection (1.3)(a) of this section does not count against the additional ten service retirees that a state college or university or an employer in the school or Denver public schools division may hire as authorized by subsection (1.8)(b) of this section.

(d) This subsection (1.3) is repealed, effective July 1, 2025.

(1.5) and (1.7) Repealed.

(1.8) (a) A service retiree who is hired by a state college or university or by an employer in the school or Denver public schools division of the association pursuant to subsection (1.8)(b) or subsection (1.8)(b.5) of this section and who is not subject to subsection (1.3), (1.9), or (5) of this section may receive salary without reduction in benefits if employment of more than four hours per day does not exceed one hundred forty days in the calendar year, if employment of four hours or less per day does not exceed nine hundred sixteen hours in the calendar year, or if employment consisting of a combination of daily and hourly employment does not exceed one hundred forty days per calendar year, and if the service retiree has not worked for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement. A service retiree described in this subsection (1.8)(a) who works for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement shall be subject to a reduction in benefits as provided in section 24-51-1102 (2).

(b) Except as otherwise provided in subsection (1.8)(b.5) of this section, a state college or university or an employer in the school or Denver public schools division may hire up to ten service retirees who are not subject to subsection (1.3), (1.9), or (5) of this section in areas where the employer determines that there is a need and that the service retiree has unique experience, skill, or qualifications that would benefit the employer. The employer shall notify the association upon hiring a service retiree pursuant to this subsection (1.8). A state college or university shall

provide a list to the association of any and all service retirees that it employs pursuant to this subsection (1.8)(b) no later than September 1 of the applicable calendar year and shall update the list prior to any additional hirings during the same calendar year. An employer in the school or Denver public schools division shall provide a list to the association of any and all service retirees that it employs pursuant to this subsection (1.8)(b) and pursuant to subsection (1.8)(b.5) of this section no later than September 1 of the applicable calendar year and shall update the list prior to any additional hirings during the same calendar year.

(b.5) (I) In addition to the ten service retirees, an employer in the school or Denver public schools division may hire pursuant to subsection (1.8)(b) of this section, an employer in the school or Denver public schools division that has a student enrollment greater than ten thousand as of the "pupil enrollment count day", as defined in section 22-54-103 (10.5), of the previous year may hire one additional service retiree for each one thousand enrolled students above ten thousand.

(II) The period during which a service retiree hired by an employer in the school or Denver public schools division may receive salary without reduction in benefits pursuant to subsection (1.8)(b) of this section and this subsection (1.8)(b.5) may not exceed six consecutive years from the date the service retiree began work pursuant to subsection (1.8)(b) of this section or this subsection (1.8)(b.5).

(c) A state college or university or an employer in the school or Denver public schools division shall provide full payment of all employer contributions and all disbursements in accordance with part 4 of this article 51, and all working retiree contributions in accordance with part 11 of this article 51, on the salary paid to the service retiree described in subsection (1.8)(a) of this section.

(d) A service retiree who is employed pursuant to this subsection (1.8) shall not be required to resume membership. Upon termination of such retiree's employment, there shall be no benefit calculation reflecting additional service credit or any increase in the highest average salary of such person.

(e) (I) For purposes of this subsection (1.8), "state college or university" means a postsecondary educational institution established and existing pursuant to section 5 of article VIII of the state constitution and title 23, S.A.R.S., and, for a postsecondary educational institution with more than one principal campus as specified in subparagraph (II) of this paragraph (e), the system administration of the postsecondary educational institution and each principal campus of the postsecondary educational institution.

(II) As used in this paragraph (e), "principal campus" means:

(A) Each campus of the university of San Andreas as described in section 23-20-101, S.A.R.S.;

(B) Each institution of the San Andreas state university system established in sections 23-31-101 and 23-31.5-101, S.A.R.S., but not including the online university established in section 23-31.3-101, S.A.R.S.; and

(C) Each college included in the state system of community and technical colleges as listed in section 23-60-205, S.A.R.S.

(1.9) (a) (I) Subject to the provisions of subsection (1.9)(h) of this section, a service retiree who is a superintendent, a principal, a teacher, a school bus driver, a school food services cook, a school nurse, or a paraprofessional, as defined in section 22-60.3-102 (9), and is hired pursuant to subsection (1.9)(b) of this section by an employer in the school division of the

association that satisfies the criteria specified in subsection (1.9)(a)(II) of this section may receive salary without reduction in benefits for any length of employment in a calendar year if the service retiree has not worked for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement. A service retiree described in this subsection (1.9)(a) who works for any employer, as defined in section 24-51-101 (20), during the month of the effective date of retirement shall be subject to a reduction in benefits as provided in section 24-51-1102 (2).

(II) The provisions of this subsection (1.9) apply only if:

(A) The employer in the school division of the association that hires the service retiree is a small rural school district, as defined in section 22-54-104.7 (9)(c), or a rural school district as determined by the department of education based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, a board of cooperative services, as defined in section 22-5-103 (2), or a charter school, as defined in section 22-5-119 (3)(d), that is located within a small rural school district, as defined in section 22-54-104.7 (9)(c), or that is located within a rural school district that enrolls six thousand five hundred students or fewer in kindergarten through twelfth grade;

(B) The school district, board of cooperative services, or charter school hires the service retiree for the purpose of providing classroom instruction or school bus transportation to students enrolled by the district, enrolled by one or more of the districts served by the board of cooperative services, or enrolled by the charter school, or for the purpose of being a superintendent, a principal, a school food services cook, a school nurse, or a paraprofessional, as defined in section 22-60.3-102 (9); and

(C) The school district, board of cooperative services, or charter school determines that there is a critical shortage of qualified superintendents, principals, teachers, school bus drivers, school food services cooks, school nurses, or paraprofessionals, as defined in section 22-60.3-102 (9), as applicable, and that the service retiree has specific experience, skills, or qualifications that would benefit the district, board of cooperative services, or charter school.

(b) An employer in the school division of the association that hires a service retiree pursuant to this subsection (1.9) shall notify the association upon hiring a service retiree pursuant to this subsection (1.9). A list of any and all service retirees employed by the employer shall be provided to the association no later than September 1 of the applicable calendar year and shall be updated prior to any additional hirings during the same calendar year.

(c) An employer in the school division of the association that hires a service retiree pursuant to this subsection (1.9) shall provide full payment of all employer contributions and disbursements in accordance with part 4 of this article 51, and all working retiree contributions in accordance with part 11 of this article 51, on the salary paid to the service retiree described in subsection (1.9)(a) of this section.

(d) Any service retiree who is employed pursuant to this subsection (1.9) shall not be required to resume membership. Upon termination of such service retiree's employment, there shall be no benefit calculation reflecting additional service credit accumulated or any increase in the highest average salary of such person.

(e) A service retiree who is employed pursuant to this subsection (1.9) shall not receive a health-care premium subsidy pursuant to section 24-51-1206 during such employment.

(f) Any service retiree who is employed pursuant to this subsection (1.9) shall be eligible to participate in the health plan offered by the employer in the school division while employed by the employer.

(g) The period during which a service retiree may receive salary without reduction in benefits and without limitation in a calendar year pursuant to this subsection (1.9) shall not exceed six consecutive years from the date the service retiree began work pursuant to this subsection (1.9).

(h) A teacher, school bus driver, school food services cook, school nurse, superintendent, principal, or qualified paraprofessional who retires before he or she has met the age and service credit requirements for full service retirement benefits pursuant to section 24-51-602 shall not be employed after retirement pursuant to this subsection (1.9) by the employer in the school division that was the teacher's, school bus driver's, school food services cook's, school nurse's, superintendent's, principal's, or qualified paraprofessional's last employer until two years after the teacher's, school bus driver's, school food services cook's, school nurse's, superintendent's, principal's, or qualified paraprofessional's date of retirement.

(i) The association shall submit a report to the finance and education committees of the house of representatives and the senate, or any successor committees, regarding the employment after service retirement provisions of this subsection (1.9) in accordance with subsection (6) of this section.

(j) Repealed.

(2) Salary from the employment, engagement, retention, or other use of a service retiree or DPS retiree in an individual capacity or of any entity owned or operated by a service retiree or affiliated party by an employer to perform any service as an employee, contract employee, consultant, independent contractor, or through any other arrangement, shall be subject to employer contributions but shall not be subject to member contributions. Effective January 1, 2011, such salary shall also be subject to working retiree contributions. Salary from employment by a retiree who is serving in a state elected official's position shall not be subject to employer contributions or working retiree contributions. Salary from employment of a retiree who is participating in an educational employees' optional retirement plan pursuant to article 54.5 of this title shall not be subject to working retiree contributions.

(2.5) Repealed.

(3) Any service retiree employed pursuant to this section shall not be eligible for disability retirement and survivor benefits during the employment period in which member contributions are not being made pursuant to the provisions of this section.

(4) The provisions of this part 11 shall govern employment after service retirement except to the extent that specific provisions regarding portability and the effect of portability are provided in part 17 of this article.

(5) (a) Subject to subsection (5)(j) of this section, a service retiree who is a special service provider and is hired pursuant to this subsection (5) by a board of cooperative services that satisfies the criteria specified in subsection (5)(b) of this section may receive salary without reduction in benefits for any length of employment in a calendar year if the service retiree has not worked for any employer during the month of the effective date of retirement. A service retiree described in this subsection (5)(a) who works for any employer during the month of the effective date of retirement shall be subject to a reduction in benefits as provided in section 24-51-1102 (2).

(b) This subsection (5) applies only if:

(I) The board of cooperative services hires the service retiree to provide services in two or more rural school districts as determined by the department of education based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area;

(II) The board of cooperative services hires the service retiree for the purpose of providing special services to students enrolled by the districts served by the board of cooperative services; and

(III) The board of cooperative services determines that there is a critical shortage of qualified special service providers and that the service retiree has specific experience, skills, or qualifications that would benefit the students in the school districts served by the board of cooperative services.

(c) A board of cooperative services that hires a service retiree pursuant to this subsection (5) shall notify the association before hiring the service retiree. A list of all service retirees employed by the board of cooperative services shall be provided to the association no later than September 1 of the applicable calendar year and shall be updated prior to any additional hirings during the same calendar year.

(d) The total number of service retirees hired by all boards of cooperative services pursuant to this subsection (5) during the time it is in effect shall not exceed forty. The association shall ensure that the boards of cooperative services do not hire more than forty service retirees pursuant to this subsection (5).

(e) A board of cooperative services that hires a service retiree pursuant to this subsection (5) shall provide full payment of all employer contributions and disbursements in accordance with part 4 of this article 51, and all working retiree contributions in accordance with part 11 of this article 51, on the salary paid to the service retiree described in subsection (5)(a) of this section. In addition, a board of cooperative services that hires a service retiree pursuant to this subsection (5) shall make an additional monthly payment to the association in an amount equal to two percent of the salary paid to the service retiree.

(f) Any service retiree who is employed pursuant to this subsection (5) shall not be required to resume membership. Upon termination of such service retiree's employment, there shall be no benefit calculation reflecting additional service credit accumulated or any increase in the highest average salary of such person.

(g) A service retiree who is employed pursuant to this subsection (5) shall not receive a health care premium subsidy pursuant to section 24-51-1206 during such employment.

(h) Any service retiree who is employed pursuant to this subsection (5) shall be eligible to participate in the health plan offered by the board of cooperative services or a school district served by the board of cooperative services while employed by the board of cooperative services.

(i) The period during which a service retiree may receive salary without reduction in benefits and without limitation in a calendar year pursuant to this subsection (5) shall not exceed five consecutive years from the date the service retiree began work pursuant to this subsection (5).

(j) A special service provider who retires before he or she has met the age and service credit requirements for full service retirement benefits pursuant to section 24-51-602 shall not be employed after retirement pursuant to this subsection (5) by the board of cooperative services

that was the special service provider's last employer until two years after his or her date of retirement.

(k) On or before December 1, 2023, the association shall submit a report to the finance committees of the house of representatives and the senate, or any successor committees, regarding the employment after service retirement provisions of this subsection (5). The boards of cooperative services that employ special service providers pursuant to this subsection (5) shall provide information requested by the association for the purposes of the report. The report shall include:

(I) The number of special service providers who have been employed after service retirement pursuant to this subsection (5) as of the date of the report;

(II) The extent to which this subsection (5) has helped boards of cooperative services address shortages of school special service providers;

(III) The costs, if any, to the association as a result of this subsection (5); and

(IV) Any other information deemed relevant by the association.

(l) As used in this subsection (5):

(I) "Board of cooperative services" has the same meaning as set forth in section 22-5-103 (2).

(II) "Employer" has the same meaning as set forth in section 24-51-101 (20).

(III) "Special service provider" means a person who is employed by a board of cooperative services to provide special services to students in the school districts within the geographic region served by the board of cooperative services.

(m) This subsection (5) is repealed, effective July 1, 2030.

(6) (a) On or before December 1, 2025, and on or before December 1 of each fifth year thereafter, the association shall submit a report to the finance and education committees of the house of representatives and the senate, or any successor committees, regarding the employment after service retirement provisions of subsections (1.8), (1.9), and (5) of this section. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required by this subsection (6) continues indefinitely.

(b) The employers in the school division of the association that employ a service retiree pursuant to subsection (1.8), (1.9), or (5) of this section shall provide information requested by the association for the purposes of the report.

(c) The report must include:

(I) The number of service retirees who have been employed after service retirement pursuant to subsections (1.8), (1.9), and (5) of this section as of the date of the report;

(II) The extent to which subsection (1.8), (1.9), or (5) of this section have helped employers in the school division address shortages;

(III) The costs, if any, to the association as a result of subsection (1.8), (1.9), or (5) of this section; and

(IV) Any other information deemed relevant by the association.

Source: L. 87: Entire article R&RE, p. 1073, § 1, effective July 1. **L. 90:** IP(1) amended, p. 1249, § 9, effective April 5. **L. 91:** Entire section amended, p. 877, § 10, effective July 1. **L. 92:** (1)(a) and (1)(b) amended, p. 1109, § 6, effective May 14. **L. 94:** IP(1) amended, p. 2579, § 1, effective June 3. **L. 97:** IP(1) amended, p. 778, § 13, effective July 1. **L. 2000:** Entire section amended, p. 1595, § 2, effective July 1. **L. 2001:** (1.5)(a) amended, p. 54, § 1, effective July 1.

L. 2002: IP(1) amended and (1.7) added, p. 190, § 2, effective April 3. **L. 2003:** (1.5)(b) and (2.5)(b) amended, p. 2179, § 2, effective June 3; IP(1) and (1.5)(a) amended, p. 2658, § 5, effective June 5; (1)(e) added, p. 2610, § 9, effective June 5. **L. 2004:** (2) and (3) amended, p. 1947, § 21, effective July 1, 2005. **L. 2005:** (2) amended, p. 901, § 2, effective June 2. **L. 2006:** (2) amended, p. 1188, § 22, effective May 25. **L. 2009:** IP(1) amended and (4) added, (SB 09-282), ch. 288, p. 1347, § 42, effective January 1, 2010. **L. 2010:** (1.8)(e) amended, (SB 10-003), ch. 391, p. 1856, § 36, effective June 9; IP(1) amended, (HB 10-1422), ch. 419, p. 2086, § 73, effective August 11; IP(1) and (2) amended and (1.8) added, (SB 10-001), ch. 2, p. 22, § 24, effective January 1, 2011. **L. 2012:** (1.8)(e)(II)(B) amended, (HB 12-1220), ch. 100, p. 337, § 14, effective August 8. **L. 2017:** IP(1), (1.8)(a), (1.8)(b), and (1.8)(c) amended and (1.9) added, (HB 17-1176), ch. 397, p. 2072, § 1, effective June 6. **L. 2020:** IP(1), (1.8)(a), and (1.8)(b) amended and (5) added, (HB 20-1127), ch. 283, p. 1381, § 2, effective September 14. **L. 2022:** IP(1) and (1.8)(b) amended and (1.3) added, (HB 22-1057), ch. 24, p. 156, § 2, effective March 17; (1.9)(a), IP(1.9)(i), (1.9)(i)(I), and (1.9)(i)(II) amended and (1.9)(j) repealed, (HB 22-1101), ch. 25, p. 158, § 1, effective March 17. **L. 2024:** (1.8)(a), (1.8)(b), and (1.9)(i) amended and (1.8)(b.5) and (6) added, (HB 24-1044), ch. 109, p. 338, § 1, effective July 1; (1.9)(a), (1.9)(b), (1.9)(h), (1.9)(i), (5)(c), and (5)(m) amended and (6) added, (SB 24-099), ch. 56, p. 193, § 1, effective August 7.

Editor's note: (1) This section is similar to former §§ 24-51-134 and 24-51-223 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2)(a) Subsection (1.5)(b) provided for the repeal of subsection (1.5), effective July 1, 2005. (See L. 2003, p. 2179.)

(b) Subsection (1.7)(g) provided for the repeal of subsection (1.7), effective July 1, 2005. (See L. 2002, p. 190.)

(c) Subsection (2.5)(b) provided for the repeal of subsection (2.5), effective July 1, 2005. (See L. 2003, p. 2179.)

(3) Amendments to the introductory portion to subsection (1) by Senate Bill 10-001 and House Bill 10-1422 were harmonized.

(4) Amendments to subsection (1.9)(i) by HB 24-1044 and SB 24-099 were harmonized.

(5) Amendments to subsection (6) by HB 24-1044 were harmonized in part with and superseded in part by SB 24-099.

Cross references: (1) For the legislative declaration in the 2010 act amending subsection (1.8)(e), see section 1 of chapter 391, Session Laws of San Andreas 2010.

(2) For the legislative declaration in HB 20-1127, see section 1 of chapter 283, Session Laws of San Andreas 2020.

(3) For the legislative declaration in HB 22-1057, see section 1 of chapter 24, Session Laws of San Andreas 2022.

24-51-1102. Reduction of a service retirement benefit - disclosure of service agreements by employers - definitions. (1) Except as otherwise provided in part 17 of this article, employment of a retiree by an employer, whether or not in a position subject to membership, that exceeds the daily or hourly calendar year limits stated in section 24-51-1101

(1) shall result in a reduction of the benefit of such retiree by five percent per day for any part of a day that exceeds said limits. Any reduction of benefits pursuant to the provisions of this subsection (1) that exceeds one hundred percent of the benefit shall be carried forward to reduce future months' benefits.

(2) Employment of a retiree by an employer, whether or not in a position subject to membership, that occurs during the month of the effective date of retirement shall result in a reduction of the benefit of such retiree by five percent per day for any part of a day that the retiree works during such month. Any reduction of benefits pursuant to the provisions of this subsection (2) that exceeds one hundred percent of the benefit shall be carried forward to reduce future months' benefits.

(3) Each employer shall provide a copy to the association of any tax-related information on its employees or other individuals or firms whereby the employer receives services in any form, pursuant to rules promulgated by the association. In addition, each employer shall provide a copy to the association of any agreement, contract, letter of understanding, or other arrangement whereby the employer will receive services in any form, upon request by the association.

(4) For purposes of subsections (1) and (2) of this section, "employment" shall be determined by the association consistent with the internal revenue service's guidance in revenue ruling 87-41, 1987 - 1 C.B. 296, as revised from time to time.

Source: L. 87: Entire article R&RE, p. 1073, § 1, effective July 1. **L. 91:** Entire section amended, p. 878, § 11, effective July 1. **L. 94:** Entire section amended, p. 2579, § 2, effective June 3. **L. 2001:** Entire section amended, p. 54, § 2, effective July 1. **L. 2003:** (1) amended, p. 2658, § 6, effective June 5. **L. 2005:** (3) and (4) added, p. 902, § 3, effective June 2. **L. 2006:** (4) amended, p. 1188, § 23, effective May 25. **L. 2009:** (1) amended, (SB 09-282), ch. 288, p. 1347, § 43, effective January 1, 2010.

24-51-1103. Contributions for a retiree who returns to membership - benefit calculation upon subsequent retirement - survivor benefit rights - disability retirement benefits. (1) Except as otherwise provided in section 24-51-1747, a retiree who returns to work in a position that is subject to membership may voluntarily suspend the service retirement benefits or the reduced service retirement benefits and resume membership. Upon such suspension, employer and member contributions are required to be made pursuant to the provisions of part 4 of this article.

(1.5) A retiree who, on or after January 1, 2011, suspends his or her service retirement or reduced service retirement benefits shall not add any service credit to the benefit segment from which the retiree suspends his or her retirement. Subject to the election set forth below, any additional service credit accumulated will be reflected in separate benefit segments upon subsequent termination of membership, but only after one year of service credit has been earned during a period of suspension. The service retirement or reduced service retirement benefits for each qualifying separate benefit segment will be calculated pursuant to the benefit structure under which the retiree originally retired. The benefit for each separate benefit segment resulting from suspension shall be determined using the member's salary and service credit acquired during the period of suspension. The member's age and total service credit with the association upon retirement after each suspension shall govern whether the member shall receive a service

retirement calculation or a reduced service retirement calculation pursuant to section 24-51-605 for that segment. Previous separate benefit segments shall be subject to recalculation only to reflect a change in the selected option or a designated cobeneficiary, if applicable, and no benefit increases pursuant to section 24-51-1001 will be applicable to any separate benefit segment during any period of suspension. Upon reinstatement of the retirement benefit allowance payments, no increase shall be made until such resumed payments have been paid continuously for the twelve months prior to July 1. Upon resumption of retirement after suspension, the association shall refund all moneys credited to the member contribution account during the period of suspension pursuant to section 24-51-405 unless, within a time period set by the association, the retiree makes written election to establish a separate benefit segment calculated as set forth above. The refund shall be an amount equal to all moneys credited to the member contribution account during the period of suspension and payment of matching employer contributions pursuant to section 24-51-408. The requirement to have at least five years of service credit to be eligible for the matching employer contributions provided in section 24-51-408 shall not apply in the event of returning to retirement after suspension. No refund may be issued for any benefit segment from which a benefit has been drawn. Such refund shall be required for any separate benefit segment during which less than one year of service credit has been earned.

(2) Survivor benefit rights provided for in part 9 of this article shall be available to a retiree who voluntarily suspends the benefits and returns to membership as if such retiree had not retired.

(3) (Deleted by amendment, L. 2010, (SB 10-001), ch. 2, p. 23, § 25, effective January 1, 2011.)

Source: L. 87: Entire article R&RE, p. 1073, § 1, effective July 1. **L. 91:** (1) and (2) amended, p. 878, § 12, effective July 1. **L. 94:** (1) and (2) amended, p. 2580, § 3, effective June 3. **L. 2003:** (1) amended, p. 2658, § 7, effective June 5. **L. 2009:** (1) amended, (SB 09-282), ch. 288, p. 1347, § 44, effective January 1, 2010. **L. 2010:** (1) and (3) amended and (1.5) added, (SB 10-001), ch. 2, p. 23, § 25, effective January 1, 2011.

24-51-1103.5. Contributions for a retiree employed by a school district during critical shortage - no benefit calculation upon subsequent termination - repeal. (Repealed)

Source: L. 2000: Entire section added, p. 1596, § 3, effective July 1. **L. 2003:** (2.5) added and (3) amended, p. 2179, § 3, effective June 3.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 2005. (See L. 2003, p. 2179.)

24-51-1104. Employment after disability retirement. A disability retiree from any division whose disability application was received by the association prior to January 1, 1999, may be employed by an employer, whether or not in a position subject to membership, without any reduction in benefits pursuant to the terms and conditions specified in sections 24-51-1101 to 24-51-1103 and in section 24-51-707. However, if the disabling condition returns, the

disability benefit may begin again upon the application of such member and approval of such application by the board.

Source: L. 87: Entire article R&RE, p. 1074, § 1, effective July 1. **L. 91:** Entire section amended, p. 879, § 13, effective July 1. **L. 94:** Entire section amended, p. 2580, § 4, effective June 3. **L. 97:** Entire section amended, p. 778, § 14, effective July 1.

Editor's note: This section is similar to former §§ 24-51-115 and 24-51-213 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-1105. Retirees from the judicial division. (1) (a) Retirees from the judicial division may return to temporary judicial duties pursuant to the provisions of section 5 (3) of article VI of the San Andreas state constitution and section 13-4-104.5, S.A.R.S., while receiving service retirement benefits.

(b) Notwithstanding the provisions of section 24-51-1101, upon written agreement with the chief justice of the San Andreas supreme court, a member of the judicial division may perform, during retirement, assigned judicial duties without pay for ten, twenty, thirty, sixty, or ninety days each year and must receive a benefit increase equal to three and three-tenths percent, six and seven-tenths percent, ten percent, twenty percent, or thirty percent, respectively, of the current monthly salary of judges serving in the same position as that held by the retiree at the time of retirement. Such agreement shall be for a period of not more than three years. A retiree may enter into subsequent agreements. The aggregate of these agreements shall not exceed twelve years, except at the discretion of the San Andreas supreme court.

(2) Repealed.

(2.5) A retiree from the judicial division, who has entered into an agreement pursuant to subsection (1) of this section, may take a leave of absence from temporary judicial duties to be performed under such agreement, with a cessation of the increase specified in subsection (1) of this section. Within thirty days prior to each anniversary date of retirement, and upon written request to and approval by the chief justice, a retiree, who has taken a leave of absence, may reenter into such agreement to perform assigned temporary judicial duties. Upon reentering into such agreement, the retirement benefit shall include the benefit increase specified in subsection (1) of this section.

(3) If a written agreement is entered into pursuant to the provisions of this section, and notice is received from the chief justice of the refusal of the retiree to accept a temporary assignment without just cause, the retirement benefit shall be recalculated to reduce the benefit to the amount payable without the increase specified in subsection (1) of this section. The reduction shall be effective on the first day of the month following such refusal.

(4) Increases in the retirement benefit pursuant to the provisions of this section shall be reimbursed to the judicial division trust fund by an annual appropriation by the general assembly to the judicial department for payment into the judicial division trust fund.

(5) Nothing in this section shall be construed to require a retiree from the judicial division to enter into an agreement to perform temporary judicial duties.

(6) Retirees from the judicial division include justices and judges who have retired from the supreme court, the court of appeals, district courts, county courts, probate courts, and juvenile courts.

(7) Retirees from the judicial division who received a "does not meet performance standard" or "do not retain" recommendation in their last judicial performance evaluation before their retirement, either public or unpublished, are not eligible to enter into an agreement under subsection (1)(b) of this section to return to temporary judicial duties during retirement.

(8) Retirees from the judicial division who receive a disciplinary disposition from the commission on judicial discipline of private admonishment, private reprimand, private censure, public reprimand, public censure, suspension, or removal are not eligible to enter into an agreement under subsection (1)(b) of this section to return to temporary judicial duties during retirement.

(9) Retirees from the judicial division who, during or after their term in office, receive private or public discipline from the office of the presiding disciplinary judge are not eligible to enter into an agreement under subsection (1)(b) of this section to return to temporary judicial duties during retirement.

Source: L. 87: Entire article R&RE, p. 1074, § 1, effective July 1. **L. 90:** (1) amended and (6) added, p. 1249, § 10, effective April 5. **L. 95:** (1)(b) amended and (2.5) added, p. 448, § 1, effective May 16. **L. 98:** (4) amended, p. 459, § 1, effective August 5. **L. 2005:** (1)(b) amended, p. 376, § 1, effective April 22. **L. 2021:** (1)(b) amended, (2) repealed, and (7), (8), and (9) added, (HB 21-1136), ch. 95, p. 379, § 2, effective May 4.

Editor's note: This section is similar to former § 24-51-607 as it existed prior to 1987.

Cross references: For the legislative declaration in HB 21-1136, see section 1 of chapter 95, Session Laws of San Andreas 2021.

PART 12

HEALTH CARE PROGRAM

24-51-1201. Health care trust fund. (1) There is hereby created a health care trust fund to provide, for the state, school, local government, and judicial divisions, a premium subsidy for health care to benefit recipients choosing to enroll in the health care program and for a proportionate portion of the expenses of the program.

(2) There is hereby created a health care trust fund to provide, for the Denver public schools division, a premium subsidy for health care to benefit recipients choosing to enroll in the health care program and for a proportionate portion of the expenses of the program. The board of education of the Denver public schools shall by trustee-to-trustee transfer place within the health care trust fund for the Denver public schools division the balance of the Denver public schools retiree health benefit trust held by the board of education on January 1, 2010.

Source: L. 87: Entire article R&RE, p. 1075, § 1, effective July 1. **L. 99:** Entire section amended, p. 341, § 6, effective July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1348, § 45, effective January 1, 2010.

Editor's note: This section is similar to former § 24-51-1411 as it existed prior to 1987.

24-51-1202. Health care program - design. (1) (a) The board shall design a group health care program for retirees, members, DPS members, DPS retirees, and their dependents, with or without full medicare coverage provided by the federal "Health Insurance for the Aged Act", 42 U.S.C. sec. 1395, as amended. This program shall provide health-care benefits and a level of reimbursement for health-care expenses which are consistent with prevailing community practices and other governmental health-care systems, protection from catastrophic financial loss, and current and long-term fiscal soundness of the trust fund as determined by the board.

(b) Any group health-care plan offered by the board that provides pharmacy benefits through the services of a pharmacy benefits manager shall require such manager to allow participation by any nonmail order retail pharmacy provider licensed in the state of San Andreas if such pharmacy provider agrees to accept the fee schedule, terms, and conditions of participation established by the plan's pharmacy benefits manager.

(1.5) Any employer, as defined by section 24-51-101 (20), may elect to provide health-care coverage through the health care program for its employees who are members. Participation in the health care program by an employer shall be voluntary and in the employer's sole discretion and shall not be mandatory for the employer.

(2) The board shall establish procedures for enrollment and determine the methods of claims administration for the health care program.

(3) (a) The board shall ensure that the premium amount for the health care program is paid by those individuals enrolled in said program.

(b) The premium amount for a benefit recipient shall be deducted from monthly benefits. If the premium amount exceeds the monthly benefits, the excess amount shall be collected from the benefit recipient directly. The premium amount for a member shall be collected directly from the member's employer.

(c) Surviving spouses and divorced spouses enrolled in the health care program pursuant to the provisions of section 24-51-1204 (1)(b) and (1)(c) shall directly pay the premium amount.

(d) If an individual who is directly paying for enrollment in the health care program fails to pay the premium amount within a reasonable period of time, as determined by the board, the association shall notify the individual that enrollment may be canceled within thirty days if payment is not received.

(4) The board may change the design and costs of the health care program at any time. Individuals enrolled in the health care program shall be notified thirty days prior to any change.

(5) DPS retirees may enroll in the association's health care program subject to the provisions of this part 12.

Source: L. 87: Entire article, R&RE, p. 1075, § 1, effective July 1. **L. 99:** (1) and (3)(b) amended and (1.5) added, p. 342, § 7, effective January 1, 2001. **L. 2009:** (1)(a) amended and (5) added, (SB 09-282), ch. 288, p. 1348, § 46, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-1403, 24-51-1404, and 24-51-1408 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-1203. Authority to contract and to self-insure. The board shall have the authority to contract, self-insure, and make disbursements necessary to carry out the purposes of the health care program. Said authority shall include, but is not limited to, contracting with insurance carriers, health maintenance organizations, preferred provider organizations, and any other company or association as deemed necessary and proper by the board.

Source: L. 87: Entire article R&RE, p. 1075, § 1, effective July 1.

Editor's note: This section is similar to former § 24-51-1403 as it existed prior to 1987.

24-51-1204. Health care program - eligibility. (1) The following persons are eligible to enroll in the health care program:

(a) All benefit recipients, including those from the Denver public schools division, and their dependents, including any dependent as defined in section 10-16-102 (17), S.A.R.S.; any unmarried children who are not natural or adopted children of the benefit recipient but who reside full time with the benefit recipient, are dependents of the benefit recipient for federal income tax purposes, and meet the age requirements of section 10-16-102 (17), S.A.R.S.; and any qualified children as defined in the rules adopted by the board;

(b) A surviving spouse of a retiree who elected option 1 or a DPS retiree who elected a single life annuity pursuant to part 17 of this article, if such spouse was covered by the health care program at the time of the death of the retiree;

(c) A divorced spouse of a retiree or of a DPS retiree if such spouse was enrolled in the health care program at the time of the divorce from the retiree;

(d) The guardian of a child receiving survivor benefits while the child is enrolled in the health care program;

(e) A member or a DPS member while receiving short-term disability program payments pursuant to part 7 of this article; and

(f) A member or a DPS member whose employer has elected to provide coverage through the health care program and such member's dependents.

(2) If a supplemental needs trust is receiving benefit payments pursuant to this article, the supplemental needs trust is not eligible to enroll in the health care program; however, the beneficiary of such trust is eligible to enroll in the health care program in the same manner that the beneficiary would be allowed to enroll if the beneficiary was the direct benefit recipient.

Source: L. 87: Entire article R&RE, p. 1075, § 1, effective July 1. **L. 97:** (1)(e) added, p. 778, § 15, effective July 1. **L. 98:** (1)(a) amended, p. 128, § 2, effective March 27. **L. 99:** (1)(d) and (1)(e) amended and (1)(f) added, p. 342, § 8, effective January 1, 2001. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1348, § 47, effective January 1, 2010. **L. 2013:** (1)(a) amended, (HB 13-1266), ch. 217, p. 991, § 59, effective May 13. **L. 2015:** (2) added, (SB 15-097), ch. 111, p. 327, § 7, effective April 16.

Editor's note: This section is similar to former §§ 24-51-1402 and 24-51-1405 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-1205. Enrollment. (1) Except as otherwise provided in this section, enrollment of eligible persons in the health care program may only take place within thirty days following either the effective date of retirement or the date of application for retirement, whichever is later, or at such enrollment times and pursuant to such conditions as are established by the board.

(2) Any benefit recipient, including those from the Denver public schools division, a member, or a DPS member enrolled in the health care program who has a change in dependents may, within thirty days after such change, add the dependents to be enrolled in the health care program.

(3) Repealed.

Source: L. 87: Entire article R&RE, p. 1076, § 1, effective July 1. **L. 97:** (3) repealed, p. 67, § 15, effective July 1. **L. 99:** (2) amended, p. 343, § 9, effective January 1, 2001. **L. 2009:** (2) amended, (SB 09-282), ch. 288, p. 1349, § 48, effective January 1, 2010.

Editor's note: This section is similar to former §§ 24-51-1405 and 24-51-1406 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-1206. Premium subsidy. (1) The provisions of this section shall apply to the health care trust fund for the school, state, local government, and judicial divisions. After July 1, 1987, the general assembly shall consider the recommendation of the board and shall approve the premium subsidy that shall be paid monthly from the health care fund for benefit recipients enrolled in the health care program. The premium subsidy shall be set without regard to the division from which the retiree retired. No premium subsidy shall be paid for persons enrolled in the health care program who are not benefit recipients.

(2) Except as otherwise provided in this section, and unless otherwise determined by the board through rule-making pursuant to section 24-51-204 (5), on and after July 1, 2000, the premium subsidy shall be:

(a) Two hundred thirty dollars per month for benefit recipients who are under sixty-five years of age and who are not entitled to medicare hospital insurance benefits provided by the federal "Health Insurance for the Aged Act", 42 U.S.C. sec. 1395, as amended.

(b) One hundred fifteen dollars per month for benefit recipients who are sixty-five years of age or older or who are under sixty-five years of age and entitled to medicare hospital insurance benefits provided by the federal "Health Insurance for the Aged Act", 42 U.S.C. sec. 1395, as amended.

(3) For benefit recipients whose benefits are based upon less than twenty years of service credit, the premium subsidy shall be reduced by five percent for each year of service credit less than twenty years. The service credit used in said calculation of the amount of the premium

subsidy for disability retirees or their cobeneficiaries shall be the same service credit used in the calculation of the disability retirement benefit pursuant to the provisions of section 24-51-704. Any portion of a year equal to or exceeding six months shall be considered a full year for purposes of the calculations specified in this subsection (3).

(4) The premium subsidy for a benefit recipient who is sixty-five years of age or older and who is not entitled to medicare hospital insurance benefits provided by the federal "Health Insurance for the Aged Act", 42 U.S.C. sec. 1395, as amended, shall be an amount which shall ensure that the premium paid by such benefit recipient is the same amount as the premium paid by a benefit recipient who is sixty-five years of age or older with the same number of years of service credit, who is entitled to medicare hospital insurance benefits, and who has selected the same plan and type of coverage under the health care program.

(5) If the amount of the premium for the health care of a benefit recipient is less than the amount of the premium subsidy as determined pursuant to the provisions of this section, the board shall pay the amount of the health-care premium.

(6) Any member or DPS member who does not have a member contribution account on December 31, 2009, must earn ten years of service credit with an affiliated employer other than an employer within the Denver public schools division in order to qualify, or for any benefit recipient whose benefits are based upon such members to qualify, for the premium subsidy specified in subsection (4) of this section. The service credit used in said calculation of the amount of the premium subsidy specified in subsection (4) of this section for disability retirees or their cobeneficiaries shall be the same service credit used in said calculation of the disability retirement benefit pursuant to the provisions of section 24-51-704.

(7) If a supplemental needs trust is receiving benefit payments pursuant to this article, the supplemental needs trust is not eligible for a premium subsidy; however, the beneficiary of such trust is eligible for a premium subsidy in the same manner that the beneficiary would receive a premium subsidy if the beneficiary was the direct benefit recipient. If the eligibility of the premium subsidy causes the beneficiary of the supplemental needs trust to be disqualified from receiving public benefits, the beneficiary is not eligible for such premium subsidy so long as such condition exists.

Source: L. 87: Entire article R&RE, p. 1076, § 1, effective July 1. **L. 88:** (2) to (4) R&RE and (5) added, pp. 975, 976, §§ 1, 2, effective July 1. **L. 90:** (2) amended, p. 1256, § 2, effective July 1. **L. 99:** (2) amended, p. 343, § 10, effective July 1, 2000. **L. 2009:** (1) and IP(2) amended and (6) added, (SB 09-282), ch. 288, p. 1349, § 49, effective January 1, 2010. **L. 2015:** (7) added, (SB 15-097), ch. 111, p. 327, § 8, effective April 16.

Editor's note: This section is similar to former § 24-51-1407 as it existed prior to 1987.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-1206.5. Health care trust fund subsidy funding. (1) The amount of the premium subsidy funded by each health care trust fund established in section 24-51-1201 shall be based on the percentage of the member contribution account balance from each division as it relates to the total member contribution account balance from which the benefit is paid.

(2) A person who receives multiple benefits shall only receive one premium subsidy.

Source: L. 2009: Entire section added, (SB 09-282), ch. 288, p. 1350, § 50, effective January 1, 2010.

24-51-1206.7. Denver public schools division premium subsidy. (1) The provisions of this section apply to the DPS health care trust fund. After January 1, 2010, the general assembly shall consider the recommendation of the board and shall approve by resolution the premium subsidy to be paid monthly from the Denver public schools health care trust fund for subsidy recipients of the Denver public schools division enrolled in the health care program. No premium subsidy shall be paid for persons enrolled in the health care program who are not benefit recipients. It is the intent of this section not to cause an increase or decrease in health-care subsidies by DPS.

(2) Except as otherwise provided in this section, and unless otherwise determined by the board through rule-making pursuant to section 24-51-204 (5), on and after January 1, 2010, the premium subsidy for benefit recipients of the Denver public schools division shall be:

(a) Two hundred thirty dollars per month for subsidy recipients who are not entitled to medicare hospital insurance benefits provided by the federal "Health Insurance for the Aged Act", 42 U.S.C. sec. 1395, as amended; and

(b) One hundred fifteen dollars per month for subsidy recipients who are entitled to medicare hospital insurance benefits provided by the federal "Health Insurance for the Aged Act", 42 U.S.C. sec. 1395, as amended.

(3) For subsidy recipients whose benefits are based upon less than twenty years of service credit, the premium subsidy shall be reduced by five percent for each year of service credit less than twenty years. The service credit used in said calculation of the amount of the premium subsidy for disability retirees shall be the same service credit used in the calculation of the disability retirement benefit pursuant to the provisions of section 24-51-704. Any portion of a year equal to or exceeding six months shall be considered a full year for purposes of the calculations specified in this subsection (3).

(4) If the amount of the premium for the health care of a subsidy recipient is less than the amount of the premium subsidy as determined pursuant to the provisions of this section, the board shall pay the amount of the health-care premium.

(5) (a) Service credit accrued by DPS members and members of the Denver public schools division on and after January 1, 2010, shall apply toward the calculation of the premium subsidy as provided in subsection (3) of this section. Service credit accrued under the DPS plan by DPS members prior to January 1, 2010, shall apply toward the calculation of the premium subsidy as provided in subsection (3) of this section only if the service credit was accrued while employed by a Denver public schools and if at least one of the following applies:

(I) The DPS member was participating in the Denver public schools retiree health benefit trust as of December 31, 2009; or

(II) The DPS member was a deferred DPS member as of December 31, 2009.

(b) Subject to the provisions of paragraph (a) of this subsection (5), service credit shall be granted for an approved leave of absence any time during a member's employment with Denver public schools prior to December 31, 2009, to serve at a charter school, as defined in section 24-51-1702 (10), for no longer than a three-year period, if written certification of

eligibility under this paragraph (b) is provided to the association by Denver public schools. Service credit provided for in this paragraph (b) shall apply only to the calculation of a subsidy payable from the DPS division health care trust fund.

Source: L. 2009: Entire section added, (SB 09-282), ch. 288, p. 1350, § 50, effective January 1, 2010.

24-51-1207. Cancellation of enrollment. (1) Upon thirty days' written notice to the association, any person enrolled in the health care program may cancel enrollment for himself, and any retiree may cancel enrollment in the health care program for his dependents.

(2) Enrollment may be canceled by the association upon thirty days' written notice to any person enrolled in the health care program whose premium amount has not been received by the first day of the month for which coverage was being purchased.

Source: L. 87: Entire article R&RE, p. 1076, § 1, effective July 1.

Editor's note: This section is similar to former §§ 24-51-1405, 24-51-1406, and 24-51-1408 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

24-51-1208. Long-term care insurance. The board is authorized to identify and designate one or more insurance providers to offer long-term care insurance to members, DPS members, retirees, DPS retirees, or all. Long-term care insurance offered pursuant to this section shall be funded solely through premium payments by members or retirees electing to contract for such insurance.

Source: L. 97: Entire section added, p. 67, § 16, effective July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1351, § 51, effective January 1, 2010.

PART 13

LIFE INSURANCE

24-51-1301. Plan sponsored group life insurance. The board may offer group life insurance coverage through any life insurance company qualified to do business in San Andreas or may self-fund such coverage. Life insurance coverage shall be available to members and DPS members who voluntarily subscribe. Notwithstanding the provisions of section 10-7-201, S.A.R.S., the board shall determine the terms and conditions of coverage and may negotiate or discontinue said coverage at any time the board determines such action to be in the best interest of the members. Members or DPS members who have elected group life insurance coverage shall be notified sixty days prior to any change in coverage or discontinuance.

Source: L. 87: Entire article R&RE, p. 1077, § 1, effective July 1. **L. 91:** Entire section amended, p. 879, § 14, effective July 1. **L. 95:** Entire section amended, p. 265, § 11, effective

July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1351, § 52, effective January 1, 2010.

Editor's note: This section is similar to former § 24-51-103 as it existed prior to 1987.

24-51-1302. Premiums for group life insurance. (1) Premiums for life insurance must be received by the association in order for an individual to be covered.

(2) Continuation of life insurance coverage after retirement is available to any retiree from any division who, prior to retirement, authorizes life insurance premiums to be deducted from monthly benefit payments.

(2.5) Life insurance coverage after termination of membership may continue for any inactive member who continues to pay life insurance premiums and does not receive a refund pursuant to the provisions of section 24-51-405 or part 17 of this article.

(3) Life insurance provided pursuant to the provisions of this part 13 may be assigned by members, inactive members, or retirees, including those of the Denver public schools division.

(4) The association shall pay no premium subsidy for life insurance.

Source: L. 87: Entire article R&RE, p. 1077, § 1, effective July 1. **L. 95:** (1), (2), and (3) amended and (2.5) added, p. 266, § 12, effective July 1. **L. 2009:** (2), (2.5), and (3) amended, (SB 09-282), ch. 288, p. 1352, § 53, effective January 1, 2010.

Editor's note: This section is similar to former § 24-51-103 as it existed prior to 1987.

24-51-1303. Life insurance beneficiary. Unless a member, DPS member, inactive member, deferred DPS member, retiree, DPS retiree, or a court decree names a different beneficiary for life insurance purposes, the named beneficiary shall be the beneficiary of such life insurance.

Source: L. 87: Entire article R&RE, p. 1077, § 1, effective July 1. **L. 95:** Entire section amended, p. 266, § 13, effective July 1. **L. 2009:** Entire section amended, (SB 09-282), ch. 288, p. 1352, § 54, effective January 1, 2010.

24-51-1304. Life insurance for certain retired state employees. (1) Any retiree who had life insurance coverage pursuant to the provisions of part 2 of article 8 of title 10, S.A.R.S., on June 30, 1986, shall continue to have such coverage unless the retiree refuses it. Any retiree who refuses such coverage may not resume coverage later.

(2) The board may offer group life insurance coverage through any life insurance company qualified to do business in San Andreas or may self-fund such coverage for eligible retirees under this section. The monthly premium shall be deducted from the benefits of each participating retiree and the association shall not pay any premium subsidy.

Source: L. 87: Entire article R&RE, p. 1077, § 1, effective July 1. **L. 95:** (2) amended, p. 266, § 14, effective July 1.

Editor's note: (1) This section is similar to former § 24-51-1409 as it existed prior to 1987.

(2) The internal reference in subsection (1) to part 2 of article 8 of title 10 refers to that part as it existed prior to its repeal on May 19, 1994.

PART 14

VOLUNTARY INVESTMENT PROGRAM

24-51-1401. Voluntary investment program established and fund created. (1) The board is hereby authorized to establish and administer a voluntary investment program and to create a separate trust fund to hold the assets of said investment program.

(2) The voluntary investment program shall be available to all members, DPS members, retirees, and DPS retirees, and shall be in addition to any other retirement or tax-deferred compensation system established by the state or its political subdivisions.

(3) The board is hereby authorized to offer participation in the voluntary investment program to all employees of employers that are affiliated with the association, regardless of whether those employees are members or retirees.

(4) For purposes of this part 14, members and retirees shall include DPS members and DPS retirees.

Source: L. 87: Entire article R&RE, p. 1077, § 1, effective July 1. **L. 2001:** (2) amended, p. 20, § 1, effective July 1. **L. 2009:** (3) added, (SB 09-066), ch. 73, p. 256, § 19, effective March 31; (2) amended and (4) added, (SB 09-282), ch. 288, p. 1352, § 55, effective January 1, 2010

Editor's note: This section is similar to former § 24-51-1302 as it existed prior to 1987.

24-51-1402. Contributions to the voluntary investment program. (1) An eligible employee pursuant to section 24-51-1401 may participate in the voluntary investment program authorized in section 24-51-1401 by authorizing his or her employer, as defined in section 24-51-101 (20), to contribute an amount by payroll deduction in lieu of receiving such amount as salary or pay. The amount of such contribution by a participant shall be subject to any limitations established by federal law. These voluntary contributions, in addition to investment earnings, shall be exempt from federal and state income taxes until the ultimate distribution of such contributions has been made to the participant, member, former member, or beneficiary.

(2) The board may, at its discretion, allow participants in the voluntary investment program to elect to make after-tax voluntary contributions to the voluntary investment program by payroll deduction. Investment earnings on such contributions are exempt from federal and state income taxes until the ultimate distribution of such contributions has been made to the participant, member, former member, or beneficiary.

(3) All voluntary contributions by a participating member shall be included in the salary of such member for the purpose of calculating member and employer contributions pursuant to the provisions of section 24-51-401. The member contribution provisions of section 24-51-401

and the matching employer contribution provisions of section 24-51-408.5 shall not apply to any voluntary contribution made by a retiree.

(4) The employer shall deliver all voluntary contributions to the service provider designated by the association within five days after the date that the participants are paid and consistent with the provisions of section 24-51-401 (1.7)(c) and (1.7)(d).

(5) (a) Effective July 1, 2009, all assets of the state defined contribution match plan established pursuant to section 24-52-104, as said section existed prior to its repeal in 2009, shall be transferred via trustee-to-trustee transfer to the association's voluntary investment program trust fund created in section 24-51-208 (1)(g), and such defined contribution match plan shall be merged into the association's voluntary investment program. An individual's account in the state defined contribution match plan shall become part of the individual's existing 401(k) plan account if one exists. If the individual does not have an existing 401(k) plan account, a separate account shall be created for the individual within the trust fund and administered in accordance with the terms of the voluntary investment program. The administration of such asset transfer shall be determined by the board.

(b) For purposes of this subsection (5), "existing 401(k) plan account" means a voluntary investment account authorized under 26 U.S.C. sec. 401(k), as amended.

Source: L. 87: Entire article R&RE, p. 1077, § 1, effective July 1. **L. 97:** (4) amended, p. 778, § 16, effective July 1. **L. 2001:** (1), (2), and (3) amended, p. 20, § 2, effective July 1. **L. 2004:** (4) amended, p. 699, § 6, effective July 1; (4) amended, p. 1947, § 22, effective July 1, 2005. **L. 2009:** Entire section amended, (SB 09-066), ch. 73, p. 256, § 20, effective March 31.

Editor's note: (1) This section is similar to former §§ 24-51-1301 and 24-51-1302 as they existed prior to 1987. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to subsection (4) by Senate Bill 04-132 and Senate Bill 04-257, effective July 1, 2005, were harmonized.

24-51-1403. Expenses of the voluntary investment program. The expenses of administering the voluntary investment program authorized in section 24-51-1401 shall be paid from the investment earnings of such voluntary investment program.

Source: L. 87: Entire article R&RE, p. 1078, § 1, effective July 1.

Editor's note: This section is similar to former § 24-51-1302 as it existed prior to 1987.

24-51-1404. Investments of the voluntary investment program. Participants in the voluntary investment program shall designate that their voluntary contributions be invested in one or more types of investments made available by the board. These investments may include, but are not limited to, equity investments, fixed-income investments, life insurance company products, and any investments permitted pursuant to the provisions of section 24-51-206.

Source: L. 87: Entire article R&RE, p. 1078, § 1, effective July 1. **L. 2001:** Entire section amended, p. 21, § 3, effective July 1. **L. 2009:** Entire section amended, (SB 09-066), ch. 73, p. 257, § 21, effective March 31.

Editor's note: This section is similar to former § 24-51-1302 as it existed prior to 1987.

PART 15

DEFINED CONTRIBUTION RETIREMENT PLANS

24-51-1500.2. Legislative declaration. The general assembly finds and declares that the purpose of the defined contribution plan established in this part 15 is to provide eligible employees who participate in the defined contribution plan with a path toward having a secure retirement through a focus on lifetime retirement income to maintain an eligible employee's standard of living following a full career of employment. The provisions of this part 15 are designed to avoid a negative impact on the defined benefit trusts in this article 51. Employers are responsible for ensuring that their employees understand the advantages and disadvantages of the defined benefit and defined contribution plans.

Source: L. 2018: Entire section added, (SB 18-200), ch. 370, p. 2257, § 21, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1501. Defined contribution plan - establishment - creation of fund - definitions. (1) The board is hereby authorized to establish and administer a defined contribution plan for eligible employees as provided in this part 15. The board shall establish the terms and conditions of the association's defined contribution plan offered to eligible employees. The assets of the plan shall be held in a separate trust fund of the association created for such purpose.

(2) (a) Effective July 1, 2009:

(I) The state defined contribution plan established pursuant to part 2 of article 52 of this title, as said part 2 existed prior to its repeal in 2009, shall be merged into the association's defined contribution plan for eligible state employees established under this part 15, and all the assets of the state defined contribution plan and the trust fund shall be transferred via trustee-to-trustee transfer to the defined contribution plan trust fund established pursuant to section 24-51-208 (1)(i);

(II) Participants of the state defined contribution plan shall, subject to sections 24-51-1505 (4), 24-51-1506 (1), and 24-51-1506.5, become members of the association's defined contribution plan; and

(III) The individual participant accounts in the state defined contribution plan shall become individual participant accounts within the association's defined contribution plan.

(b) The administration of the asset transfer pursuant to paragraph (a) of this subsection (2) shall be determined by the board.

(3) The department of personnel created in section 24-1-128 shall provide for the orderly transfer of all records pertaining to the state defined contribution plan and shall take any other action as necessary for the board to assume its duties under this part 15.

(4) For purposes of this part 15, "employer" means the state, the general assembly, the office of a district attorney in a judicial district, any state department that employs an eligible employee, any community college governed by the state board for community colleges and occupational education. Effective January 1, 2019, "employer" also includes any employer in the local government division and, to the extent that they employ classified employees in the state personnel system, any state college or university as defined in section 24-54.5-102 (7), any institution under the control of the board of regents of the university of San Andreas, or an institution governed pursuant to part 5 of article 21 of title 23. Prior to January 1, 2019, "employer" shall not include any state college or university as defined in section 24-54.5-102 (7), any institution under the control of the board of regents of the university of San Andreas, or an institution governed pursuant to part 5 of article 21 of title 23.

Source: L. 2004: Entire part added, p. 1947, § 23, effective January 1, 2006. **L. 2009:** Entire section amended, (SB 09-066), ch. 73, p. 249, § 5, effective March 31. **L. 2018:** (1) and (4) amended, (SB 18-200), ch. 370, p. 2257, § 22, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1502. New eligible employees - election - definitions. (1) Any eligible employee pursuant to paragraph (a) of subsection (2) of this section shall elect, within sixty days of commencing employment, either to become a member of the association's defined benefit plan or the association's defined contribution plan. If an employee does not make such election within the sixty-day period, the employee shall become a member of the association's defined benefit plan. The employer is solely responsible for ensuring that an eligible employee pursuant to this section is given the opportunity to elect to become either a member of the defined benefit plan or the defined contribution plan.

(2) (a) For purposes of this part 15, "eligible employee" means, effective July 1, 2009, and effective January 1, 2019, for local government division employees and state division employees who are employed only in a classified position in the state personnel system by a state college or university, any employee who commences employment with an employer and who, if not commencing employment in a state elected official's position, has not been a member of the association's defined benefit plan or the association's defined contribution plan or an active participant of the state defined contribution plan established pursuant to part 2 of article 52 of this title 24, as said part existed prior to its repeal in 2009, during the twelve months prior to the date that he or she commenced employment. "Eligible employee" includes a retiree of the association who is serving in a state elected official's position but does not include any other retiree of the association or a retiree of the association who has suspended benefits.

(b) An employee who is covered by a defined contribution plan pursuant to article 54.6 of this title or who is an employee of any state college or university as defined in section 24-54.5-102 (7), any institution under the control of the board of regents of the university of

San Andreas, or an institution governed pursuant to part 5 of article 21 of title 23, S.A.R.S., shall not be eligible to make the election pursuant to subsection (1) of this section.

(3) Repealed.

Source: L. 2004: Entire part added, p. 1947, § 23, effective January 1, 2006. **L. 2005:** (1) and (2)(a) amended, p. 210, § 1, effective April 7; (2)(a) amended, p. 902, § 4, effective June 2. **L. 2006:** Entire section amended, p. 1188, § 24, effective January 1, 2008. **L. 2007:** Entire section amended, p. 2011, § 2, effective January 1, 2008. **L. 2009:** (1) and (2)(a) amended and (3) added, (SB 09-066), ch. 73, p. 250, § 6, effective March 31. **L. 2018:** (2)(a) amended and (3) repealed, (SB 18-200), ch. 370, p. 2257, § 23, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1502.5. New community college employees - election. (Repealed)

Source: L. 2007: Entire section added, p. 2012, § 3, effective January 1, 2008. **L. 2009:** Entire section repealed, (SB 09-066), ch. 73, p. 250, § 7, effective March 31.

24-51-1503. Defined contribution plan option. (1) An eligible employee shall be covered by the association's defined benefit plan with contributions and benefits as specified in parts 4 to 12 of this article, unless the member elects to participate in the association's defined contribution plan in accordance with this part 15 in lieu of the defined benefit plan within sixty days of commencing employment.

(2) An employee hired by an employer who has been a member of the association's defined benefit plan or the association's defined contribution plan during the twelve months prior to the date that the employee commences employment shall automatically continue to be a member of such plan upon commencing employment. If automatically continuing in the defined contribution plan, the employee's individual participation account shall receive the same employer contribution pursuant to section 24-51-1505 (1), as previously entitled. The employee shall be considered an eligible employee for purposes of section 24-51-1506.

(3) An employee of an employer who is hired on or after July 1, 2009, and who has been an active participant of the state defined contribution plan established pursuant to part 2 of article 52 of this title, as said part existed prior to its repeal in 2009, during the twelve months prior to the date that the employee commences employment, shall be a member of the association's defined contribution plan upon commencing employment, and the employee shall not be considered an eligible employee for purposes of section 24-51-1506 (1) and (2).

(4) (a) An eligible employee who is a member, inactive member, or retiree of the association's defined benefit plan on December 31, 2006, and elects to participate in or is automatically enrolled in the association's defined benefit plan, or who makes an election pursuant to section 24-51-1506 (1) to become a member of the association's defined benefit plan, shall be subject to the benefit provisions in effect for the existing member contribution account.

(b) An eligible employee who elects to participate in the association's defined contribution plan and is not a member, inactive member, or retiree of the association's defined benefit plan on December 31, 2005, and subsequently becomes a member of the association's

defined benefit plan shall be subject to the benefit provisions in effect at the time the employee becomes a member of the defined benefit plan. Any service credit purchased for the period of employment covered by the defined contribution plan shall be subject to the benefit provisions in effect for such member at the time of the commencement of the purchase.

(5) Notwithstanding any other provision of this part 15, participation in the association's defined contribution plan by a district attorney, an assistant district attorney, a chief deputy district attorney, a deputy district attorney, or other employee of a district attorney shall be governed by the provisions of sections 24-51-305 and 24-51-305.5.

Source: L. 2004: Entire part added, p. 1948, § 23, effective January 1, 2006. **L. 2005:** (2) amended, p. 210, § 2, effective April 7. **L. 2006:** (3) added, p. 1189, § 25, effective May 25. **L. 2007:** (2) amended, p. 2012, § 4, effective January 1, 2008. **L. 2009:** Entire section amended, (SB 09-066), ch. 73, p. 250, § 8, effective March 31. **L. 2018:** (2) amended, (SB 18-200), ch. 370, p. 2258, § 24, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1504. Investments. (1) The plan shall allow a member of the defined contribution plan to exercise control of the investment of the member's account under the plan, subject to the following provisions:

(a) The board shall select at least five investment alternatives that allow a member a meaningful choice between risk and return in the investment of the member's account.

(b) The plan shall allow the member to change investments regularly.

(c) The plan shall provide the member with the information describing the investment alternatives, including information on the nature, investment performance, fees, and expenses of the investment alternatives.

(2) The association and employers shall not have the responsibility to pay for any financial losses experienced by members of the defined contribution plan.

Source: L. 2004: Entire part added, p. 1948, § 23, effective January 1, 2006.

24-51-1505. Contributions - vesting - definition. (1) Contribution rates by the employer and by members of the defined contribution plan established pursuant to this part 15 shall be the same as the rates that would be payable by the employer and the member pursuant to section 24-51-401. The individual's participant account shall receive the full member contribution amount in effect under section 24-51-401. The individual's participant account shall receive a portion of the employer contribution equal to the amount in table A in section 24-51-401 (1.7)(a). Any portion of the employer contribution above the amount in table A in 24-51-401 (1.7)(a) shall be paid to the employer's division trust fund.

(2) Consistent with section 24-51-401 (1.7)(b), (1.7)(c), and (1.7)(d), the employer shall deliver all contributions within five days after the date members are paid.

(3) Except as otherwise provided in subsection (4) of this section, members of the association's defined contribution plan shall be immediately and fully vested in their own contributions to the plan, together with accumulated investment gains or losses. Members shall

be immediately vested in fifty percent of the employer's contribution to the defined contribution plan, together with accumulated investment gains or losses on that vested portion. For each full year of membership in the defined contribution plan, the vesting percentage shall increase by ten percent. The vesting percentage in the employer's contribution, with accumulated earnings or losses, shall be one hundred percent for all members with five or more years of membership in the defined contribution plan. If an individual becomes a member of the defined contribution plan without an existing account balance or after a twelve-month break in service, the individual shall begin a new vesting schedule with regard to future employer contributions in accordance with this subsection (3).

(4) A member of the association's defined contribution plan with an accrued balance in the plan who became a member of the plan pursuant to section 24-51-1501 (2) or 24-51-1503 (3), shall be fully vested in one hundred percent of the state's past and future contributions to the plan, together with accumulated investment gains or losses on that vested portion. If an individual becomes a member of the association's defined contribution plan without an existing account balance or after a twelve-month break in service, the individual shall begin a new vesting schedule with regard to vesting of future employer contributions in accordance with subsection (3) of this section.

Source: L. 2004: Entire part added, p. 1948, § 23, effective January 1, 2006. **L. 2007:** Entire section amended, p. 2013, § 5, effective January 1, 2008. **L. 2009:** Entire section amended, (SB 09-066), ch. 73, p. 251, § 9, effective March 31. **L. 2018:** (1), (2), and (3) amended, (SB 18-200), ch. 370, p. 2258, § 25, effective June 4.

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1506. Additional choices within first five years. (1) An eligible employee who is a member of the association's defined contribution plan, except for individuals who became members of the association's defined contribution plan pursuant to section 24-51-1501 (2) or 24-51-1503 (3), may elect, at any time during the second to fifth year of membership in the plan, to terminate membership in the plan and to become a member of the association's defined benefit plan with benefits and contribution rates specified in parts 4 to 12 of this article. Such election shall be irrevocable.

(2) A member who elects to join the defined benefit plan pursuant to subsection (1) of this section may, upon meeting the requirements of section 24-51-505, purchase service credit for the period of employment covered by the defined contribution plan. The cost to purchase such service shall be the same as the cost determined by the board for the purchase of noncovered employment. The member may elect to have any portion of the member's account paid from the defined contribution plan to the defined benefit plan to facilitate the purchase of service credit through a direct rollover in accordance with section 401 (a)(31) of the federal "Internal Revenue Code of 1986", as amended. The member may not be vested in the defined contribution plan upon purchasing service credit for employment that was covered by the defined contribution plan.

(3) The board, in its sole discretion, may provide optional coverage for disability, survivor, and retiree health-care benefits to members of the association's defined contribution plan.

(4) An eligible employee who is a member of the association's defined benefit plan may elect, at any time during the second to fifth year of membership in the plan, to terminate membership in the plan and to become a member of the association's defined contribution plan created pursuant to this part 15. Such election shall be irrevocable.

Source: L. 2004: Entire part added, p. 1949, § 23, effective January 1, 2006. **L. 2009:** (1) and (3) amended, (SB 09-066), ch. 73, p. 252, § 10, effective March 31.

24-51-1506.5. Additional choices for employees who were eligible employees before January 1, 2006. (1) Effective July 1, 2009, any employee who became eligible to participate in the state defined contribution plan before January 1, 2006, who was a member or inactive member of the association may, as long as the employee is employed in a position with an employer for which the association's defined contribution plan is available, make a written election during the annual open enrollment period for the state employees group benefit plan of any year to participate in the association's defined contribution plan. The written election shall be effective the first day of the annual state employees group benefit plan year established pursuant to section 24-50-604 (1)(m). In the absence of such written election, the employee shall be a member of the association's defined benefit plan.

(2) Any employee who was eligible to participate in the state defined contribution plan before January 1, 2006, and who elects to participate in the association's defined contribution plan pursuant to subsection (1) of this section shall specify one of the following options:

(a) To terminate future defined benefit contributions beginning on the date of election while maintaining rights as provided by the laws applicable to the association relative to any contributions or benefits accrued prior to such election; or

(b) To terminate membership in the association's defined benefit plan and require payment by the association of all member contributions, accrued interest on such contributions, and matching employer contributions, as provided by the laws applicable to the association, to the association's defined contribution plan. Such election shall constitute a waiver of all rights and benefits provided by the association. Within ninety days after receipt of notice of an election to terminate membership pursuant to this paragraph (b), the association shall pay to the association's defined contribution plan an amount equal to the employee's member contributions plus accrued interest calculated pursuant to section 24-51-407 and matching employer contributions paid pursuant to section 24-51-408.

(3) (a) Effective July 1, 2009, any employee who became eligible to participate in the state defined contribution plan before January 1, 2006, and who participated in the state defined contribution plan before July 1, 2009, and became a member of the association's defined contribution plan pursuant to section 24-51-1501 (2) or 24-51-1503 (3) may terminate future contributions to the association's defined contribution plan and instead participate in the association's defined benefit plan by making a written election during the annual open enrollment period for the state employee group benefit plan of any year. The written election shall be effective on the first day of the annual state employee group benefit plan year, established pursuant to section 24-50-604 (1)(m). Any such election to participate in the

association's defined benefit plan shall be in writing and shall be filed with the association and with such eligible employee's employer. In the absence of such written election, the employee shall be a member of the association's defined contribution plan.

(b) Any employee who terminates participation in the defined contribution plan pursuant to paragraph (a) of this subsection (3) and becomes a member of the association's defined benefit plan may, upon meeting the requirements of section 24-51-505, purchase service credit for the period of employment during which the employee was a participant in the defined contribution plan. The cost to purchase service credit shall be determined in accordance with section 24-51-505 (3). The employee may elect to have any portion of the employee's account paid from the defined contribution plan to the association to facilitate the purchase of service credit through a direct rollover in accordance with section 401 (a)(31) of the federal "Internal Revenue Code of 1986", as amended. The employee may not be vested in the association's defined contribution plan upon purchasing service credit for employment that was covered by the defined contribution plan.

Source: L. 2009: Entire section added, (SB 09-066), ch. 73, p. 253, § 11, effective March 31.

24-51-1507. Transfer or rollover into plan. The defined contribution plan may accept a direct rollover or a member rollover into the member's defined contribution plan account, to the extent permitted by federal law and authorized by the defined contribution plan.

Source: L. 2004: Entire part added, p. 1950, § 23, effective January 1, 2006.

24-51-1508. Distribution options. The defined contribution plan shall include options for the distribution of the defined contribution account, including payment in a lump sum and payment as a lifetime annuity. The state and other employers shall not have liability for any of the payments.

Source: L. 2004: Entire part added, p. 1950, § 23, effective January 1, 2006.

24-51-1509. Rights of defined contribution plan members. (1) A defined contribution plan member shall not be considered a member or a retiree for the purpose of parts 4 to 12 of this article, nor shall his or her survivors or beneficiaries be considered benefit recipients.

(2) A defined contribution plan member may participate in optional life insurance, long-term care insurance, the voluntary investment program, and the deferred compensation plan as provided in this article.

(3) A member of the defined contribution plan shall be eligible to enroll in the health care program as a benefit recipient pursuant to section 24-51-1204 (1)(a) only if the member elects the lifetime annuity distribution option. Any premium subsidy paid shall be based on the years of service credit in the defined benefit plan.

(4) A member of the defined contribution plan who has reached the age at which a distribution would not be subject to a penalty pursuant to the federal "Internal Revenue Code of 1986", as amended, and who returns to employment shall be subject to the provisions of part 11 of this article concerning employment after retirement.

(5) (Deleted by amendment, L. 2009, (SB 09-66), ch. 73, p. 254, § 12, effective March 31, 2009.)

Source: L. 2004: Entire part added, p. 1950, § 23, effective January 1, 2006. **L. 2009:** (2) and (5) amended, (SB 09-066), ch. 73, p. 254, § 12, effective March 31.

24-51-1510. Report to members. On a quarterly basis, the board shall report to members who participate in the defined contribution plan. The report shall include a statement of account balances, a review of account transactions, and the amount of administrative fees charged to the members during the quarter.

Source: L. 2004: Entire part added, p. 1951, § 23, effective January 1, 2006.

24-51-1511. Limitation on actions by eligible employees. Administrative actions or civil actions brought by employees to dispute the election for participation or failure to elect participation in the association's defined benefit plan, the association's defined contribution plan, or the defined contribution plan established pursuant to part 2 of article 52 of this title, as said article existed prior to its repeal in 2009, shall commence within one hundred eighty days after the election or within one hundred eighty days of the last day on which the employee may make an election to participate in such plan pursuant to this article and article 52 of this title, whichever is earlier, and not thereafter.

Source: L. 2006: Entire section added, p. 1190, § 26, effective May 25. **L. 2009:** Entire section amended, (SB 09-066), ch. 73, p. 254, § 13, effective March 31.

PART 16

DEFERRED COMPENSATION PLAN

24-51-1601. Deferred compensation plan and trust fund. (1) Effective July 1, 2009, the state deferred compensation committee established pursuant to section 24-52-102, as said section existed prior to its repeal in 2009, shall be abolished, and the board shall assume the administration of and fiduciary responsibility for the state deferred compensation plan previously administered under part 1 of article 52 of title 24, as said part existed prior to its repeal in 2009. The board shall have the authority to set the terms and conditions of the deferred compensation plan.

(2) The board shall establish, as set forth in section 24-51-208 (1)(j), a deferred compensation plan trust fund, referred to in this part 16 as the "trust fund", to hold the assets of the deferred compensation plan.

(3) The trust fund shall be established under section 24-51-208 (1)(j), effective upon transfer of assets of the deferred compensation plan to the trust fund. The board shall be trustee of the trust fund. No part of the assets and income of the trust fund shall be used for or diverted to purposes other than for the exclusive benefit of participants and their beneficiaries prior to the satisfaction of liabilities with respect to participants and their beneficiaries.

(4) The department of personnel created in section 24-1-128 shall provide for the orderly transfer of all records pertaining to the state deferred compensation plan and the state defined contribution match plan and shall take any other action necessary for the board to assume its duties under this part 16.

Source: L. 2009: Entire part added, (SB 09-066), ch. 73, p. 258, § 22, effective March 31.

24-51-1602. Affiliation with the deferred compensation plan. (1) An employee is not eligible to participate in the deferred compensation plan authorized in section 24-51-1601 unless his or her employer is affiliated with such plan.

(2) An employer, as defined in section 24-51-101 (20), may affiliate with the deferred compensation plan by making application to the association. All applications shall be subject to approval by the association. Upon affiliation, employees of the employer are eligible to begin deferring salary to the deferred compensation plan.

(3) All employers that are affiliated with the deferred compensation plan prior to July 1, 2009, including entities that are not affiliated employers of the association, as employer is defined in section 24-51-101 (20), shall remain affiliated and shall not have to apply to the association pursuant to subsection (2) of this section.

(4) Any employee who is employed by an entity that is affiliated with the deferred compensation plan shall be entitled to participate in the plan regardless of whether that individual is a member or retiree of the association.

Source: L. 2009: Entire part added, (SB 09-066), ch. 73, p. 258, § 22, effective March 31.

24-51-1603. Contributions to the deferred compensation plan. (1) An employee of an employer affiliated with the deferred compensation plan pursuant to section 24-51-1602 (2) or (3) may participate in the deferred compensation plan authorized in section 24-51-1601 by electing with his or her employer to defer receipt of salary by specifying an amount contributed by payroll deduction. The amount of such deferral by the employee shall be subject to any limitations established by federal law. The amount deferred, including investment earnings, shall be exempt from federal and state income taxes until the ultimate distribution of such contributions has been made to the participant, former participant, or beneficiary.

(2) All voluntary deferrals by a participating member shall be included in the salary of such member in accordance with section 24-51-101 (42) for the purpose of calculating member and employer contributions pursuant to the provisions of section 24-51-401. The member contribution provisions of section 24-51-401 shall not apply to any deferral made by a retiree.

(3) Consistent with the provisions of section 24-51-401 (1.7)(c) and (1.7)(d), the employer shall deliver all deferred compensation contributions to the trust fund via the service provider designated by the association, if applicable, within five days after the date the employees are paid.

Source: L. 2009: Entire part added, (SB 09-066), ch. 73, p. 259, § 22, effective March 31.

24-51-1604. Expenses of the deferred compensation plan. The expenses of administering the deferred compensation plan authorized in section 24-51-1601 shall be paid from either the investment earnings or account balances of the deferred compensation plan.

Source: L. 2009: Entire part added, (SB 09-066), ch. 73, p. 259, § 22, effective March 31.

24-51-1605. Investments of the deferred compensation plan. (1) Individuals participating in the deferred compensation plan shall designate that their deferred compensation contributions be invested in one or more types of investments made available by the board. These investments may include, but are not limited to, equity investments, fixed-income investments, life insurance company products, and any investments permitted pursuant to section 24-51-206.

(2) Neither the association nor any employers shall have the responsibility to pay for any financial losses experienced by members of the deferred compensation plan.

Source: L. 2009: Entire part added, (SB 09-066), ch. 73, p. 259, § 22, effective March 31.

PART 17

DENVER PUBLIC SCHOOLS DIVISION

24-51-1701. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is in the best interests of the people of this state to administer the Denver public schools pension system within the state under the public employees' retirement association.

(b) The combination of the Denver public schools retirement system as a separate division of the public employees' retirement association will recognize the distinctive characteristics of that system and its funding over sixty-three years, and will also facilitate the general assembly's anticipated assessment of the contribution and benefit structure of the association's defined benefit plans to maintain the perpetual sustainability of such plans based on the recommendations from the board of trustees of the association in 2010.

(c) The state's seventy-seven-year investment in the defined benefit plans for San Andreas public servants has served the state invaluably. The association has provided positive investment returns on funds that, when distributed as benefits, remain substantially within San Andreas and fosters a professional and effective governmental service system. These features strengthen the provision of government services for all citizens of the state in ways that no other retirement system could, affecting the public safety and general welfare of the state for the better.

(d) The current separation of pension plans and provisions between Denver public schools employees and the employees of all the other school districts in the state creates artificial barriers for employees to relocate between the systems. Therefore, this separation hinders competitive forces for the placement of teachers and other employees at their potential optimum employment location, preventing the maximization of employee value for all school districts and citizens within the state.

(2) The general assembly further finds and declares that the purpose of this part 17 is to combine the two systems with the intent of facilitating the perpetual future maintenance, security, and sustainability of the defined benefit plans within the public employees' retirement association. Given the special services and benefits rendered by San Andreas's public servants to the citizens of the state, it is the province, right, and obligation of the state to care for the members and the dependents and survivors of its public servants who are entitled to retirement benefits due to length of service or age or because they have been injured or disabled in service.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1353, § 56, effective May 21.

24-51-1702. Definitions. As used in this part 17, unless the context otherwise requires:

(1) "Accredited service" shall have the same meaning as set forth in section 24-51-1704.

(2) "Active service", as used in determining eligibility to receive benefits, as contrasted with determination of the amount thereof, means all periods of service that qualify as accredited service. Additionally, for employees appointed or reappointed on or after December 1, 1945, a maximum of ten years of civilian service, of a similar kind, in a tax-supported institution other than the district, referred to in this subsection (2) as "outside service", may count as active service; except that any service purchased together with any such outside service shall not exceed a maximum of ten years in calculating active service. No part of said outside service shall apply if earned while on leave from the district. Whenever the term "active service" is used with reference to civilian service of a similar kind of a regular or casual employee with any tax-supported institution other than the district, said active service shall be determined in a manner consistent with the definition of active service with the district. Periods of service in a charter school shall count as active service if such service is also counted as accredited service. Effective January 1, 1996, all service performed with the district or with a charter school and that meets the definition of accredited service shall be treated as if it were civilian service in a tax-supported institution other than the district, as provided in this subsection (2), if it is not counted as accredited service.

(3) "Annual compensation" means the established contractual salary rate for a regular employee on an annual basis for regularly assigned services, before any deductions. Special stipends and extra pay for additional assignments not on the basis of the regular established contractual salary rate shall not be deemed a part of annual compensation. For compensation received on and after January 1, 2010, annual compensation shall be governed by section 24-51-101 (42) for purposes of determining benefits under this part 17.

(4) "Annuity" means that portion of the benefit attributable to funds provided by normal or arrearage contributions or both made by a contributing or affiliate member.

(5) "Attained age" means the age attained upon a particular birthday.

(6) "Basic retirement allowance" means total retirement allowance excluding the annual retirement allowance adjustment.

(7) "Board of education" means the board of education of Denver public schools.

(8) "Career average salary" means the average of the applicable regular annual salary rates for the entire time of accredited service for regular employees.

(9) "Casual employee" means any part-time or temporary employee of the district or of a charter school who received or receives payment in the form of wages or salary from the district

or charter school. Payment of fees for contracted services to an independent contractor shall not be considered salary or wages. Any employee who is a regular employee shall not at the same time be a casual employee.

(10) "Charter schools" means schools created pursuant to the "Charter Schools Act", part 1 of article 30.5 of title 22, S.A.R.S., that are a part of the Denver public schools and that are accountable to the board of education as complying with the purposes and requirements of said act.

(11) "Consumer price index" or "CPI" means the index, calculated by the United States department of labor, in the national consumer price index for urban wage earners and clerical workers.

(12) "Contributing service" means that portion of service for which an employee has paid the normal contribution, including any regular interest that would have been credited upon said contribution prior to the payment thereof by the member, together with an amount equal to the pension assessment, if applicable, that would have been payable during such service.

(13) "Covered employment" means the employment of any regular or casual employee who is compensated by wages or salary paid by the district or by a charter school approved by the district. "Noncovered employment" means employment outside of the district or outside of a charter school approved by the district. Service in the armed forces of the United States is included in "noncovered employment".

(14) "District" means school district no. 1 in the city and county of Denver and state of San Andreas and is used synonymously with the term "Denver public schools". Unless explicitly stated otherwise in the text, the term "district" also includes those schools that are part of the Denver public schools and that are accountable to the board of education as charter schools and shall also include the Denver public schools retirement system. For clarity or emphasis, there are references in certain sections to both the district and a charter school. The lack of such a dual reference shall not, however, be interpreted to change the foregoing definition as to any other sections.

(15) "Earned service" means service equal to the greater of a member's active or accredited service on January 1, 2004, calculated in accordance with the applicable provisions of this plan as it existed immediately prior to January 1, 2004. Following December 31, 2003, a member's earned service shall be used in lieu of active or accredited service in determining both the eligibility for and the amount of retirement benefits under the DPS plan. On and after January 1, 2010, earned service shall be governed by section 24-51-501.

(16) "Employee contribution" means any funds, other than the pension assessment, payable and paid hereunder by a contributing or affiliate member. The following additional terms are applicable to the term "employee contribution":

(a) "Accumulated contributions" means the balance in a member's account of normal arrearage or additional contributions and regular interest credits thereon. The pension assessment is not a part of accumulated contributions.

(b) "Arrearage contribution" means any contribution in excess of the normal contribution that is required of and paid by contributing or affiliate members.

(c) "Normal contribution" means the required payment by a contributing or affiliate member of a portion of compensation into the system retirement trust fund.

(17) "Highest average salary" means the average monthly compensation of the thirty-six months of accredited service having the highest rates, multiplied by twelve, or the "career

average salary", whichever is greater, and shall be applied to benefits, except for benefits under sections 24-51-1727 to 24-51-1731, attributable to retirement or death on or after July 1, 1994. For benefits under sections 24-51-1727 to 24-51-1731, "highest average salary" applies to cases where termination of service occurs on or after July 1, 1994. This subsection (17) shall apply only to DPS members eligible for a retirement benefit as of January 1, 2011. For DPS members not eligible for a retirement benefit as of January 1, 2011, the definition of "highest average salary" specified in section 24-51-101 (25)(b)(V) and (25)(b)(VI) shall apply.

(18) "Job sharing" means the occupation of a single staff position by two employees who receive annual compensation on the active payroll of the district, with each assignment being half-time for the entire contractual work year. Job sharing shall also mean the occupation of a less-than-full-time but greater-than-half-time position by one employee who receives annual compensation on the active payroll of the district and who has no other assignment with the district. Job sharing shall not include the occupation of a position by a person who is a casual employee.

(19) "Membership" means the relationship a regular or casual employee has in the DPS plan and shall consist of the following:

(a) "Affiliate member" means any casual employee who, pursuant to the provisions of this plan, has applied for affiliate membership and whose application has been accepted. "Affiliate member" includes any casual employee of a charter school or of the retirement system who applies for affiliate membership and whose application is accepted.

(b) "Annuitant" means a person who is receiving a retirement allowance.

(c) "Beneficiary" means a person or supplemental needs trust who has received, receives, or is designated to receive benefits accruing as a result of an employee's membership.

(d) "Contributing member" means a regular employee of the district on December 1, 1945, and any employee hired as a regular employee on or after said date, except an employee who, pursuant to the plan adopted by the board of education on November 19, 1945, elected associate membership and has not subsequently become a contributing member as permitted under the plan. The term "contributing member" includes a regular employee of a charter school and a regular employee of the system.

(e) "Deferred member" means a former employee of the district who:

(I) Is not an annuitant who, on or before December 31, 2008, terminated employment with the district and who has on file an election and declaration of intent to apply for a deferred retirement allowance; or

(II) On or after January 1, 2009, terminated employment with the district and has not requested a refund of such member's accumulated contributions.

(f) "Supplemental needs trust" means a valid third-party special needs trust established for a member's or retiree's child as the beneficiary of the trust that complies with the "San Andreas Medical Assistance Act", articles 4 to 6 of title 25.5, S.A.R.S., and the federal "Social Security Act", as amended. The department of health care policy and financing shall review any trust established during determination or redetermination of an individual's eligibility for medical assistance and specifically as to the effect of any trust on such eligibility for medical assistance. The trust must be for the benefit of a single beneficiary and must be coterminous with the lifetime of such beneficiary.

(20) "Money purchase monthly annuity" means the monthly annuity that is the actuarial equivalent of a lump sum amount.

(21) "Monthly compensation" means annual compensation divided by twelve.

(22) "Monthly crediting method" means the way in which earnings on member accounts are calculated and credited at the end of a calendar month based upon the accumulated contributions in the member's account at the beginning of that month pursuant to provisions of the DPS plan.

(23) "Nonqualified service" means any noncovered employment that does not include:

(a) Service as an employee of the United States government, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing;

(b) Service as an employee of a public, private, or sectarian elementary or secondary school;

(c) Service as an employee of an association of employees who are described in paragraph (a) of this subsection (23); or

(d) Service in the armed forces of the United States.

(24) "Normal retirement age" means the attainment of age sixty-five.

(25) "Outside service" means civilian service of a similar kind, in a tax-supported institution other than the district. Substantiation of outside service must be initiated as of July 1, 2009, or it cannot be applied to earned service for purposes of meeting regular retirement eligibility, pursuant to the provisions of this part 17 regarding earned service. Substantiation of such service must be completed on or prior to December 31, 2009.

(26) "Pension" means the portion of the benefit attributable to funds provided by the district.

(27) "Permanently incapacitated" means an incapacitating condition that is demonstrably permanent and prevents the employee from performing assigned duties subject to accommodation required in accordance with applicable law or reasonably imposed by the district. This subsection (27) applies only for purposes of determining eligibility for disability benefits for applications filed under the DPS plan prior to January 1, 2010.

(28) "Permitted absence" means any authorized and unpaid absence, other than severance of employment; except that no absence in excess of thirty consecutive calendar days shall be deemed permitted unless the authorization therefor shall be in writing, signed by an appropriate administrative official or by authorization of the district. Regardless of any time factor, no absence continued after written notice to return shall be deemed a permitted absence.

(29) "Primary percentage" shall be the product obtained by multiplying the unit benefit percentage factor by the total number of years and months of accredited service. Months shall be expressed as fraction with the number of months as the numerator and twelve as the denominator. The primary percentage shall be rounded to the nearest one-hundredth of a percent. Multiplying the primary percentage by the highest average salary as defined in subsection (17) of this section or career average salary, whichever is applicable, results in the annual retirement allowance expressed as a single life annuity and known as option A.

(30) "Regular employee" means any employee who receives annual compensation on the active payroll of the district and whose employment by the district represents the employee's principal gainful occupation and requires so substantial a portion of time that it is impractical to follow any other substantially gainful occupation. Absence of a regular employee on a permitted absence shall not change the employee's status as a regular employee. Any employee who is a casual employee shall not at the same time be a regular employee.

(31) "Regular interest" means, on and after January 1, 2010, the rate set by the association's board as provided in section 24-51-407 (4) and as may be periodically adjusted. On or before December 31, 2009, "regular interest" means the rates specified in the DPS plan document.

(32) "Reserve" means the present value of payments to be made on account of any benefit provided in this plan and computed upon the basis of such mortality tables and interest assumptions as may, from time to time, be approved.

(33) "Reserve for employees to be retired" means the reserve that is part of the system retirement trust fund and identifies the amount of moneys set aside to provide for the basic benefits that are anticipated to be payable to currently active members or to those members who have already elected deferred retirement benefits but who, because of age, are not yet actually receiving such benefits.

(34) "Retirement allowance" or "total retirement allowance" means the initial benefit for a benefit that becomes effective on or after January 1, 2010. For a benefit that became effective before January 1, 2010, "retirement allowance" means the total benefit payable as of June 30, 2010, including the sum of the initial benefit, accumulated annual increases, and cost of living increases.

(35) "Retirement plan" means the retirement and benefit plan contained in this part 17.

(36) "Supplement" or "special supplement" means postretirement increases in total retirement allowance to certain qualified annuitants and beneficiaries.

(37) "Tax-supported institution" means a governmental entity or agency that either has the power to levy taxes or that receives governmental appropriations as such an entity or agency.

(38) "Total temporary disability" means absence from work and temporary inability to perform assigned duties as a result of personal injury incurred in the scope and course of employment as determined by the district.

(39) "Unit benefit percentage factor" means the percentage used as the factor for one year of accredited service. The unit benefit percentage factor shall be one and two-thirds percent from July 1, 1962, to January 1, 1980. The unit benefit percentage factor shall be one and seventy-five one-hundredths percent effective January 1, 1980; one and ninety one-hundredths percent effective January 1, 1981; two percent effective January 1, 1982; two and seven one-hundredths percent effective January 1, 1988; two and twenty-five one-hundredths percent effective July 1, 1998; and two and one-half percent effective January 1, 2001. The unit benefit percentage applicable to a deferred retirement shall be that in effect on the actual date on which the employment of such member by the district finally terminated. In all other retirements, the unit benefit percentage factor shall be that in effect on the effective date of such retirement.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1353, § 56, effective January 1, 2010. **L. 2010:** (34) amended, (SB 10-001), ch. 2, p. 25, § 26, effective February 23; (17) amended, (SB 10-001), ch. 2, p. 25, § 26, effective January 1, 2011. **L. 2015:** (19)(c) amended and (19)(f) added, (SB 15-097), ch. 111, p. 327, § 9, effective April 16. **L. 2018:** (17) amended, (SB 18-200), ch. 370, p. 2259, § 26, effective June 4.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015. For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

24-51-1703. Denver public schools division - consolidation. (1) The DPS plan shall continue to govern the benefits and programs specified in such plan through December 31, 2009. On January 1, 2010, the DPS plan shall be superseded by the provisions of this article except to the extent that it is necessary to refer to the DPS plan for the correction of errors and as it may be incorporated by reference in this article.

(2) On January 1, 2010, all the assets, liabilities, and obligations of the Denver public schools retirement system shall become the assets, liabilities, and obligations of the Denver public schools division of the association without any further act or document of transfer.

(3) On January 1, 2010, notwithstanding the provisions of subsection (2) of this section, the Denver public schools retirement system or the association, or both, may take such actions and execute such certifications or other instruments as may be convenient to evidence the consummation of the merger of the two systems, its effective date, and the assets or any particular asset transferred. Any such certification or other instrument purportedly executed by an authorized officer of either system and bearing the seal of such system shall be prima facie evidence of all matters stated in the certification or instrument and may be relied upon by any third party, without further inquiry, including, without limitation, any public trustee or other public official of this or any other state or local government. If any certification or other instrument is recorded in the appropriate real estate records in this or any other state or local government, a copy of the certification or instrument, when duly certified by the custodian of the real estate records to be a true copy of the recorded original, shall have the same effect as the original.

(4) The value of assets transferred as of January 1, 2010, as reflected in the audited financial report effective December 31, 2009, shall determine the initial asset value in the Denver public schools division trust fund for purposes of the initial and future valuations and the proportionate share of the total assets of the association attributable to the Denver public schools division. In the event that the audited value is adjudicated by a court of competent jurisdiction to be in error such that the true value on the date of transfer was different than reflected in the audited financials, an adjustment shall be made to the initial asset value of the Denver public schools division and appropriate adjustments made to the proportionate share of investment returns and expenses of the association attributed to the Denver public schools division. No adjustment to the starting asset value of the Denver public schools division shall result from a change in value after January 1, 2010, of the assets transferred. For purposes of this subsection (4), the Denver public schools retirement system real estate and private equity holdings shall be valued and audited as of December 31, 2009, and the directly owned real estate of the association shall be appraised for evaluation as of December 31, 2009.

(5) (a) Prior legislative attempts to accomplish the merger of the Denver public schools retirement system into the school division of the San Andreas public employees' retirement association with agreement among the three parties have proven unsuccessful notwithstanding substantial expenditures of time and money by the parties. The reasons for such lack of success include the methodology involved in the determination and allocation of the costs of a merger in order to avoid any subsidy to either merging party as a result of the merger. To avoid these problems and to obtain the public policy benefits of a merger, this section mandates the merger without any requirement of agreement among the parties and implements it through the creation of a separate division within the association. Notwithstanding such mandate, the successful integration of the Denver public schools retirement system into the association while

maintaining a continuing high level of service to the members and beneficiaries of both systems has required and will continue to require the cooperation and best efforts of the governing bodies and staffs of the Denver public schools retirement system, the association, and the Denver public schools. In the course of the merger, the parties shall observe the fiduciary duties and legal obligations incident to their respective offices, positions, and employments, which duties and obligations may not always be entirely clear or easily accomplished. Therefore, to secure the public policy objectives incident to the merger and its successful implementation in the most efficient way feasible, so long as such governing bodies and staffs act or have acted in good faith and in accordance with a good faith interpretation of the requirements of this section and other applicable law, they shall be deemed to have fulfilled their fiduciary duties and other legal obligations. In addition, such governing bodies and staffs shall have no personal liability for their acts or omissions incident to the implementation of the merger, including all activities reasonably related thereto. Any person who contends otherwise shall bear the burden of proving that any act or omission challenged does not meet the requirements of good faith.

(b) It is the intent of this part 17 to achieve the mandated merger and to facilitate its implementation, thereby providing portability of the benefits of the members of the Denver public schools retirement system and the association. In addition, this part 17 is intended to pursue efficiencies in the administration of the benefits of members and beneficiaries of the Denver public schools retirement system and in the investment of moneys being transferred to the association and later accruing to it through employer and employee contributions, all in accord with changing conditions. The provisions of this part 17 and the benefit provisions for members and beneficiaries to be provided following the merger shall be interpreted and administered to attempt to further those objectives, and if pursued reasonably and in good faith shall be deemed to comply with applicable legal and fiduciary requirements. Any person who contends otherwise shall bear the burden of proving that any act or omission challenged does not meet all legal requirements applicable in the circumstances.

(c) On January 1, 2010, the separate existence of the Denver public schools retirement system shall cease, and the terms of its trustees shall expire. In addition, the employment of its employees shall cease, subject to section 24-51-1748, providing for their employment by the association. Any claims against such trustees, former trustees, employees, or former employees in their respective capacities shall be commenced within such periods of limitation and shall be subject to such other provisions as may be provided by law, but in no case shall such an action be brought more than two years after January 1, 2010. Any claims relating to the merger and made against the trustees, former trustees, employees, or former employees of the association in their respective capacities, and any claims relating to the merger and made against members or former members of the board of education or employees or former employees of the school district in their respective capacities shall be commenced within such periods of limitation and shall be subject to such other provisions as may be provided by law, but in no case shall such an action be brought more than two years after January 1, 2010.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1359, § 56, effective May 21.

24-51-1704. Service credit. (1) "Accredited service", as used in the determination of benefits, allowed or allowable, shall include the following:

(a) Subject to the express limitations in this section, all periods of employment with the district or with a charter school as a regular employee for which the employee received or receives payments in accordance with annual compensation.

(b) All periods of employment with the district or with a charter school as a casual employee prior to the effective date of retirement for which the employee received or receives wages or salary from the district; except that no period of employment as a casual employee shall be counted as accredited service if such employee during such period is also a regular employee.

(c) Leaves of absence or permitted absences commencing prior to July 1, 1962, as governed by the DPS plan document.

(d) Leaves of absence or permitted absences commencing on or after July 1, 1962, under the following conditions:

(I) A leave of absence for service in the United States armed forces, study, travel, or research shall count as accredited service if the entire period of said leave qualifies as contributing service.

(II) If said leave is a sabbatical leave or a leave for restoration of health on a half-salary basis and if the normal contribution is based on the full annual compensation of the member and the leave qualifies as contributing service, then the entire period of such leave shall count as accredited service. If, however, the normal contribution is based only on a fraction of the annual compensation, then said fraction shall be multiplied by the total period of such leave to determine the portion of the leave that shall count as accredited service.

(III) (A) Notwithstanding any other provision of this subparagraph (III), an absence due to a temporary total disability compensable in accordance with the "Workers' Compensation Act of San Andreas", articles 40 to 47 of title 8, S.A.R.S., shall be deemed accredited service only in accordance with the provisions of this sub-subparagraph (A).

(B) The portion of an absence due to a temporary total disability for which the employee is compensated by the district in accordance with its policies pertaining thereto from time to time shall be considered accredited service. If, however, the normal contribution is based only on a fraction of the annual compensation, then the fraction shall be multiplied by the total period of such leave to determine the portion of the leave that shall count as accredited service.

(C) The portion of an absence due to a temporary total disability for which the employee is not compensated in the manner provided in sub-subparagraph (B) of this subparagraph (III) but for which the employee receives workers' compensation shall be considered accredited service only if qualified as such within the earlier of two years after the employee's return to work full time or thirty days prior to the effective date of the employee's retirement. Such qualification shall be accomplished by payment into the DPS plan of an amount equal to the normal contributions and pension assessments, together with interest as calculated, and within the time limits determined by the association board and computed as of the date the agreement to pay is made, for the portion of the absence covered by this sub-subparagraph (C) in accordance with subparagraph (VI) of this paragraph (d).

(D) This subparagraph (III) shall become effective on January 1, 1986, and shall apply to absences covered by its terms that begin on or after that date.

(IV) No portion of a period of absence for illness where said period exceeds fifteen consecutive working days, for which period no payments in accordance with the employee's annual compensation were made, shall count as accredited service.

(V) Any other type of permitted absence not specified in this section may not be counted as accredited service unless the board of education, at the time such permitted absence is authorized, specifies that the time spent on such permitted absence shall be counted as accredited service for purposes of this retirement plan, subject to the requirement that the entire period of said absence shall qualify as contributing service. Notwithstanding this subparagraph (V), any such absence which is less than sixteen consecutive working days shall be counted as accredited service.

(VI) The normal contribution for all permitted absences other than those compensated in any way by the district shall be based upon the annual compensation in effect immediately prior to the date of commencement of such absence.

(VII) Service accrual for all permitted absences shall be consistent with service accruals that were allowed under this retirement plan immediately preceding the permitted absence. This shall include, without limitation, the retirement plan and associated rule definitions and provisions applicable to service accrual for job-sharing assignments as of any given date.

(e) Leaves of absences or permitted absence commencing on or after January 1, 1980, which can qualify as accredited service in accordance with this subsection (1), must be qualified as contributing service within two years from the date the employee returns to work. On and after January 1, 1998, leaves of absence that are qualified as contributing service shall be qualified in accordance with provisions of the DPS plan document.

(f) A person employed in a job-sharing assignment shall receive earned service accruals appropriate to reduce such service to its equivalent in full-time service.

(g) A leave of absence granted to an employee to allow that employee to work in a charter school shall not count as accredited service unless the period of time spent in charter school employment is covered as contributing or affiliate membership, in which case the service shall be covered pursuant to the requirements of such membership.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1362, § 56, effective January 1, 2010.

24-51-1705. Purchase of service credit relating to a refunded member contribution account and noncovered employment. Purchases related to reemployment and noncovered employment for which payments are not complete prior to January 1, 2010, shall be governed by the DPS plan document. On January 1, 2010, service credit shall be credited to the member accounts to the extent of payments received, a new service credit purchase agreement shall be issued by the association using the previously existing lump-sum or installment payment amount, and future payments and service accruals shall be governed by part 5.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1364, § 56, effective January 1, 2010.

24-51-1706. Accreditation of casual employment and qualifiable leave. Accreditation of casual employment and qualifiable periods of leave as described in section 24-51-1704 for which payments are not complete prior to January 1, 2010, shall be governed by the DPS plan document. On January 1, 2010, such service shall be credited to the member accounts to the extent of payments received, and a new purchase agreement shall be issued by the association

using the previously existing lump-sum or installment payment amount, and future payments and service accruals shall be governed by part 5 of this article. After January 1, 2010, accreditation of casual employment and qualifiable leaves as provided in this part 17 shall not be permitted.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1364, § 56, effective January 1, 2010.

24-51-1707. Affiliate membership. A casual employee who has been approved or has applied, and is ultimately approved, for status as an affiliate member as of December 31, 2009, shall remain an affiliate member and the benefits provided for pursuant to the DPS plan document shall govern at the time of retirement, unless such status is revoked pursuant to the DPS plan document. Any applicant for affiliate member status shall complete payments in accordance with the DPS plan document or be subject to revocation of affiliate member status. On or after January 1, 2010, further applications for affiliate membership shall not be permitted, and all eligible benefits payable to the existing affiliate members shall be based on the highest average salary, as defined in section 24-51-1702 (17), and benefit descriptions, as detailed in sections 24-51-1715, 24-51-1729, and 24-51-1734 to 24-51-1746.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1364, § 56, effective January 1, 2010.

24-51-1708. Unclaimed moneys. Any moneys due under this part 17 to employees who have resigned, been dismissed, or died prior to retirement, and that have been unclaimed for a period of three years shall be forfeited and credited to the Denver public schools division.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1365, § 56, effective January 1, 2010.

24-51-1709. Arrearages. Arrearage contributions allowed pursuant to this part 17 that require employer contributions, as well as employee contributions, shall be the obligation of and shall be paid by the member's Denver public schools division employer at the time the payment obligation was initiated even if the service so qualified was rendered during a period of employment with a different Denver public schools division employer.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1365, § 56, effective January 1, 2010.

24-51-1710. Earned service. (1) Effective on January 1, 2004, each active member of the system shall be credited with earned service. Subject to the further provisions of this section, earned service shall be equal to the greater of a member's active or accredited service on January 1, 2004, calculated in accordance with the applicable provisions of this retirement plan as it existed immediately prior to January 1, 2004. Following December 31, 2003, a member's earned service shall be used in lieu of active or accredited service in determining both the eligibility for and the amount of retirement benefits under this retirement plan.

(2) On and after January 1, 2010, in making calculations of earned service, active service shall not include outside service, but outside service substantiated on or before December 31, 2009, may be added to earned service in determining a member's eligibility to retire for superannuation with an unreduced benefit at age fifty-five or older and with at least twenty-five years of service, in accordance with sections 24-51-1715 and 24-51-1734; except that outside service taken together with service purchased under sections 24-51-1705 and 24-51-1706 may not exceed ten years in determining such eligibility to retire. This subsection (2) only applies to DPS members who retire from the Denver public schools division without exercising portability and DPS members who retire a frozen segment of service in the Denver public schools division that includes outside service.

(3) On and after January 1, 2004, earned service shall be calculated in the same manner provided in the DPS plan document for calculating active service prior to January 1, 2004, except for casual employment, which shall be calculated in accordance with the provisions of the DPS plan document; except that earned service shall not include outside service.

(4) In the case of a person who is an employee of the district on January 1, 2004, and thereafter qualifies as a deferred member in accordance with the DPS plan document and later applies for benefits under this part 17, the conversion to earned service shall be accomplished in the manner provided in this part 17, and benefits shall be calculated accordingly.

(5) In the case of a person who, on January 1, 2004, has either qualified for disability retirement or has applied for disability retirement and is thereafter determined to be entitled to such disability retirement, the recomputation of retirement benefits in accordance with the DPS plan document shall be accomplished utilizing earned service calculated pursuant to the provisions of this section.

(6) On and after January 1, 2004, this section shall, in accordance with its terms, amend and supersede all prior provisions of this retirement plan in conflict with such terms.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1365, § 56, effective January 1, 2010.

24-51-1711. Contributions - refunds. (1) **Refund upon termination.** Upon termination of employment, a contributing member or affiliate member, subject to the portability provisions of section 24-51-1747, shall be entitled to a refund of the total accumulated contribution balance as of the date of such termination refund.

(2) **Request for refund for deferred members.** Subject to the provisions of portability in section 24-51-1747, a deferred member account shall be available for refund unless a retirement benefit has commenced. The amount of the refund of such deferred account shall include any accumulated contribution balance or interest as of December 31, 2009, and interest accumulated thereafter, which shall be in accordance with section 24-51-407 (5). The accumulation of contributions or interest in the deferred account prior to December 31, 2009, shall be governed by the DPS plan document.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1366, § 56, effective January 1, 2010.

24-51-1712. Application for retirement benefits. Notwithstanding any other provision of this part 17, application for and processing of retirement applications shall be governed by the rules and procedures adopted by the association's board. Pursuant to the provisions of this part 17 regarding portability, references in this part 17 to service with the district shall be deemed to include service with all employers affiliated with the association.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1366, § 56, effective January 1, 2010.

24-51-1713. Eligibility - retirements without actuarial reduction. (1) This section shall only apply to DPS members who have five or more years of service credit as of January 1, 2011. For DPS members who have less than five years of service credit as of January 1, 2011, eligibility for retirement without an actuarial reduction shall be governed by section 24-51-602 (1)(a.7) and (1)(d).

(2) Whenever a contributing member or affiliate member pursuant to the DPS plan has completed a period of twenty-five years of active service, of which not less than fifteen years shall have been with the district, and has attained the age of fifty-five years while in the service of the district, said member shall be eligible for retirement for superannuation. Such retirement shall be made upon due application and subject to such rules as may be prescribed by the association.

(3) Whenever a contributing member or affiliate member of the DPS plan has completed a period of five years of active service and has attained the age of sixty-five while in the service of the district, said member shall be eligible for retirement for superannuation. Such retirement shall be made upon due application and subject to such rules as may be prescribed by the board of trustees.

(4) Whenever a contributing member or affiliate member pursuant to the DPS plan has completed a period of thirty years of active service with the district and has attained the age of fifty years while in the service of the district, said member shall be eligible for retirement for superannuation. Such retirement shall be made upon due application and subject to such rules as may be prescribed by the association.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1366, § 56, effective January 1, 2010. **L. 2010:** Entire section amended, (SB 10-001), ch. 2, p. 25, § 27, effective January 1, 2011.

24-51-1714. Eligibility - retirements requiring actuarial reduction. (1) This section shall only apply to DPS members who have five or more years of service credit as of January 1, 2011. For DPS members who have less than five years of service credit as of January 1, 2011, eligibility for retirement requiring an actuarial reduction shall be governed by section 24-51-604.

(2) Whenever a contributing member or affiliate member pursuant to the DPS plan has completed a period of twenty-five years of active service with the district but has not attained the age of fifty-five years, said member shall be eligible for retirement for superannuation but with reduced benefits in accordance with the applicable provisions of section 24-51-1715. Any such retirement shall be voluntary and reflect the choice of the member.

(3) Whenever a contributing member or affiliate member pursuant to the DPS plan has completed a period of fifteen years of active service with the district and has attained the age of fifty-five years while in the service of the district, said member shall be eligible for retirement for superannuation but with reduced benefits in accordance with the applicable provisions of section 24-51-1715. Any such retirement shall be voluntary and reflect the choice of the contributing member.

(4) Whenever a contributing member or affiliate member pursuant to the DPS plan has completed a period of thirty years of active service with the district but has not attained the age of fifty years, said contributing member shall nevertheless be eligible for retirement for superannuation but with reduced benefits in accordance with the applicable provisions of section 24-51-1715. Any such retirement shall be voluntary and reflect the choice of the member.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1367, § 56, effective January 1, 2010. **L. 2010:** Entire section amended, (SB 10-001), ch. 2, p. 26, § 28, effective January 1, 2011.

24-51-1715. Benefits. (1) The annual superannuation retirement allowance shall be determined in the following manner:

(a) Subject to the provisions of paragraph (c) of this subsection (1) pertaining to certain members appointed or reappointed on or after July 1, 2005, and for persons who become affiliate members on or after July 1, 2005, the following calculations shall apply:

(I) If said member shall retire pursuant to section 24-51-1713, the highest average salary as defined in section 24-51-1702 (17) shall be multiplied by the primary percentage which shall determine the annual retirement allowance expressed as a single life annuity and known as option A.

(II) If, however, said member shall retire pursuant to section 24-51-1714 (2), and if the member has reached retirement eligibility as of January 1, 2011, and has attained a minimum age of fifty years, the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a), shall be reduced by the lesser of four percent for each year that fifty-five exceeds said member's attained age or four percent for each year that thirty exceeds said member's number of years of active service with the district, in either case prorated for a partial year. For members who have not reached retirement eligibility as of January 1, 2011, the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a), shall be reduced by an actuarially determined percentage as of the effective date of retirement to ensure that the benefit is the actuarial equivalent of the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a).

(III) If said member shall retire pursuant to section 24-51-1714 (2), and if the member has reached retirement eligibility as of January 1, 2011, and is younger than age fifty, the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a), shall be reduced by the greater of four percent for each year that fifty exceeds said member's attained age or four percent for each year that thirty exceeds said member's number of years of active service with the district, in either case prorated for a partial year. For members who have not reached retirement eligibility as of January 1, 2011, the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a), shall be reduced by an actuarially determined percentage as of the effective date of retirement to ensure that the benefit is the actuarial

equivalent of the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a).

(IV) If said member shall retire pursuant to section 24-51-1714 (3), and the member has reached retirement eligibility as of January 1, 2011, the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a), shall be reduced by the lesser of four percent for each year that twenty-five exceeds said member's number of years of active service with the district or four percent for each year that sixty-five exceeds said member's age, in either case prorated for a partial year. For members who have not reached retirement eligibility as of January 1, 2011, the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a), shall be reduced by an actuarially determined percentage as of the effective date of retirement to ensure that the benefit is the actuarial equivalent of the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a).

(V) If said member shall retire pursuant to section 24-51-1714 (4), and if the member has reached retirement eligibility as of January 1, 2011, the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a), shall be reduced by four percent for each year that fifty exceeds said member's age. For members who have not reached retirement eligibility as of January 1, 2011, the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a), shall be reduced by an actuarially determined percentage as of the effective date of retirement to ensure that the benefit is the actuarial equivalent of the annual retirement allowance, calculated pursuant to subparagraph (I) of this paragraph (a).

(b) If a reduction percentage is applicable, prior to calculation of the reduced retirement allowance, the annuity portion shall be determined and subtracted from the retirement allowance in order to determine the pension portion, using the terms of section 24-51-1726, if applicable, and then the reduced retirement allowance shall be determined by application of the appropriate reduction. The annuity portion of said allowance, as determined prior to the reduction, shall be subtracted from the reduced retirement allowance in order to determine the pension portion, if any, that may be applicable. In no event shall any reduced retirement allowance be less than the annuity portion of said allowance as determined prior to the reduction percentage. Said annual retirement allowance shall be payable on a monthly basis and shall continue for so long as said member shall live or so long as may be provided under any option available to and elected by such member pursuant to the provisions of this retirement plan. Payment shall be made at the end of the calendar month for any retirement allowance attributable to said month, and upon the death of said member payment shall be allowed for that portion of the calendar month in which death occurs up to and including the date of death.

(c) In making the calculation of the annual retirement allowance adjustment for a member who initially was appointed or who became an affiliate member on or after July 1, 2005, and who has reached retirement eligibility as of January 1, 2011, the reduction percentage provided in paragraph (a) of this subsection (1) shall be changed in each instance from four percent to six percent. For members who have not reached retirement eligibility as of January 1, 2011, the annual retirement allowance, calculated pursuant to subparagraph (I) of paragraph (a) of this subsection (1), shall be reduced by an actuarially determined percentage as of the effective date of retirement to ensure that the benefit is the actuarial equivalent of the annual retirement allowance, calculated pursuant to subparagraph (I) of paragraph (a) of this subsection (1).

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1367, § 56, effective January 1, 2010. **L. 2010:** (1)(a) and (1)(c) amended, (SB 10-001), ch. 2, p. 26, § 29, effective January 1, 2011.

24-51-1716. Optional forms of allowance. Any contributing member or affiliate member whose effective date of retirement is on or after December 31, 2004, may elect to receive a superannuation retirement allowance in accordance with any of the options hereinafter stated. Option A shall be deemed a basic option, and the amount of the annual retirement allowance payable under such option as determined under the provisions of section 24-51-1715 shall be the amount that shall be duly adjusted in computing payments to be made under options other than option A. Prior to application for retirement, any such election may be changed or revoked, but when a member files application for retirement and elects an option, such option may not thereafter be changed or revoked, except where the designated co-annuitant under option P2 or option P3 predeceases the member prior to the effective date of retirement, pursuant to section 24-51-1723 or 24-51-1724, whichever is applicable. This shall not preclude the member's right to have the option elected become effective as of the date of retirement. In addition to the provisions of this section, in any dissolution of marriage action in any district court of the state of San Andreas, the court shall have jurisdiction to order or allow an annuitant who is a petitioner or respondent in such action, and who selected an option P2 or P3 at the time of retirement designating the annuitant's spouse as the co-annuitant, to revoke the co-annuitant designation and for an option A benefit to become payable thereafter to the annuitant. The option A benefit shall be the original option A amount calculated as of the annuitant's effective date of retirement increased by any increases in the basic retirement allowance granted in accordance with the provisions of the DPS plan document and section 24-51-1732 subsequent to the annuitant's effective date of retirement. If no option is elected by a member at or prior to the time of application for retirement, such member shall be considered to have automatically elected to receive the applicable benefit under option A.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1369, § 56, effective January 1, 2010.

24-51-1717. Option A. Option A is a single life annuity, which is defined as a specified sum of money payable monthly to an annuitant from the time of retirement until the death of said annuitant, without refund of any kind to the estate of the deceased annuitant or anyone claiming by or through the annuitant. The monthly retirement allowance under option A shall be calculated in accordance with the provisions of section 24-51-1715. For retirements having effective dates on or after December 31, 2004, option A shall be revised to provide that if, upon the death of the annuitant, the total amount of retirement allowance that has been paid to the annuitant does not exceed the amount of the member's accumulated contributions, then the difference between said accumulated contributions and the total amount of retirement allowance paid to such annuitant shall be paid to the named beneficiary of the annuitant or, if no named beneficiary exists, to the estate of the annuitant. The monthly retirement allowance under the revised option shall be calculated in accordance with the provisions of section 24-51-1715.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1369, § 56, effective January 1, 2010.

24-51-1718. Option B. (1) Option B is an installment refund annuity, which is defined as a smaller sum of money than the amount that would be payable under option A but that is the actuarial equivalent thereof, as provided in this retirement plan, payable monthly to an annuitant from the time of retirement until death, with the additional provision that if said annuitant dies before receiving an amount equal to the total reserve credited to said annuitant, said payments shall be continued to beneficiaries designated by said annuitant until the total amount of the payments made to such annuitant and to beneficiaries of said annuitant is equal to the total amount of reserve allocated to the payment of said annuitant's retirement allowance.

(2) If a deceased member's estate is the beneficiary, payment in one sum of the commuted value of the retirement allowance shall be made to the member's estate. The rate of interest used in determining the commuted value shall be the actuarial investment assumption rate of the association on the date of death of the member.

(3) In the event of the death of a retired deceased member's beneficiary who is receiving monthly benefits under option B, a payment in one sum of the commuted value of the remaining monthly payments shall be made to the estate of the deceased beneficiary. The rate of interest used in determining the commuted value shall be the actuarial investment assumption rate of the association on the date of death of the beneficiary.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1370, § 56, effective January 1, 2010.

24-51-1719. Option C. (1) Any contributing member or affiliate member choosing or having chosen option C through December 31, 2009, will be governed by the DPS plan document. As of January 1, 2010, option C will no longer be a permissible payment choice.

(2) Notwithstanding any provision to the contrary, an annuitant may change the co-annuitant that was named by such annuitant and designate a supplemental needs trust as a co-annuitant in place of the previously named co-annuitant if:

(a) The beneficiary of the supplemental needs trust is the same person as the previously named co-annuitant; and

(b) The retiree files an application and any required documents in a form as designated by the association.

(3) If a supplemental needs trust is not established before or within ninety days after the death of the annuitant, is determined to be invalid, or is terminated on or after the death of the annuitant, the beneficiary that was named in the trust is the co-annuitant.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1370, § 56, effective January 1, 2010. **L. 2015:** Entire section amended, (SB 15-097), ch. 111, p. 328, § 10, effective April 16.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-1720. Option D. Any contributing member or affiliate member choosing or having chosen option D through December 31, 2009, will be governed by the DPS plan document. As of January 1, 2010, option D will no longer be a permissible payment choice.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1370, § 56, effective January 1, 2010.

24-51-1721. Option E. (1) Any contributing member or affiliate member choosing or having chosen option E through December 31, 2009, will be governed by the DPS plan document. As of January 1, 2010, option E will no longer be a permissible payment choice.

(2) Notwithstanding any provision to the contrary, an annuitant may change the co-annuitant that was named by such annuitant and designate a supplemental needs trust as a co-annuitant in place of the previously named co-annuitant if:

(a) The beneficiary of the supplemental needs trust is the same person as the previously named co-annuitant; and

(b) The retiree files an application and any required documents in a form as designated by the association.

(3) If a supplemental needs trust is not established before or within ninety days after the death of the annuitant, is determined to be invalid, or is terminated on or after the death of the annuitant, the beneficiary that was named in the trust is the co-annuitant.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1370, § 56, effective January 1, 2010. **L. 2015:** Entire section amended, (SB 15-097), ch. 111, p. 328, § 11, effective April 16.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-1722. Additional optional forms of allowance beginning December 31, 2004. In addition to the options provided in sections 24-51-1717 and 24-51-1721, any contributing member or affiliate member whose effective date of retirement is on or after December 31, 2004, may elect to receive a superannuation retirement allowance in accordance with any of the options provided in sections 24-51-1723 and 24-51-1724. Option A shall be deemed a basic option under this section, and the amount of the annual retirement allowance payable thereunder, as determined under the provisions of section 24-51-1715, shall be the amount that shall be duly adjusted in computing payments to be made under options P2 and P3. Prior to application for retirement, any such election may be changed or revoked, but when a member files application for retirement and elects an option, such option may not thereafter be changed or revoked except as provided in this part 17.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1370, § 56, effective January 1, 2010.

24-51-1723. Option P2. (1) Option P2 is a modified joint survivorship annuity, which is defined as a somewhat smaller sum of money than the amount that would be payable under

option A but that is the actuarial equivalent thereof, as calculated under this retirement plan, payable monthly to an annuitant from the time of retirement until the death of said annuitant, and, thereafter an amount equal to one-half of the monthly amount paid to the annuitant is payable monthly to the annuitant's designated co-annuitant until the death of that person. The designation of the co-annuitant shall be effective upon the effective date of the member's retirement and may not subsequently be changed except as provided in subsection (2) of this section. Upon the death of the co-annuitant prior to the death of the annuitant, the benefit payable to the annuitant thereafter shall be the original option A amount increased by any increases in the basic retirement allowance granted in accordance with the provisions of the DPS plan document and section 24-51-1732 subsequent to the annuitant's effective date of retirement. In addition to designating a co-annuitant, the member shall designate a beneficiary and shall have the exclusive right to change such designation of beneficiary at any time prior to the annuitant's death. If, upon the death of both the annuitant and the co-annuitant, the total amount of retirement allowance that has been paid to them does not exceed the member's accumulated contributions, then the difference between said accumulated contributions and the total amount of retirement allowance paid to such annuitant and co-annuitant shall be paid to the named beneficiary of the annuitant, or, if no named beneficiary exists, to the estate of the co-annuitant.

(2) In case of the death of the designated co-annuitant under option P2 after the date of application for retirement and before the effective date of retirement, the member may make a change of option or designate a new co-annuitant within thirty days after the death of the previously designated co-annuitant and subject to the appropriate recalculation of the retirement allowance.

(3) Notwithstanding any provision to the contrary, an annuitant may change the co-annuitant that was named by such annuitant and designate a supplemental needs trust as a co-annuitant in place of the previously named co-annuitant if:

(a) The beneficiary of the supplemental needs trust is the same person as the previously named co-annuitant; and

(b) The retiree files an application and any required documents in a form as designated by the association.

(4) If a supplemental needs trust is not established before or within ninety days after the death of the annuitant, is determined to be invalid, or is terminated on or after the death of the annuitant, the beneficiary that was named in the trust is the co-annuitant.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1371, § 56, effective January 1, 2010. **L. 2015:** (3) and (4) added, (SB 15-097), ch. 111, p. 329, § 12, effective April 16.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-1724. Option P3. (1) Option P3 is a joint survivorship annuity, which is defined as a somewhat smaller sum of money than the amount that would be payable under option A but that is the actuarial equivalent thereof, as calculated under this retirement plan, payable monthly to an annuitant from the time of retirement until the death of said annuitant and thereafter to the annuitant's designated spouse or any one individual, so long as said designated spouse or

individual shall live; except that, if the co-annuitant is not a designated spouse, the calculation of the payments to the annuitant and co-annuitant will be made in accordance with the further provisions of subsection (2) of this section. The designation of the co-annuitant shall be effective upon the effective date of the member's retirement and may not subsequently be changed except as provided in subsection (4) of this section. Upon the death of the co-annuitant prior to the death of the annuitant, the benefit payable to the annuitant thereafter shall be the original option A amount increased by any increases in the basic retirement allowance granted in accordance with the provisions of the DPS plan document and section 24-51-1732 subsequent to the annuitant's effective date of retirement. In addition to designating a co-annuitant, the member shall designate a beneficiary and shall have the exclusive right to change such designation of beneficiary at any time prior to the annuitant's death. If, upon the death of both the annuitant and the co-annuitant, the total amount of retirement allowance that has been paid to them does not exceed the member's accumulated contributions, then the difference between said accumulated contributions and the total amount of retirement allowance paid to such annuitant and co-annuitant shall be paid to the named beneficiary of the annuitant or, if no such named beneficiary exists, to the estate of the co-annuitant.

(2) If the designated co-annuitant is not the annuitant's designated spouse or a former spouse of the annuitant under the circumstances stated in subsection (3) of this section, the co-annuitant's benefit shall be calculated in accordance with the treasury regulations under section 401(a)(9) of the federal "Internal Revenue Code of 1986", as amended, but, as so calculated, the benefits to the annuitant, the co-annuitant, and any beneficiary or to the estate of the co-annuitant, as provided for in option P3, shall be the actuarial equivalent of the amount that would be payable under option A as calculated under this retirement plan.

(3) If the designated co-annuitant is a former spouse, and if pursuant to a properly executed and filed agreement under section 14-10-113, S.A.R.S., the designated co-annuitant may, upon the prior death of the annuitant, and for the life of the co-annuitant, receive a monthly payment equal to that otherwise payable to the annuitant.

(4) In case of the death of the designated co-annuitant under option P3 after the date of application for retirement and before the effective date of retirement, the member may make a change of option or designate a new co-annuitant within thirty days after the death of the previously designated co-annuitant and subject to the appropriate recalculation of the retirement allowance.

(5) Notwithstanding any provision to the contrary, an annuitant may change the co-annuitant that was named by such annuitant and designate a supplemental needs trust as a co-annuitant in place of the previously named co-annuitant if:

(a) The beneficiary of the supplemental needs trust is the same person as the previously named co-annuitant; and

(b) The retiree files an application and any required documents in a form as designated by the association.

(6) If a supplemental needs trust is not established before or within ninety days after the death of the annuitant, is determined to be invalid, or is terminated on or after the death of the annuitant, the beneficiary that was named in the trust is the co-annuitant.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1371, § 56, effective January 1, 2010. **L. 2015:** (5) and (6) added, (SB 15-097), ch. 111, p. 329, § 13, effective April 16.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-1725. Determination of option P2 or P3 benefits. For reduced superannuation retirements and disability recalculations, for members who retire with an effective date of retirement on or after December 31, 2004, the calculation of benefits payable pursuant to option P2 or P3, as set forth in sections 24-51-1723 and 24-51-1724, shall be actuarially determined as of the effective date of retirement or, in the case of a recalculation pursuant to the DPS plan document for a member retired for disability, the applicable recalculation date.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1372, § 56, effective January 1, 2010.

24-51-1726. Minimum benefits - contributing members and affiliate members. (1) The minimum monthly pension portion of the retirement allowance under an option A settlement shall be the greater of:

(a) Such pension amount payable as a part of the retirement allowance computed under the provisions of section 24-51-1715 in the case of a member retiring for superannuation.

(b) The minimum benefits in effect on or after January 1, 1974, and prior to January 1, 1985, as governed by the DPS plan document.

(c) Effective January 1, 1985, the sum of fifteen dollars, multiplied by the number of whole years of accredited service plus additional whole months expressed as a fraction of a year of accredited service but in no event in excess of the total sum of one hundred fifty dollars, plus the sum of twenty dollars multiplied by the number of whole years of accredited service in excess of ten years plus additional whole months expressed as a fraction of a year of accredited service. These minimum benefits shall not apply to retirements previous to January 1, 1985.

(d) The minimum monthly pension portion of the retirement allowance under options other than option A shall be computed by taking such minimum amount as established under an option A settlement and making the appropriate reduction to reflect the additional actuarial factors involved under such other option pursuant to the applicable tables then in use.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1373, § 56, effective January 1, 2010.

24-51-1726.5. Contributions for a retiree who returns to membership - benefit calculation upon subsequent retirement - survivor benefit rights. (1) Except as otherwise provided in section 24-51-1747, a DPS retiree who returns to work in a position that is subject to membership may voluntarily suspend his or her retirement allowance and resume membership. Upon such suspension, employer and member contributions are required to be made pursuant to the provisions of part 4 of this article.

(2) A DPS retiree who, on or after January 1, 2011, suspends his or her retirement allowance shall not add any service credit to the benefit segment from which the retiree suspends his or her retirement. Subject to the election set forth below, any additional service credit accumulated will be reflected in separate benefit segments upon subsequent termination of membership, but only after one year of service credit has been earned during a period of suspension. The retirement allowance for each qualifying separate benefit segment will be calculated pursuant to the benefit structure under which the retiree originally retired. The benefit for each separate benefit segment resulting from suspension shall be determined using the DPS member's salary and service credit acquired during the period of suspension. The DPS member's age and total service credit with the association upon retirement after each suspension shall govern whether the DPS member shall receive a retirement allowance pursuant to section 24-51-1713 or 24-51-1714 for that segment. Previous separate benefit segments shall be subject to recalculation only to reflect a change in the selected option or a designated coannuitant, if applicable, and no benefit increases pursuant to section 24-51-1001 will be applicable to any separate benefit segment during any period of suspension. Upon reinstatement of the retirement benefit allowance payments, no increase shall be made until such resumed payments have been paid continuously for the twelve months prior to July 1. Upon resumption of retirement after suspension, the association shall refund all moneys credited to the member contribution account during the period of suspension pursuant to section 24-51-405 unless, within a time set by the association, the retiree makes written election to establish a separate benefit segment calculated as set forth above. The refund shall be an amount equal to all moneys credited to the member contribution account during the period of suspension and payment of matching employer contributions pursuant to section 24-51-1711 or 24-51-1729 (6)(a)(I), whichever is applicable. No refund can issue for any benefit segment from which a benefit has been drawn. Such refund shall be required for any separate benefit segment during which less than one year of service credit has been earned.

(3) (a) A DPS member whose retirement allowances are in separate benefit segments pursuant to this section must elect the same option and designate the same coannuitant for all of his or her separate benefit segments.

(b) A DPS retiree who suspends his or her retirement and elects a separate benefit segment pursuant to this section may change his or her original option and coannuitant election only if the original option selected was option A, P2, or P3. DPS retirees who selected option B, C, D, or E shall not be allowed to change that election.

(4) Survivor benefit rights provided for in this part 17 shall be available to a DPS retiree who voluntarily suspends the benefits and returns to membership as if such retiree had not retired.

Source: L. 2010: Entire section added, (SB 10-001), ch. 2, p. 28, § 30, effective January 1, 2011.

24-51-1727. Eligibility for deferred members. (1) Benefits shall be payable under this section and sections 24-51-1728 to 24-51-1731 if the following conditions are met:

(a) The employee must be an affiliate member or contributing member who has completed a period of not less than five years of active service with the district. Any contributing

member or affiliate member who terminated employment prior to January 1, 1997, shall be governed by the DPS plan document.

(b) Such member is not eligible to receive and has not received, by virtue of district employment, payment of any other benefits under this retirement plan. A refund of accumulated contributions is not deemed a benefit within the meaning of this section.

(c) The employment of such member with the district, either regular or casual, has been terminated and there has not been a withdrawal of the member's accumulated contributions. In the case of a member whose employment has terminated and who withdrew such contributions but thereafter accepted reemployment with the district, such prohibition against withdrawal shall refer to any normal, arrearage, or additional contributions thereafter made by such employee.

(d) Within one year following an effective date of termination of employment falling on or before December 31, 2008, such member must file an election and declaration of intent to apply for a deferred retirement allowance. Such election and declaration shall be made in the manner and form as prescribed.

(e) If a member's effective date of termination of employment falls on or after January 1, 2009, such member is automatically deemed a deferred member and is eligible to apply for a deferred retirement allowance upon meeting the requirements for commencement of a deferred retirement allowance.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1373, § 56, effective January 1, 2010.

24-51-1728. Accredited service - deferred members. In computing the amount of any deferred retirement allowance becoming due to such member upon final termination of employment, such member must, at the time of the effective date of termination of service, have a credit of accumulated contributions in such amount as would have been to such member's credit if such member had complied in full with the requirements of sections 24-51-1705 and 24-51-1707 as such requirements may apply. In the event said member fails to comply with such requirements, as applicable, then the accredited service of such member, subsequent to December 1, 1945, shall be credited in the same ratio that accumulated contributions, at the time of termination of service, bear to such member's credit if such member had complied in full with the requirements of sections 24-51-1705 and 24-51-1707 as such requirements may apply. If the provisions of section 24-51-1706 apply to such member applying for a deferred retirement allowance, then no portion of service subject to said provisions shall be counted as accredited service unless, at the time of termination of service, said member completed payment of the total amounts required by said section 24-51-1706. If such total amount as required by section 24-51-1706 is not so paid within such time, any incomplete amount paid in pursuant to section 24-51-1706 shall be refunded, without increase of any kind to such member, under such rules and regulations as the association may provide.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1374, § 56, effective January 1, 2010.

24-51-1729. Benefits - deferred members. (1) In the event the employment of such member with the district terminates on or after July 1, 1962, the deferred retirement allowance,

subject to the limitations set forth in section 24-51-1731, shall be computed in the following manner and paid under the following conditions:

(a) The amount of the deferred retirement allowance under option A shall be determined in the same manner and subject to the same conditions as is set forth in section 24-51-1715, if the member was a contributing member or affiliate member at the time that employment was terminated, with the following limitations:

(I) Accredited service shall be determined to the actual date on which employment of such member finally terminated.

(II) For contributing members and affiliate members, highest average salary as defined in section 24-51-1702 (17) shall be determined over the period to the actual date on which employment of such member finally terminated.

(III) The age factor for such member that is employed in calculating such deferred retirement allowance shall be that of attained age of fifty-five for employees having twenty-five or more years of active service, and that of attained age of sixty-five for employees having less than twenty-five years of active service. If, however, a member attains thirty or more years of active service with the district on or after January 1, 2001, the age factor for such member that is employed in calculating the deferred retirement allowance shall be that of attained age fifty.

(IV) The unit benefit percentage shall be in accordance with section 24-51-1702 (39).

(V) In making the calculation of the deferred retirement allowance for one qualified for deferred benefits, the provisions of section 24-51-1715 (1)(c) changing the reduction percentage from four percent to six percent for certain retirements shall not apply if the retiree terminated employment on or before June 30, 2005.

(b) Said member must apply to the association for a deferred retirement allowance in the manner and form as may be prescribed in section 24-51-1712. Such application may not be filed sooner than sixty days before the effective date of the member's deferred retirement allowance. No deferred retirement allowance shall be payable to any otherwise eligible member unless proper application is received within the three-year period following the earliest possible effective date of such an allowance.

(2) On or after January 1, 1998, the effective date of the deferred retirement allowance shall be thirty days after the date proper application for such allowance is received, but in no event before the attainment of age fifty-five by a member who has at least twenty-five years of active service, or age sixty-five, if such member has less than twenty-five years of active service. If, however, a member attains thirty or more years of active service with the district on or after January 1, 2001, the effective date of the deferred retirement allowance shall be thirty days after the date proper application for such allowance is received, but in no event before the attainment of age fifty. The first monthly installment of said allowance shall be payable at the end of the month in which such effective date falls. No payment shall be made for any period prior to such effective date.

(3) The deferred retirement allowance shall be payable under any of the options provided in sections 24-51-1717 to 24-51-1724, as elected by such member at the time of application for a deferred retirement allowance, and shall be calculated as provided therein, subject to the further provisions of this section. The age factor employed in calculating such deferred retirement allowance shall be that of attained age sixty-five as to such member, and under any option involving a co-annuitant the age of such co-annuitant at said attained age of sixty-five of such member; except that, for annuitants eligible for benefits at age fifty or age fifty-five, as

applicable, the age factor employed in calculations shall be that of attained age fifty or age fifty-five, as applicable, as to such member and under any option involving a co-annuitant the age of such co-annuitant at said attained age of fifty or age fifty-five, as applicable, of such member.

(4) In the case of a deferred retirement allowance payable after December 31, 1973, and prior to January 1, 1985, the minimum monthly pension attributable under an option A settlement shall be governed by the DPS plan document.

(5) In the event the employment of a member with the district terminates on or after January 1, 1985, the minimum monthly pension portion of the retirement allowance under an option A settlement shall be the greater of:

(a) Such pension amount payable as a part of the retirement allowance computed under the provisions of section 24-51-1729;

(b) The sum of fifteen dollars, multiplied by the number of whole years of accredited service plus additional whole months expressed as a fraction of a year of accredited service but in no event in excess of the total sum of one hundred fifty dollars, plus the sum of twenty dollars multiplied by the number of whole years of accredited service in excess of ten years plus additional whole months expressed as a fraction of a year of accredited service.

(6) (a) In the event the employment of a member with the district terminates on or after January 1, 2001, at the time said member becomes eligible to receive benefit payments in accordance with this section, the member shall have the following additional options:

(I) A payment equal to two hundred percent of the deferred member's then-accumulated contributions calculated without reference to amounts contributed for purchase of periods of noncovered employment service credit and interest credits on amounts so contributed; or

(II) A retirement allowance equal to the sum of the amount determined in paragraph (b) of subsection (5) of this section plus a money purchase monthly annuity that is the actuarial equivalent of two hundred percent of the deferred member's accumulated contributions at the time the member becomes eligible to receive benefit payments calculated without reference to amounts contributed for purchase of periods of noncovered employment service credit and interest credits on amounts so contributed. The determination of the money purchase monthly annuity shall incorporate the provisions of section 24-51-1732 and utilize the assumptions of the association.

(b) The minimum monthly pension portion of the retirement allowance under options other than option A shall be computed by taking such minimum amount as established under an option A settlement and making appropriate reduction therein to reflect the additional actuarial factors involved under such other option pursuant to the applicable tables then in use.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1374, § 56, effective January 1, 2010. **L. 2010:** (1)(a)(V) amended, (SB 10-001), ch. 2, p. 29, § 31, effective January 1, 2011.

24-51-1730. Deferred member death. In case any deferred member, as defined under section 24-51-1702 (19)(e), dies while such membership status remains in force but before the effective date of the deferred retirement allowance, the amount of the accumulated contribution balance at the time of death shall be paid to the designated beneficiary of record or to the member's estate.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1377, § 56, effective January 1, 2010.

24-51-1731. Benefits for deferred members determined upon date of termination. Subject to the provisions of this section, in the event of reemployment, all rights and privileges incident to a deferred retirement allowance shall be and remain as provided under the retirement plan and its pertinent policies and rules and regulations in effect at the time of such termination of employment. If such employee whose employment has been terminated is reemployed by the district and thereafter remains continuously in the employ of the district for a sufficient period to establish a full year of accredited service, then any rights with respect to a deferred retirement allowance shall be determined by the provisions of sections 24-51-1727 to 24-51-1730 in effect on the date of such subsequent termination of employment.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1377, § 56, effective January 1, 2010.

24-51-1732. Benefit increases - annual retirement allowance adjustment - contributing members - affiliate members - deferred members - survivors (2001 and 2005). (1) (a) Monthly retirement and survivor benefit payments, including the increases determined under the provisions of the DPS plan document attributable to retirement or death of an eligible employee of the district who retired or died after December 1, 1945, shall be increased in accordance with part 10 of this article.

(b) Adjusted payments based on survivor benefits that are suspended by reason of the beneficiary not having attained the minimum age requirements provided in sections 24-51-1738 to 24-51-1740 or pursuant to the provisions of the DPS plan document shall not continue to accumulate or accrue during such period of suspension.

(2) Upon attainment of the minimum age requirements and resumption of such survivor's benefit payments or reinstatement under the provisions of the DPS plan document, no increase shall be made until such resumed payments have been paid continuously for the twelve months prior to July 1.

(3) (Deleted by amendment, L. 2010, (SB 10-001), ch. 2, p. 30, § 32, effective February 23, 2010.)

(4) No increase shall be payable incident to any retirement or survivor benefits becoming payable to any legal entity other than an individual person, to a personal representative or other person acting in an analogous representative capacity. This subsection (4) shall not preclude payment of such increase to the guardian or conservator of a person otherwise entitled thereto.

(5) Pursuant to section 24-51-1726.5, adjusted payments based on benefits that are suspended by reason of the annuitant's having returned to service with an employer affiliated with the association as a regular employee shall not continue to accumulate or accrue during such period of suspension. Upon reinstatement of the retirement allowance payments, no increase shall be made until such resumed payments have been paid continuously for the twelve months prior to July 1.

(6) Annuitants who are reemployed by the district on or before December 31, 2009, shall until termination of such employment be subject to the DPS plan document provisions related to

the reemployment of an annuitant. Any subsequent employment shall be governed by part 11 of this article.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1377, § 56, effective January 1, 2010. **L. 2010:** (1), (2), (3), and (5) amended, (SB 10-001), ch. 2, p. 30, § 32, effective February 23.

24-51-1733. Domestic relations order. Agreements entered into pursuant to section 14-10-113 (6), S.A.R.S., on or before December 31, 2009, shall be subject to the provisions of the DPS plan document, and agreements entered into on and after January 1, 2010, pursuant to section 14-10-113 (6), S.A.R.S., shall be subject to the provisions of the rules and regulations of the association.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1379, § 56, effective January 1, 2010.

24-51-1734. Disability retirement. Applications for disability for DPS members filed on or before December 31, 2009, shall be governed by the disability provisions of the DPS plan document, and on or after January 1, 2010, disability shall be governed by the provisions of part 7 of this article. Persons receiving disability benefits under the DPS plan as of December 31, 2009, shall continue to receive such benefits in accordance with the DPS plan. The association board shall administer the provisions of the DPS plan regarding discontinuance or reduction of disability benefits paid under the DPS plan.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1379, § 56, effective January 1, 2010.

24-51-1735. Survivor benefits - refund. (1) The determination of death and survivor benefits for DPS members shall be governed by this section. Pursuant to the provisions of this part 17 regarding portability, references in this section to service with the district shall be deemed to include service with all employers affiliated with the association.

(2) In case of death of any affiliate or contributing member prior to retirement, the total accumulated contribution balance at the time of death shall be payable in one lump sum to the designated beneficiary, if applicable, or to the member's estate, unless one or more of the following circumstances exist:

(a) Said member meets the definition of deferred member under section 24-51-1702 (19)(e) at the time of death, in which case section 24-51-1730 shall apply.

(b) The designated beneficiary or beneficiaries of said member shall elect, pursuant to the provisions of sections 24-51-1736 to 24-51-1746, to have the provisions of said sections 24-51-1736 to 24-51-1746 applied in lieu of the refund above mentioned.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1379, § 56, effective January 1, 2010.

24-51-1736. Eligibility for survivor benefits. (1) No benefits shall be payable under sections 24-51-1736 to 24-51-1746 unless all of the following conditions are met:

(a) At the time of death the deceased member was a contributing member, or a contributing member who retired for disability on or after July 1, 1962, and who would not be precluded pursuant to the DPS plan document from rights for survivor benefits.

(b) The deceased contributing member was a regular employee in the active service of the district continuously for the five-year period prior to said member's death, said five-year period having been contributing service, except:

(I) Absence on sabbatical leave or on a leave for restoration of health on a half-salary basis for periods during which contributions are paid shall be deemed continuous employment within the meaning of sections 24-51-1736 to 24-51-1746 and included in the required five-year period. Time absent from employment because of leave other than sabbatical leave or a leave for restoration of health on a half-salary basis and time absent from employment because of a permitted absence not constituting a termination of regular employment shall be disregarded and for the purposes of sections 24-51-1736 to 24-51-1746 shall not be deemed either an interruption of service or included in the required five-year period.

(II) If the deceased member was retired for disability on or after July 1, 1962, and was a contributing member upon the effective date of disability retirement, the requirement of five years of service prior to death shall be waived.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1379, § 56, effective January 1, 2010.

24-51-1737. Eligible beneficiaries. (1) Payments under sections 24-51-1736 to 24-51-1746 are limited to:

(a) (I) A child, including an adopted child, of the deceased member, so long as the child is living, under the age of eighteen years, and unmarried; except that where an eligible member dies on or after January 1, 1988, the definition of an eligible child shall include:

(A) An unmarried child under the age of twenty-three years who is enrolled on a full-time basis, within four months of the member's death, in a duly accredited school; or

(B) An unmarried child, regardless of age, who is found to be so mentally or physically incapacitated that such person is financially dependent upon the member pursuant to the test of financial dependency established for a surviving parent in paragraph (d) of this subsection (1).

(II) Adoptions involving an otherwise eligible child and occurring subsequent to the death of the member shall terminate the eligibility of such a child, unless such adoption is by the unremarried surviving spouse of the member, and in such a case eligibility of the child shall be terminated by a subsequent remarriage of said surviving spouse.

(b) The surviving widow or widower of the deceased member who has not remarried and has in her or his care a child eligible to receive benefits as set forth in paragraph (a) of this subsection (1). If benefits are payable under said paragraph (a) or this paragraph (b), the DPS plan document shall govern any amounts due to any unremarried widow or widower.

(c) The surviving widow or widower who has not remarried, if no benefits are payable or if payable have ceased to any beneficiary qualified under paragraph (a) or (b) of this subsection (1).

(d) A dependent parent of the deceased member who has not remarried since such member's death, so long as such parent is living; except that said parent shall be eligible only if there are no beneficiaries qualified under paragraph (a), (b), or (c) of this subsection (1) at the time of the member's death. Dependence of a surviving parent must be established by a showing to the association beyond reasonable doubt that such parent was dependent upon the deceased member for not less than one-half of the parent's support and actually received such support from the deceased member during the six-month period prior to the death of such member.

(2) Effective for surviving spouses of members who die on or after January 1, 1984, eligibility for beneficiaries as described in paragraphs (a), (b), and (c) of subsection (1) of this section will not be forfeited by remarriage.

(3) If at the time of the death of the member there is a supplemental needs trust established before or within ninety days after the death of the member for the benefit of the child eligible for survivor benefits, survivor benefits payable pursuant to sections 24-51-1736 to 24-51-1746 to the beneficiary of the supplemental needs trust are payable to the trust so long as that beneficiary is eligible for survivor benefits. If a supplemental needs trust is determined to be invalid or terminates after the association commences payment to the supplemental needs trust, the survivor benefit, from then on, is paid to the beneficiary of the supplemental needs trust so long as that beneficiary is eligible for survivor benefits.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1380, § 56, effective January 1, 2010. **L. 2015:** (3) added, (SB 15-097), ch. 111, p. 329, § 14, effective April 16.

Cross references: For the legislative declaration in SB 15-097, see section 1 of chapter 111, Session Laws of San Andreas 2015.

24-51-1738. Survivors of members who died between 1974 and 1984. Benefits payable to survivors of deceased eligible members who die on or after January 1, 1974, and prior to January 1, 1984, subject to the limitations provided in sections 24-51-1736 to 24-51-1746, shall be governed by the DPS plan document.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1381, § 56, effective January 1, 2010.

24-51-1739. Survivors of members who died between 1984 and 1988. Benefits payable to survivors of deceased eligible members who die on or after January 1, 1984, and prior to January 1, 1988, subject to the limitations provided in sections 24-51-1736 to 24-51-1746, shall be governed by the DPS plan document.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1381, § 56, effective January 1, 2010.

24-51-1740. Survivors of members who die in 1988 or later. (1) Benefits payable to survivors of deceased eligible members who die on or after January 1, 1988, subject to the limitations provided in sections 24-51-1736 to 24-51-1746, shall be as follows:

(a) To each beneficiary under section 24-51-1737 (1)(a), a monthly amount equal to the greater of ten percent of highest average salary as defined in section 24-51-1702 (17), or one hundred sixty dollars prorated, if there are four or more eligible beneficiaries so long as such condition continues and is required in order not to exceed a maximum total allowance of the greater of thirty percent of highest average salary as defined in section 24-51-1702 (17), or four hundred eighty dollars;

(b) To the surviving spouse of the deceased member, as defined in section 24-51-1737 (1)(b), so long as living, and having in his or her care a child eligible to receive benefits as provided in paragraph (a) of this subsection (1), calculated as follows:

(I) Where the deceased member had less than fifteen years of accredited service, the difference, if any, between the amounts payable to beneficiaries under paragraph (a) of this subsection (1) and the greater of thirty percent of highest average salary as defined in section 24-51-1702 (17), or four hundred eighty dollars;

(II) Where the deceased member had more than fifteen years of accredited service, the difference, if any, between the amounts payable to beneficiaries under paragraph (a) of this subsection (1) and the greater of four hundred eighty dollars or forty percent of highest average salary as defined in section 24-51-1702 (17), which percentage shall be increased by two percent of highest average salary as defined in section 24-51-1702 (17), for each whole year, and month prorated as a portion of a year, of accredited service in excess of twenty-five;

(c) To a beneficiary under section 24-51-1737 (1)(c) who has attained age sixty and who is the survivor of a deceased member who had less than fifteen years of accredited service, the lesser of thirty percent of highest average salary as defined in section 24-51-1702 (17) or four hundred eighty dollars. So long as benefits, if any, are payable under paragraphs (a) and (b) of this subsection (1), only the excess, if any, of the benefit provided under this paragraph (c) shall be payable in addition thereto, but if no benefits are payable under said paragraphs (a) and (b) of this subsection (1), or, if payable, such amounts have been terminated, then the full amount of the benefit payment provided by this paragraph (c) shall be payable.

(d) To a beneficiary under section 24-51-1737 (1)(c) who has attained age fifty and who is the survivor of a deceased member who had fifteen or more years of accredited service, a monthly amount of four hundred eighty dollars or, if greater, thirty percent of highest average salary as defined in section 24-51-1702 (17), increased by one percent of highest average salary, as defined in section 24-51-1702 (17), for each whole year, and month prorated as a portion of a year, of accredited service in excess of fifteen. So long as benefits, if any, are payable under paragraphs (a) and (b) of this subsection (1), only the excess, if any, of the benefit provided under this paragraph (d) shall be payable in addition thereto, but if no benefits are payable under said paragraphs (a) and (b) of this subsection (1), or, if payable such amounts have terminated, then the full amount of the benefit payment provided by this paragraph (d) shall be payable.

(e) To each beneficiary under section 24-51-1737 (1)(d), a monthly amount equal to the greater of ten percent of the deceased member's highest average salary as defined in section 24-51-1702 (17), or two hundred forty dollars.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1381, § 56, effective January 1, 2010. **L. 2010:** (1)(c) amended, (HB 10-1422), ch. 419, p. 2087, § 74, effective August 11.

24-51-1741. Effective date of survivor benefits. On or after January 1, 1998, if survivor benefits are payable under sections 24-51-1736 to 24-51-1746, such benefits shall be deemed to accrue as of the first day following the death of the member or the first day when the first beneficiary becomes eligible, whichever is later, and shall be computed and payable from that date accordingly.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1382, § 56, effective January 1, 2010.

24-51-1742. Election by designated beneficiary. If the deceased member had designated a beneficiary, other than the member's estate, to receive the refund of the accumulated contribution balance, no survivor's benefits shall be subject to claim under sections 24-51-1736 to 24-51-1746 unless such designated beneficiary or beneficiaries then entitled to receive such refund, by written notification delivered within such time and in such form as prescribed, shall elect, in lieu of receiving such refund, to have the provisions of sections 24-51-1736 to 24-51-1746 applied. If there is more than one designated beneficiary then entitled to receive such refund, such election must be joined in by all of them. If the deceased member had designated the estate as such beneficiary or if by operation of law the estate shall be entitled to such refund, then such election may be made by the duly appointed personal representative of the estate of such deceased member in like time and in like manner as may be prescribed by the board by general rule as specified in this section. If, however, such deceased member was qualified for retirement under the terms and conditions of sections 24-51-1713 and 24-51-1714, the designated beneficiary or beneficiaries so entitled to refund or benefits under sections 24-51-1736 to 24-51-1746, may elect, in lieu of such benefits, to allow benefits to be paid under either option B or option P3 subject to the applicable sections thereof providing for superannuation retirement. Such election shall be made within such time and in such form as the board may prescribe and shall become effective as of the day after the date of the member's death. If there is more than one designated beneficiary entitled to receive such benefits, such election must be joined in by all of them.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1383, § 56, effective January 1, 2010.

24-51-1743. When election becomes irrevocable. The election described in section 24-51-1742 shall become irrevocable upon the first payment thereunder of any benefits provided under sections 24-51-1736 to 24-51-1746 or under sections 24-51-1713 and 24-51-1714. If, subsequent to exercise of such election by the appropriate beneficiary or beneficiaries but prior to the first payment of benefits thereunder, such beneficiary or beneficiaries desire to revoke such earlier election, such person or persons shall be permitted to do so and shall thereupon be eligible to receive a refund paid under the terms and conditions set forth in section 24-51-1735, and such revoking beneficiary or beneficiaries shall thereafter have no rights to any benefits of any kind, incident to the death of such member, other than said refund. If the election has been made to receive benefits hereunder and there is only one beneficiary and such beneficiary shall die before any payment of such benefits is made, a refund of such deceased member's accumulated contributions, computed as of the date of death, shall be made to the estate of such

deceased beneficiary. If there shall be more than one beneficiary but all of them shall have died before any payment of such benefits is made, such refund shall be made to the estate of the last survivor of said several beneficiaries.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1383, § 56, effective January 1, 2010.

24-51-1744. Fund transfer. Upon the effective date of benefits under sections 24-51-1736 to 24-51-1746, the accumulated contributions of said deceased member at the time of death shall be transferred to and merged with that portion of the Denver public schools division trust fund set aside as a reserve to provide such benefits.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1384, § 56, effective January 1, 2010.

24-51-1745. Payment in good faith. Any payments of such survivor's benefits made to any person who is an eligible survivor of the deceased member and entitled thereto shall, to the extent of such payments actually made, be and constitute a complete release and acquittance to the system under this retirement plan. Such release shall not be deemed to preclude the right of another claimant or an adverse claimant of such survivor's benefits from establishing a right to future payments.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1384, § 56, effective January 1, 2010.

24-51-1746. Waive appointment of guardian. In the payment of survivor benefits hereunder, the association may, from time to time, authorize and approve payments directly to a minor or the parent caring for such minor without requiring the appointment of a duly constituted guardian for such minor. Likewise, the association may waive the appointment of a conservator for a beneficiary deemed mentally incompetent or otherwise unable by reason of age or illness to act without assistance, and may, from time to time, authorize and approve such payments to the person or institution having care of such beneficiary. The receipt of the person or institution so receiving such payments shall be a complete release and acquittance under this retirement plan with respect to such payments in all respects as if such payments had been made to a duly constituted guardian or conservator.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1384, § 56, effective January 1, 2010.

24-51-1747. Portability between the Denver public schools division and the other four divisions within the association - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "DPS active member" means a person, as defined in subsection (2) of this section, who as of December 31, 2009, is an employee of the Denver public school district, the Denver public schools retirement system, or a Denver public school district charter school, and is a

member of the Denver public schools retirement system. Active members include employees, other than part-time or hourly employees, on leave of absence from the Denver public school district, the Denver public schools retirement system, or a Denver public school district charter school on December 31, 2009.

(b) "DPS inactive member" means a person, as defined in subsection (3) of this section, who as of December 31, 2009, has a member account balance at the Denver public schools retirement system, is not employed by the Denver public school district, the Denver public schools retirement system, or a Denver public school district charter school, and is not receiving benefits from the Denver public schools retirement system.

(c) "Denver public schools retirement system" means the Denver public school district retirement system that will become the Denver public schools division within the association.

(d) "Freeze" or "frozen" means cessation of the collection of contributions and the granting of benefit or service accruals. However, interest will continue to accrue on frozen accounts at the applicable interest rate.

(e) "Nonretirement plan choice affiliate employer" means any employer, other than the state or the community colleges, affiliated with the association.

(f) "One-time irrevocable choice" refers to the choice of either the benefits as specified in this part 17 or the benefits under the PERA benefit structure. The choice period shall be a sixty-calendar-day choice period. Unless otherwise specified, the sixty-day choice period shall begin on the date the association receives the first contributions from the affiliated employer. If an individual is eligible to make a one-time irrevocable choice and fails to make the choice within the choice period, he or she will be automatically enrolled in the benefit structure with which the individual has accrued the most service credit at the beginning of the choice period. If the individual fails to make a choice and has service credit in both benefit structures and the amount of service credit in both structures is equal, then he or she will be automatically enrolled in the benefit structure with the most recent contribution prior to the first day of the choice period. Contributions received prior to a choice being made will be applied to the PERA benefit structure. Upon a choice being made within the sixty-day period, these contributions will be applied to the applicable division and the applicable benefit structure within that division. While the choice is pending, the individual shall not be allowed a refund or to retire.

(g) "Parties" means the association, the Denver public schools retirement system, and the Denver public school district.

(h) "PERA benefit structure" means the benefits provided in this article, except for the benefits provided for in part 15 of this article unless otherwise indicated, and except for the benefits provided for in this part 17.

(i) "Retirement plan choice affiliated employer" means the state or the community colleges of the state.

(j) "Denver public school district" means the school district sponsoring the Denver public schools retirement system.

(k) "Denver public school district charter school" means a charter school that was approved before January 1, 2010, by the Denver public school district board of education and that has employees participating in the Denver public schools retirement system before January 1, 2010, and that is certified as a Denver public school district charter school at the time of merger. "Denver public school district charter school" also means a charter school approved by

the Denver public school board of education on or after January 1, 2010. A Denver public school district charter school is considered an employer within the Denver public schools division.

(l) "Denver public schools division" refers to the separate division created within the association that will consist solely of the Denver public school district and Denver public school district charter schools and have a separate benefit structure from the other divisions within the association. The benefit structure for the Denver public school district division shall be governed by the DPS plan document and this part 17, where applicable.

(2) (a) (I) A person who is not retired and is a DPS active member on January 1, 2010, with either an inactive account with the association or no account with the association who continues his or her employment with an employer within the Denver public schools division on and after January 1, 2010, shall continue to accrue a benefit under the school district division benefit structure as set forth in this part 17. Employment with any nonretirement plan choice eligible employer affiliated with the association other than the Denver public school district or a Denver public school district charter school on and after January 1, 2010, either concurrent or not concurrent, shall trigger a one-time irrevocable choice. This choice shall freeze the account not chosen. If the individual becomes an inactive member and decides to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, shall be under the PERA benefit structure in effect at that time.

(II) A person who is not retired and is a DPS active member on January 1, 2010, with either an inactive account with the association or no account with the association who continues his or her employment with an employer within the Denver public schools division on and after January 1, 2010, shall continue to accrue a benefit under the Denver public schools benefit structure as set forth in this part 17. Employment with any retirement plan choice employer affiliated with the association on and after January 1, 2010, without a twelve-month break in service, shall trigger a one-time irrevocable choice. The choice shall freeze the account not chosen. If the individual becomes an inactive member and decides to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(III) A person who is not retired and is a DPS active member on January 1, 2010, with either an inactive account with the association or no account with the association who continues his or her employment with an employer within the Denver public schools division on and after January 1, 2010, shall continue to accrue a benefit under the benefit structure as set forth in this part 17. If the individual is employed with any employer that is under the optional retirement plan choice pursuant to article 54.5 of this title, in an optional retirement plan choice position, he or she will have the choice as provided in article 54.5 of this title. For purposes of determining optional retirement plan choice eligibility, service credit within the benefit structure as set forth in this part 17 and service credit with the association will be combined. If the individual chooses to participate in the defined benefit plan, it will trigger a one-time irrevocable choice. The sixty-day choice period shall begin upon the date the association is notified of the selection of the defined benefit plan. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the

Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(IV) A person who is not retired and is a DPS active member on January 1, 2010, with either an inactive account with the association or no account with the association who continues his or her employment with an employer within the Denver public schools division on and after January 1, 2010, shall continue to accrue a benefit under the benefit structure as set forth in this part 17. If the individual is employed at the university of San Andreas in a position defined as eligible for the university retirement plan, he or she will have the choice as provided in section 23-20-139, S.A.R.S. For purposes of determining university retirement plan choice eligibility, service credit within the benefit structure as set forth in this part 17 and service credit with the association will be combined. If the individual chooses to participate in the defined benefit plan, it will trigger a one-time irrevocable choice. The sixty-day choice period shall begin upon the date the association is notified of the selection of the defined benefit plan. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(b) (I) A DPS active member on January 1, 2010, with either an inactive account with the association or no account with the association who terminates employment with his or her employer and becomes inactive and is later reemployed by any nonretirement plan choice affiliated employer of the association, including the Denver public school district and a Denver public school district charter school, will trigger a one-time irrevocable choice. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(II) A DPS active member on January 1, 2010, with either an inactive account with the association or no account with the association who terminates employment with his or her employer and becomes inactive and is later reemployed by any retirement plan choice affiliated employer of the association within twelve months of the date of termination will trigger a one-time irrevocable choice. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(III) A DPS active member on January 1, 2010, with either an inactive account with the association or no account with the association who terminates employment with his or her employer and becomes inactive and is later reemployed by any retirement plan choice affiliated employer of the association after a twelve-month break in service will have a retirement plan choice pursuant to section 24-51-1503 (1). If the individual chooses to participate in the defined benefit plan, it will trigger a one-time irrevocable choice. The sixty-day choice period shall begin upon the date the association is notified of the selection of the defined benefit plan. The choice shall freeze the account not chosen. If the individual becomes an inactive member and

elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time. If the individual chooses to participate in the association's defined contribution plan, the individual may either elect to maintain his or her inactive account or direct that his or her member account be transferred to the defined contribution account; except that after-tax contributions shall be transferred to an after-tax account in the association's 401(k) account. If an individual elects to transfer his or her account pursuant to this subparagraph (III), the association shall transfer such account within ninety days after the employee's election becomes effective.

(IV) A DPS active member on January 1, 2010, with either an inactive account with the association or no account with the association who terminates employment with his or her employer and becomes inactive and is later reemployed by any employer that is under the optional retirement plan choice pursuant to article 54.5 of this title, in an optional retirement plan choice position, will have the choice as provided in article 54.5 of this title. For purposes of determining optional retirement plan choice eligibility, service credit within the benefit structure as set forth in this part 17 and service credit within the PERA benefit structure will be combined. If the individual chooses to participate in the defined benefit plan, it will trigger a one-time irrevocable choice. The sixty-day choice period shall begin upon the date the association is notified of the selection of the defined benefit plan. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(V) A DPS active member on January 1, 2010, with either an inactive account with the association or no account with the association who terminates employment with his or her employer and becomes inactive and is later reemployed at the university of San Andreas in a position defined as eligible for the university retirement plan shall have the choice as provided in section 23-20-139, S.A.R.S. For purposes of determining university retirement plan choice eligibility, service credit within the benefit structure as set forth in this part 17 and service credit within the PERA benefit structure will be combined. If the individual chooses to participate in the defined benefit plan, it will trigger a one-time irrevocable choice. The sixty-day choice period shall begin upon the date the association is notified of the selection of the defined benefit plan. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(c) A DPS active member who is also a member of the association pursuant to section 24-51-101 (29) on January 1, 2010, will immediately be given a one-time irrevocable choice. The sixty-day choice period will begin on January 1, 2010. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with an affiliated employer of the association, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(3) (a) (I) A person who is not retired and is a DPS inactive member on January 1, 2010, who is subsequently employed by any nonretirement plan choice affiliated employer of the association, including the Denver public school district and a Denver public school district charter school, will trigger a one-time irrevocable choice. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(II) A person who is not retired and is a DPS inactive member on January 1, 2010, who is subsequently employed by any retirement plan choice affiliated employer of the association within twelve months of the date of termination will trigger a one-time irrevocable choice. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(III) A person who is not retired and is a DPS inactive member on January 1, 2010, who is subsequently employed by any retirement plan choice affiliated employer of the association after a twelve-month break in service will have a retirement plan choice pursuant to section 24-51-1503 (1). If the individual chooses to participate in the defined benefit plan, it will trigger a one-time irrevocable choice. The sixty-day choice period shall begin upon the date the association is notified of the selection of the defined benefit plan. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the benefit structure of the association in effect at that time. If the individual chooses to participate in the association's defined contribution plan, the individual may either elect to maintain his or her inactive account or direct that his or her member account be transferred to the defined contribution account; except that after-tax contributions shall be transferred to an after-tax account in the association's 401(k) account. If an individual elects to transfer his or her account pursuant to this subparagraph (III), the association will transfer such account within ninety days after the employee's election becomes effective.

(IV) A person who is not retired and is a DPS inactive member on January 1, 2010, who is subsequently employed by any employer that is under the optional retirement plan choice pursuant to article 54.5 of this title in an optional retirement plan choice position will have the choice as provided in article 54.5 of this title. For purposes of determining optional retirement plan choice eligibility, service credit within the benefit structure as set forth in this part 17 and service credit within the PERA benefit structure will be combined. If the individual chooses to participate in the defined benefit plan, it will trigger a one-time irrevocable choice. The sixty-day choice period shall begin upon the date the association is notified of the selection of the defined benefit plan. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(V) A person who is not retired and is a DPS inactive member on January 1, 2010, with either an inactive account with the association or no account with the association who is subsequently employed at the university of San Andreas in a position defined as eligible for the university retirement plan will have the choice as provided in section 23-20-139, S.A.R.S. For purposes of determining university retirement plan choice eligibility, service credit within the benefit structure as set forth in this part 17 and service credit within the PERA benefit structure will be combined. If the individual chooses to participate in the defined benefit plan, it will trigger a one-time irrevocable choice. The sixty-day choice period shall begin upon the date the association is notified of the selection of the defined benefit plan. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with any association affiliated employer, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(b) A person who is not retired and is a DPS inactive member on January 1, 2010, who is also an active member of the association pursuant to section 24-51-101 (29) on January 1, 2010, will immediately be given a one-time irrevocable choice. The sixty-day choice period will begin on January 1, 2010. The choice shall freeze the account not chosen. If the individual becomes an inactive member and elects to take a refund, he or she shall refund all member accounts. Any subsequent employment after a refund with an affiliated employer of the association, including the Denver public school district or a Denver public school district charter school, will be under the PERA benefit structure in effect at that time.

(c) A DPS inactive member who is also an inactive member of the association who does not make a one-time irrevocable choice and subsequently retires from either benefit structure shall choose at time of retirement which of the two benefits to accrue upon returning to employment with any affiliated employer.

(4) Notwithstanding subsections (1), (2), and (3) of this section, any employment with a Denver public schools division employer prior to January 1, 2010, is considered employment with the association for purposes of the eligibility for retirement plan choice as specified in part 15 of this article.

(5) Any individual hired by the Denver public school district or a Denver public school district charter school on or after January 1, 2010, without an existing account in either the benefit structure under this part 17 or the PERA benefit structure shall be governed exclusively by the statutes and rules of the association as they exist at the time of hire.

(6) (a) A person who is a retiree of the Denver public schools retirement system before January 1, 2010, shall not be subject to the working retiree contributions or a benefit reduction due to postretirement employment with an affiliated employer of the association existing before January 1, 2010, as long as the retiree continues to be employed by that same employer. A retiree so situated shall be entitled to a second and entirely separate retirement coverage segment under the PERA benefit structure.

(b) (I) A retiree of the Denver public schools retirement system with no member contribution account with the association on January 1, 2010, who returns to work for any affiliated employer of the association, including the Denver public school district or a Denver public school district charter school, shall be subject to the provisions of this article and rules of the association governing employment after service retirement. The retiree may suspend and add

a separate benefit segment to his or her Denver public schools retirement system benefit. The retiree shall not be entitled to accrue a benefit under the PERA benefit structure.

(II) An individual who retires under the benefit structure provided in this part 17 after January 1, 2010, who did not make a one-time irrevocable choice and returns to work for any affiliated employer of the association, including the Denver public school district or a Denver public school district charter school, shall be subject to the provisions of this article and rules of the association governing employment after service retirement. The individual may suspend and add a separate benefit segment to his or her Denver public schools retirement system benefit. The individual shall not be entitled to accrue a benefit under the PERA benefit structure.

(c) A retiree of the Denver public schools retirement system with an inactive account in the association on January 1, 2010, who is employed by an affiliated employer of the association, including the Denver public school district or a Denver public school district charter school, shall be subject to the provisions of this article and rules of the association governing employment after service retirement. If the retiree chooses to suspend his or her benefit, he or she must make a one-time irrevocable choice within sixty days from the date of suspension to either add to his or her inactive account under the benefit structure for that account or add a separate benefit segment to his or her Denver public schools retirement system benefit. The retiree shall not be required to suspend his or her retirement benefit but will not be able to add to the inactive account or add a separate segment to the Denver public schools retirement system benefit unless the Denver public schools retirement system benefit is suspended. If the inactive account is chosen, the retiree will be permanently ineligible to add a separate segment to the Denver public schools retirement system benefit. If adding a separate segment to the Denver public schools retirement system benefit is chosen, the retiree will be permanently ineligible to add to the inactive account.

(d) A Denver public schools retirement system retiree shall be considered a retiree of the association for purposes of part 15 of this article and article 54.5 of this title. A Denver public schools retirement system retiree shall also be considered a retiree of the association when employed by the university of San Andreas after January 1, 2010.

(e) A retiree of the Denver public schools retirement system before January 1, 2010, who is an active member of the association's defined contribution plan shall not be subject to a benefit reduction due to postretirement employment with his or her employer as long as the retiree continues to be employed by that same employer. The retiree shall be entitled to continue to contribute to the defined contribution plan. If the retiree begins employment with another nonretirement plan choice employer, including the Denver public school district or a Denver public school district charter school, the retiree will be subject to the provisions of this article and rules of the association governing employment after service retirement. If the retiree chooses to suspend his or her benefit, he or she must add a separate benefit segment to his or her benefit as set forth in this part 17. The retiree shall not be required to suspend his or her retirement benefit, but will not be able to add a separate segment to the benefit as set forth in this part 17 unless the benefit is suspended.

(f) A retiree of the Denver public schools retirement system before January 1, 2010, who is an active member of the association's defined contribution plan shall not be subject to a benefit reduction due to postretirement employment with his or her employer as long as the retiree continues to be employed by that same employer. The retiree shall be entitled to continue to contribute to the defined contribution plan. If the retiree begins employment with another

retirement plan choice employer without a twelve-month break in service, the retiree shall be subject to the provisions of this article and rules of the association governing employment after service retirement. If the retiree chooses to suspend his or her benefit within twelve months from the date of employment, he or she shall be placed into the defined contribution plan and will continue to build on his or her defined contribution account. If the retiree chooses to suspend after twelve months, he or she will build another segment onto the benefit as set forth in this part 17.

(g) An association retiree who is also a Denver public schools retirement system retiree on January 1, 2010, and who is subsequently employed by an affiliated employer of the association, including the Denver public school district or a Denver public school district charter school, shall be subject to the provisions of this article and rules of the association governing employment after service retirement with regard to both benefits. If the retiree does not suspend the benefits and works beyond the statutory limits, both retirement benefits shall be offset by five percent per day for every day worked beyond the limit. If the retiree chooses to suspend the benefits, he or she shall suspend both benefits and shall make a one-time irrevocable choice within sixty days from the date of suspension to either add to his or her association account under the benefit structure for that account or add a separate benefit segment to his or her benefit as set forth in this part 17. The retiree shall not be required to suspend his or her retirement benefits but will not be able to add to either account unless the benefits are suspended. If the association account is chosen, the retiree permanently forfeits the ability to add a separate segment to the benefit under this part 17. If the benefit under this part 17 is chosen, the retiree permanently forfeits the ability to add to the association account.

(7) (a) A person who is a retiree of the association and a DPS active member before January 1, 2010, shall not be subject to a benefit reduction due to postretirement employment with the Denver public school district or a Denver public school district charter school as long as the retiree continues to be employed by the same employer. A retiree so situated shall be entitled to a second and entirely separate retirement coverage segment under the benefit structure as set forth in this part 17. If such a retiree terminates employment with that employer, the retiree shall be subject to the provisions of this article and rules of the association governing employment after service retirement if reemployed by any affiliated employer. If the retiree chooses to suspend his or her benefit, the retiree shall make a choice within sixty days from the date of suspension to either add to his or her account under the PERA benefit structure for that account or add to his or her account as set forth in this part 17. The retiree shall not be required to suspend his or her retirement benefit, but will not be able to add to the benefit or add to the account under this part 17 unless the retirement benefit is suspended. If the association account is chosen, the retiree permanently forfeits the ability to add to the account under this part 17. If the account under this part 17 is chosen, the retiree permanently forfeits the ability to add to the association account. If the retiree does not suspend the association benefit, the separate segment of coverage will become an inactive account.

(b) Subject to the provisions of paragraph (d) of this subsection (7), a retiree of the association with no member account in the Denver public schools retirement system on January 1, 2010, who is employed by the Denver public school district or a Denver public school district charter school after January 1, 2010, shall be subject to the provisions of this article and rules of the association governing employment after service retirement.

(c) A retiree of the association with an inactive account with the Denver public schools retirement system on January 1, 2010, who is employed by any affiliated employer, including the Denver public school district or a Denver public school district charter school, beginning on or after January 1, 2010, shall be subject to the provisions of this article and rules of the association governing employment after service retirement. If the retiree chooses to suspend his or her benefit, he or she shall make a one-time irrevocable choice within sixty days from the date of suspension to either add to his or her account with the association under the benefit structure for that account or add to the account as set forth in this part 17. The retiree shall not be required to suspend his or her retirement benefit, but will not be able to add to either account unless the retirement benefit is suspended. If the association account is chosen, the retiree permanently forfeits the ability to add to the account under this part 17. If the account under this part 17 is chosen, the retiree permanently forfeits the ability to add to the association account.

(d) A retiree of the association who was not a member of the Denver public schools retirement system on December 31, 2009, but who was employed by the Denver public school district or a Denver public school district charter school as an hourly employee on December 31, 2009, shall not be subject to a benefit reduction due to postretirement employment with the Denver public school district or a Denver public school district charter school as long as the retiree continues to be employed by the same employer. The retiree shall be subject to the working retiree contributions beginning January 1, 2011, as specified in section 24-51-1101 (2), and the employer shall be required to remit employer contributions as specified in section 24-51-1101 (2), plus the applicable amortization equalization disbursement and supplemental amortization equalization disbursement as specified in section 24-51-411.

(8) An individual may reinstate time within the benefit structure that he or she is in as long as the time is not concurrent with the time, either earned or purchased, in the other benefit structure. The cost to reinstate the time shall be the cost required by the association's statutes and rules. An individual may purchase, at the actuarial cost according to the association's statutes and rules, time that has been previously refunded in the other benefit structure as long as the time is not concurrent with time, either earned or purchased, in the other benefit structure. The limits on the amount of service credit an individual may purchase set forth in this article shall apply to members under the benefit structure in this part 17.

(9) (a) A disability application submitted to the Denver public schools retirement system prior to January 1, 2010, shall be processed in accordance with this part 17.

(b) Any disability application submitted to the association on or after January 1, 2010, shall be processed in accordance with the provisions of this article and rules of the association.

(c) An individual shall not be eligible for disability benefits based on an account that is frozen.

(10) A frozen account shall be considered an inactive account for purposes of survivor benefit eligibility.

(11) Any time an individual continues to accrue a benefit under this part 17 while employed by an association affiliated employer other than the Denver public school district or a Denver public school district charter school, the individual's salary for pension purposes shall be governed by the association's definition of salary. On and after January 1, 2010, individuals in the Denver public schools division shall earn service credit based on the association's accrual rate of one month of service earned if the member receives eighty times federal minimum wage

in one month while employed by a PERA affiliated employer, including the Denver public school district or a Denver public school district charter school.

(12) A retiree or a beneficiary receiving a benefit from the Denver public schools retirement system, a disability retiree of the Denver public schools retirement system who applied for a disability retirement benefit prior to January 1, 2010, and a survivor benefit recipient based on an account of a person who died prior to January 1, 2010, shall have his or her benefits paid in accordance with the benefit structure as set forth in this part 17. For administrative convenience, annual benefit adjustments for such individuals may be scheduled so that the adjustments coincide with the dates on which benefit adjustments are effective under the rules of the association. Within the first calendar year following the effective merger date, it shall not be the intention of the association to deny an anticipated annual increase or to grant an additional increase to any annuitant, beneficiary, or survivor, as defined in section 24-51-1702, but rather that the association will administer an appropriate annual increase considering any differences between the administrative procedures under the DPS plan and the association in relation to the timing of the payment of such increase.

(13) The funding of a benefit based on an account that has contributions from the Denver public schools division shall be funded in the same manner as the association funds the benefit based on an account that has contributions in any one of the other four divisions as provided in section 24-51-208 (4).

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1384, § 56, effective January 1, 2010. **L. 2010:** (7)(a) amended, (HB 10-1425), ch. 330, p. 1524, § 1, effective May 27; (6)(a) amended, (SB 10-001), ch. 2, p. 31, § 33, effective January 1, 2011.

Editor's note: Subsections (7)(a), (7)(b), (7)(c), and (7)(d) were originally numbered as (7)(a)(I), (7)(a)(II), (7)(a)(III), and (7)(a)(IV) in House Bill 10-1425 but have been renumbered on revision to conform to statutory format.

24-51-1748. Staff members of the Denver public schools retirement system. (1) Each staff member employed by the Denver public schools retirement system on the date of the merger shall be hired as an employee-at-will of the association at a salary not less than the annual salary received from the Denver public schools retirement system as of the merger date, and the staff member's employment thereafter shall be governed by the policies, rules, and statutes applicable to the employees of the association; except that such staff members may accrue retirement benefits in accordance with the rules of the Denver public schools retirement system as they existed on the day preceding the effective date of the merger. As of the effective date of the merger, Denver public schools or the Denver public schools retirement system shall be responsible for the payment to the association of any accrued employment benefits other than benefits provided for under the association owed to each employee of the Denver public schools retirement system.

(2) Notwithstanding the provisions of section 24-51-1206.7 (5), service credit of staff members described in subsection (1) of this section prior to January 1, 2010, that was accrued with the Denver public schools and the Denver public schools retirement system shall apply toward the calculation of the premium subsidy as provided in section 24-51-1206.7.

Source: L. 2009: Entire part added, (SB 09-282), ch. 288, p. 1396, § 56, effective May 21.

ARTICLE 51.1

Pension Review Commission

24-51.1-101. Pension review commission - repeal. (1) (a) There is hereby created the pension review commission, referred to in this section as the "commission". Beginning in the first regular session of the seventy-second general assembly, the commission shall be comprised of five senators, three of whom are appointed by the president of the senate and two of whom are appointed by the minority leader of the senate, and five representatives, three of whom are appointed by the speaker of the house of representatives and two of whom are appointed by the minority leader of the house of representatives. The chair shall be designated by the speaker of the house of representatives in odd-numbered years and by the president of the senate in even-numbered years. The vice-chair shall be appointed by the speaker of the house of representatives in even-numbered years and by the president of the senate in odd-numbered years. Members of the commission shall receive the same per diem allowance authorized for other members of the general assembly serving on interim study committees and actual expenses for participation in meetings of the commission. Staff services for the commission and the pension review subcommittee created pursuant to subsection (3) of this section shall be furnished by the state auditor's office, the legislative council, and the office of legislative legal services. The state auditor, with the approval of the commission, may contract for services deemed necessary for the implementation of this article 51.1.

(b) The terms of members appointed or reappointed by the speaker, the minority leader of the house of representatives, the president, and the minority leader of the senate shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the speaker, the minority leader of the house of representatives, the president, and the minority leader of the senate shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.

(2) The commission shall study and develop proposed legislation relating to funding of police officers' and firefighters' pensions in this state and benefit designs of such pension plans. In addition, the commission shall study and develop proposed legislation relating to the public employees' retirement association. The commission study of police officers' and firefighters' pensions and of the public employees' retirement association shall include a review of, and the proposed legislation may include, among other subjects, the following, as applicable:

(a) Normal retirement age;

(b) Payment of benefits prior to normal retirement age;

(c) Service requirements for eligibility;

(d) Rate of accrual of benefits;

(e) Disability benefits;

(f) Survivors' benefits;

(g) Vesting of benefits;

(h) Employee and employer contributions;

(i) Postretirement increases;

(j) Creation of an administrative board;

(k) Creation of a consolidated statewide system;

(l) Coordination of benefits with other programs;

(m) The volunteer firefighter pension system;

(n) The provisions of articles 30, 30.5, and 31 of title 31; and

(o) The provisions of article 51 of this title 24.

(3) (a) There is hereby created the pension review subcommittee. The subcommittee shall consist of fourteen members appointed as follows:

(I) The speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate, and the minority leader of the senate shall each appoint one legislator whom he or she has appointed to serve on the pension reform commission to also serve on the subcommittee;

(II) The speaker of the house of representatives and the president of the senate shall both appoint two people from the community with experience or knowledge of investment management, corporate or public finance, compensation and benefit systems, economics, accounting, pension administration, or actuarial analysis;

(III) The minority leader of the house of representatives and the minority leader of the senate shall both appoint two people from the community with experience or knowledge of investment management, corporate or public finance, compensation and benefit systems, economics, accounting, pension administration, or actuarial analysis;

(IV) The governor shall appoint one person from the community with experience or knowledge of investment management, corporate or public finance, compensation and benefit systems, economics, accounting, pension administration, or actuarial analysis; and

(V) The state treasurer shall appoint one person from the community with experience or knowledge of investment management, corporate or public finance, compensation and benefit systems, economics, accounting, pension administration, or actuarial analysis.

(b) The chair of the subcommittee shall be designated by the speaker of the house of representatives in odd-numbered years and by the president of the senate in even-numbered years. The vice-chair of the subcommittee shall be appointed by the speaker of the house of representatives in even-numbered years and by the president of the senate in odd-numbered years. The chair and vice-chair shall be designated from the legislative members of the subcommittee.

(c) The nonlegislative members of the subcommittee shall serve without compensation from the general assembly.

(4) (a) The subcommittee shall review the items specified in subsection (2) of this section as they relate to the public employees' retirement association, as applicable. In addition, the subcommittee shall:

(I) Study the provisions of article 51 of this title 24 and make necessary recommendations to the commission or the public employees' retirement association;

(II) Determine the necessity of continuing the direct distribution to the public employees' retirement association pursuant to section 24-51-414;

(III) Suggest to the public employees' retirement association enhancements that the association could make to the annual analysis that it conducts pursuant to Senate Bill 14-214, enacted in 2014, to determine whether the association's model assumptions are meeting targets and achieving sustainability;

(IV) Review the annual actuarial valuation of the public employees' retirement association and make comments as necessary to the association regarding the actuarial valuation; and

(V) Make recommendations to the board of trustees of the public employees' retirement association regarding assumptions, funding policy, reporting practices, or other operational policy.

(b) Review semi-annually the overall financial health of the public employees' retirement association, including the levels of benefits, its sources of funding, and its overall financial viability based on both the assumptions of the association board of directors and the requirements of the governmental accounting standards board. The subcommittee may request that the association provide general financial reporting based on assumptions for economic and investment factors, including, but not limited to, inflation, economic growth, employment growth, and rate of return, that differ from board assumptions. If the subcommittee determines that the association's board of directors is using assumptions that are too conservative or too aggressive, the subcommittee shall request that the association adjust its assumptions accordingly.

(c) Review annually the calculated normal costs that will cover current pension benefits and the share of contributions going to cover the unfunded liability of the public employees' retirement association;

(d) Review semi-annually the planned reduction of the unfunded liability of the public employees' retirement association. If full funding will not be achieved by 2048, the subcommittee shall make additional recommendations to the commission, the joint budget committee, and the general assembly to achieve full funding by 2048. If, upon that review, the subcommittee determines that the association does not have at least a sixty-seven percent likelihood of achieving full funding by 2048, then the association shall provide recommendations to the subcommittee for policy changes that would return the association to fully funded status by 2048. Notwithstanding section 24-1-136 (11)(a)(I), the subcommittee shall annually report to the general assembly regarding whether or not the association is on track to achieve full funding by 2048 and if not, the corrective actions recommended by the subcommittee or the association to rectify the shortfall.

(e) Annually report in writing to the citizens of San Andreas regarding whether or not the public employees' retirement association is on track to achieve full funding by 2048 and if not, the corrective actions recommended by the subcommittee or the association to the general assembly to rectify the shortfall. Such communication shall be made in a manner that is clear, concise, and accessible to laypeople. This communication shall quantify the net present value of any funding deficit on a per citizen basis. For example, fifty billion dollars on five million five hundred thousand people equals nine thousand ninety dollars per person. The certified annual financial report shall not serve as this communication.

(f) After full funding is achieved, make recommendations to the commission, the joint budget committee, and the general assembly during each legislative session regarding changes to the plan to maintain full funding;

(g) Ensure the public employees' retirement association board is administering the association as mandated and make recommendations for the association board structure as warranted; and

(h) Every three years, commission an independent review of the economic and investment assumptions used to model the public employees' retirement association financial situation. The subcommittee shall use experts other than those already working on behalf of the association.

(5) Each member of the subcommittee shall be required to:

(a) Attend at least one meeting per year of the board of trustees of the public employees' retirement association;

(b) Attend the hearing of the legislative audit committee when the committee reviews the annual actuarial valuation that the public employees' retirement association is required to submit to the legislative audit committee pursuant to section 24-51-204 (7); and

(c) Attend the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing of the joint finance committee pursuant to part 2 of article 7 of title 2 when the joint finance committee reviews the public employees' retirement association.

(6) Repealed.

Source: L. 2018: Entire article added, (SB 18-200), ch. 370, p. 2259, § 27, effective June 4. **L. 2020:** (6) added, (SB 20-214), ch. 200, p. 982, § 8, effective June 30.

Editor's note: (1) This section is similar to former § 31-31-1001 as it existed prior to 2018.

(2) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 2021. (See L. 2020, p. 982.)

Cross references: For the legislative declaration in SB 18-200, see section 1 of chapter 370, Session Laws of San Andreas 2018.

ARTICLE 52

Deferred Compensation Plan

24-52-101 to 24-52-209. (Repealed)

Source: L. 2009: Entire article repealed, (SB 09-066), ch. 73, p. 260, § 25, effective July 1.

Editor's note: This article was added in 1980. For amendments to this article prior to its repeal in 2009, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 52.5

24-52.5-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is essential for the state to be able to attract and retain qualified employees in order to provide the highest quality of service to the people of San Andreas.

(b) The quality and flexibility of health and retirement benefits are important factors in hiring and retaining qualified state employees.

(c) The cost of medical care rises every year and because medicare and state retiree health benefits do not fully cover those costs, retirees are increasingly responsible for covering their medical costs after retirement.

(d) A properly constructed program to help state employees prepare for the costs of medical expenses after retirement could be cash funded through contributions of state employees and could operate as an enterprise as defined in section 20 of article X of the state constitution.

(2) The general assembly further finds and declares that:

(a) A new concept for providing retirement health benefits for the employees of nonprofit entities, including state governments, is for the nonprofit entity to create a retirement health savings trust. Such trust offers the following advantages:

(I) A retirement health savings trust is established by the nonprofit entity for the purpose of providing retirement health benefits to the employees of the entity.

(II) The provision of retirement health benefits is considered an integral part of the nonprofit entity's activities.

(III) A retirement health savings trust that makes the provision of retirement health benefits possible is considered a part of the nonprofit entity and therefore may be included in the entity's tax-exempt status.

(IV) A retirement health savings trust creates an individual account within the trust for each employee who chooses to participate and allows the employer to make pretax contributions, including unused annual or sick leave, to an employee's account on behalf of the employee.

(V) The nonprofit entity that creates a retirement health savings trust maintains substantial control of the trust in that it has the power to amend or terminate the trust and to appoint the trustees of the trust.

(VI) A retirement health savings trust allows each participating employee to determine how his or her money will be invested.

(VII) All earnings in a retirement health savings trust grow on a tax-deferred basis, and a participating employee may make withdrawals on a tax-free basis after reaching a certain age, so long as the moneys are used for qualified medical expenses.

(VIII) Any assets that remain in a participating employee's account at the time of the employee's death may be used for qualified medical expenses by the employee's spouse, dependents, or other beneficiaries.

(b) The creation of a retirement health savings trust by the state for the benefit of state employees would give such employees an opportunity to prepare for health costs that they will incur during retirement and would be beneficial to the health and well-being of such employees.

Source: L. 2004: Entire article added, p. 869, § 1, effective August 4.

24-52.5-102. Retirement health savings trust - state personnel director - investigation. (1) The state personnel director shall investigate the benefits and drawbacks of establishing a retirement health savings trust for the benefit of state employees.

(2) In investigating the benefits and drawbacks of establishing a retirement health savings trust, the state personnel director shall consider the feasibility of the following:

(a) The state, as an employer, establishing a trust for the purpose of providing retirement health savings benefits to state employees who choose to participate in the trust;

(b) The state specifying that providing retirement health savings benefits is an integral part of the state's activities;

(c) The state treating a trust that makes the provision of retirement health benefits possible as an integral part of the state and therefore including the trust in the state's tax-exempt status;

(d) The state creating an individual account within the trust for each state employee who chooses to participate and allowing the state to make pretax contributions, including unused annual or sick leave, to a state employee's account on behalf of the employee;

(e) The state maintaining substantial control of the trust and having the power to amend or terminate the trust and appoint the trustees of the trust;

(f) The state allowing each state employee who participates in the trust to determine how his or her money will be invested;

(g) The state allowing all moneys in the trust to grow without being subject to state or federal income taxes;

(h) The state allowing participating state employees to make withdrawals on a tax-free basis after reaching a certain age, so long as the moneys are used for qualified medical expenses; and

(i) The state allowing an employee's spouse, dependents, or other beneficiaries to use any assets that remain in a participating employee's account at the time of the employee's death for qualified medical expenses.

(3) The state personnel director, in investigating the feasibility of establishing a retirement health savings trust, shall investigate the benefits and drawbacks to the state and to state employees of allowing the state as an employer and state employees the option to make the following contributions to the trust:

(a) Pretax contributions, including a portion of unused employee annual and sick leave, by the state to an employee's account on behalf of the employee;

(b) Voluntary after-tax contributions by the state to an employee's account on behalf of the employee;

(c) Voluntary after-tax contributions by the employee into the employee's account; and

(d) Voluntary pretax contributions by the employee to the employee's account based on a one-time irrevocable election to make such contributions.

(4) The state personnel director shall investigate the benefits and drawbacks to the state and to state employees of various potential terms of a retirement health savings trust, including, but not limited to:

(a) The design, adoption, and schedule for implementation of the trust;

(b) The nature and amount of the contributions that the state may make to the trust on behalf of a participating state employee;

(c) The nature of the investments that a state employee may choose to make with the moneys contributed to the trust;

(d) The terms of eligibility for participating in the trust and for withdrawing the moneys contributed to the trust;

(e) The nature of the expenses that qualify as medical expenses for purposes of tax-free withdrawal of moneys from the trust; and

(f) The negotiation and payment of any administrative expenses to be paid by the state or by each employee who chooses to participate in the trust.

(5) (Deleted by amendment, L. 2008, p. 1903, § 91, effective August 5, 2008.)

Source: L. 2004: Entire article added, p. 870, § 1, effective August 4. **L. 2008:** (1) and (5) amended, p. 1903, § 91, effective August 5.

ARTICLE 53

Public Employees' Social Security

Editor's note: Prior to 1987, the substantive provisions of this article were located in part 7 of article 51 of this title.

24-53-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Department" means the department of labor and employment created pursuant to the provisions of section 24-1-121.

(2) "Employee" means a person performing service which constitutes employment, as defined in this section, for a political subdivision of the state, as defined in this section.

(3) "Employment" means any service performed by an employee of a political subdivision of the state, except for:

(a) Service which, in the absence of an agreement entered into pursuant to the provisions of this article, would otherwise constitute "employment" as defined in the social security act;

(b) Service which, pursuant to the provisions of the social security act, may not be included in an agreement between the state and the secretary entered into pursuant to the provisions of this article;

(c) Service in any class of positions the compensation for which is on a fee basis, except for any county sheriff, treasurer, clerk and recorder, judge, and their clerks, deputies, and assistants;

(d) Service in any class of positions filled by popular election if so provided for in the plan submitted by the political subdivision pursuant to the provisions of section 24-53-104; or

(e) Service in any class of positions covered by an existing retirement system which is supported in whole or in part by the state or any of its political subdivisions.

(4) "Federal Insurance Contributions Act" means subchapter A of chapter 9 of the federal "Internal Revenue Code of 1939" and subchapters A and B of chapter 21 of the federal "Internal Revenue Code of 1986", as amended.

(5) "Political subdivision" includes an instrumentality of this state, or of one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not, by virtue of

their relations to such juristic entity, employees of the state or subdivision. "Political subdivision" does not include a school district.

(6) "Secretary" means the secretary of health and human services and includes any individual to whom the secretary has delegated any of his functions specified in the social security act with respect to coverage pursuant to such act of employees of states and their political subdivisions.

(7) "Sick pay" means any payment made on account of sickness or accident disability of the type specified in section 209 (b) or (d) of the social security act.

(8) "Social security act" means the act of congress approved August 14, 1935, chapter 531, 49 Stat. 620, officially cited as the "Social Security Act", as amended.

(9) "Wages" means all remuneration for employment, as defined in this section, including the fair cash value of all remuneration paid in any medium other than cash; except that such term does not include that part of such remuneration which, even if it were for employment within the meaning of the federal insurance contributions act, would not constitute wages within the meaning of that act.

Source: L. 87: Entire article added, p. 1078, § 2, effective July 1. **L. 2000:** (4) amended, p. 1863, § 82, effective August 2.

24-53-102. Federal-state and interstate agreements. (1) The department, with the approval of the governor, is authorized to enter on behalf of the state into an agreement with the secretary, consistent with the terms and provisions of this article, for the purpose of extending the benefits of the federal old-age, survivors', disability, and health insurance system to employees of political subdivisions thereof with respect to services specified in such agreement which constitutes employment, as defined in section 24-53-101. Such agreement may contain provisions relating to coverage, benefits, contributions, effective date, modification, and termination of the agreement, administration, and other appropriate provisions as the department and secretary agree upon, but, except as may be otherwise required by or pursuant to the social security act as to the services to be covered, such agreement shall provide in effect that:

(a) Benefits will be provided for employees, and their dependents and survivors, whose services are covered by the agreement on the same basis as though such services constituted employment within the meaning of Title II of the social security act;

(b) The state will pay to the United States secretary of the treasury, at such times as may be prescribed by the social security act, contributions with respect to wages, as defined in section 24-53-101, equal to the sum of the taxes which would be imposed by the federal insurance contributions act if the services covered by the agreement constituted employment within the meaning of that act;

(c) Such agreement shall be effective with respect to services in employment, covered by the agreement, performed after December 31, 1950, but in no event shall it be effective with respect to any such services performed prior to the first day of the calendar year in which such agreement is entered into or in which the modification of the agreement making it applicable to such services is entered into; except that, in the case of an agreement or a modification of an agreement made prior to January 1, 1955, if the date specified in section 218 (f) of the social security act, as amended, is not in conflict with such date, such agreement or modification may be made effective as of January 1, 1951, or as of the first day of any intervening calendar

quarter; except that such effective date may be made retroactive to the extent permitted by section 218 (f) of the social security act, as amended;

(d) All services which constitute employment, as defined in section 24-53-101, and are performed in the employ of the covered political subdivision shall be covered by the agreement, except as to those employees of political subdivisions not coming within the provisions of this article;

(e) All services which constitute employment, as defined in section 24-53-101, are performed in the employ of a political subdivision of the state, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the department pursuant to the provisions of section 24-53-104 shall be covered by the agreement.

(2) Any instrumentality jointly created by this state and any other state is hereby authorized, upon the granting of like authority by such other state:

(a) To enter into an agreement with the secretary whereby the benefits of the federal old-age, survivors', disability, and health insurance system shall be extended to employees of such instrumentality;

(b) To require its employees to pay and for that purpose to deduct from their wages contributions equal to the amounts which they would be required to pay pursuant to the provisions of section 24-53-103 (1) if they were covered by an agreement made pursuant to subsection (1) of this section; and

(c) To make payments to the United States secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (1) of this section and other provisions of this article.

Source: L. 87: Entire article added, p. 1079, § 2, effective July 1.

24-53-103. Employee contribution. (1) Every employee of the political subdivision whose services are covered by an agreement entered into pursuant to the provisions of section 24-53-102 shall be required to pay for the period of such coverage into the contribution fund, established pursuant to the provisions of section 24-53-105, contributions with respect to wages, as defined in section 24-53-101, equal to the amount of tax which would be imposed by the federal insurance contributions act if such services constituted employment within the meaning of that act. Such liability shall arise in consideration of the retention of the employee in the service of the political subdivision, or his entry upon such service, after July 1, 1987.

(2) The contribution imposed by the provisions of this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.

(3) If more or less than the correct amount of the contribution imposed by the provisions of this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the department shall prescribe.

Source: L. 87: Entire article added, p. 1081, § 2, effective July 1.

24-53-104. Coverage of political subdivisions. (1) Each political subdivision of the state is authorized to submit for approval by the department a plan for extending the benefits of Title II of the social security act, in conformity with applicable provisions of such act, to employees of such political subdivision. Each such plan and any amendment thereof shall be approved by the department if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the department; except that no such plan shall be approved unless:

(a) It is in conformity with the requirements of the social security act and with the agreement entered into pursuant to the provisions of section 24-53-102;

(b) It provides that all services which constitute employment, as defined in section 24-53-101, and are performed in the employ of the political subdivision by employees thereof shall be covered by the plan;

(c) It specifies the source from which the funds necessary to make the payments required by paragraph (a) of subsection (3) and by subsection (4) of this section are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

(d) It provides for such methods of administration of the plan by the political subdivision as are found by the department to be necessary for the proper and efficient administration of the plan;

(e) It provides that the political subdivision make such reports, in such form and containing such information as the department may from time to time require, and comply with such provisions as the department or the secretary from time to time may find necessary to assure the correctness and verification of such reports; and

(f) It authorizes the department to terminate the plan in its entirety, in the discretion of the department, if it finds that there has been failure to comply substantially with any provisions contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the department and may be consistent with the provisions of the social security act.

(2) The department shall not finally refuse to approve a plan submitted by a political subdivision pursuant to the provisions of subsection (1) of this section and shall not terminate an approved plan without sixty days' notice and opportunity for hearing to the political subdivision affected thereby.

(3) (a) Each political subdivision as to which a plan has been approved pursuant to the provisions of this section shall pay into the contribution fund, with respect to wages, as defined in section 24-53-101, contributions in the amounts and at the rates specified in the applicable agreement entered into by the department pursuant to the provisions of section 24-53-102. Such contributions from the political subdivision to the department shall be due not earlier than the expiration of the initial one-third of the time provided for payment by the department to the United States secretary of the treasury pursuant to the provisions of section 24-53-102.

(b) Each political subdivision required to make such payments pursuant to the provisions of paragraph (a) of this subsection (3) is authorized, in consideration of the retention of the employee in or entry of the employee upon employment after July 1, 1987, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, as defined in section 24-53-101, not exceeding the amount of tax which would be imposed by the federal insurance contributions act, if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from

his wages as and when paid. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of such political subdivision or instrumentality pursuant to the provisions of paragraph (a) of this subsection (3). Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

(4) Delinquent payments due pursuant to the provisions of paragraph (a) of subsection (3) of this section, with interest at the rate established by regulation pursuant to the social security act or pursuant to the provisions of this article, whichever is higher, may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or, at the request of the department, may be deducted from any other moneys payable to such subdivision by any department or agency of the state. The department may establish additional penalties for failure of any political subdivision to make timely reports or contribution payments.

(5) Each political subdivision may exclude from wages such payment made under a plan or system if such plan or system is approved by the department. This subsection (5) shall authorize a political subdivision to establish a plan or system as required by section 209 (b) of the social security act.

Source: L. 87: Entire article added, p. 1081, § 2, effective July 1.

24-53-105. Contribution fund. (1) There is hereby established a special fund to be known as the San Andreas social security contribution fund, of which the state treasurer shall be custodian.

(2) (a) The department is authorized to administer said fund and to perform all acts necessary for such administration, whether or not expressly prescribed in this article.

(b) The department may establish within such fund, from interest and other charges accruing thereto not payable to the United States secretary of the treasury, a contingency account for the purpose of making payments to the United States secretary of the treasury of amounts claimed by the secretary of the United States department of health and human services to be due and owing from any political subdivision, payment of which amounts have not theretofore been made to the department by said political subdivision. The department may also establish within such fund, from such interest and other charges, an account from which the administrative expenses and costs incurred by the department may be paid directly to the department or to the department of the treasury in reimbursement of such expenses and costs previously paid. Such accounts shall be subject to annual audit. All moneys expended by the department from this account shall be appropriated by the general assembly.

(3) There shall be credited and paid to said contribution fund:

(a) All moneys appropriated thereto by the general assembly;

(b) All contributions, interest, and penalties collected by the department pursuant to the provisions of sections 24-53-103 and 24-53-104;

(c) Any interest derived from investment of moneys belonging to the fund and any property or securities received from the use of said moneys;

(d) Any moneys recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other moneys received for the fund from any other source.

(4) (a) Said fund shall be held separate and apart from other state moneys and shall be used exclusively for the purposes of this article. Payments therefrom shall be made solely for amounts required to be paid under this article to the United States secretary of the treasury from

time to time pursuant to agreements entered into pursuant to the provisions of section 24-53-102, for refunds provided for in section 24-53-103 (3), for refunds of overpayments of political subdivisions not otherwise adjustable, and for payments made pursuant to the provisions of subsection (2)(b) of this section.

(b) All such payments shall be made upon vouchers submitted to the office of the state controller and by warrants drawn upon the state treasurer in the manner prescribed by law.

(c) Any moneys in the fund not immediately required for such payments shall, at the direction of the department, be temporarily invested by the state treasurer, or, at the direction of the department, all amounts in excess of anticipated expenditures shall be paid annually to the general fund.

(d) If moneys in the fund are paid into the general fund pursuant to the provisions of paragraph (c) of this subsection (4) and if, subsequent to the payment to the general fund, the department becomes liable for any expenditure under this article, the expenditure shall be paid out of moneys in the general fund up to the amount paid into the general fund by the department.

Source: L. 87: Entire article added, p. 1083, § 2, effective July 1. **L. 89:** (2)(b) amended, p. 1075, § 1, effective April 5. **L. 2010:** (4)(b) amended, (HB 10-1181), ch. 351, p. 1631, § 30, effective June 7. **L. 2015:** (2)(b) amended, (SB 15-264), ch. 259, p. 960, § 69, effective August 5.

24-53-106. Rules and regulations. The department shall make and publish such rules and regulations, not inconsistent with the provisions of this article, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this article.

Source: L. 87: Entire article added, p. 1084, § 2, effective July 1.

24-53-107. Studies and reports. The department may study the problem of old-age, survivors', disability, and health insurance protection for employees of local governments and their instrumentalities covered by this article and concerning the operation of agreements made and plans approved under this article. Information concerning the administration of this article may form a part of the annual report of the department.

Source: L. 87: Entire article added, p. 1084, § 2, effective July 1.

24-53-108. Coverage groups - terms and conditions. (1) Notwithstanding any limitations contained in section 24-53-101 (3)(e) and (5), any of the coverage groups participating in an existing retirement system on March 17, 1955, and described in subsection (2) of this section may, effective January 1, 1955, or any time thereafter, be covered pursuant to the provisions of sections 24-53-101 to 24-53-107 extending the benefits of the federal social security act pursuant to the additional terms and conditions set forth in subsection (3) of this section.

(2) Coverage groups:

(a) Positions in each state institution of higher education covered on March 17, 1955, by annuity contracts with each such institution and the teachers' insurance and annuity association;

(b) Positions in any individual municipal corporation or subdivision thereof having a separate existing retirement system operated singly and independently from any other municipal corporations or subdivisions thereof, except for policemen and firefighters;

(c) Positions in any municipal corporation which has less than five employees covered as of March 17, 1955, by an existing retirement system supported in whole or in part by said municipal corporation. This coverage group constitutes a separate retirement system for purposes of the social security act, as amended.

(3) Terms and conditions:

(a) The governor has certified to the secretary of health and human services that:

(I) A referendum by secret written ballot was held on the question of whether service in positions covered by such retirement system should be included pursuant to an agreement; and

(II) An opportunity to vote in such referendum was given, and was limited, to all eligible employees; and

(III) Not less than ninety days' notice of such referendum was given to employees eligible to vote in such referendum; and

(IV) Such referendum was conducted under the supervision of the governor or an agency or individual designated by him; and

(V) Two-thirds of the eligible employees voted in favor of including service in such positions under an agreement.

(b) The appropriate governing body of the coverage group as defined in subsection (2) of this section has given approval to the holding of the referendum.

(c) A referendum has not been conducted during a period of one year immediately preceding the referendum.

(d) A referendum was requested by at least ten percent of the employees eligible to vote in such referendum.

(e) The notice of referendum has been accompanied by a statement to the effect that, with respect to both present and future members, the existing retirement system may be revised so that the retirement benefits of each individual member and the benefits of his dependents and those individuals entitled to benefits on account of the membership in such system of any such members pursuant to any revised retirement system and pursuant to the federal old-age, survivors', disability, and health insurance system shall be at least equal to the benefits which would have been payable to them under the existing retirement system. Former members already retired and their dependents and those individuals entitled to benefits on account of the membership in such system of any such member shall continue to receive the full benefits to which they are entitled pursuant to the existing system.

(f) The retirement benefits of each individual member and the benefits of his dependents and individuals entitled to benefits on account of membership in such system of any such members pursuant to any revised retirement system and the federal social security act shall be at least equal to the benefits which would have been payable to them pursuant to the existing retirement system.

(4) For purposes of the referendum required in subsection (3) of this section, an employee shall be deemed an "eligible employee" with respect to any retirement system if, at the time such referendum was held, he was in a position covered by such retirement system and was a member of such system and if he was in such a position at the time notice of such referendum was given as required in subsection (3) of this section; except that he shall not be deemed an

"eligible employee" if, at the time the referendum was held, he was in a position to which the state agreement already applied.

(5) No referendum with respect to a retirement system shall be valid unless held within the two-year period which ends on the date of execution of the federal-state agreement or modification which extends the insurance system established pursuant to the federal social security act to such retirement system, nor shall any referendum with respect to a retirement system be valid if held less than one year after the last previous referendum held with respect to the retirement system.

Source: L. 87: Entire article added, p. 1084, § 2, effective July 1. **L. 97:** (2)(b) amended, p. 1020, § 36, effective August 6.

24-53-109. Coverage of agricultural inspectors. (1) On and after January 1, 1955, the provisions of this article are extended to individuals employed pursuant to an agreement entered into pursuant to the provisions of section 205 of the "Agricultural Marketing Act of 1946", 7 U.S.C. sec. 1624, or section 14 of the "Perishable Agricultural Commodities Act of 1930", 7 U.S.C. sec. 499n, between the state of San Andreas and the United States department of agriculture to perform services as inspectors of agricultural products who are not eligible for coverage pursuant to the public employees' retirement association because of the temporary nature of their positions.

(2) The department of agriculture is authorized to make necessary deductions from the salaries of such temporary employees, and to make the payment of contributions as provided in sections 24-53-104 and 24-53-105, and to do such other things as are necessary pursuant to the law to bring about such coverage.

(3) In case any of such temporary employees who are so covered pursuant to the provisions of subsection (1) of this section thereafter become eligible to be members of the said public employees' retirement association, as may be determined by the board of trustees of the association, such persons shall thereupon cease to be subject to the coverage provided for in subsection (1) of this section and shall forthwith become members of said association as otherwise provided by law.

Source: L. 87: Entire article added, p. 1086, § 2, effective July 1.

24-53-110. Civil employees of National Guard. Effective January 1, 1954, the provisions of this article are extended to civilian employees of the San Andreas National Guard who are employed pursuant to the provisions of section 90 of the "National Defense Act", now codified at 32 U.S.C. sec. 709, as amended, and paid from funds allotted to the San Andreas National Guard by the department of defense and who are not eligible for coverage pursuant to the public employees' retirement association, and, upon presentation of reports and payment of contributions as provided in sections 24-53-104 and 24-53-105, they shall be entitled to the basic protection afforded such employees, their dependents, and their survivors accorded to others by the federal old-age, survivors', disability, and health insurance system embodied in the social security act.

Source: L. 87: Entire article added, p. 1086, § 2, effective July 1. **L. 2005:** Entire section amended, p. 769, § 42, effective June 1.

24-53-111. Transfer of powers, duties, and obligations. On and after March 26, 1984, all powers, duties, and obligations pursuant to this article which were undertaken prior to March 26, 1984, by the division of employment and training of the department shall be undertaken by the department.

Source: L. 87: Entire article added, p. 1086, § 2, effective July 1.

ARTICLE 54

County, Municipal, and Political Subdivision
Officers' and Employees' Retirement Systems

Editor's note: Prior to 1987, the substantive provisions of this article were located in parts 9 and 11 of article 51 of this title.

24-54-101. Authorization to establish and maintain retirement plan or system - definitions. (1) Any county, municipality, or other political subdivision by itself or in conjunction with any other county, municipality, or political subdivision is hereby authorized to establish and maintain a general plan or system of retirement benefits for its elected or appointed officers and its employees, or any class thereof, subject to appropriations being available therefor.

(2) (Deleted by amendment, L. 2005, p. 358, § 1, effective April 22, 2005.)

(2.5) Any pension plan or system of retirement benefits established by a county or counties may include participating county departments of health and human or social services, library districts organized or existing pursuant to part 1 of article 90 of this title 24 located in whole or in part within those counties, and the district attorneys' offices serving those counties.

(2.7) For purposes of this article 54, unless the context otherwise requires:

(a) "County" means a county or a city and county, including any entity formed by such county or city and county.

(a.5) "Current employee" means any person currently performing service that constitutes employment for any county, municipality, or other political subdivision of the state. "Current employee" does not include former employees of any county, municipality, or other political subdivision of the state who left employment through retirement, resignation, separation, termination, or otherwise. "Current employee" also does not include beneficiaries of either current employees or former employees.

(b) "Defined benefit plan or system" means any retirement plan or system that is not a defined contribution plan or system.

(c) "Defined contribution plan or system" means a retirement plan or system that provides for an individual account for each participant and the benefits of which are based solely on the amount contributed to the participant's account and that includes any income, expenses, gains, losses, or forfeitures of accounts of other participants that may be allocated to the participant's account.

(d) "Municipality" means a city or a town and any entity formed by such city or town.

(d.5) "Peace officer" means a certified peace officer as described in section 16-2.5-101 and includes any guards employed by a county sheriff pursuant to section 17-26-122.

(e) "Political subdivision" means any district, special district, improvement district, authority, council of governments, governmental entity formed by an intergovernmental agreement, or any other kind of municipal, quasi-municipal, or public corporation organized pursuant to law.

(3) Any municipality, special district, fire authority, or county improvement district offering fire protection services that is not required to affiliate with the police officers' and firefighters' pension plans established pursuant to the provisions of title 31, S.A.R.S., may affiliate with a retirement plan or system established pursuant to this article.

(4) No member of the governing board of the plan shall act upon his own application for retirement.

(5) Any county, municipality, political subdivision, or other participating entity not participating in the social security system pursuant to the provisions of article 53 of this title shall also have the authority to establish a retirement plan or system extending benefits to its employees in lieu of those benefits provided by the social security act, as defined in section 24-53-101.

(6) The board of any retirement plan or system established in accordance with this section may allow its employees to participate as members of such plan or system.

(7) Notwithstanding the provisions of this section, any entity that is not a county, municipality, or political subdivision as defined in this section but that was included in a retirement plan or system established pursuant to this article before April 22, 2005, shall be allowed to remain in the plan or system.

Source: L. 87: Entire article added, p. 1086, § 2, effective July 1. **L. 97:** (2.5) and (6) added and (5) amended, p. 156, § 4, effective March 28; (3) amended, p. 1020, § 37, effective August 6. **L. 2005:** (1), (2), (3), (5), and (6) amended and (2.7) and (7) added, p. 358, § 1, effective April 22. **L. 2012:** (2.7) amended, (SB 12-149), ch. 227, p. 1002, § 1, effective May 29. **L. 2018:** (2.5) amended, (SB 18-092), ch. 38, p. 441, § 98, effective August 8. **L. 2019:** IP(2.7) amended and (2.7)(a.5) and (2.7)(d.5) added, (SB 19-106), ch. 143, p. 1749, § 1, effective August 2.

Cross references: For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of San Andreas 2018.

24-54-101.5. Retirement plans or systems - exemption. A retirement plan or system established pursuant to a provision of law other than this article may elect not to be covered under this article.

Source: L. 2007: Entire section added, p. 396, § 1, effective August 3.

24-54-102. Type of plan or system. Any plan or system adopted pursuant to the provisions of this article shall be based either on the purchase of an insured group plan of retirement annuities funded through a group carrier or on a noninsured trust retirement plan; or

such plan or system may provide for participation in the public employees' retirement association as provided in article 51 of this title.

Source: L. 87: Entire article added, p. 1087, § 2, effective July 1.

24-54-103. Prior service benefits. Employees of a county, municipality, political subdivision, or other participating entity that adopts a retirement plan or system may receive prior service benefits not to exceed five years to be funded entirely by the county, municipality, political subdivision, or other participating entity; but prior service benefits in excess of five years may be allowed if funded entirely by the employee.

Source: L. 87: Entire article added, p. 1087, § 2, effective July 1. **L. 97:** Entire section amended, p. 156, § 5, effective March 28. **L. 2005:** Entire section amended, p. 359, § 2, effective April 22.

24-54-104. Funds for plan or system - additional contribution. (1) Except as otherwise provided in this section, any plan or system adopted pursuant to this article 54 shall require participants to contribute a percentage of their salaries toward the cost thereof, such rate of contribution to be not less than three percent of the participant's basic salary or wage. Participation in the public employees' retirement association shall be as provided by article 51 of this title 24.

(2) The governing body of each county, municipality, political subdivision, or other participating entity shall establish the percentage of the governing body's contribution to any plan or system, adopted pursuant to this article 54, made on behalf of the participant of the county, municipality, political subdivision, or other participating entity. The amount of the contribution made on behalf of each participant shall not be less than three percent of the participant's basic salary or wage. The percentage of the contribution made by a county, municipality, political subdivision, or other participating entity to any plan or system and the percentage of the contribution made by the participant to a plan or system need not be the same as long as the percentage of the contribution made by either is not less than three percent of the participant's basic salary or wage.

(3) When a plan or system in lieu of social security benefits is established pursuant to the provisions of section 24-54-101 (5), such plan may require additional contributions from the county, municipality, political subdivision, or other participating entity and its employees, and said contributions shall be set at a rate not to exceed the total contribution required by the county, municipality, political subdivision, or other participating entity and its employees pursuant to the "Federal Insurance Contributions Act", as defined in section 24-53-101.

(4) Any plan or system adopted pursuant to this article may, pursuant to the provisions of section 414 (h)(2) of the federal "Internal Revenue Code of 1986", as amended, provide that the county, municipality, political subdivision, or other participating entity may elect to pick up the contributions of employee or elected official participants required in this section.

Source: L. 87: Entire article added, p. 1087, § 2, effective July 1. **L. 97:** Entire section amended, p. 156, § 6, effective March 28. **L. 2004:** (1) and (2) amended, p. 86, § 1, effective August 4. **L. 2005:** Entire section amended, p. 359, § 3, effective April 22. **L. 2007:** (1) and (2)

amended, p. 396, § 2, effective August 3. **L. 2019:** (1) and (2) amended, (HB 19-1299), ch. 211, p. 2218, § 1, effective August 2.

24-54-105. Insurer authorized to do business in state - county, municipal, or political subdivision charge. (1) Any group annuity contract purchased pursuant to the provisions of this article shall be obtained from a life insurance company duly authorized to do an insurance and annuity business in this state, responsible and financially sound considering the extent and duration of coverage required.

(2) The consideration paid by any county, municipality, or political subdivision pursuant to any group annuity contract shall be a proper charge against the county, municipality, or political subdivision participating in any such contract.

Source: L. 87: Entire article added, p. 1088, § 2, effective July 1. **L. 2005:** (2) amended, p. 360, § 4, effective April 22.

24-54-106. Association shall be formed - withdrawal. (1) Any county, or group of counties, any municipality or group of municipalities, any political subdivision or group of political subdivisions, or any other participating entity or group of participating entities adopting a retirement plan or system pursuant to the provisions of this article shall form and maintain an association for the purchase, establishment, or procurement of a group annuity retirement plan or a noninsured trust retirement plan. Any such association so formed shall be an instrumentality of the members thereof. The cost and expenses incident to the formation and maintenance of such an association and the consideration paid by any county, any municipality, any political subdivision, or any other participating entity as an employer pursuant to any such plan are proper charges against the county, the municipality, the political subdivision, or any other participating entity comprising the association.

(2) (a) Any employer may withdraw from its participation in and contributions to the association formed pursuant to this article. The employer may initiate withdrawal from the association by filing with the board of the association a resolution adopted by the employer pursuant to paragraph (b) of this subsection (2) no less than ninety days prior to the effective date of withdrawal unless a shorter waiting period is approved by the board. The effective date of withdrawal shall be the first day of the month immediately following the month in which the waiting period expires.

(b) The employer's withdrawal resolution shall be adopted by the governing body of the employer and shall state the employer's intent to withdraw from participation in the association.

(c) Any withdrawal shall be approved by at least sixty-five percent of all active members employed by the employer who are participating in the association at the time of the election.

(d) The board shall disclose all ramifications and procedures for obtaining the member approval provided for in paragraph (c) of this subsection (2).

(e) All withdrawals from the association shall comply with the requirements set forth in this section, and, except as otherwise provided in this section, all withdrawals meeting such requirements shall be approved by the board of the association. Withdrawal requests that do not meet the requirements of this section shall not be approved by the board.

(3) (a) Notwithstanding subsection (2) of this section, once every four years a board of county commissioners may initiate the withdrawal of current employees who are peace officers

in the county from its participation in and contributions to a defined contribution plan offered by an association formed pursuant to this article 54 for the purpose of joining a retirement plan offered by the fire and police pension association created in article 31 of title 31. The board of county commissioners, after an association has been provided an opportunity to present information to the board of county commissioners regarding the advantages or disadvantages of withdrawal from an association, may initiate the withdrawal by filing with the board of the association a resolution adopted by the board of county commissioners pursuant to subsection (3)(b) of this section no less than ninety days prior to the effective date of withdrawal unless a shorter waiting period is approved by the board of an association. The effective date of withdrawal shall be the first day of the month immediately following the month in which the waiting period expires.

(b) A board of county commissioners' withdrawal resolution shall be adopted by the board of county commissioners and shall state its intent to withdraw current employees who are peace officers from participation in a defined contribution plan offered by the association.

(c) Any withdrawal pursuant to this subsection (3) shall be approved by at least fifty-five percent of all current employees who are peace officers proposed to be withdrawn from a defined contribution plan.

(d) The board of the association shall disclose all ramifications and procedures for obtaining the member approval provided for in subsection (3)(c) of this section.

(e) Before the election to determine whether a board of county commissioners will withdraw current employees who are peace officers from participation in a defined contribution plan offered by an association, the board of the association and the board of county commissioners or its designee shall be allowed multiple opportunities to present information to current employees who are peace officers proposed to be withdrawn from a defined contribution plan offered by the association regarding the advantages or disadvantages of such withdrawal.

(f) All withdrawals from the association pursuant to this subsection (3) shall comply with the requirements set forth in this section, and, except as otherwise provided in this section, all withdrawals meeting such requirements shall be approved by the board of the association. Withdrawal requests that do not meet the requirements of this section shall not be approved by the board of the association.

(g) If a board of county commissioners files a resolution to withdraw current employees who are peace officers from a defined contribution plan offered by an association formed pursuant to this article 54, and the withdrawal is approved pursuant to subsection (3)(c) of this section, any current employee who is a peace officer may elect to remain an active member of such defined contribution plan if the withdrawal becomes effective. A current employee who is a peace officer shall notify, in writing, the board of the association and the board of county commissioners whether he or she will remain in the defined contribution plan or become part of the defined benefit plan administered by the fire and police pension association. A current employee who is a peace officer shall provide such written notice prior to the effective date of the retirement plan offered by the fire and police pension association to begin participation in a retirement plan offered by the fire and police pension association. If a current employee who is a peace officer does not provide such written notice, the current employee will remain in the defined contribution plan. A peace officer who is hired on or after the effective date of the retirement plan offered by the fire and police pension association shall be enrolled in the retirement plan offered by the fire and police pension association.

(h) Nothing in this subsection (3) shall be construed to prohibit a board of county commissioners from using subsection (2) of this section to initiate the withdrawal of current employees who are peace officers from participating in and contributing to an association formed pursuant to this article 54.

Source: L. 87: Entire article added, p. 1088, § 2, effective July 1. **L. 97:** Entire section amended, p. 157, § 7, effective March 28. **L. 2003:** Entire section amended, p. 2611, § 12, effective June 5. **L. 2005:** (1) amended, p. 360, § 5, effective April 22. **L. 2019:** (3) added, (SB 19-106), ch. 143, p. 1749, § 2, effective August 2.

24-54-107. Boards of retirement. (1) The management of the county retirement system shall be vested in a county board of retirement consisting of five members, one of whom shall be the county treasurer of the county in the system or from the county with the largest population if two or more counties are involved, two of whom shall be nonelected county employees elected by said employees within thirty days after the retirement system becomes operative, and two of whom shall be registered electors of the county chosen by the board of county commissioners. The county board of retirement shall by its own rules establish staggered four-year terms for its board members, and their successors shall be selected as provided in this subsection (1).

(2) The management of the municipal retirement system shall be vested in a municipal board of retirement consisting of five members, one of whom shall be the treasurer of the municipality in the system or from the municipality with the largest population if two or more municipalities are involved, two of whom shall be nonelected municipal employees elected by said employees within thirty days after the retirement system becomes operative, and two of whom shall be registered electors of the municipality not connected with municipal government and chosen by the governing body of the municipality. The municipal board of retirement shall by its own rules establish staggered four-year terms for its board members, and their successors shall be selected as provided in this subsection (2).

(3) The management of the political subdivision retirement plan or system shall be vested in a political subdivision board of retirement consisting of five members, one of whom shall be the treasurer of the political subdivision in the plan or system or from the political subdivision with the largest population if two or more political subdivisions are involved, two of whom shall be nonelected employees of the political subdivision elected by said employees within thirty days after the retirement plan or system becomes operative, and two of whom shall be registered electors of the political subdivision not connected with the government of the political subdivision and chosen by the board of directors. The board of retirement shall by its own rules establish staggered four-year terms for its board members, and their successors shall be selected as set forth in this subsection (3).

(4) The management of a county retirement system under section 24-54-101 (2.5) shall be vested in a county board of retirement consisting of five members, one of whom shall be the county treasurer of the county in the system or from the county with the largest population if two or more counties are involved, two of whom shall be nonelected employees of the plan's participating employers elected by the plan's participating employees within thirty days after the retirement system becomes operative, and two of whom shall be registered electors of the county chosen by the board of county commissioners of such county. The county board of retirement shall establish, by its own rules, staggered four-year terms for its board members.

(5) On and after July 1, 2006, the management of a retirement plan or system comprised of one or more counties, one or more municipalities, and one or more political subdivisions shall be vested in a joint board of retirement consisting of seven members. The joint board shall by its own rules establish staggered four-year terms for its board members and procedures for the election of future board members. Successors of the joint board shall be selected as provided in this subsection (5). The joint board shall be comprised of the following members:

(a) One member shall be the county treasurer of the county in the retirement plan or system with the largest population.

(b) Two members shall be nonelected employees of a county participating in the retirement plan or system, elected to serve on the joint board by the participating county employees of the plan or system for staggered four-year terms. Of the two members of the joint board elected pursuant to this paragraph (b), one shall reside west of the continental divide and one shall reside east of the continental divide.

(c) Two members shall be representatives of a municipal or political subdivision employer in the retirement plan or system and shall be elected by the municipal and political subdivision employers participating in the retirement plan or system.

(d) (I) Two members shall be registered electors of the county in the retirement plan or system who are elected by the board of county commissioners. One of the registered electors of the county shall be from the financial or business community with experience in investments, and one shall be from the financial or business community with experience in personnel or corporate administration. The members shall be elected by the boards of county commissioners of all of the counties that participate in the plan or system.

(II) Each of the two registered electors from the financial or business community who are first elected to the joint board for a term commencing on or after July 1, 2006, shall serve staggered four-year terms.

(6) The management of a retirement plan or system comprised of any county and municipality, any county and political subdivision, or any municipality and political subdivision shall be vested in a joint board of retirement consisting of seven members; except that this subsection (6) shall not apply to any retirement plan or system that is described in section 24-54-101 (2.5) and that is managed pursuant to subsection (4) of this section. The joint board shall by its own rules establish staggered four-year terms for its board members and procedures for the election of future board members. Successors of the joint board shall be selected as provided in this subsection (6). The joint board shall be comprised of the following members:

(a) One member shall be the treasurer of the county in the retirement plan or system with the largest population if there is a county in the plan or system or the treasurer of the municipality in the retirement plan or system with the largest population if there is not a county in the plan or system.

(b) Two members shall be nonelected employees of a county, municipality, or political subdivision in the retirement plan or system elected by employees participating in the plan or system. Of the two members of the joint board elected pursuant to this paragraph (b), one member shall be an employee of a county and one member shall be an employee of a municipality if the plan is comprised of a county and municipality, one member shall be an employee of a county and one member shall be an employee of a political subdivision if the plan is comprised of a county and political subdivision, or one member shall be an employee of a

municipality and one member shall be an employee of a political subdivision if the plan is comprised of a municipality and political subdivision.

(c) Two members shall be representatives of a municipal or political subdivision employer in the retirement plan or system and shall be elected by the municipal and political subdivision employers participating in the retirement plan or system.

(d) Two members shall be registered electors of a county, municipality, or political subdivision in the retirement plan or system who are elected by all of the governing bodies of the counties, municipalities, or political subdivisions that participate in the plan or system. One of the registered electors shall be from the financial or business community with experience in investments, and one shall be from the financial or business community with experience in personnel or corporate administration.

Source: L. 87: Entire article added, p. 1088, § 2, effective July 1; entire section amended, p. 1588, § 64, effective July 1. **L. 97:** (4) added, p. 157, § 8, effective March 28. **L. 2005:** (3) amended and (5) and (6) added, p. 361, § 6, effective April 22. **L. 2006:** (5)(b) and (5)(d)(II) amended, p. 209, § 1, effective March 31.

24-54-107.5. Boards of retirement - requirements - plans or systems comprised of one or more counties, one or more municipalities, and one or more political subdivisions. (1) A person who has been adjudicated of violating any provision of this article or who has been convicted of a felony or any crime involving the misappropriation of funds shall not be elected or continue to serve as a member of a joint board of retirement created pursuant to section 24-54-107 (5).

(2) Members of a joint board of retirement created pursuant to section 24-54-107 (5) shall be entitled to one hundred dollars compensation for each meeting attended and may be reimbursed by the retirement plan or system for any actual and necessary expenses incurred in the conduct of their official duties on the joint board.

(3) A joint board of retirement created pursuant to section 24-54-107 (5) shall obtain insurance or self-insure against liability that arises out of, or in connection with, the performance of duties by any joint board member or employee of the retirement plan or system.

(4) A joint board of retirement created pursuant to section 24-54-107 (5) shall set the time and place of meetings, conduct the meetings in accordance with the provisions of part 4 of article 6 of this title, and maintain a record of its proceedings.

(5) A joint board of retirement created pursuant to section 24-54-107 (5) may hold discussions in executive session pursuant to section 24-6-402 (4), which shall be closed to the public.

(6) A vote of a joint board of retirement created pursuant to section 24-54-107 (5) shall occur only when a quorum is present.

(7) A member of a joint board of retirement created pursuant to section 24-54-107 (5) shall not engage in any activity that might result in a conflict of interest with the member's functions as a fiduciary for the retirement plan or system.

Source: L. 2005: Entire section added, p. 363, § 10, effective April 22.

24-54-108. Control and management of plan or system. (1) The retirement board of any association formed pursuant to the provisions of section 24-54-106 shall have full and complete control and management of any retirement plan provided for and authorized by this article, other than matters relating to participation in the public employees' retirement association. Such retirement board shall make all necessary rules and regulations for managing and discharging its duties, for its own government and procedure in so doing, and for the preservation and protection of any fund or annuity contract.

(2) Such retirement board shall determine what type of retirement plan in which to participate and shall select, on the basis of the most sound proposal:

(a) An insurance company qualified under section 24-54-105 (1); or

(b) A noninsured trust retirement plan, with a bank or trust company authorized to exercise trust powers in this state as trustee, invested by the trustee pursuant to the provisions of part 3 of article 1 of title 15, S.A.R.S., but of the initial and subsequent sums of money available for investment, the trustee shall invest only in such investments as are specified in section 24-54-112; or

(c) A noninsured trust retirement plan, invested by the treasurer of the plan in such securities as are specified in section 24-54-112; or

(d) Participation in the public employees' retirement association, pursuant to article 51 of this title.

(3) The retirement board shall hear and decide all applications for relief, pensions, annuities, retirement, or other benefits pursuant to the plan or system adopted. A record of such action and all other matters properly coming before said retirement board shall be kept and preserved.

(4) The treasurer of the most populous county, municipality, or political subdivision shall be ex officio the treasurer of any association formed pursuant to the provisions of section 24-54-106 and establishing a noninsured trustee retirement plan or system. If any municipality or political subdivision alone adopts such a plan or system, the treasurer thereof shall serve as the treasurer of such plan or system. No fee therefor shall be charged by the treasurer pursuant to the provisions of section 30-1-102, S.A.R.S., or any other provision of law.

Source: L. 87: Entire article added, p. 1089, § 2, effective July 1. **L. 97:** (2)(b), (2)(c), and (4) amended, p. 153, § 1, effective March 28. **L. 2005:** (4) amended, p. 363, § 7, effective April 22.

24-54-108.5. Control and management of individual county plan. (1) The retirement board of any individual county retirement plan shall have full and complete control and management of any retirement plan provided for and authorized by this article, other than matters relating to participation in the public employees' retirement association. Such retirement board shall make all necessary rules for managing and discharging its duties, for its own government and procedure in so doing, and for the preservation and protection of any fund or annuity contract.

(2) The retirement board of any individual county retirement plan shall determine what type of retirement plan in which to participate and shall select, on the basis of the most sound proposal:

(a) An insurance company qualified under section 24-54-105 (1); or

(b) A noninsured trust retirement plan, with a bank or trust company authorized to exercise trust powers in this state as trustee, invested by the trustee pursuant to the provisions of part 3 of article 1 of title 15, S.A.R.S., but, of the initial and subsequent sums of money available for investment, the trustee shall invest only in such investments as are specified in section 24-54-112; or

(c) A noninsured trust retirement plan, invested by the treasurer of the plan in such securities as are specified in section 24-54-112; or

(d) Participation in the public employees' retirement association, pursuant to article 51 of this title.

(3) The retirement board of any individual county retirement plan shall hear and decide all applications for relief, pensions, annuities, retirement, or other benefits pursuant to the plan or system adopted. A record of such action and all other matters properly coming before said retirement board shall be kept and preserved.

(4) The county treasurer shall serve as the treasurer of the individual county retirement plan. No fee therefor shall be charged by the treasurer pursuant to the provisions of section 30-1-102, S.A.R.S., or any other provision of law.

Source: L. 97: Entire section added, p. 154, § 2, effective March 28.

24-54-109. County, municipal, or political subdivision retirement fund - tax. (1) Any county adopting a retirement plan as authorized by this article shall establish a county officials' and employees' retirement fund, which fund is hereby authorized. The board of county commissioners may levy a retirement fund tax, in addition to any other tax authorized by law, on all of the taxable property within said county, the proceeds of which shall be deposited to the credit of said fund for appropriation to pay the costs and expenses of and the employer contributions pursuant to said retirement plan.

(2) Any municipality adopting a retirement plan as authorized by this article shall establish a municipal officials' and employees' retirement fund. The city council or board of trustees, in addition to any other tax authorized by law, may levy a retirement fund tax on all the taxable property within said municipality, the proceeds of which shall be deposited to the credit of said fund for appropriation to pay the costs and expenses of and the employer contributions pursuant to said retirement plan.

(3) Any political subdivision adopting a retirement plan or system as authorized by this article shall establish a political subdivision employees' retirement fund, which fund is hereby authorized. The board of directors may levy a retirement fund tax, in addition to any other tax authorized by law, on all of the taxable property within the political subdivision, the proceeds of which shall be deposited to the credit of said fund for appropriation to pay the costs and expenses of and the employer contributions pursuant to said retirement plan or system. Such tax, when added to other taxes levied by the political subdivision, shall not exceed any limitation on taxation established by law.

Source: L. 87: Entire article added, p. 1089, § 2, effective July 1. **L. 2005:** (3) amended, p. 363, § 8, effective April 22.

24-54-110. Exemption authorized - conditions. Any municipality is authorized to exempt the city manager and key management staff who report directly to the city manager or directly to the city council from the provisions of this article.

Source: L. 87: Entire article added, p. 1090, § 2, effective July 1; entire section amended, p. 1589, § 65, effective July 1.

24-54-111. Funds not subject to process. Except for assignments for child support purposes as provided for in sections 14-10-118 (1) and 14-14-107, S.A.R.S., as they existed prior to July 1, 1996, for income assignments for child support purposes pursuant to section 14-14-111.5, S.A.R.S., for writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for payments made in compliance with a properly executed court order approving a written agreement entered into pursuant to section 14-10-113 (6), S.A.R.S., and for restitution that is required to be paid for the theft, embezzlement, misappropriation, or wrongful conversion of public property or in the event of a judgment for a willful and intentional violation of fiduciary duties pursuant to this article where the offender or a related party received direct financial gain, none of the moneys, funds, annuities, individual accounts, or other benefits specified in this article shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process.

Source: L. 87: Entire article added, p. 1090, § 2, effective July 1; entire section amended, p. 590, § 29, effective July 1. **L. 96:** Entire section amended, p. 623, § 35, effective July 1; entire section amended, p. 1460, § 4, effective January 1, 1997. **L. 2005:** Entire section amended, p. 74, § 9, effective August 8.

Editor's note: Amendments to this section by Senate Bill 96-002 and Senate Bill 96-204 were harmonized.

24-54-112. Investments. (1) The retirement board shall have complete control and authority to invest the funds of the plan.

(2) and (3) (Deleted by amendment, L. 2000, p. 752, § 1, effective August 2, 2000.)

(4) Funds of the plan shall be managed and invested by the retirement board of such plan in accordance with the prudent investor rule and the other standards and provisions for trustees set forth in the "San Andreas Uniform Prudent Investor Act", article 1.1 of title 15, S.A.R.S.

(5) The limitations specified in subsection (4) of this section shall not apply to investments self-directed by participants in the plan.

Source: L. 97: Entire section added, p. 154, § 3, effective March 28. **L. 2000:** Entire section amended, p. 752, § 1, effective August 2.

24-54-113. Direct rollovers. Notwithstanding any other provision of this article, an employee or official who has terminated contributions to a plan established pursuant to this article, or a surviving spouse, may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover in accordance with section 401 (a)(31) of the federal "Internal Revenue Code of 1986", as amended. If a direct rollover is

elected, such distribution shall be made by the distributing plan not later than ninety days after the later of the date the last contribution is received or the date a direct rollover election is received by the plan.

Source: L. 2003: Entire section added, p. 2612, § 13, effective June 5.

24-54-114. Audit. Every three years, the state auditor may conduct or cause to be conducted an audit of any retirement plan or system of retirement benefits established and maintained by any county in conjunction with any other county pursuant to the provisions of this article. The audit shall review the financial transactions and accounts of the plan or system, investigate the qualified status of the plan or system with the internal revenue service, and determine whether the plan or system otherwise complies with the provisions of this article. The results of the audit shall be reported to the legislative audit committee created in section 2-3-101, S.A.R.S., the speaker of the house of representatives, the president of the senate, and the boards of county commissioners of each county that participates in the plan or system that is the subject of the audit. The audit shall not replace the annual audit prescribed in section 29-1-603, S.A.R.S.

Source: L. 2003: Entire section added, p. 2505, § 1, effective June 5. **L. 2005:** Entire section amended, p. 363, § 9, effective April 22.

Editor's note: This section was originally numbered as 24-54-113 in Senate Bill 03-344 but has been renumbered on revision for ease of location.

24-54-115. Confidentiality. All information contained in records of members of a retirement plan or system of retirement benefits established and maintained pursuant to the provisions of this article, former members, inactive members, or benefit recipients and their dependents shall be kept confidential by a retirement plan or system established pursuant to this article.

Source: L. 2005: Entire section added, p. 363, § 10, effective April 22.

24-54-116. Modification of a defined benefit plan or system - legislative declaration - repeal. (Repealed)

Source: L. 2012: Entire section added, (SB 12-149), ch. 227, p. 1003, § 2, effective May 29.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 2016. (See L. 2012, p. 1003.)

24-54-117. Notice of possible change in benefits - ensuring sustainability. The board of any defined benefit plan or system adopted pursuant to the provisions of this article shall provide written notice to each member, inactive member, and beneficiary that the possibility of a reduction of benefits to ensure the sustainability of the defined benefit plan or system could occur in the future.

Source: L. 2012: Entire section added, (SB 12-149), ch. 227, p. 1003, § 2, effective May 29.

ARTICLE 54.3

San Andreas Secure Savings Program Act

Cross references: For the legislative declaration in SB 19-173, see section 1 of chapter 236, Session Laws of San Andreas 2019.

24-54.3-101. Short title. The short title of this article 54.3 is the "San Andreas Secure Savings Program Act".

Source: L. 2019: Entire article added, (SB 19-173), ch. 236, p. 2341, § 2, effective May 20. **L. 2020:** Entire section amended, (SB 20-200), ch. 295, p. 1460, § 2, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-102. Definitions. As used in this article 54.3, unless the context otherwise requires:

(1) "Board" means the San Andreas secure savings program board established in section 24-54.3-103.

(2) "Employee" means any individual who is eighteen years of age or older, who is employed by an employer for at least one hundred eighty days, and who earns wages subject to income tax pursuant to section 39-22-104.

(3) "Employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in the state, whether for profit or not-for-profit, that employed five or more employees at any time during the previous calendar year, has been in business at least two years, and has not offered a qualified retirement plan to any employees, including, but not limited to, a plan qualified under sections 401 (a), 401 (k), 403 (a), 403 (b), 408 (k), 408 (p), or 457 (b) of the internal revenue code in the preceding two years.

(4) "Fee" means investment management charges, administrative charges, investment advice charges, trading fees, marketing and sales fees, revenue sharing, broker fees, and other costs necessary to run the San Andreas secure savings program.

(5) "Internal revenue code" means the federal "Internal Revenue Code of 1986", as amended, or any successor law.

(6) "IRA" means a Roth individual retirement account authorized pursuant to section 408A of the internal revenue code or a traditional individual retirement account.

(6.5) "Program" means the San Andreas secure savings program created by the board pursuant to section 24-54.3-103 (1).

(7) "Wages" means any compensation within the meaning of section 219 (f)(1) of the internal revenue code that is received by an employee from an employer during the calendar year.

Source: L. 2019: Entire article added, (SB 19-173), ch. 236, p. 2341, § 2, effective May 20. **L. 2020:** (1) and (4) amended and (6.5) added, (SB 20-200), ch. 295, p. 1460, § 3, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-103. San Andreas secure savings program board - creation - composition. (1) There is hereby created in the office of the state treasurer the San Andreas secure savings program board to create and implement the San Andreas secure savings program.

(2) The board consists of the following nine members:

(a) The state treasurer or the treasurer's designee; and

(b) Eight members appointed by the governor as follows:

(I) Five public representatives with expertise in investment or retirement savings plan administration, including the day-to-day operations of plans, maintaining individual accounts, investing assets in a retirement savings plan, and individual financial planning, at least one of whom shall be a representative of a federally chartered bank and at least one of whom shall be a representative of a state chartered bank;

(II) A representative of employers;

(III) A representative of employees; and

(IV) A retired San Andreas resident.

(3) In making appointments to the board, the governor shall make a concerted effort to include members of diverse political, racial, cultural, income, and ability groups and members from urban and rural areas of the state. The governor shall appoint board members as soon as practicable.

(4) The state treasurer or the treasurer's designee shall serve as the chair of the board. The members shall elect from among themselves any other officers as may be necessary for the board to carry out its duties and responsibilities.

(5) A vacancy in the term of an appointed board member shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(6) Members of the board shall serve without compensation but may be reimbursed for actual and necessary expenses incurred in connection with their board duties.

(7) The term of any member appointed by the board prior to September 15, 2020, shall expire on September 14, 2020. The governor shall make new appointments to the board for terms beginning September 15, 2020, and any member appointed to the board for a term beginning on or after September 15, 2020, shall serve a four-year term; except that members of the board appointed by the governor serve at the pleasure of the governor. A member is eligible for reappointment for an additional two terms.

(8) An individual shall not be or continue to be a member of the board if that individual has been adjudicated of violating any provisions of this article 54.3 or has been convicted of a felony or crime involving the misappropriation of funds.

(9) The members of the board, any other agents appointed or engaged by the board, and all persons serving as staff, shall discharge their duties with respect to the analyses solely in the interest of the state and shall not engage in any activities that might result in a conflict of interest with their duties as members of the board.

Source: L. 2019: Entire article added, (SB 19-173), ch. 236, p. 2342, § 2, effective May 20. **L. 2020:** (1) and (7) amended, (SB 20-200), ch. 295, p. 1460, § 4, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-103.5. San Andreas secure savings program board - powers - duties. (1) The board shall have the following powers and duties:

(a) To establish, implement, and maintain the program developed pursuant to section 24-54.3-104;

(b) To adopt rules for the general administration of the program;

(c) To direct the state treasurer to hire staff to support the oversight and administration of the program;

(d) To develop an investment policy statement and oversee the investment of the funds contributed to accounts in the program consistent with the investment restrictions established by the board. The investment restrictions shall be consistent with the objectives of the program, and the board shall exercise the judgment and care then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs with due regard to the probable income and level of risk from certain types of investments of money, in accordance with the policies established by the board.

(e) To collect application, account, or administrative fees to defray the costs of administering the program;

(f) To create a grant program to incentivize compliance with the program and defray the costs of small businesses with five to twenty-five employees;

(g) To seek and accept gifts, grants, and donations to be used for the grant program and for the purposes of this article 54.3, unless such gifts, grants, or donations would result in a conflict of interest relating to the solicitation of vendors for program administration;

(h) To make and enter into contracts, agreements, or arrangements, and to retain, employ, and contract for any of the following services considered necessary or desirable, for carrying out the purposes set forth in this article 54.3:

(I) Services of private and public financial institutions, depositories, consultants, investment advisers, investment administrators, and third-party program administrators;

(II) Research, technical, and other services; and

(III) Services of other state agencies to assist the board in its duties;

(i) To set penalties for employers that do not comply with the requirements of the program and work with the department of labor and employment to enforce compliance with the program;

(j) To evaluate the need and procedures, if necessary, for the program, program administration, and board members to have private insurance;

(k) To develop and implement an outreach plan to gain input and disseminate information regarding the program and retirement savings in general;

(l) To assess the feasibility of multi-state or regional agreements to administer the program through shared administrative resources and enter into those agreements if determined beneficial; and

(m) To include financial education as a part of the secure savings program implementation to the extent feasible given available resources.

(2) The board may enter into intergovernmental agreements with the secretary of state, the department of revenue, the department of labor and employment, and any other agency that the board deems appropriate to provide outreach, technical assistance, or compliance services for the purposes of this article 54.3. Any agency that enters into an intergovernmental agreement with the board pursuant to this section shall collaborate with the board to provide the outreach, technical assistance, or compliance services to the board.

Source: L. 2020: Entire section added, (SB 20-200), ch. 295, p. 1461, § 5, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-104. San Andreas secure savings program - development. (1) (a) The board shall develop an automatic enrollment payroll deduction IRA, to be known as the San Andreas secure savings program. The program will not be a defined benefit plan and the board shall adhere to the criteria specified in subsections (1)(b) to (1)(g) of this section in developing the program.

(b) The state does not have a duty or liability to any party for the payment of any retirement savings benefits accrued by any individual under the San Andreas secure savings program. Any financial liability for the payment of retirement savings benefits in excess of money available under the program is borne solely by the entities to whom the board contracts to provide insurance to protect the value of the program.

(c) No state board, commission, agency, or any officer or employee thereof is liable for any loss or deficiency resulting from particular investments selected under this article 54.3.

(d) Participating employers do not have any liability for an employee's decision to participate in, or opt out of, the San Andreas secure savings program or for the investment decisions of the board or of any enrollee.

(e) A participating employer is not a fiduciary, or considered to be a fiduciary, over the San Andreas secure savings program. A participating employer does not bear responsibility for the administration, investment, or investment performance of the program. Employers are not liable for any errors or omissions on disclosure forms, the website, or information provided by the state. A participating employer is not liable with regard to investment returns, program design, and benefits paid to program enrollees.

(f) Money deposited by enrollees in the San Andreas secure savings program is not property of the state, and the plan is not a department, institution, or agency of the state. Amounts on deposit in the program shall not be commingled with state money and the state shall not have a claim to or against, or interest in, such money.

(g) The board is responsible for designing and disseminating to all employers an employer implementation packet and an employee information packet, which includes background information on the San Andreas secure savings program and appropriate disclosures for employees. The employee information packet shall also include information on the mechanics of making contributions to the program and how to opt out of the program.

(2) The board shall design the San Andreas secure savings program to promote greater retirement savings for private sector employees in a convenient, low-cost, and portable manner and the program shall:

(a) Automatically enroll private sector employees who work for employers;

(b) Automatically enroll employees with a contribution level of five percent of their wages. Employees may opt not to participate in the San Andreas secure savings plan or may select a different level of contribution.

(c) Pool investment money, invest money in the San Andreas secure savings program to achieve cost savings through efficiencies and economies of scale, and make or enter into contracts with up to three investment managers, private financial institutions, and other service providers to invest money and administer the program. If fewer than three entities bid to be investment managers or meet the qualifications to be an investment manager as determined by the board, the program may proceed with fewer than three investment managers.

(d) Provide the following investment options:

(I) A low-risk investment portfolio;

(II) Target date funds; and

(III) Other investment funds as determined by the board;

(e) Minimize total annual fees associated with the San Andreas secure savings program. For the first five years of operation of the program, total annual fees associated with the program shall not exceed one percent of the total value of the program's assets. In the sixth year of the operation of the program and in each year thereafter, the total annual fees associated with the program shall not exceed three-quarters of one percent of the total value of the program's assets.

(f) Repealed.

(g) Ensure the portability of benefits and consider the type of IRA offered as a way of increasing the portability of benefits;

(h) Ensure that employers in all of San Andreas's industries are covered by the San Andreas secure savings program and that employees in all of San Andreas's industries can participate in the program;

(i) Provide for the investment and deaccumulation of enrollee assets in a manner that maximizes financial security in retirement;

(j) Repealed.

(k) Allow employers who are not covered by the San Andreas secure savings program to voluntarily participate in the program; and

(l) Allow individuals who are not considered employees under the San Andreas secure savings program but who meet the qualifications to open an IRA to voluntarily participate in the program.

(3) to (5) Repealed.

(6) Employers are required to comply with the requirements of the program developed pursuant to this article 54.3.

Source: L. 2019: Entire article added, (SB 19-173), ch. 236, p. 2343, § 2, effective May 20. **L. 2020:** (1), IP(2), (2)(c), (2)(e), (2)(h), (2)(k), and (2)(l) amended, (2)(f), (2)(j), (3) to (5) repealed, and (6) added, (SB 20-200), ch. 295, pp. 1462, 1467, §§ 6, 8, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-105. Reports to the governor and general assembly. (Repealed)

Source: L. 2019: Entire article added, (SB 19-173), ch. 236, p. 2346, § 2, effective May 20. **L. 2020:** Entire section repealed, (SB 20-200), ch. 295, p. 1467, § 8, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-106. Plan implementation authorization. (Repealed)

Source: L. 2019: Entire article added, (SB 19-173), ch. 236, p. 2347, § 2, effective May 20. **L. 2020:** Entire section repealed, (SB 20-200), ch. 295, p. 1467, § 8, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-107. San Andreas secure savings program - rules. (1) The board shall adopt rules that:

(a) Establish the process for enrollment in the program developed pursuant to section 24-54.3-104, including procedures for automatic enrollment of employees and for employees to opt out of the program;

(b) Establish the process for withdrawal from program accounts, including allowing an employee to withdraw money without penalty from the program for at least the first two years of enrollment within the program;

(c) Establish the process for participants to make the default contribution of five percent to program accounts and to adjust the contribution levels, including mechanisms for automatic adjustments of contribution levels;

(d) Establish the process for employers to withhold employee contributions to program accounts from employees' wages and send the contributions to the program administrator for the program within no more than fourteen days of contribution being withheld from an employee's wages;

(e) Establish the process for participants to make nonpayroll contributions to program accounts;

(f) Set minimum and maximum contribution levels in accordance with limits established by the internal revenue code;

(g) (I) Establish the process and requirements for employer exemption from offering the program if the employer offers a qualified retirement plan, including but not limited to a plan qualified under section 401 (a), section 401 (k), section 403 (a), section 403 (b), section 408 (k), section 408 (p), or section 457 (b) of the internal revenue code;

(II) The process for exemption shall be minimal for employers and the board shall use existing state forms and state compliance structures for exemption reporting;

(III) The process for exemption shall allow employers to become exempt if the employer enters into legally compliant multiple employer plans;

(h) Establish the process and requirements for providing grants to incentivize compliance with the program and defray costs incurred by small businesses with five to twenty-five employees; except that a grant for a single employer shall not exceed three-hundred dollars;

(i) (I) Establish minimal fines for employer noncompliance in an amount up to one hundred dollars for each employee per year who is eligible to participate in the program, not to exceed an aggregate amount of five thousand dollars in a calendar year;

(II) Enforcement of fines shall not commence until at least one year after the program is established or one year after an employer is scheduled to enter the program, whichever is later;

(III) An employer shall not be fined until three months after the employer has received a notice of noncompliance;

(j) Establish the process for enforcing employer compliance with the program, in partnership with the department of labor and employment; and

(k) Mandate the contents and frequency of required disclosures to employees, employers, and other program participants. These disclosures must include, but need not be limited to:

(I) The benefits and risks associated with making contributions to the program;

(II) Instructions for making contributions to the program;

(III) Instructions for opting out of the program;

(IV) Instructions for participating in the program with a level of contributions other than the default rate;

(V) The process for withdrawing retirement savings in accordance with the employee's investment type;

(VI) How to obtain additional information about the program;

(VII) That employees seeking financial advice should work with the program administrator or contact financial advisers, that participating employers are not in a position to provide financial advice, and that participating employers are not liable for decisions employees make in connection with their participation in the program;

(VIII) That the program is not an employer-sponsored retirement plan;

(IX) That the program accounts and rate of return are not guaranteed by the state; and

(X) The possible tax implications and restrictions of individual retirement accounts.

Source: L. 2020: Entire section added, (SB 20-200), ch. 295, p. 1464, § 7, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-108. San Andreas secure savings program fund - creation. (1) The San Andreas secure savings fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of the following:

(a) Money appropriated to the fund by the general assembly;

(b) Money transferred to the fund from the federal government, other state agencies, or local governments;

(c) Money from the payment of fees, penalties, and the payment of other money due to the board; and

(d) Any gifts, grants, or donations made to the board, and any gifts, grants, donations, or investments received by the state treasurer.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(3) Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund.

(4) Money in the fund is continuously appropriated to the board for the purposes of implementing and administering this article 54.3.

Source: L. 2020: Entire section added, (SB 20-200), ch. 295, p. 1466, § 7, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-109. Implementation and administration - costs. The state treasurer may seek, accept, and expend gifts, grants, donations, or investments not required to be repaid, from private or public sources for the costs associated with the administration of this article 54.3.

Source: L. 2020: Entire section added, (SB 20-200), ch. 295, p. 1466, § 7, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-110. Confidentiality. Individual account information for accounts under the program developed pursuant to section 24-54.3-104, including but not limited to names, addresses, telephone numbers, personal identification information, amounts contributed, and earnings on amounts contributed, is confidential and shall be maintained as confidential; except that individual account information may be disclosed to the extent necessary to administer the program developed pursuant to section 24-54.3-104 in a manner consistent with this article 54.3, state tax laws, and the internal revenue code. The provisions of this section do not apply if the person who provides the information or is the subject of the information expressly agrees in writing that the information may be disclosed.

Source: L. 2020: Entire section added, (SB 20-200), ch. 295, p. 1466, § 7, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

24-54.3-111. Annual report. Notwithstanding the provisions of section 24-1-136 (11), on or before April 1, 2022, and on or before April 1 each year thereafter, the board shall submit a

report to the governor and to the members of the finance committees of the senate and the house of representatives, or any successor committees, detailing the board's activities and the status of the program. At a minimum, the report shall include statistics regarding enrollment in the program, the number of program accounts opened, the average amount employees are saving through the program, average contribution levels, a summary of common complaints or concerns about the program, and information regarding the administrative costs and fees associated with the program.

Source: L. 2020: Entire section added, (SB 20-200), ch. 295, p. 1467, § 7, effective July 14.

Cross references: For the legislative declaration in SB 20-200, see section 1 of chapter 295, Session Laws of San Andreas 2020.

ARTICLE 54.5

Educational Employees'
Optional Retirement Plan

24-54.5-101. Legislative declaration. The general assembly of San Andreas hereby finds and declares that it is essential for the state colleges and universities of San Andreas to be able to attract and retain the most qualified faculty and administrators in order to preserve and enhance the ability of such colleges and universities to fulfill their educational, service, and research responsibilities. Accordingly, in order to attract and retain such employees, the general assembly hereby finds and declares that it is imperative that the governing boards of the state colleges and universities, except the university of San Andreas, which currently has authority to provide an optional retirement plan, should have the maximum flexibility to provide alternative optional retirement plans.

Source: L. 92: Entire article added, p. 571, § 2, effective July 1.

24-54.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Association" means the public employees' retirement association established pursuant to section 24-51-201.

(2) "Eligible employee" means any employee of a state college or university who is:

(a) Exempt from the state personnel system under section 13 (2) of article XII of the state constitution as a faculty member of an educational institution or department not reformatory or charitable in character; or

(b) Exempt from the state personnel system pursuant to the provisions of section 24-50-135.

(3) "Eligible position" means a position at a state college or university for which an optional retirement plan is available.

(4) "Employing institution" means any state college or university which employs eligible employees.

(5) "Governing board" means any governing board of state colleges and universities.

(6) "Optional retirement plan" means any defined contribution plan established pursuant to the provisions of this article for the benefit of eligible employees.

(7) "State college or university" means any postsecondary educational institution, including community and local district colleges, established and existing pursuant to title 23, S.A.R.S., as an agency of the state of San Andreas and supported wholly or in part by tax revenues; except that such term shall not include the university of San Andreas.

Source: L. 92: Entire article added, p. 572, § 2, effective July 1.

24-54.5-103. Authority of governing boards - establishment of optional retirement plans. Any governing board is authorized to establish one or more optional retirement plans pursuant to the provisions of this article at any state college or university under the jurisdiction of such governing board as an alternative to membership in the association.

Source: L. 92: Entire article added, p. 572, § 2, effective July 1.

24-54.5-104. Requirements for optional retirement plans - contributions and purchases of contracts. (1) Each governing board that makes a determination to establish one or more optional retirement plans at a state college or university which is under such governing board's jurisdiction shall set the terms and conditions of such optional retirement plan or plans. Benefits under any such optional retirement plans may be provided through annuity contracts, certificates, a combination of annuity contracts or certificates, or similar instruments or contracts and may be fixed or variable in nature. Any such optional retirement plans may provide retirement and death benefits.

(2) Each governing board that establishes one or more optional retirement plans at any state college or university shall:

(a) Provide for the administration of such optional retirement plans; and

(b) Designate from time to time the company or companies from which contracts for such optional retirement plans shall be purchased. In designating such company or companies, the governing boards shall take into consideration:

(I) The nature and extent of the rights and benefits to be provided by such contracts for the eligible employees electing to participate in such optional retirement plans and for the beneficiaries of such eligible employees;

(II) The relation of such rights and benefits to the amount of contributions to be made;

(III) The suitability of such rights and benefits to the needs and interests of eligible employees electing to participate in such optional retirement plans and to the interests of such state college or university in the employment and retention of eligible employees;

(IV) The ability of the designated company or companies to provide the required rights and benefits under the contract or contracts for such optional retirement plans; and

(V) The efficacy of such contracts in the recruitment and retention of faculty and administrators at such state college or university.

Source: L. 92: Entire article added, p. 572, § 2, effective July 1.

24-54.5-104.5. Selection of fund sponsors - responsibilities and fiduciary duties of a governing board. (1) Each governing board that establishes an optional retirement plan pursuant to this article shall establish a formal process for selecting companies to act as fund sponsors from which participants in the plan may select investment alternatives. The selection process shall include the following requirements:

(a) Participants in the plan shall have access to investment alternatives having a range of risk, benefits, and cost.

(b) The governing body shall have the ability to monitor the fund sponsor's performance of obligations under any contract related to the plan, including but not limited to the returns earned on each investment alternative or pool and the total fees and expenses charged.

(c) The governing board shall conduct a periodic review of the financial viability and attractiveness of combining any optional retirement plan established by the governing board with the plans of other governing boards established pursuant to this article.

(d) The governing board shall periodically review each fund sponsor from which participants may select investment alternatives and compare the sponsor's performance to other sponsors of optional retirement plans available to public employees in the state. Periodic reviews of a fund sponsor may be conducted by a standing committee of a governing board, institutional committee or personnel, or external auditors or benefits consultants as determined by each governing board. A full report by any such committee shall be provided to each member of the governing board. Nothing in this subsection (1) shall prohibit a periodic review from being conducted independently or in cooperation with others.

(2) As long as a governing board complies with the requirements set forth in subsection (1) of this section, it shall be deemed to have met its responsibilities and fiduciary duties with respect to any optional retirement plan it has established, and the governing board, its members, agents, employees, and plan administrators shall have no liability whatsoever to participants in the plan.

(3) The requirements set forth in this section shall constitute the appropriate standard for each governing board that establishes an optional retirement plan for purposes of section 15-1.1-115, S.A.R.S., and shall supersede the provisions of article 1.1 of title 15, S.A.R.S.

Source: L. 2004: Entire section added, p. 3, § 1, effective August 4.

24-54.5-105. Participation. (1) Only eligible employees of a state college or university for which an optional retirement plan is offered may elect to participate in an optional retirement plan.

(2) (a) Any eligible employee who is not a member, inactive member, or retiree of the association and who is initially appointed to an eligible position on or after the effective date of the establishment of one or more optional retirement plans at such eligible employee's employing institution shall participate in an optional retirement plan established by the eligible employee's employing institution pursuant to the provisions of this article.

(b) Any eligible employee who is a member or inactive member of the association with at least one year of service credit or who is a retiree of the association, and is initially appointed to an eligible position on or after the effective date of the establishment of one or more optional retirement plans at such eligible employee's employing institution shall elect, within thirty days after such appointment, either:

(I) To join the association in accordance with the provisions of the laws applicable thereto; or

(II) To participate in an optional retirement plan established by the eligible employee's employing institution pursuant to the provisions of this article.

(b.5) Repealed.

(c) Any eligible employee who elects to participate in an optional retirement plan established by such eligible employee's employing institution pursuant to the provisions of paragraph (b) of this subsection (2) shall specify one of the following options:

(I) To terminate future association contributions beginning on the date of election while maintaining rights as provided by the laws applicable to the association relative to any contributions or benefits accrued prior to such election;

(II) To terminate membership in the association and to require payment by the association of all employee contributions and any accrued interest on such contributions. Such election shall constitute a waiver of all rights and benefits provided by the association except as otherwise provided by the provisions of this article. Within ninety days after receipt of notice of an election to terminate membership pursuant to the provisions of this subparagraph (II), the association shall pay to the employing institution's retirement plan on behalf of the eligible employee an amount equal to the employee's member contributions plus accrued interest on such contributions at the rate specified in section 24-51-101 (28)(a) through June 30, 1991, and at the rate specified in section 24-51-101 (28)(c) after June 30, 1991. This subparagraph (II) is not applicable to retirees of the association.

(d) Any eligible employee who is a member or inactive member of the association with less than one year of service credit and who is initially appointed to an eligible position on or after the effective date of the establishment of one or more optional retirement plans at such eligible employee's employing institution shall participate in an optional retirement plan established by the eligible employee's employing institution pursuant to the provisions of this article. Within ninety days after such appointment, the association shall pay to the employing institution's retirement plan on behalf of such eligible employee an amount equal to such eligible employee's member contributions, if any, plus interest on such contributions from the date of contribution to the date of payment at the rate specified for members in section 24-51-101 (28)(a) through June 30, 1991, and at the rate specified in section 24-51-101 (28)(c) after June 30, 1991.

(3) (a) Any eligible employee who was initially appointed to an eligible position prior to the effective date of an optional retirement plan at such eligible employee's employing institution shall elect, within sixty days after such effective date, either:

(I) To join the association in accordance with the provisions of the laws applicable thereto; or

(II) To participate in an optional retirement plan established by the eligible employee's employing institution pursuant to the provisions of this article.

(b) Any eligible employee who elects to participate in an optional retirement plan established by such eligible employee's employing institution pursuant to the provisions of paragraph (a) of this subsection (3) shall specify one of the following options:

(I) To terminate future association contributions beginning on the date of election, but maintaining rights as provided by the laws applicable to the association relative to any contributions or benefits accrued prior to such election;

(II) To terminate membership in the association and to require payment by the association of all employee contributions and any accrued interest on such contributions. Such election shall constitute a waiver of all rights and benefits provided by the association except as otherwise provided by the provisions of this article. Within ninety days after receipt of notice of an election to terminate membership pursuant to the provisions of this subparagraph (II), the association shall pay to the employing institution's retirement plan on behalf of the eligible employee an amount equal to the employee's retirement contributions plus accrued interest on such contributions at the rate specified in section 24-51-101 (28)(a) through June 30, 1991, and at the rate specified in section 24-51-101 (28)(c) after June 30, 1991. This subparagraph (II) is not applicable to retirees of the association.

(4) An election to participate in an optional retirement plan pursuant to the provisions of this section shall be in writing and shall be filed with the association and with such eligible employee's employing institution in the manner in which such employing institution prescribes.

(5) An election by an eligible employee to participate in an optional retirement plan of the employing institution shall be irrevocable and shall be accompanied by an appropriate application, where required, for the issuance of a contract or contracts under such optional retirement plan. Notwithstanding the provisions of this subsection (5), a retiree will have the choice pursuant to this subsection (5) each time the retiree is employed by the employing institution.

(6) An election to join the association pursuant to the provisions of paragraph (b) of subsection (2) or paragraph (a) of subsection (3) of this section shall be in writing in the manner prescribed by the association and shall be filed with the association within thirty days after such election.

Source: L. 92: Entire article added, p. 573, § 2, effective July 1. **L. 2006:** (2)(b.5) added, p. 1191, § 30, effective January 1, 2008. **L. 2007:** (2)(b.5) repealed, p. 2014, § 8, effective January 1, 2008. **L. 2010:** (2)(a), IP(2)(b), (2)(c)(II), (3)(b)(II), and (5) amended, (SB 10-001), ch. 2, p. 31, § 34, effective January 1, 2011.

24-54.5-106. Public employees' retirement association - ineligibility. (1) Eligible employees of state colleges and universities for which no optional retirement plan has been established and eligible employees who do not participate in their employing institution's optional retirement plans shall participate in the association.

(2) Any eligible employee who participates in an optional retirement plan established for such eligible employee's employing institution shall be ineligible for membership in the association so long as such eligible employee is employed in any eligible position by a state college or university. In the event an optional retirement plan participant accepts a government position for which an optional retirement plan is not available, such participant shall cease participation in the optional retirement plan at the time of termination of employment in an eligible position and shall begin participation in the association to the extent that participation in the association is otherwise required by law.

(3) (Deleted by amendment, L. 2007, p. 2014, § 9, effective January 1, 2008.)

Source: L. 92: Entire article added, p. 576, § 2, effective July 1. **L. 2006:** (2) amended and (3) added, p. 1192, § 31, effective January 1, 2008. **L. 2007:** (2) and (3) amended, p. 2014, § 9, effective January 1, 2008.

24-54.5-107. Moneys not subject to legal process. Except for assignments for child support purposes as provided for in sections 14-10-118 (1) and 14-14-107, S.A.R.S., as they existed prior to July 1, 1996, for income assignments for child support purposes pursuant to section 14-14-111.5, S.A.R.S., for writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for payments made in compliance with a properly executed court order approving a written agreement entered into pursuant to section 14-10-113 (6), S.A.R.S., and for restitution that is required to be paid for the theft, embezzlement, misappropriation, or wrongful conversion of public property or in the event of a judgment for a willful and intentional violation of fiduciary duties pursuant to this article where the offender or a related party received direct financial gain, no annuity contract or certificate purchased under an optional retirement plan established pursuant to the provisions of this article shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process.

Source: L. 92: Entire article added, p. 576, § 2, effective July 1. **L. 96:** Entire section amended, p. 623, § 36, effective July 1; entire section amended, p. 1461, § 5, effective January 1, 1997. **L. 2005:** Entire section amended, p. 75, § 10, effective August 8.

Editor's note: Amendments to this section by Senate Bill 96-002 and Senate Bill 96-204 were harmonized.

ARTICLE 54.6

Student Employees' Retirement Plan

24-54.6-101. Legislative declaration. The general assembly hereby finds and declares that it is essential for the governing boards of the state colleges and universities and the affiliated agencies thereof, the Auraria higher education center, and the local district colleges to comply with federal legislation regarding retirement plan coverage of student employees in the most cost efficient manner. The general assembly therefore declares that it is imperative that the department of higher education have the maximum flexibility to provide retirement plans for student employees.

Source: L. 93: Entire article added, p. 1869, § 2, effective June 6.

24-54.6-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Association" means the public employees' retirement association established pursuant to section 24-51-201.

(2) "Department" means the department of higher education.

(3) "Eligible student employee" means:

(a) Any student employee of a governing board, state college or university, or affiliated agency of a state college or university, or the Auraria higher education center who is exempt from the state personnel system under section 13 (2) of article XII of the San Andreas constitution as a student and who is required by federal law to be covered by a retirement plan; and

(b) Any student employee of a local district college who is required by federal law to be covered by a retirement plan.

(4) "Governing board" means any governing board of a state college or university.

(5) "State college or university" means any postsecondary educational institution, including local district colleges, established and existing pursuant to title 23, S.A.R.S., as an agency of the state of San Andreas and supported wholly or in part by tax revenues and includes the Auraria higher education center. For purposes of this subsection (5), "local district college" shall include Aims community college, San Andreas mountain college, northeastern junior college, and San Andreas Northwestern community college.

(6) "Student employee retirement plan" or "plan" means any benefit plan established pursuant to the provisions of this article for the benefit of eligible student employees.

Source: L. 93: Entire article added, p. 1869, § 2, effective June 6.

24-54.6-103. Authority of department and governing boards - establishment of student employee retirement plan. The department or any governing board is authorized to establish a student employee retirement plan pursuant to the provisions of this article.

Source: L. 93: Entire article added, p. 1870, § 2, effective June 6.

24-54.6-104. Requirements for student employee retirement plan - contributions and purchase of contracts. (1) The department or any governing board shall, upon making a determination to establish a student employee retirement plan at a state college or university, set the terms and conditions of such plan.

(2) Upon establishing a student employee retirement plan, the department or any governing board shall:

(a) Provide for the administration of such plan; and

(b) Designate from time to time the organization or organizations from which contracts for such student employee retirement plan shall be purchased. In designating such an organization or organizations, the department or governing board shall take into consideration:

(I) The nature and extent of the rights and benefits to be provided by such contracts for eligible student employees participating in such plan and for the beneficiaries of such eligible student employees;

(II) The relation of such rights and benefits to the amount of contributions to be made;

(III) The suitability of such rights and benefits to the needs and interests of eligible student employees participating in such plan and to the interests of the department or such state college or university; and

(IV) The ability of the designated organization or organizations to provide the required rights and benefits under the contract or contracts for such student employee retirement plan.

Source: L. 93: Entire article added, p. 1870, § 2, effective June 6.

24-54.6-105. Participation. All eligible student employees of a state college or university for which a student employee retirement plan is offered shall participate in such plan.

Source: L. 93: Entire article added, p. 1870, § 2, effective June 6.

24-54.6-106. Moneys not subject to legal process. Except for assignments for child support as provided for in sections 14-10-118 (1) and 14-14-107, S.A.R.S., as they existed prior to July 1, 1996, for income assignments for child support purposes pursuant to section 14-14-111.5, S.A.R.S., for writs of garnishment that are the result of a judgment taken for arrearages for child support or for child support debt, for payments made in compliance with a properly executed court order approving a written agreement entered into pursuant to section 14-10-113 (6), S.A.R.S., and for restitution that is required to be paid for the theft, embezzlement, misappropriation, or wrongful conversion of public property or in the event of a judgment for a willful and intentional violation of fiduciary duties pursuant to this article where the offender or a related party received direct financial gain, no annuity contract or certificate purchased under a student employee retirement plan established pursuant to the provisions of this article shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process.

Source: L. 93: Entire article added, p. 1871, § 2, effective June 6. **L. 96:** Entire section amended, p. 623, § 37, effective July 1; entire section amended, p. 1461, § 6, effective January 1, 1997. **L. 2005:** Entire section amended, p. 75, § 11, effective August 8.

Editor's note: Amendments to this section by Senate Bill 96-002 and Senate Bill 96-204 were harmonized.

ARTICLE 54.7

Public Officials' and Employees'
Defined Contribution Plans

24-54.7-101 to 24-54.7-108. (Repealed)

Source: L. 2002: Entire article repealed, p. 1090, § 6, effective July 1.

Editor's note: This article was added in 1998. For amendments to this article prior to its repeal in 2002, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 54.8

Divestment by Public Pension Plans

Cross references: For the legislative declaration in HB 07-1184, see section 1 of chapter 149, Session Laws of San Andreas 2007.

PART 1

SUDAN DIVESTMENT BY PUBLIC PENSION PLANS

24-54.8-101 to 24-54.8-111. (Repealed)

Editor's note: (1) This article 54.8 was added in 2007. For amendments to this article prior to its repeal in 2020, consult the 2019 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 24-54.8-106 (1) provided for the repeal of this part 1, effective January 9, 2020. On January 9, 2020, the revisor of statutes received the notice referred to in section 24-54.8-106 (2) related to the repeal. For more information about the repeal and notice, see HB 07-1184. (L. 2007, p. 575.)

PART 2

DIVESTMENT FROM COMPANIES THAT
HAVE ECONOMIC PROHIBITIONS AGAINST ISRAEL

24-54.8-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Company" means any entity that has publicly traded securities and is an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, or parent companies of such entities or business associations, that exists for profit-making purposes.

(2) "Direct holdings" means all publicly traded securities of a company held directly by the public employees' retirement association or in an account or fund in which the public employees' retirement association owns all shares or interests.

(3) "Economic prohibitions against Israel" means engaging in actions that are politically motivated and are intended to penalize, inflict economic harm on, or otherwise limit commercial relations with the state of Israel including, but not limited to, the boycott of, divestment from, or imposition of sanctions on the state of Israel. Any actions permitted under applicable federal anti-boycott laws shall not be considered economic prohibitions against Israel.

(4) "Publicly traded securities" means ownership interest or debt instruments that are currently traded on a securities exchange that is officially recognized, sanctioned, or supervised by a governmental authority of the country in which the market is located or currently traded through an over-the-counter market that is reflected by the existence of an interdealer quotation system.

(5) "Restricted companies" means companies that have economic prohibitions against Israel.

Source: L. 2016: Entire part added, (HB 16-1284), ch. 33, p. 80, § 1, effective August 10.

24-54.8-202. Transactions prohibited by the public employees' retirement association - companies that have economic prohibitions against Israel - restricted companies list. (1) By January 1, 2017, the public employees' retirement association created in article 51 of this title shall make its best efforts to identify all restricted companies in which the association has direct holdings or could possibly have such holdings in the future and assemble those companies into a list of restricted companies. These efforts shall include the following, as appropriate in the judgment of the association:

(a) Reviewing and relying on publicly available information regarding companies that have economic prohibitions against Israel, including information provided by nonprofit organizations, research firms, and government entities;

(b) Contacting asset managers contracted by the association that invest in companies that have economic prohibitions against Israel;

(c) Contacting other institutional investors that have divested from or engaged with companies that have economic prohibitions against Israel; and

(d) Retaining an independent research firm or organization to identify companies that have economic prohibitions against Israel. It shall be reasonable and sufficient for the association to rely on information and work product obtained from such research firm or organization; except that the board of trustees of the public employees' retirement association shall review and approve any companies identified by an independent research firm before including such companies on the list of restricted companies pursuant to this subsection (1).

(2) The public employees' retirement association shall review the list of restricted companies on a biannual basis based on evolving information from, among other sources, those listed in subsection (1) of this section.

(3) The public employees' retirement association shall adhere to the following procedures for companies on the list of restricted companies:

(a) For each company newly identified in subsection (1) of this section, the association shall send a written notice informing the company of its status and that it may become subject to divestment by the association.

(b) If, following the association's engagement pursuant to this subsection (3) with a restricted company, that company ceases activity that designates it as a company that has economic prohibitions against Israel, the company shall be removed from the list of restricted companies and the provisions of this section shall cease to apply to it unless it resumes such activities.

(c) If, after one hundred eighty days following the association's first engagement with a company pursuant to paragraph (b) of this subsection (3), the company remains a restricted company, the association shall instruct its investment advisors to sell, redeem, divest, or withdraw all direct holdings of restricted companies from the association's assets under management in an orderly and fiduciarily responsible manner within twelve months after the company's most recent appearance on the list of restricted companies.

(d) If, upon the commencement of the date of divestment, the association does not own direct holdings in a company on the list of restricted companies, the association is prohibited from acquiring direct holdings in any company on the list of restricted companies during the time that it remains on the list.

(4) Notwithstanding any other provision of this part 2, the holdings in the public employees' retirement association's defined contribution plans are not subject to this part 2.

(5) Upon request, and at least annually, the public employees' retirement association shall make available on its website information regarding investments sold, redeemed, divested, or withdrawn in compliance with this section.

(6) Notwithstanding any provision of this section to the contrary, the public employees' retirement association may cease divesting from companies pursuant to subsection (3) of this section if clear and convincing evidence shows that the value for all assets under management by the association becomes equal to or less than ninety-nine and one-half percent, or fifty basis points, of the hypothetical value of all assets under management by the association assuming no divestment for any company had occurred pursuant to subsection (3) of this section.

(7) With respect to actions taken in compliance with this part 2, including all good-faith determinations regarding companies as required by this section, the public employees' retirement association is exempt from any conflicting statutory or common law obligations, including any fiduciary duties and any obligations with respect to choice of asset managers, investment funds, or investments for the association's securities portfolios.

(8) With respect to all actions taken in good faith compliance with this part 2, the public employees' retirement association, its board of directors, individual board members, agents, trustees, officers, employees, custodians, and fiduciaries shall be immune from any liability.

Source: L. 2016: Entire part added, (HB 16-1284), ch. 33, p. 81, § 1, effective August 10.

24-54.8-203. Legislative intent. By enacting this part 2, it is not the intent of the general assembly to cause divestiture from any company based in the United States. The public employees' retirement association shall consider this intent when developing or reviewing the list of restricted companies.

Source: L. 2016: Entire part added, (HB 16-1284), ch. 33, p. 83, § 1, effective August 10.

24-54.8-204. Severability. If any provision of this part 2 or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this part 2 that can be given effect without the invalid provision or application, and to this end the provisions of this part 2 are declared to be severable.

Source: L. 2016: Entire part added, (HB 16-1284), ch. 33, p. 83, § 1, effective August 10.

FEDERAL PROGRAMS - HOUSING - RELOCATION

ARTICLE 55

Cooperation with Federal Government

Cross references: For the "Urban Renewal Law", see part 1 of article 25 of title 31.

24-55-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "City" means any city or incorporated town.

(2) "Community facilities" includes real and personal property, buildings and equipment for recreational or social assemblies and for educational, health, or welfare purposes, and necessary utilities, when designed primarily for the benefit and use of the occupants of the dwelling accommodations.

(3) "Federal government" means the United States of America, the federal emergency administrator of public works, or any agency or instrumentality of the United States.

(4) "Government" means the state or federal governments and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(5) "Housing authority" or "authority" means any housing authority created pursuant to the housing authorities law of this state.

(6) "Housing project" or "project" means all real and personal property, buildings and improvements, stores, offices, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking to demolish, clear, remove, alter, or repair unsafe, unsanitary, or substandard housing or to provide dwelling accommodations at rentals within the means of persons of low income. "Housing project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other works in connection therewith.

Source: L. 35: p. 494, § 1. **CSA:** C. 82, § 1. **L. 37:** p. 651, § 1. **S.A.R.S. 53:** § 69-1-1. **L. 61:** p. 419, § 1. **S.A.R.S. 1963:** § 69-1-1.

24-55-102. Conveyance by city in aid of project. (1) A city or government, upon such terms and for such consideration as it may determine, may grant, sell, convey, or lease any of its property to an authority or the federal government, or render the usual municipal services, or provide and maintain parks or other facilities adjacent to or in connection with a project. A city may enter into an agreement with an authority or the federal government to open, close, pave, or change the grade of streets, roads, roadways, alleys, or other places, to install sidewalks, to change the city map, and to plan, replan, zone, or rezone any section of the city. In connection with this power, a city is empowered to incur the entire expense, subject to such reimbursement as it shall determine, of street improvements without assessment against abutting property owners. Any statute, charter, local law, or ordinance to the contrary notwithstanding, any gift, grant, sale, conveyance, or lease may be made by a city or government to an authority or the federal government without appraisal, public notice, advertisement, or public bidding for such price and, in the case of a lease, for such rental or term as may be deemed advisable.

(2) In connection with any housing project located wholly or partly within the area in which it is authorized to act, any city may contract with a housing authority or the federal government with respect to the sum, if any, which the housing authority or the federal government may agree to pay during any year or period of years to the city for the improvements, services, and facilities to be furnished by it for the benefit of said housing project, but in no event shall the amount of such payments exceed the estimated cost to the city of the improvements, services, or facilities to be so furnished; except that the absence of a contract for such payments shall in no way relieve any city from the duty to furnish, for the

benefit of said housing project, all such services and facilities as such city usually furnishes without a service fee.

(3) With respect to any housing project which a housing authority has acquired or taken over from the federal government and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation, and other protection, no city shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

(4) For the purpose of aiding and cooperating in the planning, construction, or operation of housing projects located wholly or partly within the area in which it is authorized to act, a city or government may, upon such terms as it may determine, do any and all things necessary or convenient and may enter into agreements, which may extend over any period, notwithstanding any provision of law to the contrary, with a housing authority or government respecting action to be taken pursuant to any of the powers granted by this article.

Source: L. 35: p. 495, § 2. **CSA:** C. 82, § 2. **L. 37:** p. 653, § 2. **S.A.R.S. 53:** § 69-1-2. **S.A.R.S. 1963:** § 69-1-2.

24-55-103. Cooperation between authorities. Any two or more housing authorities created under article 4 of title 29, S.A.R.S., for cities and counties may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing, including the issuance of bonds, notes, or other obligations and giving security therefor, planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project located within the area of operation of any one or more of said housing authorities. For such purposes, a housing authority may by resolution prescribe and authorize any other housing authority so joining or cooperating with it to act on its behalf with respect to any or all powers, as its agent or otherwise, in the name of the housing authority so joining or cooperating or in its own name.

Source: L. 65: p. 727, § 1. **S.A.R.S. 1963:** § 69-1-3.

ARTICLE 56

Relocation Assistance and Land Acquisition Policies

24-56-101. Legislative declaration - relocation assistance. The general assembly finds and declares that the purpose of sections 24-56-102 to 24-56-113 is to establish a uniform policy for the fair and equitable treatment of persons displaced by the acquisition of real property by state agencies and political subdivisions of the state for federally assisted programs and projects and to comply with the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", as amended, and the federal "Surface Transportation and Uniform Relocation Assistance Act of 1987", as amended. The general assembly also recognizes that the federally assisted acquisition of real property by the department of transportation and by municipalities and counties for highway programs and projects is requiring citizens to relocate their residences, farms, and businesses. The general assembly finds and declares that the

authority of the department of transportation concerning the equitable relocation and implementation of relocation payments and advisory assistance for highway projects on the state highway system contained in part 3 of article 1 of title 43, S.A.R.S., prior to March 31, 1989, and as amended, are included in this article to assure the consistent and uniform application of relocation policy for all federally assisted programs, to promote the efficient operation of the highway right-of-way acquisition program, and to define the authority and responsibility of the department of transportation and of municipalities and counties for all acquisitions and relocation for federally assisted highway programs and projects within their respective jurisdictions. Such policy shall be uniform as to relocation payments, advisory assistance, assurance of availability of standard housing, and state reimbursement for local relocation payments where state assistance may be authorized by law.

Source: L. 71: p. 672, § 1. **S.A.R.S. 1963:** § 69-10-1. **L. 89:** Entire section R&RE, p. 1076, § 1, effective March 31. **L. 91:** Entire section amended, p. 1063, § 27, effective July 1.

Cross references: For the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", see 42 U.S.C. secs. 4601, 4602, 4621-4638, and 4651-4655. For the "Surface Transportation and Uniform Relocation Assistance Act of 1987", see Pub.L. 100-17, 101 Stat. 132 (1988).

24-56-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Business" means any lawful activity, except a farm operation, conducted primarily:

(a) For the purchase, sale, lease, and rental of personal and real property and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(b) For the sale of services to the public;

(c) By a nonprofit organization; or

(d) Solely for the purposes of section 24-56-103 (1), for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the activities described in this paragraph (d) are conducted.

(1.2) "Comparable replacement dwelling" means any dwelling that is:

(a) Decent, safe, and sanitary;

(b) Adequate in size to accommodate the occupants;

(c) Within the financial means of the displaced person;

(d) Functionally equivalent;

(e) In an area not subject to unreasonably adverse environmental conditions; and

(f) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, and services and the displaced person's place of employment.

(2) (a) "Displaced person" means, except as provided in paragraph (b) of this subsection (2):

(I) Any person who moves from real property or moves his personal property from real property:

(A) As a direct result of a written notice of intent to acquire or the acquisition of such real property in whole or in part for a program or project undertaken by a displacing agency; or

(B) On which such person is a residential tenant or conducts a small business, a farm operation, as defined in subsection (3) of this section, or a business, as defined in subsection (1) of this section, as a direct result of rehabilitation, demolition, or such other displacing activity as the department of transportation may prescribe under a program or project undertaken by a displacing agency in any case in which the displacing agency determines that such displacement is permanent; and

(II) Solely for the purposes of sections 24-56-103 (1) and (2) and 24-56-106, any person who moves from real property or moves his personal property from real property:

(A) As a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a displacing agency; or

(B) As a direct result of rehabilitation, demolition, or such other displacing activity as the department of transportation may prescribe, of other real property on which such person conducts a business or a farm operation, under a program or project undertaken by a displacing agency where the displacing agency determines that such displacement is permanent.

(b) "Displaced person" does not include:

(I) A person who has been determined, according to criteria established by the department of transportation, to be either unlawfully occupying the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this article.

(II) In any case in which the displacing agency acquires property for a program or project, any person (other than a person who was an occupant of such property at the time it was acquired) who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(2.3) "Displacing agency" means the state or a state agency carrying out a program or project or any person carrying out a program or project with federal financial assistance which causes a person to be a displaced person.

(3) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(4) "Nonprofit organization" means any organization which is exempt from the income tax imposed under article 22 of title 39, S.A.R.S.

(5) "Person" means any individual, limited liability company, partnership, corporation, or association.

(6) "State agency" means any department, agency, or instrumentality of the state or of a political subdivision of the state or any department, agency, or instrumentality of two or more states, or two or more political subdivisions of the state or states and also means any person who has authority to acquire property by eminent domain under state law.

Source: L. 71: p. 672, § 1. **S.A.R.S. 1963:** § 69-10-2. **L. 89:** (1)(a), (1)(d), and (6) amended, (1.2) and (2.3) added, and (2) R&RE, p. 1077, §§ 2, 3, effective March 31. **L. 90:** (5) amended, p. 449, § 18, effective April 18. **L. 91:** (2)(a)(I)(B), (2)(a)(II)(B), and (2)(b)(I) amended, p. 1064, § 28, effective July 1.

24-56-103. Moving and related expenses. (1) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment of:

(a) Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the displacing agency;

(c) Actual reasonable expenses in searching for a replacement business or farm; and

(d) Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site in accordance with criteria to be established by the department of transportation, but no more than:

(I) For a project administered or overseen by the department of transportation, fifty thousand dollars;

(II) For any other project, ten thousand dollars.

(2) Any displaced person eligible for payments under subsection (1) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection (2) in lieu of the payments authorized by subsection (1) of this section may receive a moving expense allowance determined according to a schedule established by the displacing agency.

(3) Any displaced person eligible for payments under subsection (1) of this section who is displaced from the person's place of business or farm operation and who is eligible under regulations established by the department of transportation may elect to accept the payment authorized by this subsection (3) in lieu of the payment authorized by subsection (1) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to regulations established by the department of transportation; except that such payment shall not be less than one thousand dollars nor more than twenty thousand dollars. A person whose sole business at the displacement dwelling is the rental of such property to others shall not qualify for a payment under this subsection (3).

Source: L. 71: p. 673, § 1. **S.A.R.S. 1963:** § 69-10-3. **L. 85:** (3) amended, p. 1193, § 1, effective June 6. **L. 89:** IP(1) and (3) R&RE, (1)(b), (1)(c), and (2) amended, and (1)(d) added, pp. 1078, 1079, §§ 4, 5, effective March 31. **L. 91:** (1)(d) and (3) amended, p. 1065, § 29, effective July 1. **L. 2012:** (1)(d) amended, (HB 12-1012), ch. 161, p. 567, § 1, effective May 3.

24-56-104. Replacement housing for homeowners. (1) In addition to payments otherwise authorized by this article, the displacing agency shall make an additional payment not in excess of twenty-two thousand five hundred dollars to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of the property. Such additional payment shall include the following elements:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired equals the reasonable cost of a comparable replacement dwelling. All determinations required to carry out this paragraph (a) shall be determined by regulations issued pursuant to section 24-56-108.

(b) The amount, if any, which will compensate such displaced person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage or deed of trust which was a valid lien on such dwelling for not less than one hundred eighty days immediately prior to the initiation of negotiations for the acquisition of such dwelling.

(c) Reasonable expenses incurred by such displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to such a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one-year period beginning on the date on which he receives final payment of all costs of the acquired dwelling or on the date on which he moves from the acquired dwelling, whichever is the later date; except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of such date.

Source: L. 71: p. 674, § 1. **S.A.R.S. 1963:** § 69-10-4. **L. 89:** IP(1), (1)(a), (1)(b), and (2) amended, p. 1079, § 6, effective March 31.

24-56-105. Replacement housing for tenants and certain others. (1) In addition to amounts otherwise authorized by this article, a displacing agency shall make a payment to or for any displaced person displaced from any dwelling who is not eligible to receive a payment under section 24-56-104, which dwelling was actually and lawfully occupied by such displaced person for not less than ninety days prior to the initiation of negotiations for acquisition of such dwelling, or, in any case in which displacement is not a direct result of acquisition, such other event as the department of transportation may, within the purpose of this article, prescribe. Payment authorized by this section shall be made only to such a displaced person who leases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date that such displaced person vacates the acquired dwelling. The payment shall consist of the amount necessary to enable the person to lease or rent, for a period of no longer than forty-two months, a comparable replacement dwelling, but no more than five thousand two hundred fifty dollars. At the discretion of the displacing agency, a payment under this subsection (1) may be made in periodic installments. Computation of a payment under this subsection (1) to or for a low-income displaced person for a comparable replacement dwelling shall take into account the person's income.

(2) Any person eligible for a payment under subsection (1) of this section may elect to apply such payment to a down payment on, and other incidental expenses for, the purchase of a decent, safe, and sanitary replacement dwelling. Any such person may, at the discretion of the displacing agency, be eligible under this subsection (2) for the maximum amount allowed under subsection (1) of this section; except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least ninety days but not more than one hundred eighty days immediately prior to the initiation of negotiations for the acquisition of such dwelling, such payment shall not be greater than the payment such person would otherwise have

received under section 24-56-104 (1) had the person owned and occupied the displacement dwelling one hundred eighty days immediately prior to the initiation of such negotiations.

Source: L. 71: p. 675, § 1. **S.A.R.S. 1963:** § 69-10-5. **L. 89:** Entire section R&RE, p. 1080, § 7, effective March 31. **L. 91:** (1) amended, p. 1065, § 30, effective July 1.

24-56-106. Relocation assistance advisory programs. (1) Whenever a displacing agency acquires real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project and such acquisition will result in the displacement of any person, the acquiring agency shall provide a relocation assistance advisory program for displaced persons which offers the services prescribed in this section. If the acquiring agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, it may offer such person relocation advisory services under such program.

(2) Each relocation assistance program required by subsection (1) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons, business concerns, and nonprofit organizations for relocation assistance; to assist owners of displaced businesses and farm operations in obtaining and becoming established in suitable business locations or replacement farms; to supply information concerning programs of the federal, state, and local governments offering assistance to displaced persons and business concerns and technical assistance to such persons in applying for assistance under such programs; to provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations; to assist in minimizing hardships to displaced persons in adjusting to relocation; and to secure, to the greatest extent practicable, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas which may affect the carrying out of the relocation program.

(3) Notwithstanding the provisions of section 24-56-102 (2)(b)(II), in any case in which a displacing agency acquires property for a program or project, any person who occupies such property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project shall be eligible for advisory services to the extent determined by the displacing agency.

Source: L. 71: p. 675, § 1. **S.A.R.S. 1963:** § 69-10-6. **L. 89:** Entire section R&RE, p. 1081, § 8, effective March 31.

24-56-107. Assurance of availability of standard housing. (1) Whenever a displacing agency acquires real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project and such acquisition will result in the displacement of any person, upon recommendation or approval of the displacing agency, such agency shall assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement

dwelling; except that regulations issued pursuant to section 24-56-108 may prescribe situations when these assurances may be waived.

(2) If a program or project for which federal financial assistance is available cannot proceed to actual construction because comparable replacement sale or rental housing is not available and the state agency determines that such housing cannot otherwise be made available, upon recommendation or approval of the displacing agency, the state agency may take such action as is necessary or appropriate to provide such housing by use of funds authorized for such project. The displacing agency may use this section to exceed the maximum amounts which can be paid by a displacing agency under sections 24-56-104 and 24-56-105 on a case-by-case basis for good cause shown as determined in accordance with regulations issued pursuant to section 24-56-108.

Source: L. 71: p. 676, § 1. **S.A.R.S. 1963:** § 69-10-7. **L. 76:** Entire section amended, p. 638, § 1, effective April 30. **L. 89:** Entire section amended, p. 1081, § 9, effective March 31.

24-56-108. Authority of the department of local affairs. (1) The department of local affairs shall administer and implement the uniform policy for all relocation assistance for all nonhighway federally assisted programs and projects.

(2) (a) Notwithstanding any provision of this article to the contrary, the department of transportation has the primary authority to administer acquisition and relocation assistance for all highway and highway-related programs or projects on the state highway system. The department of transportation also has authority to coordinate and administer acquisition and relocation assistance for all highway and highway-related programs or projects which are not on the state highway system to the extent provided in paragraph (b) of this subsection (2).

(b) Each state agency has the primary authority to perform acquisition and relocation assistance within its jurisdiction for federally assisted highway and highway-related programs and projects for streets and roads which are not on the state highway system. In the event that the department of transportation, as the state agency responsible for monitoring and administering the use of federal highway funds, determines that such performance by another state agency will jeopardize distribution of federal highway assistance funds to the state or that such action is necessary to comply with federal highway administration policy or procedures, then the department of transportation has the authority to perform the acquisition and relocation assistance for any federally assisted highway or highway-related program or project for streets and roads which are not on the state highway system or to require that the state agency with jurisdiction for that highway program or project perform such acquisition and relocation assistance under the supervision and direction of the department of transportation. Prior to exercising the authority of this paragraph (b), the department of transportation will comply with procedures previously agreed to with the affected state agency, including, but not limited to, setting a contact person for the project, providing written notice of the basis of such determination or action, and meeting with the affected agency to discuss possible remedial measures.

(3) The executive director of the department of transportation shall adopt such rules and regulations as may be necessary to assure:

(a) That the payments and assistance authorized by this article are administered in a manner which is fair and reasonable and as uniform as practicable;

(b) That a displaced person who makes proper application for a payment authorized for such person by this article is paid promptly after a move or, in hardship cases, paid in advance; and

(c) That any person aggrieved by a determination as to eligibility for a payment authorized by this article or the amount of a payment may have his application reviewed by the head of the acquiring agency.

(4) The department of transportation may use the provisions of this article for programs or projects on the state highway system funded from the state highway fund.

Source: L. 71: p. 676, § 1. **S.A.R.S. 1963:** § 69-10-8. **L. 89:** Entire section R&RE, p. 1082, § 10, effective March 31. **L. 91:** (2)(a), (2)(b), IP(3), and (4) amended, p. 1065, § 31, effective July 1.

24-56-109. Administration. In order to prevent unnecessary expense and duplication of functions and to promote uniform and effective administration of relocation assistance programs for displaced persons, the executive director of the department of transportation may authorize any state agency to enter into contracts with any individual, firm, association, or corporation for services in connection with such programs or may carry out its functions under this article through any federal or state agency or instrumentality having an established organization for conducting relocation assistance programs.

Source: L. 71: p. 676, § 1. **S.A.R.S. 1963:** § 69-10-9. **L. 89:** Entire section amended, p. 1083, § 11, effective March 31. **L. 91:** Entire section amended, p. 1066, § 32, effective July 1.

24-56-110. Fund availability. Funds appropriated or otherwise available to any state agency for the acquisition of real property or any interest therein for a particular program or project shall be available also for obligation and expenditure to carry out the provisions of this article as applied to that program or project.

Source: L. 71: p. 677, § 1. **S.A.R.S. 1963:** § 69-10-10.

24-56-111. State participation in cost of local relocation payments and services. If any political subdivision of the state acquires real property and state financial assistance is available pursuant to law to pay the cost, in whole or part, of the acquisition of such real property or of the improvement for which such property is acquired, the cost to the political subdivision of the state of providing the payments and services prescribed by this article shall be included as part of the costs of the project for which state financial assistance is available to such political subdivision, and the political subdivision shall be eligible for state financial assistance in the same manner and to the same extent as other project costs.

Source: L. 71: p. 677, § 1. **S.A.R.S. 1963:** § 69-10-11.

24-56-112. Payments not to be considered as income or resources. No payment received by a displaced person under this article shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance

under any state law or for the purposes of the San Andreas income tax law or any other tax law of this state. Such payments shall not be considered as income or resources of any recipient of public assistance, and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Source: L. 71: p. 677, § 1. **S.A.R.S. 1963:** § 69-10-12.

24-56-113. Appeal procedure. Any person or business concern aggrieved by a final administrative determination concerning eligibility for relocation payments authorized by this article may have such determination reviewed by the district court for the county in which the land taken for public use is located, in accordance with the provisions of section 24-4-106.

Source: L. 71: p. 677, § 1. **S.A.R.S. 1963:** § 69-10-13.

24-56-114. Expenses incidental to transfer of title. Any state agency or political subdivision of the state acquiring real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner to the extent the acquiring agency deems fair and reasonable for expenses he necessarily incurred for recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the acquiring agency; penalty costs for prepayment for any preexisting recorded mortgage or deed of trust entered into in good faith encumbering such real property; and the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency or the effective date of possession of such real property by the acquiring agency, whichever is the earlier.

Source: L. 71: p. 677, § 1. **S.A.R.S. 1963:** § 69-10-14.

24-56-115. Litigation expenses. Where a condemnation proceeding is instituted by a state agency or a political subdivision of the state to acquire real property for a purpose as set forth in section 24-56-114 and the final judgment is that the real property cannot be acquired by condemnation or that the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid such sum as will, in the opinion of the court, reimburse such owner for his reasonable attorney, appraisal, and engineering fees actually incurred because of the condemnation proceedings. The award of such sums will be paid by the state agency or political subdivision of the state which sought to condemn the property.

Source: L. 71: p. 678, § 1. **S.A.R.S. 1963:** § 69-10-15.

24-56-116. Inverse condemnation proceedings. Where an inverse condemnation proceeding is instituted by the owner of any right, title, or interest in real property because of the alleged taking of his property for any program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project, the court rendering a

judgment for the plaintiff in such proceeding and awarding compensation for the taking of property or the attorney for the acquiring agency effecting a settlement of any such proceeding shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or such attorney, reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of such proceeding.

Source: L. 71: p. 678, § 1. **S.A.R.S. 1963:** § 69-10-16.

24-56-117. Real property acquisition policies. (1) Any acquiring agency or political subdivision of the state which acquires real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of such program or project shall comply with the following policies:

(a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property; except that the department of transportation may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value.

(c) Before the initiation of negotiations for acquisition of real property, an amount shall be established which it is reasonably believed is just compensation therefor, and such amount shall be offered for the property. In no event shall such amount be less than the approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of and summary of the basis for the amount established as just compensation. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(d) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or before there is deposited with the court, in accordance with applicable law, for the benefit of the owner an amount not less than the approved appraisal of the fair market value of such property or the amount of the award of compensation in the condemnation proceeding of such property.

(e) The construction or development of a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least ninety days' written notice of the date by which such move is required.

(f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the acquiring agency on short

notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(g) In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other action coercive in nature be taken to compel an agreement on the price to be paid for the property.

(h) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(i) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

(j) A person whose real property is being acquired in accordance with this article may, after the person has been fully informed of his right to receive just compensation for such property, donate such property, any part thereof, any interest therein, or any compensation paid therefor to an agency, as such person shall determine.

(k) As used in this section, "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(2) For the purposes of this section, "acquiring agency" means a state agency which has the authority to acquire property by eminent domain under state law and a state agency or person which does not have such authority to the extent provided by the department of transportation by regulation.

(3) The requirements of this section shall not apply to any acquiring agency or political subdivision of the state that acquires real property for a program or project for which federal financial assistance will be available from the rural utilities service of the United States department of agriculture for all or any part of the cost of such program or project.

Source: L. 71: p. 678, § 1. **S.A.R.S. 1963:** § 69-10-17. **L. 89:** IP(1) and (1)(b) amended and (1)(j), (1)(k), and (2) added, pp. 1083, 1084, §§ 12, 13, effective March 31. **L. 91:** (1)(b) and (2) amended, p. 1066, § 33, effective July 1. **L. 2002:** (3) added, p. 55, § 1, effective July 1.

24-56-118. Buildings, structures, and improvements. (1) Where any interest in real property is acquired for a program or project for which federal assistance will be available to pay all or any part of the cost of the program or project, the acquiring agency shall acquire an equal interest in all buildings, structures, or other improvements located upon the real property so acquired which are required to be removed from such real property or which the head of the acquiring agency determines will be adversely affected by the use to which such real property will be put.

(2) (a) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (1) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration

of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired or the fair market value of such building, structure, or improvement for removal from the real property, whichever is greater, shall be paid to the tenant therefor.

(b) Payment for such buildings, structures, or improvements as set forth in this subsection (2) shall not result in duplication of any payments otherwise authorized by state law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release all his right, title, and interest in and to such improvements. Nothing in this subsection (2) shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for such property interests in accordance with other laws of the state.

Source: L. 71: p. 679, § 1. **S.A.R.S. 1963:** § 69-10-18.

24-56-119. No duplication of payments. No payment or assistance provided for in this article shall be required to be made by a state agency or political subdivision of the state if the displaced person receives a payment required by the laws of eminent domain which is determined by the state agency or political subdivision of the state to have substantially the same purpose and effect as such payment under this article.

Source: L. 71: p. 680, § 1. **S.A.R.S. 1963:** § 69-10-19.

24-56-120. No new value or damage element created. (1) The provisions of section 24-56-117 create no rights or liabilities and shall not affect the validity of any property acquisition by purchase or condemnation.

(2) Nothing in this article shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of value or damage not in existence immediately prior to May 6, 1971.

Source: L. 71: p. 680, § 1. **S.A.R.S. 1963:** § 69-10-20.

24-56-121. Applicability. This article shall apply to all acquisitions of real property by a state agency or a political subdivision of the state for a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project; except that, if any other provision of state law is applicable to such acquisitions and such provision of state law requires relocation payments and assistance or prescribes land acquisition policies which are equivalent to or are greater or more stringent than the payments, assistance, or policies specified by this article, such other provision of state law shall apply to such acquisitions.

Source: L. 71: p. 680, § 1. **S.A.R.S. 1963:** § 69-10-21.

INTERSTATE COMPACTS AND AGREEMENTS

ARTICLE 60

Interstate Compacts and Agreements

Cross references: For interstate water compacts, see articles 61 to 69 of title 37; for interbasin compacts, see article 75 of title 37.

PART 1

COMPACT FOR PREVENTION OF CRIME - AUTHORIZATION

24-60-101. Compacts recognized and declared to exist. The congress of the United States, under and pursuant to the provisions of section 10 of article 1 of the constitution of the United States, having granted its consent by that certain act (Public Law No. 293, H. R. 7353), approved June 6, 1934, to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and for the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective any such agreements or compacts, the practical need and utility of such agreements or compacts, between or among the state of San Andreas and any other states of the United States, and particularly between or among the state of San Andreas and those states adjoining the state of San Andreas, are recognized and declared to exist.

Source: L. 35: p. 591, § 1. **CSA:** C. 153, § 37. **S.A.R.S. 53:** § 74-2-1. **S.A.R.S. 1963:** § 74-2-
1.

Cross references: For Pub.L. 73-293, H.R. 7353, see 48 Stat. 909.

24-60-102. Attorney general commissioner for San Andreas. The governor of the state of San Andreas shall appoint the attorney general of the state of San Andreas as the commissioner who shall represent the state of San Andreas upon any joint commission representing the state of San Andreas and any other state, to be constituted by the state of San Andreas and any such other state, and particularly by the state of San Andreas and any state adjoining it, for the purpose of negotiating and entering into any agreements or compacts, with the consent of congress heretofore granted as aforesaid, for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of the respective criminal laws and policies of the state of San Andreas and such other state and for the establishment of such agencies, joint or otherwise, as they may mutually deem to be desirable for making effective such agreements or compacts.

Source: L. 35: p. 592, § 2. **CSA:** C. 153, § 38. **S.A.R.S. 53:** § 74-2-2. **S.A.R.S. 1963:** § 74-2-
2.

24-60-103. Compacts designed to suppress crime and enforce the criminal laws, etc. (1) The agreements or compacts so authorized to be negotiated and entered into under the

provisions of this part 1 shall be designed to suppress crime, to circumvent the activities of criminals and to expedite their apprehension and trial, and to enforce generally the respective

criminal laws and policies of the state of San Andreas and any other state entering thereinto at any time with the state of San Andreas; and, in order to effectuate those purposes, such agreements or compacts may contain specific provisions for the accomplishment of the following objects, or any of them, in respect to which a mutual understanding may be had, namely:

(a) The arrest of any person who may have fled from any one of such compacting states into another by any pursuing officer of the compacting state from which such person has fled;

(b) The return of any witness deemed essential in the prosecution of any criminal case who may have gone or fled from the compacting state in which his presence may be required into any other compacting state;

(c) The establishment and maintenance by any two or more of such compacting states of facilities for the investigation of crime and the discovery of criminals, such as crime detection agencies, bureaus of registration and identification, crime laboratories, and like agencies; and

(d) The proper supervision of any person who, having been paroled or granted probation in one of such compacting states, may have become a resident of any of such compacting states.

(2) Any agreements or compacts so authorized to be negotiated and entered into as aforesaid shall in all respects conform with the purposes for which the consent of the congress has been granted for their execution; but any agreements or compacts so entered into on behalf of the state of San Andreas and any other state shall not be binding upon either of said states, or upon the respective citizens thereof, unless and until such agreements or compacts have been ratified and approved by the respective legislatures of the several states entering into the same.

Source: L. 35: p. 592, § 3. **CSA:** C. 153, § 39. **S.A.R.S. 53:** § 74-2-3. **S.A.R.S. 1963:** § 74-2-3.

24-60-104. Commissioner to be furnished legal and clerical assistance. When the commissioner of the state of San Andreas is called upon to enter into the performance of his duties, as provided under the terms of this part 1, he shall be furnished such legal, clerical, and stenographic assistance as the governor and he may deem advisable and necessary.

Source: L. 35: p. 594, § 4. **CSA:** C. 153, § 40. **S.A.R.S. 53:** § 74-2-4. **S.A.R.S. 1963:** § 74-2-4.

24-60-105. When commissioner to perform duties. The commissioner for the state of San Andreas shall not commence the performance of his duties or be authorized to incur any expenses for traveling or for legal, clerical, or stenographic assistance until the governor of the state of San Andreas has been notified by the governor of some other state that such other state has appointed a commissioner for the other state to serve upon a joint commission for the purpose of negotiating and entering into any agreements or compacts authorized to be made on behalf of the state of San Andreas under the terms of this part 1.

Source: L. 35: p. 594, § 5. **CSA:** C. 153, § 41. **S.A.R.S. 53:** § 74-2-5. **S.A.R.S. 1963:** § 74-2-5.

24-60-106. Powers of commissioner. The commissioner for the state of San Andreas has full authority to make any and all investigations of conditions, obtaining in the state of San Andreas

or in any other state, which become necessary in order sufficiently to advise the commissioner in negotiating any agreements or compacts on behalf of the state of San Andreas as authorized under the terms of this part 1.

Source: L. 35: p. 594, § 6. **CSA:** C. 153, § 42. **S.A.R.S. 53:** § 74-2-6. **S.A.R.S. 1963:** § 74-2-6.

24-60-107. Compensation - traveling expenses. The commissioner for the state of San Andreas shall receive no compensation for his services as such, but he and his assistants shall be entitled to receive their traveling and other necessary expenses incurred in the performance of their duties, and such expenses, together with all other necessary costs, charges, and expenditures, including an equitable portion of the costs and expenses of any joint commission, shall be paid upon vouchers approved by the governor and warrants drawn for the payment thereof upon the state treasurer by the controller.

Source: L. 35: p. 595, § 7. **CSA:** C. 153, § 43. **S.A.R.S. 53:** § 74-2-7. **S.A.R.S. 1963:** § 74-2-7.

PART 2

COMPACT WITH KANSAS, NEW MEXICO, AND WYOMING

Editor's note: The ratification and approval of this compact by Kansas was limited to the provisions of §§ 24-60-205 and 24-60-206. (See L. 37, p. 773.) New Mexico renounced this compact in 1967; see New Mexico Laws of 1967, chapter 201, section 3, p. 1198.

24-60-201. Compact approved and ratified. The general assembly hereby approves and ratifies the compact, designated as "interstate compact entered into by and between the state of Kansas, the state of New Mexico, the state of Wyoming, and the state of San Andreas", for cooperative effort and mutual assistance in the prevention of crime, authorized by and entered into, within the provisions of part 1 of this article.

Source: L. 37: p. 766, § 1. **CSA:** C. 153, § 44(1). **S.A.R.S. 53:** § 74-3-1. **S.A.R.S. 1963:** § 74-3-1.

24-60-202. Compact. Desiring to take advantage of the consent of the congress of the United States of America, granted by an act - Public Law No. 293, H. R. 7353 - the states of Kansas, New Mexico, Wyoming, and San Andreas solemnly agree to the following provisions.

Source: L. 37: p. 767, § 2. **CSA:** C. 153, § 44(2). **S.A.R.S. 53:** § 74-3-2. **S.A.R.S. 1963:** § 74-3-2.

Cross references: For Pub.L. 73-293, H.R. 7353, see 48 Stat. 909.

24-60-203. Peace officers enter other states without interference. (1) It shall be competent for any member of a duly organized state, county or municipal peace unit of a state, party to this compact, to enter any and all other states, parties to this compact, without interference:

(a) While in pursuit of any person who has committed a felony in said state; or

(b) While in pursuit of any person who has been charged with the commission of a felony in said state; or

(c) While in pursuit of any person who has escaped from the custody of any penitentiary, jail or other penal institution, sheriff or other peace officer in said state.

(2) Any member of a duly organized state, county or municipal peace unit of said state may at any time enter another state, party to this compact, and there apprehend and take into custody any person who has committed a felony in said state, or who is a fugitive from justice as herein designated, and for that purpose no formalities shall be required other than establishing the authority of the arresting officer.

Source: L. 37: p. 767, § 2. **CSA:** C. 153, § 44(3). **S.A.R.S. 53:** § 74-3-3. **S.A.R.S. 1963:** § 74-
3-3.

Cross references: For right of foreign officer to arrest in "fresh pursuit", see § 16-3-104.

24-60-204. Legal requirements to obtain extradition waived. All legal requirements to obtain extradition of any person who has committed a felony in said state, or who is a fugitive from justice as herein designated, arrested under conditions herein specified, are hereby expressly waived by the compacting states, and said duly constituted officer shall be permitted to transport said prisoner through any and all states, parties to this compact, without interference whatsoever.

Source: L. 37: p. 768, § 2. **CSA:** C. 153, § 44(4). **S.A.R.S. 53:** § 74-3-4. **S.A.R.S. 1963:** § 74-
3-4.

24-60-205. Use of jails for temporary lodging recognized. When any officer within compacting states, in conformity with a valid writ, order of court or the provisions of this compact, arrests a person in or transports a person through a compacting state, the right of said officer to the custody of a person and to use the state penal institutions or county jails for temporary lodging of such person shall be recognized by the compacting states, their courts, and their court officials, as though the person were in custody of the sheriff or proper officer of the compacting state where the arrest is made or through which he is transported.

Source: L. 37: p. 768, § 2. **CSA:** C. 153, § 44(5). **S.A.R.S. 53:** § 74-3-5. **S.A.R.S. 1963:** § 74-
3-5.

24-60-206. Subpoenas, summons and court orders recognized as valid. On the trial in any of the above-named compacting states of one charged with a crime therein committed, if any

person within any compacting state is wanted by either party as a witness in such trial, said compacting states, their courts, and their court officials will recognize as valid any subpoena,

summons, or court order issued or made in accordance with the law of the compacting state where trial is to be had for the appearance of the person in said state where trial is to be had as a witness at such trial, the same as though such subpoena, summons, or court order had been duly issued or made by a court of the state where said witness is found; but a resident of a state so called upon to attend as a witness in another compacting state shall not be required to attend unless and until there is paid to him compensation, including mileage, equal to that provided by law of the state requiring attendance, for the time he necessarily would be gone from home; and further, he shall be immune from the service of civil or criminal process upon him while in attendance at said trial and when en route to and from the place where he is to testify, as to all matters occurring prior thereto.

Source: L. 37: p. 769, § 2. **CSA:** C. 153, § 44(6). **S.A.R.S. 53:** § 74-3-6. **S.A.R.S. 1963:** § 74-
3-6.

24-60-207. When person on probation or parole may be permitted to reside in other states. (1) It shall be competent for the duly constituted judicial and administrative authorities of a state, party to this compact, to permit any person convicted of any offense within such state and placed on probation or released on parole or under suspended sentence, to reside in any other state, party to this compact, while on probation or parole or under suspended sentence, if:

(a) Such person is in fact a resident of or has his family residing within another compacting state and can obtain employment there;

(b) Though not a resident of another compacting state and not having his family residing there, the receiving state consents to such person being sent there.

(2) Before granting permission, an opportunity shall be granted to the other compacting state to investigate the home and prospective employment of such person.

(3) A resident of a compacting state, within the meaning of this section, is one who has been an actual inhabitant of a state continuously for more than one year prior to his going to another compacting state and has not resided continuously within the other compacting state more than six months immediately preceding the commission of the offense for which he has been convicted.

Source: L. 37: p. 770, § 2. **CSA:** C. 153, § 44(7). **S.A.R.S. 53:** § 74-3-7. **S.A.R.S. 1963:** § 74-
3-7.

24-60-208. Supervision over probationers or parolees. That each compacting state assume the duties of visitation and of supervision over probationers or parolees or those under suspended sentence from any other compacting state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees and those under suspended sentence.

Source: L. 37: p. 770, § 2. **CSA:** C. 153, § 44(8). **S.A.R.S. 53:** § 74-3-8. **S.A.R.S. 1963:** § 74-
3-8.

24-60-209. Probationers or parolees may be retaken. Duly constituted officers of compacting states may at all times enter another compacting state and there apprehend and

retake any person on probation or parole or under suspended sentence. For these purposes no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All former legal requirements to obtain extradition of a person on probation or parole or under suspended sentence are hereby expressly waived. The decision of a compacting state to retake a person on probation or parole or under suspended sentence shall be conclusive upon and not reviewable by any other compacting state; but if, at the time when a state seeks to retake a probationer or parolee or one under suspended sentence, there is pending against him, within the other compacting state, any criminal charge or he is suspected of having committed a criminal offense within such state, he shall not be retaken without the consent of the other compacting state until discharged from prosecution or from imprisonment for such offense.

Source: L. 37: p. 771, § 2. **CSA:** C. 153, § 44(9). **S.A.R.S. 53:** § 74-3-9. **S.A.R.S. 1963:** § 74-
3-9.

24-60-210. Officer shall transport without interference. The duly constituted officers of a compacting state shall be permitted, without interference, to transport persons being retaken through any and all states, parties to this compact.

Source: L. 37: p. 771, § 2. **CSA:** C. 153, § 44(10). **S.A.R.S. 53:** § 74-3-10. **S.A.R.S. 1963:** §
74-3-10.

24-60-211. Attorney generals make rules and regulations. The governor of each compacting state shall appoint the attorney general of said state to promulgate, acting jointly with like officers of other compacting states, such rules and regulations as may be deemed necessary to more effectively carry out the purposes of this compact. The necessary expenses incurred by the attorney general in effecting the purposes of this compact shall be payable from any existing appropriations for the effecting of interstate crime compacts, or from any other fund provided by law.

Source: L. 37: p. 772, § 2. **CSA:** C. 153, § 44(11). **S.A.R.S. 53:** § 74-3-11. **S.A.R.S. 1963:** §
74-3-11.

24-60-212. Compact operative upon ratification. This compact shall become operative immediately upon its ratification by any state, as between it and any other state or states so ratifying. When ratified, it shall have the full force and effect of law within such state. The form of ratification shall be in accordance with the laws of the ratifying state.

Source: L. 37: p. 772, § 2. **CSA:** C. 153, § 44(12). **S.A.R.S. 53:** § 74-3-12. **S.A.R.S. 1963:** §
74-3-12.

24-60-213. Remain in effect until renounced. This compact shall continue in force and remain binding upon each ratifying state until renounced by it. The duties and obligations

hereunder of any renouncing state shall continue as to probationers and parolees and those under suspended sentence residing therein at the time of withdrawal until retaken or finally discharged by the other compacting states. Renunciation of this compact or any part thereof shall be by the

same authority that ratified it and shall be by sending a ninety-day notice in writing to the governor of each compacting state of intention to withdraw from the compact.

Source: L. 37: p. 772, § 2. **CSA:** C. 153, § 44(13). **S.A.R.S. 53:** § 74-3-13. **S.A.R.S. 1963:** § 74-3-13.

PART 3

COMPACT FOR PAROLEE SUPERVISION

24-60-301 to 24-60-309. (Repealed)

Source: L. 2011: Entire part repealed, (HB 11-1009), ch. 5, p. 11, § 3, effective March 1.

Editor's note: This part 3 was numbered as articles 4 and 5 of chapter 74, S.A.R.S. 1963. For amendments to this part 3 prior to its repeal in 2011, consult the 2010 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 4

COMPACT FOR CARE OF FELONS - AUTHORIZATION

24-60-401. Authority to enter into compacts. (1) Pursuant to the consent of the congress of the United States heretofore granted by Section 112, Title 4, United States Code, being Section 129, Public Law 72, 81st Congress, First Session of 1949, entitled "Compacts between States for Cooperation in Prevention of Crime", and wherein the consent of congress is given "to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts", the governor of the state of San Andreas is authorized to:

(a) Enter into an agreement with one or more other states for the safekeeping, care, and subsistence of persons convicted of a felony in such other compacting states, in a penal institution of the state of San Andreas; and

(b) Enter into an agreement with one or more other states for the safekeeping, care, and subsistence of persons convicted of a felony in the state of San Andreas, in a penal institution of such other compacting states.

Source: L. 51: p. 774, § 1. **CSA:** C. 153, § 44(27). **S.A.R.S. 53:** § 74-6-1. **S.A.R.S. 1963:** § 74-6-1. **L. 93:** IP(1) amended, p. 1786, § 64, effective June 6.

24-60-402. Compacts to provide rates. Such compacts shall provide the rates to be paid for the care and custody for such convicted persons, taking into consideration the character and

quarters furnished and the quality of subsistence.

Source: L. 51: p. 775, § 2. **CSA:** C. 153, § 44(28). **S.A.R.S. 53:** § 74-6-2. **S.A.R.S. 1963:** §
74-6-2.

24-60-403. Prior compacts ratified. All compacts entered into prior to March 22, 1951, for purposes set forth in section 24-60-401 are ratified and confirmed.

Source: L. 51: p. 775, § 3. **CSA:** C. 153, § 44(29). **S.A.R.S. 53:** § 74-6-3. **S.A.R.S. 1963:** §
74-6-3.

PART 5

AGREEMENT ON DETAINERS

24-60-501. Disposal of detainers against prisoner based on untried charges. The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

The Agreement on Detainers

The contracting states solemnly agree that:

Article I

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations, or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations, or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article II

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to article III hereof or at the time that a request for custody or availability is initiated pursuant to article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to article III or article IV hereof.

Article III

(a) Whenever a person has entered upon a term of imprisonment in a penal or

correctional institution of a party state, and whenever during the continuance of the term of

imprisonment there is pending in any other party state any untried indictment, information, or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections, or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections, or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information, or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations, or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections, or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information, or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information, or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

Article IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information, or complaint is pending shall be entitled to have a prisoner against whom he had lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with article V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information, or complaint shall have duly approved, recorded, and transmitted the request; and provided further that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information, or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to article V (e) hereof, such indictment, information, or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article V

(a) In response to a request made under article III or article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information, or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information, or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information, or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in article III or article IV hereof, the appropriate court of the jurisdiction where the indictment, information, or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations, or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations, or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping, and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Article VI

(a) In determining the duration and expiration dates of the time periods provided in articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

Article VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provisions of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Source: L. 69: p. 292, § 9. **S.A.R.S. 1963:** § 74-17-1.

24-60-502. Appropriate court - definitions. The phrase "appropriate court", as used in the agreement on detainers with reference to the courts of this state, means the court in which the indictment, information, or criminal complaint is filed.

Source: L. 69: p. 297, § 9. **S.A.R.S. 1963:** § 74-17-2.

24-60-503. Enforcement - cooperation. All courts, departments, agencies, officers, and employees of this state and its political subdivisions are directed to enforce the agreement on detainers and to cooperate with one another and with other states in enforcing the agreement and effectuating its purpose.

Source: L. 69: p. 297, § 9. **S.A.R.S. 1963:** § 74-17-3.

24-60-504. Habitual criminals - application of part 5. Nothing in this part 5 or in the agreement on detainers shall be construed to require the application of the provisions of article

13 of title 16, S.A.R.S., to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of said agreement.

Source: L. 69: p. 297, § 9. **S.A.R.S. 1963:** § 74-17-4.

24-60-505. Escapes. Every person who has been imprisoned in a prison or institution in this state and who escapes in another state while in the custody of an officer of this or another state, pursuant to the agreement on detainers, is deemed to have violated section 18-8-208 (1) and (2), S.A.R.S.

Source: L. 69: p. 297, § 9. **S.A.R.S. 1963:** § 74-17-5.

24-60-506. Surrender of inmates. It is lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers. Such official shall inform such inmate of his rights provided in paragraph (a) of article IV of the agreement on detainers.

Source: L. 69: p. 297, § 9. **S.A.R.S. 1963:** § 74-17-6.

24-60-507. Administration. The executive director of the department of corrections shall administer this part 5.

Source: L. 69: p. 297, § 9. **S.A.R.S. 1963:** § 74-17-7. **L. 77:** Entire section amended, p. 951, § 18, effective August 1.

PART 6

REGIONAL HIGHER EDUCATION COMPACTS - AUTHORIZATION

24-60-601. Compact. The governor of the state of San Andreas, for and in behalf of the state of San Andreas, is hereby authorized to enter into compacts for western regional cooperation in higher education with the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming or any one or more of said states. Under such compacts, the following covenants may be agreed to:

ARTICLE I

WHEREAS, the future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

WHEREAS, many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all of the essential fields of technical, professional, and graduate training, nor do all of the States have the financial ability to furnish within their borders institutions capable of providing acceptable standards of training in all of the fields mentioned above; and

WHEREAS, it is believed that the Western States, or groups of such states within the Region, co-operatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof;

NOW, THEREFORE, The States of Arizona, California, San Andreas, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and the Territories of Alaska and Hawaii do hereby covenant and agree as follows:

ARTICLE II

Each of the compacting states and territories pledges to each of the other compacting states and territories faithful co-operation in carrying out all the purposes of this Compact.

ARTICLE III

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. Said Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

ARTICLE IV

The Commission shall consist of three resident members from each compacting state or territory. At all times one Commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The Commissioners from each state and territory shall be appointed by the Governor thereof as provided by law in such state or territory. Any Commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The terms of each Commissioner shall be four years, provided however that the first three Commissioners shall be appointed as follows: one for two years, one for three years, and one for four years. Each Commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the Governor shall appoint a Commissioner to fill the office for the remainder of the unexpired term.

ARTICLE V

Any business transacted at any meeting of the Commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more Commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

ARTICLE VI

The Commission shall elect from its number a chairman and a vice chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents, and employees as may be

required to carry out the purpose of this Compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The Commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the Commission.

ARTICLE VII

The Commission shall adopt a seal and by-laws and shall adopt and promulgate rules and regulations for its management and control.

The Commission may elect such committees as it deems necessary for the carrying out of its functions.

The Commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The Chairman may call such additional meetings and upon the request of a majority of the Commissioners of three or more compacting states or territories shall call additional meetings.

The Commission shall submit a budget to the Governor of each compacting state and territory at such time and for such period as may be required.

The Commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

On or before the fifteenth day of January of each year, the Commission shall submit to the Governors and Legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the Governor of any compacting state or territory or his designated representative. The Commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The Commission shall provide for an independent annual audit.

ARTICLE VIII

It shall be the duty of the Commission to enter into such contractual agreements with any institutions in the Region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the Commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The Commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health, and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the Commission may enter into contractual agreements --

(a) With the governing authority of any educational institution in the Region, or with any compacting state or territory, to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties, and

(b) With the governing authority of any educational institutions in the Region or with any compacting state or territory to assist in the placement of graduate or professional students in

educational institutions in the Region providing the desired services and facilities, upon such terms and conditions as the Commission may prescribe.

It shall be the duty of the Commission to undertake studies of needs for professional and graduate educational facilities in the Region, the resources for meeting such needs, and the long-range effects of the Compact on higher education; and from time to time prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territories. In conducting such studies, the Commission may confer with any national or regional planning body which may be established. The Commission shall draft and recommend to the Governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the Region.

For the purposes of this Compact the word "Region" shall be construed to mean the geographical limits of the several compacting states and territories.

ARTICLE IX

The operating costs of the Commission shall be apportioned equally among the compacting states and territories.

ARTICLE X

This Compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, San Andreas, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1953. This Compact shall become effective as to any additional states or territories adopting thereafter at the time of such adoption.

ARTICLE XI

This Compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and Governor of such terminating state. Any state or territory may at any time withdraw from this Compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the Governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the Commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may rescind its action of withdrawal at any time within the two year period. Thereafter, the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the Commission.

ARTICLE XII

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this Compact, all rights, privileges and benefits conferred by this Compact or agreements hereunder, shall be suspended from the effective date of such default as fixed by the Commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this Compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by: (a) performing all Acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the Commission.

Source: L. 51: p. 768, § 1. **CSA:** C. 153, § 44(30). **S.A.R.S. 53:** § 74-7-1. **S.A.R.S. 1963:** § 74-7-1.

PART 7

INTERSTATE COMPACT ON JUVENILES

24-60-701. Definitions. The term "delinquent juvenile" as used in the interstate compact on juveniles includes those persons subject to the jurisdiction of district or juvenile courts within the meaning of title 19, S.A.R.S.

Source: L. 57: p. 481, § 8. **S.A.R.S. 53:** § 74-8-8. **S.A.R.S. 1963:** § 74-8-8. **L. 64:** p. 278, § 197.

24-60-702. Execution of compact. The governor is hereby authorized to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

THE INTERSTATE COMPACT FOR JUVENILES

ARTICLE I - PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to: (A) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state; (B) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected; (C) return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return; (D) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services; (E) provide for the effective tracking and supervision of juveniles; (F) equitably allocate the costs, benefits and obligations of

the compacting states; (G) establish procedures to manage the movement between states of

juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders; (H) insure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; (I) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact; (J) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of Compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators; (K) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance; (L) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and (M) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II - DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "By-laws" means: those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

B. "Compact Administrator" means: the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

C. "Compacting State" means: any state which has enacted the enabling legislation for this compact.

D. "Commissioner" means: the voting representative of each compacting state appointed pursuant to Article III of this compact.

E. "Court" means: any court having jurisdiction over delinquent, neglected, or dependent children.

F. "Deputy Compact Administrator" means: the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

G. "Interstate Commission" means: the Interstate Commission for Juveniles created by Article III of this compact.

H. "Juvenile" means: any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(1) Accused Delinquent a person charged with an offense that, if committed by an adult, would be a criminal offense;

(2) Adjudicated Delinquent a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(3) Accused Status Offender a person charged with an offense that would not be a criminal offense if committed by an adult;

(4) Adjudicated Status Offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(5) Non-Offender a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

I. "Non-Compacting state" means: any state which has not enacted the enabling legislation for this compact.

J. "Probation or Parole" means: any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

K. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

L. "State" means: a state of the United States, the District of Columbia (or its designee), the commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

ARTICLE III - INTERSTATE COMMISSION FOR JUVENILES

A. The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

B. The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

C. In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (non-voting) members.

The Interstate Commission may provide in its by-laws for such additional ex-officio (non-voting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

D. Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the Interstate Commission.

E. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

F. The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the by-laws.

G. Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

H. The Interstate Commission's by-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

I. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing any person of a crime, or formally censuring any person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes;

7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

8. Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

9. Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

J. For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

K. The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV - POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

1. To provide for dispute resolution among compacting states.

2. To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

3. To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the Interstate Commission.

4. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the by-laws, using all necessary and proper means, including but not limited to the use of judicial process.

5. To establish and maintain offices which shall be located within one or more of the compacting states.

6. To purchase and maintain insurance and bonds.

7. To borrow, accept, hire or contract for services of personnel.

8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the

Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

13. To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.

14. To sue and be sued.

15. To adopt a seal and by-laws governing the management and operation of the Interstate Commission.

16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

18. To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity.

19. To establish uniform standards of the reporting, collecting and exchanging of data.

20. The Interstate Commission shall maintain its corporate books and records in accordance with the By-laws.

ARTICLE V - ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. By-laws

1. The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

a. Establishing the fiscal year of the Interstate Commission;

b. Establishing an executive committee and such other committees as may be necessary;

c. Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

d. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

e. Establishing the titles and responsibilities of the officers of the Interstate Commission;

f. Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

g. Providing "start-up" rules for initial administration of the compact; and

h. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

1. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

Section C. Qualified Immunity, Defense and Indemnification

1. The Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

3. The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

4. The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI - RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. publish the proposed rule's entire text stating the reason(s) for that proposed rule;

2. allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;

3. provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and

4. promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Allow, not later than sixty days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

E. If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

F. The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

G. Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption,

provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

ARTICLE VII - OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

1. The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

2. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

1. The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its by-laws and rules.

2. The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and non-compacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII - FINANCE

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate

movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its by-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE IX - THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE X - COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2004 or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

C. The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI - WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. The effective date of withdrawal is the effective date of the repeal.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

Section B. Technical Assistance, Fines, Suspension, Termination and Default

1. If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

a. Remedial training and technical assistance as directed by the Interstate Commission;

b. Alternative Dispute Resolution;

c. Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission; and

d. Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the Majority and Minority Leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules and any other grounds designated in commission by-laws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

2. Within sixty days of the effective date of termination of a defaulting state, the Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.

3. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

5. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

1. The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the by-laws.

ARTICLE XII - SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII - BINDING EFFECT OF COMPACT
AND OTHER LAWS

Section A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

2. All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and by-laws promulgated by the Interstate Commission, are binding upon the compacting states.

2. All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

4. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Source: L. 57: p. 470, § 1. **S.A.R.S. 53:** § 74-8-1. **S.A.R.S. 1963:** § 74-8-1. **L. 71:** p. 855, § 1.
L. 2004: Entire section R&RE, p. 660, § 1, effective April 26.

24-60-703. Administrator. The executive director of the department of human services is designated as and shall be the compact administrator who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is authorized, empowered, and directed to cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement entered into by this state thereunder.

Source: L. 57: p. 480, § 2. **S.A.R.S. 53:** § 74-8-2. **S.A.R.S. 1963:** § 74-8-2. **L. 67:** p. 210, § 1.
L. 77: Entire section amended, p. 951, § 19, effective July 13. **L. 79:** Entire section amended, p. 702, § 77, effective June 21. **L. 94:** Entire section amended, p. 2697, § 242, effective July 1.

24-60-704. Supplementary agreements. The compact administrator is authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement requires or contemplates the use of any institution or facility of this state or requires or contemplates the provision of any service by this state, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Source: L. 57: p. 480, § 3. **S.A.R.S. 53:** § 74-8-3. **S.A.R.S. 1963:** § 74-8-3.

24-60-705. Financial arrangements. The compact administrator, subject to the approval of the controller, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into thereunder within the limits of appropriations made therefor.

Source: L. 57: p. 480, § 4. **S.A.R.S. 53:** § 74-8-4. **S.A.R.S. 1963:** § 74-8-4.

24-60-705.5. Assessments or fees - prohibition prior to July 1, 2006 - repeal. (Repealed)

Source: L. 2004: Entire section added, p. 675, § 2, effective April 26.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2007. (See L. 2004, p. 675.)

24-60-706. Responsibility of parents. The compact administrator is authorized to take appropriate action to recover from parents or guardians any and all costs expended by the state or any of its subdivisions to return a delinquent or nondelinquent juvenile to this state for care provided pursuant to any supplementary agreement authorized in this part 7 or for care pending the return of such juvenile to this state.

Source: L. 57: p. 480, § 5. **S.A.R.S. 53:** § 74-8-5. **S.A.R.S. 1963:** § 74-8-5.

24-60-707. Fee - counsel or guardian ad litem. Any judge who appoints counsel or a guardian ad litem pursuant to the provisions of the compact may fix a fee in a reasonable amount, to be paid out of funds available for disposition by the court.

Source: L. 57: p. 480, § 6. **S.A.R.S. 53:** § 74-8-6. **S.A.R.S. 1963:** § 74-8-6.

24-60-708. Enforcement. The courts, departments, agencies, and officers of this state and its political subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

Source: L. 57: p. 481, § 7. **S.A.R.S. 53:** § 74-8-7. **S.A.R.S. 1963:** § 74-8-7.

PART 8

WESTERN INTERSTATE CORRECTIONS COMPACT

24-60-801. Execution of compact. The governor is hereby authorized to execute a compact on behalf of this state with any other contiguous state or states joining therein in the form substantially as follows:

WESTERN INTERSTATE CORRECTIONS COMPACT

Article I

PURPOSE AND POLICY

The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment and rehabilitation of

various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of co-operation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of co-operation for the confinement, treatment and rehabilitation of offenders.

Article II

DEFINITIONS

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States, or, subject to the limitation contained in Article VII, Guam.

(b) "Sending state" means a state party to this compact in which conviction was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had.

(d) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

(e) "Institution" means any prison, reformatory or other correctional facility (including but not limited to a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined.

Article III

CONTRACTS

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that monies are legally available therefore, pay to the receiving state, a reasonable sum as consideration for such enlargement of

capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

Article IV

PROCEDURES AND RIGHTS

(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order to provide adequate quarters and care, or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings

as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subdivision shall be borne by the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

Article V

ACTS NOT REVIEWABLE IN RECEIVING STATE; EXTRADITION

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

Article VI

FEDERAL AID

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in

any such federally aided program or activity for which the sending and receiving states have made contractual provision provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

Article VII

ENTRY INTO FORCE

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, San Andreas, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states, or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of Congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon and Washington.

Article VIII

WITHDRAWAL AND TERMINATION

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until two years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

Article IX

OTHER ARRANGEMENTS UNAFFECTED

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a non-party state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

Article X

CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution

of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Source: L. 59: p. 516, § 1. **S.A.R.S. 53:** § 74-9-1. **S.A.R.S. 1963:** § 74-9-1.

24-60-802. Transfer of inmates. Any court or other agency or officer of this state having power to commit or transfer an inmate, as defined in Article II (d) of the Western Interstate Corrections Compact, to any institution for confinement may commit or transfer such inmate to any institution within or without this state if this state has entered into a contract for the confinement of inmates in said institution pursuant to Article III of the Western Interstate Corrections Compact.

Source: L. 59: p. 522, § 2. **S.A.R.S. 53:** § 74-9-2. **S.A.R.S. 1963:** § 74-9-2.

24-60-803. Enforcement of compact. The courts, departments, agencies, and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions including but not limited to the making and submission of such reports as are required by the compact.

Source: L. 59: p. 522, § 3. **S.A.R.S. 53:** § 74-9-3. **S.A.R.S. 1963:** § 74-9-3.

24-60-804. Hearings. The governor or the San Andreas state board of parole, at the request of the governor, is authorized and directed to hold such hearings as may be requested by any other party state pursuant to Article IV (f) of the Western Interstate Corrections Compact.

Source: L. 59: p. 523, § 4. **S.A.R.S. 53:** § 74-9-4. **S.A.R.S. 1963:** § 74-9-4.

24-60-805. Contracts. The governor is empowered to enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the Western Interstate Corrections Compact pursuant to Article III thereof; but, if the contract would require expenditure of San Andreas funds for capital construction purposes, no such contract shall be of any force or effect until approved by the general assembly.

Source: L. 59: p. 523, § 5. **S.A.R.S. 53:** § 74-9-5. **S.A.R.S. 1963:** § 74-9-5.

PART 9

VEHICLE EQUIPMENT SAFETY COMPACT

24-60-901. Legislative declaration. (1) The general assembly finds that:

(a) The public safety necessitates the continuous development, modernization, and implementation of standards and requirements of law relating to vehicle equipment in accordance with expert knowledge and opinion;

(b) The public safety further requires that such standards and requirements be uniform from jurisdiction to jurisdiction, except to the extent that specific and compelling evidence supports variation;

(c) The executive director of the department of revenue, acting upon recommendations of the vehicle equipment safety commission and pursuant to the vehicle equipment safety compact, provides a just, equitable, and orderly means of promoting the public safety in the manner and within the scope contemplated by this part 9.

Source: L. 63: p. 603, § 2. **S.A.R.S. 1963:** § 74-10-2.

24-60-902. Compact approved and ratified. The general assembly hereby approves and ratifies and the governor shall enter into a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

Findings and Purpose

(a) The party states find that:

(1) Accidents and deaths on their streets and highways present a very serious human and economic problem with a major deleterious effect on the public welfare.

(2) There is a vital need for the development of greater interjurisdictional cooperation to achieve the necessary uniformity in the laws, rules, regulations and codes relating to vehicle equipment, and to accomplish this by such means as will minimize the time between the development of demonstrably and scientifically sound safety features and their incorporation into vehicles.

(b) The purposes of this compact are to:

(1) Promote uniformity in regulation of and standards for equipment.

(2) Secure uniformity of law and administrative practice in vehicular regulation and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety.

(3) To provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in subdivision (a) of this article.

(c) It is the intent of this compact to emphasize performance requirements and not to determine the specific detail of engineering in the manufacture of vehicles or equipment except to the extent necessary for the meeting of such performance requirements.

ARTICLE II

Definitions

As used in this compact:

(a) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(c) "Equipment" means any part of a vehicle or any accessory for use thereon which affects the safety of operation of such vehicle or the safety of the occupants.

ARTICLE III

The Commission

(a) There is hereby created an agency of the party states to be known as the "Vehicle Equipment Safety Commission" hereinafter called the commission. The commission shall be composed of one commissioner from each party state who shall be appointed, serve and be subject to removal in accordance with the laws of the state which he represents. If authorized by the laws of his party state, a commissioner may provide for the discharge of his duties and the performance of his functions on the commission, either for the duration of his membership or for any lesser period of time, by an alternate. No such alternate shall be entitled to serve unless notification of his identity and appointment shall have been given to the commission in such form as the commission may require. Each commissioner, and each alternate, when serving in the place and stead of a commissioner, shall be entitled to be reimbursed by the commission for expenses actually incurred in attending commission meetings or while engaged in the business of the commission.

(b) The commissioners shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, are present.

(c) The commission shall have a seal.

(d) The commission shall elect annually, from among its members, a chairman, a vice-chairman and a treasurer. The commission may appoint an executive director and fix his duties and compensation. Such executive director shall serve at the pleasure of the commission, and together with the treasurer shall be bonded in such amount as the commission shall determine. The executive director also shall serve as secretary. If there be no executive director, the commission shall elect a secretary in addition to the other officers provided by this subdivision.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director with the approval of the commission, or the commission if there be no executive director, shall appoint, remove or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel.

(f) The commission may establish and maintain independently or in conjunction with any one or more of the party states, a suitable retirement system for its full time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The commission may borrow, accept or contract for the services of personnel from any party state, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party states or their subdivisions.

(h) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency and may receive, utilize and dispose of the same.

(i) The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(j) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states. The bylaws shall provide for appropriate notice to the commissioners of all commission meetings and hearings and the business to be transacted at such meetings or hearings. Such notice shall also be given to such agencies or officers of each party state as the laws of such party state may provide.

(k) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been issued by the commission. The commission may make such additional reports as it may deem desirable.

ARTICLE IV

Research and Testing

The commission shall have power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in equipment and related fields.

(b) Recommend and encourage the undertaking of research and testing in any aspect of equipment or related matters when, in its judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Contract for such equipment research and testing as one or more governmental agencies may agree to have contracted for by the commission, provided that such governmental agency or agencies shall make available the funds necessary for such research and testing.

(d) Recommend to the party states changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations or codes which would promote effective governmental action or coordination in the prevention of equipment-related highway accidents or the mitigation of equipment-related highway safety problems.

ARTICLE V

Vehicular Equipment

(a) In the interest of vehicular and public safety, the commission may study the need for or desirability of the establishment of or changes in performance requirements or restrictions for any item of equipment. As a result of such study, the commission may publish a report relating to any item or items of equipment, and the issuance of such a report shall be a condition

precedent to any proceedings or other action provided or authorized by this article. No less than sixty days after the publication of a report containing the results of such study, the commission upon due notice shall hold a hearing or hearings at such place or places as it may determine.

(b) Following the hearing or hearings provided for in subdivision (a) of this article, and with due regard for standards recommended by appropriate professional and technical associations and agencies, the commission may issue rules, regulations or codes embodying performance requirements or restrictions for any item or items of equipment covered in the report, which in the opinion of the commission will be fair and equitable and effectuate the purposes of this compact.

(c) Each party state obligates itself to give due consideration to any and all rules, regulations and codes issued by the commission and hereby declares its policy and intent to be the promotion of uniformity in the laws of the several party states relating to equipment.

(d) The commission shall send prompt notice of its action in issuing any rule, regulation or code pursuant to this article to the appropriate motor vehicle agency of each party state and such notice shall contain the complete text of the rule, regulation or code.

(e) If the constitution of a party state requires, or if its statutes provide, the approval of the legislature by appropriate resolution or act may be made a condition precedent to the taking effect in such party state of any rule, regulation or code. In such event, the commissioner of such party state shall submit any commission rule, regulation or code to the legislature as promptly as may be in lieu of administrative acceptance or rejection thereof by the party state.

(f) Except as otherwise specifically provided in or pursuant to subdivisions (e) and (g) of this article, the appropriate motor vehicle agency of a party state shall in accordance with its constitution or procedural laws adopt the rule, regulation or code within six months of the sending of the notice, and, upon such adoption, the rule, regulation or code shall have the force and effect of law therein.

(g) The appropriate motor vehicle agency of a party state may decline to adopt a rule, regulation or code issued by the commission pursuant to this article if such agency specifically finds, after public hearing on due notice, that a variation from the commission's rule, regulation or code is necessary to the public safety, and incorporates in such finding the reasons upon which it is based. Any such finding shall be subject to review by such procedure for review of administrative determinations as may be applicable pursuant to the laws of the party state. Upon request, the commission shall be furnished with a copy of the transcript of any hearings held pursuant to this subdivision.

ARTICLE VI

Finance

(a) The commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: One-third in equal shares; and the remainder in proportion to the number of motor vehicles registered in each party state. In determining the number of such registrations, the commission may employ such source or sources of information as, in its judgment present the

most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning vehicular registrations.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under article III (h) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under article III (h) hereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its rules. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual reports of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VII

Conflict of Interest

(a) The commission shall adopt rules and regulations with respect to conflict of interest for the commissioners of the party states, and their alternates, if any, and for the staff of the commission and contractors with the commission to the end that no member or employee or contractor shall have a pecuniary or other incompatible interest in the manufacture, sale or distribution of motor vehicles or vehicular equipment or in any facility or enterprise employed by the commission or on its behalf for testing, conduct of investigations or research. In addition to any penalty for violation of such rules and regulations as may be applicable under the laws of the violator's jurisdiction of residence, employment or business, any violation of a commission rule or regulation adopted pursuant to this article shall require the immediate discharge of any violating employee and the immediate vacating of membership, or relinquishing of status as a member on the commission by any commissioner or alternate. In the case of a contractor, any violation of any such rule or regulation shall make any contract of the violator with the commission subject to cancellation by the commission.

(b) Nothing contained in this article shall be deemed to prevent a contractor for the commission from using any facilities subject to his control in the performance of the contract even though such facilities are not devoted solely to work of or done on behalf of the commission; nor to prevent such a contractor from receiving remuneration or profit from the use of such facilities.

ARTICLE VIII

Advisory and Technical Committees

The commission may establish such advisory and technical committees as it may deem necessary, membership on which may include private citizens and public officials, and may cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities.

ARTICLE IX

Entry Into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any six or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Source: L. 63: p. 591, § 1. **S.A.R.S. 1963:** § 74-10-1.

24-60-903. Approval of compact. Pursuant to article V (e) of the vehicle equipment safety compact, it is the intention of this state and it is provided that no rule, regulation, or code issued by the vehicle equipment safety commission in accordance with article V of the compact shall take effect until approved by act of the general assembly.

Source: L. 63: p. 603, § 3. **S.A.R.S. 1963:** § 74-10-3.

24-60-904. Commissioner appointed - alternate. The commissioner of this state serving on the vehicle equipment safety commission shall be appointed by the governor from among the members of the legislative council, consistent with the provisions of section 2-3-311, S.A.R.S. The commissioner of this state, appointed pursuant to this section, may designate the executive director of the department of revenue to serve in his place and stead on the vehicle equipment safety commission. Subject to the provisions of the compact and bylaws of the vehicle equipment safety commission, the authority and responsibilities of the alternate shall be as determined by the commissioner designating such alternate.

Source: L. 63: p. 603, § 4. **S.A.R.S. 1963:** § 74-10-4. **L. 91:** Entire section amended, p. 1916, § 37, effective July 1.

24-60-905. Retirement benefits. The public employees' retirement association may make an agreement with the vehicle equipment safety commission for the coverage of said commission's employees pursuant to article III (f) of the compact. Any such agreement, as nearly as may be, shall provide for arrangements similar to those available to the employees of this state and shall be subject to amendment or termination in accordance with its terms.

Source: L. 63: p. 604, § 5. **S.A.R.S. 1963:** § 74-10-5.

Cross references: For the public employees' retirement association, see article 51 of title 24.

24-60-906. Other agencies cooperate. Within appropriations available therefor, the departments, agencies, and officers of the government of this state may cooperate with and assist the vehicle equipment safety commission within the scope contemplated by article III (h) of the compact. The departments, agencies, and officers of the government of this state are authorized generally to cooperate with said commission.

Source: L. 63: p. 604, § 6. **S.A.R.S. 1963:** § 74-10-6.

24-60-907. State contribution limited. In no event shall the contribution of the state of San Andreas exceed two thousand dollars as its share of the commission's budget.

Source: L. 63: p. 604, § 7. **S.A.R.S. 1963:** § 74-10-7.

24-60-908. Compact effective - when. Notwithstanding the provisions of article IX (a) of the compact, the participation of the state of San Andreas in the compact shall not become effective until twenty-four or more states have enacted this compact into law; except that if twelve or more states have enacted this compact into law, then, upon request of the commissioner of the state vehicle equipment safety commission, the governor may enter into this compact on behalf of the state of San Andreas.

Source: L. 63: p. 604, § 8. **S.A.R.S. 1963:** § 74-10-8.

24-60-909. Filing of documents. Filing of documents as required by article III (j) of the compact shall be with the executive director of the department of revenue.

Source: L. 63: p. 604, § 9. **S.A.R.S. 1963:** § 74-10-9.

24-60-910. Budget submitted. Pursuant to article VI (a) of the compact, the vehicle equipment safety commission shall submit its budgets to the executive director of the department of revenue for recommendation and submission to the office of state planning and budgeting pursuant to part 3 of article 37 of this title.

Source: L. 63: p. 604, § 10. **S.A.R.S. 1963:** § 74-10-10. **L. 78:** Entire section amended, p. 268, § 78, effective May 23. **L. 83:** Entire section amended, p. 970, § 23, effective July 1, 1984.

24-60-911. Inspection of accounts. Pursuant to article VI (e) of the compact, the executive director of the department of revenue may inspect the accounts of the vehicle equipment safety commission.

Source: L. 63: p. 604, § 11. **S.A.R.S. 1963:** § 74-10-11.

24-60-912. Governor executive head. The term "executive head" as used in article IX (b) of the compact shall, with reference to this state, mean the governor.

Source: L. 63: p. 604, § 12. **S.A.R.S. 1963:** § 74-10-12.

PART 10

INTERSTATE COMPACT ON MENTAL HEALTH

24-60-1001. Execution of compact. The governor is hereby authorized to enter into a compact on behalf of this state with any other state or states joining therein in the form substantially as follows:

Interstate Compact on Mental Health

ARTICLE I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

ARTICLE II

As used in this compact:

(a) "Sending state" shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) "Institution" shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) "Patient" shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) "After-care" shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) "State" shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement, or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

ARTICLE IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities

in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

ARTICLE V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escapee in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

ARTICLE VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

ARTICLE VII

(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of

the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

ARTICLE VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term "guardian" as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

ARTICLE IX

(a) No provisions of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

ARTICLE X

(a) Each party state shall appoint a "compact administrator" who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that

such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

ARTICLE XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

ARTICLE XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

ARTICLE XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Source: L. 65: p. 787, § 1. **S.A.R.S. 1963:** § 74-11-1.

24-60-1002. Compact administrator. The executive director of the department of human services, referred to in this part 10 as the "director", shall be the compact administrator and shall have the power to make any rules and regulations necessary for the administration of this part 10. The director shall cooperate with all departments, agencies, and officers of the state and any political subdivision thereof to facilitate the proper administration of the interstate compact on mental health or of any supplementary agreement or agreements entered into by this state thereunder.

Source: L. 65: p. 793, § 1. **S.A.R.S. 1963:** § 74-11-2. **L. 94:** Entire section amended, p. 2697, § 243, effective July 1.

24-60-1003. Supplementary agreements. The director may enter into supplementary agreements with appropriate officials of other states pursuant to articles VII and XI of the compact.

Source: L. 65: p. 793, § 1. **S.A.R.S. 1963:** § 74-11-3.

24-60-1004. Annual budget. The department of human services in its annual budget shall include such amounts necessary to discharge the financial obligations incurred by it to carry out the purposes of the interstate compact on mental health, and the general assembly shall appropriate such sums necessary therefor.

Source: L. 65: p. 794, § 1. **S.A.R.S. 1963:** § 74-11-4. **L. 94:** Entire section amended, p. 2698, § 244, effective July 1.

24-60-1005. Court review. The compact administrator is directed to consult with the immediate family of any proposed transferee and, in the case of a proposed transferee from an institution in this state to an institution in another party state, to make no transfer out of the state without approval of the district or probate court. Before granting such approval, the court shall hold such hearings as it deems appropriate. In addition, the court shall designate some appropriate person to deliver written notice of the proposed transferee's right to a hearing to the proposed transferee and his guardian ad litem. The person serving such notices shall make a written return to the court that such has been done. At the conclusion of such hearing, if any, the court may approve the proposed transfer, order the release of the proposed transferee, or enter any other suitable order.

Source: L. 65: p. 794, § 1. **S.A.R.S. 1963:** § 74-11-5.

24-60-1006. Authenticated copies of compact. Duly authenticated copies of this compact shall, upon its approval, be transmitted by the secretary of state to the governor of each state, the attorney general and the secretary of state of the United States, and the council of state governments.

Source: L. 65: p. 794, § 1. **S.A.R.S. 1963:** § 74-11-6.

PART 11

DRIVER LICENSE COMPACT

24-60-1101. Compact approved and ratified. The general assembly hereby approves and ratifies and the governor shall enter into a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

Findings and Declaration of Policy

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the over-all compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II

Definitions

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III

Reports of Conviction

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV

Effect of Conviction

(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the offense reported, pursuant to Article III of this compact, as it would if such offense had occurred in the home state, in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) Any felony in the commission of which a motor vehicle is used;

(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the offense as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature, and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

ARTICLE V

Applications for New Licenses

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:

(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a conviction for a violation and if such suspension period has not terminated.

(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a conviction for a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by San Andreas law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party to apply any of its other laws relating to

licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII

Compact Administrator and Interchange of Information

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII

Entry Into Force and Withdrawal

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

ARTICLE IX

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Source: L. 65: p. 795, § 1. **S.A.R.S. 1963:** § 74-12-1.

24-60-1102. Definition of "licensing authority". (1) As used in the compact, the term "licensing authority", with reference to this state, means the executive director of the department of revenue. Said executive director shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of articles III, IV, and V of the compact.

(2) The executive director of the department of revenue is authorized to administer the provisions of any driver license compact entered into between the state of San Andreas and any

other state and shall enforce any provisions thereof relative to licenses to operate motor vehicles issued by the department of revenue.

Source: L. 65: p. 799, § 2. **S.A.R.S. 1963:** § 74-12-2.

24-60-1103. Compact administrator - expenses. The compact administrator provided for in article VII of the compact shall not be entitled to any additional compensation on account of his service as such administrator but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

Source: L. 65: p. 799, § 3. **S.A.R.S. 1963:** § 74-12-3.

24-60-1104. Executive head - definition. As used in the compact, with reference to this state, the term "executive head" means the governor.

Source: L. 65: p. 799, § 4. **S.A.R.S. 1963:** § 74-12-4.

24-60-1105. Offenses - assessment of points. (1) Those offenses described in article IV (a) of the compact refer only to the following: As specified in sections 42-2-128, 42-4-1301, and 42-4-1603, S.A.R.S. "Felony" as used in article IV (a)(3) means only an offense which if committed in this state would constitute a felony. No conviction in another state for an offense described in article IV (a) of the compact shall be considered in this state unless the executive director of the department of revenue has made a finding with respect thereto that the prerequisites to such conviction in such other state with respect to trial by jury, burden of proof, and elements of the offense are not less stringent than such prerequisites to conviction for such offense in this state.

(2) The executive director of the department of revenue shall not assess points against the operator's license of any driver because of convictions reported from other states under article IV (b) of the compact.

Source: L. 65: p. 799, § 5. **S.A.R.S. 1963:** § 74-12-5. **L. 94:** (1) amended, p. 2557, § 56, effective January 1, 1995.

24-60-1106. Operator's license under compact. The provisions of sections 42-1-102 (81), 42-2-101 (1), and 42-2-102 (1)(d) and (1)(e), S.A.R.S., requiring residents of other states to secure an operator's license from this state shall not apply to persons licensed to drive by other states party to the driver license compact. This state shall require a resident to secure an operator's license from the department of revenue and to surrender any outstanding license to drive issued by another state; except that, if the laws of such other state require the person to be licensed to drive thereby in order to engage in such person's regular trade or profession, no license shall be issued by this state so long as such other license to drive is in force, nor shall this state issue any license to drive in contravention of the driver license compact.

Source: L. 65: p. 800, § 6. **S.A.R.S. 1963:** § 74-12-6. **L. 94:** Entire section amended, p. 2557, § 57, effective January 1, 1995.

24-60-1107. Review by district court. Any act or omission of any official or employee of this state done or omitted pursuant to or in enforcing the provisions of the driver license compact shall be subject to review by the district court in accordance with sections 24-4-106 and 42-2-135, S.A.R.S., and the San Andreas rules of civil procedure.

Source: L. 65: p. 800, § 7. **S.A.R.S. 1963:** § 74-12-7. **L. 94:** Entire section amended, p. 2557, § 58, effective January 1, 1995.

PART 12

INTERSTATE COMPACT FOR EDUCATION

24-60-1201. Execution of compact. The governor is hereby authorized to enter into a compact on behalf of this state with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE COMPACT FOR EDUCATION

ARTICLE I

Purpose and Policy

(a) It is the purpose of this compact to:

(1) Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the state and local levels.

(2) Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

(3) Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

(4) Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

(b) It is the policy of this compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

(c) The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals

within the nation, and because the products and services contributing to the health, welfare and economic advancement of each state are supplied in significant part by persons educated in other states.

ARTICLE II

State Defined

As used in this compact, "state" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III

The Commission

(a) (1) The education commission of the states, hereinafter called the commission is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and, except as provided in subparagraph (2) of this paragraph (a), serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed ten nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

(2) The terms of the members of the state legislature who are selected pursuant to subparagraph (1) of this paragraph (a) and who are serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the speaker and president shall each appoint or reappoint one member. Thereafter, the terms of members appointed or reappointed by the speaker and the president shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker and the president shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the speaker and the president shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.

(b) The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to article IV and adoption of the annual report pursuant to article III (j).

(c) The commission shall have a seal.

(d) The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice-chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

(f) The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

(g) The commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

(h) The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(i) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(j) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

ARTICLE IV

Powers

In addition to authority conferred on the commission by other provisions of the compact, the commission shall have authority to:

(1) Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

(2) Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

(3) Develop proposals for adequate financing of education as a whole and at each of its many levels.

(4) Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

(5) Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

(6) Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V

Cooperation With Federal Government

(a) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representative shall have a vote on the commission.

(b) The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI

Committees

(a) To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee shall consist of governors, one-fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that

members elected to the first steering committee of the commission shall be elected as follows: Sixteen for one year and sixteen for two years. The chairman, vice-chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

(b) The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

(c) The commission may establish such additional committees as its bylaws may provide.

ARTICLE VII

Finance

(a) The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

(b) The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

(c) The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to article III (g) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to article III (g) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII

Eligible Parties;
Entry Into and Withdrawal

(a) This compact shall have as eligible parties all states, territories, and possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor", as used in this compact, shall mean the closest equivalent official of such jurisdiction.

(b) Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same; provided, that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.

(c) Adoption of the compact may be either by enactment thereof or by adherence thereto by the governor; provided, that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

(d) Except for a withdrawal effective on December 31, 1967, in accordance with paragraph (c) of this article, any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

ARTICLE IX

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters.

Source: L. 67: p. 203, § 1. **S.A.R.S. 1963:** § 74-13-1. **L. 2007:** Art. III (a) amended, p. 185, § 20, effective March 22.

24-60-1202. State education council created. There is hereby created the San Andreas education council, composed of the members of the education commission of the states representing this state and such other persons as may be appointed by the governor for terms not to exceed three years. Such other persons shall be selected so as to be broadly representative of professional and lay interests within this state having the responsibilities for, knowledge with respect to, and interest in educational matters. The chairman shall be designated by the governor from among the council's members. The council shall meet on the call of its chairman or at the

request of a majority of its members, but in any event the council shall meet not less than three times in each calendar year. The council may consider any and all matters relating to recommendations of the education committee of the states and the activities of the members in representing this state thereon.

Source: L. 67: p. 208, § 1. **S.A.R.S. 1963:** § 74-13-2.

24-60-1203. Commission to file bylaws. Pursuant to article III (i) of the compact, the commission shall file a copy of its bylaws and any amendment thereto with the chairman of the San Andreas education council.

Source: L. 67: p. 209, § 1. **S.A.R.S. 1963:** § 74-13-3.

24-60-1204. Membership on commission. Of the two San Andreas legislative members of the commission, there shall be one from each major political party, to be divided between the house of representatives and the senate. Of the four other members appointed by the governor, no more than three shall be members of any one major political party.

Source: L. 67: p. 209, § 1. **S.A.R.S. 1963:** § 74-13-4.

PART 13

MULTISTATE TAX COMPACT

24-60-1301. Execution of compact. The governor is hereby authorized to enter into a compact on behalf of this state with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

Article I.

Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of State and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

Article II.

Definitions.

As used in this compact:

1. "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any Territory or Possession of the United States.

2. "Subdivision" means any governmental unit or special district of a State.

3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one State.

4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by State or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Articles III, IV and V of this compact shall apply only to the taxes specifically designated therein and the provisions of Article IX of this compact shall apply only in respect to determinations pursuant to Article IV.

Article III.

Elements of Income Tax Laws.

Taxpayer Option, State and Local Taxes.

1. Repealed.

Taxpayer Option, Short Form.

2. Each party State or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the State or subdivision, as the case may be, is not in excess of $100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The Multistate Tax Commission, not more than once in five years, may adjust the $100,000 figure in order to reflect such changes as

may occur in the real value of the dollar, and such adjusted figure, upon adoption by the Commission, shall replace the $100,000 figure specifically provided herein. Each party State and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

Coverage.

3. Nothing in this Article relates to the reporting or payment of any tax other than an income tax.

Article IV.

Division of Income.

1. As used in this Article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipe line, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a Federal, State or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this Article.

(h) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country or political subdivision thereof.

(i) "This State" means the State in which the relevant tax return is filed or, in the case of application of this Article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this State, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this Article. If a taxpayer has income from business activity as a public utility but

derives the greater percentage of his income from activities subject to this Article, the taxpayer may elect to allocate and apportion his entire net income as provided in this Article.

3. For purposes of allocation and apportionment of income under this Article, a taxpayer is taxable in another State if (1) in that State he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that State has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the State does or does not.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this Article.

5. (a) Net rents and royalties from real property located in this State are allocable to this State.

(b) Net rents and royalties from tangible personal property are allocable to this State: (1) if and to the extent that the property is utilized in this State, or (2) in their entirety if the taxpayer's commercial domicile is in this State and the taxpayer is not organized under the laws of or taxable in the State in which the property is utilized.

(c) The extent of utilization of tangible personal property in a State is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the State during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the State in which the property was located at the time the rental or royalty payer obtained possession.

6. (a) Capital gains and losses from sales of real property located in this State are allocable to this State.

(b) Capital gains and losses from sales of tangible personal property are allocable to this State if (1) the property had a situs in this State at the time of the sale, or (2) the taxpayer's commercial domicile is in this State and the taxpayer is not taxable in the State in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this State if the taxpayer's commercial domicile is in this State.

7. Interest and dividends are allocable to this State if the taxpayer's commercial domicile is in this State.

8. (a) Patent and copyright royalties are allocable to this State: (1) if and to the extent that the patent or copyright is utilized by the payer in this State, or (2) if and to the extent that the patent copyright is utilized by the payer in a State in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this State.

(b) A patent is utilized in a State to the extent that it is employed in production, fabrication, manufacturing, or other processing in the State or to the extent that a patented product is produced in the State. If the basis of receipts from patent royalties does not permit allocation to States or if the accounting procedures do not reflect States of utilization, the patent is utilized in the State in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a State to the extent that printing or other publication originates in the State. If the basis of receipts from copyright royalties does not permit allocation

to States or if the accounting procedures do not reflect States of utilization, the copyright is utilized in the State in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this State if:

(a) the individual's service is performed entirely within the State;

(b) the individual's service is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State; or

(c) some of the service is performed in the State and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the State, or (2) the base of operations or the place from which the service is directed or controlled is not in any State in which some part of the service is performed, but the individual's residence is in this State.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this State during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this State if:

(a) the property is delivered or shipped to a purchaser, other than the United States Government, within this State regardless of the f.o.b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State and (1) the purchaser is the United States Government or (2) the taxpayer is not taxable in the State of the purchaser.

17. Sales, other than sales of tangible personal property, are in this State if:

(a) the income-producing activity is performed in this State; or

(b) the income-producing activity is performed both in and outside this State and a greater proportion of the income-producing activity is performed in this State than in any other State, based on costs of performance.

18. If the allocation and apportionment provisions of this Article do not fairly represent the extent of the taxpayer's business activity in this State, the taxpayer may petition for or the tax

administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this State; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Article V.

Elements of Sales and Use Tax Laws.

Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another State and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the State, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates, Vendors May Rely.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate State or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

Article VI.

The Commission.

Organization and Management.

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party State who shall be the head of the State agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the State shall provide by law for the selection of the Commission member from the heads of the relevant agencies. State law may provide that a member of the Commission be represented by an alternate but only if there is on file with the Commission written notification of the designation and identity of the alternate. The Attorney General of each party State or his designee, or other counsel if the laws of the party State specifically provide, shall be entitled to attend the meetings of the Commission, but shall not vote. Such Attorneys General, designees, or other counsel shall receive all notices of meetings required under paragraph 1 (e) of this Article.

(b) Each party State shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the Commission member from that State.

(c) Each member shall be entitled to one vote. The Commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The Commission shall adopt an official seal to be used as it may provide.

(e) The Commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its Executive Committee may determine. The Commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The Commission shall elect annually, from among its members, a Chairman, a Vice Chairman and a Treasurer. The Commission shall appoint an Executive Director who shall serve at its pleasure, and it shall fix his duties and compensation. The Executive Director shall be Secretary of the Commission. The Commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party State, the Executive Director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the Commission and shall fix their duties and compensation. The Commission bylaws shall provide for personnel policies and programs.

(h) The Commission may borrow, accept or contract for the services of personnel from any State, the United States, or any other governmental entity.

(i) The Commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The Commission may establish one or more offices for the transacting of its business.

(k) The Commission shall adopt bylaws for the conduct of its business. The Commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party States.

(l) The Commission annually shall make to the Governor and legislature of each party State a report covering its activities for the preceding year. Any donation or grant accepted by the Commission or services borrowed shall be reported in the annual report of the Commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The Commission may make additional reports as it may deem desirable.

Committees.

2. (a) To assist in the conduct of its business when the full Commission is not meeting, the Commission shall have an Executive Committee of seven members, including the Chairman, Vice Chairman, Treasurer and four other members elected annually by the Commission. The Executive Committee, subject to the provisions of this compact and consistent with the policies of the Commission, shall function as provided in the bylaws of the Commission.

(b) The Commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the Commission, including problems of special interest to any party State and problems dealing with particular types of taxes.

(c) The Commission may establish such additional committees as its bylaws may provide.

Powers.

3. In addition to powers conferred elsewhere in this compact, the Commission shall have power to:

(a) Study State and local tax systems and particular types of State and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of State and local tax laws with a view toward encouraging the simplification and improvement of State and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party States in implementation of the compact and taxpayers in complying with State and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance.

4. (a) The Commission shall submit to the Governor or designated officer or officers of each party State a budget of its estimated expenditures for such period as may be required by the laws of that State for presentation to the legislature thereof.

(b) Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party States. The total amount of appropriations requested under any such budget shall be apportioned among the party States as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party State and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the Commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party States. Each of the Commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The Commission shall not pledge the credit of any party State. The Commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1 (i) of this Article: provided that the Commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it under paragraph 1 (i), the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(e) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.

(f) Nothing contained in this Article shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article VII.

Uniform Regulations and Forms.

1. Whenever any two or more party States, or subdivisions of party States, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the Commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The Commission may also act with respect to the provisions of Article IV of this compact.

2. Prior to the adoption of any regulation, the Commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party States and subdivisions thereof and to all taxpayers and other persons who have made timely request of the Commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party States and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the Commission.

3. The Commission shall submit any regulations adopted by it to the appropriate officials of all party States and subdivisions to which they might apply. Each such State and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

Article VIII.

Interstate Audits.

1. This Article shall be in force only in those party States that specifically provide therefor by statute.

2. Any party State or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the Commission to perform the audit on its behalf. In responding to the request, the Commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The Commission may enter into agreements with party States or their subdivisions for assistance in performance of the audit. The Commission shall make charges, to be paid by the State or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The Commission may require the attendance of any person within the State where it is conducting an audit or part thereof at a time and place fixed by it within such State for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the Commission within the State of which he is a resident: provided that such State has adopted this Article.

4. The Commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this Article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the Commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the State or subdivision on behalf of which the audit is being made or a court in the State in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a State that has adopted this Article.

5. The Commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the Commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party States or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the Commission.

6. Information obtained by any audit pursuant to this Article shall be confidential and available only for tax purposes to party States, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the States or subdivisions on whose account the Commission performs the audit, and only through the appropriate agencies or officers of such States or subdivisions. Nothing in this Article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party States or any of their subdivisions are not superseded or invalidated by this Article.

8. In no event shall the Commission make any charge against a taxpayer for an audit.

9. As used in this Article, "tax", in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

Article IX.

Arbitration.

1. Whenever the Commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this Article in effect, notwithstanding the provisions of Article VII.

2. The Commission shall select and maintain an Arbitration Panel composed of officers and employees of State and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ Article IV, or whenever the laws of the party State or subdivision thereof are substantially identical with the relevant provisions of Article IV, the taxpayer, by written notice to the Commission and to each party State or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the State or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party States or subdivisions thereof. Each party State and

subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The Arbitration Board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the Commission's Arbitration Panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the Arbitration Panel. The two persons selected for the Board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the Board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the Arbitration Panel. No member of a Board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The Board may sit in any State or subdivision party to the proceeding, in the State of the taxpayer's incorporation, residence or domicile, in any State where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The Board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The Board shall act by majority vote.

7. The Board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the Board. In case of failure to obey a subpoena, and upon application by the Board, any judge of a court of competent jurisdiction of the State in which the Board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in States that have adopted this Article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the Board in such manner as it may determine. The Commission shall fix a schedule of compensation for members of Arbitration Boards and of other allowable expenses and costs. No officer or employee of a State or local government who serves as a member of a Board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such Board member shall be entitled to expenses.

9. The Board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the Board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The Board shall file with the Commission and with each tax agency represented in the proceeding: the determination of the Board; the Board's written statement of its reasons therefor; the record of the Board's proceedings; and any other documents required by the arbitration rules of the Commission to be filed.

11. The Commission shall publish the determinations of Boards together with the statements of the reasons therefor.

12. The Commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party States.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

Article X.

Entry Into Force and Withdrawal.

1. This compact shall enter into force when enacted into law by any seven States. Thereafter, this compact shall become effective as to any other State upon its enactment thereof. The Commission shall arrange for notification of all party States whenever there is a new enactment of the compact.

2. Any party State may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

3. No proceeding commenced before an Arbitration Board prior to the withdrawal of a State and to which the withdrawing State or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the Board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

Article XI.

Effect on Other Laws and Jurisdiction.

Nothing in this compact shall be construed to:

(a) Affect the power of any State or subdivision thereof to fix rates of taxation, except that a party State shall be obligated to implement Article III 2 of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax: provided that the definition of "tax" in Article VIII 9 may apply for the purposes of that Article and the Commission's powers of study and recommendation pursuant to Article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any State or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

Article XII.

Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government,

agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the remaining party States and in full force and effect as to the State affected as to all severable matters.

Source: L. 68: p. 175, § 1. **S.A.R.S. 1963:** § 74-14-1. **L. 2008:** Art. III, par. 1 repealed, p. 953, § 2, effective January 1, 2009.

24-60-1302. Article XX of state constitution not modified. No provision of the multistate tax compact shall modify article XX of the constitution of the state of San Andreas.

Source: L. 68: p. 187, § 1. **S.A.R.S. 1963:** § 74-14-2.

24-60-1303. Executive director to represent state - alternate. (1) The executive director of the department of revenue shall represent this state on the multistate tax commission.

(2) The member representing this state on the multistate tax commission may be represented thereon by an alternate designated by the executive director.

Source: L. 68: p. 187, § 1. **S.A.R.S. 1963:** § 74-14-3.

24-60-1304. Consulting committee. The governor shall appoint a consulting committee consisting of three persons who are representative of subdivisions affected or likely to be affected by the multistate tax compact, none of whom shall be members of the general assembly. The member of the commission representing this state, and any alternate designated by him, shall consult regularly with such committee, in accordance with article VI, 1. (b) of the compact.

Source: L. 68: p. 188, § 1. **S.A.R.S. 1963:** § 74-14-4.

24-60-1305. Advisory committee created. There is hereby established the multistate tax compact advisory committee composed of the member of the multistate tax commission representing this state any alternate designated by him or her; the attorney general or his or her designee; the members of the consulting committee; and two members of the senate, appointed by the president; and two members of the house of representatives, appointed by the speaker. The chair shall be the member of the commission representing this state. The committee shall meet on the call of its chairman or at the request of a majority of its members, but in any event it shall meet not less than three times in each year. The committee may consider any and all matters relating to recommendations of the multistate tax commission and the activities of the members in representing this state thereon.

Source: L. 68: p. 188, § 1. **S.A.R.S. 1963:** § 74-14-5.

24-60-1306. Interstate audits. Article VIII of the compact relating to interstate audits shall be in force in and with respect to this state.

Source: L. 68: p. 188, § 3. **S.A.R.S. 1963:** § 74-14-7.

24-60-1307. Effective dates. (1) All provisions of this part 13, including membership in the multistate tax commission, shall be effective upon execution of the compact by the governor; except that:

(a) Provisions of articles III, IV, V, VIII, and IX of the compact shall apply to all taxable years beginning on and after July 1, 1968; and

(b) In no case shall the provisions of this part 13 apply to taxable years commencing on or before June 30, 1968.

Source: L. 68: p. 188, § 2. **S.A.R.S. 1963:** § 74-14-6.

24-60-1308. Applicability of article IV of compact. For income tax years commencing on or after January 1, 2009, a taxpayer may not use the provisions of article IV of the multistate tax compact to apportion and allocate income to San Andreas.

Source: L. 2008: Entire section added, p. 954, § 3, effective January 1, 2009.

PART 14

WESTERN INTERSTATE NUCLEAR COMPACT

24-60-1401. Compact approved and ratified. The general assembly hereby approves and ratifies and the governor shall enter into a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

Article I.

Policy and Purpose

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields, and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

Article II.

The Board

(a) There is hereby created an agency of the party states to be known as the Western Interstate Nuclear Board, hereinafter called the "Board". The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state

which he represents, and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon, either for the duration of his membership or for any lesser period of time, by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present, and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions, irrespective of the civil service, personnel, or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance, provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

Article III.

Finances

(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II (h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II (h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

(f) The Accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

Article IV.

Advisory Committees

The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

Article V.

Powers

The Board shall have power to:

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

2. Applying nuclear scientific advances or discoveries, and any industrial, commercial or other processes resulting therefrom.

3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological, or industrial fields to which this compact relates.

(h) Undertake such nonregulatory functions with respect to nonnuclear sources of radiation as may promote the economic development and general welfare of the West.

(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions, in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity, but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, by-products, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(o) Act as licensee, contractor, or subcontractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract, and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.

(p) Prepare, publish, and distribute, with or without charge, such reports, bulletins, newsletters, or other materials as it deems appropriate.

(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states, and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

Article VI.

Mutual Aid

(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges, and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of officers, employees, and equipment incurred in connection with such requests; provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees, in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

Article VII.

Supplementary Agreements

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states, acting by their duly constituted administrative officials, may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes, its duration, the procedure for termination thereof or withdrawal therefrom, the method of financing and allocating the costs of the activity or project, and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto, but the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions of this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

Article VIII.

Other Laws and Relations

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order, or ordinance of a party state or subdivision thereof now or hereafter made, enacted, or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to, and in conformity with, any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between, and respective internal responsibilities of, the government of a party state and its subdivisions.

(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

Article IX.

Eligible Parties, Entry into Force and Withdrawal

(a) Any or all of the states of Alaska, Arizona, California, San Andreas, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; provided, that it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected.

Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

Article X.

Severability and Construction

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof.

Source: L. 68: p. 64, § 1. **S.A.R.S. 1963:** § 74-15-1.

24-60-1402. Governor to appoint member of the board - alternate. (1) The governor shall appoint this state's member of the western interstate nuclear board, and such member shall serve at the pleasure of the governor.

(2) Such member may, with the approval of the governor, designate an alternate to represent this state when such member is unable to do so.

(3) The member or his alternate, if any, shall receive no compensation for his services as such but shall be reimbursed for his actual and necessary expenses incurred in the performance of his duties.

Source: L. 68: p. 71, § 1. **S.A.R.S. 1963:** § 74-15-2.

24-60-1403. Bylaws to be filed with secretary of state. Pursuant to article II (j) of this compact, the board shall file copies of its bylaws and any amendments thereto with the secretary of state.

Source: L. 68: p. 72, § 1. **S.A.R.S. 1963:** § 74-15-3.

24-60-1404. Workers' compensation act and related acts - applicability. The provisions of articles 40 to 47 of title 8, S.A.R.S., and any benefits payable thereunder, shall apply and be payable to any persons dispatched to another state pursuant to article VI of this compact. If the aiding personnel are officers or employees of subdivisions of this state, they shall be entitled to the same benefits under articles 40 to 47 of title 8, S.A.R.S., in case of injury or death, to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in the course of their regular employment.

Source: L. 68: p. 72, § 1. **S.A.R.S. 1963:** § 74-15-4. **L. 83:** Entire section amended, p. 2050, § 13, effective October 14. **L. 90:** Entire section amended, p. 570, § 55, effective July 1.

PART 15

INTERSTATE LIBRARY COMPACT

24-60-1501. Compact approved and ratified. The general assembly hereby approves and ratifies and the governor shall enter into a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE LIBRARY COMPACT

ARTICLE I

Policy and Purpose

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis, and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

ARTICLE II

Definitions

As used in this compact:

(a) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.

(b) "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library.

(c) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

ARTICLE III

Interstate Library Districts

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain and

operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

1. Undertake, administer and participate in programs or arrangements for securing, lending or servicing of books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information from libraries, the value and significance of particular items therein, and the use thereof.

2. Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, (conditional or otherwise), from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and receive, utilize and dispose of the same.

3. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.

4. Employ professional, technical, clerical and other personnel, and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the inservice training of such personnel.

5. Sue and be sued in any court of competent jurisdiction.

6. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

7. Construct, maintain and operate a library, including any appropriate branches thereof.

8. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

ARTICLE IV

Interstate Library Districts, Governing Board

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

ARTICLE V

State Library Agency Cooperation

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

ARTICLE VI

Library Agreements

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

1. Detail the specific nature of the services, programs, facilities, arrangements or properties to which it is applicable.

2. Provide for the allocation of costs and other financial responsibilities.

3. Specify the respective rights, duties, obligations and liabilities of the parties.

4. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with Article VII of this compact.

ARTICLE VII

Approval of Library Agreements

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement

shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

ARTICLE VIII

Other Laws Applicable

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

ARTICLE IX

Appropriations and Aid

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

ARTICLE X

Compact Administrator

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

ARTICLE XI

Entry Into Force and Withdrawal

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement

entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

ARTICLE XII

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Source: L. 69: p. 552, § 1. **S.A.R.S. 1963:** § 74-16-1.

24-60-1502. Limitations on interstate library districts. (1) No interstate library district agreement shall be entered into by any public library agency in this state pursuant to article III (a) of the compact without first obtaining the approval thereof by any county library or library district included in whole or in part in such proposed interstate library district, so as to eliminate duplication of library services.

(2) In lieu of an interstate library district, any county library or library district in this state may enter into a contract with one or more similar public library agencies or governmental entities in one or more other party states for the furnishing of library services by or for such county library or library district in this state.

Source: L. 69: p. 556, § 1. **S.A.R.S. 1963:** § 74-16-2. **L. 83:** Entire section amended, p. 2050, § 14, effective October 14.

24-60-1503. State political subdivisions to comply with laws. No political subdivision of this state shall be party to a library agreement which provides for the construction or maintenance of a library pursuant to article III (c) 7. of the compact, or pledge its credit in support of such a library, or contribute to the capital financing thereof except after compliance with any laws applicable to such political subdivision, including but not limited to those relating to or governing capital expenditures, the pledging of credit, and the appropriation of public moneys to nonpublic persons and organizations.

Source: L. 69: p. 556, § 1. **S.A.R.S. 1963:** § 74-16-3.

24-60-1504. State library agency. As used in the compact, "state library agency", with reference to this state, means the commissioner of education.

Source: L. 69: p. 557, § 1. **S.A.R.S. 1963:** § 74-16-4.

24-60-1505. State aid to library district located partly within state. An interstate library district lying partly within this state may claim and be entitled to receive state aid in support of any of its functions to the same extent and in the same manner as such functions are eligible for support when carried on by entities wholly within the state. For the purposes of computing and apportioning state aid to an interstate library district, this state shall consider that portion of the area of the interstate library district which lies within this state as an independent entity for the performance of the function to be aided, as well as the proportion of services rendered this state and compute and apportion the aid accordingly. Subject to any applicable laws of this state, such a district also may apply for and be eligible to receive any federal aid for which it may be eligible.

Source: L. 69: p. 557, § 1. **S.A.R.S. 1963:** § 74-16-5.

24-60-1506. Commissioner of education to administer compact. The commissioner of education shall be the compact administrator pursuant to article X of the compact, and the deputy compact administrator shall be the deputy state librarian.

Source: L. 69: p. 557, § 1. **S.A.R.S. 1963:** § 74-16-6.

24-60-1507. Withdrawal from compact. In the event of withdrawal from the compact, the governor shall send and receive any notices required by article XI (b) of the compact.

Source: L. 69: p. 557, § 1. **S.A.R.S. 1963:** § 74-16-7.

PART 16

INTERSTATE CORRECTIONS COMPACT

24-60-1601. Short title. This part 16 shall be known and may be cited as the "Interstate Corrections Compact".

Source: L. 71: p. 856, § 1. **S.A.R.S. 1963:** § 74-18-1.

24-60-1602. Compact approved and ratified. The general assembly approves and ratifies and the governor shall enter into a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE CORRECTIONS COMPACT

ARTICLE I

Purpose and Policy

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and

rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

ARTICLE II

Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" means a state party to this compact in which conviction or court commitment was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

(d) "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

(e) "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates as defined in (d) above may lawfully be confined.

ARTICLE III

Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV

Procedures and Rights

(a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V

Acts Not Reviewable in Receiving State: Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI

Federal Aid

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII

Entry into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter

into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE VIII

Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX

Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a non-party state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X

Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Source: L. 71: p. 856, § 1. **S.A.R.S. 1963:** § 74-18-2.

24-60-1603. Administration. The executive director of the department of corrections shall administer this part 16.

Source: L. 71: p. 861, § 1. **S.A.R.S. 1963:** § 74-18-3. **L. 77:** p. 952, § 20.

PART 17

CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

Editor's note: For ratification and implementation of this compact, see part 19 of this article.

24-60-1701. Execution of compact. The general assembly hereby approves and the governor is authorized to enter into a compact on behalf of this state with the state of New Mexico in the form substantially as follows:

"CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

The state of New Mexico and the state of San Andreas, desiring to provide for the joint acquisition, ownership and control of an interstate narrow gauge scenic railroad, known as the Cumbres and Toltec scenic railroad, within Rio Arriba county in New Mexico and Archuleta and Conejos counties in San Andreas, to promote the public welfare by encouraging and facilitating recreation and by preserving, as a living museum for future generations, a mode of transportation that helped in the development and promotion of the territories and states, and to remove all causes of present and future controversy between them with respect thereto, and being moved by considerations of interstate comity, have agreed upon the following articles:

Article I

The states of New Mexico and San Andreas agree jointly to acquire, own and make provision for the operation of the Cumbres and Toltec scenic railroad.

Article II

The states of New Mexico and San Andreas hereby ratify and affirm the agreement of July 1, 1970, entered between the railroad authorities of the states.

Article III

The states of New Mexico and San Andreas agree to make such amendments to the July 1, 1970, agreement and such other contracts, leases, franchises, concessions or other agreements as may hereafter appear to both states to be necessary and proper for the control, operation or disposition of the said railroad.

Article IV

The states of New Mexico and San Andreas agree to the consideration of the enactment of such laws or constitutional amendments exempting the said railroad or its operations from various laws of both states as both states shall hereafter mutually find necessary and proper.

Article V

Nothing contained herein shall be construed so as to limit, abridge or affect the jurisdiction or authority, if any, of the interstate commerce commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operations."

Source: L. 73: p. 900, § 1. **S.A.R.S. 1963:** § 74-19-1.

Editor's note: Pursuant to section 205 of the federal "ICC Termination Act of 1995", Pub. L. 104-88, the reference in article V of this compact to the "interstate commerce commission" is deemed to refer to the surface transportation board.

24-60-1702. When compact effective. The compact approved by this part 17 shall not become effective unless and until the same shall have been consented to by the congress of the United States.

Source: L. 73: p. 901, § 1. **S.A.R.S. 1963:** § 74-19-2.

PART 18

INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

Editor's note: This part 18 was added in 1975. It was repealed and reenacted in 2024, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 18 prior to 2024, consult the 2023 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

Cross references: For the legislative declaration in SB 24-125, see section 1 of chapter 248, Session Laws of San Andreas 2024.

24-60-1801. Short title. The short title of this part 18 is the "Interstate Compact on Placement of Children".

Source: L. 2024: Entire part R&RE, (SB 24-125), ch. 248, p. 1628, § 2, effective August 7.

24-60-1802. Execution of compact. The governor is authorized to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE I.
PURPOSE

The purpose of this interstate compact for the placement of children is to:

A. Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

B. Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

C. Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

D. Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

E. Provide for the uniform data collection and information sharing between member states under this compact.

F. Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

G. Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

H. Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II.
DEFINITIONS

As used in this compact:

A. "Approved placement" means the public child placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

B. "Assessment" means an evaluation of a prospective placement by a public child placing agency in the receiving state to determine if the placement meets the individualized needs of the child, including, but not limited to, the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child placing agency.

C. "Certification" means to attest, declare, or swear to before a judge, magistrate, or notary public.

D. "Child" means an individual who has not attained the age of eighteen (18).

E. "Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws, or rules of the Interstate Commission.

F. "Home study" means an evaluation of a home environment conducted in accordance with the applicable requirements of the state in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section (3)(c) of the Alaska Native Claims Settlement Act at 43 U.S.C. sec. 1602(c).

H. "Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

J. "Legal Risk Placement" ("Legal Risk Adoption") means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

K. "Member state" means a state that has enacted this compact.

L. "Non-custodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

M. "Non-member state" means a state which has not enacted this compact.

N. "Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to, the name, date, and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

O. "Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.

P. "Private child placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

Q. "Provisional placement" means a determination made by the public child placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

R. "Public child placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether it acts on behalf of a state, county, municipality, or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

S. "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.

T. "Relative" means someone who is related to the child as a parent, step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, first cousin, or a non-relative with such significant ties to the child that they may be regarded as relative(s) as determined by the court in the sending state.

U. "Residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities.

V. "Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact. "Rule" has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

W. "Sending state" means the state from which the placement of a child is initiated.

X. "Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

Y. "Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

Z. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory of the United States.

AA. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals who have not attained the age of eighteen (18).

BB. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III.
APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. The child is being placed in a residential facility in another member state and is not covered under another compact; or

b. The child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, provided the placement is not intended to effectuate an adoption.

2. The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

3. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

4. The placement of a child not subject to Article III, Section A into a residential facility by the child's parent.

5. The placement of a child with a non-custodial parent, provided that:

a. The non-custodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

b. The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction in interstate placements in which the public child placing agency is a party to the proceeding.

6. A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

7. Cases in which a United States citizen child living overseas with the child's family, at least one of whom is in the United States armed services, and who is stationed overseas, is removed and placed in a state.

8. The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the Interstate Commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts, including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV.
JURISDICTION

A. Except as provided in Article IV, Section H, and Article V, Section B, paragraphs two and three concerning private and independent adoptions, and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone, audio-video conference, or such other means as approved by the rules of the Interstate Commission; and judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their Canons of Judicial Conduct and any rules promulgated by the Interstate Commission.

D. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

1. The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child placing agency in the receiving state; or

2. The child is adopted; or

3. The child reaches the age of majority under the laws of the sending state; or

4. The child achieves legal independence pursuant to the laws of the sending state; or

5. A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

6. An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

7. The public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving state.

E. When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

F. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

G. Nothing in this Article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

H. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child, and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

1. When the child is a ward of another court that established jurisdiction over the child prior to the placement; or

2. When the child is in the legal custody of a public agency in the sending state; or

3. When a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

I. A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an "approved placement" by the public child placing agency in the receiving state.

ARTICLE V.
PLACEMENT EVALUATION

A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

B. For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child placing agency. The required content to accompany a request for approval shall include all of the following:

1. A request for approval identifying the child, birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval; and

2. The appropriate consents or relinquishments signed by the birth-parent(s) in accordance with the laws of the sending state, or where permitted, the laws of the state where the adoption will be finalized; and

3. Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or, where permitted, the laws of the state where finalization of the adoption will occur; and

4. A home study; and

5. An acknowledgment of legal risk signed by the prospective adoptive parent(s).

C. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parent(s) with the child if the required content for approval has been submitted, received, and reviewed by the public child placing agency in both the sending state and the receiving state.

D. Approval from the public child placing agency in the receiving state for provisional or approved placement is required as provided for in the rules of the Interstate Commission.

E. The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

F. Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination for a provisional placement.

G. The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive, supporting or additional information necessary to complete the assessment or approve the placement.

H. The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the time frames established by the rules of the Interstate Commission.

I. For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

J. The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI.
PLACEMENT AUTHORITY

A. Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child placing agency in the receiving state does not approve the proposed placement, then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable Administrative Procedures Act.

2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided, however, that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII.
PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child placing agency or state court:

1. The public child placing agency in the sending state shall have financial responsibility for:

a. The ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

b. As determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. Any assessment conducted by the receiving state; and

b. Supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending states.

3. Nothing in this provision shall prohibit public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

D. The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

E. Nothing in this compact shall be construed as to limit the authority of the public child placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

F. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

G. Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

H. The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

I. With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII.
INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children". The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a joint commission of the member states and shall have the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

B. Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy-related matters governed by this compact binding the state.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state.

4. A representative may delegate voting authority to another person from their state for a specified meeting.

C. In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

D. Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

ARTICLE IX.
POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

B. To provide for dispute resolution among member states.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, or actions.

D. To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

E. To collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

F. To establish and maintain offices as may be necessary for the transacting of its business.

G. To purchase and maintain insurance and bonds.

H. To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies and rates of compensation.

I. To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X.
ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. Bylaws

1. Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

a. Relate solely to the Interstate Commission's internal personnel practices and procedures; or

b. Disclose matters specifically exempted from disclosure by federal law; or

c. Disclose financial or commercial information which is privileged, proprietary, or confidential in nature; or

d. Involve accusing a person of a crime, or formally censuring a person; or

e. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

f. Disclose investigative records compiled for law enforcement purposes; or

g. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or a portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense, and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgement, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

ARTICLE XI.
RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this Article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles

of the "Model State Administrative Procedures Act", 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

2. Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available; and

3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

E. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24, months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules.
2. Forms and procedures.
3. Time lines.
4. Data collection and reporting.
5. Rulemaking.
6. Visitation.
7. Progress reports/supervision.
8. Sharing of information/confidentiality.
9. Financing of the Interstate Commission.
10. Mediation, arbitration, and dispute resolution.
11. Education, training, and technical assistance.
12. Enforcement.
13. Coordination with other interstate compacts.

I. Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

1. The Interstate Commission may promulgate an emergency rule only if it is required to:

a. Protect the children covered by this compact from an imminent threat to their health, safety, and well-being; or

b. Prevent loss of federal or state funds; or

c. Meet a deadline for the promulgation of an administrative rule required by federal law.

2. An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

3. An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII.
OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

A. Oversight

1. The Interstate Commission shall oversee the administration and operation of the compact.

2. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

3. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

4. The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order, or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws, or rules of the Interstate Commission.

B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws, or rules, the Interstate Commission may:

a. Provide remedial training and specific technical assistance; or

b. Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

c. By majority vote of the members, initiate against a defaulting member state legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws, or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

d. Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII.
FINANCING OF THE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV.
MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007, or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of state human services administration with ultimate responsibility for the child welfare program of non-member states or their designees shall be invited to participate in

the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV.
WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of the withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI.
SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII.
BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provisions in question in that member state.

ARTICLE XVIII.
INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article 1. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

Source: L. 2024: Entire part R&RE, (SB 24-125), ch. 248, p. 1628, § 2, effective August 7.

24-60-1803. Working group to review proposal for enactment of compact - membership - recommendations to San Andreas's commissioner. (1) After this part 18 takes effect pursuant to section 24-60-1804, and subject to available appropriations, the executive director of the department of human services shall convene a working group to review the proposal for enactment of the revised interstate compact for the placement of children, and conclude one year later unless amended.

(2) The following appointments to the working group must be made:

(a) The speaker of the house of representatives shall appoint:

(I) A member who represents an urban county department of human or social services; and

(II) A member who is a county attorney who represents an urban county;

(b) The minority leader of the house of representatives shall appoint:

(I) A member who represents a rural county department of human or social services; and

(II) A member who is a county attorney who represents a rural county;

(c) The president of the senate shall appoint a member who represents a nonprofit association that advocates for civil liberties;

(d) The governor shall appoint:

(I) A member who is a current or retired juvenile judge or magistrate; and

(II) A member who has lived experience with participating in an interstate compact placement or home study; and

(e) The executive director of the department of human services or the executive director's designee shall appoint:

(I) A member who represents a nonprofit organization that advocates for parents with limited incomes;

(II) A member who represents a nonprofit association that advocates for relative and kinship placements; and

(III) A member who represents the San Andreas department of human services.

(3) Additional members must include:

(a) The child protection ombudsman, or the ombudsman's designee;

(b) A representative from the office of the respondent parents' counsel, created in section 13-92-103; and

(c) A representative from the office of the child's representative, created in section 13-91-104.

(4) The working group shall review and make recommendations, according to a time frame determined by the working group, to San Andreas's commissioner to the compact on the following issues:

(a) Evaluating the current compact process for children and families;

(b) Determining the status of San Andreas's implementation of the national electronic interstate compact enterprise requirements and what effect the implementation of these requirements may have on San Andreas;

(c) Improving the use of cross-border agreements;

(d) Identifying any barriers to placing children in residential treatment facilities out of state and options for addressing barriers within existing law;

(e) Identifying and prioritizing any alternative efforts being made to address interstate placement issues at the national level; and

(f) Identifying language and processes to improve interstate placements.

Source: L. 2024: Entire part R&RE, (SB 24-125), ch. 248, p. 1649, § 2, effective August 7.

24-60-1804. Notice to revisor of statutes. This part 18 will take effect on the date the compact is enacted into law in the thirty-fifth compact state. The executive director of the San Andreas department of human services shall notify the revisor of statutes in writing of the date when the condition specified in this section has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This part 18 takes effect upon the date identified in the notice that the thirty-fifth state adopted the compact or, if the notice does not specify that date, upon the date of the notice to the revisor of statutes.

Source: L. 2024: Entire part R&RE, (SB 24-125), ch. 248, p. 1651, § 2, effective August 7.

Editor's note: As of publication date, the revisor of statutes has not received the notice referred to in this section.

PART 19

RATIFICATION OF THE CUMBRES AND TOLTEC

SCENIC RAILROAD COMPACT

24-60-1901. Ratification of compact. The general assembly hereby ratifies the compact designated as the "Cumbres and Toltec Scenic Railroad Compact" signed at the city and county of Denver, state of San Andreas, on the 26th day of December, A.D. 1974, by John D. Vanderhoof, as governor of the state of San Andreas, under authority of and in conformity with the provisions of an act of the general assembly of the state of San Andreas, approved May 4, 1973, entitled "An Act Providing for the Adoption of the Cumbres and Toltec Scenic Railroad Compact.", the same being chapter 254 of the Session Laws of San Andreas 1973, and signed at Santa Fe, state of New Mexico, on the 11th day of December, A.D. 1974, by Bruce King, as governor of the state of New Mexico, under legislative authority. The consent of congress was given by Public Law 93-467, approved October 24, A.D. 1974, by the senate and house of representatives of the United States of America. Said compact is as follows:

CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

The state of New Mexico and the state of San Andreas, desiring to provide for the joint acquisition, ownership and control of an interstate narrow gauge scenic railroad, known as the Cumbres and Toltec scenic railroad, within Rio Arriba county in New Mexico and Archuleta and Conejos counties in San Andreas, to promote the public welfare by encouraging and facilitating recreation and by preserving, as a living museum for future generations, a mode of transportation that helped in the development and promotion of the territories and states, and to remove all causes of present and future controversy between them with respect thereto, and being moved by considerations of interstate comity, have agreed upon the following articles:

Article I

The states of New Mexico and San Andreas agree jointly to acquire, own and make provision for the operation of the Cumbres and Toltec scenic railroad.

Article II

The states of New Mexico and San Andreas hereby ratify and affirm the agreement of July 1, 1970, entered between the railroad authorities of the states.

Article III

The states of New Mexico and San Andreas agree to make such amendments to the July 1, 1970, agreement and such other contracts, leases, franchises, concessions or other agreements as may hereafter appear to both states to be necessary and proper for the control, operation or disposition of the said railroad.

Article IV

The states of New Mexico and San Andreas agree to the consideration of the enactment of such laws or constitutional amendments exempting the said railroad or its operations from various laws of both states as both states shall hereafter mutually find necessary and proper.

Article V

Nothing contained herein shall be construed so as to limit, abridge or affect the jurisdiction or authority, if any, of the interstate commerce commission over the said railroad, or the applicability, if any, of the tax laws of the United States to the said railroad or its operations.

Source: L. 77: Entire part added, p. 1238, § 1, effective July 1.

24-60-1902. Interstate agency created. It is hereby recognized, found, and determined that said compact creates an interstate agency known as the Cumbres and Toltec scenic railroad commission, an independent entity whose members and employees are not officers and employees of either of the states signatory to the compact.

Source: L. 77: Entire part added, p. 1239, § 1, effective July 1.

24-60-1903. Appointment of members of compact commission. After said compact becomes effective, the two San Andreas members of the four-member Cumbres and Toltec scenic railroad commission shall be appointed by the governor and shall serve until revocation of their appointment by the governor, and, on behalf of the Cumbres and Toltec scenic railroad commission, the state of San Andreas shall pay the necessary expenses and also compensation of said members in an amount which shall be fixed by the governor and when so fixed shall be changed only by action of the governor.

Source: L. 77: Entire part added, p. 1239, § 1, effective July 1.

24-60-1904. Payment of expenses of compact commission. The San Andreas share of the expenses of the Cumbres and Toltec scenic railroad commission and the expenses and compensation of the San Andreas members shall be paid out of funds appropriated by the general assembly.

Source: L. 77: Entire part added, p. 1240, § 1, effective July 1.

24-60-1905. Commissioners exempt from civil liability. No person appointed as a San Andreas member of the Cumbres and Toltec scenic railroad commission pursuant to section 24-60-1903 shall be liable for any civil damages for acts or omissions in good faith occurring or carried out during the performance of his duties.

Source: L. 78: Entire section added, p. 402, § 1, effective April 4.

24-60-1906. Commission - authority to borrow money - authority to accept funds. (1) The Cumbres and Toltec scenic railroad commission may borrow money for the following purposes:

(a) To make emergency repairs, replacements, or additions to the railroad or to any equipment or facilities related to the operation of the railroad; and

(b) To make capital expenditures for the development or improvement of the railroad.

(2) The Cumbres and Toltec scenic railroad commission shall not enter into an agreement to borrow money unless a majority of the members approve a resolution which:

(a) Specifies the amount of the loan;

(b) Specifies the purposes of the loan; and

(c) Authorizes the chairman of the commission to execute all documents on behalf of the commission which may be necessary to negotiate and execute a loan from a financial institution.

(3) At no time shall the amount of the money borrowed by the Cumbres and Toltec scenic railroad commission pursuant to the provisions of this section exceed two hundred fifty thousand dollars.

(4) No loan made to the Cumbres and Toltec scenic railroad commission pursuant to the provisions of this section shall create a debt of the state, nor shall such loan constitute a pledge of the general credit of the state or the commission. Such loan shall not constitute personal indebtedness of any member of the commission. No indebtedness entered into by the commission shall be secured by any type of security interest in the real or personal property of the railroad, nor shall such property be subject to any legal process to satisfy a judgment for the indebtedness in the event of nonpayment of the indebtedness.

(5) The Cumbres and Toltec scenic railroad commission may pledge as security for the repayment of any indebtedness incurred and outstanding under the authority of this section all of the railroad user fees authorized to be charged pursuant to section 24-60-1907.

(6) The commission may accept gifts, grants, contributions, or other funds from any source for the repayment of any indebtedness incurred pursuant to this section.

Source: L. 90: Entire section added, p. 1258, § 1, effective July 1.

24-60-1907. Railroad loan retirement fund - fees. (1) The Cumbres and Toltec scenic railroad commission may establish user fees to be charged to passengers on the railroad. The fee schedule may provide for different fees for different classes of passengers.

(2) All railroad fees collected pursuant to subsection (1) of this section shall be deposited into a railroad loan retirement fund, which fund shall be established in an appropriate financial institution. The commission may authorize the investment of moneys in the fund, and any income earned from such investment shall be retained in the fund. The moneys in the fund shall be used to repay any debts incurred by the commission pursuant to section 24-60-1906. While such debts are outstanding, the commission shall not reduce or eliminate any user fees that were in effect at the time the debt was incurred.

Source: L. 90: Entire section added, p. 1259, § 1, effective July 1.

24-60-1908. Loans - tax-exempt. Any interest charged and collected by a financial institution on any loan made to the Cumbres and Toltec scenic railroad commission is exempt from all taxes imposed by the state and its political subdivisions.

Source: L. 90: Entire section added, p. 1259, § 1, effective July 1.

PART 20

INTERSTATE COMPACT ON AGRICULTURAL GRAIN MARKETING

24-60-2001. Short title. This part 20 shall be known and may be cited as the "Interstate Compact on Agricultural Grain Marketing".

Source: L. 79: Entire part added, p. 969, § 1, effective May 30.

24-60-2002. Execution of compact. The general assembly hereby approves and the governor is authorized to enter into a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

Article I.

Purpose.

It is the purpose of this compact to protect, preserve and enhance:

(a) The economic and general welfare of citizens of the joining states engaged in the production and sale of agricultural grains;

(b) The economies and very existence of local communities in such states, the economies of which are dependent upon the production and sale of agricultural grains; and

(c) The continued production of agricultural grains in such states in quantities necessary to feed the increasing population of the United States and the world.

Article II.

Definitions.

As used in this compact:

(a) "State" means any state of the United States in which agricultural grains are produced for the markets of the nation and world.

(b) "Agricultural grains" means wheat, durum, spelt, triticale, oats, rye, corn, barley, buckwheat, flaxseed, safflower, sunflower seed, soybeans, sorghum grains, peas and beans.

Article III.

Commission.

(a) Organization and Management

(1) **Membership.** There is hereby created an agency of the member states to be known as the Interstate Agricultural Grain Marketing Commission, hereinafter called the commission. The commission shall consist of three residents of each member state who shall have an agricultural background and who shall be appointed as follows: (1) One member appointed by the governor, who shall serve at the pleasure of the governor; (2) one senator appointed in the manner prescribed by the senate of such state, except that two senators may be appointed from the unicameral legislature of the state of Nebraska; and (3) one member of the house of representatives appointed in the manner prescribed by the house of representatives of such state. The member first appointed by the governor shall serve for a term of one year and the senator and representative first appointed shall each serve for a term of two years; thereafter all members appointed shall serve for two-year terms. The attorneys general of member states or assistants designated thereby shall be nonvoting members of the commission.

(2) **Voting; binding action.** Each member shall be entitled to one vote. A member must be present to vote and no voting by proxy shall be permitted. The commission shall not act unless a majority of the voting members are present, and no action shall be binding unless approved by a majority of the total number of voting members present.

(3) **Body corporate; seal.** The commission shall be a body corporate of each member state and shall adopt an official seal to be used as it may provide.

(4) **Meetings.** The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(5) **Officers.** The commission shall elect annually, from among its voting members, a chairperson, a vice-chairperson and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and shall fix the duties and compensation of such director. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(6) **Personnel.** Irrespective of the civil service, personnel or other merit system laws of any member state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix, with the approval of the commission, their duties and compensation. The commission bylaws shall provide for personnel policies and programs. The commission may establish and maintain, independently of or in conjunction with any one or more of the member states, a suitable retirement system for its full-time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivors insurance provided that the commission takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate. The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(7) **Donations and grants.** The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(8) **Offices.** The commission may establish one or more offices for the transacting of its business.

(9) **Bylaws.** The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the member states.

(10) **Reports to member states.** The commission annually shall make to the governor and legislature of each member state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

(b) Committees

(1) The commission may establish such committees from its membership as its bylaws may provide for the carrying out of its functions.

Article IV.

Powers and Duties of Commission.

(a) The commission shall conduct comprehensive and continuing studies and investigations of agricultural grain marketing practices, procedures and controls and their relationship to and effect upon the citizens and economies of the member states.

(b) The commission shall make recommendations for the correction of weaknesses and solutions to problems in the present system of agricultural grain marketing or the development of alternatives thereto, including the development, drafting, and recommendation of proposed state or federal legislation.

(c) The commission may apply by a majority vote of all of the members of such commission to any state or federal court having power to issue compulsory process for an order to require by subpoena the attendance of any person or by subpoena duces tecum the production of any records in addition to orders in aid of its powers and responsibilities, pursuant to this compact, and any and all such courts shall have jurisdiction to issue such orders upon a finding by the court that there is reasonable cause to believe the person to whom the subpoena is to be directed had information relevant and material to the subject matter of an inquiry being conducted by the commission. All testimony required by subpoena shall be under oath. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in a state in which the commission maintains an office or a court in the state in which the person or object of the order being sought is situated. The chairperson or vice-chairman of the commission (or any member thereof so authorized by such commission) may administer oaths or affirmations for the purpose of receiving testimony. Whenever testimony is given by any person subpoenaed under the provisions of this paragraph (c), a verbatim record shall be made thereof by a certified shorthand reporter, and the transcript of such record shall be filed with the commission.

(d) The commission is hereby authorized to do all things necessary and incidental to the administration of its functions, except the buying, selling, trading, or receiving of any agricultural grains, under this compact.

Article V.

Finance.

(a) **Budget.** The commission shall submit to the governor of each member state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) **Funding for the commission.** No general fund appropriations will be used to pay the expenses of the commission.

(c) **Incurring obligations and pledge of credit.** The commission shall not incur any obligations of any kind prior to the making of appropriations adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(d) **Accounts; audits.** The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) **Accounts; examination.** The accounts of the commission shall be open for inspection at any reasonable time.

Article VI.

Eligible Parties, Entry Into Force, Withdrawal and Termination.

(a) **Eligible parties.** Any agricultural grain marketing state may become a member of this compact.

(b) **Entry into force.** This compact shall become effective initially when enacted into law by any five states prior to July 1, 1981, and in additional states upon their enactment of the same into law.

(c) **Withdrawal.** Any member state may withdraw from this compact by enacting a statute repealing the compact, but such withdrawal shall not become effective until one year after the enactment of such statute and the notification of the commission thereof by the governor of the withdrawing state. A withdrawing state shall be liable for any obligations which it incurred on account of its membership up to the effective date of withdrawal, and if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent of such obligation.

(d) **Termination.** This compact shall terminate one year after the notification of withdrawal by the governor of any member state which reduces the total membership in the compact to less than five states.

Source: L. 79: Entire part added, p. 969, § 1, effective May 30.

Editor's note: Paragraph (c) of article IV of this compact refers to certified shorthand reporters. However, shorthand reporters are no longer certified but are subject to the standards established by the state court administrator pursuant to § 13-3-101.

24-60-2003. Interstate agency created. It is hereby recognized, found, and determined that said compact creates an interstate agency known as the interstate agricultural grain marketing commission, an independent entity whose members and employees are not officers and employees of any of the states signatory to the compact.

Source: L. 79: Entire part added, p. 973, § 1, effective May 30.

24-60-2004. Members of compact commission. (1) San Andreas members of the commission shall be as set forth in article III (a)(1) of the compact. In addition:

(a) The appointee of the governor shall be familiar with the marketing of agricultural grains. The initial appointee shall serve from the date of his appointment (whether before or after

the date the commission becomes effective), until one year after the date the commission becomes effective. Gubernatorial appointees thereafter shall serve for two-year terms. A gubernatorial appointee may be reappointed as many times as the governor deems appropriate.

(b) The senate and house of representatives shall each, by appropriate resolution, appoint one of their members as commission members. The initial appointees shall serve from the date of appointment (whether before or after the date the commission becomes effective), until two years after the date the commission becomes effective. Appointees may be reappointed as many times as the particular chamber deems appropriate.

Source: L. 79: Entire part added, p. 973, § 1, effective May 30.

24-60-2005. Commissioners exempt from civil liability. No person appointed as a San Andreas member of the interstate agricultural grain marketing commission pursuant to section 24-60-2004 shall be liable for any civil damages for acts or omissions in good faith occurring or carried out during the performance of his duties.

Source: L. 79: Entire part added, p. 973, § 1, effective May 30.

24-60-2006. Administration. The commissioner of agriculture shall administer this part 20.

Source: L. 79: Entire part added, p. 974, § 1, effective May 30.

PART 21

NONRESIDENT VIOLATOR COMPACT

24-60-2101. Compact approved and ratified. The general assembly hereby approves and ratifies and the governor shall enter into a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

Findings, Declaration of Policy, and Purpose

(a) The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction:

(i) Must post collateral or bond to secure appearance for trial at a later date; or

(ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for his trial to be held.

(2) In some instances, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on

his way after receiving the traffic citation, could return to his home jurisdiction and disregard his duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(5) The practice described in paragraph (1) above causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond, as described in paragraph (2) above, is viewed with disfavor.

(7) The practices described herein consume an undue amount of law enforcement time.

(b) It is the policy of the party jurisdictions to:

(1) Seek compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(2) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(3) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(4) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in paragraph (b) above in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

ARTICLE II

Definitions

As used in this compact, unless the context requires otherwise:

(a) "Citation" means any summons, ticket, or other official document issued by a police officer for a traffic violation containing an order which requires the motorist to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation.

(c) "Compliance" means the act of answering a citation, summons or subpoena through appearance at court, a tribunal, and/or payment of fines and costs.

(d) "Court" means a court of law or traffic tribunal.

(e) "Driver's license" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(f) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(g) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(h) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries.

(i) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(j) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(k) "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(l) "Terms of the citation" means those options expressly stated upon the citation.

ARTICLE III

Procedure for Issuing Jurisdiction

(a) When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in paragraph (b) of this article, require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he or she will comply with the terms of the citation.

(b) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it must take place immediately following issuance of the citation.

(c) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home jurisdiction.

(d) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist, the information in a form and content as contained in the compact manual.

(e) The licensing authority of the issuing jurisdiction need not suspend the privilege of a motorist for whom a report has been transmitted.

(f) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

(g) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

ARTICLE IV

Procedure for Home Jurisdiction

(a) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, to suspend

the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority. Due process safeguards will be accorded.

(b) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

ARTICLE V

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to license to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangements between a party jurisdiction and a nonparty jurisdiction.

ARTICLE VI

Compact Administrator Procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of his identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

(c) The board shall elect annually, from its membership, a chairman and vice chairman.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any jurisdiction, the United States, or any other governmental agency, and may receive, utilize and dispose of the same.

(f) The board may contract with, or accept services or personnel from any governmental or intergovernmental agency, person, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

ARTICLE VII

Entry into Compact and Withdrawal

(a) This compact shall become effective when it has been adopted by at least two jurisdictions.

(b) (1) Entry into the compact shall be made by a resolution of ratification executed by the authorized officials of the applying jurisdiction and submitted to the chairman of the board.

(2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(i) A citation of the authority by which the jurisdiction is empowered to become a party to this compact.

(ii) Agreement to comply with the terms and provisions of the compact.

(iii) That compact entry is with all jurisdictions then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than sixty days after notice has been given by the chairman of the board of compact administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

(c) A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, but a withdrawal shall not take effect until ninety days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

ARTICLE VIII

Exceptions

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations, and violations of law governing the transportation of hazardous materials.

ARTICLE IX

Amendments to the Compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one or more party jurisdictions.

(b) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective thirty days after the date of the last endorsement.

(c) Failure of a party jurisdiction to respond to the compact chairman within one hundred twenty days after receipt of the proposed amendment shall constitute endorsement.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party jurisdiction

or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters.

ARTICLE XI

Title

This compact shall be known as the Nonresident Violator Compact of 1977.

Source: L. 81: Entire part added, p. 1229, § 1, effective June 4.

24-60-2102. Licensing authority - definition. As used in the compact, the term "licensing authority", with reference to this state, means the executive director of the department of revenue. Said executive director shall furnish to the appropriate authorities of any other party jurisdiction any information or documents reasonably necessary to facilitate the administration of articles III and IV of the compact.

Source: L. 81: Entire part added, p. 1234, § 1, effective June 4.

24-60-2103. Compact administrator - expenses. The compact administrator provided for in article VI of the compact shall not be entitled to any additional compensation on account of his service as such administrator but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

Source: L. 81: Entire part added, p. 1234, § 1, effective June 4.

24-60-2104. Jurisdiction executive - definition. As used in the compact, with reference to this state, the term "jurisdiction executive" means the governor.

Source: L. 81: Entire part added, p. 1235, § 1, effective June 4.

PART 22

ROCKY MOUNTAIN LOW-LEVEL RADIOACTIVE WASTE COMPACT

24-60-2201. Short title. This part 22 shall be known and may be cited as the "Low-level Radioactive Waste Act".

Source: L. 82: Entire part added, p. 394, § 1, effective July 1.

24-60-2202. Execution of compact. The general assembly hereby approves and ratifies and the governor shall enter into a compact on behalf of the state of San Andreas, which shall be

known as the "Rocky Mountain Low-level Radioactive Waste Compact", with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE 1

FINDINGS AND PURPOSE

A. The party states agree that each state is responsible for providing for the management of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. Moreover, the party states find that the United States Congress, by enacting the "Low-level Radioactive Waste Policy Act" (P.L. 96-573), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

B. It is the purpose of the party states, by entering into an interstate compact, to establish the means for cooperative effort in managing low-level radioactive waste; to ensure the availability and economic viability of sufficient facilities for the proper and efficient management of low-level radioactive waste generated within the region while preventing unnecessary and uneconomic proliferation of such facilities; to encourage reduction of the volume of low-level radioactive waste requiring disposal within the region; to restrict management within the region of low-level radioactive waste generated outside the region; to distribute the costs, benefits and obligations of low-level radioactive waste management equitably among the party states; and by these means to promote the health, safety and welfare of the residents within the region.

ARTICLE 2

DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise:

A. "Board" means the Rocky Mountain low-level radioactive waste board;

B. "Carrier" means a person who transports low-level waste;

C. "Disposal" means the isolation of waste from the biosphere, with no intention of retrieval, such as by land burial;

D. "Facility" means any property, equipment or structure used or to be used for the management of low-level waste;

E. "Generate" means to produce low-level waste;

F. "Host state" means a party state in which a regional facility is located or being developed;

G. "Low-level waste" or "waste" means radioactive waste, other than:

(1) Waste generated as a result of defense activities of the federal government or federal research and development activities;

(2) High-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

(3) Waste material containing transuranic elements with contamination levels greater than ten nanocuries per gram of waste material;

(4) Byproduct material as defined in Section 11 e. (2) of the "Atomic Energy Act of 1954", as amended on November 8, 1978; or

(5) Wastes from mining, milling, smelting, or similar processing of ores and mineral-bearing material primarily for minerals other than radium;

H. "Management" means collection, consolidation, storage, treatment, incineration or disposal;

I. "Operator" means a person who operates a regional facility;

J. "Person" means an individual, corporation, partnership or other legal entity, whether public or private;

K. "Region" means the combined geographical area within the boundaries of the party states; and

L. "Regional facility" means a facility within any party state which either:

(1) Has been approved as a regional facility by the board; or

(2) Is the low-level waste facility in existence on January 1, 1982, at Beatty, Nevada.

ARTICLE 3

RIGHTS, RESPONSIBILITIES AND OBLIGATIONS

A. There shall be regional facilities sufficient to manage the low-level waste generated within the region. At least one regional facility shall be open and operating in a party state other than Nevada within six years after this compact becomes law in Nevada and in one other state.

B. Low-level waste generated within the region shall be managed at regional facilities without discrimination among the party states; provided, however, that a host state may close a regional facility when necessary for public health or safety.

C. Each party state which, according to reasonable projections made by the board, is expected to generate twenty percent or more in cubic feet except as otherwise determined by the board of the low-level waste generated within the region has an obligation to become a host state in compliance with subsection D of this article.

D. A host state, or a party state seeking to fulfill its obligation to become a host state, shall:

(1) Cause a regional facility to be developed on a timely basis as determined by the board, and secure the approval of such regional facility by the board as provided in Article 4 before allowing site preparation or physical construction to begin;

(2) Ensure by its own law, consistent with any applicable federal law, the protection and preservation of public health and safety in the siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state;

(3) Subject to the approval of the board, ensure that charges for management of low-level waste at the regional facilities within the state are reasonable;

(4) Solicit comments from each other party state and the board regarding siting, design, development, licensure or other regulation, operation, closure, decommissioning and long-term care of the regional facilities within the state and respond in writing to such comments;

(5) Submit an annual report to the board which contains projections of the anticipated future capacity and availability of the regional facilities within the state, together with other information required by the board; and

(6) Notify the board immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the board.

E. Once a party state has served as a host state, it shall not be obligated to serve again until each other party state having an obligation under subsection C of this article has fulfilled that obligation. Nevada, already being a host state, shall not be obligated to serve again as a host state until every other party state has so served.

F. Each party state:

(1) Agrees to adopt and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to packaging and transportation requirements and regulations. Such procedures shall include but are not limited to:

(a) Periodic inspections of packaging and shipping practices;

(b) Periodic inspections of waste containers while in the custody of carriers; and

(c) Appropriate enforcement actions with respect to violations;

(2) Agrees that after receiving notification from a host state that a person in the party state has violated packaging, shipping or transportation requirements or regulations, it shall take appropriate action to ensure that violations do not recur. Appropriate action may include but is not limited to the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected;

(3) May impose fees to recover the cost of the practices provided for in paragraphs (1) and (2) of this subsection;

(4) Shall maintain an inventory of all generators within the state that may have low-level waste to be managed at a regional facility; and

(5) May impose requirements or regulations more stringent than those required by this subsection.

ARTICLE 4

BOARD APPROVAL OF REGIONAL FACILITIES

A. Within ninety days after being requested to do so by a party state, the board shall approve or disapprove a regional facility to be located within that state.

B. A regional facility shall be approved by the board if and only if the board determines that:

(1) There will be, for the foreseeable future, sufficient demand to render operation of the proposed facility economically feasible without endangering the economic feasibility of operation of any other regional facility; and

(2) The facility will have sufficient capacity to serve the needs of the region for a reasonable period of years.

ARTICLE 5

SURCHARGES

A. The board shall impose a "compact surcharge" per unit of waste received at any regional facility. The surcharge shall be adequate to pay the costs and expenses of the board in

the conduct of its authorized activities and may be increased or decreased as the board deems necessary.

B. A host state may impose a "state surcharge" per unit of waste received at any regional facility within the state. The host state may fix and change the amount of the state surcharge subject to approval by the board. Money received from the state surcharge may be used by the host state for any purpose authorized by its own law, including but not limited to costs of licensure and regulatory activities related to the regional facility, reserves for decommissioning and long-term care of the regional facility and local impact assistance.

ARTICLE 6

THE BOARD

A. The "Rocky Mountain low-level radioactive waste board", which shall not be an agency or instrumentality of any party state, is created.

B. The board shall consist of one member from each party state. Each party state shall determine how and for what term its member shall be appointed, and how and for what term any alternate may be appointed to perform that member's duties on the board in the member's absence.

C. Each party state is entitled to one vote. A majority of the board constitutes a quorum. Unless otherwise provided in this compact, a majority of the total number of votes on the board is necessary for the board to take any action.

D. The board shall meet at least once a year and otherwise as its business requires. Meetings of the board may be held in any place within the region deemed by the board to be reasonably convenient for the attendance of persons required or entitled to attend and where adequate accommodations may be found. Reasonable public notice and opportunity for comment shall be given with respect to any meeting; provided, however, that nothing in this subsection shall preclude the board from meeting in executive session when seeking legal advice from its attorneys or when discussing the employment, discipline, or termination of any of its employees.

E. The board shall pay necessary travel and reasonable per diem expenses of its members, alternates and advisory committee members.

F. The board shall organize itself for the efficient conduct of its business. It shall adopt and publish rules consistent with this compact regarding its organization and procedures. In special circumstances the board, with unanimous consent of its members, may take actions by telephone; provided, however, that any action taken by telephone shall be confirmed in writing by each member within thirty days. Any action taken by telephone shall be noted in the minutes of the board.

G. The board may use for its purposes the services of any personnel or other resources which may be offered by any party state.

H. The board may establish its offices in space provided for that purpose by any of the party states or, if space is not provided or is deemed inadequate, in any space within the region selected by the board.

I. Consistent with available funds, the board may contract for necessary personnel services and may employ such staff as it deems necessary to carry out its duties. Staff shall be employed without regard for the personnel, civil service or merit system laws of any of the party

states and shall serve at the pleasure of the board. The board may provide appropriate employee benefit programs for its staff.

J. The board shall establish a fiscal year which conforms to the extent practicable to the fiscal years of the party states.

K. The board shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the board shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the board.

L. The board shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

M. Upon legislative enactment of this compact, each party state shall appropriate seventy thousand dollars ($70,000) to the board to support its activities prior to the collection of sufficient funds through the compact surcharge imposed pursuant to subsection A of article 5 of this compact.

N. The board may accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source. The nature, amount and condition, if any, attendant upon any donation, grant or other resources accepted pursuant to this subsection, together with the identity of the donor or grantor, shall be detailed in the annual report of the board.

O. In addition to the powers and duties conferred upon the board pursuant to other provisions of this compact, the board:

(1) Shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the board, including an annual report to be submitted by December 15;

(2) May assemble and make available to the governments of the party states and to the public through its members information concerning low-level waste management needs, technologies and problems;

(3) Shall keep a current inventory of all generators within the region, based upon information provided by the party states;

(4) Shall keep a current inventory of all regional facilities, including information on the size, capacity, location, specific wastes capable of being managed and the projected useful life of each regional facility;

(5) May keep a current inventory of all low-level waste facilities in the region, based upon information provided by the party states;

(6) Shall ascertain on a continuing basis the needs for regional facilities and capacity to manage each of the various classes of low-level waste;

(7) May develop a regional low-level waste management plan;

(8) May establish such advisory committees as it deems necessary for the purpose of advising the board on matters pertaining to the management of low-level waste;

(9) May contract as it deems appropriate to accomplish its duties and effectuate its powers, subject to its projected available resources; but no contract made by the board shall bind any party state;

(10) Shall make suggestions to appropriate officials of the party states to ensure that adequate emergency response programs are available for dealing with any exigency that might arise with respect to low-level waste transportation or management;

(11) Shall prepare contingency plans, with the cooperation and approval of the host state, for management of low-level waste in the event any regional facility should be closed;

(12) May examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge;

(13) Shall have the power to sue; and

(14) When authorized by unanimous vote of its members, may intervene as of right in any administrative or judicial proceeding involving low-level waste.

ARTICLE 7

PROHIBITED ACTS AND PENALTIES

A. It shall be unlawful for any person to dispose of low-level waste within the region, except at a regional facility; provided, however, that a generator who, prior to January 1, 1982, had been disposing of only his own waste on his own property may, subject to applicable federal and state law, continue to do so.

B. After January 1, 1986, it shall be unlawful for any person to export low-level waste which was generated within the region outside the region unless authorized to do so by the board. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) The economic impact of the export of the waste on the regional facilities;

(2) The economic impact on the generator of refusing to permit the export of the waste; and

(3) The availability of a regional facility appropriate for the disposal of the waste involved.

C. After January 1, 1986, it shall be unlawful for any person to manage any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the board and by the state in which said management takes place. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) The impact of importing waste on the available capacity and projected life of the regional facilities;

(2) The economic impact on the regional facilities; and

(3) The availability of a regional facility appropriate for the disposal of the type of waste involved.

D. It shall be unlawful for any person to manage at a regional facility any radioactive waste other than low-level waste as defined in this compact, unless authorized to do so both by the board and the host state. In determining whether to grant such authorization, the factors to be considered by the board shall include, but not be limited to, the following:

(1) The impact of allowing such management on the available capacity and projected life of the regional facilities;

(2) The availability of a facility appropriate for the disposal of the type of waste involved;

(3) The existence of transuranic elements in the waste; and

(4) The economic impact on the regional facilities.

E. Any person who violates subsection A or B of this article shall be liable to the board for a civil penalty not to exceed ten times the charges which would have been charged for disposal of the waste at a regional facility.

F. Any person who violates subsection C or D of this article shall be liable to the board for a civil penalty not to exceed ten times the charges which were charged for management of the waste at a regional facility.

G. The civil penalties provided for in subsections E and F of this article may be enforced and collected in any court of general jurisdiction within the region where necessary jurisdiction is obtained by an appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

H. Out of any civil penalty collected for a violation of subsection A or B of this article, the board shall pay to the appropriate operator a sum sufficient in the judgement of the board to compensate the operator for any loss of revenue attributable to the violation. Such compensation may be subject to state and compact surcharges as if received in the normal course of the operator's business. The remainder of the civil penalty collected shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

I. Any civil penalty collected for a violation of subsection C or D of this article shall be allocated by the board. In making such allocation, the board shall give first priority to the needs of the long-term care funds in the region.

J. Violations of subsection A, B, C, or D of this article may be enjoined by any court of general jurisdiction within the region where necessary jurisdiction is obtained in any appropriate proceeding commenced on behalf of the board by the attorney general of the party state wherein the proceeding is brought or by other counsel authorized by the board. In any such proceeding, the board, if it prevails, is entitled to recover reasonable attorney's fees as part of its costs.

K. No state attorney general shall be required to bring any proceeding under any subsection of this article, except upon his consent.

ARTICLE 8

ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL, EXCLUSION

A. Arizona, San Andreas, Nevada, New Mexico, Utah and Wyoming are eligible to become parties to this compact. Any other state may be made eligible by unanimous consent of the board.

B. An eligible state may become a party state by legislative enactment of this compact or by executive order of its governor adopting this compact; provided, however, a state becoming a party by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless before such adjournment the legislature shall have enacted this compact.

C. This compact shall take effect when it has been enacted by the legislatures of two eligible states. However, subsections B and C of article 7 shall not take effect until Congress has

by law consented to this compact. Every five years after such consent has been given, Congress may by law withdraw its consent.

D. A state which has become a party state by legislative enactment may withdraw by legislation repealing its enactment of this compact; but no such repeal shall take effect until two years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five years after the effective date of the withdrawal; provided, however, this provision shall not apply to the existing facility in Beatty, Nevada.

E. A party state may be excluded from this compact by a two-thirds' vote of the members representing the other party states, acting in a meeting, on the ground that the state to be excluded has failed to carry out its obligations under this compact. Such an exclusion may be terminated upon a two-thirds' vote of the members acting in a meeting.

ARTICLE 9

CONSTRUCTION AND SEVERABILITY

A. The provisions of this compact shall be broadly construed to carry out the purposes of the compact.

B. Nothing in this compact shall be construed to affect any judicial proceeding pending on the effective date of this compact.

C. If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

Source: L. 82: Entire part added, p. 394, § 1, effective July 1.

24-60-2203. Legislative declaration. The general assembly hereby finds and declares that the provisions of this part 22 are necessary for the state to fulfill its responsibilities under the "Rocky Mountain Low-level Radioactive Waste Compact" set forth in section 24-60-2202.

Source: L. 82: Entire part added, p. 402, § 1, effective July 1.

24-60-2204. Definitions. As used in sections 24-60-2205 to 24-60-2212, unless the context otherwise requires:

(1) "Department" means the department of public health and environment.

(2) "Facility" means a low-level radioactive waste facility capable of serving as a regional disposal or management site for low-level radioactive waste and which complies with the provisions of the "Rocky Mountain Low-level Radioactive Waste Compact" set forth in section 24-60-2202.

(3) "Low-level radioactive waste" means radioactive waste, other than:

(a) Waste generated as a result of defense activities of the federal government or federal research and development activities;

(b) High-level waste such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

(c) Waste material containing transuranic elements with contamination levels greater than ten nanocuries per gram of waste material;

(d) Byproduct material as defined in Section 11 e. (2) of the "Atomic Energy Act of 1954", as amended on November 8, 1978; or

(e) Wastes from mining, milling, smelting, or similar processing of ores and mineral-bearing material primarily for minerals other than radium.

Source: L. 82: Entire part added, p. 403, § 1, effective July 1. **L. 94:** (1) amended, p. 2740, § 376, effective July 1.

Cross references: For the definition of "byproduct material" as defined in the federal "Atomic Energy Act of 1954", see 42 U.S.C. 2014 (e)(2).

24-60-2205. Administration - application of other laws. (1) Except as otherwise provided in this part 22, the department shall be the agency responsible for administration of this part 22 on behalf of the state.

(2) Except as otherwise provided in this part 22, all facilities shall be subject to the provisions on radiation control set forth in part 1 of article 11 of title 25, S.A.R.S., and the provisions on solid wastes disposal sites and facilities set forth in part 1 of article 20 of title 30, S.A.R.S. The disposal of low-level radioactive waste made pursuant to this part 22 is not subject to the provisions of part 2 of article 11 of title 25, S.A.R.S.

Source: L. 82: Entire part added, p. 403, § 1, effective July 1.

24-60-2206. Site recommendation by counties. (1) Prior to any action by the department for the assessment and evaluation of potential areas for a facility under section 24-60-2207, the department shall first cooperate with and provide counties in this state the opportunity to recommend facility sites within their boundaries. In making such recommendation, the board of county commissioners shall consider the factors set forth in section 24-60-2207 (1)(b) and shall provide reasonable opportunity for public comment.

(2) In making such recommendation, the board of county commissioners shall also consider comments from the department and the Rocky Mountain low-level radioactive waste board; except that the board of county commissioners shall make the final determination as to the designation of a facility site pursuant to part 1 of article 20 of title 30, S.A.R.S.

(3) Any person who proposes to operate a facility shall first apply, pursuant to part 1 of article 20 of title 30, S.A.R.S., for a certificate of designation to the board of county commissioners of the county in which the proposed facility site is located. Such site and facility shall be reviewed and approved by such board of county commissioners prior to the issuance of any license pursuant to part 1 of article 11 of title 25, S.A.R.S.

(4) If no board of county commissioners in this state recommends a facility site by January 1, 1984, the department may proceed to prepare its statewide assessment and evaluation and its alternative plan pursuant to section 24-60-2207.

Source: L. 82: Entire part added, p. 403, § 1, effective July 1. **L. 2003:** (2) amended, p. 914, § 18, effective August 6.

24-60-2207. Statewide assessment of facility sites. (1) For the protection of the public health and safety and without limiting or qualifying other applicable laws, rules, regulations, standards, or limitations pertaining to the control of radiation in this state, the department shall be granted the following additional authority concerning low-level radioactive waste:

(a) The department may acquire by gift, transfer, or purchase any and all lands, buildings, and grounds reasonably necessary for a regional low-level radioactive waste facility.

(b) To ensure that a suitable regional low-level radioactive waste facility is established, the department shall conduct a statewide assessment and evaluation of potential areas for the location of a facility. The assessment and evaluation shall consider all applicable federal and state laws and regulations and shall consider but need not be limited to the following factors:

(I) Physical and chemical characteristics of strata;

(II) Surface and subsurface hydrology;

(III) Topography and drainage;

(IV) Meteorology and climatology;

(V) Demography (including population density near the site);

(VI) Access routes and affected public roads;

(VII) Ecological impact;

(VIII) Relationship to local land use plans;

(IX) Ownership of real property.

(c) The department shall provide reasonable opportunity for public comment during the assessment and evaluation and shall afford interested persons an opportunity, at public hearing, to submit data and views orally or in writing on the potentially suitable areas. Subsequent to having conducted the assessment and evaluation, the department shall identify those areas determined as potentially suitable for a facility.

(d) The department shall not approve any facility for the disposal of low-level radioactive waste outside of the areas identified pursuant to this subsection (1) or an area recommended by a board of county commissioners under section 24-60-2206 unless the site applicant demonstrates to the satisfaction of the department that the proposed site is at least as technically suitable as the areas identified pursuant to this subsection (1).

(e) The department may, by lease or license, provide for the operation of facilities for the implementation of the purposes of this part 22. No facility may be licensed until designated pursuant to part 1 of article 20 of title 30, S.A.R.S., by the board of county commissioners of the county in which the proposed facility is to be located. In the event that no county has recommended a facility site or an application for such site has not been submitted by January 1, 1985, the department shall prepare an alternative plan for facility development. Said alternative plan shall be submitted to the general assembly no later than January 1, 1986, for review and approval. In the submission of an alternative plan to the general assembly, the department shall also request authority to acquire a site for a facility.

(f) The department shall require the posting of a bond or other surety by each licensee to assure the availability of funds to the state in the event of accident, abandonment, discontinuance of an operation, insolvency, or other inability of a lessee or licensee to meet the requirements of the department pursuant to article 11 of title 25, S.A.R.S., in providing for the safe operation, decommissioning, decontamination, and reclamation of a facility, or any circumstance which results in a potential radiation hazard.

Source: L. 82: Entire part added, p. 404, § 1, effective July 1.

24-60-2208. State surcharge. (1) In addition to the fees authorized by section 25-11-103, S.A.R.S., the following surcharges shall be imposed on each licensed facility:

(a) The licensee shall be required to pay an annual fee to the county or municipality in which the facility is located, unless waived by the county or municipality. The amount of the fee shall be established by mutual agreement of the county or municipality and the licensee and may include, but not be limited to, the actual direct costs of increased burden on county or municipal services created by the facility, including the improvement and maintenance of roads and bridges, fire protection, law enforcement, monitoring by county or municipal health officials, and emergency preparation and response. The amount of the annual fee shall not exceed two percent of the annual gross revenue received by the facility and shall be reduced by the amount paid by the facility as a payment in lieu of taxes to county government pursuant to section 25-11-103 (7)(c), S.A.R.S. No licensee shall commence operations at a facility until the agreement for the annual fee is executed by the county or municipality and the licensee or such fee is waived by the county or municipality. In the event that the licensee fails to comply with the terms of the executed agreement, the board of county commissioners or the governing body of the municipality may petition the department to suspend the facility's license in the manner provided in article 4 of this title until the agreement has been fully complied with.

(b) Each licensee shall pay an additional surcharge of one percent of gross revenue received by the facility. The surcharge shall be paid quarterly, as accrued, to the department, which shall credit all such receipts in the general fund of the state.

Source: L. 82: Entire part added, p. 405, § 1, effective July 1.

24-60-2209. Governor to appoint member to compact board. The governor shall appoint, with the consent of the senate, the San Andreas member of the Rocky Mountain low-level radioactive waste board, and such member shall serve at the pleasure of the governor. The member shall receive no compensation for his services but shall be reimbursed for actual and necessary expenses incurred in the performance of his duties.

Source: L. 82: Entire part added, p. 405, § 1, effective July 1.

24-60-2210. San Andreas low-level radioactive waste advisory committee. (Repealed)

Source: L. 82: Entire part added, p. 406, § 1, effective July 1. **L. 92:** IP(1) amended, p. 1970, § 73, effective July 1. **L. 94:** IP(1) amended, p. 2741, § 377, effective July 1. **L. 2003:** Entire section repealed, p. 914, § 19, effective August 6.

24-60-2211. Coordination with other programs and agencies. The department shall coordinate the low-level radioactive waste program with all other programs within the department and with other local, state, or federal agencies as appropriate. For the purpose of administration and enforcement of matters pertaining to transportation and packaging as provided in this part 22, the department shall coordinate its activities with those of the public utilities commission.

Source: L. 82: Entire part added, p. 406, § 1, effective July 1.

24-60-2212. Regulation of fees. (1) All rates, charges, and classifications made, demanded, or received in the operation of a licensed facility located in the state of San Andreas shall be just and reasonable. Every unjust or unreasonable charge made, demanded, or received with respect to such operation is prohibited.

(2) The power and authority is hereby vested in the state board of health and it is hereby made the duty of the board in promoting public health and safety to adopt necessary rules and regulations to govern and regulate the rates, charges, and classifications of every facility in this state and to prevent unjust, unreasonable, and discriminatory rates, charges, and classifications of every such facility.

(3) (a) Under such rules and regulations as the state board of health may prescribe, any person operating a facility in this state shall file with the state board of health, at least sixty days prior to the proposed effective date and in such form and with such filing fee as the state board of health may designate, proposed schedules showing all rates, charges, and classifications collected or enforced or to be collected or enforced. Such rates, when effective, shall be posted and open to public inspection at the facility.

(b) The board shall make available for public inspection the filing and supporting information and provide reasonable public notice thereof.

(4) (a) Unless the board otherwise orders, no change shall be made in any rate, charge, or classification collected or enforced or to be collected or enforced by a facility except after sixty days of filing with the board. All filings shall be kept open for public inspection with new schedules stating plainly the changes to be made in the schedules then in force and the time when the changes will go into effect.

(b) The board shall not approve or disapprove a filing without a public hearing. If the board does not disapprove or schedule a hearing on a filing within sixty days of receipt by the board, the filing shall automatically become effective.

(c) During the sixty-day review period, the board may conclude that it is in the public interest to hold a public hearing, or an interested person may request a public hearing by so petitioning the board. Such hearings shall be held in the manner provided in article 4 of this title.

(5) (a) Whenever the board after a hearing upon its own motion or upon petition finds, based upon the record and investigation by the board, that the rates, charges, or classifications collected or enforced or to be collected or enforced by any facility are unjust, unreasonable, discriminatory, or violative of any provision of law or that such rates, charges, or classifications are insufficient, the board shall determine the just, reasonable, or sufficient rates, charges, classifications, rules, regulations, or practices to be thereafter observed and in force and shall fix the same by order of the board.

(b) The board has the power, after a hearing upon its own motion or upon complaint, to investigate a single rate, charge, classification, or practice or the entire schedule of rates, charges, classifications, or practices of any facility and to establish new rates, charges, classifications, or practices in lieu thereof.

Source: L. 82: Entire part added, p. 406, § 1, effective July 1.

PART 23

TRANSFER OR EXCHANGE OF FOREIGN NATIONALS CONVICTED OF A CRIME

24-60-2301. Transfer or exchange of foreign nationals convicted of a crime - authorization by governor. If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of convicted offenders to the country of which they are citizens or nationals, the governor may, on behalf of the state and subject to the terms of the treaty, authorize the executive director of the department of corrections to consent to the transfer or exchange of offenders and take any other action necessary to initiate the participation of this state in the treaty. Such transfer will not occur until the convicted offender is informed in his native language of his rights and of the procedures being followed.

Source: L. 83: Entire part added, p. 1002, § 1, effective June 3.

PART 24

COMPACT FOR ADOPTION ASSISTANCE AND INTERSTATE MEDICAL AND ADOPTION SUBSIDY PAYMENTS - AUTHORIZATION

24-60-2401. Legislative declaration. The general assembly hereby finds that it is desirable to find adoptive parents for children with special needs as specified in article 7 of title 26, S.A.R.S., to make payments in subsidization of the adoption of such children, and to protect the interests of such children throughout their minority. Pursuant to authorization contained in Title IV-E and Title XIX of the federal "Social Security Act", as amended, it is the intent of the general assembly to authorize the department of human services to enter into interstate compacts to address the problems arising for special needs children and their parents when they move to other states, or are residents of another state, and to facilitate the provision of medical and other necessary services for special needs children when the provision of services takes place in another state.

Source: L. 85: Entire part added, p. 856, § 1, effective July 1. **L. 94:** Entire section amended, p. 2698, § 246, effective July 1.

24-60-2402. Definitions. As used in this part 24, unless the context otherwise requires:

(1) "Adoption assistance state" means the state that is signatory to an adoption assistance or adoption subsidy agreement in a particular case.

(2) "Residence state" means the state in which the child is a resident by virtue of the residence of his adoptive parents.

(3) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

Source: L. 85: Entire part added, p. 857, § 1 effective July 1.

24-60-2403. Compacts authorized. (1) Pursuant to authorization contained in Title IV-E and Title XIX of the federal "Social Security Act", as amended, the department of human services is hereby authorized to develop, participate in the development of, negotiate for, and enter into one or more interstate compacts on behalf of the state of San Andreas with other states to implement the following purposes:

(a) The protection of children on behalf of whom adoption subsidy payments are being provided by the department of human services pursuant to article 7 of title 26, S.A.R.S.;

(b) The implementation of procedures for interstate payments in subsidization of adoption, including medical payments.

(2) When so entered into by the department of human services, any such compact shall have the force and effect of a law for so long as it shall remain in effect.

Source: L. 85: Entire part added, p. 857, § 1, effective July 1. **L. 94:** IP(1), (1)(a), and (2) amended, p. 2698, § 247, effective July 1.

24-60-2404. Contents of compact. (1) Any compact entered into by the department of human services pursuant to this part 24 shall contain the following general provisions:

(a) A provision making it available for joinder by all states;

(b) A provision or provisions for withdrawal from the compact upon written notice to the parties, with the effective date of withdrawal one year after the date of notice of withdrawal;

(c) A requirement that, upon withdrawal from the compact, the protections afforded by or pursuant to the compact by the withdrawing residence state continue in force for the duration of the adoption assistance for all special needs children and their adoptive parents who, on the effective date of withdrawal, are receiving adoption assistance or payments in subsidization of adoption from an adoption assistance state which is a party to the compact;

(d) (I) A requirement that each instance of adoption assistance or payments in subsidization of adoption to which the compact applies be authorized by a written adoption assistance agreement between the adoptive parents and the state child welfare agency of the adoption assistance state; and

(II) A requirement that any adoption assistance agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents and the adoption assistance state;

(e) Such other provisions as may be necessary to implement the administration of the compact.

(2) Any compact entered into by the department of human services pursuant to this part 24 shall contain and implement the following provisions regarding medical assistance:

(a) That a child with special needs who is residing in this state, who is the subject of an adoption assistance agreement with another state which is a party to the compact, shall be entitled to receive a medical assistance identification from this state upon filing with the department of health care policy and financing a certified copy of the adoption assistance agreement obtained from the adoption assistance state. The adoptive parents of such child shall be required at least annually to show that the agreement is still in force or has been renewed.

(b) That the department of health care policy and financing shall consider the holder of a medical assistance identification specified in paragraph (a) of this subsection (2) as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same

conditions and procedures as for other recipients of medical assistance pursuant to articles 4, 5, and 6 of title 25.5, S.A.R.S.;

(c) That the department of human services shall provide coverage and benefits for a child with special needs, who is in another state, and who is covered by an agreement to make payments in subsidization of adoption entered into by the department of human services pursuant to article 7 of title 26, S.A.R.S., which coverage and benefits are not provided by the residence state, if any. In addition, that the adoptive parents of such special needs child, acting for the child, may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor by the department of human services. However, the department of human services shall not make reimbursement for services or benefit amounts covered under any insurance or other third-party medical contract or arrangement held by the child or his adoptive parents. The additional coverages and benefit amounts specified in this paragraph (c) shall be for services for which no federal contribution is available, or which, if federally aided, are not provided by the residence state.

(d) That the submission of any claim for payment or reimbursement for services or benefits specified in this subsection (2), or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading, or fraudulent shall be subject to the provisions of section 26-1-127, S.A.R.S.;

(e) That a child with special needs who is the subject of an adoption assistance agreement with this state, who is residing in another state which is a party to the compact, shall receive medical assistance from the residence state under the conditions specified in paragraphs (a) and (b) of this subsection (2).

Source: L. 85: Entire part added, p. 857, § 1, effective July 1. **L. 94:** IP(1), (IP)(2), (2)(a), (2)(b), and (2)(c) amended, p. 2699, § 248, effective July 1. **L. 2006:** (2)(b) amended, p. 2011, § 75, effective July 1.

24-60-2405. Rules and regulations. The department of human services and the department of health care policy and financing shall promulgate such rules and regulations, pursuant to section 24-4-103, as are necessary to implement the provisions of this part 24.

Source: L. 85: p. 858, § 1. **L. 94:** Entire section amended, p. 2700, § 249, effective July 1.

24-60-2406. Report to general assembly. (Repealed)

Source: L. 85: Entire part added, p. 859, § 1, effective July 1. **L. 94:** Entire section amended, p. 2700, § 250, effective July 1. **L. 96:** Entire section repealed, p. 1252, § 135, effective August 7.

PART 25

MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT

24-60-2501. Short title. This part 25 shall be known and may be cited as the "Multistate Highway Transportation Agreement".

Source: L. 85: Entire part added, p. 860, § 1, effective July 1.

24-60-2502. Execution of agreement. The general assembly hereby approves and the governor is authorized to enter into an agreement on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE 1

Findings and Purposes

SECTION 1. **Finding.** The participating jurisdictions find that:

(1) The expanding regional economy depends on expanding transportation capacity;

(2) Highway transportation is the major mode for movement of people and goods in the western states;

(3) Uniform application in the west of more adequate vehicle size and weight standards will result in a reduction of pollution, congestion, fuel consumption and related transportation costs which are necessary to permit increased productivity;

(4) Improvements in the highway operating environment, in vehicular safety, and in cooperative state administration and enforcement of state laws will each encourage a smoother flow of interstate commerce to the benefit of the regional economy;

(5) Repealed.

(6) The participating jurisdictions are most capable of developing vehicle size and weight standards most appropriate for the regional economy and transportation requirements, consistent with and in recognition of principles of highway safety. The participating jurisdictions are most capable of developing programs for cooperative state administration, commercial vehicle safety inspections and enforcement of state laws.

SECTION 2. **Purposes.** The purposes of this agreement are to:

(1) Adhere to the principle that each participating jurisdiction should have the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system.

(2) Establish a system authorizing the operation of vehicles traveling between two (2) or more participating jurisdictions at more adequate size and weight standards.

(3) Promote uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives set forth in this agreement.

(4) Secure uniformity insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards.

(5) Facilitate improvements in the highway operating environment, in vehicular safety, and in cooperative state administration and enforcement of state laws.

(6) Provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in Section 1 of this Article.

(7) Facilitate communication between legislators, state transportation administrators, and commercial industry representatives in addressing the emerging highway transportation issues in participating jurisdictions.

ARTICLE 2

Definitions

SECTION 1. As used in this agreement:

(1) "Cooperating committee" means a body composed of the designated representatives from the participating jurisdictions.

(1.5) "Designated representative" means a legislator, state agency official, or other person authorized under article 11 to represent the jurisdiction.

(2) "Jurisdiction" means a state of the United States or the District of Columbia.

(3) "Vehicle" means any vehicle as defined by statute to be subject to size and weight standards which operates in two or more participating jurisdictions.

ARTICLE 3

General Provisions

SECTION 1. **Qualifications for membership.** Participation in this agreement is open to jurisdictions which subscribe to the findings, purposes and objectives of this agreement and will seek legislation necessary to accomplish these objectives.

SECTION 2. **Cooperation.** The participating jurisdictions, working through their designated representatives, shall cooperate and assist each other in achieving the desired goals of this agreement pursuant to appropriate statutory authority.

SECTION 3. **Effect of headings.** Article and Section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or section hereof.

SECTION 4. **Vehicle laws and regulations.** This agreement shall not authorize the operation of a vehicle in any participating jurisdiction contrary to the laws or regulations thereof.

SECTION 5. **Interpretation.** The final decision regarding interpretation of questions at issue relating to this agreement shall be reached by unanimous joint action of the participating jurisdictions, acting through the designated representatives. Results of all such actions shall be placed in writing.

SECTION 6. **Amendment.** This agreement may be amended by unanimous joint action of the participating jurisdictions, acting through the officials thereof authorized to enter into this agreement, subject to the requirements of Section 4, Article 3. Any amendment shall be placed in writing and become a part hereof.

SECTION 7. **Restrictions, conditions or limitations.** Any jurisdiction entering this agreement shall provide each other participating jurisdiction with a list of any restriction, condition or limitation on the general terms of this agreement, if any.

SECTION 8. **Additional jurisdictions.** Additional jurisdictions may become members of this agreement by signing and accepting the terms of the agreement.

ARTICLE 4

Cooperating Committee

SECTION 1. Each participating jurisdiction shall have two designated representatives. Pursuant to Section 2, Article 3, the designated representatives of the participating jurisdictions shall constitute the cooperating committee which shall have the power to:

(1) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in relation to vehicle size and weight, safety, enforcement and related matters.

(2) Recommend and encourage the undertaking of research and testing in any aspect of vehicle size and weight, safety, enforcement and related matters when, in its collective judgment, appropriate or sufficient research or testing has not been undertaken.

(3) Recommend changes in law or policy with emphasis on compatibility of laws and uniformity of administrative rules or regulations which would promote effective governmental action or coordination in the field of vehicle size and weight, safety, enforcement and related matters.

(4) Recommend improvements in highway operation, in vehicular safety, and in state administration of highway transportation laws.

(5) Perform functions necessary to facilitate the purposes of this agreement.

SECTION 2. Each designated representative of a participating jurisdiction shall be entitled to one (1) vote only. No action of the committee shall be approved unless a majority of the total number of votes cast by the designated representatives of the participating jurisdictions are in favor thereof.

SECTION 3. The committee shall meet at least once annually. It shall elect, from its members, a chairman, a vice-chairman and a secretary. The committee may adopt bylaws to govern its activities.

SECTION 4. The committee shall submit annually to the legislature of each participating jurisdiction a report setting forth the work of the committee during the preceding year and including recommendations developed by the committee. The committee may submit such additional reports as it deems appropriate or desirable.

ARTICLE 5

Objectives of the Participating Jurisdictions

SECTION 1. **Objectives.** The participating jurisdictions hereby declare that:

(1) It is the objective of the participating jurisdictions to obtain more efficient and more economical transportation by motor vehicles between and among the participating jurisdictions by encouraging the adoption of standards that will, as minimums, allow the operation on all state highways, except those determined through engineering evaluation to be inadequate, with a single-axle weight of 20,000 pounds, a tandem-axle weight of 34,000 pounds, and a gross vehicle or combination weight of that resulting from application of the formula:

$$W = 500[(LN/N - 1) + 12N + 36]$$

where

W = maximum weight in pounds carried on any group of two or more consecutive axles computed to nearest 500 pounds.

L = distance in feet between the extremes of any group of two or more axles.
N = number of axles in group under consideration.

(2) It is the further objective of the participating jurisdictions that the operation of a vehicle or combination of vehicles in interstate commerce according to the provisions of subsection (1) of this Section be authorized under special permit authority by each participating jurisdiction for vehicle combinations in excess of statutory weight of eighty thousand pounds or statutory lengths.

(3) It is the further objective of the participating jurisdictions to facilitate and expedite the operation of any vehicle or combination of vehicles between and among the participating jurisdictions under the provisions of subsection (1) or (2) of this Section, and to that end the participating jurisdictions hereby agree, through their designated representatives, to meet and cooperate in the consideration of vehicle size and weight related matters including, but not limited to, the development of: Uniform enforcement procedures; additional vehicle size and weight standards; uniform safety inspection standards; operational standards; agreements or compacts to facilitate regional application and administration of vehicle size and weight standards; uniform permit procedures; uniform application forms; rules for the operation of vehicles, including equipment requirements, driver qualifications, and operating practices; and such other matters as may be pertinent.

(4) The cooperating committee may recommend that the participating jurisdictions jointly secure congressional approval of this agreement, and specifically of the vehicle size and weight standards set forth in subsection (1) of this section.

(5) It is the further objective of the participating jurisdictions to:

(a) Establish transportation laws and rules to meet regional and economic needs and to promote an efficient, safe, and compatible transportation network;

(b) Develop standards that facilitate the most efficient and environmentally sound operation of vehicles on highways, consistent with and in recognition of principles of highway safety; and

(c) Establish programs to increase productivity and reduce congestion, fuel consumption, and related transportation costs and enhance air quality through the uniform application of state vehicle rules and laws.

(6) (Deleted by amendment, L. 2001, p. 710, § 6, effective August 8, 2001.)

ARTICLE 6

Entry Into Force and Withdrawal

SECTION 1. This agreement shall enter into force when enacted into law by any two (2) or more jurisdictions. Thereafter, this agreement shall become effective as to any other jurisdiction upon its enactment thereof, except as otherwise provided in Section 8, Article 3.

SECTION 2. Any participating jurisdiction may withdraw from this agreement by cancelling the same but no such withdrawal shall take effect until thirty (30) days after the designated representative of the withdrawing jurisdiction has given notice in writing of the withdrawal to all other participating jurisdictions.

ARTICLE 7

Construction and Severability

SECTION 1. This agreement shall be liberally construed so as to effectuate the purposes thereof.

SECTION 2. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any participating jurisdiction or the applicability thereto to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement shall not be affected thereby. If this agreement shall be held contrary to the constitution of any jurisdiction participating herein, the agreement shall remain in full force and effect as to the jurisdictions affected as to all severable matters.

ARTICLE 8

Filing of Documents

SECTION 1. A copy of this agreement, its amendments, and rules or regulations promulgated thereunder and interpretations thereof shall be filed in the highway department in each participating jurisdiction and shall be made available for review by interested parties.

ARTICLE 9

Existing Statutes Not Repealed

SECTION 1. All existing statutes prescribing weight and size standards and all existing statutes relating to special permits shall continue to be of force and effect until amended or repealed by law.

ARTICLE 10

State Government Departments
Authorized to Cooperate with Cooperating Committees

SECTION 1. Within appropriations available therefor, the departments, agencies and officers of the government of this State shall cooperate with and assist the cooperating committee within the scope contemplated by Article 4, Section 1 (1) and (2) of the agreement. The departments, agencies and officers of the government of this State are authorized generally to cooperate with said cooperating committee.

ARTICLE 11

Selection of Designated Representatives

SECTION 1. The process for selecting the designated representatives to the cooperating committee shall be established by law under this section.

SECTION 2. The persons authorized to represent the state of San Andreas as the designated representatives to the committee shall be the chairperson of the senate transportation committee and the chairperson of the house transportation committee, or a legislator or state agency official that the chairperson assigns.

SECTION 3. The transportation committee chairpersons in each house shall also designate one alternate designated representative, who shall also be a legislator or state agency official, to serve in their absence.

ARTICLE 12

Funding

SECTION 1. Funds for the administration of this agreement, including participation in the cooperating committee and the actual expenses of the designated representatives, shall be provided from the funds available to the San Andreas state patrol for operating expenses and motor carrier safety and assistance program grants and shall be budgeted or expensed to the San Andreas state patrol in furtherance of the administration of this agreement as determined appropriate.

Source: L. 85: Entire part added, p. 860, § 1, effective July 1. **L. 2001:** Article 1 section 1(5) repealed, article 1 section 2(7), article 4 section 1(4), article 4 section 1(5), and article 12 added, and article 2 section 1, article 4 introductory portion to section 1, article 4 section 2, article 4 section 4, article 5 section 1, and article 11 amended, pp. 708, 709, 713, 710, 712, §§ 1, 2, 4, 8, 3, 5, 6, 7, effective August 8. **L. 2012:** Article 12 section 1 amended, (HB 12-1019), ch. 135, p. 465, § 5, effective July 1.

PART 26

WILDLIFE VIOLATOR COMPACT

24-60-2601. Short title. This part 26 shall be known and may be cited as the "Wildlife Violator Compact".

Source: L. 89: Entire part added, p. 1085, § 1, effective April 12.

24-60-2602. Execution of compact. The general assembly hereby approves and the governor is authorized to enter into a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE I

Findings, Declaration of Policy, and Purpose

(a) The participating states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, regulations, ordinances, and administrative rules relating to the management of such resources.

(3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources.

(4) Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management,

and restoration laws, ordinances, and administrative rules and regulations of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states.

(7) In most instances, a person who is cited for a wildlife violation in a state other than his home state:

(i) Is required to post collateral or a bond to secure appearance for a trial at a later date; or

(ii) Is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices set forth in paragraph (7) of this article is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to continue on his way after receiving the citation, could return to his home state and disregard his duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in his home state is permitted to accept the citation from the officer at the scene of the violation and immediately continue on his way after agreeing or being instructed to comply with the terms of the citation.

(10) The practices described in paragraph (7) of this article cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine, and thus is compelled to remain in custody until some alternative arrangement is made.

(11) The enforcement practices described in paragraph (7) of this article consume an undue amount of law enforcement time.

(b) It is the policy of the participating states to:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat such suspension as if it had occurred in their state.

(3) Allow a violator, except as provided in paragraph (b) of article III, to accept a wildlife citation and, without delay, proceed on his way, whether or not a resident of the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat convictions recorded against its residents, which convictions occurred in a participating state, as though they had occurred in the home state.

(6) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to:

(1) Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in paragraph (b) of this article in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

ARTICLE II

Definitions

As used in this compact, unless the context requires otherwise:

(a) "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation which contains an order requiring the person to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any.

(d) "Conviction" means a conviction, including any court conviction, for any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, and such conviction shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere and the imposition of a deferred or suspended sentence by the court.

(e) "Court" means a court of law, including magistrate's court and the justice of the peace court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the participating state which issues a wildlife citation to the violator.

(h) "License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state.

(i) "Licensing authority" means the department or division within each participating state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Participating state" means any state which enacts legislation to become a member of this wildlife compact.

(k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that such person will comply with the terms of the citation.

(l) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.

(m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

(p) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

(q) "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation.

(r) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

ARTICLE III

Procedures for Issuing State

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and shall not require such person to post collateral to secure appearance, subject to the exceptions noted in paragraph (b) of this article, if the officer receives the recognizance of such person that he will comply with the terms of the citation.

(b) Personal recognizance is acceptable (1) if not prohibited by local law or the compact manual and (2) if the violator provides adequate proof of identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance pursuant to paragraph (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in form and content as prescribed in the compact manual.

ARTICLE IV

Procedure for Home State

(a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory

evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as though it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

ARTICLE V

Reciprocal Recognition of Suspension

(a) All participating states shall recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.

(b) Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

ARTICLE VI

Applicability of Other Laws

(a) Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

ARTICLE VII

Compact Administrator Procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the participating states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each participating state and shall serve and be subject to removal in accordance with the laws of the state he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate shall not be entitled to serve unless written notification of his identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of the board's votes are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the participating states are represented.

(c) The board shall elect annually from its membership a chairman and vice-chairman.

(d) The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations and grants of moneys, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize and dispose of same.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in a compact manual.

ARTICLE VIII

Entry into Compact and Withdrawal

(a) This compact shall become effective at such time as it is adopted in a substantially similar form by two or more states.

(b) (1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairman of the board.

(2) The resolution shall substantially be in the form and content as provided in the compact manual and shall include the following:

(i) A citation of the authority from which the state is empowered to become a party to this compact;

(ii) An agreement of compliance with the terms and provisions of this compact; and

(iii) An agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.

(3) The effective date of entry shall be specified by the applying state but shall not be less than sixty days after notice has been given (a) by the chairman of the board of the compact administrators or (b) by the secretariat of the board to each participating state that the resolution from the applying state has been received.

(c) A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal shall not become effective until ninety days after the notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal of any state shall affect the validity of this compact as to the remaining participating states.

ARTICLE IX

Amendments to the Compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and shall be initiated by one or more participating states.

(b) Adoption of an amendment shall require endorsement by all participating states and shall become effective thirty days after the date of the last endorsement.

(c) Failure of a participating state to respond to the compact chairman within one hundred twenty days after receipt of a proposed amendment shall constitute endorsement thereof.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States, or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of this compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any participating state, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

ARTICLE XI

Title

This compact shall be known as the "Wildlife Violator Compact".

Source: L. 89: Entire part added, p. 1085, § 1, effective April 12.

24-60-2603. Licensing authority - definition. As used in the compact, the term "licensing authority", with reference to this state, means the division of parks and wildlife of the department of natural resources. The director of the division of parks and wildlife shall furnish to the appropriate authorities of the participating states any information or documents reasonably necessary to facilitate the administration of the compact.

Source: L. 89: Entire part added, p. 1092, § 1, effective April 12.

24-60-2604. Compact administrator - expenses. The compact administrator provided for in article VII of the "Wildlife Violator Compact" shall not be entitled to any additional compensation for his service as such administrator but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

Source: L. 89: Entire part added, p. 1092, § 1, effective April 12.

PART 27

NATIONAL CRIME PREVENTION
AND PRIVACY COMPACT

24-60-2701. Short title. This part 27 shall be known and may be cited as the "National Crime Prevention and Privacy Compact".

Source: L. 2000: Entire part added, p. 55, § 1, effective March 10.

24-60-2702. Execution of compact. The general assembly hereby approves and the governor is authorized to enter into a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

The Contracting Parties agree to the following:

OVERVIEW

(a) **In General.** This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) **Obligations of Parties.** Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I -- DEFINITIONS

In this Compact:

(1) **Attorney general.** The term "Attorney General" means the Attorney General of the United States.

(2) **Compact officer.** The term "Compact officer" means:

(A) With respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) With respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) **Council.** The term "Council" means the Compact Council established under Article VI.

(4) **Criminal history records.** The term "criminal history records":

(A) Means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) Does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) **Criminal history record repository.** The term "criminal history record repository" means the state agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized record-keeping functions for criminal history records and services in the State.

(6) **Criminal justice.** The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) **Criminal justice agency.** The term "criminal justice agency":

(A) Means:

(i) Courts; and

(ii) A governmental agency or any subunit thereof that:

(I) Performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) Allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) Includes Federal and State inspectors general offices.

(8) **Criminal justice services.** The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) **Criterion offense.** The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) **Direct access.** The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) **Executive order.** The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) **FBI.** The term "FBI" means the Federal Bureau of Investigation.

(13) **Interstate identification system.** The term "Interstate Identification Index System" or "III System":

(A) Means the cooperative Federal-State system for the exchange of criminal history records; and

(B) Includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) **National fingerprint file.** The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) **National identification index.** The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) **National indices.** The term "National indices" means the National Identification Index and the National Fingerprint File.

(17) **Nonparty state.** The term "Nonparty State" means a State that has not ratified this Compact.

(18) **Noncriminal justice purposes.** The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) **Party state.** The term "Party State" means a State that has ratified this Compact.

(20) **Positive identification.** The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) **Sealed record information.** The term "sealed record information" means:

(A) With respect to adults, that portion of a record that is:

(i) Not available for criminal justice uses;

(ii) Not supported by fingerprints or other accepted means of positive identification; or

(iii) Subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) With respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) **State.** The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II -- PURPOSES

The purposes of this Compact are to:

(1) Provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) Require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) Require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) Provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) Require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III -- RESPONSIBILITIES OF COMPACT PARTIES

(a) **FBI Responsibilities.** The Director of the FBI shall:

(1) Appoint an FBI Compact officer who shall:

(A) Administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V (c);

(B) Ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III (a)(1)(A); and

(C) Regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) Provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including:

(A) Information from Nonparty States; and

(B) Information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) Modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) **State Responsibilities.** Each Party State shall:

(1) Appoint a Compact officer who shall:

(A) Administer this Compact within that State;

(B) Ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) Regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) Establish and maintain a criminal history record repository, which shall provide:

(A) Information and records for the National Identification Index and the National Fingerprint File; and

(B) The State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) Participate in the National Fingerprint File; and

(4) Provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) **Compliance With III System Standards.** In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) **Maintenance of Record Services.**

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV -- AUTHORIZED RECORD DISCLOSURES

(a) **State Criminal History Record Repositories.** To the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) **Criminal Justice Agencies and Other Governmental or Nongovernmental Agencies.** The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) **Procedures.** Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall:

(1) Ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) Require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V -- RECORD REQUEST PROCEDURES

(a) **Positive Identification.** Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) **Submission of State Requests.** Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) **Submission of Federal Requests.** Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) **Fees.** A State criminal history record repository or the FBI:

(1) May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) **Additional Search.**

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to a request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records:

(A) The FBI shall so advise the State criminal history record repository; and

(B) The State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI -- ESTABLISHMENT OF COMPACT COUNCIL

(a) **Establishment.**

(1) **In General.** There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) **Organization.** The Council shall:

(A) Continue in existence as long as this Compact remains in effect;

(B) Be located, for administrative purposes, within the FBI; and

(C) Be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) **Membership.** The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3- year term, of whom:

(A) One shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) One shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI (c), each of whom shall serve a 3-year term, of whom:

(A) One shall be a representative of State or local criminal justice agencies; and

(B) One shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

(c) **Chairman and Vice Chairman.**

(1) **In General.** From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council:

(A) Shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) Shall serve a 2-year term and may be reelected to only 1 additional 2-year term.

(2) **Duties of Vice Chairman.** The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) **Meetings.**

(1) **In General.** The Council shall meet at least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) **Quorum.** A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) **Rules, Procedures, and Standards.** The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) **Assistance From FBI.** The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) **Committees.** The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII -- RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII -- MISCELLANEOUS PROVISIONS

(a) **Relation of Compact to Certain FBI Activities.** Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) **No Authority for Nonappropriated Expenditures.** Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) **Relating to Public Law 92-544.** Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty

State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI (a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX -- RENUNCIATION

(a) **In General.** This Compact shall bind each Party State until renounced by the Party State.

(b) **Effect.** Any renunciation of this Compact by a Party State shall:

(1) Be effected in the same manner by which the Party State ratified this Compact; and

(2) Become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X -- SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI -- ADJUDICATION OF DISPUTES

(a) **In General.** The Council shall:

(1) Have initial authority to make determinations with respect to any dispute regarding:

(A) Interpretation of this Compact;

(B) Any rule or standard established by the Council pursuant to Article V; and

(C) Any dispute or controversy between any parties to this Compact; and

(2) Hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI (e).

(b) **Duties of FBI.** The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) **Right of Appeal.** The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

Source: L. 2000: Entire part added, p. 55, § 1, effective March 10.

PART 28

COMPACT FOR THE
SUPERVISION OF ADULT OFFENDERS

24-60-2801. Short title. This part 28 shall be known and may be cited as the "Interstate Compact for Adult Offender Supervision".

Source: L. 2000: Entire part added, p. 377, § 1, effective April 10.

24-60-2802. Execution of compact. The general assembly hereby approves and the governor is authorized to enter into a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE I
PURPOSE

(a) The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the by-laws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and, when necessary, return offenders to the originating jurisdictions. The compacting states also recognize that Congress, by enacting the "Crime Control Act", 4 U.S.C. sec. 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(b) It is the purpose of this compact and the interstate commission created hereunder, through means of joint and cooperative action among the compacting states: To provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits, and obligations of the compact among the compacting states.

(c) In addition, this compact will: Create an interstate commission that will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

(d) The compacting states recognize that there is no right of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and by-laws and rules promulgated hereunder. It is the policy of the

compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and are therefore public business.

ARTICLE II
DEFINITIONS

(a) As used in this compact, unless the context clearly requires a different construction:

(1) "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

(2) "By-laws" means those by-laws established by the interstate commission for its governance or for directing or controlling the interstate commission's actions or conduct.

(3) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

(4) "Compacting state" means any state that has enacted the enabling legislation for this compact.

(5) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(6) "Interstate commission" means the interstate commission for adult offender supervision established by this compact.

(7) "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

(8) "Non-compacting state" means any state that has not enacted the enabling legislation for this compact.

(9) "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

(10) "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

(11) "Rules" means acts of the interstate commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

(12) "State" means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.

(13) "State council" means the resident members of the state council for interstate adult offender supervision created by each state under Article IV of this compact.

ARTICLE III
THE COMPACT COMMISSION

(a) The compacting states hereby create the interstate commission for adult offender supervision. The interstate commission shall be a body corporate and a joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers, and duties set forth herein, including the power to sue and be sued, and such additional powers as

may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(b) The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations. Such non-commissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All non-commissioner members of the interstate commission shall be ex-officio (nonvoting) members. The interstate commission may provide in its by-laws for such additional, ex-officio, nonvoting members as it deems necessary.

(c) Each compacting state represented at any meeting of the interstate commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the interstate commission.

(d) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven (27) or more compacting states, shall call additional meetings. Public notice shall be given of all meetings, and meetings shall be open to the public.

(e) The interstate commission shall establish an executive committee which shall include commission officers, members, and others as shall be determined by the by-laws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff; administers enforcement and compliance with the provisions of the compact and its by-laws and as directed by the interstate commission; and performs other duties as directed by the interstate commission or set forth in the by-laws.

ARTICLE IV
THE STATE COUNCIL

(a) Each member state shall create a state council for interstate adult offender supervision which shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators.

(b) Each compacting state retains the right to determine the qualifications of the compact administrator who shall be appointed by the state council or by the governor in consultation with the legislature and the judiciary.

(c) In addition to appointment of its commissioner to the national interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including

but not limited to development of policy concerning operations and procedures of the compact within that state.

ARTICLE V
POWERS AND DUTIES
OF THE INTERSTATE COMMISSION

(a) The interstate commission shall have the following powers:

(1) To adopt a seal and suitable by-laws governing the management and operation of the interstate commission;

(2) To promulgate rules that shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(3) To oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and any by-laws adopted and rules promulgated by the interstate commission;

(4) To enforce compliance with compact provisions, interstate commission rules, and by-laws using all necessary and proper means, including but not limited to the use of the judicial process;

(5) To establish and maintain offices;

(6) To purchase and maintain insurance and bonds;

(7) To borrow, accept, or contract for services of personnel, including but not limited to members and their staffs;

(8) To establish and appoint committees and hire staff that it deems necessary for the carrying out of its functions, including but not limited to an executive committee as required by Article III which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;

(9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

(10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same;

(11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(13) To establish a budget and make expenditures and levy dues as provided in Article X of this compact;

(14) To sue and be sued;

(15) To provide for dispute resolution among compacting states;

(16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

(17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

(18) To coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity;

(19) To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE VI
ORGANIZATION AND OPERATION
OF THE INTERSTATE COMMISSION

(a) **By-laws.** The interstate commission, by a majority of the members, within twelve months of the first interstate commission meeting, shall adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:

(1) Establishing the fiscal year of the interstate commission;

(2) Establishing an executive committee and such other committees as may be necessary and providing reasonable standards and procedures:

(i) For the establishment of committees; and

(ii) Governing any general or specific delegation of any authority or function of the interstate commission;

(3) Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;

(4) Establishing the titles and responsibilities of the officers of the interstate commission;

(5) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the by-laws shall exclusively govern the personnel policies and programs of the interstate commission;

(6) Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations;

(7) Providing transition rules for "start up" administration of the compact; and

(8) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(b) **Officers and staff.** (1) The interstate commission, by a majority of the members, shall elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the by-laws. The chairperson or, in his or her absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(2) The interstate commission, through its executive committee, shall appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

(c) **Corporate records of the interstate commission.** The interstate commission shall maintain its corporate books and records in accordance with the by-laws.

(d) **Qualified immunity, defense, and indemnification.** (1) The members, officers, executive director, and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities; provided that nothing in this paragraph (d) shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The interstate commission shall defend the commissioner of a compacting state, or his or her representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided that the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of such person.

(3) The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee, or employees or the interstate commission's representatives or employees harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII
ACTIVITIES OF THE INTERSTATE COMMISSION

(a) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

(b) Except as otherwise provided in this compact and unless a greater percentage is required by the by-laws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

(c) Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(d) The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(e) The interstate commission's by-laws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(f) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the "Government in Sunshine Act", 5 U.S.C. sec. 552b, as may be amended. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(1) Relate solely to the interstate commission's internal personnel practices and procedures;

(2) Disclose matters specifically exempted from disclosure by statute;

(3) Disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) Involve accusing any person of a crime or formally censuring any person;

(5) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Disclose investigatory records compiled for law enforcement purposes;

(7) Disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

(8) Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity;

(9) Specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or proceeding.

(g) For every meeting closed pursuant to this provision, the interstate commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall reference each relevant provision authorizing closure of the meeting. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(h) The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its by-laws and rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

ARTICLE VIII
RULEMAKING FUNCTIONS
OF THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact, including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

(b) Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal "Administrative Procedure Act", 5 U.S.C.S. sec. 551 et seq., and the federal "Advisory Committee Act", 5 U.S.C.S. app. 2, sec. 1 et seq., as may be amended (hereinafter "APA"). All rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

(d) When promulgating a rule, the interstate commission shall:

(1) Publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule;

(2) Allow persons to submit written data, facts, opinions, and arguments, which information shall be publicly available;

(3) Provide an opportunity for an informal hearing; and

(4) Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record. Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the federal District Court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence, as defined in the APA, in the rulemaking record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within twelve months after the first meeting must at a minimum include:

(i) Notice to victims and opportunity to be heard;

(ii) Offender registration and compliance;

(iii) Violations and returns;

(iv) Transfer procedures and forms;

(v) Eligibility for transfer;

(vi) Collection of restitution and fees from offenders;

(vii) Data collection and reporting;

(viii) The level of supervision to be provided by the receiving state;

(ix) Transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact;

(x) Mediation, arbitration, and dispute resolution.

(e) The existing rules governing the operation of the previous compact superceded by this act shall be null and void twelve (12) months after the first meeting of the interstate commission created hereunder.

(f) Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule that shall become effective immediately upon adoption; provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule.

ARTICLE IX
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

(a) **Oversight.** (1) The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in non- compacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

(b) **Dispute resolution.** (1) The compacting states shall report to the interstate commission on issues or activities of concern to them and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

(2) The interstate commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise among compacting states and non-compacting states.

(3) The interstate commission shall enact a by-law or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) **Enforcement.** The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in Article XII (b) of this compact.

ARTICLE X
FINANCE

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

(c) The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same, nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its by-laws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XI
COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

(a) Any state, as defined in Article II of this compact, is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five (35) of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the thirty-fifth (35th) jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of non-member states or their designees will be invited to participate in interstate commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

(c) Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII
WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

(a) **Withdrawal.** (1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute that enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(b) **Default.** (1) If the interstate commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the by-laws, or any duly promulgated rules, the interstate commission may impose any or all of the following penalties:

(i) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission;

(ii) Remedial training and technical assistance as directed by the interstate commission;

(iii) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(2) The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission by-laws, or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of suspension. Within sixty days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.

(3) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(4) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

(c) **Judicial enforcement.** The interstate commission, by majority vote of the members, may initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated rules, and by-laws against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

(d) **Dissolution of compact.** (1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the by-laws.

ARTICLE XIII
SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIV
BINDING EFFECT
OF COMPACT AND OTHER LAWS

(a) **Other laws.** (1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

(b) **Binding effect of the compact.** (1) All lawful actions of the interstate commission, including all rules and by-laws promulgated by the interstate commission, are binding upon the compacting states.

(2) All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Source: L. 2000: Entire part added, p. 377, § 1, effective April 10.

24-60-2803. Limitation on assessment. Notwithstanding the provisions of section (b) of article (X) of section 24-60-2802, the state shall not pay an assessment or shall reduce the amount of its assessment so that the total collected from the annual assessment does not exceed two million five hundred thousand dollars for any single fiscal year, annually adjusted for inflation.

Source: L. 2000: Entire part added, p. 392, § 1, effective April 10.

PART 29

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

24-60-2901. Short title. This part 29 shall be known and may be cited as the "Emergency Management Assistance Compact".

Source: L. 2001: Entire part added, p. 187, § 1, effective August 8.

24-60-2902. Compact approved and ratified. The general assembly hereby approves and ratifies and the governor shall enter into a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

Purpose and Authorities

This compact is made and entered into by and between the participating member states that enact this compact, hereinafter called party states. For the purposes of this compact, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

The purpose of this compact is to provide for mutual assistance among the states entering into this compact in managing any emergency disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between or among states.

ARTICLE II

General Implementation

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies that require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or

disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management shall be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III

Party State Responsibilities

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans and in carrying them out, the party states, insofar as practical, shall:

1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack;

2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

3. Develop interstate procedures to fill any identified gaps and resolve any identified inconsistencies or overlaps in existing or developed plans;

4. Assist in warning communities adjacent to or crossing the state boundaries;

5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

B. The authorized representative of a party state may request assistance from another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be oral or in writing. If oral, the request shall be confirmed in writing within thirty days after the oral request. Requests shall provide the following information:

1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and

3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states

with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV

Limitations

Any party state that is asked to render mutual aid, or to conduct exercises and training for mutual aid, shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof, on the understanding that the state rendering aid may withhold resources to the extent reasonably necessary for its own protection.

Each party state shall afford to the emergency forces of any party state, while operating within its borders under the terms and conditions of this compact, the same powers, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services, except the power of arrest unless specifically authorized by the receiving state. Emergency forces shall continue under the command and control of their regular leaders, but the organizational units shall come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only after a declaration of a state of emergency or disaster by the Governor of the party state that is to receive assistance or after the commencement of exercises or training for mutual aid, and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

ARTICLE V

Licenses and Permits

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact that evidences the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI

Liability

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII

Supplementary Agreements

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation, and communications personnel and equipment and supplies.

ARTICLE VIII

Compensation

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

ARTICLE IX

Reimbursement

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of, any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; except that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost or may loan such equipment or donate such services to the receiving party state without charge or cost; and except that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses are not reimbursable under this article.

ARTICLE X

Evacuation

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the provision of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the

bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI

Implementation

A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

ARTICLE XII

Validity

This act shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

ARTICLE XIII

Additional Provisions

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would, in the absence of express statutory authorization, be prohibited under 18 U.S.C. sec. 1385.

Source: L. 2001: Entire part added, p. 187, § 1, effective August 8. **L. 2005:** Article IV amended, p. 770, § 43, effective June 1.

PART 30

INTERSTATE INSURANCE PRODUCT
REGULATION COMPACT

24-60-3001. Interstate insurance product regulation compact. The following Compact is intended to help States join together to establish an interstate Compact to regulate designated insurance products. Pursuant to terms and conditions of this Act, the State of San Andreas seeks to join with other States and establish the Interstate Insurance Product Regulation Compact, and thus become a member of the Interstate Insurance Product Regulation Commission. The insurance commissioner is hereby designated to serve as the representative of this State to the Commission.

ARTICLE I.

PURPOSES

The purposes of this Compact are, through means of joint and cooperative action among the Compacting States:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term insurance products;

2. To develop uniform standards for insurance products covered under the Compact;

3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more Compacting States;

4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;

5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the Compact;

6. To create the Interstate Insurance Product Regulation Commission; and

7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

ARTICLE II.

DEFINITIONS

For purposes of this Compact:

1. "Advertisement" means any material designed to create public interest in a Product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the Rules and Operating Procedures of the Commission.

2. "Bylaws" mean those bylaws established by the Commission for its governance, or for directing or controlling the Commission's actions or conduct.

3. "Compacting State" means any State which has enacted this Compact legislation and which has not withdrawn pursuant to Article XIV, Section 1, or been terminated pursuant to Article XIV, Section 2.

4. "Commission" means the "Interstate Insurance Product Regulation Commission" established by this Compact.

5. "Commissioner" means the chief insurance regulatory official of a State including, but not limited to commissioner, superintendent, director or administrator.

6. "Domiciliary State" means the state in which an Insurer is incorporated or organized; or, in the case of an alien Insurer, its state of entry.

7. "Insurer" means any entity licensed by a State to issue contracts of insurance for any of the lines of insurance covered by this Act.

8. "Member" means the person chosen by a Compacting State as its representative to the Commission, or his or her designee.

9. "Non-compacting State" means any State which is not at the time a Compacting State.

10. "Operating Procedures" mean procedures promulgated by the Commission implementing a Rule, Uniform Standard or a provision of this Compact.

11. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income or long-term care insurance product that an Insurer is authorized to issue.

12. "Rule" means a statement of general or particular applicability and future effect promulgated by the Commission, including a Uniform Standard developed pursuant to Article VII of the Compact, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the Commission, which shall have the force and effect of law in the Compacting States.

13. "State" means any state, district or territory of the United States of America.

14. "Third-Party Filer" means an entity that submits a Product filing to the Commission on behalf of an Insurer.

15. "Uniform Standard" means a standard adopted by the Commission for a Product line, pursuant to Article VII of this Compact, and shall include all of the Product requirements in aggregate; provided, that each Uniform Standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading or ambiguous provisions in a Product and the form of the Product made available to the public shall not be unfair, inequitable or against public policy as determined by the Commission.

ARTICLE III.

ESTABLISHMENT OF THE COMMISSION AND VENUE

1. The Compacting States hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV, the Commission will have the power to develop Uniform Standards for Product lines, receive and provide prompt review of Products filed therewith, and give approval to those Product filings satisfying applicable Uniform Standards; provided, it is not intended for the Commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any Insurer from filing its product in any State wherein the Insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the State where filed.

2. The Commission is a body corporate and politic, and an instrumentality of the Compacting States.

3. The Commission is solely responsible for its liabilities except as otherwise specifically provided in this Compact.

4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a Court of competent jurisdiction where the principal office of the Commission is located.

ARTICLE IV.

POWERS OF THE COMMISSION

The Commission shall have the following powers:

1. To promulgate Rules, pursuant to Article VII of this Compact, which shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in this Compact;

2. To exercise its rule-making authority and establish reasonable Uniform Standards for Products covered under the Compact, and Advertisement related thereto, which shall have the force and effect of law and shall be binding in the Compacting States, but only for those Products filed with the Commission, provided, that a Compacting State shall have the right to opt out of such Uniform Standard pursuant to Article VII, to the extent and in the manner provided in this Compact, and, provided further, that any Uniform Standard established by the Commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The Commission shall consider whether any subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the NAIC require amending of the Uniform Standards established by the Commission for long-term care insurance products;

3. To receive and review in an expeditious manner Products filed with the Commission, and rate filings for disability income and long-term care insurance Products, and give approval of those Products and rate filings that satisfy the applicable Uniform Standard, where such approval shall have the force and effect of law and be binding on the Compacting States to the extent and in the manner provided in the Compact;

4. To receive and review in an expeditious manner Advertisement relating to long-term care insurance products for which Uniform Standards have been adopted by the Commission, and give approval to all Advertisement that satisfies the applicable Uniform Standard. For any product covered under this Compact, other than long-term care insurance products, the Commission shall have the authority to require an insurer to submit all or any part of its Advertisement with respect to that product for review or approval prior to use, if the Commission determines that the nature of the product is such that an Advertisement of the product could have the capacity or tendency to mislead the public. The actions of the Commission as provided in this section shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in the Compact;

5. To exercise its rule-making authority and designate Products and Advertisement that may be subject to a self-certification process without the need for prior approval by the Commission.

6. To promulgate Operating Procedures, pursuant to Article VII of this Compact, which shall be binding in the Compacting States to the extent and in the manner provided in this Compact;

7. To bring and prosecute legal proceedings or actions in its name as the Commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

9. To establish and maintain offices;

10. To purchase and maintain insurance and bonds;

11. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compacting State;

12. To hire employees, professionals or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of the Compact, and determine their qualifications; and to establish the Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

15. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

16. To remit filing fees to Compacting States as may be set forth in the Bylaws, Rules or Operating Procedures;

17. To enforce compliance by Compacting States with Rules, Uniform Standards, Operating Procedures and Bylaws;

18. To provide for dispute resolution among Compacting States;

19. To advise Compacting States on issues relating to Insurers domiciled or doing business in Non-compacting states, consistent with the purposes of this Compact;

20. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;

21. To establish a budget and make expenditures;

22. To borrow money;

23. To appoint committees, including advisory committees comprising Members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the Bylaws;

24. To provide and receive information from, and to cooperate with law enforcement agencies;

25. To adopt and use a corporate seal; and

26. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of the business of insurance.

ARTICLE V.

ORGANIZATION OF THE COMMISSION

1. Membership, Voting and Bylaws

a. Each Compacting State shall have and be limited to one Member. Each Member shall be qualified to serve in that capacity pursuant to applicable law of the Compacting State. Any Member may be removed or suspended from office as provided by the law of the State from which he or she shall be appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compacting State wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a Compacting State determines the election or appointment and qualification of its own Commissioner.

b. Each Member shall be entitled to one vote and shall have an opportunity to participate in the governance of the Commission in accordance with the Bylaws. Notwithstanding any provision herein to the contrary, no action of the Commission with respect to the promulgation of a Uniform Standard shall be effective unless two-thirds (2/3) of the Members vote in favor thereof.

c. The Commission shall, by a majority of the Members, prescribe Bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the Compact, including, but not limited to:

i. establishing the fiscal year of the Commission;

ii. providing reasonable procedures for appointing and electing members, as well as holding meetings, of the Management Committee;

iii. providing reasonable standards and procedures: (i) for the establishment and meetings of other committees, and (ii) governing any general or specific delegation of any authority or function of the Commission;

iv. providing reasonable procedures for calling and conducting meetings of the Commission that consists of a majority of Commission members, ensuring reasonable advance notice of each such meeting, and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The Commission may meet in camera only after a majority of the entire membership votes to close a meeting en toto or in part. As soon as practicable, the Commission must make public (i) a copy of the vote to close the meeting revealing the vote of each Member with no proxy votes allowed, and (ii) votes taken during such meeting;

v. establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

vi. providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

vii. promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and

viii. providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations.

d. The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compacting States.

2. Management Committee, Officers and Personnel

a. A Management Committee comprising no more than fourteen (14) members shall be established as follows:

(i) One (1) member from each of the six (6) Compacting States with the largest premium volume for individual and group annuities, life, disability income and long-term care insurance products, determined from the records of the NAIC for the prior year;

(ii) Four (4) members from those Compacting States with at least two percent (2%) of the market based on the premium volume described above, other than the six (6) Compacting States with the largest premium volume, selected on a rotating basis as provided in the Bylaws, and;

(iii) Four (4) members from those Compacting States with less than two percent (2%) of the market, based on the premium volume described above, with one (1) selected from each of the four (4) zone regions of the NAIC as provided in the Bylaws.

b. The Management Committee shall have such authority and duties as may be set forth in the Bylaws, including but not limited to:

i. managing the affairs of the Commission in a manner consistent with the Bylaws and purposes of the Commission;

ii. establishing and overseeing an organizational structure within, and appropriate procedures for, the Commission to provide for the creation of Uniform Standards and other Rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a Compacting State to opt out of a Uniform Standard; provided that a Uniform Standard shall not be submitted to the Compacting States for adoption unless approved by two-thirds (2/3) of the members of the Management Committee;

iii. overseeing the offices of the Commission; and

iv. planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Commission.

c. The Commission shall elect annually officers from the Management Committee, with each having such authority and duties, as may be specified in the Bylaws.

d. The Management Committee may, subject to the approval of the Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Commission may deem appropriate. The executive director shall serve as secretary to the Commission, but shall not be a Member of the Commission. The executive director shall hire and supervise such other staff as may be authorized by the Commission.

3. Legislative and Advisory Committees

a. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the Commission, including the Management Committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the Bylaws. Prior to the adoption by the Commission of any Uniform Standard, revision to the Bylaws, annual budget or other significant

matter as may be provided in the Bylaws, the Management Committee shall consult with and report to the legislative committee.

b. The Commission shall establish two (2) advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.

c. The Commission may establish additional advisory committees as its Bylaws may provide for the carrying out of its functions.

4. Corporate Records of the Commission

The Commission shall maintain its corporate books and records in accordance with the Bylaws.

5. Qualified Immunity, Defense and Indemnification

a. The Members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of that person.

b. The Commission shall defend any Member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful and wanton misconduct.

c. The Commission shall indemnify and hold harmless any Member, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from the intentional or willful and wanton misconduct of that person.

ARTICLE VI.

MEETINGS AND ACTS OF THE COMMISSION

1. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

2. Each Member of the Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Commission. A Member shall vote in person or by such other means as provided in the Bylaws.

The Bylaws may provide for Members' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

ARTICLE VII.

RULES & OPERATING PROCEDURES:
RULEMAKING FUNCTIONS OF THE COMMISSION
AND OPTING OUT OF UNIFORM STANDARDS

1. Rulemaking Authority. The Commission shall promulgate reasonable Rules, including Uniform Standards, and Operating Procedures in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

2. Rulemaking Procedure. Rules and Operating Procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the Commission. Before the Commission adopts a Uniform Standard, the Commission shall give written notice to the relevant state legislative committee(s) in each Compacting State responsible for insurance issues of its intention to adopt the Uniform Standard. The Commission in adopting a Uniform Standard shall consider fully all submitted materials and issue a concise explanation of its decision.

3. Effective Date and Opt Out of a Uniform Standard. A Uniform Standard shall become effective ninety (90) days after its promulgation by the Commission or such later date as the Commission may determine; provided, however, that a Compacting State may opt out of a Uniform Standard as provided in this Article. "Opt out" shall be defined as any action by a Compacting State to decline to adopt or participate in a promulgated Uniform Standard. All other Rules and Operating Procedures, and amendments thereto, shall become effective as of the date specified in each Rule, Operating Procedure or amendment.

4. Opt Out Procedure. A Compacting State may opt out of a Uniform Standard, either by legislation or regulation duly promulgated by the Insurance Department under the Compacting State's Administrative Procedure Act. If a Compacting State elects to opt out of a Uniform Standard by regulation, it must (a) give written notice to the Commission no later than ten (10) business days after the Uniform Standard is promulgated, or at the time the State becomes a Compacting State and (b) find that the Uniform Standard does not provide reasonable protections to the citizens of the State, given the conditions in the State. The Commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the State which warrant a departure from the Uniform Standard and determining that the Uniform Standard would not reasonably protect the citizens of the State. The Commissioner must consider and balance the following factors and find that the conditions in the State and needs of the citizens of the State outweigh: (i) the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the Products subject to this Act; and (ii) the presumption that a Uniform Standard

adopted by the Commission provides reasonable protections to consumers of the relevant Product.

Notwithstanding the foregoing, a Compacting State may, at the time of its enactment of this Compact, prospectively opt out of all Uniform Standards involving long-term care insurance products by expressly providing for such opt out in the enacted Compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any State to participate in this Compact. Such an opt out shall be effective at the time of enactment of this Compact by the Compacting State and shall apply to all existing Uniform Standards involving long-term care insurance products and those subsequently promulgated.

5. Effect of Opt Out. If a Compacting State elects to opt out of a Uniform Standard, the Uniform Standard shall remain applicable in the Compacting State electing to opt out until such time the opt-out legislation is enacted into law or the regulation opting out becomes effective.

Once the opt out of a Uniform Standard by a Compacting State becomes effective as provided under the laws of that State, the Uniform Standard shall have no further force and effect in that State unless and until the legislation or regulation implementing the opt-out is repealed or otherwise becomes ineffective under the laws of the State. If a Compacting State opts out of a Uniform Standard after the Uniform Standard has been made effective in that State, the opt-out shall have the same prospective effect as provided under Article XIV for withdrawals.

6. Stay of Uniform Standard. If a Compacting State has formally initiated the process of opting out of a Uniform Standard by regulation, and while the regulatory opt-out is pending, the Compacting State may petition the Commission, at least fifteen (15) days before the effective date of the Uniform Standard, to stay the effectiveness of the Uniform Standard in that State. The Commission may grant a stay if it determines the regulatory opt-out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the Commission, the stay or extension thereof may postpone the effective date by up to ninety (90) days, unless affirmatively extended by the Commission; provided, a stay may not be permitted to remain in effect for more than one (1) year unless the Compacting State can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the Compacting State from opting out. A stay may be terminated by the Commission upon notice that the rulemaking process has been terminated.

7. Not later than thirty (30) days after a Rule or Operating Procedure is promulgated, any person may file a petition for judicial review of the Rule or Operating Procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the Rule or Operating Procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Commission consistent with applicable law and shall not find the Rule or Operating Procedure to be unlawful if the Rule or Operating Procedure represents a reasonable exercise of the Commission's authority.

ARTICLE VIII.

COMMISSION RECORDS AND ENFORCEMENT

1. The Commission shall promulgate Rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The Commission

may promulgate additional Rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

2. Except as to privileged records, data and information, the laws of any Compacting State pertaining to confidentiality or nondisclosure shall not relieve any Compacting State Commissioner of the duty to disclose any relevant records, data or information to the Commission; provided, that disclosure to the Commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this Act, the Commission shall not be subject to the Compacting State's laws pertaining to confidentiality and nondisclosure with respect to records, data and information in its possession. Confidential information of the Commission shall remain confidential after such information is proved to any Commissioner.

3. The Commission shall monitor Compacting States for compliance with duly adopted Bylaws, Rules, including Uniform Standards, and Operating Procedures. The Commission shall notify any non-complying Compacting State in writing of its noncompliance with Commission Bylaws, Rules or Operating Procedures. If a non-complying Compacting State fails to remedy its noncompliance within the time specified in the notice of noncompliance, the Compacting State shall be deemed to be in default as set forth in Article XIV.

4. The Commissioner of any State in which an Insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise his or her authority to oversee the market regulation of the activities of the Insurer in accordance with the provisions of the State's law. The Commissioner's enforcement of compliance with the Compact is governed by the following provisions:

a. With respect to the Commissioner's market regulation of a Product or Advertisement that is approved or certified to the Commission, the content of the Product or Advertisement shall not constitute a violation of the provisions, standards or requirements of the Compact except upon a final order of the Commission, issued at the request of a Commissioner after prior notice to the Insurer and an opportunity for hearing before the Commission.

b. Before a Commissioner may bring an action for violation of any provision, standard or requirement of the Compact relating to the content of an Advertisement not approved or certified to the Commission, the Commission, or an authorized Commission officer or employee, must authorize the action. However, authorization pursuant to this Paragraph does not require notice to the Insurer, opportunity for hearing or disclosure of requests for authorization or records of the Commission's action on such requests.

ARTICLE IX.

DISPUTE RESOLUTION

The Commission shall attempt, upon the request of a Member, to resolve any disputes or other issues that are subject to this Compact and which may arise between two or more Compacting States, or between Compacting States and Non-compacting States, and the Commission shall promulgate an Operating Procedure providing for resolution of such disputes.

ARTICLE X.

PRODUCT FILING AND APPROVAL

1. Insurers and Third-Party Filers seeking to have a Product approved by the Commission shall file the Product with, and pay applicable filing fees to, the Commission. Nothing in this Act shall be construed to restrict or otherwise prevent an Insurer from filing its Product with the insurance department in any State wherein the Insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the States where filed.

2. The Commission shall establish appropriate filing and review processes and procedures pursuant to Commission Rules and Operating Procedures. Notwithstanding any provision herein to the contrary, the Commission shall promulgate Rules to establish conditions and procedures under which the Commission will provide public access to Product filing information. In establishing such Rules, the Commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a Product filing or supporting information.

3. Any Product approved by the Commission may be sold or otherwise issued in those Compacting States for which the Insurer is legally authorized to do business.

ARTICLE XI.

REVIEW OF COMMISSION
DECISIONS REGARDING FILINGS

1. Not later than thirty (30) days after the Commission has given notice of a disapproved Product or Advertisement filed with the Commission, the Insurer or Third-Party Filer whose filing was disapproved may appeal the determination to a review panel appointed by the Commission. The Commission shall promulgate Rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the Commission, in disapproving a Product or Advertisement filed with the Commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with Article III, Section 4.

2. The Commission shall have authority to monitor, review and reconsider Products and Advertisement subsequent to their filing or approval upon a finding that the Product does not meet the relevant Uniform Standard. Where appropriate, the Commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in Section 1 above.

ARTICLE XII.

FINANCE

1. The Commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the Commission may accept contributions and other forms of funding from the National Association of Insurance Commissioners, Compacting States and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the Commission concerning the performance of its duties shall not be compromised.

2. The Commission shall collect a filing fee from each Insurer and Third-Party Filer filing a product with the Commission to cover the cost of the operations and activities of the Commission and its staff in a total amount sufficient to cover the Commission's annual budget.

3. The Commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this Compact.

4. The Commission shall be exempt from all taxation in and by the Compacting States.

5. The Commission shall not pledge the credit of any Compacting State, except by and with the appropriate legal authority of that Compacting State.

6. The Commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the Commission shall be subject to the accounting procedures established under its Bylaws. The financial accounts and reports including the system of internal controls and procedures of the Commission shall be audited annually by an independent certified public accountant. Upon the determination of the Commission, but no less frequently than every three (3) years, the review of the independent auditor shall include a management and performance audit of the Commission. The Commission shall make an Annual Report to the Governor and legislature of the Compacting States, which shall include a report of the independent audit. The Commission's internal accounts shall not be confidential and such materials may be shared with the Commissioner of any Compacting State upon request, provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals' and insurers' proprietary information, including trade secrets, shall remain confidential.

7. No Compacting State shall have any claim to or ownership of any property held by or vested in the Commission or to any Commission funds held pursuant to the provisions of this Compact.

ARTICLE XIII.

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

1. Any State is eligible to become a Compacting State.

2. The Compact shall become effective and binding upon legislative enactment of the Compact into law by two Compacting States; provided, the Commission shall become effective for purposes of adopting Uniform Standards for, reviewing, and giving approval or disapproval of, Products filed with the Commission that satisfy applicable Uniform Standards only after twenty-six (26) States are Compacting States or, alternatively, by States representing greater than forty percent (40%) of the premium volume for life insurance, annuity, disability income and long-term care insurance products, based on records of the NAIC for the prior year. Thereafter, it shall become effective and binding as to any other Compacting State upon enactment of the Compact into law by that State.

3. Amendments to the Compact may be proposed by the Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Commission and the Compacting States unless and until all Compacting States enact the amendment into law.

ARTICLE XIV.

WITHDRAWAL, DEFAULT AND TERMINATION

1. Withdrawal

a. Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

b. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any Advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the Commission and the Withdrawing State unless the approval is rescinded by the Withdrawing State as provided in Subsection e. of this Section.

c. The Commissioner of the Withdrawing State shall immediately notify the Management Committee in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

d. The Commission shall notify the other Compacting States of the introduction of such legislation within ten (10) days after its receipt of notice thereof.

e. The Withdrawing State is responsible for all obligations, duties and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the Commission and the Withdrawing State. The Commission's approval of Products and Advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the Withdrawing State, unless formally rescinded by the Withdrawing State in the same manner as provided by the laws of the Withdrawing State for the prospective disapproval of Products or Advertisement previously approved under state law.

f. Reinstatement following withdrawal of any Compacting State shall occur upon the effective date of the Withdrawing State reenacting the Compact.

2. Default

a. If the Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the Bylaws or duly promulgated Rules or Operating Procedures, then, after notice and hearing as set forth in the Bylaws, all rights, privileges and benefits conferred by this Compact on the Defaulting State shall be suspended from the effective date of default as fixed by the Commission. The grounds for default include, but are not limited to, failure of a Compacting State to perform its obligations or responsibilities, and any other grounds designated in Commission Rules. The Commission shall immediately notify the Defaulting State in writing of the Defaulting State's suspension pending a cure of the default. The Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Commission, the Defaulting State shall be terminated from the Compact and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of termination.

b. Product approvals by the Commission or product self-certifications, or any Advertisement in connection with such Product, that are in force on the effective date of termination shall remain in force in the Defaulting State in the same manner as if the Defaulting State had withdrawn voluntarily pursuant to Paragraph 1 of this Article.

c. Reinstatement following termination of any Compacting State requires a reenactment of the Compact.

3. Dissolution of Compact

a. The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

b. Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be wound up and any surplus funds shall be distributed in accordance with the Bylaws.

ARTICLE XV.

SEVERABILITY AND CONSTRUCTION

1. The provisions of this Compact shall be severable; and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

2. The provisions of this Compact shall be liberally construed to effectuate its purposes.

ARTICLE XVI.

BINDING EFFECT OF COMPACT AND OTHER LAWS

1. Other Laws

a. Nothing herein prevents the enforcement of any other law of a Compacting State, except as provided in Paragraph b. of this Article.

b. For any Product approved or certified to the Commission, the Rules, Uniform Standards and any other requirements of the Commission shall constitute the exclusive provisions applicable to the content, approval and certification of such Products. For advertisement that is subject to the Commission's authority, any Rule, Uniform Standard or other requirement of the Commission which governs the content of the Advertisement shall constitute the exclusive provision that a Commissioner may apply to the content of the Advertisement. Notwithstanding the foregoing, no action taken by the Commission shall abrogate or restrict: i. the access of any person to state courts; ii. remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the Product; iii. state law relating to the construction of insurance contracts; or iv. the authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

c. All insurance products filed with individual States shall be subject to the laws of those States.

2. Binding Effect of this Compact

a. All lawful actions of the Commission, including all Rules and Operating Procedures promulgated by the Commission, are binding upon the Compacting States.

b. All agreements between the Commission and the Compacting States are binding in accordance with their terms.

c. Upon the request of a party to a conflict over the meaning or interpretation of Commission actions, and upon a majority vote of the Compacting States, the Commission may issue advisory opinions regarding the meaning or interpretation in dispute.

d. In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by that provision upon the Commission shall be ineffective as to that Compacting State, and those obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which those obligations, duties, powers or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

Source: L. 2004: Entire part added, p. 91, § 1, effective August 4. **L. 2005:** Article XI section 1 amended, p. 770, § 44, effective June 1.

PART 31

COMPACT FOR PORTABILITY OF HEALTH-CARE PROFESSIONAL LICENSES - AUTHORIZATION

24-60-3101. Legislative declaration. The general assembly hereby finds that a lack of access to quality, affordable health-care services is an increasing problem, both in San Andreas and nationwide, and contributes to the spiraling costs of health care for individuals and businesses. This problem could be alleviated by greater interstate cooperation among, and mobility of, medical professionals through the use of telemedicine and other means. Therefore, it is desirable to authorize the executive director of the department of regulatory agencies, together with the San Andreas medical board created in section 12-240-105 and the state board of nursing created in section 12-255-105, and in consultation with representatives of other relevant state agencies, to negotiate one or more interstate compacts endorsing model legislation to facilitate the efficient distribution of health-care services across state lines.

Source: L. 2005: Entire part added, p. 576, § 2, effective July 1. **L. 2010:** Entire section amended, (HB 10-1260), ch. 403, p. 1989, § 83, effective July 1. **L. 2019:** Entire section amended, (HB 19-1172), ch. 136, p. 1692, § 132, effective October 1.

24-60-3102. Definitions. As used in this part 31, unless the context otherwise requires:

(1) "Department" means the department of regulatory agencies, created in section 24-1-122.

(2) "Executive director" means the executive director of the department.

(3) "Medicine" or "medical practice" has the same meaning as "practice of medicine" as defined in section 12-240-107.

(4) "Nursing" or "nursing practice" includes both the practice of practical nursing and the practice of professional nursing as set forth in section 12-255-104 (9) and (10), respectively; except that nothing in this part 31 shall be construed to authorize nurses to deliver services outside their scope of practice.

(5) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

Source: L. 2005: Entire part added, p. 577, § 2, effective July 1. **L. 2019:** (3) and (4) amended, (HB 19-1172), ch. 136, p. 1693, § 133, effective October 1.

24-60-3103. Model legislation - compacts authorized. (1) The executive director, together with the San Andreas medical board created in section 12-240-105 and the state board of nursing created in section 12-255-105, and in consultation with the executive director of the department of health care policy and financing or his or her designee, the executive director of the department of public health and environment or his or her designee, and representatives of other state agencies whose participation the executive director deems beneficial, is hereby authorized to develop, participate in the development of, and negotiate for one or more interstate compacts on behalf of the state of San Andreas with other states and to recommend model legislation that, if adopted in the respective signatory states, would advance the following policy goals:

(a) The portability of medical and nursing licenses issued by signatory states, subject to appropriate professional standards, safeguards and reciprocal enforcement provisions; and

(b) The implementation of procedures for the delivery of health-care services via telemedicine.

(2) The executive director shall keep the general assembly informed as to the progress of negotiations undertaken pursuant to this section, as events may warrant.

Source: L. 2005: Entire part added, p. 577, § 2, effective July 1. **L. 2010:** IP(1) amended, (HB 10-1260), ch. 403, p. 1990, § 84, effective July 1. **L. 2019:** IP(1) amended, (HB 19-1172), ch. 136, p. 1693, § 134, effective October 1.

PART 32

NURSE LICENSURE COMPACT

24-60-3201 to 24-60-3202. (Repealed)

Source: L. 2018: Entire part repealed, (SB 18-027), ch. 1, p. 1, § 1, effective July 17.

Editor's note: This part 32 was added in 2006 and was not amended prior to its repeal in 2018. For the text of this part 32 prior to 2018, consult the 2017 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 33

INTERSTATE COMPACT FOR THE PREVENTION AND CONTROL OF FOREST FIRES

Editor's note: This part was originally numbered as part 32 in Senate Bill 06-096 but has been renumbered on revision for ease of location.

24-60-3301. Execution of compact. The governor may enter into a compact on behalf of the state with any other state or states legally joining therein in the form substantially as follows:

ARTICLE I

The purpose of this compact is to promote effective prevention and control of forest fires in the great plains region of the United States by the maintenance of adequate forest fire fighting services by the member states, and by providing for reciprocal aid in fighting forest fires among the compacting states of the region, including South Dakota, North Dakota, Wyoming, San Andreas, and any adjoining state of a current member state.

ARTICLE II

This compact is operative immediately as to those states ratifying it if any two or more of the member states have ratified it.

ARTICLE III

In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control may act as compact administrator for that state, consult with like officials of the other member states, and implement cooperation between the states in forest fire prevention and control. The compact administrators of the member states may organize to coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact. Each member state may formulate and put in effect a forest fire plan for that state.

ARTICLE IV

If the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling, or preventing forest fires, the state forest fire control agency of that state may render all possible aid to the requesting agency, consonant with the maintenance of protection at home.

ARTICLE V

(1) If the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of the state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges, and immunities as comparable employees of the state to which they are rendering aid.

(2) No member state or its officers or employees rendering outside aid pursuant to this compact is liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection with rendering the outside aid.

(3) All liability, except as otherwise provided in this compact, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(4) Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving the aid for any loss or damage to, or expense incurred in the

operation of, any equipment used in answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees and equipment incurred in connection with the request. However, nothing in this compact prevents any assisting member state from assuming the loss, damage, expense, or other cost, from loaning the equipment, or from donating the services to the receiving member state without charge or cost.

(5) Each member state shall assure that workers compensation benefits in conformity with the minimum legal requirements of the state are available to all employees and contract firefighters sent to a requesting state pursuant to this compact.

(6) For the purposes of this compact, the term "employee" includes any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws of the aiding state.

(7) The compact administrators may formulate procedures for claims and reimbursement under the provisions of this article in accordance with the laws of the member states.

ARTICLE VI

(1) Ratification of this compact does not affect any existing statute so as to authorize or permit curtailment or diminution of the forest fighting forces, equipment, services, or facilities of any member state.

(2) Nothing in the compact authorizes or permits any member state to curtail or diminish its forest fire fighting forces, equipment, services, or facilities. Each member state shall maintain adequate forest fire fighting forces and equipment to meet demands for forest fire protection within its borders in the same manner and to the same extent as if this compact were not operative.

(3) Nothing in this compact limits or restricts the powers of any state ratifying the compact to provide for the prevention, control, and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules, or regulations intended to aid in the prevention, control, and extinguishment in the state.

(4) Nothing in this compact affects any existing or future cooperative relationship or arrangement between the United States forest service and a member state or states.

ARTICLE VII

Representatives of the United States forest service may attend meetings of the compact administrators.

ARTICLE VIII

The provisions of articles IV and V of this compact that relate to reciprocal aid in combating, controlling, or preventing forest fires are operative as between any state party to this compact and any other state which is party to this compact and any other state that is party to a regional forest fire protection compact in another region if the legislature of the other state has given its assent to the mutual aid provisions of this compact.

ARTICLE IX

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the governor of the state takes action to withdraw from the compact. Such action is not effective until six months after notice of the withdrawal has been sent by the chief

executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

Source: L. 2006: Entire part added, p. 981, § 2, effective May 18.

PART 34

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

24-60-3401. Legislative declaration. The general assembly finds and declares that, for purposes of section 17 of article IX of the state constitution, adopting an interstate compact concerning educational opportunities for military children is a critical element of accountable education reform and, therefore, may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

Source: L. 2008: Entire part added, p. 2277, § 2, effective August 5.

24-60-3402. Compact approved and ratified. The general assembly hereby approves and ratifies and the governor shall enter into a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

ARTICLE I - PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE II - DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

B. "Children of military families" means: a school-aged child(ren), enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders through six (6) months after return to their home station.

E. "Education(al) records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth (12th) grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Non-member state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice

requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

Q. "Transition" means: 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released from there under conditions other than dishonorable.

ARTICLE III - APPLICABILITY

A. Except as otherwise provided in Section C, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the national guard and military reserves;

2. members of the uniformed services now retired, except as provided in Section A;

3. veterans of the uniformed services, except as provided in Section A; and

4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV - EDUCATIONAL RECORDS & ENROLLMENT

A. Unofficial or "hand-carried" education records - In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school

shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts - Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations - Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First grade entrance age - Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V - PLACEMENT & ATTENDANCE

A. Course placement - When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement - The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services - 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and 2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II

of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility - Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities - A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI - ELIGIBILITY

A. Eligibility for enrollment

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

3. A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation - State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII - GRADUATION

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. Waiver requirements - Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams - States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; or 2) national norm-referenced achievement tests or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during Senior year - Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII - STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX - INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense, shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission or any member state.

ARTICLE X - POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

E. To establish and maintain offices which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the

Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

ARTICLE XI - ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee, and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.

7. Providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the

chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.

3. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities,

provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII - RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority - The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure - Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a Rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII - OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law, and shall be reviewed annually by the state, veterans, and military affairs committees of the house of representatives and the senate, or any successor committees, and the department of education, beginning January 30, 2010.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination - If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United State District Court for the District of Columbia or, at the discretion of the

Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV - FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall by audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV - MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI - WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same and written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII - SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII - BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Source: L. 2008: Entire part added, p. 2277, § 2, effective August 5.

PART 35

RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE COMPACT

24-60-3501. Short title. This part 35 shall be known and may be cited as the "Recognition of Emergency Medical Services Personnel Licensure Interstate Compact Act" or "REPLICA".

Source: L. 2015: Entire part added, (HB 15-1015), ch. 171, p. 521, § 1, effective August 5.

24-60-3502. Compact approved and ratified. The general assembly hereby approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

RECOGNITION OF EMERGENCY MEDICAL SERVICES PERSONNEL LICENSURE INTERSTATE COMPACT

SECTION 1
PURPOSE

The purpose of this compact is to protect the public through verification of competency and ensure accountability for patient care-related activities of all states' licensed emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs, and paramedics. This compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

1. Increase public access to EMS personnel;
2. Enhance the states' ability to protect the public's health and safety, especially patient safety;
3. Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;
4. Support licensing of military members who are separating from an active duty tour and the spouses of military members;

5. Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action, and significant investigatory information;

6. Promote compliance with the laws governing EMS personnel practice in each member state; and

7. Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

SECTION 2
DEFINITIONS

As used in this compact:

A. "Advanced emergency medical technician" or "AEMT" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that may be imposed against licensed EMS personnel by a state EMS authority or state court, including actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring, or other limitation or encumbrance on the individual's practice; letters of reprimand or admonition; fines; criminal convictions; and state court judgments enforcing adverse actions by the state EMS authority.

C. "Alternative program" means a voluntary, nondisciplinary substance abuse recovery program approved by a state EMS authority.

D. "Certification" means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated, and legally defensible examination.

E. "Commission" means the national administrative body of which all states that have enacted the compact are members.

F. "Emergency medical technician" or "EMT" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

G. "Home state" means a member state where an individual is licensed to practice emergency medical services.

H. "License" means the authorization by a state for an individual to practice as an EMT, AEMT, or paramedic or at a level between EMT and paramedic. In San Andreas, this is accomplished through certification or licensure of an emergency medical services provider pursuant to section 25-3.5-203 (1)(b).

I. "Medical director" means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

J. "Member state" means a state that has enacted this compact.

K. "Privilege to practice" means an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

L. "Paramedic" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the National EMS Education Standards and National EMS Scope of Practice Model.

M. "Remote state" means a member state in which an individual is not licensed.

N. "Restricted" means the outcome of an adverse action that limits a license or the privilege to practice.

O. "Rule" means a written statement by the interstate commission promulgated pursuant to section 12 of this compact that is of general applicability; implements, interprets, or prescribes a policy or provision of the compact; or is an organizational, procedural, or practice requirement of the commission and has the force and effect of statutory law in a member state. "Rule" includes the amendment, repeal, or suspension of an existing rule.

P. "Scope of practice" means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute, or court decision, it tends to represent the limits of services an individual may perform.

Q. "Significant investigatory information" means:

1. Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

2. Investigative information that indicates that an individual represents an immediate threat to public health and safety, regardless of whether the individual has been notified and had an opportunity to respond.

R. "State" means any state, commonwealth, district, or territory of the United States.

S. "State EMS authority" means the board, office, or other agency with the legislative mandate to license EMS personnel.

SECTION 3
HOME STATE LICENSURE

A. Any member state in which an individual holds a current license is deemed a home state for purposes of this compact.

B. Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

C. A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

1. Currently requires the use of the National Registry of Emergency Medical Technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

2. Has a mechanism in place for receiving and investigating complaints about individuals;

3. Notifies the commission, in compliance with the terms of the compact, of any adverse action or significant investigatory information regarding an individual, which notification does not waive confidentiality of the investigatory records protected under section 25-3.5-205 (4), S.A.R.S.;

4. No later than five years after activation of the compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 CFR 731.202 (2008), and submits documentation of the requirement as promulgated in the rules of the commission; and

5. Complies with the rules of the commission.

SECTION 4
COMPACT PRIVILEGE TO PRACTICE

A. Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with section 3 of this compact.

B. To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

1. Be at least eighteen years of age;

2. Possess a current, unrestricted license in a member state as an EMT, AEMT, paramedic, or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

3. Practice under the supervision of a medical director.

C. An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless modified by an appropriate authority in the remote state, as may be defined in the rules of the commission.

D. Except as provided in subsection C of this section 4, an individual practicing in a remote state is subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend, or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action, the remote state shall promptly notify the home state and the commission.

E. If an individual's license in any home state is restricted or suspended, the individual is not eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

F. If an individual's privilege to practice in any remote state is restricted, suspended, or revoked, the individual is not eligible to practice in any remote state until the individual's privilege to practice is restored.

SECTION 5
CONDITIONS OF PRACTICE IN A REMOTE STATE

A. An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the commission, and under the following circumstances:

1. The individual originates a patient transport in a home state and transports the patient to a remote state;

2. The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

3. The individual enters a remote state to provide patient care or transport within that remote state;

4. The individual enters a remote state to pick up a patient and provide care and transport to a third member state;

5. Other conditions as determined by rules promulgated by the commission.

SECTION 6
RELATIONSHIP TO EMERGENCY

Upon a member state's governor's declaration of a state of emergency or disaster that activates the Emergency Management Assistance Compact (EMAC), all relevant terms and provisions of EMAC apply, and to the extent any terms or provisions of this compact conflict with EMAC, the terms of EMAC prevail with respect to any individual practicing in the remote state in response to the emergency or disaster declaration.

SECTION 7
VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY, AND THEIR SPOUSES

A. Member states shall consider a veteran, active military service member, member of the National Guard and Reserves separating from an active duty tour, and a spouse of the veteran or member, who holds a current, valid, and unrestricted NREMT certification at or above the level of the state license being sought, as satisfying the minimum training and examination requirements for licensure.

B. Member states shall expedite the processing of a license application submitted by:

1. A veteran, active military service member, or member of the National Guard and Reserves who is separating from an active duty tour; and

2. The spouse of a veteran or member described in paragraph 1 of this subsection B.

C. All individuals functioning with a privilege to practice under this section remain subject to the adverse actions provisions of section 8 of this compact.

SECTION 8
ADVERSE ACTIONS

A. A home state has exclusive power to impose an adverse action against an individual's license issued by the home state.

B. If an individual's license in any home state is restricted or suspended, the individual is not eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

C. All home state adverse action orders must include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

D. An individual currently subject to an adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

E. A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended, or revoked to the commission in accordance with the rules of the commission.

F. A remote state may take adverse action on an individual's privilege to practice within that state.

G. Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, as long as each state follows its own procedures for imposing an adverse action.

H. A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if the conduct had occurred within the home state. In these cases, the home state's law controls in determining the appropriate adverse action.

I. Nothing in this compact overrides a member state's decision that participation in an alternative program may be used in lieu of adverse action and that participation remains confidential if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from the other member state.

SECTION 9
ADDITIONAL POWERS INVESTED IN A
MEMBER STATE'S EMS AUTHORITY

A. A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

1. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses or the production of evidence from another member state are enforceable in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state's EMS authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence are located; and

2. Issue cease-and-desist orders to restrict, suspend, or revoke an individual's privilege to practice in the state.

SECTION 10
ESTABLISHMENT OF THE INTERSTATE COMMISSION
FOR EMS PERSONNEL PRACTICE

A. 1. The compact states hereby create and establish a joint public agency known as the Interstate Commission for EMS Personnel Practice.

2. The commission is a body politic and an instrumentality of the compact states.

3. Venue is proper, and judicial proceedings by or against the commission must be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

4. Nothing in this compact waives sovereign immunity.

B. Membership, voting, and meetings.

1. Each member state has and is limited to one delegate. The responsible official of the state EMS authority or his or her designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. A vacancy occurring in the commission must be filled in accordance with the laws of the member state in which the vacancy occurs. If more than one board, office, or other agency with the legislative mandate to license EMS personnel at and

above the level of EMT exists, the governor of the state will determine which entity is responsible for assigning the delegate.

2. Each delegate is entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

3. The commission shall meet at least once during each calendar year. Additional meetings must be held as set forth in the bylaws.

4. All meetings are open to the public, and public notice of meetings must be given in the same manner as required under the rulemaking provisions in section 12 of this compact.

5. The commission may convene in a closed, non-public meeting if the commission must discuss:

a. Non-compliance of a member state with its obligations under the compact;

b. Employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

e. An accusation of a crime against any person or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with investigating or determining compliance issues pursuant to the compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting or portion of a meeting is closed pursuant to this section, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a closed meeting and shall provide a full and accurate summary of actions taken and the reasons for the actions, including a description of the views expressed. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

C. The commission shall, by a majority vote of the delegates, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact, including:

1. Establishing the fiscal year of the commission;

2. Providing reasonable standards and procedures:

a. For establishment and meetings of other committees; and

b. Governing any general or specific delegation of any authority or function of the commission;

3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of commission meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the commission members vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting, revealing the vote of each member with no proxy votes allowed;

4. Establishing the titles, duties, and authority, and reasonable procedures for the election of the officers of the commission;

5. Providing reasonable standards and procedures for establishing the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws exclusively govern the personnel policies and programs of the commission;

6. Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and

7. Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact and after the paying or reserving of all of its debts and obligations.

D. The commission shall publish its bylaws and file a copy of its bylaws and any amendments to the bylaws with the appropriate agency or officer in each of the member states, if any.

E. The commission shall maintain its financial records in accordance with the bylaws.

F. The commission shall meet and take actions consistent with this compact and commission bylaws.

G. The commission has the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules have the force and effect of law and are binding in all member states.

2. To bring and prosecute legal proceedings or actions in the name of the commission; except that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law is not affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept, or contract for services of personnel, including employees of a member state;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant those individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

6. To accept any appropriate donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of donations and grants; except that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use any real, personal, or mixed property; except that at all times the commission shall strive to avoid any appearance of impropriety;

8. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees, composed of members, state regulators, state legislators or their representatives, consumer representatives, and other interested persons as may be designated in this compact and the bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform other functions as may be necessary or appropriate to achieve the purposes of this compact that are consistent with the state regulation of EMS personnel licensure and practice.

H. Financing of the commission.

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The commission may accept any appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

4. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant, and the report of the audit must be included in and become part of the commission's annual report.

I. Qualified immunity, defense, and indemnification.

1. The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. Nothing in this paragraph 1 protects any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, unless the actual or alleged act, error, or omission resulted from that person's intentional or willful or wanton misconduct. Nothing in this paragraph 2 prohibits that person from retaining his or her own counsel.

3. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, unless the actual or alleged act, error, or omission resulted from the intentional or willful or wanton misconduct of that person.

SECTION 11
COORDINATED DATABASE

A. The commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action, and significant investigatory information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the commission, including:

1. Identifying information;
2. Licensure data;
3. Significant investigatory information;
4. Adverse actions against an individual's license;
5. An indicator that an individual's privilege to practice is restricted, suspended, or revoked;
6. Nonconfidential information related to alternative program participation;
7. Any denial of an application for licensure and the reason for the denial; and
8. Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

C. The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

D. Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

E. Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information must be removed from the coordinated database.

SECTION 12
RULEMAKING

A. The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section 12 and the rules adopted under this section 12. Rules and amendments are binding as of the date specified in the rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, the rule has no further force and effect in any member state.

C. Rules or amendments to the rules must be adopted at a regular or special meeting of the commission.

D. Prior to promulgating and adopting a final rule, and at least sixty days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

1. On the commission's website; and

2. On the website of each member state's EMS authority or the publication in which each state would otherwise publish proposed rules.

E. The notice of proposed rulemaking must include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit to the commission notice of intent to attend the public hearing and any written comments.

F. Prior to adopting a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which the commission shall make available to the public.

G. The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five persons;

2. A governmental subdivision or agency; or

3. An association having at least twenty-five members.

H. 1. If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing.

2. All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

3. Hearings must be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

4. A transcript of the hearing is not required unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This paragraph 4 does not preclude the commission from making a transcript or recording of the hearing if it so chooses.

5. Nothing in this section requires a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

J. The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If the commission does not receive written notice of intent to attend the public hearing by interested parties, the commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, but the usual rulemaking procedures provided in the compact and in this section must be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule. For the purposes of this subsection L, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical, format, consistency, or grammatical errors. Public notice of any revisions must be posted on the commission's website. The revision is subject to challenge by any person for a period of thirty days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

SECTION 13
OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated under the compact have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the commission.

3. The commission is entitled to receive service of process in any judicial or administrative proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or promulgated rules.

B. Default, technical assistance, and termination.

1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and any other action to be taken by the commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. The commission shall give notice of intent to suspend or terminate to the governor of the defaulting state, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The court shall award all costs of the litigation, including reasonable attorney's fees, to the prevailing party.

C. Dispute resolution.

1. Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non-member states.

2. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the court shall award all costs of the litigation, including reasonable attorney's fees, to the prevailing party.

3. The remedies contained in this section are not the exclusive remedies available to the commission. The commission may pursue any other remedies available under federal or state law.

SECTION 14

DATE OF IMPLEMENTATION OF THE
INTERSTATE COMMISSION FOR EMS PERSONNEL
PRACTICE AND ASSOCIATED RULES,
WITHDRAWAL, AND AMENDMENT

A. The compact takes effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions that become effective at that time are limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to implement and administer the compact.

B. Any state that joins the compact after the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

C. 1. Any member state may withdraw from this compact by enacting a statute repealing the compact statute.

2. A member state's withdrawal does not take effect until six months after enactment of the repealing statute.

3. Withdrawal does not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

D. Nothing contained in this compact invalidates or prevents any EMS personnel licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

E. The member states may amend the compact. An amendment to this compact is not effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 15
CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes of the compact. If a court finds that this compact is contrary to the constitution of any member state, the compact remains in full force and effect as to the remaining member states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

Source: L. 2015: Entire part added, (HB 15-1015), ch. 171, p. 521, § 1, effective August 5. **L. 2016:** Section 2 O. and section 10 B.4. amended, (SB 16-189), ch. 210, p. 768, § 55, effective June 6. **L. 2019:** Section 2 H. amended, (SB 19-242), ch. 396, p. 3528, § 14, effective May 31.

PART 36

INTERSTATE MEDICAL LICENSURE COMPACT

24-60-3601. Short title. The short title of this part 36 is the "Interstate Medical Licensure Compact Act".

Source: L. 2016: Entire part added, (HB 16-1047), ch. 245, p. 994, § 1, effective June 8.

24-60-3602. Compact approved and ratified. The general assembly hereby approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE MEDICAL LICENSURE COMPACT

SECTION 1. PURPOSE

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The Compact creates another pathway for licensure and does not otherwise change a state's existing Medical Practice Act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

SECTION 2. DEFINITIONS

In this Compact:

(a) "Bylaws" means those bylaws established by the Interstate Commission pursuant to Section 11 for its governance, or for directing and controlling its actions and conduct.

(b) "Commissioner" means the voting representative appointed by each member board pursuant to Section 11.

(c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(d) "Expedited License" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.

(e) "Interstate Commission" means the interstate commission created pursuant to Section 11.

(f) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(g) "Medical Practice Act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(h) "Member Board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

(i) "Member State" means a state that has enacted the Compact.

(j) "Practice of Medicine" means the clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the Medical Practice Act of a member state.

(k) "Physician" means any person who:

(1) Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent;

(2) Passed each component of the United States Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;

(3) Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

(4) Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(5) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;

(6) Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(7) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license;

(8) Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration; and

(9) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

(l) "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

(m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 12 of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state and includes the amendment, repeal, or suspension of an existing rule.

(n) "State" means any state, commonwealth, district, or territory of the United States.

(o) "State of Principal License" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

SECTION 3. ELIGIBILITY

(a) A physician must meet the eligibility requirements as defined in Section 2(k) to receive an expedited license under the terms and provisions of the Compact.

(b) A physician who does not meet the requirements of Section 2(k) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

SECTION 4. DESIGNATION OF STATE OF PRINCIPAL LICENSE

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

(1) the state of primary residence for the physician, or

(2) the state where at least 25% of the practice of medicine occurs, or

(3) the location of the physician's employer, or

(4) if no state qualifies under subsection (1), subsection (2), or subsection (3), the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a).

(c) The Interstate Commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

SECTION 5. APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

(a) A physician seeking licensure through the Compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission.

(i) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Interstate Commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(ii) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of federal employees who have suitability determination in accordance with U.S. 5 C.F.R. § 731.202.

(iii) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification in subsection (b), physicians eligible for an expedited license shall complete the registration process established by the Interstate Commission to receive a license in a member state selected pursuant to subsection (a), including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the Medical Practice Act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without redesignation of a new state of principal licensure.

(g) The Interstate Commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

SECTION 6. FEES FOR EXPEDITED LICENSURE

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.

(b) The Interstate Commission is authorized to develop rules regarding fees for expedited licenses.

SECTION 7. RENEWAL AND CONTINUED PARTICIPATION

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the Interstate Commission if the physician:

(1) Maintains a full and unrestricted license in a state of principal license;

(2) Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction;

(3) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license; and

(4) Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected in subsection (c), a member board shall renew the physician's license.

(e) Physician information collected by the Interstate Commission during the renewal process will be distributed to all member boards.

(f) The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

SECTION 8. COORDINATED INFORMATION SYSTEM

(a) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under section 5.

(b) Notwithstanding any other provision of law, member boards shall report to the Interstate Commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the Interstate Commission.

(d) Member boards may report any non-public complaint, disciplinary, or investigatory information not required by subsection (c) to the Interstate Commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the Interstate Commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The Interstate Commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

SECTION 9. JOINT INVESTIGATIONS

(a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

SECTION 10. DISCIPLINARY ACTIONS

(a) Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct that may be subject to discipline by other member boards, in addition to any violation of the Medical Practice Act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the Medical Practice Act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

(i) impose the same or lesser sanction(s) against the physician so long as such sanctions are consistent with the Medical Practice Act of that state;

(ii) or pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license(s) issued to the physician by any other member board(s) shall be suspended, automatically and immediately without further action necessary by the other member board(s), for ninety (90) days upon entry of the order by the disciplining board, to permit the member board(s) to investigate the basis for the action under the Medical Practice Act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the ninety (90) day suspension period in a manner consistent with the Medical Practice Act of that state.

SECTION 11. INTERSTATE MEDICAL LICENSURE COMPACT COMMISSION

(a) The member states hereby create the "Interstate Medical Licensure Compact Commission".

(b) The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(c) The Interstate Commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the Compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

(d) The Interstate Commission shall consist of two voting representatives appointed by each member state who shall serve as Commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner shall be a(n):

(1) Allopathic or osteopathic physician appointed to a member board;

(2) Executive director, executive secretary, or similar executive of a member board; or

(3) Member of the public appointed to a member board.

(e) The Interstate Commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the Commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(g) Each Commissioner participating at a meeting of the Interstate Commission is entitled to one vote. A majority of Commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A commissioner shall not delegate a vote to another Commissioner. In the absence of its Commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d).

(h) The Interstate Commission shall provide public notice of all meetings and all meetings shall be open to the public. The Interstate Commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the Commissioners present that an open meeting would be likely to:

(1) Relate solely to the internal personnel practices and procedures of the Interstate Commission;

(2) Discuss matters specifically exempted from disclosure by federal statute;

(3) Discuss trade secrets, commercial or financial information that is privileged or confidential;

(4) Involve accusing a person of a crime, or formally censuring a person;

(5) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Discuss investigative records compiled for law enforcement purposes; or

(7) Specifically relate to the participation in a civil action or other legal proceeding.

(i) The Interstate Commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(j) The Interstate Commission shall make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available to the public for inspection.

(k) The Interstate Commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. When acting on behalf of the Interstate Commission, the executive committee shall oversee the administration of the Compact, including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as necessary.

(l) The Interstate Commission may establish other committees for governance and administration of the Compact.

SECTION 12. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the duty and power to:

(a) Oversee and maintain the administration of the Compact;

(b) Promulgate rules which shall be binding to the extent and in the manner provided for in the Compact;

(c) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions;

(d) Enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(e) Establish and appoint committees including, but not limited to, an executive committee as required by Section 11, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties;

(f) Pay, or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the Interstate Commission;

(g) Establish and maintain one or more offices;

(h) Borrow, accept, hire, or contract for services of personnel;

(i) Purchase and maintain insurance and bonds;

(j) Employ an executive director who shall have such powers to employ, select or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation;

(k) Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

(l) Accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the Interstate Commission;

(m) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;

(n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(o) Establish a budget and make expenditures;

(p) Adopt a seal and bylaws governing the management and operation of the Interstate Commission;

(q) Report annually to the legislatures and governors of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the Interstate Commission;

(r) Coordinate education, training, and public awareness regarding the Compact, its implementation, and its operation;

(s) Maintain records in accordance with the bylaws;

(t) Seek and obtain trademarks, copyrights, and patents; and

(u) Perform such functions as may be necessary or appropriate to achieve the purposes of the Compact.

SECTION 13. FINANCE POWERS

(a) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(b) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet same.

(c) The Interstate Commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The Interstate Commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the Interstate Commission.

SECTION 14. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall, by a majority of Commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact within twelve (12) months of the first Interstate Commission meeting.

(b) The Interstate Commission shall elect or appoint annually from among its Commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission.

(c) Officers selected in subsection (b) shall serve without remuneration from the Interstate Commission.

(d) The officers and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for

believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the executive director and employees of the Interstate Commission or representative of the Interstate Commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within each person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(2) The Interstate Commission shall defend the executive director, its employees and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

SECTION 15. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the Interstate Commission shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.

(c) Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of

success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the Interstate Commission.

SECTION 16. OVERSIGHT OF INTERSTATE COMPACT

(a) The executive, legislative, and judicial branches of state government in each member state shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities, or actions of the Interstate Commission.

(c) The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceedings for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, the Compact, or promulgated rules.

SECTION 17. ENFORCEMENT OF INTERSTATE COMPACT

(a) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

(b) The Interstate Commission may, by majority vote of the Commissioners, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

(c) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

SECTION 18. DEFAULT PROCEDURES

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact or by the rules and bylaws of the Interstate Commission promulgated under the Compact.

(b) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(1) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; and

(2) Provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the Commissioners and all rights, privileges, and benefits conferred by the Compact shall terminate on the effective date of

termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The Interstate Commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

(f) The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(g) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(h) The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

SECTION 19. DISPUTE RESOLUTION

(a) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states or member boards.

(b) The Interstate Commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

SECTION 20. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

(a) Any state is eligible to become a member state of the Compact.

(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.

(c) The governors of non-member states, or their designees, shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the Compact by all states.

(d) The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall be effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

SECTION 21. WITHDRAWAL

(a) Once effective, the Compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the Compact by specifically repealing the statute which enacted the Compact into law.

(b) Withdrawal from the Compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.

(d) The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt of notice provided under subsection (c).

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the Compact or upon such later date as determined by the Interstate Commission.

(g) The Interstate Commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

SECTION 22. DISSOLUTION

(a) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the Compact to one (1) member state.

(b) Upon the dissolution of the Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

SECTION 23. SEVERABILITY AND CONSTRUCTION

(a) The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(b) The provisions of the Compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the Compact shall be construed to prohibit the applicability of other interstate Compacts to which the states are members.

SECTION 24. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

(b) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

(c) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

(d) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Source: L. 2016: Entire part added, (HB 16-1047), ch. 245, p. 994, § 1, effective June 8.

PART 37

INTERSTATE PHYSICAL THERAPY LICENSURE COMPACT

24-60-3701. Short title. The short title of this part 37 is the "Interstate Physical Therapy Licensure Compact Act".

Source: L. 2017: Entire part added, (HB 17-1057), ch. 200, p. 725, § 1, effective May 10.

24-60-3702. Compact approved and ratified. The general assembly hereby approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

PHYSICAL THERAPY LICENSURE COMPACT

SECTION 1. PURPOSE

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;
2. Enhance the states' ability to protect the public's health and safety;
3. Encourage the cooperation of member states in regulating multi-state physical therapy practice;
4. Support spouses of relocating military members;
5. Enhance the exchange of licensure, investigative, and disciplinary information between member states; and
6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards.

SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

1. **"Active Duty Military"** means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.
2. **"Adverse Action"** means disciplinary action taken by a physical therapy licensing board based upon misconduct, unacceptable performance, or a combination of both.
3. **"Alternative Program"** means a non-disciplinary monitoring or practice remediation process approved by a physical therapy licensing board. This includes, but is not limited to, substance abuse issues.
4. **"Compact privilege"** means the authorization granted by a remote state to allow a licensee from another member state to practice as a physical therapist or work as a physical

therapist assistant in the remote state under its laws and rules. The practice of physical therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

5. **"Continuing competence"** means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

6. **"Data system"** means a repository of information about licensees, including examination, licensure, investigative, compact privilege, and adverse action.

7. **"Encumbered license"** means a license that a physical therapy licensing board has limited in any way.

8. **"Executive Board"** means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

9. **"Home state"** means the member state that is the licensee's primary state of residence.

10. **"Investigative information"** means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.

11. **"Jurisprudence Requirement"** means the assessment of an individual's knowledge of the laws and rules governing the practice of physical therapy in a state.

12. **"Licensee"** means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

13. **"Member state"** means a state that has enacted the Compact.

14. **"Party state"** means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

15. **"Physical therapist"** means an individual who is licensed by a state to practice physical therapy.

16. **"Physical therapist assistant"** means an individual who is licensed/certified by a state and who assists the physical therapist in selected components of physical therapy.

17. **"Physical therapy," "physical therapy practice," and "the practice of physical therapy"** mean the care and services provided by or under the direction and supervision of a licensed physical therapist.

18. **"Physical Therapy Compact Commission" or "Commission"** means the national administrative body whose membership consists of all states that have enacted the Compact.

19. **"Physical therapy licensing board" or "licensing board"** means the agency of a state that is responsible for the licensing and regulation of physical therapists and physical therapist assistants.

20. **"Remote State"** means a member state other than the home state, where a licensee is exercising or seeking to exercise the compact privilege.

21. **"Rule"** means a regulation, principle, or directive promulgated by the Commission that has the force of law.

22. **"State"** means any state, commonwealth, district, or territory of the United States of America that regulates the practice of physical therapy.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To participate in the Compact, a state must:

1. Participate fully in the Commission's data system, including using the Commission's unique identifier as defined in rules;

2. Have a mechanism in place for receiving and investigating complaints about licensees;

3. Notify the Commission, in compliance with the terms of the Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

4. Fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions in accordance with Section 3.B.;

5. Comply with the rules of the Commission;

6. Utilize a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and

7. Have continuing competence requirements as a condition for license renewal.

B. Upon adoption of this statute, the member state shall have the authority to obtain biometric-based information from each physical therapy licensure applicant and submit this information to the Federal Bureau of Investigation for a criminal background check in accordance with 28 U.S.C. §534 and 42 U.S.C. §14616.

C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.

D. Member states may charge a fee for granting a compact privilege.

SECTION 4. COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:

1. Hold a license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with Section 4D, G and H;

4. Have not had any adverse action against any license or compact privilege within the previous 2 years;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege;

7. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and

8. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of Section 4.A. to maintain the compact privilege in the remote state.

C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and
2. Two years have elapsed from the date of the adverse action.

F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4A to obtain a compact privilege in any remote state.

G. If a licensee's compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:

1. The specific period of time for which the compact privilege was removed has ended;
2. All fines have been paid; and
3. Two years have elapsed from the date of the adverse action.

H. Once the requirements of Section 4G have been met, the license must meet the requirements in Section 4A to obtain a compact privilege in a remote state.

SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

A. Home of record;
B. Permanent Change of Station (PCS); or
C. State of current residence if it is different than the PCS state or home of record.

SECTION 6. ADVERSE ACTIONS

A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.

B. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

C. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state's laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

D. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

E. A remote state shall have the authority to:

1. Take adverse actions as set forth in Section 4.D. against a licensee's compact privilege in the state;

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

3. If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action taken against that licensee.

F. Joint Investigations

1. In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION.

A. The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission:

1. The Commission is an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one (1) delegate selected by that member state's licensing board.

2. The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring in the Commission.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state physical therapy licensing board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Board; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of physical therapy licensure and practice.

D. The Executive Board

The Executive Board shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Board shall be comprised of nine members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. One ex-officio, nonvoting member from the recognized national physical therapy professional association; and

c. One ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

2. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Board as provided in bylaws.

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following Duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 9.

2. The Commission or the Executive Board or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Board or other committees of the Commission must discuss:

a. Non-compliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 8. DATA SYSTEM

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or compact privilege;
4. Non-confidential information related to alternative program participation;
5. Any denial of application for licensure, and the reason(s) for such denial; and
6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state will only be available to other party states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 9. RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90)

days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate

shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 12. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Source: L. 2017: Entire part added, (HB 17-1057), ch. 200, p. 725, § 1, effective May 10.

PART 38

ENHANCED NURSE LICENSURE COMPACT

24-60-3801. Short title. The short title of this part 38 is the "Enhanced Nurse Licensure Compact".

Source: L. 2018: Entire part added, (SB 18-027), ch. 1, p. 1, § 2, effective January 18.

24-60-3802. Compact approved and ratified. The general assembly hereby approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

Findings and Declaration of Purpose

a. The party states find that:

1. The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;

2. Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

3. The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation;

4. New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex;

5. The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states; and

6. Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

b. The general purposes of this Compact are to:

1. Facilitate the states' responsibility to protect the public's health and safety;

2. Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;

3. Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions;

4. Promote compliance with the laws governing the practice of nursing in each jurisdiction;

5. Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;

6. Decrease redundancies in the consideration and issuance of nurse licenses; and

7. Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II

Definitions

As used in this Compact:

a. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation of the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

b. "Alternative program" means a non-disciplinary monitoring program approved by a licensing board.

c. "Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

d. "Current significant investigative information" means:

1. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

e. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

f. "Home state" means the party state which is the nurse's primary state of residence.

g. "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

h. "Multistate license" means a license to practice as a registered or a licensed practical/vocational nurse (LPN/VN) issued by a home state licensing board that authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

i. "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either a registered nurse (RN) or LPN/VN in a remote state.

j. "Nurse" means RN or LPN/VN, as those terms are defined by each party state's practice laws.

k. "Party state" means any state that has adopted this Compact.

l. "Remote state" means a party state, other than the home state.

m. "Single-state license" means a nurse license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

n. "State" means a state, territory or possession of the United States and the District of Columbia.

o. "State practice laws" means a party state's laws, rules and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" do not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

General Provisions and Jurisdiction

a. A multistate license to practice registered or licensed practical/vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a nurse to practice as a registered nurse (RN) or as a licensed practical/vocational nurse (LPN/VN), under a multistate licensure privilege, in each party state.

b. A state must implement procedures for considering the criminal history records of applicants for initial multistate license or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

c. Each party state shall require the following for an applicant to obtain or retain a multistate license in the home state:

1. Meets the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;

2. i. Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

ii. Has graduated from a foreign RN or LPN/VN prelicensure education program that (a) has been approved by the authorized accrediting body in the applicable country and (b) has been verified by an independent credentials review agency to be comparable to a licensing board-approved prelicensure education program;

3. Has, if a graduate of a foreign prelicensure education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing, and listening;

4. Has successfully passed an NCLEX-RN® or NCLEX-PN® Examination or recognized predecessor, as applicable;

5. Is eligible for or holds an active, unencumbered license;

6. Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records;

7. Has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state or federal criminal law;

8. Has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

9. Is not currently enrolled in an alternative program;

10. Is subject to self-disclosure requirements regarding current participation in an alternative program; and

11. Has a valid United States Social Security Number.

d. All party states shall be authorized, in accordance with existing state due process law, to take adverse action against a nurse's multistate licensure privilege such as revocation, suspension, probation or any other action that affects a nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

e. A nurse practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of the party state in which the client is located. The practice of nursing in a party state under a multistate licensure privilege will subject a nurse to the jurisdiction of the licensing board, the courts and the laws of the party state in which the client is located at the time service is provided.

f. Individuals not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to

practice nursing in any other party state. Nothing in this Compact shall affect the requirements established by a party state for the issuance of a single-state license.

g. Any nurse holding a home state multistate license, on the effective date of this Compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that:

1. A nurse, who changes primary state of residence after this compact's effective date, must meet all applicable Article III.c. requirements to obtain a multistate license from a new home state.

2. A nurse who fails to satisfy the multistate licensure requirements in Article III.c. due to a disqualifying event occurring after this Compact's effective date shall be ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the Interstate Commission of Nurse Licensure Compact Administrators ("Commission").

ARTICLE IV

Applications for Licensure in a Party State

a. Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant and whether the applicant is currently in an alternative program.

b. A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

c. If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state and the multistate license issued by the prior home state will be deactivated in accordance with applicable rules adopted by the Commission.

1. The nurse may apply for licensure in advance of a change in primary state of residence.

2. A multistate license shall not be issued by the new home state until the nurse provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

d. If a nurse changes primary state of residence by moving from a party state to a non-party state, the multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

a. In addition to the other powers conferred by state law, a licensing board shall have the authority to:

1. Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

i. Only the home state shall have the power to take adverse action against a nurse's license issued by the home state.

ii. For purposes of taking adverse action, the home state licensing board shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

2. Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.

3. Complete any pending investigations of a nurse who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence. Subpoenas issued by a licensing board in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state in which the witnesses or evidence are located.

5. Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decisions.

6. If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

7. Take adverse action based on the factual findings of the remote state, provided that the licensing board follows its own procedures for taking such adverse action.

b. If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances have been removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

c. Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI

Coordinated Licensure Information

System and Exchange of Information

a. All party states shall participate in a coordinated licensure information system of all licensed registered nurses (RNs) and licensed practical/vocational nurses (LPNs/VNs). This system will include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

b. The Commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.

c. All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (with the reasons for such denials) and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

d. Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

e. Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

f. Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

g. Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information, shall also be expunged from the coordinated licensure information system.

h. The Compact administrator of each party state shall furnish a uniform data set to the Compact administrator of each other party state, which shall include, at a minimum:

1. Identifying information;
2. Licensure data;
3. Information related to alternative program participation; and
4. Other information that may facilitate the administration of this Compact, as determined by Commission rules.

i. The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

Establishment of the Interstate Commission of Nurse Licensure Compact Administrators

a. The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

1. The Commission is an instrumentality of the party states.

2. Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

b. Membership, Voting and Meetings

1. Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the Administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

2. Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

4. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII.

5. The Commission may convene in a closed, non-public meeting if the Commission must discuss:

i. Noncompliance of a party state with its obligations under this Compact;

ii. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

iii. Current, threatened or reasonably anticipated litigation;

iv. Negotiation of contracts for the purchase or sale of goods, services or real estate;

v. Accusing any person of a crime or formally censuring any person;

vi. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

vii. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

viii. Disclosure of investigatory records compiled for law enforcement purposes;

ix. Disclosure of information related to any reports prepared by or on behalf of the Commission for the purpose of investigation of compliance with this Compact; or

x. Matters specifically exempted from disclosure by federal or state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

c. The Commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this Compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

i. For the establishment and meetings of other committees; and

ii. Governing any general or specific delegation of any authority or function of the Commission;

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the Commission; and

6. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of this Compact after the payment or reserving of all of its debts and obligations;

d. The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the Commission.

e. The Commission shall maintain its financial records in accordance with the bylaws.

f. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

g. The Commission shall have the following powers:

1. To promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all party states;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a party state or nonprofit organizations;

5. To cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;

6. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and to establish

the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

7. To accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

8. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

9. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;

10. To establish a budget and make expenditures;

11. To borrow money;

12. To appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

13. To provide and receive information from, and to cooperate with, law enforcement agencies;

14. To adopt and use an official seal; and

15. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of nurse licensure and practice.

h. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.

2. The Commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule that is binding upon all party states.

3. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

4. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

i. Qualified Immunity, Defense and Indemnification

1. The administrators, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties or responsibilities; provided that nothing in this

paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury or liability caused by the intentional, willful, or wanton misconduct of that person.

2. The Commission shall defend any administrator, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful, or wanton misconduct of that person.

ARTICLE VIII

Rulemaking

a. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.

b. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

c. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

1. On the website of the Commission; and

2. On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

d. The notice of proposed rulemaking shall include:

1. The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment, and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

e. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

f. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

g. The Commission shall publish the place, time, and date of the scheduled public hearing.

1. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

2. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

h. If no one appears at the public hearing, the Commission may proceed with promulgation of the proposed rule.

i. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

j. The Commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

k. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety or welfare;

2. Prevent a loss of Commission or party state funds; or

3. Meet a deadline for the promulgation of an administrative rule that is required by federal law or rule.

l. The Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE IX

Oversight, Dispute Resolution and Enforcement

a. Oversight

1. Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent.

2. The Commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the Commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such

proceeding to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

b. Default, Technical Assistance and Termination

1. If the Commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

i. Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default or any other action to be taken by the Commission; and

ii. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state's membership in this Compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board and each of the party states.

4. A state whose membership in this Compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or whose membership in this Compact has been terminated unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

c. Dispute Resolution

1. Upon request by a party state, the Commission shall attempt to resolve disputes related to the Compact that arise among party states and between party and non-party states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

3. In the event the Commission cannot resolve disputes among party states arising under this Compact:

i. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

ii. The decision of a majority of the arbitrators shall be final and binding.

d. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the U.S. District Court for the District of Columbia or the federal district in which the Commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE X

Effective Date, Withdrawal and Amendment

a. This Compact shall become effective and binding on the earlier of the date of legislative enactment of this Compact into law by no less than twenty-six (26) states or December 31, 2018. All party states to this Compact, that also were parties to the prior Nurse Licensure Compact, superseded by this Compact, ("Prior Compact"), shall be deemed to have withdrawn from said Prior Compact within six (6) months after the effective date of this Compact.

b. Each party state to this Compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the Prior Compact until such party state has withdrawn from the Prior Compact.

c. Any party state may withdraw from this Compact by enacting a statute repealing the same. A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

d. A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

e. Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this Compact.

f. This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

g. Representatives of nonparty states to this Compact shall be invited to participate in the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all states.

ARTICLE XI

Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any

government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held to be contrary to the constitution of any party state, this Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Source: L. 2018: Entire part added, (SB 18-027), ch. 1, p. 1, § 2, effective January 18.

PART 39

PSYCHOLOGY INTERJURISDICTIONAL COMPACT

24-60-3901. Short title. The short title of this part 39 is the "Psychology Interjurisdictional Compact Act".

Source: L. 2018: Entire part added, (HB 18-1017), ch. 133, p. 859, § 1, effective August 8.

24-60-3902. Compact approved and ratified. The general assembly hereby approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

PSYCHOLOGY INTERJURISDICTIONAL COMPACT

ARTICLE I
PURPOSE

Whereas, states license psychologists, in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

Whereas, this Compact is intended to regulate the day to day practice of telepsychology (i.e. the provision of psychological services using telecommunication technologies) by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

Whereas, this Compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority;

Whereas, this Compact is intended to authorize State Psychology Regulatory Authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state;

Whereas, this Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety;

Whereas, this Compact does not apply when a psychologist is licensed in both the Home and Receiving States; and

Whereas, this Compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice.

Consistent with these principles, this Compact is designed to achieve the following purposes and objectives:

1. Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;
2. Enhance the states' ability to protect the public's health and safety, especially client/patient safety;
3. Encourage the cooperation of Compact States in the areas of psychology licensure and regulation;
4. Facilitate the exchange of information between Compact States regarding psychologist licensure, adverse actions and disciplinary history;
5. Promote compliance with the laws governing psychological practice in each Compact State; and
6. Invest all Compact States with the authority to hold licensed psychologists accountable through the mutual recognition of Compact State licenses.

ARTICLE II
DEFINITIONS

A. "Adverse Action" means: Any action taken by a State Psychology Regulatory Authority which finds a violation of a statute or regulation that is identified by the State Psychology Regulatory Authority as discipline and is a matter of public record.
B. "Association of State and Provincial Psychology Boards (ASPPB)" means: the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.
C. "Authority to Practice Interjurisdictional Telepsychology" means: a licensed psychologist's authority to practice telepsychology, within the limits authorized under this Compact, in another Compact State.
D. "Bylaws" means: those Bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Article X for its governance, or for directing and controlling its actions and conduct.
E. "Client/Patient" means: the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, and/or consulting services.
F. "Commissioner" means: the voting representative appointed by each State Psychology Regulatory Authority pursuant to Article X.

G. "Compact State" means: a state, the District of Columbia, or United States territory that has enacted this Compact legislation and which has not withdrawn pursuant to Article XIII, Section C or been terminated pursuant to Article XII, Section B.
H. "Coordinated Licensure Information System" also referred to as "Coordinated Database" means: an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.
I. "Confidentiality" means: the principle that data or information is not made available or disclosed to unauthorized persons and/or processes.
J. "Day" means: any part of a day in which psychological work is performed.
K. "Distant State" means: the Compact State where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services.
L. "E.Passport" means: a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.
M. "Executive Board" means: a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.
N. "Home State" means: a Compact State where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one Compact State and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the Compact State where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed.
O. "Identity History Summary" means: a summary of information retained by the FBI, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.
P. "In-Person, Face-to-Face" means: interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.
Q. "Interjurisdictional Practice Certificate (IPC)" means: a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the State Psychology Regulatory Authority of intention to practice temporarily, and verification of one's qualifications for such practice.
R. "License" means: authorization by a State Psychology Regulatory Authority to engage in the independent practice of psychology, which would be unlawful without the authorization.
S. "Non-Compact State" means: any State which is not at the time a Compact State.
T. "Psychologist" means: an individual licensed for the independent practice of psychology.
U. "Psychology Interjurisdictional Compact Commission" also referred to as "Commission" means: the national administration of which all Compact States are members.
V. "Receiving State" means: a Compact State where the client/patient is physically located when the telepsychological services are delivered.

W. "Rule" means: a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to article XI of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a Compact State, and includes the amendment, repeal or suspension of an existing rule.
X. "Significant Investigatory Information" means:
1. investigative information that a State Psychology Regulatory Authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or
2. investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified and/or had an opportunity to respond.
Y. "State" means: a state, commonwealth, territory, or possession of the United States, or the District of Columbia.
Z. "State Psychology Regulatory Authority" means: the Board, office or other agency with the legislative mandate to license and regulate the practice of psychology.
AA. "Telepsychology" means: the provision of psychological services using telecommunication technologies.
BB. "Temporary Authorization to Practice" means: a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State.
CC. "Temporary In-Person, Face-to-Face Practice" means: where a psychologist is physically present (not through the use of telecommunications technologies), in the Distant State to provide for the practice of psychology for 30 days within a calendar year and based on notification to the Distant State.

ARTICLE III
HOME STATE LICENSURE

A. The Home State shall be a Compact State where a psychologist is licensed to practice psychology.
B. A psychologist may hold one or more Compact State licenses at a time. If the psychologist is licensed in more than one Compact State, the Home State is the Compact State where the psychologist is physically present when the services are delivered as authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.
C. Any Compact State may require a psychologist not previously licensed in a Compact State to obtain and retain a license to be authorized to practice in the Compact State under circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.
D. Any Compact State may require a psychologist to obtain and retain a license to be authorized to practice in a Compact State under circumstances not authorized by Temporary Authorization to Practice under the terms of this Compact.
E. A Home State's license authorizes a psychologist to practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only if the Compact State:

1. Currently requires the psychologist to hold an active E.Passport;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation FBI, or other designee with similar authority, no later than ten years after activation of the Compact; and
5. Complies with the Bylaws and Rules of the Commission.
F. A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact State:
1. Currently requires the psychologist to hold an active IPC;
2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;
3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;
4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation FBI, or other designee with similar authority, no later than ten years after activation of the Compact; and
5. Complies with the Bylaws and Rules of the Commission.

ARTICLE IV
COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

A. Compact States shall recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice telepsychology in other Compact States (Receiving States) in which the psychologist is not licensed, under the Authority to Practice Interjurisdictional Telepsychology as provided in the Compact.
B. To exercise the Authority to Practice Interjurisdictional Telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:
1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:
a. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or
b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and
2. Hold a graduate degree in psychology that meets the following criteria:
a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;
c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;
d. The program must consist of an integrated, organized sequence of study;
e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;
f. The designated director of the program must be a psychologist and a member of the core faculty;
g. The program must have an identifiable body of students who are matriculated in that program for a degree;
h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;
i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for master's degree; and
j. The program includes an acceptable residency as defined by the Rules of the Commission.
3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;
4. Have no history of adverse action that violate the Rules of the Commission;
5. Have no criminal record history reported on an Identity History Summary that violates the Rules of the Commission;
6. Possess a current, active E.Passport;
7. Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and
8. Meet other criteria as defined by the Rules of the Commission.
C. The Home State maintains authority over the license of any psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.
D. A psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology will be subject to the Receiving State's scope of practice. A Receiving State may, in accordance with that state's due process law, limit or revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State and may take any other necessary actions under the Receiving State's applicable law to protect the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state shall promptly notify the Home State and the Commission.
E. If a psychologist's license in any Home State, another Compact State, or any Authority to Practice Interjurisdictional Telepsychology in any Receiving State, is restricted, suspended or otherwise limited, the E.Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a Compact State under the Authority to Practice Interjurisdictional Telepsychology.

ARTICLE V

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

A. Compact States shall also recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice temporarily in other Compact States (Distant States) in which the psychologist is not licensed, as provided in the Compact.
B. To exercise the Temporary Authorization to Practice under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:
1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:
a. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or
b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and
2. Hold a graduate degree in psychology that meets the following criteria:
a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;
b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;
c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;
d. The program must consist of an integrated, organized sequence of study;
e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;
f. The designated director of the program must be a psychologist and a member of the core faculty;
g. The program must have an identifiable body of students who are matriculated in that program for a degree;
h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;
i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degree; and
j. The program includes an acceptable residency as defined by the Rules of the Commission.
3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;
4. No history of adverse action that violate the Rules of the Commission;
5. No criminal record history that violates the Rules of the Commission;
6. Possess a current, active IPC;
7. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the Rules of the Commission.
C. A psychologist practicing into a Distant State under the Temporary Authorization to Practice shall practice within the scope of practice authorized by the Distant State.
D. A psychologist practicing into a Distant State under the Temporary Authorization to Practice will be subject to the Distant State's authority and law. A Distant State may, in accordance with that state's due process law, limit or revoke a psychologist's Temporary Authorization to Practice in the Distant State and may take any other necessary actions under the Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a Distant State takes action, the state shall promptly notify the Home State and the Commission.
E. If a psychologist's license in any Home State, another Compact State, or any Temporary Authorization to Practice in any Distant State, is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a Compact State under the Temporary Authorization to Practice.

ARTICLE VI
CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A. A psychologist may practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate State Psychology Regulatory Authority, as defined in the Rules of the Commission, and under the following circumstances:
1. The psychologist initiates a client/patient contact in a Home State via telecommunications technologies with a client/patient in a Receiving State;
2. Other conditions regarding telepsychology as determined by Rules promulgated by the Commission.

ARTICLE VII
ACTIONS

A. A Home State shall have the power to impose adverse action against a psychologist's license issued by the Home State. A Distant State shall have the power to take adverse action on a psychologist's Temporary Authorization to Practice within that Distant State.
B. A Receiving State may take adverse action on a psychologist's Authority to Practice Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse action against a psychologist based on an adverse action taken by a Distant State regarding temporary in-person, face-to-face practice.
C. If a Home State takes adverse action against a psychologist's license, that psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is terminated and the IPC is revoked.
1. All Home State disciplinary orders which impose adverse action shall be reported to the Commission in accordance with the Rules promulgated by the Commission. A Compact State shall report adverse actions in accordance with the Rules of the Commission.

2. In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the Rules of the Commission.
3. Other actions may be imposed as determined by the Rules promulgated by the Commission.
D. A Home State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a Receiving State as it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law shall control in determining any adverse action against a psychologist's license.
E. A Distant State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under Temporary Authorization Practice which occurred in that Distant State as it would if such conduct had occurred by a licensee within the Home State. In such cases, Distant State's law shall control in determining any adverse action against a psychologist's Temporary Authorization to Practice.
F. Nothing in this Compact shall override a Compact State's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the Compact State's law. Compact States must require psychologists who enter any alternative programs to not provide telepsychology services under the Authority to Practice Interjurisdictional Telepsychology or provide temporary psychological services under the Temporary Authorization to Practice in any other Compact State during the term of the alternative program.
G. No other judicial or administrative remedies shall be available to a psychologist in the event a Compact State imposes an adverse action pursuant to subsection C, above.

ARTICLE VIII
ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY

A. In addition to any other powers granted under state law, a Compact State's Psychology Regulatory Authority shall have the authority under this Compact to:
1. Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a Compact State's Psychology Regulatory Authority for the attendance and testimony of witnesses, and/or the production of evidence from another Compact State shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing State Psychology Regulatory Authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and
2. Issue cease and desist and/or injunctive relief orders to revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice.
3. During the course of any investigation, a psychologist may not change his/her Home State licensure. A Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The

Home State Psychology Regulatory Authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The Commission may create additional rules for mandated or discretionary sharing of information by Compact States.

ARTICLE IX
COORDINATED LICENSURE INFORMATION SYSTEM

A. The Commission shall provide for the development and maintenance of a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this Compact is applicable in all Compact States as defined by the Rules of the Commission.

B. Notwithstanding any other provision of state law to the contrary, a Compact State shall submit a uniform data set to the Coordinated Database on all licensees as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Significant investigatory information;
4. Adverse actions against a psychologist's license;
5. An indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked;
6. Non-confidential information related to alternative program participation information;
7. Any denial of application for licensure, and the reasons for such denial; and
8. Other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. The Coordinated Database administrator shall promptly notify all Compact States of any adverse action taken against, or significant investigative information on, any licensee in a Compact State.

D. Compact States reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information.

E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.

ARTICLE X
ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

A. The Compact States hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

1. The Commission is a body politic and an instrumentality of the Compact States.
2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.
3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.
B. Membership, Voting, and Meetings
1. The Commission shall consist of one voting representative appointed by each Compact State who shall serve as that state's Commissioner. The State Psychology Regulatory Authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the Compact State. This delegate shall be limited to:
a. Executive Director, Executive Secretary or similar executive;
b. Current member of the State Psychology Regulatory Authority of a Compact State; or
c. Designee empowered with the appropriate delegate authority to act on behalf of the Compact State.
2. Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compact State in which the vacancy exists.
3. Each Commissioner shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.
4. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.
5. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI.
6. The Commission may convene in a closed, non-public meeting if the Commission must discuss:
a. Non-compliance of a Compact State with its obligations under the Compact;
b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
c. Current, threatened, or reasonably anticipated litigation against the Commission;
d. Negotiation of contracts for the purchase or sale of goods, services or real estate;
e. Accusation against any person of a crime or formally censuring any person;
f. Disclosure of trade secrets or commercial or financial information which is privileged or confidential;
g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
h. Disclosure of investigatory records compiled for law enforcement purposes;
i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or
j. Matters specifically exempted from disclosure by federal and state statute.

7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

a. for the establishment and meetings of other committees; and

b. governing any general or specific delegation of any authority or function of the Commission;

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed;

4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any Compact State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

6. Promulgating a Code of Ethics to address permissible and prohibited activities of Commission members and employees;

7. Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

8. The Commission shall publish its Bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compact States;

9. The Commission shall maintain its financial records in accordance with the Bylaws; and

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all Compact States;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Psychology Regulatory Authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;
3. To purchase and maintain insurance and bonds;
4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compact State;
5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;
7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;
8. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;
9. To establish a budget and make expenditures;
10. To borrow money;
11. To appoint committees, including advisory committees comprised of Members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the Bylaws;
12. To provide and receive information from, and to cooperate with, law enforcement agencies;
13. To adopt and use an official seal; and
14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

E. The Executive Board

The elected officers shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of this Compact.
1. The Executive Board shall be comprised of six members:
a. Five voting members who are elected from the current membership of the Commission by the Commission;
b. One ex-officio, nonvoting member from the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.
2. The ex-officio member must have served as staff or member on a State Psychology Regulatory Authority and will be selected by its respective organization.
3. The Commission may remove any member of the Executive Board as provided in Bylaws.
4. The Executive Board shall meet at least annually.
5. The Executive Board shall have the following duties and responsibilities:
a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to this Compact legislation, fees paid by Compact States such as annual dues, and any other applicable fees;
b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;
d. Maintain financial records on behalf of the Commission;
e. Monitor Compact compliance of member states and provide compliance reports to the Commission;
f. Establish additional committees as necessary; and
g. Other duties as provided in Rules or Bylaws.
F. Financing of the Commission
1. The Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.
2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.
3. The Commission may levy on and collect an annual assessment from each Compact State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission which shall promulgate a rule binding upon all Compact States.
4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Compact States, except by and with the authority of the Compact State.
5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its Bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.
G. Qualified Immunity, Defense, and Indemnification
1. The members, officers, Executive Director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.
2. The Commission shall defend any member, officer, Executive Director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.
3. The Commission shall indemnify and hold harmless any member, officer, Executive Director, employee or representative of the Commission for the amount of any settlement or judgment

obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE XI
RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.
B. If a majority of the legislatures of the Compact States rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any Compact State.
C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.
D. Prior to promulgation and adoption of a final rule or Rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:
1. On the website of the Commission; and
2. On the website of each Compact States' Psychology Regulatory Authority or the publication in which each state would otherwise publish proposed rules.
E. The Notice of Proposed Rulemaking shall include:
1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
2. The text of the proposed rule or amendment and the reason for the proposed rule;
3. A request for comments on the proposed rule from any interested person; and
4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.
G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:
1. At least twenty-five (25) persons who submit comments independently of each other;
2. A governmental subdivision or agency; or
3. A duly appointed person in an association that has at least twenty-five (25) members.
H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.
1. All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.
2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.
4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.
I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.
J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.
K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.
L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:
1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Compact State funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.
M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE XII
OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

A. Oversight
1. The Executive, Legislative and Judicial branches of state government in each Compact State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Compact State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.
3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.
B. Default, Technical Assistance, and Termination
1. If the Commission determines that a Compact State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:
a. Provide written notice to the defaulting state and other Compact States of the nature of the default, the proposed means of remedying the default and/or any other action to be taken by the Commission; and
b. Provide remedial training and specific technical assistance regarding the default.
2. If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the Compact States, and all rights, privileges and benefits conferred by this Compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the Compact States.
4. A Compact State which has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.
5. The Commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.
6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the state of Georgia or the federal district where the Compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.
C. Dispute Resolution
1. Upon request by a Compact State, the Commission shall attempt to resolve disputes related to the Compact which arise among Compact States and between Compact and Non-Compact States.
2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.
D. Enforcement
1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.
2. By majority vote, the Commission may initiate legal action in the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices against

a Compact State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and Bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.
3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE XIII
DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

A. The Compact shall come into effect on the date on which the Compact is enacted into law in the seventh Compact State. The provisions which become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.
B. Any state which joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule which has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.
C. Any Compact State may withdraw from this Compact by enacting a statute repealing the same.
1. A Compact State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.
2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Psychology Regulatory Authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.
D. Nothing contained in this Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a Compact State and a Non-Compact State which does not conflict with the provisions of this Compact.
E. This Compact may be amended by the Compact States. No amendment to this Compact shall become effective and binding upon any Compact State until it is enacted into the law of all Compact States.

ARTICLE XIV
CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain in full force and effect as to the remaining Compact States.

Source: L. 2018: Entire part added, (HB 18-1017), ch. 133, p. 859, § 1, effective August 8.

24-60-3903. Notice to revisor of statutes. This part 39 takes effect on the date the compact is enacted into law in the seventh compact state. The director of the division of professions and occupations in the department of regulatory agencies shall notify the revisor of statutes in writing when the condition specified in this section has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This part 39 takes effect upon the date identified in the notice that the compact is enacted into law in the seventh compact state or upon the date of the notice to the revisor of statutes if the notice does not specify a different date.

Source: L. 2018: Entire part added, (HB 18-1017), ch. 133, p. 883, § 1, effective August 8.

Editor's note: On September 27, 2023, the revisor of statutes received notice referred to in this section that as of July 1, 2020, the Psychology Interjurisdictional Compact Act is effective following enactment into law of the compact by the 7th compact member state.

PART 40

AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE

Editor's note: (1) This part 40 was originally enacted in Senate Bill 19-042, effective August 2, 2019; however, a referendum petition was filed pursuant to section 1 (3) of article V of the state constitution and was submitted to the voters at the general election held November 3, 2020, as proposition 113. Proposition 113 was approved by the voters and became effective upon proclamation of governor, December 31, 2020,with the following vote count:

FOR: 1,644,716

AGAINST: 1,498,500

(2) The popular vote for the election of the U.S. president will not become applicable and govern the appointment of presidential electors in San Andreas until enough states cumulatively possessing a majority of the electoral votes for the presidential election have also approved the agreement.

24-60-4001. Short title. The short title of this part 40 is the "Agreement Among the States to Elect the President by National Popular Vote".

Source: L. 2019: Entire part added, (SB 19-042 and Proposition 113), ch. 32, p. 101, § 1, effective upon proclamation of the Governor, December 31, 2020. See L. 2021, p. 4215.

24-60-4002. Execution of agreement. The agreement among the states to elect the President by national popular vote is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I -- MEMBERSHIP

Any State of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

ARTICLE II -- RIGHT OF THE PEOPLE IN MEMBER STATES
TO VOTE FOR PRESIDENT AND VICE PRESIDENT

Each member state shall conduct a statewide popular election for President and Vice President of the United States.

ARTICLE III -- MANNER OF APPOINTING
PRESIDENTIAL ELECTORS IN MEMBER STATES

Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each State of the United States and in the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a "national popular vote total" for each presidential slate.

The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the "national popular vote winner."

The presidential elector certifying official of each member state shall certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner.

At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within 24 hours to the chief election official of each other member state.

The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final determination conclusive as to the counting of electoral votes by Congress.

In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees.

The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

ARTICLE IV -- OTHER PROVISIONS

This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state.

Any member state may withdraw from this agreement, except that a withdrawal occurring six months or less before the end of a President's term shall not become effective until a President or Vice President shall have been qualified to serve the next term.

The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement, and when this agreement takes effect generally.

This agreement shall terminate if the electoral college is abolished.

If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

ARTICLE V -- DEFINITIONS

For purposes of this agreement,

"Chief executive" shall mean the Governor of a State of the United States or the Mayor of the District of Columbia;

"Elector slate" shall mean a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate;

"Chief election official" shall mean the state official or body that is authorized to certify the total number of popular votes for each presidential slate;

"Presidential elector" shall mean an elector for President and Vice President of the United States;

"Presidential elector certifying official" shall mean the state official or body that is authorized to certify the appointment of the state's presidential electors;

"Presidential slate" shall mean a slate of two persons, the first of whom has been nominated as a candidate for President of the United States and the second of whom has been nominated as a candidate for Vice President of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state;

"State" shall mean a State of the United States and the District of Columbia; and

"Statewide popular election" shall mean a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis.

Source: L. 2019: Entire part added, (SB 19-042 and Proposition 113), ch. 32, p. 101, § 1, effective upon proclamation of the Governor, December 31, 2020. See L. 2021, p. 4215.

Editor's note: Pursuant to article IV of this section, the agreement set forth in this part 40 takes effect when states possessing a majority of the electoral votes have enacted the agreement. As of publication date, not enough states have enacted the agreement to elect the president by national popular vote.

24-60-4003. Reaffirmation of San Andreas law. When the agreement among the states to elect the president by national popular vote becomes effective as provided in article IV of the

agreement and governs the appointment of presidential electors as provided in article III of the agreement, each presidential elector shall vote for the presidential candidate and, by separate ballot, vice-presidential candidate nominated by the political party or political organization that nominated the presidential elector.

Source: L. 2019: Entire part added, (SB 19-042 and Proposition 113), ch. 32, p. 101, § 1, effective upon proclamation of the Governor, December 31, 2020. See L. 2021, p. 4218.

24-60-4004. Conflicting provisions of law. When the agreement among the states to elect the president by national popular vote becomes effective as provided in article IV of the agreement and governs the appointment of presidential electors as provided in article III of the agreement, this part 40 shall supersede any conflicting provisions of San Andreas law.

Source: L. 2019: Entire part added, (SB 19-042 and Proposition 113), ch. 32, p. 101, § 1, effective upon proclamation of the Governor, December 31, 2020. See L. 2021, p. 4218.

PART 41

OCCUPATIONAL THERAPY LICENSURE INTERSTATE COMPACT

24-60-4101. Approved and ratified. The general assembly hereby approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

SECTION 1
PURPOSE

The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal of improving public access to occupational therapy services. The practice of occupational therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This Compact is designed to achieve the following objectives:

A. Increase public access to occupational therapy services by providing for the mutual recognition of other member state licenses;

B. Enhance states' ability to protect the public's health and safety;

C. Encourage the cooperation of member states in regulating multistate occupational therapy practice;

D. Support spouses of relocating active duty military personnel;

E. Enhance the exchange of licensure, investigative, and disciplinary information between member states;

F. Allow a remote state to hold a provider of services with a Compact privilege in that state accountable to that state's practice standards; and

G. Facilitate the use of telehealth technology in order to increase access to occupational therapy services.

SECTION 2
DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active duty military" means full-time duty status in the active uniformed services of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.

B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws that is imposed by a licensing board or other authority against an occupational therapist or occupational therapy assistant, including actions against an individual's license or Compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

C. "Alternative program" means a nondisciplinary monitoring process approved by an occupational therapy licensing board.

D. "Compact privilege" means the authorization, which is equivalent to a license, granted by a remote state to allow a licensee from another member state to practice as an occupational therapist or as an occupational therapy assistant in the remote state under its laws and rules. The practice of occupational therapy occurs in the member state where the patient/client is located at the time of the patient/client encounter.

E. "Continuing competence/education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to a practice or area of work.

F. "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the occupational therapist or occupational therapy assistant to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

G. "Data system" means a repository of information about licensees, including, but not limited to, license status, investigative information, Compact privileges, and adverse actions.

H. "Encumbered license" means a license for which an adverse action restricts the practice of occupational therapy by the licensee or an adverse action has been reported to the National Practitioners Data Bank.

I. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

J. "Home state" means the member state that is the licensee's primary state of residence.

K. "Impaired practitioner" means an individual whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

L. "Investigative information" means information, records, and/or documents received or generated by an occupational therapy licensing board pursuant to an investigation.

M. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws and rules governing the practice of occupational therapy in a state.

N. "Licensee" means an individual who currently holds an authorization from the state to practice as an occupational therapist or an occupational therapy assistant.

O. "Member state" means a state that has enacted this Compact.

P. "Occupational therapist" means an individual who is licensed by the state to practice occupational therapy.

Q. "Occupational therapy assistant" means an individual who is licensed by the state to practice occupational therapy under the supervision of, and in partnership with, an occupational therapist.

R. "Occupational therapy", "occupational therapy practice", and the "practice of occupational therapy" mean the care and services provided by an occupational therapist or an occupational therapy assistant as set forth in the member state's statutes and regulations.

S. "Occupational Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

T. "Occupational therapy licensing board" or "licensing board" means the agency of a state that is authorized to license and regulate occupational therapists and occupational therapy assistants. In San Andreas, "occupational therapy licensing board" or "licensing board" means the director of the division of professions and occupations in the department of regulatory agencies.

U. "Primary state of residence" means the state (also known as the home state) in which an occupational therapist or occupational therapy assistant who is not active duty military declares a primary residence for legal purposes as verified by a driver's license, federal income tax return, lease, deed, mortgage, voter registration, or other verifying documentation as may be further defined by rules of the Commission.

V. "Remote state" means a member state other than the home state where a licensee is exercising or seeking to exercise the Compact privilege.

W. "Rule" means a regulation promulgated by the Commission that has the force of law.

X. "Single-state license" means an occupational therapist or occupational therapy assistant license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

Y. "State" means any state, commonwealth, district, or territory of the United States that regulates the practice of occupational therapy.

Z. "Telehealth" means the application of telecommunication technology to deliver occupational therapy services for assessment, intervention, and/or consultation.

SECTION 3
STATE PARTICIPATION IN THE COMPACT

A. To participate in this Compact, a member state shall:

1. License occupational therapists and occupational therapy assistants;

2. Participate fully in the data system, including but not limited to using the Commission's unique identifier as defined in rules of the Commission;

3. Have a mechanism in place for receiving and investigating complaints about licensees;

4. Notify the Commission, in compliance with the terms of this Compact and rules, of any adverse action or the availability of investigative information regarding a licensee;

5. Implement or utilize procedures for considering the criminal history records of applicants for an initial Compact privilege. These procedures shall include the requirement that an applicant for licensure under the Compact must have the applicant's fingerprints taken by a local law enforcement agency or any third party approved by the San Andreas bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check. The applicant shall submit payment by certified check or money order for the fingerprints and for the actual costs of the record check at the time the fingerprints are submitted to the San Andreas bureau of investigation. Upon receipt of fingerprints and receipt of the payment for costs, the San Andreas bureau of investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the San Andreas bureau of investigation and the federal bureau of investigation and shall forward the results of the criminal history record check to the licensing board. The licensing board shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a license pursuant to the Compact. The licensing board may verify the information an applicant is required to submit. The results of the criminal history record check are confidential. The licensing board shall not release the results to the public, the Commission, or any other regulator, as that term is defined in section 12-20-102 (14).

a. A member state must fully implement a criminal background check requirement within a time frame established by rule.

b. Communication between a member state, the Commission, and among member states regarding the verification of eligibility for licensure through this Compact shall not include any information received from the federal bureau of investigation relating to a federal criminal records check performed by a member state under Pub.L. 92-544.

6. Comply with the rules of the Commission;

7. Utilize only a recognized national examination as a requirement for licensure pursuant to the rules of the Commission; and

8. Have continuing competence/education requirements as a condition for license renewal.

B. A member state shall grant the Compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of this Compact and rules.

C. Member states may charge a fee for granting a Compact privilege.

D. A member state shall provide for the state's delegate to attend all Commission meetings.

E. Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the Compact privilege in any other member state.

F. Nothing in this Compact affects the requirements established by a member state for the issuance of a single-state license.

SECTION 4
COMPACT PRIVILEGE

A. To exercise the Compact privilege under the terms and provisions of this Compact, a licensee shall:

1. Hold a license in the home state;

2. Have a valid United States social security number or national practitioner identification number;

3. Have no encumbrance on any state license;

4. Be eligible for a Compact privilege in any member state in accordance with sections 4 (D), 4 (F), 4 (G), and 4 (H);

5. Have paid all fines and completed all requirements resulting from any adverse action against any license or Compact privilege, and two years have elapsed from the date of such completion;

6. Notify the Commission that the licensee is seeking the Compact privilege in one or more remote states;

7. Pay any applicable fees, including any state fee, for the Compact privilege;

8. Complete a criminal background check in accordance with section 3 (A)(5).

a. The licensee shall be responsible for the payment of any fee associated with the completion of a criminal background check.

9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a Compact privilege; and

10. Report to the Commission any adverse action taken by any nonmember state within thirty (30) days after the date the adverse action is taken.

B. The Compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of section 4 (A) to maintain the Compact privilege in the remote state.

C. A licensee providing occupational therapy in a remote state under the Compact privilege shall function within the laws and regulations of the remote state.

D. An occupational therapy assistant practicing in a remote state shall be supervised by an occupational therapist licensed or holding a Compact privilege in that remote state.

E. A licensee providing occupational therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's Compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee may be ineligible for a Compact privilege in any state until the specific time for removal has passed and all fines are paid.

F. If a licensee's home state license is encumbered, the licensee shall lose the Compact privilege in any remote state until the following occur:

1. The home state license is no longer encumbered; and

2. Two years have elapsed from the date on which the home state license is no longer encumbered in accordance with section 4 (F)(1).

G. After an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of section 4 (A) to obtain a Compact privilege in any remote state.

H. If a licensee's Compact privilege in any remote state is removed, the individual may lose the Compact privilege in any other remote state until the following occur:

1. The specific period of time for which the Compact privilege was removed has ended;

2. All fines have been paid and all conditions have been met;

3. Two years have elapsed from the date of completing requirements for sections 4 (H)(1) and 4 (H)(2); and

4. The Compact privileges are reinstated by the Commission, and the data system is updated to reflect reinstatement.

I. If a licensee's Compact privilege in any remote state is removed due to an erroneous charge, privileges shall be restored through the data system.

J. Once the requirements of section 4 (H) have been met, the license must meet the requirements in section 4 (A) to obtain a Compact privilege in a remote state.

SECTION 5
OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE

A. An occupational therapist or occupational therapy assistant may hold a home state license, which allows for Compact privileges in member states, in only one member state at a time.

B. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving between two member states:

1. The occupational therapist or occupational therapy assistant shall file an application for obtaining a new home state license by virtue of a Compact privilege, pay all applicable fees, and notify the current and new home state in accordance with applicable rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new home state license by virtue of a Compact privilege, the new home state shall verify that the occupational therapist or occupational therapy assistant meets the pertinent criteria outlined in section 4 via the data system, without need for primary source verification except for:

a. A federal bureau of investigation fingerprint-based criminal background check if one has not been previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Pub.L. 92-544;

b. Other criminal background checks as required by the new home state; and

c. Submission of any requisite jurisprudence requirements of the new home state.

3. The former home state shall convert the former home state license into a Compact privilege once the new home state has activated the new home state license in accordance with applicable rules adopted by the Commission.

4. Notwithstanding any other provision of this Compact, if the occupational therapist or occupational therapy assistant cannot meet the criteria in section 4, the new home state shall apply its requirements for issuing a new single-state license.

5. The occupational therapist or occupational therapy assistant shall pay all applicable fees to the new home state in order to be issued a new home state license.

C. If an occupational therapist or occupational therapy assistant changes primary state of residence by moving from a member state to a nonmember state, or from a nonmember state to a member state, the state criteria shall apply for issuance of a single-state license in the new state.

D. Nothing in this Compact shall interfere with a licensee's ability to hold a single-state license in multiple states; however, for the purposes of this Compact, a licensee shall have only one home state license.

E. Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.

SECTION 6
ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel or their spouses shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall change the individual's home state only through application for licensure in the new state or through the process described in section 5.

SECTION 7
ADVERSE ACTIONS

A. A home state shall have exclusive power to impose an adverse action against an occupational therapist's or occupational therapy assistant's license issued by the home state.

B. In addition to the other powers conferred by state law, a remote state has the authority, in accordance with existing state due process law, to:

1. Take an adverse action against an occupational therapist's or occupational therapy assistant's Compact privilege within that member state; and

2. Issue subpoenas for hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence is located.

C. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

D. The home state shall complete any pending investigations of an occupational therapist or occupational therapy assistant who changes primary state of residence during the course of the investigations. The home state where the investigations were initiated shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the data system. The data system administrator shall promptly notify the new home state of any adverse actions.

E. A member state, if otherwise permitted by state law, may recover from the affected occupational therapist or occupational therapy assistant the costs of investigations and

disposition of cases resulting from any adverse action taken against that occupational therapist or occupational therapy assistant.

F. A member state may take adverse action based on the factual findings of the remote state, provided that the member state follows its own procedures for taking the adverse action.

G. Joint investigations.

1. In addition to the authority granted to a member state by its respective state occupational therapy laws and regulations or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this Compact.

H. If an adverse action is taken by the home state against an occupational therapist's or occupational therapy assistant's license, the occupational therapist's or occupational therapy assistant's Compact privilege in all other member states shall be deactivated until all encumbrances have been removed from the state license. All home state disciplinary orders that impose an adverse action against an occupational therapist's or occupational therapy assistant's license shall include a statement that the occupational therapist's or occupational therapy assistant's Compact privilege is deactivated in all member states during the pendency of the order.

I. If a member state takes an adverse action, it shall promptly notify the data system administrator. The data system administrator shall promptly notify the home state of any adverse actions by remote states.

J. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of an adverse action.

SECTION 8
ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT COMMISSION

A. The Compact member states hereby create and establish a joint public agency known as the Occupational Therapy Compact Commission:

1. The Commission is an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, voting, and meetings.

1. Each member state shall have and be limited to one (1) delegate selected by that member state's licensing board.

2. The delegate shall be either:

a. A current member of the licensing board who is an occupational therapist, occupational therapy assistant, or public member; or

b. An administrator of the licensing board.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state licensing board shall fill any vacancy occurring in the Commission within ninety (90) days.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

7. The Commission shall establish by rule a term of office for delegates.

C. The Commission shall have the following powers and duties:

1. Establish a code of ethics for the Commission;

2. Establish the fiscal year of the Commission;

3. Establish bylaws;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state occupational therapy licensing board to sue or be sued under applicable law shall not be affected;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, whether real, personal, or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;

14. Establish a budget and make expenditures;

15. Borrow money;

16. Appoint committees, including standing committees composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

17. Provide and receive information from, and cooperate with, law enforcement agencies;

18. Establish and elect an Executive Committee; and

19. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of occupational therapy licensure and practice.

D. The Executive Committee.

The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Committee shall be composed of nine members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission;

b. One ex-officio, nonvoting member from a recognized national occupational therapy professional association; and

c. One ex-officio, nonvoting member from a recognized national occupational therapy certification organization.

2. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in bylaws.

4. The Executive Committee shall meet at least annually.

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any Commission Compact fee charged to licensees for the Compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Perform other duties as provided in rules or bylaws.

E. Meetings of the Commission.

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in section 10.

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, nonpublic meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

a. Noncompliance of a member state with its obligations under this Compact;

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by, on behalf of, or for the use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting or portion of a meeting is closed pursuant to this section 8 (E), the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or an order of a court of competent jurisdiction.

F. Financing of the Commission.

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified immunity, defense, and indemnification.

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this

section 8 (G)(1) shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining counsel; and provided further that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 9
DATA SYSTEM

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. A member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable (utilizing a unique identifier) as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or Compact privilege;
4. Nonconfidential information related to alternative program participation;
5. Any denial of application for licensure and the reason(s) for such denial;
6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission; and
7. Current significant investigative information.

C. Current significant investigative information and other investigative information pertaining to a licensee in any member state will be available only to other member states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 10
RULE-MAKING

A. The Commission shall exercise its rule-making powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. The Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its rule-making authority in a manner that is beyond the scope of the purposes of the Compact or the powers granted hereunder, then such action by the Commission shall be invalid and have no force and effect.

C. If a majority of the legislatures of the member states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the rule, then the rule shall have no further force and effect in any member state.

D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rule-making:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state's occupational therapy licensing board or other publicly accessible platform or the publication in which each member state would otherwise publish proposed rules.

F. The notice of proposed rule-making shall include:

1. The proposed time, date, and location of the meeting at which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

G. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A state or federal governmental subdivision or agency; or

3. An association or organization having at least twenty-five (25) members.

I. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rule-making record and the full text of the rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rule-making procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 11
OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight.

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact that may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, technical assistance, and termination.

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States district court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

C. Dispute resolution.

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and nonmember states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement.

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 12
DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rule-making powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's occupational therapy licensing board to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any occupational therapy licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 13
CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of

this Compact is declared to be contrary to the constitution of any member state or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 14
BINDING EFFECT OF COMPACT AND OTHER LAWS

A. A licensee providing occupational therapy in a remote state under the Compact privilege shall function within the laws and regulations of the remote state.

B. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

C. Any laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

E. All agreements between the Commission and the member states are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Source: L. 2021: Entire part added, (HB 21-1279), ch. 451, p. 2965, § 1, effective July 6.

PART 42

AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY INTERSTATE COMPACT

Editor's note: This part 42 was numbered as part 41 in SB 21-021 but was renumbered on revision for ease of location.

24-60-4201. Short title. The short title of this part 41 is the "ASLP-IC".

Source: L. 2021: Entire part added, (SB 21-021), ch. 194, p. 1019, § 1, effective September 7.

24-60-4202. Compact approved and ratified. The general assembly hereby approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

SECTION 1
PURPOSE

The purpose of this Compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practices of audiology and speech-language pathology occurs in the state where the patient/client/student is located at the time of the patient/client/student encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This Compact is designed to achieve the following objectives:

1. Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;
2. Enhance the states' ability to protect the public's health and safety;
3. Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;
4. Support spouses of relocating active duty military personnel;
5. Enhance the exchange of licensure, investigative, and disciplinary information between member states;
6. Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state's practice standards; and
7. Allow for use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

SECTION 2
DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active duty military" means full-time duty status in the active uniformed services of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211.

B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual's license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's practice.

C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

D. "Audiologist" means an individual who is licensed by a state to practice audiology.

E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules.

F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means the national administrative body whose membership consists of all states that have enacted the Compact.

G. "Audiology and speech-language pathology licensing board," "audiology licensing board," "speech-language pathology licensing board," or "licensing board" means the agency of a state that is responsible for the licensing and regulation of audiologists or speech-language pathologists.

H. "Compact privilege" means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient/client/student is located at the time of the patient/client/student encounter.

I. "Current significant investigative information" means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

J. "Data system" means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigative, compact privilege, and adverse action.

K. "Encumbered license" means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and said adverse action has been reported to the National Practitioners Data Bank (NPDB).

L. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

M. "Home state" means the member state that is the licensee's primary state of residence.

N. "Impaired practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

O. "Licensee" means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.

P. "Member state" means a state that has enacted the Compact.

Q. "Privilege to practice" means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.

R. "Remote state" means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.

S. "Rule" means a regulation, principle, or directive promulgated by the Commission that has the force of law.

T. "Single-state license" means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

U. "Speech-language pathologist" means an individual who is licensed by a state to practice speech-language pathology.

V. "Speech-language pathology" means the care and services provided by a licensed speech-language pathologist as set forth in the member state's statutes and rules.

W. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of audiology and speech-language pathology.

X. "State practice laws" means a member state's laws, rules, and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline.

Y. "Telehealth" means the application of telecommunication technology to deliver audiology or speech-language pathology services at a distance for assessment, intervention, and/or consultation.

SECTION 3
STATE PARTICIPATION IN THE COMPACT

A. A license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in each member state.

B. A state must implement or utilize procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the requirement that an applicant for licensure under the Compact must have the applicant's fingerprints taken by a local law enforcement agency or any third party approved by the San Andreas bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check. The applicant shall submit payment by certified check or money order for the fingerprints and for the actual costs of the record check at the time the fingerprints are submitted to the San Andreas bureau of investigation. Upon receipt of fingerprints and receipt of the payment for costs, the San Andreas bureau of investigation shall conduct a state and national fingerprint-based criminal history record check utilizing records of the San Andreas bureau of investigation and the federal bureau of investigation and shall forward the results of the criminal history record check to the board. The board shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a license pursuant to the Compact. The board may verify the information an applicant is required to submit. The results of the criminal history record check are confidential. The board shall not release the results to the public, the Commission, or any other regulator, as that term is defined in section 12-20-102 (14).

1. A member state must fully implement a criminal background check requirement, within a time frame established by rule.

2. Communication between a member state, the Commission, and among member states regarding verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.

C. Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant, whether any adverse action has been taken against any license or privilege to practice held by the applicant.

D. Each member state shall require an applicant to obtain or retain a license in the home state and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws.

E. For an audiologist:

1. Must meet one of the following educational requirements:

a. On or before, December 31, 2007, has graduated with a master's degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

b. On or after, January 1, 2008, has graduated with a doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

c. Has graduated from an audiology program that is housed in an institution of higher education outside of the United States (a) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (b) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.

2. Has completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the Commission;

3. Has successfully passed a national examination approved by the Commission;

4. Holds an active, unencumbered license;

5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology, under applicable state or federal criminal law;

6. Has a valid United States Social Security number or a National Practitioner Identification number.

F. For a speech-language pathologist:

1. Must meet one of the following educational requirements:

a. Has graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

b. Has graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States (a) for which the program and institution have been approved by the authorized accrediting body in the applicable country and (b) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.

2. Has completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the Commission;

3. Has completed a supervised postgraduate professional experience as required by the Commission.

4. Has successfully passed a national examination approved by the Commission;

5. Holds an active, unencumbered license;

6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of speech-language pathology, under applicable state or federal criminal law;

7. Has a valid United States Social Security or a National Practitioner Identification number.

G. The privilege to practice is derived from the home state license.

H. An audiologist or a speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts, and the laws of the member state in which the client is located at the time service is provided.

I. Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this Compact shall affect the requirements established by a member state for the issuance of a single-state license.

J. Member states may charge a fee for granting a compact privilege.

K. Member states must comply with the bylaws and rules and regulations of the Commission.

SECTION 4
COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the Compact, the audiologist or speech-language pathologist shall:

1. Hold an active license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with Section 3;

4. Have not had any adverse action against any license or compact privilege within the previous two (2) years from date of application;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege;

7. Report to the Commission adverse action taken by any non-member state within thirty (30) days from the date the adverse action is taken.

B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall only hold one home state license at a time.

C. Except as provided in Section 6, if an audiologist or speech-language pathologist changes primary state of residence by moving between two-member states, the audiologist or speech-language pathologist must apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the Commission.

D. The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.

E. A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

F. If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a non-member state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state.

G. The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of Section 4A to maintain the compact privilege in the remote state.

H. A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

I. A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens.

J. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occurs:

1. The home state license is no longer encumbered; and
2. Two years have elapsed from the date of the adverse action.

K. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4A to obtain a compact privilege in any remote state.

L. Once the requirements of Section 4J have been met, the licensee must meet the requirements in Section 4A to obtain a compact privilege in a remote state.

SECTION 5
COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with Section 3 and under rules promulgated by the Commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the Compact and rules promulgated by the Commission.

SECTION 6
ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a

home state, the individual shall only change their home state through application for licensure in the new state.

SECTION 7
ADVERSE ACTIONS

A. In addition to the other powers conferred by state law, a remote state shall have the authority, in accordance with existing state due process law, to:

1. Take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

3. Only the home state shall have the power to take adverse action against an audiologist's or a speech-language pathologist's license issued by the home state.

B. For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In doing so, the home state shall apply its own state laws to determine appropriate action.

C. The home state shall complete any pending investigations of an audiologist or a speech-language pathologist who changes primary state of residence during the course of the investigations. The home state shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any adverse actions.

D. If otherwise permitted by state law, the member state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

E. The member state may take adverse action based on the factual findings of the remote state, provided that the member state follows the member state's own procedures for taking the adverse action.

F. Joint Investigations

1. In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If adverse action is taken by the home state against an audiologist's or speech-language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be deactivated until all encumbrances have been

removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or a speech language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

H. If a member state takes adverse action, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state of any adverse actions by remote states.

I. Nothing in this Compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

SECTION 8
ESTABLISHMENT OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY COMPACT COMMISSION

A. The Compact member states hereby create and establish a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission:

1. The Commission is an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have two (2) delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One shall be an audiologist and one shall be a speech-language pathologist.

2. An additional five (5) delegates, who are either a public member or board administrator from a state licensing board, shall be chosen by the Executive Committee from a pool of nominees provided by the Commission at Large.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring on the Commission, within ninety (90) days.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Establish a Code of Ethics;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;

6. Promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all member states;

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

11. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use any real, personal, or mixed property; provided that at all times the Commission shall avoid any appearance of impropriety;

13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

14. Establish a budget and make expenditures;

15. Borrow money;

16. Appoint committees, including standing committees composed of members, and other interested persons as may be designated in this Compact and the bylaws;

17. Provide and receive information from, and cooperate with, law enforcement agencies;

18. Establish and elect an Executive Committee; and

19. Perform other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

D. The Executive Committee

The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact:

1. The Executive Committee shall be composed of ten (10) members:

a. Seven (7) voting members who are elected by the Commission from the current membership of the Commission;

b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

c. One (1) ex-officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

E. The ex-officio members shall be selected by their respective organizations.

1. The Commission may remove any member of the Executive Committee as provided in bylaws.

2. The Executive Committee shall meet at least annually.

3. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact's legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in rules or bylaws.

4. Meetings of the Commission

All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 10.

5. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or the Executive Committee or other committees of the Commission must discuss:

a. Noncompliance of a member state with its obligations under the Compact;

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use by the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or member state statute.

6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

7. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

8. Financing of the Commission

a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

b. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

c. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the costs of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule binding upon all member states.

9. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the member states, except by and with the authority of the member state.

10. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

F. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or

judgement obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 9
DATA SYSTEM

A. The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or compact privilege;
4. Non-confidential information related to alternative program participation;
5. Any denial of application for licensure, and the reason(s) for denial; and
6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state shall only be available to other member states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 10
RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A state or federal governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings shall be recorded. A copy of the recording shall be made available on request.

4. Nothing in this Section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this Section.

I. Following the scheduled hearing date, or by close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided

that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or member state funds; or

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 11
OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

B. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

SECTION 12
DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth (10th) member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 13
CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 14
BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

B. All laws in a member state in conflict with the Compact are superseded to the extent of the conflict.

C. All lawful actions of the Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

D. All agreements between the Commission and the member states are binding in accordance with their terms.

E. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Source: L. 2021: Entire part added, (SB 21-021), ch. 194, p. 1019, § 1, effective September 7.

24-60-4203. Construction of terms. (1) As used in this part 41, unless the context otherwise requires:

(a) "Board" means licensing board.

(b) "License" means:

(I) With respect to an audiologist, a license issued pursuant to section 12-210-105; and

(II) With respect to a speech-language pathologist, a certification issued pursuant to section 12-305-106.

(c) "Licensed", "licensing", and "licensure" have meanings that correspond to the definitions established in subsection (1)(b) of this section.

(d) "Licensing board" means, with respect to San Andreas, the director of the division of professions and occupations created in section 12-20-103.

Source: L. 2021: Entire part added, (SB 21-021), ch. 194, p. 1040, § 1, effective September 7.

24-60-4204. Notice to revisor of statutes. This part 42 will take effect on the date the compact is enacted into law in the tenth compact state. The director of the division of professions and occupations in the department of regulatory agencies shall notify the revisor of statutes in writing when the condition specified in this section has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This part 42 takes effect upon the date identified in the notice that the compact is enacted into law in the tenth compact state.

Source: L. 2021: Entire part added, (SB 21-021), ch. 194, p. 1040, § 1, effective September 7.

PART 43

INTERSTATE LICENSED PROFESSIONAL COUNSELORS COMPACT

24-60-4301. Short title. The short title of this part 43 is the "Interstate Licensed Professional Counselors Compact".

Source: L. 2022: Entire part added, (SB 22-077), ch. 468, p. 3323, § 1, effective (see editor's note following 24-60-4304).

24-60-4302. Compact approved and ratified. The general assembly hereby approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas and any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

SECTION 1.
PURPOSE

The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Professional Counseling services by providing for the mutual recognition of other Member State licenses;

B. Enhance the States' ability to protect the public's health and safety;

C. Encourage the cooperation of Member States in regulating multistate practice for Licensed Professional Counselors;

D. Support spouses of relocating Active Duty Military personnel;

E. Enhance the exchange of licensure, investigative, and disciplinary information among Member States;

F. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;

G. Support the uniformity of Professional Counseling licensure requirements throughout the States to promote public safety and public health benefits;

H. Invest all Member States with the authority to hold a Licensed Professional Counselor accountable for meeting all State practice laws in the State in which the client is located at the time care is rendered through the mutual recognition of Member State licenses;

I. Eliminate the necessity for licenses in multiple States; and

J. Provide opportunities for interstate practice by Licensed Professional Counselors who meet uniform licensure requirements.

SECTION 2.
DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

B. "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual's license or Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the

licensee's practice, or any other Encumbrance on licensure affecting a Licensed Professional Counselor's authorization to practice, including issuance of a cease and desist action.

C. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners.

D. "Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, or completion of, educational and professional activities relevant to practice or area of work.

E. "Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact.

F. "Current Significant Investigative Information" means:

1. Investigative Information that a Licensing Board, after a preliminary inquiry that includes notification and an opportunity for the Licensed Professional Counselor to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative Information that indicates that the Licensed Professional Counselor represents an immediate threat to public health and safety regardless of whether the Licensed Professional Counselor has been notified and had an opportunity to respond.

G. "Data System" means a repository of information about Licensees, including, but not limited to, continuing education, examination, licensure, investigative, Privilege to Practice, and Adverse Action information.

H. "Encumbered License" means a license in which an Adverse Action restricts the practice of licensed Professional Counseling by the Licensee and said Adverse Action has been reported to the National Practitioners Data Bank (NPDB).

I. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Licensed Professional Counseling by a Licensing Board.

J. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

K. "Home State" means the Member State that is the Licensee's primary State of residence.

L. "Impaired Practitioner" means an individual who has a condition that may impair their ability to practice as a Licensed Professional Counselor without some type of intervention and may include, but is not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

M. "Investigative Information" means information, records, and documents received or generated by a Professional Counseling Licensing Board pursuant to an investigation.

N. "Jurisprudence Requirement", if required by a Member State, means the assessment of an individual's knowledge of the laws and Rules governing the practice of Professional Counseling in a State.

O. "Licensed Professional Counselor" means a counselor licensed by a Member State, regardless of the title used by that State, to independently assess, diagnose, and treat behavioral health conditions.

P. "Licensee" means an individual who currently holds an authorization from the State to practice as a Licensed Professional Counselor.

Q. "Licensing Board" means the agency of a State, or equivalent, that is responsible for the licensing and regulation of Licensed Professional Counselors.

R. "Member State" means a State that has enacted the Compact.

S. "Privilege to Practice" means a legal authorization, which is equivalent to a license, permitting the practice of Professional Counseling in a Remote State.

T. "Professional Counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a Licensed Professional Counselor.

U. "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Privilege to Practice.

V. "Rule" means a regulation promulgated by the Commission that has the force of law.

W. "Single State License" means a Licensed Professional Counselor license issued by a Member State that authorizes practice only within the issuing State and does not include a Privilege to Practice in any other Member State.

X. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Professional Counseling.

Y. "Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose, and treat behavioral health conditions.

Z. "Unencumbered License" means a license that authorizes a Licensed Professional Counselor to engage in the full and unrestricted practice of Professional Counseling.

SECTION 3.
STATE PARTICIPATION IN THE COMPACT

A. To Participate in the Compact, a State must currently:

1. License and regulate Licensed Professional Counselors;

2. Require Licensees to pass a nationally recognized exam approved by the Commission;

3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate course work, including the following topic areas:

a. Professional Counseling Orientation and Ethical Practice;

b. Social and Cultural Diversity;

c. Human Growth and Development;

d. Career Development;

e. Counseling and Helping Relationships;

f. Group Counseling and Group Work;

g. Diagnosis and Treatment; Assessment and Testing;

h. Research and Program Evaluation; and

i. Other areas as determined by the Commission.

4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission;

5. Have a mechanism in place for receiving and investigating complaints about Licensees.

B. A Member State shall:

1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

2. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

3. Implement or utilize procedures for considering the criminal history records of applicants for an initial Privilege to Practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions.

b. Communication between a Member State, the Commission, and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.

4. Comply with the Rules of the Commission;

5. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable State laws;

6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered License in another Member State in accordance with the terms of the Compact and Rules; and

7. Provide for the attendance of the State's commissioner to the Counseling Compact Commission meetings.

C. Member States may charge a fee for granting the Privilege to Practice.

D. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single State License as provided under the laws of each Member State. However, the Single State License granted to these individuals shall not be recognized as granting a Privilege to Practice Professional Counseling in any other Member State.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

F. A license issued to a Licensed Professional Counselor by a Home State to a resident in that State shall be recognized by each Member State as authorizing a Licensed Professional Counselor to practice Professional Counseling, under a Privilege to Practice in each Member State.

SECTION 4.
PRIVILEGE TO PRACTICE

A. To exercise the Privilege to Practice under the terms and provisions of the Compact, the Licensee shall:

1. Hold a license in the Home State;

2. Have a valid United States Social Security Number or National Practitioner Identifier;

3. Be eligible for a Privilege to Practice in any Member State in accordance with Section 4(D), (G), and (H);

4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years;

5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);

6. Pay any applicable fees, including any State fee, for the Privilege to Practice;

7. Meet any Continuing Competence/Education requirements established by the Home State;

8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and

9. Report to the Commission any Adverse Action, Encumbrance, or restriction on license taken by any non-Member State within 30 days from the date the action is taken.

B. The Privilege to Practice is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of Section 4(A) to maintain the Privilege to Practice in the Remote State.

C. A Licensee providing Professional Counseling in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

D. A Licensee providing Professional Counseling services in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific period of time, impose fines, or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member State until the specific time for removal has passed and all fines are paid.

E. If a Home State license is encumbered, the Licensee shall lose the Privilege to Practice in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and

2. The licensee has not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

F. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of Section 4(A) to obtain a Privilege to Practice in any Remote State.

G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual may lose the Privilege to Practice in all other Remote States until the following occur:

1. The specific period of time for which the Privilege to Practice was removed has ended;

2. All fines have been paid; and

3. The licensee has not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

H. Once the requirements of Section 4(G) have been met, the Licensee must meet the requirements in Section 4(A) to obtain a Privilege to Practice in a Remote State.

SECTION 5:
OBTAINING A NEW HOME STATE LICENSE
BASED ON A PRIVILEGE TO PRACTICE

A. A Licensed Professional Counselor may hold a Home State license, which allows for a Privilege to Practice in other Member States, in only one Member State at a time.

B. If a Licensed Professional Counselor changes primary State of residence by moving between two Member States:

1. The Licensed Professional Counselor shall file an application for obtaining a new Home State license based on a Privilege to Practice, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new Home State license by virtue of a Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor meets the pertinent criteria outlined in Section 4 via the Data System, without need for primary source verification except for:

a. A Federal Bureau of Investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

b. Other criminal background check as required by the new Home State; and

c. Completion of any requisite Jurisprudence Requirements of the new Home State.

3. The former Home State shall convert the former Home State license into a Privilege to Practice once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission.

4. Notwithstanding any other provision of this Compact, if the Licensed Professional Counselor cannot meet the criteria in Section 4, the new Home State may apply its requirements for issuing a new Single State License.

5. The Licensed Professional Counselor shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States, however for the purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

SECTION 6.
ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

Active Duty Military personnel, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State, or through the process outlined in Section 5.

SECTION 7.
COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 3 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.

B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

SECTION 8.
ADVERSE ACTIONS

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State, and

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence is located.

3. Only the Home State shall have the power to take Adverse Action against a Licensed Professional Counselor's license issued by the Home State.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Licensed Professional Counselor who changes primary State of residence during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the coordinated licensure information system shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Licensed Professional Counselor the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensed Professional Counselor.

E. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Professional Counseling practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

SECTION 9.
ESTABLISHMENT OF COUNSELING COMPACT COMMISSION

A. The Compact Member States hereby create and establish a joint public agency known as the Counseling Compact Commission:

1. The Commission is an instrumentality of the Compact States.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Board.

2. The delegate shall be either:

a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member; or

b. An administrator of the Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed.

4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within 60 days.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

8. The Commission shall by Rule establish a term of office for delegates and may by Rule establish term limits.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate Rules which shall be binding to the extent and in the manner provided for in the Compact;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Committee; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Professional Counseling licensure and practice.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

2. The Executive Committee shall be composed of up to eleven (11) members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission; and

b. Up to four (4) ex-officio, nonvoting members from four (4) recognized national professional counselor organizations, selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in bylaws.

4. The Executive Committee shall meet at least annually.

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Privilege to Practice;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Section 11.

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

a. Non-compliance of a Member State with its obligations under the Compact;

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or Member State statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or

judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

SECTION 10.
DATA SYSTEM

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and Investigative Information on all licensed individuals in Member States.

B. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a license or Privilege to Practice;
4. Non-confidential information related to Alternative Program participation;
5. Any denial of application for licensure, and the reason(s) for such denial;
6. Current Significant Investigative Information; and
7. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

E. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

F. Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

SECTION 11.
RULEMAKING

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.

B. The Commission shall exercise its Rule-making powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rule-making:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each Member State Professional Counseling Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

F. The Notice of Proposed Rule-making shall include:

1. The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;

2. The text of the proposed Rule or amendment and the reason for the proposed Rule;

3. A request for comments on the proposed Rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A State or federal governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rule-making record and the full text of the Rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided that the usual Rule-making procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or

4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the executive director of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 12.
OVERSIGHT, DISPUTE RESOLUTION,
AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide

service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default, and any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

G. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

H. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

I. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

SECTION 13.
DATE OF IMPLEMENTATION OF THE COUNSELING COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.

B. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

C. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Professional Counseling Licensing Board to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any Professional Counseling licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

SECTION 14.
CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

SECTION 15.
BINDING EFFECT OF COMPACT AND OTHER LAWS

A. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws properly promulgated by the Commission, are binding upon the Member States.

E. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

Source: L. 2022: Entire part added, (SB 22-077), ch. 468, p. 3323, § 1, effective (see editor's note following 24-60-4304).

24-60-4303. Construction of terms. (1) As used in this part 43, unless the context otherwise requires:

(a) "License" means a license issued pursuant to section 12-245-604.

(b) "Licensed", "licensing", and "licensure" have meanings that correspond to the definition established in subsection (1)(a) of this section.

(c) "Licensing board" means, with respect to San Andreas, the state board of licensed professional counselor examiners created in section 12-245-602.

Source: L. 2022: Entire part added, (SB 22-077), ch. 468, p. 3346, § 1, effective (see editor's note following 24-60-4304).

24-60-4304. Notice to revisor of statutes - effective date of compact. This part 43 will take effect on the date the compact is enacted into law in the tenth compact state. The director of the division of professions and occupations in the department of regulatory agencies shall notify the revisor of statutes in writing when the condition specified in this section has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This part 43 takes effect upon the date identified in the notice that the compact is enacted into law in the tenth compact state.

Source: L. 2022: Entire part added, (SB 22-077), ch. 468, p. 3346, § 1, effective (see editor's note following 24-60-4304).

Editor's note: Section 24-60-4304 as enacted in section 1 of chapter 468 (SB 22-077), Session Laws of San Andreas 2022, provides that this part 43 takes effect on the date the compact is enacted into law in the tenth compact state. The revisor of statutes received notice on September

12, 2022, from the director of the division of professions and occupations that the tenth compact state enacted the law, effective April 19, 2022; however Senate Bill 22-077 was signed by the Governor on June 8, 2022, and has an effective date of August 10, 2022.

PART 44

INTERSTATE TEACHER MOBILITY COMPACT

24-60-4401. Short title. The short title of this part 44 is the "Interstate Teacher Mobility Compact".

Source: L. 2023: Entire part added, (HB 23-1064), ch. 18, p. 54, § 1, effective August 7.

24-60-4402. Compact approved and ratified. The general assembly approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I- PURPOSE

The purpose of this Compact is to facilitate the mobility of Teachers across the Member States, with the goal of supporting Teachers through a new pathway to licensure. Through this Compact, the Member States seek to establish a collective regulatory framework that expedites and enhances the ability of Teachers to move across State lines. This Compact is intended to achieve the following objectives and should be interpreted accordingly. The Member States hereby ratify the same intentions by subscribing hereto.

A. Create a streamlined pathway to licensure mobility for Teachers;

B. Support the relocation of Eligible Military Spouses;

C. Facilitate and enhance the exchange of licensure, investigative, and disciplinary information between the Member States;

D. Enhance the power of State and district level education officials to hire qualified, competent Teachers by removing barriers to the employment of out-of-state Teachers;

E. Support the retention of Teachers in the profession by removing barriers to relicensure in a new State; and

F. Maintain State sovereignty in the regulation of the teaching profession.

ARTICLE II- DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall govern the terms herein:

A. "Active Military Member" - means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

B. "Adverse Action" - means any limitation or restriction imposed by a Member State's Licensing Authority, such as revocation, suspension, reprimand, probation, or limitation on the licensee's ability to work as a Teacher.

C. "Bylaws" - means those bylaws established by the Commission.

D. "Career and Technical Education License" - means a current, valid authorization issued by a Member State's Licensing Authority allowing an individual to serve as a Teacher in P-12 public educational settings in a specific career and technical education area.

E. "Charter Member States" - means a Member State that has enacted legislation to adopt this Compact where such legislation predates the initial meeting of the Commission after the effective date of the Compact.

F. "Commission" - means the interstate administrative body which membership consists of delegates of all States that have enacted this Compact, and which is known as the Interstate Teacher Mobility Compact Commission.

G. "Commissioner" - means the delegate of a Member State.

H. "Eligible License" - means a license to engage in the teaching profession which requires at least a bachelor's degree and the completion of a state approved program for Teacher licensure.

I. "Eligible Military Spouse" - means the spouse of any individual in full-time duty status in the active armed forces of the United States including members of the National Guard and Reserve moving as a result of a military mission or military career progression requirements or are on their terminal move as a result of separation or retirement (to include surviving spouses of deceased military members).

J. "Executive Committee" - means a group of Commissioners elected or appointed to act on behalf of, and within the powers granted to them by, the Commission as provided for herein.

K. "Licensing Authority" - means an official, agency, board, or other entity of a State that is responsible for the licensing and regulation of Teachers authorized to teach in P-12 public educational settings.

L. "Member State" - means any State that has adopted this Compact, including all agencies and officials of such a State.

M. "Receiving State" - means any State where a Teacher has applied for licensure under this Compact.

N. "Rule" - means any regulation promulgated by the Commission under this Compact, which shall have the force of law in each Member State.

O. "State" - means a state, territory, or possession of the United States, and the District of Columbia.

P. "State Practice Laws" - means a Member State's laws, Rules, and regulations that govern the teaching profession, define the scope of such profession, and create the methods and grounds for imposing discipline.

Q. "State Specific Requirements" - means a requirement for licensure covered in coursework or examination that includes content of unique interest to the State.

R. "Teacher" - means an individual who currently holds an authorization from a Member State that forms the basis for employment in the P-12 public schools of the State to provide instruction in a specific subject area, grade level, or student population.

S. "Unencumbered License" - means a current, valid authorization issued by a Member State's Licensing Authority allowing an individual to serve as a Teacher in P-12 public educational settings. An Unencumbered License is not a restricted, probationary, provisional, substitute, or temporary credential.

ARTICLE III- LICENSURE UNDER THE COMPACT

A. Licensure under this Compact pertains only to the initial grant of a license by the Receiving State. Nothing herein applies to any subsequent or ongoing compliance requirements that a Receiving State might require for Teachers.

B. Each Member State shall, in accordance with the Rules of the Commission, define, compile, and update as necessary, a list of Eligible Licenses and Career and Technical Education Licenses that the Member State is willing to consider for equivalency under this Compact and provide the list to the Commission. The list shall include those licenses that a Receiving State is willing to grant to Teachers from other Member States, pending a determination of equivalency by the Receiving State's Licensing Authority.

C. Upon the receipt of an application for licensure by a Teacher holding an Unencumbered Eligible License, the Receiving State shall determine which of the Receiving State's Eligible Licenses the Teacher is qualified to hold and shall grant such a license or licenses to the applicant. Such a determination shall be made in the sole discretion of the Receiving State's Licensing Authority and may include a determination that the applicant is not eligible for any of the Receiving State's Eligible Licenses. For all Teachers who hold an Unencumbered License, the Receiving State shall grant one or more Unencumbered License(s) that, in the Receiving State's sole discretion, are equivalent to the license(s) held by the Teacher in any other Member State.

D. For Active Military Members and Eligible Military Spouses who hold a license that is not Unencumbered, the Receiving State shall grant an equivalent license or licenses that, in the Receiving State's sole discretion, is equivalent to the license or licenses held by the Teacher in any other Member State, except where the Receiving State does not have an equivalent license.

E. For a Teacher holding an Unencumbered Career and Technical Education License, the Receiving State shall grant an Unencumbered License equivalent to the Career and Technical Education License held by the applying Teacher and issued by another Member State, as determined by the Receiving State in its sole discretion, except where a Career and Technical Education Teacher does not hold a bachelor's degree and the Receiving State requires a bachelor's degree for licenses to teach Career and Technical Education. A Receiving State may require Career and Technical Education Teachers to meet State industry recognized requirements, if required by law in the Receiving State.

ARTICLE IV- LICENSURE NOT UNDER THE COMPACT

A. Except as provided in Article III above, nothing in this Compact shall be construed to limit or inhibit the power of a Member State to regulate licensure or endorsements overseen by the Member State's Licensing Authority.

B. When a Teacher is required to renew a license received pursuant to this Compact, the State granting such a license may require the Teacher to complete State Specific Requirements as a condition of licensure renewal or advancement in that State.

C. For the purposes of determining compensation, a Receiving State may require additional information from Teachers receiving a license under the provisions of this Compact.

D. Nothing in this Compact shall be construed to limit the power of a Member State to control and maintain ownership of its information pertaining to Teachers, or limit the application of a Member State's laws or regulations governing the ownership, use, or dissemination of information pertaining to Teachers.

E. Nothing in this Compact shall be construed to invalidate or alter any existing agreement or other cooperative arrangement which a Member State may already be a party to, or limit the ability of a Member State to participate in any future agreement or other cooperative arrangement to:

1. Award teaching licenses or other benefits based on additional professional credentials, including, but not limited to, National Board Certification;

2. Participate in the exchange of names of Teachers whose license has been subject to an Adverse Action by a Member State; or

3. Participate in any agreement or cooperative arrangement with a non-Member State.

ARTICLE V- TEACHER QUALIFICATIONS AND REQUIREMENTS FOR LICENSURE UNDER THE COMPACT

A. Except as provided for Active Military Members or Eligible Military Spouses in Article III.D above, a Teacher may only be eligible to receive a license under this Compact where that Teacher holds an Unencumbered License in a Member State.

B. A Teacher eligible to receive a license under this Compact shall, unless otherwise provided for herein:

1. Upon their application to receive a license under this Compact, undergo a criminal background check in the Receiving State in accordance with the laws and regulations of the Receiving State; and

2. Provide the Receiving State with information in addition to the information required for licensure for the purposes of determining compensation, if applicable.

ARTICLE VI- DISCIPLINE / ADVERSE ACTIONS

A. Nothing in this Compact shall be deemed or construed to limit the authority of a Member State to investigate or impose disciplinary measures on Teachers according to the State Practice Laws thereof.

B. Member States shall be authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of Teachers in other Member States upon request. Any Member State receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another Member State, the disclosing state shall communicate its intention and purpose for such disclosure to the Member State which originally provided that information.

ARTICLE VII- ESTABLISHMENT OF THE INTERSTATE TEACHER MOBILITY COMPACT COMMISSION

A. The interstate compact Member States hereby create and establish a joint public agency known as the Interstate Teacher Mobility Compact Commission:

1. The Commission is a joint interstate governmental agency comprised of States that have enacted the Interstate Teacher Mobility Compact.

2. Nothing in this interstate compact shall be construed to be a waiver of sovereign immunity.

B. **Membership, Voting, and Meetings**

1. Each Member State shall have and be limited to one (1) delegate to the Commission, who shall be given the title of Commissioner.

2. The Commissioner shall be the primary administrative officer of the State Licensing Authority or their designee.

3. Any Commissioner may be removed or suspended from office as provided by the law of the State from which the Commissioner is appointed.

4. The Member State shall fill any vacancy occurring in the Commission within ninety (90) days.

5. Each Commissioner shall be entitled to one (1) vote about the promulgation of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

7. The Commission shall establish by Rule a term of office for Commissioners.

C. The Commission shall have the following powers and duties:

1. Establish a Code of Ethics for the Commission.

2. Establish the fiscal year of the Commission.

3. Establish Bylaws for the Commission.

4. Maintain its financial records in accordance with the Bylaws of the Commission.

5. Meet and take such actions as are consistent with the provisions of this interstate compact, the Bylaws, and Rules of the Commission.

6. Promulgate uniform Rules to implement and administer this interstate compact. The Rules shall have the force and effect of law and shall be binding in all Member States. In the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect of law.

7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any Member State Licensing Authority to sue or be sued under applicable law shall not be affected.

8. Purchase and maintain insurance and bonds.

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State, or an associated non-governmental organization that is open to membership by all states.

10. Hire employees, elect, or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety.

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed.

13. Establish a budget and make expenditures.

14. Borrow money.

15. Appoint committees, including standing committees composed of members and such other interested persons as may be designated in this interstate compact, Rules, or Bylaws.

16. Provide and receive information from, and cooperate with, law enforcement agencies.

17. Establish and elect an Executive Committee.

18. Establish and develop a charter for an Executive Information Governance Committee to advise on facilitating exchange of information; use of information, data privacy, and technical support needs, and provide reports as needed.

19. Perform such other functions as may be necessary or appropriate to achieve the purposes of this interstate compact consistent with the State regulation of Teacher licensure.

20. Determine whether a State's adopted language is materially different from the model compact language such that the State would not qualify for participation in the Compact.

D. **The Executive Committee of the Interstate Teacher Mobility Compact Commission**

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this interstate compact.

2. The Executive Committee shall be composed of eight voting members:

a. The Commission chair, vice chair, and treasurer; and

b. Five members who are elected by the Commission from the current membership:

i. Four voting members representing geographic regions in accordance with Commission Rules; and

ii. One at large voting member in accordance with Commission Rules.

3. The Commission may add or remove members of the Executive Committee as provided in Commission Rules.

4. The Executive Committee shall meet at least once annually.

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to the Compact legislation, fees paid by interstate compact Member States such as annual dues, and any Compact fee charged by the Member States on behalf of the Commission.

b. Ensure Commission administration services are appropriately provided, contractual or otherwise.

c. Prepare and recommend the budget.

d. Maintain financial records on behalf of the Commission.

e. Monitor compliance of Member States and provide reports to the Commission.

f. Perform other duties as provided in Rules or Bylaws.

6. **Meetings of the Commission**

a. All meetings shall be open to the public, and public notice of meetings shall be given in accordance with Commission Bylaws.

b. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

i. Non-compliance of a Member State with its obligations under the Compact.

ii. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures.

iii. Current, threatened, or reasonably anticipated litigation.

iv. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate.

v. Accusing any person of a crime or formally censuring any person.

vi. Disclosure of trade secrets or commercial or financial information that is privileged or confidential.

vii. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

viii. Disclosure of investigative records compiled for law enforcement purposes.

ix. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact.

x. Matters specifically exempted from disclosure by federal or Member State statute.

xi. Other matters as set forth by Commission Bylaws and Rules.

c. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

d. The Commission shall keep minutes of Commission meetings and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

7. **Financing of the Commission**

a. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

b. The Commission may accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest.

c. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission, in accordance with the Commission Rules.

d. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

e. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to accounting procedures established under Commission Bylaws. All receipts and disbursements of funds of the Commission shall be reviewed annually in accordance with Commission Bylaws, and a report of the review shall be included in and become part of the annual report of the Commission.

8. **Qualified Immunity, Defense, and Indemnification**

a. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

b. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

c. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE VIII- RULEMAKING

A. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this interstate compact and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

B. The Commission shall promulgate reasonable Rules to achieve the intent and purpose of this interstate compact. In the event the Commission exercises its Rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect of law in the Member States.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted or ratified at a regular or special meeting of the Commission in accordance with Commission Rules and Bylaws.

E. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with forty-eight (48) hours' notice, with opportunity to comment, provided that the usual Rulemaking procedures shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare.

2. Prevent a loss of Commission or Member State funds.

3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or

4. Protect public health and safety.

ARTICLE IX- FACILITATING INFORMATION EXCHANGE

A. The Commission shall provide for facilitating the exchange of information to administer and implement the provisions of this Compact in accordance with the Rules of the Commission, consistent with generally accepted data protection principles.

B. Nothing in this Compact shall be deemed or construed to alter, limit, or inhibit the power of a Member State to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the Member State.

ARTICLE X- OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. **Oversight**

1. The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact shall have standing as statutory law.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

3. All courts and all administrative agencies shall take judicial notice of the Compact, the Rules of the Commission, and any information provided to a Member State pursuant thereto in any judicial or quasi-judicial proceeding in a Member State pertaining to the subject matter of this Compact, or which may affect the powers, responsibilities, or actions of the Commission.

4. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. **Default, Technical Assistance, and Termination**

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default, or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Commissioners of the Member States, and all rights, privileges, and benefits conferred on that State by this Compact may be

terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the State Licensing Authority, and each of the Member States.

4. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

6. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. **Dispute Resolution**

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member and non-Member States.

2. The Commission shall promulgate a Rule providing for both binding and non-binding alternative dispute resolution for disputes as appropriate.

D. **Enforcement**

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and Bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

ARTICLE XI- EFFECTUATION, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the Charter Member States to determine if the statute enacted by each such Charter Member State is materially different from the model Compact statute.

2. A Charter Member State whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Article X.

3. Member States enacting the Compact subsequent to the Charter Member States shall be subject to the process set forth in Article VII.C.20 to determine if their enactments are

materially different from the model Compact statute and whether they qualify for participation in the Compact.

B. If any Member State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Member States should be less than ten.

C. Any State that joins the Compact after the Commission's initial adoption of the Rules and Bylaws shall be subject to the Rules and Bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State, as the Rules and Bylaws may be amended as provided in this Compact.

D. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this act prior to the effective date of withdrawal.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

ARTICLE XII- CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any Member State or a State seeking membership in the Compact, or of the United States or the applicability thereof to any other government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

ARTICLE XIII- CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

A. Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State that is not inconsistent with the Compact.

B. Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.

C. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

Source: L. 2023: Entire part added, (HB 23-1064), ch. 18, p. 54, § 1, effective August 7.

24-60-4403. Notice to revisor of statutes. This part 44 takes effect on the date the Compact is enacted into law in the tenth Compact State. The executive director of the department of education shall notify the revisor of statutes in writing when the condition specified in this section has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This part 44 takes effect upon the date identified in the notice that the Compact is enacted into law in the tenth Compact State or upon the date of the notice to the revisor of statutes if the notice does not specify a different date.

Source: L. 2023: Entire part added, (HB 23-1064), ch. 18, p. 69, § 1, effective August 7.

Editor's note: On October 23, 2023, the revisor of statutes received notice referred to in this section that the Interstate Teacher Mobility Compact has been enacted into law in the tength compact state.

24-60-4404. Repeal of part. If the revisor of statutes has not received the notice required by section 24-60-4403 by June 29, 2026, this part 44 is repealed, effective June 30, 2026.

Source: L. 2023: Entire part added, (HB 23-1064), ch. 18, p. 69, § 1, effective August 7.

PART 45

SCHOOL PSYCHOLOGIST LICENSURE INTERSTATE COMPACT

24-60-4501. Compact approved and ratified. The general assembly hereby approves and ratifies, and the governor is authorized to enter into, a compact on behalf of the state of San Andreas with any of the United States or other jurisdictions legally joining therein in the form substantially as follows:

SECTION 1
PURPOSE

The purpose of the Compact is to facilitate the interstate practice of school psychology in educational or school settings, and in doing so improve the availability of school psychological services to the public. This Compact is intended to establish a pathway to allow school psychologists to obtain equivalent licenses to provide school psychological services in any member state. In this way, this Compact enables the member states to ensure that safe and effective school psychological services are available and delivered by appropriately qualified professionals in their educational settings.

To facilitate the objectives described above, this Compact:

A. Enables school psychologists who qualify for receipt of an equivalent license to practice in other member states without first satisfying burdensome and duplicative requirements;

B. Promotes the mobility of school psychologists between and among the member states in order to address workforce shortages and to ensure that safe and reliable school psychological services are available in each member state;

C. Enhances the public accessibility of school psychological services by increasing the availability of qualified, licensed school psychologists through the establishment of an efficient and streamlined pathway for licensees to practice in other member states;

D. Preserves and respects the authority of each member state to protect the health and safety of its residents by ensuring that only qualified, licensed professionals are authorized to provide school psychological services within that state;

E. Requires school psychologists practicing within a member state to comply with the scope of practice laws present in the state where the school psychological services are being provided;

F. Promotes cooperation between the member states in regulating the practice of school psychology within those states; and

G. Facilitates the relocation of military members and their spouses who are licensed to provide school psychological services.

SECTION 2
DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active military member" means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

B. "Adverse action" means a disciplinary action or encumbrance imposed on a licensee by a state licensing authority.

C. "Alternative program" means a non-disciplinary, prosecutorial diversion, monitoring, or practice remediation process entered into in lieu of an adverse action that is applicable to a school psychologist and approved by the state licensing authority of a member state in which the participating school psychologist is licensed. This includes, but is not limited to, programs to which licensees with substance abuse or addiction issues may be referred in lieu of an adverse action.

D. "Commissioner" means the individual appointed by a member state to serve as the representative to the commission for that member state.

E. "Compact" means this school psychologist licensure interstate compact.

F. "Continuing professional education" means a requirement, imposed by a member state as a condition of license renewal, to provide evidence of successful participation in professional educational activities relevant to the provision of school psychological services.

G. "Criminal background check" means the submission of fingerprints or other biometric information by a license applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 CFR 20.3(d), and the state's criminal history record repository, as defined in 28 CFR 20.3(f).

H. "Doctoral level degree" means a graduate degree program that consists of at least ninety graduate semester hours in the field of school psychology, including a supervised internship.

I. "Encumbered license" means a license that a state licensing authority has limited in any way other than through an alternative program, including temporary or provisional licenses.

J. "Equivalent license" means a license to practice school psychology that a member state has identified as a license that may be provided to school psychologists from other member states pursuant to this Compact.

K. "Executive committee" means the commission's chair, vice-chair, secretary, and treasurer and any other commissioners as may be determined by commission rule or bylaw.

L. "Home state" means the member state that issued the home state license to the licensee and is the licensee's primary state of practice.

M. "Home state license" means the license that is not an encumbered license issued by the home state to provide school psychological services.

N. "License" means the current license, certification, or other authorization granted by a member state's licensing authority that permits an individual to provide school psychological services.

O. "Licensee" means an individual who holds a license from a member state to provide school psychological services.

P. "Licensing authority" means a member state's regulatory body responsible for issuing licenses or otherwise overseeing the practice of school psychology.

Q. "Member state" means a state that has enacted the Compact and has been admitted to the commission in accordance with the provisions herein and the commission rules.

R. "Model compact" means the model language for the school psychologist licensure interstate compact on file with the council of state governments or other entity as designated by the commission.

S. "Practice of school psychology" means the delivery of school psychological services.

T. "Qualifying national exam" means a national licensing examination endorsed by the national association of school psychologists and any other exam as approved by commission rules.

U. "Qualifying school psychologist education program" means an education program that awards a specialist-level or doctoral-level degree or equivalent upon completion and is approved by commission rules as meeting the necessary minimum educational standards to ensure that its graduates are ready, qualified, and able to engage in the practice of school psychology.

V. "Remote state" means a member state other than the home state where a licensee holds a license through the Compact.

W. "Rule" means a regulation promulgated by an entity, including, but not limited to, the commission and the state licensing authority of each member state, that has the force of law.

X. "School psychologist" means an individual who has met the requirements to obtain a home state license that legally conveys the professional title of school psychologist, or its equivalent, as determined by commission rules.

Y. "School psychologist licensure interstate compact commission" or "commission" means the joint government agency established by this Compact whose membership consists of representatives from each member state that has enacted the Compact and as further described in Section 7.

Z. "School psychological services" means academic, mental, and behavioral health services, including assessment, prevention, consultation, and collaboration; intervention; and

evaluation, provided by a school psychologist in a school, as outlined in applicable professional standards as determined by commission rule.

AA. "Scope of practice" means the procedures, actions, and processes a school psychologist who is licensed in a state is permitted to undertake in that state and the circumstances under which that licensee is permitted to undertake those procedures, actions, and processes. Such procedures, actions, and processes, and the circumstances under which they may be undertaken, may be established through means including, but not limited to, statute, regulations, case law, and other processes available to the state licensing authority or other government agency.

BB. "Specialist-level degree" means a degree program that requires at least sixty graduate semester hours or the equivalent in the field of school psychology, including a supervised internship.

CC. "State" means any state, commonwealth, district, or territory of the United States of America.

DD. "State licensing authority" means an agency, whether the department of education or otherwise, or other entity operating as an arm of a state that is responsible for the licensing and regulation of school psychologists.

EE. "State specific requirement" means a requirement for licensure covered in coursework or examination that includes content of unique interests to the state.

FF. "Unencumbered license" means a license that authorizes a licensee to engage in the full and unrestricted practice of school psychology.

SECTION 3
STATE PARTICIPATION IN THE COMPACT

A. To be eligible to join this Compact, and to maintain eligibility as a member state, a state must:

1. Enact a compact statute that is not materially different from the model compact as defined in commission rules;

2. Participate in the sharing of information with other member states as reasonably necessary to accomplish the objectives of this Compact, and as further defined in Section 8;

3. Identify and maintain with the commission a list of equivalent licenses available to licensees who hold a home state license pursuant to this Compact;

4. Have a mechanism in place for receiving and investigating complaints about licensees;

5. Notify the commission, in compliance with the terms of the Compact and commission rules, of any adverse action taken against a licensee or of the availability of investigative information that relates to a licensee or applicant for licensure;

6. Require that an applicant for a home state license has:

a. Taken and passed a qualifying national exam, as defined by commission rule;

b. Completed a minimum of twelve hundred hours of supervised internship, of which at least six hundred hours must have been completed in a school, prior to being approved for licensure; and

c. Graduated from a qualifying school psychologist education program; and

7. Comply with the terms of this Compact and commission rules.

B. Each member state shall grant an equivalent license to practice school psychology in that state upon application by a licensee who satisfies the criteria of Section 4.A. Each member state shall grant renewal of the equivalent license to a licensee who satisfies the criteria of Section 4.B.

C. A member state may set and collect a fee for granting an equivalent license.

SECTION 4
SCHOOL PSYCHOLOGIST PARTICIPATION
IN THE COMPACT

A. To obtain and maintain an equivalent license from a receiving state pursuant to this Compact, a licensee must:

1. Hold and maintain an active home state license;

2. Satisfy any applicable state specific requirements established by the member state after an equivalent license is granted;

3. Complete any administrative or application requirements the commission may establish by rule and pay any associated fees;

4. Complete any requirements for renewal in the home state, including applicable continuing professional education requirements; and

5. Upon application to receive a license pursuant to this Compact, undergo a criminal background check in the member state in which the equivalent license is sought, in accordance with the laws and regulations of the member state.

B. To renew an equivalent license in a member state other than the home state, a licensee must only apply for renewal, complete a background check, and pay renewal fees as determined by the licensing authority.

SECTION 5
ACTIVE MILITARY MEMBERS OR THEIR SPOUSES

A licensee who is an active military member or is the spouse of an active military member is deemed to hold a home state license in any of the following locations:

A. The licensee's permanent residence;

B. A member state that is the licensee's primary state of practice; or

C. A member state where the licensee has relocated pursuant to a permanent change of station (PCS).

SECTION 6
DISCIPLINE AND ADVERSE ACTIONS

A. Nothing in this Compact shall be deemed or construed to limit the authority of a member state to investigate or impose disciplinary measures on a licensee according to the state practice laws thereof.

B. Each member state is authorized to receive, and shall provide, files and information regarding the investigation and discipline, if any, of a licensee in another member state upon request. A member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall

communicate its intention and purpose for the disclosure to the member state that originally provided that information.

SECTION 7
ESTABLISHMENT OF THE SCHOOL PSYCHOLOGIST
INTERSTATE LICENSURE COMPACT COMMISSION

A. The member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the Compact. This agency shall be known as the school psychologist interstate licensure compact commission. The commission is an instrumentality of the member states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the Compact, as set forth in Section 11.

B. Membership, voting, and meetings

1. Each member state shall have and be limited to one delegate as selected by that member state's state licensing authority.

2. The delegate shall be the primary administrative officer of the member state licensing authority, or their designee, who is an employee of the member state licensing authority.

3. The commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.

4. The commission may recommend removal or suspension of any delegate from office.

5. A member state's licensing authority shall fill any vacancy of its delegates occurring on the commission within sixty days of the vacancy.

6. Each delegate shall be entitled to one vote on all matters before the commission that require a vote by commission delegates.

7. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, video conference, or other means of communication.

8. The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference, or other similar electronic means.

C. The commission shall have the following powers:

1. To establish the fiscal year of the commission;

2. To establish a code of conduct and conflict of interest policies;

3. To establish and amend rules and bylaws;

4. To establish the procedure through which a licensee may change their home state;

5. To maintain its financial records in accordance with the bylaws;

6. To meet and take such actions as are consistent with the provisions of this Compact, the commission's rules, and the bylaws;

7. To initiate and conclude legal proceedings or actions in the name of the commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law is not affected;

8. To maintain and certify records and information provided to a member state as the authenticated business records of the commission and designate an agent to do so on the commission's behalf;

9. To purchase and maintain insurance and bonds;

10. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

11. To conduct an annual financial review;

12. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

13. To assess and collect fees;

14. To accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services and receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

15. To lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

16. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

17. To establish a budget and make expenditures;

18. To borrow money;

19. To appoint committees, including standing committees, composed of members, state regulators, state legislators or their representatives, consumer representatives, and other interested persons as may be designated in the Compact and the bylaws;

20. To provide and receive information from, and cooperate with, law enforcement agencies;

21. To establish and elect an executive committee, including a chair and vice-chair;

22. To determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the Compact; and

23. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

D. The executive committee

1. The executive committee shall have the power to act on behalf of the commission according to the terms of this Compact. The powers, duties, and responsibilities of the executive committee shall include:

a. To oversee the day-to-day activities of the administration of the Compact, including enforcement and compliance with the provisions of the Compact, its rules and bylaws, and other such duties as deemed necessary;

b. To recommend to the commission changes to the rules or bylaws, changes to this Compact legislation, fees charged to member states, fees charged to licensees, and other fees;

c. To ensure Compact administration services are appropriately provided, including by contract;

d. To prepare and recommend the budget;

e. To maintain financial records on behalf of the commission;

f. To monitor Compact compliance of member states and provide compliance reports to the commission;

g. To establish additional committees as necessary;

h. To exercise the powers and duties of the commission during the interim between commission meetings, except for adopting or amending rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

i. Other duties as provided in the rules or bylaws of the commission.

2. The executive committee shall be composed of up to seven members:

a. The chair and vice-chair of the commission shall be voting members of the executive committee; and

b. The commission shall elect five voting members from the current membership of the commission.

3. The commission may remove any member of the executive committee as provided in the commission's bylaws.

4. The executive committee shall meet at least annually.

a. Executive committee meetings shall be open to the public; except that the executive committee may meet in a closed, non-public meeting as provided in subsection F.2 of this section.

b. The executive committee shall give thirty days' notice of its meetings, posted on its website and as determined, to provide notice to persons with an interest in the commission's business.

c. The executive committee may hold a special meeting in accordance with subsection F.1.b of this section.

E. The commission shall adopt and provide an annual report to the member states.

F. Meetings of the commission

1. All meetings of the commission shall be open to the public; except that the commission may meet in a closed, non-public meeting as provided in subsection F.2 of this section.

a. Public notice for all meetings of the full commission shall be given in the same manner as required under the rule-making provisions in Section 9; except that the commission may hold a special meeting as provided in subsection F.1.b of this section.

b. The commission may hold a special meeting when it must meet to conduct emergency business by giving forty-eight hours' notice to all commissioners, on the commission's website, and other means as provided in the commission's rules. The commission's legal counsel shall certify that the commission's need to meet qualifies as an emergency.

2. The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:

a. Non-compliance of a member state with its obligations under this Compact;

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees;

c. Current or threatened discipline of a licensee by the commission or by a member state's licensing authority;

d. Current, threatened, or reasonably anticipated litigation;

e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

f. Accusation of any person of a crime or formally censuring any person;

g. Trade secrets or commercial or financial information that is privileged or confidential;

h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

i. Investigative records compiled for law enforcement purposes;

j. Information related to any investigative reports prepared by or on behalf of or for use by the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact;

k. Matters specifically exempted from disclosure by federal or member state law; or

l. Other matters as promulgated by the commission by rule.

3. If a meeting, or a portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

4. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

G. Financing of the commission

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The commission may accept any and all appropriate revenue sources as provided in Section C.14 of this Section.

3. The commission may levy on and collect an annual assessment from each member state and impose fees on licensees practicing in the member state under an equivalent license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the commission shall promulgate by rule.

4. The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

5. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

H. Qualified immunity, defense, and indemnification

1. The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that nothing in this

paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

2. The commission shall defend any member, officer, executive director, employee, and representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission, that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense, and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

4. Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a member state's action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other federal or state antitrust or anticompetitive law or regulation.

6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the member states or by the commission.

SECTION 8
FACILITATING INFORMATION EXCHANGE

A. The commission shall provide for facilitating the exchange of information to administer and implement the provisions of this Compact in accordance with the rules of the commission, consistent with generally accepted data protection principles.

B. Notwithstanding any other provision of state law to the contrary, a member state shall agree to provide for the facilitation of the following license information as required by rules of the commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license and information related thereto;
4. Non-confidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under member state law;
5. Any denial of application for licensure, and the reason(s) for such denial;

6. The presence of investigative information; and

7. Other information that may facilitate the administration of this Compact or the protection of the public, as determined by rules of the commission.

C. Nothing in this Compact shall be deemed or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the member state.

SECTION 9
RULE-MAKING

A. The commission shall exercise its rule-making powers pursuant to the criteria set forth in this Compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. The commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate Compact. In the event the commission exercises its rule-making authority in a manner that is beyond the purpose and intent of this interstate Compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law in the member states.

C. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

E. Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the commission shall file a notice of proposed rule-making:

1. On the website of the commission or other publicly accessible platform; and

2. On the website of each member state licensing authority or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

F. Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with forty-eight hours' notice, with opportunity for comment, provided that the usual rule-making procedures shall be applied retroactively to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Prevent a loss of commission or member state funds;

2. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

3. Protect public health and safety.

SECTION 10
OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive and judicial branches of state government in each member state shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.

2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

3. The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this Compact, or promulgated rules.

B. Default, technical assistance, and termination

1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

2. The commission shall provide a copy of the notice of default to the other member states.

C. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a super-majority of the delegates of the member states, and all rights, privileges, and benefits conferred on that state by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, the defaulting state's licensing authority, and each of the member states' licensing authorities.

E. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. Upon the termination of a state's membership from this Compact, that state shall immediately provide notice to all licensees within that state of such termination. The terminated state shall continue to recognize all licenses granted pursuant to this Compact for a minimum of six (6) months after the date of said notice of termination.

G. The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact unless agreed upon in writing between the commission and the defaulting state.

H. The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

I. Dispute resolution

1. Upon request by a member state, the commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The commission shall promulgate a rule providing for both mediation and binding resolution for disputes as appropriate.

J. Enforcement

1. By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's laws.

2. A member state may initiate legal action against the commission in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. No person other than a member state shall enforce this Compact against the commission.

SECTION 11
EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh member state.

1. On or after the effective date of the Compact indicated above, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different than the model Compact statute.

a. A charter member state whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Section 10.

b. If any member state is later found to be in default, or is terminated or withdraws from the Compact, the commission shall remain in existence and the Compact shall remain in effect even if the number of member states should be less than seven.

2. A member state enacting the Compact subsequent to the charter member states shall be subject to the process set forth in Section 7.C.21 to determine if their enactments are materially different from the model Compact statute and whether it qualifies for participation in the Compact.

3. All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the commission coming into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

a. Any state that joins the Compact subsequent to the commission's initial adoption of the rules shall be subject to the rules and bylaws as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the Compact becomes law in that state.

b. A member state may withdraw from this Compact by enacting a statute repealing the same.

B. A member state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

C. Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this Compact prior to the effective date of withdrawal.

D. Upon the enactment of a statute withdrawing from this Compact, a state shall immediately provide notice of such withdrawal to all licensees within the state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this Compact for a minimum of six (6) months after the date of such notice of withdrawal.

1. Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

2. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

SECTION 12
CONSTRUCTION AND SEVERABILITY

A. This Compact and the commission's rule-making authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rule-making authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any member state, a state seeking participation in the Compact, or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby.

C. Notwithstanding subsection B of this section, the commission may deny a state's participation in the Compact or, in accordance with the requirements of Section 10.B, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a member state is a material departure from the Compact. Otherwise, if this Compact shall be held contrary to the constitution of any member state, the Compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

SECTION 13

CONSISTENT EFFECT AND CONFLICT
WITH OTHER STATE LAWS

A. Nothing herein prevents or inhibits the enforcement of any other law of a member state that is not inconsistent with the Compact.

B. All laws, statutes, regulations, or other legal requirements in a member state in conflict with the Compact are superseded to the extent of the conflict.

C. All agreements between the commission and the member states are binding in accordance with their terms.

Source: L. 2024: Entire part added, (HB 24-1096), ch. 129, p. 438, § 1, effective April 29.

24-60-4502. Notice to revisor of statutes. This part 45 takes effect on the date the Compact is enacted into law in the seventh Compact state. The executive director of the department of education shall notify the revisor of statutes in writing when the condition specified in this Section 14 has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This part 45 takes effect upon the date identified in the notice that the Compact is enacted into law in the seventh Compact state or upon the date of the notice to the revisor of statutes if the notice does not specify a different date.

Source: L. 2024: Entire part added, (HB 24-1096), ch. 129, p. 457, § 1, effective April 29.

Editor's note: As of publication date, the revisor of statutes has not received the notice referred to in this section.

24-60-4503. Repeal of part. If the revisor of statutes has not received the notice required by section 24-60-4502 by June 29, 2029, this part 45 is repealed, effective June 30, 2029.

Source: L. 2024: Entire part added, (HB 24-1096), ch. 129, p. 457, § 1, effective April 29.

Editor's note: As of publication date, the revisor of statutes has not received the notice referred to in this section.

PART 46

SOCIAL WORK LICENSURE COMPACT

24-60-4601. Short title. The short title of this part 46 is the "Social Work Licensure Compact".

Source: L. 2024: Entire part added, (HB 24-1002), ch. 326, p. 2179, § 1, effective August 7.

24-60-4602. Compact approved and ratified. The general assembly approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas and any of the United States or other jurisdictions legally joining the compact in the form substantially as follows:

SECTION 1.
PURPOSE

The purpose of this Compact is to facilitate interstate practice of Regulated Social Workers by improving public access to competent Social Work Services. This Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Social Work Services;

B. Reduce overly burdensome and duplicative requirements associated with holding multiple licenses;

C. Enhance the Member States' ability to protect the public's health and safety;

D. Encourage the cooperation of Member States in regulating multistate practice;

E. Promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple States by providing for the mutual recognition of other Member State licenses;

F. Support military families;

G. Facilitate the exchange of licensure and disciplinary information among Member States;

H. Authorize all Member States to hold a Regulated Social Worker accountable for abiding by a Member State's laws, regulations, and applicable professional standards in the Member State in which the client is located at the time care is rendered; and

I. Allow for the use of telehealth to facilitate increased access to regulated Social Work Services.

SECTION 2.
DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active Military Member" means any individual with full-time duty status in the active armed forces of the United States including members of the National Guard and Reserve.

B. "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a Licensing Authority or other authority against a Regulated Social Worker, including actions against an individual's license or Multistate Authorization to Practice such as revocation, suspension, probation, monitoring of the Licensee, limitation on the Licensee's practice, or any other Encumbrance on licensure affecting a

Regulated Social Worker's authorization to practice, including issuance of a cease-and-desist action.

C. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Licensing Authority to address practitioners with an Impairment.

D. "Charter Member States" means Member States who have enacted legislation to adopt this Compact where such legislation predates the effective date of this Compact as described in Section 14 of this Compact.

E. "Compact Commission" or "Commission" means the government agency whose membership consists of all States that have enacted this Compact, which is known as the Social Work Licensure Compact Commission, as described in Section 10 of this Compact, and which shall operate as an instrumentality of the Member States.

F. "Current Significant Investigative Information" means:

1. Investigative information that a Licensing Authority, after a preliminary inquiry that includes notification and an opportunity for the Regulated Social Worker to respond, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction as may be defined by the Commission; or

2. Investigative information that indicates that the Regulated Social Worker represents an immediate threat to public health and safety, as may be defined by the Commission, regardless of whether the Regulated Social Worker has been notified and has had an opportunity to respond.

G. "Data System" means a repository of information about Licensees, including Current Significant Investigative Information; continuing education, examination, licensure, Disqualifying Event, Multistate License(s) and Adverse Action information; or other information as required by the Commission.

H. "Disqualifying Event" means any Adverse Action or incident which results in an Encumbrance that disqualifies or makes the Licensee ineligible to either obtain, retain, or renew a Multistate License.

I. "Domicile" means the jurisdiction in which the Licensee resides and intends to remain indefinitely.

J. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Social Work licensed and regulated by a Licensing Authority.

K. "Executive Committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the Compact and Commission.

L. "Home State" means the Member State that is the Licensee's primary Domicile.

M. "Impairment" means a condition(s) that may impair a practitioner's ability to engage in full and unrestricted practice as a Regulated Social Worker without some type of intervention and may include alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

N. "Licensee(s)" means an individual who currently holds a license from a State to practice as a Regulated Social Worker.

O. "Licensing Authority" means the board or agency of a Member State, or equivalent, that is responsible for the licensing and regulation of Regulated Social Workers.

P. "Member State" means a state, commonwealth, district, or territory of the United States of America that has enacted this Compact.

Q. "Multistate Authorization to Practice" means a legally authorized privilege to practice, which is equivalent to a license, associated with a Multistate License permitting the practice of Social Work in a Remote State.

R. "Multistate License" means a license to practice as a Regulated Social Worker issued by a Home State Licensing Authority that authorizes the Regulated Social Worker to practice in all Member States under a Multistate Authorization to Practice.

S. "Qualifying National Exam" means a national licensing examination approved by the Commission.

T. "Regulated Social Worker" means any Clinical, Masters or Bachelors Social Worker licensed by a Member State regardless of the title used by that Member State.

U. "Remote State" means a Member State other than the Licensee's Home State.

V. "Rule(s)" or "Rule(s) of the Commission" means a regulation or regulations duly promulgated by the Commission, as authorized by the Compact, that have the force of law.

W. "Single State License" means a Social Work license issued by any State that authorizes practice only within the issuing State and does not include Multistate Authorization to Practice in any Member State.

X. "Social Work" or "Social Work Services" means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a Regulated Social Worker as set forth in the Member State's statutes and regulations in the State where the services are being provided.

Y. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Social Work.

Z. "Unencumbered License" means a license that authorizes a Regulated Social Worker to engage in the full and unrestricted practice of Social Work.

SECTION 3.
STATE PARTICIPATION IN THE COMPACT

A. To be eligible to participate in the compact, a potential Member State must currently meet all of the following criteria:

1. License and regulate the practice of Social Work at either the Clinical, Masters, or Bachelors category;

2. Require applicants for licensure to graduate from a program that:

a. Is operated by a college or university recognized by the Licensing Authority;

b. Is accredited, or in candidacy by an institution that subsequently becomes accredited, by an accrediting agency recognized by either:

i. The Council for Higher Education Accreditation, or its successor; or

ii. The United States Department of Education; and

c. Corresponds to the licensure sought as outlined in Section 4 of this Compact;

3. Require applicants for clinical licensure to complete a period of supervised practice;

4. Have a mechanism in place for receiving, investigating, and adjudicating complaints about Licensees.

B. To maintain membership in this Compact a Member State shall:

1. Require that applicants for a Multistate License pass a Qualifying National Exam for the corresponding category of Multistate License sought as outlined in Section 4 of this Compact;

2. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

3. Notify the Commission, in compliance with the terms of this Compact and Rules, of any Adverse Action or the availability of Current Significant Investigative Information regarding a Licensee;

4. Implement procedures for considering the criminal history records of applicants for a Multistate License. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records.

5. Comply with the Rules of the Commission;

6. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable Home State laws;

7. Authorize a Licensee holding a Multistate License in any Member State to practice in accordance with the terms of this Compact and Rules of the Commission; and

8. Designate a delegate to participate in the Commission meetings.

C. A Member State meeting the requirements of Section 3.A. and 3.B. of this Compact shall designate the categories of Social Work licensure that are eligible for issuance of a Multistate License for applicants in such Member State. To the extent that any Member State does not meet the requirements for participation in this Compact at any particular category of Social Work licensure, such Member State may choose, but is not obligated, to issue a Multistate License to applicants that otherwise meet the requirements of Section 4 of this Compact for issuance of a Multistate License in such category or categories of licensure.

D. The Home State may charge a fee for granting the Multistate License.

SECTION 4.
SOCIAL WORKER PARTICIPATION
IN THE COMPACT

A. To be eligible for a Multistate License under the terms and provisions of this Compact, an applicant, regardless of category, must:

1. Hold or be eligible for an active, Unencumbered License in the Home State;

2. Pay any applicable fees, including any State fee, for the Multistate License;

3. Submit, in connection with an application for a Multistate License, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

4. Notify the Home State of any Adverse Action, Encumbrance, or restriction on any professional license taken by any Member State or non-Member State within thirty (30) days from the date the action is taken;

5. Meet any continuing competence requirements established by the Home State;

6. Abide by the laws, regulations, and applicable standards in the Member State where the client is located at the time care is rendered.

B. An applicant for a Clinical-category Multistate License must meet all of the following requirements:

1. Fulfill a competency requirement, which shall be satisfied by either:

a. Passage of a Clinical-category Qualifying National Exam; or

b. Licensure of the applicant in their Home State at the clinical category, beginning prior to such time as a Qualifying National Exam was required by the Home State and accompanied by a period of continuous Social Work licensure thereafter, all of which may be further governed by the Rules of the Commission; or

c. The substantial equivalency of the foregoing competency requirements which the Commission may determine by Rule;

2. Attain at least a Masters degree in Social Work from a program that is:

a. Operated by a college or university recognized by the Licensing Authority; and

b. Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

i. The Council for Higher Education Accreditation or its successor; or

ii. The United States Department of Education;

3. Fulfill a practice requirement, which shall be satisfied by demonstrating completion of either:

a. A period of postgraduate supervised clinical practice equal to a minimum of three thousand hours; or

b. A minimum of two years of full-time postgraduate supervised clinical practice; or

c. The substantial equivalency of the foregoing practice requirements which the Commission may determine by Rule.

C. An applicant for a Masters-category Multistate License must meet all of the following requirements:

1. Fulfill a competency requirement, which shall be satisfied by either:

a. Passage of a Masters-category Qualifying National Exam;

b. Licensure of the applicant in their Home State at the Masters category, beginning prior to such time as a Qualifying National Exam was required by the Home State at the Masters-category and accompanied by a continuous period of Social Work licensure thereafter, all of which may be further governed by the Rules of the Commission; or

c. The substantial equivalency of the foregoing competency requirements which the Commission may determine by Rule;

2. Attain at least a Masters degree in Social Work from a program that is:

a. Operated by a college or university recognized by the Licensing Authority; and

b. Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

i. The Council for Higher Education Accreditation or its successor; or

ii. The United States Department of Education.

D. An applicant for a Bachelors-category Multistate License must meet all of the following requirements:

1. Fulfill a competency requirement, which shall be satisfied by either:

a. Passage of a Bachelors-category Qualifying National Exam;

b. Licensure of the applicant in their Home State at the Bachelors-category, beginning prior to such time as a Qualifying National Exam was required by the Home State and accompanied by a period of continuous Social Work licensure thereafter, all of which may be further governed by the Rules of the Commission; or

c. The substantial equivalency of the foregoing competency requirements which the Commission may determine by Rule;

2. Attain at least a Bachelors degree in Social Work from a program that is:

a. Operated by a college or university recognized by the Licensing Authority; and

b. Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

i. The Council for Higher Education Accreditation or its successor; or

ii. The United States Department of Education.

E. The Multistate License for a Regulated Social Worker is subject to the renewal requirements of the Home State. The Regulated Social Worker must maintain compliance with the requirements of Section 4.A. of this Compact to be eligible to renew a Multistate License.

F. The Regulated Social Worker's services in a Remote State are subject to that Member State's regulatory authority. A Remote State may, in accordance with due process and that Member State's laws, remove a Regulated Social Worker's Multistate Authorization to Practice in the Remote State for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens.

G. If a Multistate License is encumbered, the Regulated Social Worker's Multistate Authorization to Practice shall be deactivated in all Remote States until the Multistate License is no longer encumbered.

H. If a Multistate Authorization to Practice is encumbered in a Remote State, the regulated Social Worker's Multistate Authorization to Practice may be deactivated in that State until the Multistate Authorization to Practice is no longer encumbered.

SECTION 5.
ISSUANCE OF A MULTISTATE LICENSE

A. Upon receipt of an application for a Multistate License, the Home State Licensing Authority shall determine the applicant's eligibility for a Multistate License in accordance with Section 4 of this Compact.

B. If such applicant is eligible pursuant to Section 4 of this Compact, the Home State Licensing Authority shall issue a Multistate License that authorizes the applicant or Regulated Social Worker to practice in all Member States under a Multistate Authorization to Practice.

C. Upon issuance of a Multistate License, the Home State Licensing Authority shall designate whether the Regulated Social Worker holds a Multistate License in the Bachelors-, Masters-, or Clinical-category of Social Work.

D. A Multistate License issued by a Home State to a resident in that State shall be recognized by all Compact Member States as authorizing Social Work Practice under a Multistate Authorization to Practice corresponding to each category of licensure regulated in each Member State.

SECTION 6.

AUTHORITY OF INTERSTATE
COMPACT COMMISSION AND
MEMBER STATE LICENSING AUTHORITIES

A. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Member State to enact and enforce laws, regulations, or other rules related to the practice of Social Work in that State, where those laws, regulations, or other rules are not inconsistent with the provisions of this Compact.

B. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

C. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Member State to take Adverse Action against a Licensee's Single State License to practice Social Work in that State.

D. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Remote State to take Adverse Action against a Licensee's Multistate Authorization to Practice in that State.

E. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Licensee's Home State to take Adverse Action against a Licensee's Multistate License based upon information provided by a Remote State.

SECTION 7.
REISSUANCE OF A MULTISTATE LICENSE
BY A NEW HOME STATE

A. A Licensee can hold a Multistate License, issued by their Home State, in only one Member State at any given time.

B. If a Licensee changes their Home State by moving between two Member States:

1. The Licensee shall immediately apply for the reissuance of their Multistate License in their new Home State. The Licensee shall pay all applicable fees and notify the prior Home State in accordance with the Rules of the Commission.

2. Upon receipt of an application to reissue a Multistate License, the new Home State shall verify that the Multistate License is active, unencumbered, and eligible for reissuance under the terms of this Compact and the Rules of the Commission. The Multistate License issued by the prior Home State will be deactivated and all Member States notified in accordance with the applicable Rules adopted by the Commission.

3. Prior to the reissuance of the Multistate License, the new Home State shall conduct procedures for considering the criminal history records of the Licensee. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records.

4. If required for initial licensure, the new Home State may require completion of jurisprudence requirements in the new Home State.

5. Notwithstanding any other provision of this Compact, if a Licensee does not meet the requirements set forth in this Compact for the reissuance of a Multistate License by the new

Home State, then the Licensee shall be subject to the new Home State requirements for the issuance of a Single State License in that State.

C. If a Licensee changes their primary State of residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, then the Licensee shall be subject to the State requirements for the issuance of a Single State License in the new Home State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States; however, for the purposes of this Compact, a Licensee shall have only one Home State and only one Multistate License.

E. Nothing in this Compact shall interfere with the requirements established by a Member State for the issuance of a Single State License.

SECTION 8.
MILITARY FAMILIES

An Active Military Member or their spouse shall designate a Home State where the individual has a Multistate License. The individual may retain their Home State designation during the period the service member is on active duty.

SECTION 9.
ADVERSE ACTIONS

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Regulated Social Worker's Multistate Authorization to Practice only within that Member State and issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Authority in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing Licensing Authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

2. Only the Home State shall have the power to take Adverse Action against a Regulated Social Worker's Multistate License.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Regulated Social Worker who changes their Home State during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the Data System shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Regulated Social Worker the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Regulated Social Worker.

E. A Member State may take Adverse Action based on the factual findings of another Member State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Social Work practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this Compact.

G. If Adverse Action is taken by the Home State against the Multistate License of a Regulated Social Worker, the Regulated Social Worker's Multistate Authorization to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the Multistate License. All Home State disciplinary orders that impose Adverse Action against the license of a Regulated Social Worker shall include a statement that the Regulated Social Worker's Multistate Authorization to Practice is deactivated in all Member States until all conditions of the decision, order, or agreement are satisfied.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State and all other Member States of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

J. Nothing in this Compact shall authorize a Member State to demand the issuance of subpoenas for attendance and testimony of witnesses or the production of evidence from another Member State for lawful actions within that Member State.

K. Nothing in this Compact shall authorize a Member State to impose discipline against a Regulated Social Worker who holds a Multistate Authorization to Practice for lawful actions within another Member State.

SECTION 10.
ESTABLISHMENT OF SOCIAL WORK LICENSURE COMPACT COMMISSION

A. The Compact Member States hereby create and establish a joint government agency whose membership consists of all Member States that have enacted this compact known as the Social Work Licensure Compact Commission. The Commission is an instrumentality of the Member States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of this Compact as set forth in Section 14.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's State Licensing Authority.

2. The delegate shall be either:

a. A current member of the State Licensing Authority at the time of appointment, who is a Regulated Social Worker or public member of the State Licensing Authority; or

b. An administrator of the State Licensing Authority or their designee.

3. The Commission shall by Rule or bylaw establish a term of office for delegates and may by Rule or bylaw establish term limits.

4. The Commission may recommend removal or suspension of any delegate from office.

5. A Member State's State Licensing Authority shall fill any vacancy of its delegate occurring on the Commission within sixty (60) days of the vacancy.

6. Each delegate shall be entitled to one vote on all matters before the Commission requiring a vote by Commission delegates.

7. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference, or other means of communication.

8. The Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference, or other similar electronic means.

C. The Commission shall have the following powers:

1. Establish the fiscal year of the Commission;

2. Establish code of conduct and conflict of interest policies;

3. Establish and amend Rules and bylaws;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take such actions as are consistent with the provisions of this Compact, the Commission's Rules, and the bylaws;

6. Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;

7. Maintain and certify records and information provided to a Member State as the authenticated business records of the Commission and designate an agent to do so on the Commission's behalf;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

10. Conduct an annual financial review;

11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. Assess and collect fees;

13. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

16. Establish a budget and make expenditures;

17. Borrow money;

18. Appoint committees, including standing committees, composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

19. Provide and receive information from, and cooperate with, law enforcement agencies;

20. Establish and elect an Executive Committee, including a chair and a vice chair;

21. Determine whether a State's adopted language is materially different from the model compact language such that the State would not qualify for participation in this Compact; and

22. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall include:

a. Oversee the day-to-day activities of the administration of the Compact including enforcement and compliance with the provisions of this Compact, its Rules and bylaws, and other such duties as deemed necessary;

b. Recommend to the Commission changes to the Rules or bylaws, changes to this Compact legislation, fees charged to Compact Member States, fees charged to Licensees, and other fees;

c. Ensure Compact administration services are appropriately provided, including by contract;

d. Prepare and recommend the budget;

e. Maintain financial records on behalf of the Commission;

f. Monitor Compact compliance of Member States and provide compliance reports to the Commission;

g. Establish additional committees as necessary;

h. Exercise the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by Rule or bylaw; and

i. Other duties as provided in the Rules or bylaws of the Commission.

2. The Executive Committee shall be composed of up to eleven (11) members:

a. The chair and vice chair of the Commission shall be voting members of the Executive Committee;

b. The Commission shall elect five (5) voting members from the current membership of the Commission; and

c. Up to four (4) ex-officio, nonvoting members from four (4) recognized national Social Work organizations.

d. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in the Commission's bylaws.

4. The Executive Committee shall meet at least annually.

a. Executive Committee meetings shall be open to the public, except that the Executive Committee may meet in a closed, non-public meeting as provided in Subsection F.2. of this Section 10.

b. The Executive Committee shall give seven (7) days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the Commission.

c. The Executive Committee may hold a special meeting in accordance with Subsection F.1.b. of this Section 10.

E. The Commission shall adopt and provide to the Member States an annual report.

F. Meetings of the Commission

1. All meetings shall be open to the public, except that the Commission may meet in a closed, non-public meeting as provided in Subsection F.2. of this Section 10.

a. Public notice for all meetings of the full Commission shall be given in the same manner as required under the Rulemaking provisions in Section 12 of this Compact, except that the Commission may hold a special meeting as provided in Subsection F.1.b. of this Section 10.

b. The Commission may hold a special meeting when it must meet to conduct emergency business by giving forty-eight (48) hours' notice to all commissioners, on the Commission's website, and by other means as provided in the Commission's Rules. The Commission's legal counsel shall certify that the Commission's need to meet qualifies as an emergency.

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting for the Commission or Executive Committee or other committees of the Commission to receive legal advice or to discuss:

a. Non-compliance of a Member State with its obligations under this Compact;

b. The employment, compensation, discipline or other matters, practices, or procedures related to specific employees;

c. Current or threatened discipline of a Licensee by the Commission or by a Member State's Licensing Authority;

d. Current, threatened, or reasonably anticipated litigation;

e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

f. Accusing any person of a crime or formally censuring any person;

g. Trade secrets or commercial or financial information that is privileged or confidential;

h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

i. Investigative records compiled for law enforcement purposes;

j. Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact;

k. Matters specifically exempted from disclosure by federal or Member State law; or

l. Other matters as promulgated by the Commission by Rule.

3. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

G. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources as provided in Subsection C.13. of this Section 10.

3. The Commission may levy on and collect an annual assessment from each Member State and impose fees on Licensees of Member States to whom it grants a Multistate License to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for Member States shall be allocated based upon a formula that the Commission shall promulgate by Rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

H. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this Subsection H.1. shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope

of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Member States or by the Commission.

SECTION 11.
DATA SYSTEM

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated Data System.

B. The Commission shall assign each applicant for a Multistate License a unique identifier, as determined by the Rules of the Commission.

C. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a license and information related thereto;
4. Non-confidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under Member State law;
5. Any denial of application for licensure and the reason(s) for such denial;
6. The presence of Current Significant Investigative Information; and
7. Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the Rules of the Commission.

D. The records and information provided to a Member State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission and shall be entitled to any associated

hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a Member State.

E. Current Significant Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

1. It is the responsibility of the Member States to report any Adverse Action against a Licensee and to monitor the database to determine whether Adverse Action has been taken against a Licensee. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

F. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

G. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Member State contributing the information shall be removed from the Data System.

SECTION 12.
RULEMAKING

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer the purposes and provisions of this Compact. A Rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of this Compact, or the powers granted hereunder, or based upon another applicable standard of review.

B. The Rules of the Commission shall have the force of law in each Member State, provided however that where the Rules of the Commission conflict with the laws of the Member State that establish the Member State's laws, regulations, and applicable standards that govern the practice of Social Work as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

C. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section 12. and the Rules adopted thereunder. Rules shall become binding on the day following adoption or the date specified in the rule or amendment, whichever is later.

D. If a majority of the legislatures of the Member States rejects a Rule or portion of a Rule, by enactment of a statute or resolution in the same manner used to adopt this Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

E. Rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in advance of the meeting at which the Commission will hold a public hearing on the proposed Rule, the Commission shall provide a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform;

2. To persons who have requested notice of the Commission's notices of proposed rulemaking; and

3. In such other way(s) as the Commission may by Rule specify.

H. The Notice of Proposed Rulemaking shall include:

1. The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed Rule and, if different, the time, date, and location of the meeting where the Commission will consider and vote on the proposed Rule;

2. If the hearing is held via telecommunication, video conference, or other electronic means, the mechanism for access to the hearing;

3. The text of the proposed Rule and the reason therefor;

4. A request for comments on the proposed Rule from any interested person; and

5. The manner in which interested persons may submit written comments.

I. All hearings will be recorded. A copy of the recording and all written comments and documents received by the Commission in response to the proposed Rule shall be available to the public.

J. Nothing in this Section 12 shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this Section.

K. The Commission shall, by majority vote of all members, take final action on the proposed Rule based on the Rulemaking record and the full text of the Rule.

1. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.

2. The Commission shall provide an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.

3. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in Section 12.L. of this Compact, the effective date of the rule shall be no sooner than thirty (30) days after issuing the notice that it adopted or amended the Rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with forty-eight (48) hours' notice, with opportunity to comment, provided that the usual Rulemaking procedures provided in this Compact and in this Section 12 shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of a Rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is

made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No Member State's rulemaking requirements shall apply under this compact.

SECTION 13.
OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to implement this Compact.

2. Except as otherwise provided in this Compact, venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a Licensee for professional malpractice, misconduct or any such similar matter.

3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of this Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall provide written notice to the defaulting State. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Commission may take, and shall offer training and specific technical assistance regarding the default.

2. The Commission shall provide a copy of the notice of default to the other Member States.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the delegates of the Member States, and all rights, privileges, and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the defaulting State's Licensing Authority, and each of the Member States' Licensing Authority.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. Upon the termination of a State's membership from this Compact, that State shall immediately provide notice to all Licensees within that State of such termination. The terminated State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of six (6) months after the date of said notice of termination.

G. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

H. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

I. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to this Compact that arise among Member States and between Member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

J. Enforcement

1. By majority vote as provided by Rule, the Commission may initiate legal action against a Member State in default in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of this Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or the defaulting Member State's law.

2. A Member State may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. No person other than a Member State shall enforce this compact against the Commission.

SECTION 14.
EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

A. This Compact shall come into effect on the date on which this Compact statute is enacted into law in the seventh Member State.

1. On or after the effective date of this Compact, the Commission shall convene and review the enactment of each of the first seven Member States ("Charter Member States") to determine if the statute enacted by each such Charter Member State is materially different than the model Compact statute.

a. A Charter Member State whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Section 13.

b. If any Member State is later found to be in default, or is terminated or withdraws from this Compact, the Commission shall remain in existence and this Compact shall remain in effect even if the number of Member States should be less than seven.

2. Member States enacting this Compact subsequent to the seven initial Charter Member States shall be subject to the process set forth in Section 10.C.21. of this Compact to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in this Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of this Compact prior to the effective date of this Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

4. Any State that joins this Compact subsequent to the Commission's initial adoption of the Rules and bylaws shall be subject to the Rules and bylaws as they exist on the date on which this Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day this Compact becomes law in that State.

B. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing from this Compact, a State shall immediately provide notice of such withdrawal to all Licensees within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all licenses granted pursuant to this compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal.

C. Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

D. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

SECTION 15.
CONSTRUCTION AND SEVERABILITY

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, the implementation, and the administration of this Compact. Provisions of this Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Member State, a State seeking participation in this Compact, or the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

C. Notwithstanding Subsection B. of this Section 15, the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Section 13.B. of this Compact, terminate a Member State's participation in this Compact, if it determines that a constitutional requirement of a Member State is a material departure from this Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Member State, this Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

SECTION 16.
CONSISTENT EFFECT AND CONFLICT
WITH OTHER STATE LAWS

A. A Licensee providing services in a Remote State under a Multistate Authorization to Practice shall adhere to the laws and regulations, including laws, regulations, and applicable standards, of the Remote State where the client is located at the time care is rendered.

B. Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State that is not inconsistent with this Compact.

C. Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with this Compact are superseded to the extent of the conflict.

D. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

Source: L. 2024: Entire part added, (HB 24-1002), ch. 326, p. 2179, § 1, effective August 7.

24-60-4603. Notice to revisor of statutes - effective date of compact. This part 46 takes effect on the date this compact is enacted into law in the seventh compact state. The director of the division of professions and occupations in the department of regulatory agencies shall notify the revisor of statutes in writing when the condition specified in this section has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This part 46 takes effect upon the date identified in the notice that the compact is enacted into law in the seventh compact state or upon the date of the notice to the revisor of statutes if the notice does not specify a different date.

Source: L. 2024: Entire part added, (HB 24-1002), ch. 326, p. 2209, § 1, effective August 7.

Editor's note: As of publication date, the revisor of statutes has not received the notice referred to in this section.

PART 47

PHYSICIAN ASSISTANT LICENSURE COMPACT

24-60-4701. Short title. The short title of this part 47 is the "Physician Assistant Licensure Compact".

Source: L. 2024: Entire part added, (SB 24-018), ch. 194, p. 1162, § 1, effective August 7.

24-60-4702. Compact approved and ratified. The general assembly approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas and any of the United States or other jurisdictions legally joining the compact in the form substantially as follows:

Section 1.
Purpose

In order to strengthen access to Medical Services, and in recognition of advances in the delivery of Medical Services, the Participating States of the PA Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing authority of State Licensing Boards to license and discipline PAs and seeks to enhance the portability of a License to practice as a PA while safeguarding the safety of patients. This Compact allows Medical Services to be provided by PAs, via the mutual recognition of the Licensee's Qualifying License by other Compact Participating States. This Compact also adopts the prevailing standard for PA licensure and affirms that the practice and delivery of Medical Services by the PA occurs where the patient is located at the time of the patient encounter, and therefore requires the PA to be under the jurisdiction of the State Licensing Board where the patient is located. State Licensing Boards that participate in this Compact retain the jurisdiction to impose Adverse Action against a Compact Privilege in that State issued to a PA through the procedures of this Compact. The PA Licensure Compact will alleviate burdens for military families by allowing active duty military personnel and their spouses to obtain a Compact Privilege based on having an unrestricted License in good standing from a Participating State.

Section 2.
Definitions

In this Compact:

A. "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a Licensing Board or other authority against a PA License or License application or Compact Privilege such as License denial, censure,

revocation, suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.

B. "Compact Privilege" means the authorization granted by a Remote State to allow a Licensee from another Participating State to practice as a PA to provide Medical Services and other licensed activity to a patient located in the Remote State under the Remote State's laws and regulations.

C. "Conviction" means a finding by a court that an individual is guilty of a felony or misdemeanor offense through adjudication or entry of a plea of guilt or no contest to the charge by the offender.

D. "Criminal Background Check" means the submission of fingerprints or other biometric-based information for a License applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 CFR 20.3 (d), from the State's criminal history record repository as defined in 28 CFR 20.3 (f).

E. "Data System" means the repository of information about Licensees, including but not limited to License status and Adverse Actions, which is created and administered under the terms of this Compact.

F. "Executive Committee" means a group of directors and ex officio individuals elected or appointed pursuant to Section 7.F.2.

G. "Impaired Practitioner" means a PA whose practice is adversely affected by health-related condition(s) that impact their ability to practice.

H. "Investigative Information" means information, records, or documents received or generated by a Licensing Board pursuant to an investigation.

I. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and Rules governing the practice of a PA in a State.

J. "License" means current authorization by a State, other than authorization pursuant to a Compact Privilege, for a PA to provide Medical Services, which would be unlawful without current authorization.

K. "Licensee" means an individual who holds a License from a State to provide Medical Services as a PA.

L. "Licensing Board" means any State entity authorized to license and otherwise regulate PAs.

M. "Medical Services" means health care services provided for the diagnosis, prevention, treatment, cure, or relief of a health condition, injury, or disease, as defined by a State's laws and regulations.

N. "Model Compact" means the model for the PA Licensure Compact on file with the Council of State Governments or other entity as designated by the Commission.

O. "Participating State" means a State that has enacted this Compact.

P. "PA" means an individual who is licensed as a physician assistant in a State. For purposes of this Compact, any other title or status adopted by a State to replace the term "physician assistant" shall be deemed synonymous with "physician assistant" and shall confer the same rights and responsibilities to the Licensee under the provisions of this Compact at the time of its enactment.

Q. "PA Licensure Compact Commission," "Compact Commission," or "Commission" means the national administrative body created pursuant to Section 7.A of this Compact.

R. "Qualifying License" means an unrestricted License issued by a Participating State to provide Medical Services as a PA.

S. "Remote State" means a Participating State where a Licensee who is not licensed as a PA is exercising or seeking to exercise the Compact Privilege.

T. "Rule" means a regulation promulgated by an entity that has the force and effect of law.

U. "Significant Investigative Information" means Investigative Information that a Licensing Board, after an inquiry or investigation that includes notification and an opportunity for the PA to respond if required by State law, has reason to believe is not groundless and, if proven true, would indicate more than a minor infraction.

V. "State" means any state, commonwealth, district, or territory of the United States.

Section 3.
State Participation in this Compact

A. To participate in this Compact, a Participating State shall:

1. License PAs;

2. Participate in the Compact Commission's Data System;

3. Have a mechanism in place for receiving and investigating complaints against Licensees and License applicants;

4. Notify the Commission, in compliance with the terms of this Compact and Commission Rules, of any Adverse Action against a Licensee or License applicant and the existence of Significant Investigative Information regarding a Licensee or License applicant;

5. Fully implement a Criminal Background Check requirement, within a time frame established by Commission Rule, by its Licensing Board receiving the results of a Criminal Background Check and reporting to the Commission whether the License applicant has been granted a License;

6. Comply with the Rules of the Compact Commission;

7. Utilize passage of a recognized national exam such as the National Commission on Certification of Physician Assistants Physician Assistant National Certifying Examination as a requirement for PA licensure;

8. Grant the Compact Privilege to a holder of a Qualifying License in a Participating State.

B. Nothing in this Compact prohibits a Participating State from charging a fee for granting the Compact Privilege.

Section 4.
Compact Privilege

A. To exercise the Compact Privilege, a Licensee must:

1. Have graduated from a PA program accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc., or other programs authorized by Commission Rule;

2. Hold current National Commission on Certification of Physician Assistants certification;

3. Have no felony or misdemeanor Conviction;

4. Have never had a controlled substance license, permit, or registration suspended or revoked by a State or by the United States Drug Enforcement Administration;

5. Have a unique identifier as determined by Commission Rule;

6. Hold a Qualifying License;

7. Have had no revocation of a License or limitation or restriction on any License currently held due to an Adverse Action;

8. If a Licensee has had a limitation or restriction on a License or Compact Privilege due to an Adverse Action, two years must have elapsed from the date on which the License or Compact Privilege is no longer limited or restricted due to the Adverse Action;

9. If a Compact Privilege has been revoked or is limited or restricted in a Participating State for conduct that would not be a basis for disciplinary action in a Participating State in which the Licensee is practicing or applying to practice under a Compact Privilege, that Participating State shall have the discretion not to consider such action as an Adverse Action requiring the denial or removal of a Compact Privilege in that State;

10. Notify the Compact Commission that the Licensee is seeking the Compact Privilege in a Remote State;

11. Meet any Jurisprudence Requirement of a Remote State in which the Licensee is seeking to practice under the Compact Privilege and pay any fees applicable to satisfying the Jurisprudence Requirement;

12. Report to the Commission any Adverse Action taken by a non-Participating State within thirty (30) days after the action is taken.

B. The Compact Privilege is valid until the expiration or revocation of the Qualifying License unless terminated pursuant to an Adverse Action. The Licensee must also comply with all of the requirements of Subsection A of this section to maintain the Compact Privilege in a Remote State. If the Participating State takes Adverse Action against a Qualifying License, the Licensee shall lose the Compact Privilege in any Remote State in which the Licensee has a Compact Privilege until all of the following occur:

1. The License is no longer limited or restricted; and

2. Two (2) years have elapsed from the date on which the License is no longer limited or restricted due to the Adverse Action.

C. Once a restricted or limited License satisfies the requirements of Subsections B.1 and B.2 of this section, the Licensee must meet the requirements of Subsection A of this section to obtain a Compact Privilege in any Remote State.

D. For each Remote State in which a PA seeks authority to prescribe controlled substances, the PA shall satisfy all requirements imposed by such State in granting or renewing such authority.

Section 5.
Designation of the State from Which Licensee is Applying for a Compact Privilege

A. Upon a Licensee's application for a Compact Privilege, the Licensee shall identify to the Commission the Participating State from which the Licensee is applying, in accordance with applicable Rules adopted by the Commission, and subject to the following requirements:

1. When applying for a Compact Privilege, the Licensee shall provide the Commission with the address of the Licensee's primary residence and thereafter shall immediately report to the Commission any change in the address of the Licensee's primary residence.

2. When applying for a Compact Privilege, the Licensee is required to consent to accept service of process by mail at the Licensee's primary residence on file with the Commission with respect to any action brought against the Licensee by the Commission or a Participating State, including a subpoena, with respect to any action brought or investigation conducted by the Commission or a Participating State.

Section 6.
Adverse Actions

A. A Participating State in which a Licensee is licensed shall have exclusive power to impose Adverse Action against the Qualifying License issued by that Participating State.

B. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to do all of the following:

1. Take Adverse Action against a PA's Compact Privilege within that State to remove a Licensee's Compact Privilege or take other action necessary under applicable law to protect the health and safety of its citizens.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Participating State for the attendance and testimony of witnesses or the production of evidence from another Participating State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the evidence or witnesses are located.

3. Notwithstanding Subsection A.2 of this section, subpoenas may not be issued by a Participating State to gather evidence of conduct in another State that is lawful in that other State for the purpose of taking Adverse Action against a Licensee's Compact Privilege or application for a Compact Privilege in that Participating State.

4. Nothing in this Compact authorizes a Participating State to impose discipline against a PA's Compact Privilege or to deny an application for a Compact Privilege in that Participating State for the individual's otherwise lawful practice in another State.

C. For purposes of taking Adverse Action, the Participating State which issued the Qualifying License shall give the same priority and effect to reported conduct received from any other Participating State as it would if the conduct had occurred within the Participating State which issued the Qualifying License. In so doing, that Participating State shall apply its own State laws to determine appropriate action.

D. A Participating State, if otherwise permitted by State law, may recover from the affected PA the costs of investigations and disposition of cases resulting from any Adverse Action taken against that PA.

E. A Participating State may take Adverse Action based on the factual findings of a Remote State, provided that the Participating State follows its own procedures for taking the Adverse Action.

F. Joint Investigations

1. In addition to the authority granted to a Participating State by its respective State PA laws and regulations or other applicable State law, any Participating State may participate with other Participating States in joint investigations of Licensees.

2. Participating States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under this Compact.

G. If an Adverse Action is taken against a PA's Qualifying License, the PA's Compact Privilege in all Remote States shall be deactivated until two (2) years have elapsed after all restrictions have been removed from the State License. All disciplinary orders by the Participating State which issued the Qualifying License that impose Adverse Action against a PA's License shall include a Statement that the PA's Compact Privilege is deactivated in all Participating States during the pendency of the order.

H. If any Participating State takes Adverse Action, it promptly shall notify the administrator of the Data System.

Section 7.
Establishment of the
PA Licensure Compact Commission

A. The Participating States hereby create and establish a joint government agency and national administrative body known as the PA Licensure Compact Commission. The Commission is an instrumentality of the Compact States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact as set forth in Section 11.A of this Compact.

B. Membership, Voting, and Meetings

1. Each Participating State shall have and be limited to one (1) delegate selected by that Participating State's Licensing Board or, if the State has more than one Licensing Board, selected collectively by the Participating State's Licensing Boards.

2. The delegate shall be either:

a. A current PA, physician, or public member of a Licensing Board or PA Council/Committee; or

b. An administrator of a Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the laws of the State from which the delegate is appointed.

4. The Participating State Licensing Board shall fill any vacancy occurring in the Commission within sixty (60) days.

5. Each delegate shall be entitled to one (1) vote on all matters voted on by the Commission and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telecommunications, video conference, or other means of communication.

6. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in this Compact and the bylaws.

7. The Commission shall establish by Rule a term of office for delegates.

C. The Commission shall have the following powers and duties:

1. Establish a code of ethics for the Commission;

2. Establish the fiscal year of the Commission;

3. Establish fees;

4. Establish bylaws;

5. Maintain its financial records in accordance with the bylaws;

6. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

7. Promulgate Rules to facilitate and coordinate implementation and administration of this Compact. The Rules shall have the force and effect of law and shall be binding in all Participating States.

8. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;

9. Purchase and maintain insurance and bonds;

10. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Participating State;

11. Hire employees and engage contractors, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

13. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

14. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

15. Establish a budget and make expenditures;

16. Borrow money;

17. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

18. Provide and receive information from, and cooperate with, law enforcement agencies;

19. Elect a chair, vice chair, secretary, and treasurer and such other officers of the Commission as provided in the Commission's bylaws;

20. Reserve for itself, in addition to those reserved exclusively to the Commission under the Compact, powers that the Executive Committee may not exercise;

21. Approve or disapprove a State's participation in the Compact based upon its determination as to whether the State's Compact legislation departs in a material manner from the Model Compact language;

22. Prepare and provide to the Participating States an annual report; and

23. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of PA licensure and practice.

D. Meetings of the Commission

1. All meetings of the Commission that are not closed pursuant to this Subsection D.1 shall be open to the public. Notice of public meetings shall be posted on the Commission's website at least thirty (30) days prior to the public meeting.

2. Notwithstanding subsection D.1 of this section, the Commission may convene a public meeting by providing at least twenty-four (24) hours prior notice on the Commission's website, and any other means as provided in the Commission's Rules, for any of the reasons it may dispense with notice of proposed rulemaking under Section 9.L of this Compact.

3. The Commission may convene in a closed, non-public meeting or non-public part of a public meeting to receive legal advice or to discuss:

a. Non-compliance of a Participating State with its obligations under this Compact;

b. The employment, compensation, discipline or other enforcement matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to this Compact;

j. Legal advice; or

k. Matters specifically exempted from disclosure by federal or Participating States' statutes.

4. If a meeting, or portion of a meeting, is closed pursuant to this Subsection D, the chair of the meeting or the chair's designee shall certify that the meeting or portion of the meeting may be closed and shall reference each relevant exempting provision.

5. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

E. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Participating State and may impose Compact Privilege fees on Licensees of Participating States

to whom a Compact Privilege is granted to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount levied on Participating States shall be allocated based upon a formula to be determined by Commission Rule.

a. A Compact Privilege expires when the Licensee's Qualifying License in the Participating State from which the Licensee applied for the Compact Privilege expires.

b. If the Licensee terminates the Qualifying License through which the Licensee applied for the Compact Privilege before its scheduled expiration, and the Licensee has a Qualifying License in another Participating State, the Licensee shall inform the Commission that the Licensee is changing to that Participating State the Participating State through which it applies for a Compact Privilege and pay to the Commission any Compact Privilege fee required by Commission Rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Participating States, except by and with the authority of the Participating State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

F. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact and Commission Rules.

2. The Executive Committee shall be composed of nine (9) members:

a. Seven (7) voting members who are elected by the Commission from the current membership of the Commission;

b. One (1) ex officio, nonvoting member from a recognized national PA professional association; and

c. One (1) ex officio, nonvoting member from a recognized national PA certification organization.

3. The ex officio members will be selected by their respective organizations.

4. The Commission may remove any member of the Executive Committee as provided in its bylaws.

5. The Executive Committee shall meet at least annually.

6. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the Commission changes to the Commission's Rules or bylaws, changes to this Compact legislation, fees to be paid by Compact Participating States such as annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Participating States and provide compliance reports to the Commission;

f. Establish additional committees as necessary;

g. Exercise the powers and duties of the Commission during the interim between Commission meetings, except for issuing proposed rulemaking or adopting Commission Rules or bylaws, or exercising any other powers and duties exclusively reserved to the Commission by the Commission's Rules; and

h. Perform other duties as provided in the Commission's Rules or bylaws.

7. All meetings of the Executive Committee at which it votes or plans to vote on matters in exercising the powers and duties of the Commission shall be open to the public, and public notice of such meetings shall be given as public meetings of the Commission are given.

8. The Executive Committee may convene in a closed, non-public meeting for the same reasons that the Commission may convene in a non-public meeting as set forth in Subsection D.3 of this Section and shall announce the closed meeting as the Commission is required to under Subsection D.4 of this Section and keep minutes of the closed meeting as the Commission is required to under Subsection D.5 of this Section.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of

the Commission is located. The Commission may waive venue and jurisdictional defenses in any proceedings as authorized by Commission Rules.

5. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

6. Nothing herein shall be construed to designate the venue or jurisdiction to bring actions for alleged acts of malpractice, professional misconduct, negligence, or other such civil action pertaining to the practice of a PA. All such matters shall be determined exclusively by State law other than this Compact.

7. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Participating State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

8. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Participating States or by the Commission.

Section 8.
Data System

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated data and reporting system containing licensure information, Adverse Action information, and the reporting of the existence of Significant Investigative Information on all licensed PAs and applicants denied a License in Participating States.

B. Notwithstanding any other State law to the contrary, a Participating State shall submit a uniform data set to the Data System on all PAs to whom this Compact is applicable (utilizing a unique identifier) as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a License or Compact Privilege;
4. Any denial of application for licensure, and the reason(s) for such denial (excluding the reporting of any criminal history record information where prohibited by law);
5. The existence of Significant Investigative Information; and
6. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Significant Investigative Information pertaining to a Licensee in any Participating State shall only be available to other Participating States.

D. The Commission shall promptly notify all Participating States of any Adverse Action taken against a Licensee or an individual applying for a License that has been reported to it. This Adverse Action information shall be available to any other Participating State.

E. Participating States contributing information to the Data System may, in accordance with State or federal law, designate information that may not be shared with the public without the express permission of the contributing State. Notwithstanding any such designation, such information shall be reported to the Commission through the Data System.

F. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Participating State contributing the information shall be

removed from the Data System upon reporting of such by the Participating State to the Commission.

G. The records and information provided to a Participating State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a Participating State.

Section 9.
Rulemaking

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Commission Rules shall become binding as of the date specified by the Commission for each Rule.

B. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer this Compact and achieve its purposes. A Commission Rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope of the purposes of this Compact, or the powers granted hereunder, or based upon another applicable standard of review.

C. The Rules of the Commission shall have the force of law in each Participating State, provided however that where the Rules of the Commission conflict with the laws of the Participating State that establish the Medical Services a PA may perform in the Participating State, as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

D. If a majority of the legislatures of the Participating States rejects a Commission Rule, by enactment of a statute or resolution in the same manner used to adopt this Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Participating State or to any State applying to participate in the Compact.

E. Commission Rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

1. On the website of the Commission or other publicly accessible platform;

2. To persons who have requested the Commission's notices of proposed rulemaking; and

3. In such other way(s) as the Commission may by Rule specify.

G. The notice of proposed rulemaking shall include:

1. The time, date, and location of the public hearing on the proposed Rule and the proposed time, date, and location of the meeting in which the proposed Rule will be considered and voted upon;

2. The text of the proposed Rule and the reason for the proposed Rule;

3. A request for comments on the proposed Rule from any interested person and the date by which written comments must be received; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing or provide any written comments.

H. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

I. If the hearing is to be held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall as directed in the notice of proposed rulemaking, not less than five (5) business days before the scheduled date of the hearing, notify the Commission of their desire to appear and testify at the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings shall be recorded. A copy of the recording and the written comments, data, facts, opinions, and arguments received in response to the proposed rulemaking shall be made available to a person upon request.

4. Nothing in this section shall be construed as requiring a separate hearing on each proposed Rule. Proposed Rules may be grouped for the convenience of the Commission at hearings required by this section.

J. Following the public hearing the Commission shall consider all written and oral comments timely received.

K. The Commission shall, by majority vote of all delegates, take final action on the proposed Rule and shall determine the effective date of the Rule, if adopted, based on the rulemaking record and the full text of the Rule.

1. If adopted, the Rule shall be posted on the Commission's website.

2. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.

3. The Commission shall provide on its website an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.

4. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in Subsection L of this section, the effective date of the Rule shall be no sooner than thirty (30) days after the Commission issued the notice that it adopted the Rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with twenty-four (24) hours prior notice, without the opportunity for comment or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this Subsection L, an emergency Rule is one that must be adopted immediately by the Commission in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Participating State funds;

3. Meet a deadline for the promulgation of a Commission Rule that is established by federal law or Rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Commission Rule for purposes of correcting typographical

errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made as set forth in the notice of revisions and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No Participating State's rulemaking requirements shall apply under this Compact.

Section 10.
Oversight, Dispute Resolution, and Enforcement

A. Oversight

1. The executive and judicial branches of State government in each Participating State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.

3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact or the Commission's Rules and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission with service of process shall render a judgment or order in such proceeding void as to the Commission, this Compact, or Commission Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Participating State has defaulted in the performance of its obligations or responsibilities under this Compact or the Commission Rules, the Commission shall provide written notice to the defaulting State and other Participating States. The notice shall describe the default, the proposed means of curing the default, and any other action that the Commission may take and shall offer remedial training and specific technical assistance regarding the default.

2. If a State in default fails to cure the default, the defaulting State may be terminated from this Compact upon an affirmative vote of a majority of the delegates of the Participating States, and all rights, privileges, and benefits conferred by this Compact upon such State may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

3. Termination of participation in this Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and the Licensing Board(s) of each of the Participating States.

4. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from this Compact, unless agreed upon in writing between the Commission and the defaulting State.

6. The defaulting State may appeal its termination from the Compact by the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

7. Upon the termination of a State's participation in the Compact, the State shall immediately provide notice to all Licensees within that State of such termination:

a. Licensees who have been granted a Compact Privilege in that State shall retain the Compact Privilege for one hundred eighty (180) days following the effective date of such termination.

b. Licensees who are licensed in that State who have been granted a Compact Privilege in a Participating State shall retain the Compact Privilege for one hundred eighty (180) days unless the Licensee also has a Qualifying License in a Participating State or obtains a Qualifying License in a Participating State before the one hundred eighty (180)-day period ends, in which case the Compact Privilege shall continue.

C. Dispute Resolution

1. Upon request by a Participating State, the Commission shall attempt to resolve disputes related to this Compact that arise among Participating States and between participating and non-Participating States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact and Rules of the Commission.

2. If compliance is not secured after all means to secure compliance have been exhausted, by majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices, against a Participating State in default to enforce compliance with the provisions of this Compact and the Commission's promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

E. Legal Action Against the Commission

1. A Participating State may initiate legal action against the Commission in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its Rules. The relief sought may include both injunctive relief and damages. In the event judicial

enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

2. No person other than a Participating State shall enforce this Compact against the Commission.

Section 11.
Date of Implementation of the
PA Licensure Compact Commission

A. This Compact shall come into effect on the date on which this Compact statute is enacted into law in the seventh Participating State.

1. On or after the effective date of this Compact, the Commission shall convene and review the enactment of each of the States that enacted this Compact prior to the Commission convening ("Charter Participating States") to determine if the statute enacted by each such Charter Participating State is materially different than the Model Compact.

a. A Charter Participating State whose enactment is found to be materially different from the Model Compact shall be entitled to the default process set forth in Section 10.B of this Compact.

b. If any Participating State later withdraws from the Compact or its participation is terminated, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Participating States should be less than seven. Participating States enacting the Compact subsequent to the Commission convening shall be subject to the process set forth in Section 7.C.21 of this Compact to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.

2. Participating States enacting this Compact subsequent to the seven initial Charter Participating States shall be subject to the process set forth in Section 7.C.21 of this Compact to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of this Compact prior to the effective date of this Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

B. Any State that joins this Compact shall be subject to the Commission's Rules and bylaws as they exist on the date on which this Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day this Compact becomes law in that State.

C. Any Participating State may withdraw from this Compact by enacting a statute repealing the same.

1. A Participating State's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute. During this one hundred eighty (180)-day period, all Compact Privileges that were in effect in the withdrawing State and were granted to Licensees licensed in the withdrawing State shall remain in effect. If any Licensee licensed in the withdrawing State is also licensed in another Participating State or obtains a license in another Participating State within the one hundred eighty (180) days, the Licensee's Compact

Privileges in other Participating States shall not be affected by the passage of the one hundred eighty (180) days.

2. Withdrawal shall not affect the continuing requirement of the State Licensing Board(s) of the withdrawing State to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing a State from this Compact, the State shall immediately provide notice of such withdrawal to all Licensees within that State. Such withdrawing State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any PA licensure agreement or other cooperative arrangement between Participating States and between a Participating State and non-Participating State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Participating States. No amendment to this Compact shall become effective and binding upon any Participating State until it is enacted materially in the same manner into the laws of all Participating States as determined by the Commission.

Section 12.
Construction and Severability

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of this Compact. Provisions of this Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Participating State, a State seeking participation in this Compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

C. Notwithstanding subsection B of this section, the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Section 10.B of this Compact, terminate a Participating State's participation in the Compact, if it determines that a constitutional requirement of a Participating State is, or would be with respect to a State seeking to participate in this Compact, a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Participating State, this Compact shall remain in full force and effect as to the remaining Participating States and in full force and effect as to the Participating State affected as to all severable matters.

Section 13.
Binding Effect of Compact

A. Nothing herein prevents the enforcement of any other law of a Participating State that is not inconsistent with this Compact.

B. Any laws in a Participating State in conflict with this Compact are superseded to the extent of the conflict.

C. All agreements between the Commission and the Participating States are binding in accordance with their terms.

Source: L. 2024: Entire part added, (SB 24-018), ch. 194, p. 1162, § 1, effective August 7.

24-60-4703. Notice to revisor of statutes - effective date of compact. This part 47 takes effect on the date this compact is enacted into law in the seventh compact state. The director of the division of professions and occupations in the department of regulatory agencies shall notify the revisor of statutes in writing when the condition specified in this section has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This part 47 takes effect upon the date identified in the notice that the compact is enacted into law in the seventh compact state or upon the date of the notice to the revisor of statutes if the notice does not specify a different date.

Source: L. 2024: Entire part added, (SB 24-018), ch. 194, p. 1187, § 1, effective August 7.

Editor's note: As of publication date, the revisor of statutes has not received the notice referred to in this section.

PART 48

DENTIST AND DENTAL HYGIENIST COMPACT

24-60-4801. Compact approved and ratified. The general assembly approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas and any of the United States or other jurisdictions legally joining in the compact in the form substantially as follows:

SECTION 1.
TITLE AND PURPOSE

This compact shall be known and cited as the Dentist and Dental Hygienist Compact. The purposes of this Compact are to facilitate the interstate practice of dentistry and dental hygiene and improve public access to dentistry and dental hygiene services by providing Dentists and Dental Hygienists licensed in a Participating State the ability to practice in Participating States in which they are not licensed. The Compact does this by establishing a pathway for Dentists and Dental Hygienists licensed in a Participating State to obtain a Compact Privilege that authorizes them to practice in another Participating State in which they are not licensed. The Compact enables Participating States to protect the public health and safety with

respect to the practice of such Dentists and Dental Hygienists, through the State's authority to regulate the practice of dentistry and dental hygiene in the State. The Compact:

A. Enables Dentists and Dental Hygienists who qualify for a Compact Privilege to practice in other Participating States without satisfying burdensome and duplicative requirements associated with securing a License to practice in those States;

B. Promotes mobility and addresses workforce shortages through each Participating State's acceptance of a Compact Privilege to practice in that State;

C. Increases public access to qualified, licensed Dentists and Dental Hygienists by creating a responsible, streamlined pathway for Licensees to practice in Participating States;

D. Enhances the ability of Participating States to protect the public's health and safety;

E. Does not interfere with licensure requirements established by a Participating State;

F. Facilitates the sharing of licensure and disciplinary information among Participating States;

G. Requires Dentists and Dental Hygienists who practice in a Participating State pursuant to a Compact Privilege to practice within the Scope of Practice authorized in that State;

H. Extends the authority of a Participating State to regulate the practice of dentistry and dental hygiene within its borders to Dentists and Dental Hygienists who practice in the State through a Compact Privilege;

I. Promotes the cooperation of Participating States in regulating the practice of dentistry and dental hygiene within those States;

J. Facilitates the relocation of military members and their spouses who are licensed to practice dentistry or dental hygiene.

SECTION 2.
DEFINITIONS

As used in this Compact, unless the context requires otherwise, the following definitions shall apply:

A. "Active Military Member" means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

B. "Adverse Action" means disciplinary action or encumbrance imposed on a License or Compact Privilege by a State Licensing Authority.

C. "Alternative Program" means a non-disciplinary monitoring or practice remediation process applicable to a Dentist or Dental Hygienist approved by a State Licensing Authority of a Participating State in which the Dentist or Dental Hygienist is licensed. This includes, but is not limited to, programs to which Licensees with substance abuse or addiction issues are referred in lieu of Adverse Action.

D. "Clinical Assessment" means an examination or process, required for licensure as a Dentist or Dental Hygienist, as applicable, that provides evidence of clinical competence in dentistry or dental hygiene.

E. "Commissioner" means the individual appointed by a Participating State to serve as the member of the Commission for that Participating State.

F. "Compact" means this Dentist and Dental Hygienist Compact.

G. "Compact Privilege" means the authorization granted by a Remote State to allow a Licensee from a Participating State to practice as a Dentist or Dental Hygienist in a Remote State.

H. "Continuing Professional Development" means a requirement, as a condition of License renewal, to provide evidence of successful participation in educational or professional activities relevant to practice or area of work.

I. "Criminal Background Check" means the submission of fingerprints or other biometric-based information for a License applicant for the purpose of obtaining that applicant's criminal history record information, as defined in 28 CFR 20.3 (d) from the Federal Bureau of Investigation and the State's criminal history record repository as defined in 28 CFR 20.3 (f).

J. "Data System" means the Commission's repository of information about Licensees, including but not limited to examination, licensure, investigative, Compact Privilege, Adverse Action, and Alternative Program.

K. "Dental Hygienist" means an individual who is licensed by a State Licensing Authority to practice dental hygiene.

L. "Dentist" means an individual who is licensed by a State Licensing Authority to practice dentistry.

M. "Dentist and Dental Hygienist Compact Commission" or "Commission" means a joint government agency established by this Compact comprised of each State that has enacted the Compact and a national administrative body comprised of a Commissioner from each State that has enacted the Compact.

N. "Encumbered License" means a License that a State Licensing Authority has limited in any way other than through an Alternative Program.

O. "Executive Board" means the Chair, Vice Chair, Secretary, and Treasurer and any other Commissioners as may be determined by Commission Rule or bylaw.

P. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and Rules governing the practice of dentistry or dental hygiene, as applicable, in a State.

Q. "License" means current authorization by a State, other than authorization pursuant to a Compact Privilege or other privilege for an individual to practice as a Dentist or Dental Hygienist in that State.

R. "Licensee" means an individual who holds an unrestricted License from a Participating State to practice as a Dentist or Dental Hygienist in that State.

S. "Model Compact" means the model for the Dentist and Dental Hygienist Compact on file with the Council of State Governments or other entity as designated by the Commission.

T. "Participating State" means a State that has enacted the Compact and been admitted to the Commission in accordance with the provisions herein and Commission Rules.

U. "Qualifying License" means a License that is not an Encumbered License issued by a Participating State to practice dentistry or dental hygiene.

V. "Remote State" means a Participating State where a Licensee who is not licensed as a Dentist or Dental Hygienist is exercising or seeking to exercise the Compact Privilege.

W. "Rule" means a regulation promulgated by an entity that has the force of law.

X. "Scope of Practice" means the procedures, actions, and processes a Dentist or Dental Hygienist licensed in a State is permitted to undertake in that State and the circumstances under which the Licensee is permitted to undertake those procedures, actions, and processes. Such procedures, actions, and processes and the circumstances under which they may be undertaken

may be established through means, including, but not limited to, statute, regulations, case law, and other processes available to the State Licensing Authority or other government agency.

Y. "Significant Investigative Information" means information, records, and documents received or generated by a State Licensing Authority pursuant to an investigation for which a determination has been made that there is probable cause to believe that the Licensee has violated a statute or regulation that is considered more than a minor infraction for which the State Licensing Authority could pursue Adverse Action against the Licensee.

Z. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practices of dentistry and dental hygiene.

AA. "State Licensing Authority" means an agency or other entity of a State that is responsible for the licensing and regulation of Dentists or Dental Hygienists.

SECTION 3.
STATE PARTICIPATION IN THE COMPACT

A. In order to join the Compact and thereafter continue as a Participating State, a State must:

1. Enact a compact that is not materially different from the Model Compact as determined in accordance with Commission Rules;

2. Participate fully in the Commission's Data System;

3. Have a mechanism in place for receiving and investigating complaints about its Licensees and License applicants;

4. Notify the Commission, in compliance with the terms of the Compact and Commission Rules, of any Adverse Action or the availability of Significant Investigative Information regarding a Licensee and License applicant;

5. Fully implement a Criminal Background Check requirement, within a time frame established by Commission Rule, by receiving the results of a qualifying Criminal Background Check;

6. Comply with the Commission Rules applicable to a Participating State;

7. Accept the National Board Examinations of the Joint Commission on National Dental Examinations or another examination accepted by Commission Rule as a licensure examination;

8. Accept for licensure applicants for a Dentist License who graduate from a predoctoral dental education program accredited by the Commission on Dental Accreditation, or another accrediting agency recognized by the United States Department of Education for the accreditation of dentistry and dental hygiene education programs, leading to the Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) degree;

9. Accept for licensure applicants for a Dental Hygienist License who graduate from a dental hygiene education program accredited by the Commission on Dental Accreditation or another accrediting agency recognized by the United States Department of Education for the accreditation of dentistry and dental hygiene education programs;

10. Require for licensure that applicants successfully complete a Clinical Assessment;

11. Have Continuing Professional Development requirements as a condition for License renewal; and

12. Pay a participation fee to the Commission as established by Commission Rule.

B. Providing alternative pathways for an individual to obtain an unrestricted License does not disqualify a State from participating in the Compact.

C. When conducting a Criminal Background Check, the State Licensing Authority shall:

1. Consider that information in making a licensure decision;

2. Maintain documentation of completion of the Criminal Background Check and background check information to the extent allowed by State and federal law; and

3. Report to the Commission whether it has completed the Criminal Background Check and whether the individual was granted or denied a License.

D. A Licensee of a Participating State who has a Qualifying License in that State and does not hold an Encumbered License in any other Participating State shall be issued a Compact Privilege in a Remote State in accordance with the terms of the Compact and Commission Rules. If a Remote State has a Jurisprudence Requirement, a Compact Privilege will not be issued to the Licensee unless the Licensee has satisfied the Jurisprudence Requirement.

SECTION 4.
COMPACT PRIVILEGE

A. To obtain and exercise the Compact Privilege under the terms and provisions of the Compact, the Licensee shall:

1. Have a Qualifying License as a Dentist or Dental Hygienist in a Participating State;

2. Be eligible for a Compact Privilege in any Remote State in accordance with subsection D, G, and H of this section;

3. Submit to an application process whenever the Licensee is seeking a Compact Privilege;

4. Pay any applicable Commission and Remote State fees for a Compact Privilege in the Remote State;

5. Meet any Jurisprudence Requirement established by a Remote State in which the Licensee is seeking a Compact Privilege;

6. Have passed a National Board Examination of the Joint Commission on National Dental Examinations or another examination accepted by Commission Rule;

7. For a Dentist, have graduated from a predoctoral dental education program accredited by the Commission on Dental Accreditation, or another accrediting agency recognized by the United States Department of Education for the accreditation of dentistry and dental hygiene education programs, leading to the Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.) degree;

8. For a Dental Hygienist, have graduated from a dental hygiene education program accredited by the Commission on Dental Accreditation or another accrediting agency recognized by the United States Department of Education for the accreditation of dentistry and dental hygiene education programs;

9. Have successfully completed a Clinical Assessment for licensure;

10. Report to the Commission Adverse Action taken by any non-Participating State when applying for a Compact Privilege and, otherwise, within thirty (30) days from the date the Adverse Action is taken;

11. Report to the Commission when applying for a Compact Privilege the address of the Licensee's primary residence and thereafter immediately report to the Commission any change in the address of the Licensee's primary residence; and

12. Consent to accept service of process by mail at the Licensee's primary residence on record with the Commission with respect to any action brought against the Licensee by the Commission or a Participating State and consent to accept service of a subpoena by mail at the Licensee's primary residence on record with the Commission with respect to any action brought or investigation conducted by the Commission or a Participating State.

B. The Licensee must comply with the requirements of subsection A of this section to maintain the Compact Privilege in the Remote State. If those requirements are met, the Compact Privilege will continue as long as the Licensee maintains a Qualifying License in the State through which the Licensee applied for the Compact Privilege and pays any applicable Compact Privilege renewal fees.

C. A Licensee providing dentistry or dental hygiene in a Remote State under the Compact Privilege shall function within the Scope of Practice authorized by the Remote State for a Dentist or Dental Hygienist licensed in that State.

D. A Licensee providing dentistry or dental hygiene pursuant to a Compact Privilege in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, by Adverse Action revoke or remove a Licensee's Compact Privilege in the Remote State for a specific period of time and impose fines or take any other necessary actions to protect the health and safety of its citizens. If a Remote State imposes an Adverse Action against a Compact Privilege that limits the Compact Privilege, that Adverse Action applies to all Compact Privileges in all Remote States. A Licensee whose Compact Privilege in a Remote State is removed for a specified period of time is not eligible for a Compact Privilege in any other Remote State until the specific time for removal of the Compact Privilege has passed and all encumbrance requirements are satisfied.

E. If a License in a Participating State is an Encumbered License, the Licensee shall lose the Compact Privilege in a Remote State and shall not be eligible for a Compact Privilege in any Remote State until the License is no longer encumbered.

F. Once an Encumbered License in a Participating State is restored to good standing, the Licensee must meet the requirements of subsection A of this section to obtain a Compact Privilege in a Remote State.

G. If a Licensee's Compact Privilege in a Remote State is removed by the Remote State, the individual shall lose or be ineligible for the Compact Privilege in any Remote State until the following occur:

1. The specific period of time for which the Compact Privilege was removed has ended; and

2. All conditions for removal of the Compact Privilege have been satisfied.

H. Once the requirements of subsection G of this section have been met, the Licensee must meet the requirements in subsection A of this section to obtain a Compact Privilege in a Remote State.

SECTION 5
ACTIVE MILITARY MEMBERS OR THEIR SPOUSES

An Active Military Member and their spouse shall not be required to pay to the Commission for a Compact Privilege the fee otherwise charged by the Commission. If a Remote State chooses to charge a fee for a Compact Privilege, it may choose to charge a reduced fee or no fee to an Active Military Member and their spouse for a Compact Privilege.

SECTION 6.
ADVERSE ACTIONS

A. A Participating State in which a Licensee is licensed shall have exclusive authority to impose Adverse Action against the Qualifying License issued by that Participating State.

B. A Participating State may take Adverse Action based on the Significant Investigative Information of a Remote State, so long as the Participating State follows its own procedures for imposing Adverse Action.

C. Nothing in this Compact shall override a Participating State's decision that participation in an Alternative Program may be used in lieu of Adverse Action and that such participation shall remain non-public if required by the Participating State's laws. Participating States must require Licensees who enter any Alternative Program in lieu of discipline to agree not to practice pursuant to a Compact Privilege in any other Participating State during the term of the Alternative Program without prior authorization from such other Participating State.

D. Any Participating State in which a Licensee is applying to practice or is practicing pursuant to a Compact Privilege may investigate actual or alleged violations of the statutes and regulations authorizing the practice of dentistry or dental hygiene in any other Participating State in which the Dentist or Dental Hygienist holds a License or Compact Privilege.

E. A Remote State shall have the authority to:

1. Take Adverse Actions as set forth in Section 4.D against a Licensee's Compact Privilege in the State;

2. In furtherance of its rights and responsibilities under the Compact and the Commission's Rules, issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a State Licensing Authority in a Participating State for the attendance and testimony of witnesses, or the production of evidence from another Participating State, shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State where the witnesses or evidence is located; and

3. If otherwise permitted by State law, recover from the Licensee the costs of investigations and disposition of cases resulting from any Adverse Action taken against that Licensee.

F. Joint Investigations

1. In addition to the authority granted to a Participating State by its Dentist or Dental Hygienist licensure act or other applicable State law, a Participating State may jointly investigate Licensees with other Participating States.

2. Participating States shall share any Significant Investigative Information, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. Authority to Continue Investigation

1. After a Licensee's Compact Privilege in a Remote State is terminated, the Remote State may continue an investigation of the Licensee that began when the Licensee had a Compact Privilege in that Remote State.

2. If the investigation yields what would be Significant Investigative Information had the Licensee continued to have a Compact Privilege in that Remote State, the Remote State shall report the presence of such information to the Data System as required by Section 8.B.6 as if it was Significant Investigative Information.

SECTION 7.
ESTABLISHMENT AND OPERATION OF THE COMMISSION

A. The Compact Participating States hereby create and establish a joint government agency whose membership consists of all Participating States that have enacted the Compact. The Commission is an instrumentality of the Participating States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact as set forth in Section 11.A.

B. Participation, Voting, and Meetings

1. Each Participating State shall have and be limited to one (1) Commissioner selected by that Participating State's State Licensing Authority or, if the State has more than one State Licensing Authority, selected collectively by the State Licensing Authorities.

2. The Commissioner shall be a member or designee of such Authority or Authorities.

3. The Commission may by Rule or bylaw establish a term of office for Commissioners and may by Rule or bylaw establish term limits.

4. The Commission may recommend to a State Licensing Authority or Authorities, as applicable, removal or suspension of an individual as the State's Commissioner.

5. A Participating State's State Licensing Authority, or Authorities, as applicable, shall fill any vacancy of its Commissioner on the Commission within sixty (60) days of the vacancy.

6. Each Commissioner shall be entitled to one vote on all matters that are voted upon by the Commission.

7. The Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference, or other similar electronic means.

C. The Commission shall have the following powers:

1. Establish the fiscal year of the Commission;

2. Establish a code of conduct and conflict of interest policies;

3. Adopt Rules and bylaws;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take such actions as are consistent with the provisions of this Compact, the Commission's Rules, and the bylaws;

6. Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Authority to sue or be sued under applicable law shall not be affected;

7. Maintain and certify records and information provided to a Participating State as the authenticated business records of the Commission and designate a person to do so on the Commission's behalf;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Participating State;

10. Conduct an annual financial review;

11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. As set forth in the Commission Rules, charge a fee to a Licensee for the grant of a Compact Privilege in a Remote State and thereafter, as may be established by Commission Rule, charge the Licensee a Compact Privilege renewal fee for each renewal period in which that Licensee exercises or intends to exercise the Compact Privilege in that Remote State. Nothing herein shall be construed to prevent a Remote State from charging a Licensee a fee for a Compact Privilege or renewals of a Compact Privilege, or a fee for the Jurisprudence Requirement if the Remote State imposes such a requirement for the grant of a Compact Privilege.

13. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety, conflict of interest, or both;

14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

16. Establish a budget and make expenditures;

17. Borrow money;

18. Appoint committees, including standing committees, which may be composed of members, State regulators, State legislators or their representatives, consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

19. Provide and receive information from, and cooperate with, law enforcement agencies;

20. Elect a Chair, Vice Chair, Secretary, Treasurer, and such other officers of the Commission as provided in the Commission's bylaws;

21. Establish and elect an Executive Board;

22. Adopt and provide to the Participating States an annual report;

23. Determine whether a State's enacted compact is materially different from the Model Compact language such that the State would not qualify for participation in the Compact; and

24. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

D. Meetings of the Commission

1. All meetings of the Commission that are not closed pursuant to this subsection D shall be open to the public. Notice of public meetings shall be posted on the Commission's website at least thirty (30) days prior to the public meeting.

2. Notwithstanding subsection D.1 of this section, the Commission may convene an emergency public meeting by providing at least twenty-four (24) hours' prior notice on the Commission's website and by any other means as provided in the Commission's Rules for any of the reasons it may dispense with notice of proposed rulemaking under Section 9.L. The Commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

3. Notice of all Commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the notice shall include the mechanism for access to the meeting through such means.

4. The Commission may convene in a closed, non-public meeting for the Commission to receive legal advice or to discuss:

a. Non-compliance of a Participating State with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current or threatened discipline of a Licensee or Compact Privilege holder by the Commission or by a Participating State's Licensing Authority;

d. Current, threatened, or reasonably anticipated litigation;

e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

f. Accusing any person of a crime or formally censuring any person;

g. Trade secrets or commercial or financial information that is privileged or confidential;

h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

i. Investigative records compiled for law enforcement purposes;

j. Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;

k. Legal advice;

l. Matters specifically exempted from disclosure to the public by federal or Participating State law; and

m. Other matters as promulgated by the Commission by Rule.

5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

6. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

E. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Participating State and impose fees on Licensees of Participating States when a Compact Privilege is granted to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each fiscal year for which sufficient revenue is not provided by other sources. The aggregate annual assessment amount for Participating States shall be allocated based upon a formula that the Commission shall promulgate by Rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any Participating State, except by and with the authority of the Participating State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

F. The Executive Board

1. The Executive Board shall have the power to act on behalf of the Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Board shall include:

a. Overseeing the day-to-day activities of the administration of the Compact including compliance with the provisions of the Compact, the Commission's Rules, and bylaws;

b. Recommending to the Commission changes to the Rules or bylaws, changes to this Compact legislation, fees charged to Compact Participating States, fees charged to Licensees, and other fees;

c. Ensuring Compact administration services are appropriately provided, including by contract;

d. Preparing and recommending the budget;

e. Maintaining financial records on behalf of the Commission;

f. Monitoring Compact compliance of Participating States and providing compliance reports to the Commission;

g. Establishing additional committees as necessary;

h. Exercising the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by Rule or bylaw; and

i. Other duties as provided in the Rules or bylaws of the Commission.

2. The Executive Board shall be composed of up to seven (7) members:

a. The Chair, Vice Chair, Secretary, Treasurer, and any other members of the Commission who serve on the Executive Board shall be voting members of the Executive Board; and

b. Other than the Chair, Vice Chair, Secretary, and Treasurer, the Commission may elect up to three (3) voting members from the current membership of the Commission.

3. The Commission may remove any member of the Executive Board as provided in the Commission's bylaws.

4. The Executive Board shall meet at least annually.

a. An Executive Board meeting at which it takes or intends to take formal action on a matter shall be open to the public, except that the Executive Board may meet in a closed, non-public session of a public meeting when dealing with any of the matters covered under subsection D.4 of this section.

b. The Executive Board shall give five (5) business days' notice of its public meetings, posted on its website and as it may otherwise determine to provide notice to persons with an interest in the public matters the Executive Board intends to address at those meetings.

5. The Executive Board may hold an emergency meeting when acting for the Commission to:

a. Meet an imminent threat to public health, safety, or welfare;

b. Prevent a loss of Commission or Participating State funds; or

c. Protect public health and safety.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties, or responsibilities; provided that nothing in this subsection G.1 shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. Notwithstanding subsection G.1 of this section, should any member, officer, executive director, employee, or representative of the Commission be held liable for the amount of any settlement or judgment arising out of any actual or alleged act, error, or omission that occurred within the scope of that individual's employment, duties, or responsibilities for the Commission, or that the person to whom that individual is liable had a reasonable basis for believing occurred

within the scope of the individual's employment, duties, or responsibilities for the Commission, the Commission shall indemnify and hold harmless such individual, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of the individual.

4. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Participating State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Participating States or by the Commission.

SECTION 8.
DATA SYSTEM

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and the presence of Significant Investigative Information on all Licensees and applicants for a License in Participating States.

B. Notwithstanding any other provision of State law to the contrary, a Participating State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a Licensee, License applicant, or Compact Privilege and information related thereto;

4. Non-confidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation;

5. Any denial of an application for licensure, and the reason(s) for such denial, excluding the reporting of any criminal history record information where prohibited by law;

6. The presence of Significant Investigative Information; and

7. Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the Rules of the Commission.

C. The records and information provided to a Participating State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a Participating State.

D. Significant Investigative Information pertaining to a Licensee in any Participating State will only be available to other Participating States.

E. It is the responsibility of the Participating States to monitor the database to determine whether Adverse Action has been taken against a Licensee or License applicant. Adverse Action

information pertaining to a Licensee or License applicant in any Participating State will be available to any other Participating State.

F. Participating States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

G. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Participating State contributing the information shall be removed from the Data System.

SECTION 9.
RULEMAKING

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer the purposes and provisions of the Compact. A Commission Rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the Compact, or the powers granted hereunder, or based upon another applicable standard of review.

B. The Rules of the Commission shall have the force of law in each Participating State, provided however that where the Rules of the Commission conflict with the laws of the Participating State that establish the Participating State's Scope of Practice as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

C. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the Rules adopted thereunder. Rules shall become binding as of the date specified by the Commission for each Rule.

D. If a majority of the legislatures of the Participating States rejects a Commission Rule or portion of a Commission Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Participating State or to any State applying to participate in the Compact.

E. Rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in advance of the meeting at which the Commission will hold a public hearing on the proposed Rule, the Commission shall provide a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform;

2. To persons who have requested notice of the Commission's notices of proposed rulemaking; and

3. In such other way(s) as the Commission may by Rule specify.

H. The Notice of Proposed Rulemaking shall include:

1. The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed Rule and, if different, the time, date, and location of the meeting where the Commission will consider and vote on the proposed Rule;

2. If the hearing is held via telecommunication, video conference, or other electronic means, the Commission shall include the mechanism for access to the hearing in the Notice of Proposed Rulemaking;

3. The text of the proposed Rule and the reason therefor;

4. A request for comments on the proposed Rule from any interested person; and

5. The manner in which interested persons may submit written comments.

I. All hearings will be recorded. A copy of the recording and all written comments and documents received by the Commission in response to the proposed Rule shall be available to the public.

J. Nothing in this section shall be construed as requiring a separate hearing on each Commission Rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

K. The Commission shall, by majority vote of all Commissioners, take final action on the proposed Rule based on the rulemaking record.

1. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.

2. The Commission shall provide an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.

3. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in subsection L of this section, the effective date of the Rule shall be no sooner than thirty (30) days after the Commission issues the notice that it adopted or amended the Rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with 24 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Participating State funds;

3. Meet a deadline for the promulgation of a Rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No Participating State's rulemaking requirements shall apply under this Compact.

SECTION 10.
OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive and judicial branches of State government in each Participating State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a Licensee for professional malpractice, misconduct, or any such similar matter.

3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact or Commission Rule and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Participating State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall provide written notice to the defaulting State. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Commission may take, and shall offer training and specific technical assistance regarding the default.

2. The Commission shall provide a copy of the notice of default to the other Participating States.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Commissioners, and all rights, privileges, and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of participation in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the defaulting State's State Licensing Authority or Authorities, as applicable, and each of the Participating States' State Licensing Authority or Authorities, as applicable.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. Upon the termination of a State's participation in this Compact, that State shall immediately provide notice to all Licensees of the State, including Licensees of other Participating States issued a Compact Privilege to practice within that State, of such termination. The terminated State shall continue to recognize all Compact Privileges then in effect in that

State for a minimum of one hundred eighty (180) days after the date of said notice of termination.

G. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

H. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

I. Dispute Resolution

1. Upon request by a Participating State, the Commission shall attempt to resolve disputes related to the Compact that arise among Participating States and between Participating States and non-Participating States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

J. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact and the Commission's Rules.

2. By majority vote, the Commission may initiate legal action against a Participating State in default in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or the defaulting Participating State's law.

3. A Participating State may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

4. No individual or entity other than a Participating State may enforce this Compact against the Commission.

SECTION 11.
EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh Participating State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the States that enacted the Compact prior to the Commission convening ("Charter Participating States") to determine if the statute enacted by each such Charter Participating State is materially different than the Model Compact.

a. A Charter Participating State whose enactment is found to be materially different from the Model Compact shall be entitled to the default process set forth in Section 10.

b. If any Participating State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Participating States should be less than seven (7).

2. Participating States enacting the Compact subsequent to the Charter Participating States shall be subject to the process set forth in Section 7.C.23 to determine if their enactments are materially different from the Model Compact and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

4. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules and bylaws shall be subject to the Commission's Rules and bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

B. Any Participating State may withdraw from this Compact by enacting a statute repealing that State's enactment of the Compact.

1. A Participating State's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Licensing Authority or Authorities to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing from this Compact, the State shall immediately provide notice of such withdrawal to all Licensees within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all Compact Privileges to practice within that State granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal.

C. Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a Participating State and a non-Participating State that does not conflict with the provisions of this Compact.

D. This Compact may be amended by the Participating States. No amendment to this Compact shall become effective and binding upon any Participating State until it is enacted into the laws of all Participating States.

SECTION 12.
CONSTRUCTION AND SEVERABILITY

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Participating State, a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

C. Notwithstanding subsection B of this section, the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Section 10.B, terminate a Participating State's participation in the Compact, if it determines that a constitutional requirement of a Participating State is a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Participating State, the Compact shall remain in full force and effect as to the remaining Participating States and in full force and effect as to the Participating State affected as to all severable matters.

SECTION 13.
CONSISTENT EFFECT AND CONFLICT
WITH OTHER STATE LAWS

A. Nothing herein shall prevent or inhibit the enforcement of any other law of a Participating State that is not inconsistent with the Compact.

B. Any laws, statutes, regulations, or other legal requirements in a Participating State in conflict with the Compact are superseded to the extent of the conflict.

C. All permissible agreements between the Commission and the Participating States are binding in accordance with their terms.

Source: L. 2024: Entire part added, (SB 24-010), ch. 193, p. 1132, § 1, effective August 7.

24-60-4802. Construction of terms. (1) As used in this part 48, unless the context otherwise requires:

(a) "Licensee" means, with respect to a San Andreas licensee, as applicable:

(I) A dentist holding an unrestricted license issued by the San Andreas dental board created in section 12-220-105, or a successor board authorized to license dentists in San Andreas; or

(II) A dental hygienist holding an unrestricted license issued by the San Andreas dental board created in section 12-220-105, or a successor board authorized to license dental hygienists in San Andreas.

(b) "State licensing authority" means, with respect to San Andreas, the San Andreas dental board created in section 12-220-105, or a successor board authorized to license dentists or dental hygienists, as applicable, in San Andreas.

Source: L. 2024: Entire part added, (SB 24-010), ch. 193, p. 1158, § 1, effective August 7.

24-60-4803. Notice to revisor of statutes - effective date of compact. This part 48 will take effect on the date the compact is enacted into law in the seventh compact state. The director of the division of professions and occupations in the department of regulatory agencies shall notify the revisor of statutes in writing when the condition specified in this section has occurred by e-mailing the notice to the revisorofstatutes.ga@coleg.gov. This part 48 takes effect upon the date identified in the notice that the compact is enacted into law in the seventh compact state or if the notice does not specify that date, upon the date of the notice to the revisor of statutes.

Source: L. 2024: Entire part added, (SB 24-010), ch. 193, p. 1159, § 1, effective August 7.

Editor's note: As of publication date, the revisor of statutes has not received the notice referred to in this section.

PART 49

COSMETOLOGY LICENSURE COMPACT

24-60-4901. Compact approved and ratified. The general assembly approves and ratifies, and the governor shall enter into, a compact on behalf of the state of San Andreas and any of the United States or other jurisdictions legally joining in the compact in the form substantially as follows:

ARTICLE 1
PURPOSE

The purpose of this Compact is to facilitate the interstate practice and regulation of Cosmetology with the goal of improving public access to, and the safety of, Cosmetology Services and reducing unnecessary burdens related to Cosmetology licensure. Through this Compact, the Member States seek to establish a regulatory framework which provides for a new multistate licensing program. Through this new licensing program, the Member States seek to provide increased value and mobility to licensed Cosmetologists in the Member States, while ensuring the provision of safe, effective, and reliable services to the public.

This Compact is designed to achieve the following objectives, and the Member States hereby ratify the same intentions by subscribing hereto:

A. Provide opportunities for interstate practice by Cosmetologists who meet uniform requirements for multistate licensure;

B. Enhance the abilities of Member States to protect public health and safety and prevent fraud and unlicensed activity within the profession;

C. Ensure and encourage cooperation between Member States in the licensure and regulation of the Practice of Cosmetology;

D. Support relocating military members and their spouses;

E. Facilitate the exchange of information between Member States related to the licensure, investigation, and discipline of the Practice of Cosmetology;

F. Provide for the licensure and mobility of the workforce in the profession, while addressing the shortage of workers and lessening the associated burdens on the Member States.

ARTICLE 2
DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall govern the terms herein:

A. "Active Military Member" means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

B. "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a Member State's laws which is imposed by a State Licensing Authority or other regulatory body against a Cosmetologist, including actions against an individual's license or Authorization to Practice such as revocation, suspension, probation, monitoring of the Licensee, limitation of the Licensee's practice, or any other Encumbrance on a license affecting an individual's ability to participate in the Cosmetology industry, including the issuance of a cease and desist order.

C. "Alternative Program" means a non-disciplinary monitoring or prosecutorial diversion program approved by a Member State's State Licensing Authority.

D. "Authorization to Practice" means a legal authorization associated with a Multistate License permitting the Practice of Cosmetology in that Remote State, which is subject to the enforcement jurisdiction of the State Licensing Authority in that Remote State.

E. "Background Check" means the submission of information for an applicant for the purpose of obtaining that applicant's criminal history record information, as further defined in 28 CFR 20.3 (d), from the Federal Bureau of Investigation and the agency responsible for retaining State criminal or disciplinary history in the applicant's Home State.

F. "Charter Member State" means Member States that have enacted legislation to adopt this Compact where such legislation predates the effective date of this Compact as defined in Article 13.

G. "Commission" means the government agency in which membership consists of all States that have enacted this Compact, which is known as the Cosmetology Licensure Compact Commission, as defined in Article 9, and which shall operate as an instrumentality of the Member States.

H. "Cosmetologist" means an individual licensed in their Home State to practice Cosmetology.

I. "Cosmetology", "Cosmetology Services", and the "Practice of Cosmetology" mean the care and services provided by a Cosmetologist as set forth in the Member State's statutes and regulations in the State where the services are being provided.

J. "Current Significant Investigative Information" means:

1. Investigative Information that a State Licensing Authority, after an inquiry or investigation that complies with a Member State's due process requirements, has reason to believe is not groundless and, if proved true, would indicate a violation of that State's laws regarding fraud or the Practice of Cosmetology; or

2. Investigative Information that indicates that a Licensee has engaged in fraud or represents an immediate threat to public health and safety, regardless of whether the Licensee has been notified and had an opportunity to respond.

K. "Data System" means a repository of information about Licensees, including, but not limited to, license status, Investigative Information, and Adverse Actions.

L. "Disqualifying Event" means any event that disqualifies an individual from holding a Multistate License under this Compact, which the Commission may by Rule or order specify.

M. "Encumbered License" means a license in which an Adverse Action restricts the Practice of Cosmetology by a Licensee, or where said Adverse Action has been reported to the Commission.

N. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted Practice of Cosmetology by a State Licensing Authority.

O. "Executive Committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

P. "Home State" means the Member State which is a Licensee's primary State of residence, and where that Licensee holds an active and unencumbered license to practice Cosmetology.

Q. "Investigative Information" means information, records, or documents received or generated by a State Licensing Authority pursuant to an investigation or other inquiry.

R. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and rules governing the Practice of Cosmetology in a State.

S. "Licensee" means an individual who currently holds a license from a Member State to practice as a Cosmetologist.

T. "Member State" means any State that has adopted this Compact.

U. "Multistate License" means a license issued by and subject to the enforcement jurisdiction of the State Licensing Authority in a Licensee's Home State, which authorizes the Practice of Cosmetology in Member States and includes Authorizations to Practice Cosmetology in all Remote States pursuant to this Compact.

V. "Remote State" means any Member State, other than the Licensee's Home State.

W. "Rule" means any rule or regulation promulgated by the Commission under this Compact which has the force of law.

X. "Single-State License" means a Cosmetology license issued by a Member State that authorizes practice of Cosmetology only within the issuing State and does not include any authorization outside of the issuing State.

Y. "State" means a State, territory, or possession of the United States and the District of Columbia.

Z. "State Licensing Authority" means a Member State's regulatory body responsible for issuing Cosmetology licenses or otherwise overseeing the Practice of Cosmetology in that State.

ARTICLE 3
MEMBER STATE REQUIREMENTS

A. To be eligible to join this Compact and to maintain eligibility as a Member State, a State must:

1. License and regulate Cosmetology;

2. Have a mechanism or entity in place to receive and investigate complaints about Licensees practicing in that State;

3. Require that Licensees within the State pass a Cosmetology competency examination prior to being licensed to provide Cosmetology Services to the public in that State;

4. Require that Licensees satisfy educational or training requirements in Cosmetology prior to being licensed to provide Cosmetology Services to the public in that State;

5. Implement procedures for considering one or more of the following categories of information from applicants for licensure: Criminal history, disciplinary history, or Background Check. Such procedures may include the submission of information by applicants for the purpose of obtaining an applicant's Background Check as defined herein;

6. Participate in the Data System, including through the use of unique identifying numbers;

7. Share information related to Adverse Actions with the Commission and other Member States, both through the Data System and otherwise;

8. Notify the Commission and other Member States, in compliance with the terms of the Compact and Rules of the Commission, of the existence of Investigative Information or Current Significant Investigative Information in the State's possession regarding a Licensee practicing in that State;

9. Comply with such Rules as may be enacted by the Commission to administer the Compact; and

10. Accept Licensees from other Member States as established herein.

B. Member States may charge a fee for granting a license to practice Cosmetology.

C. Individuals not residing in a Member State may apply for a Member State's Single-State License as provided under the laws of each Member State. However, the Single-State License granted to these individuals shall not be recognized as granting a Multistate License to provide services in any other Member State.

D. Nothing in this Compact affects the requirements established by a Member State for the issuance of a Single-State License.

E. A Multistate License issued to a Licensee by a Home State to a resident of that State shall be recognized by each Member State as authorizing a Licensee to practice Cosmetology in each Member State.

F. At no point shall the Commission have the power to define the educational or professional requirements for a license to practice Cosmetology. The Member States shall retain sole jurisdiction over the provision of these requirements.

ARTICLE 4
MULTISTATE LICENSE

A. To be eligible to apply to their Home State's State Licensing Authority for an initial Multistate License under this Compact, a Licensee must hold an active and unencumbered Single-State License to practice Cosmetology in their Home State.

B. Upon the receipt of an application for a Multistate License, according to the Rules of the Commission, a Member State's State Licensing Authority shall ascertain whether the applicant meets the requirements for a Multistate License under this Compact.

C. If an applicant meets the requirements for a Multistate License under this Compact and any applicable Rules of the Commission, the State Licensing Authority in receipt of the application shall, within a reasonable time, grant a Multistate License to that applicant, and inform all Member States of the grant of said Multistate License.

D. A Multistate License to practice Cosmetology issued by a Member State's State Licensing Authority shall be recognized by each Member State as authorizing the practice thereof as though that Licensee held a Single-State License to do so in each Member State, subject to the restrictions herein.

E. A Multistate License granted pursuant to this Compact may be effective for a definite period of time, concurrent with the licensure renewal period in the Home State.

F. To maintain a Multistate License under this Compact, a Licensee must:

1. Agree to abide by the rules of the State Licensing Authority, and the State scope of practice laws governing the Practice of Cosmetology, of any Member State in which the Licensee provides services;

2. Pay all required fees related to the application and process, and any other fees which the Commission may by Rule require; and

3. Comply with any and all other requirements regarding Multistate Licenses which the Commission may by Rule provide.

G. A Licensee practicing in a Member State is subject to all scope of practice laws governing Cosmetology Services in that State.

H. The Practice of Cosmetology under a Multistate License granted pursuant to this Compact will subject the Licensee to the jurisdiction of the State Licensing Authority, the courts, and the laws of the Member State in which the Cosmetology Services are provided.

ARTICLE 5
REISSUANCE OF A MULTISTATE LICENSE
BY A NEW HOME STATE

A. A Licensee may hold a Multistate License, issued by their Home State, in only one Member State at any given time.

B. If a Licensee changes their Home State by moving between two Member States:

1. The Licensee shall immediately apply for the reissuance of their Multistate License in their new Home State. The Licensee shall pay all applicable fees and notify the prior Home State in accordance with the Rules of the Commission.

2. Upon receipt of an application to reissue a Multistate License, the new Home State shall verify that the Multistate License is active, unencumbered, and eligible for reissuance under the terms of the Compact and the Rules of the Commission. The Multistate License issued by the prior Home State will be deactivated and all Member States notified in accordance with the applicable Rules adopted by the Commission.

3. If required for initial licensure, the new Home State may require a Background Check as specified in the laws of that State, or the compliance with any Jurisprudence Requirements of the new Home State.

4. Notwithstanding any other provision of this Compact, if a Licensee does not meet the requirements set forth in this Compact for the reissuance of a Multistate License by the new

Home State, then the Licensee is subject to the new Home State requirements for the issuance of a Single-State License in that State.

C. If a Licensee changes their primary state of residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, then the Licensee is subject to the State requirements for the issuance of a Single-State License in the new Home State.

D. Nothing in this Compact interferes with a Licensee's ability to hold a Single-State License in multiple States; however, for the purposes of this Compact, a Licensee shall have only one Home State, and only one Multistate License.

E. Nothing in this Compact interferes with the requirements established by a Member State for the issuance of a Single-State License.

ARTICLE 6
AUTHORITY OF THE COMPACT COMMISSION AND MEMBER STATE LICENSING AUTHORITIES

A. Nothing in this Compact, nor any Rule or regulation of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Member State to enact and enforce laws, regulations, or other rules related to the Practice of Cosmetology in that State, where laws, regulations, or other rules are not inconsistent with the provisions of this Compact.

B. Insofar as practical, a Member State's State Licensing Authority shall cooperate with the Commission and with each entity exercising independent regulatory authority over the Practice of Cosmetology according to the provisions of this Compact.

C. Discipline shall be the sole responsibility of the State in which Cosmetology Services are provided. Accordingly, each Member State's State Licensing Authority shall be responsible for receiving complaints about individuals practicing Cosmetology in that State, and for communicating all relevant Investigative Information about any such Adverse Action to the other Member States through the Data System in addition to any other methods the Commission may by Rule require.

ARTICLE 7
ADVERSE ACTIONS

A. A Licensee's Home State shall have exclusive power to impose an Adverse Action against a Licensee's Multistate License issued by the Home State.

B. A Home State may take Adverse Action on a Multistate License based on the Investigative Information, Current Significant Investigative Information, or Adverse Action of a Remote State.

C. In addition to the powers conferred by State law, each Remote State's State Licensing Authority shall have the power to:

1. Take Adverse Action against a Licensee's Authorization to Practice Cosmetology through the Multistate License in that Member State, provided that:

a. Only the Licensee's Home State shall have the power to take Adverse Action against the Multistate License issued by the Home State; and

b. For the purposes of taking Adverse Action, the Home State's State Licensing Authority shall give the same priority and effect to reported conduct received from a Remote State as it would if such conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine the appropriate action.

2. Issue cease and desist orders or impose an Encumbrance on a Licensee's Authorization to Practice within that Member State.

3. Complete any pending investigations of a Licensee who changes their primary state of residence during the course of such an investigation. The State Licensing Authority shall also be empowered to report the results of such an investigation to the Commission through the Data System as described herein.

4. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a State Licensing Authority in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings before it. The issuing State Licensing Authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

5. If otherwise permitted by State law, recover from the affected Licensee the costs of investigations and disposition of cases resulting from any Adverse Action taken against that Licensee.

6. Take Adverse Action against the Licensee's Authorization to Practice in that State based on the factual findings of another Remote State.

D. A Licensee's Home State shall complete any pending investigation(s) of a Cosmetologist who changes their primary state of residence during the course of the investigation(s). The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the Data System.

E. If an Adverse Action is taken by the Home State against a Licensee's Multistate License, the Licensee's Authorization to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the Home State license. All Home State disciplinary orders that impose an Adverse Action against a Licensee's Multistate License shall include a statement that the Cosmetologist's Authorization to Practice is deactivated in all Member States during the pendency of the order.

F. Nothing in this Compact overrides a Member State's authority to accept a Licensee's participation in an Alternative Program in lieu of Adverse Action. A Licensee's Multistate License shall be suspended for the duration of the Licensee's participation in any Alternative Program.

G. Joint Investigations

1. In addition to the authority granted to a Member State by its respective scope of practice laws or other applicable State law, a Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

ARTICLE 8

ACTIVE MILITARY MEMBERS
AND THEIR SPOUSES

Active Military Members or their spouses shall designate a Home State where the individual has a current license to practice Cosmetology in good standing. The individual may retain their Home State designation during any period of service when that individual or their spouse is on active duty assignment.

ARTICLE 9
ESTABLISHMENT AND OPERATION OF THE
COSMETOLOGY LICENSURE COMPACT COMMISSION

A. The Compact Member States hereby create and establish a joint government agency, the membership of which consists of all Member States that have enacted the Compact, known as the Cosmetology Licensure Compact Commission. The Commission is an instrumentality of the Compact Member States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact as set forth in Article 13.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's State Licensing Authority.

2. The delegate shall be an administrator of the State Licensing Authority of the Member State or their designee.

3. The Commission shall by Rule or bylaw establish a term of office for delegates and may by Rule or bylaw establish term limits.

4. The Commission may recommend removal or suspension of any delegate from office.

5. A Member State's State Licensing Authority shall fill any vacancy of its delegate occurring on the Commission within 60 days of the vacancy.

6. Each delegate shall be entitled to one vote on all matters that are voted on by the Commission.

7. The Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference, or other similar electronic means.

C. The Commission shall have the following powers:

1. Establish the fiscal year of the Commission;

2. Establish code of conduct and conflict of interest policies;

3. Adopt Rules and bylaws;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take such actions as are consistent with the provisions of this Compact, the Commission's Rules, and the bylaws;

6. Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Authority to sue or be sued under applicable law is not affected;

7. Maintain and certify records and information provided to a Member State as the authenticated business records of the Commission and designate an agent to do so on the Commission's behalf;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

10. Conduct an annual financial review;

11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. As set forth in the Commission Rules, charge a fee to a Licensee for the grant of a Multistate License and thereafter, as may be established by Commission Rule, charge the Licensee a Multistate License renewal fee for each renewal period. Nothing herein shall be construed to prevent a Home State from charging a Licensee a fee for a Multistate License or renewals of a Multistate License, or a fee for the Jurisprudence Requirement if the Member State imposes such a requirement for the grant of a Multistate License.

13. Assess and collect fees;

14. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

15. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

16. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

17. Establish a budget and make expenditures;

18. Borrow money;

19. Appoint committees, including standing committees, composed of members, State regulators, State legislators or their representatives, consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

20. Provide and receive information from, and cooperate with, law enforcement agencies;

21. Elect a Chair, Vice Chair, Secretary, Treasurer, and such other officers of the Commission as provided in the Commission's bylaws;

22. Establish and elect an Executive Committee, including a Chair and a Vice Chair;

23. Adopt and provide to the Member States an annual report;

24. Determine whether a State's adopted language is materially different from the model Compact language such that the State would not qualify for participation in the Compact; and

25. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall include:

a. Overseeing the day-to-day activities of the administration of the Compact including compliance with the provisions of the Compact, the Commission's Rules and bylaws, and other such duties as deemed necessary;

b. Recommending to the Commission changes to the Rules or bylaws, changes to this Compact legislation, fees charged to Compact Member States, fees charged to Licensees, and other fees;

c. Ensuring Compact administration services are appropriately provided, including by contract;

d. Preparing and recommending the budget;

e. Maintaining financial records on behalf of the Commission;

f. Monitoring Compact compliance of Member States and providing compliance reports to the Commission;

g. Establishing additional committees as necessary;

h. Exercising the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by Rule or bylaw; and

i. Other duties as provided in the Rules or bylaws of the Commission.

2. The Executive Committee shall be composed of up to seven voting members:

a. The Chair and Vice Chair of the Commission and any other members of the Commission who serve on the Executive Committee shall be voting members of the Executive Committee; and

b. Other than the Chair, Vice Chair, Secretary, and Treasurer, the Commission shall elect three voting members from the current membership of the Commission.

c. The Commission may elect ex officio, nonvoting members from a recognized national Cosmetology professional association as approved by the Commission. The Commission's bylaws shall identify qualifying organizations and the manner of appointment if the number of organizations seeking to appoint an ex officio member exceeds the number of members specified in this Article.

3. The Commission may remove any member of the Executive Committee as provided in the Commission's bylaws.

4. The Executive Committee shall meet at least annually.

a. Annual Executive Committee meetings, as well as any Executive Committee meeting at which it does not take or intend to take formal action on a matter for which a Commission vote would otherwise be required, shall be open to the public, except that the Executive Committee may meet in a closed, non-public session of a public meeting when dealing with any of the matters covered under Article 9.F.4.

b. The Executive Committee shall give five business days' advance notice of its public meetings, posted on its website and as determined by the Executive Committee, to provide notice to persons with an interest in the public matters the Executive Committee intends to address at those meetings.

5. The Executive Committee may hold an emergency meeting when acting for the Commission to:

a. Meet an imminent threat to public health, safety, or welfare;

b. Prevent a loss of Commission or Member State funds; or

c. Protect public health and safety.

E. The Commission shall adopt and provide to the Member States an annual report.

F. Meetings of the Commission

1. All meetings of the Commission that are not closed pursuant to Article 9.F.4 shall be open to the public. Notice of public meetings shall be posted on the Commission's website at least thirty (30) days prior to the public meeting.

2. Notwithstanding Article 9.F.1, the Commission may convene an emergency public meeting by providing at least twenty-four (24) hours' prior notice on the Commission's website, and any other means as provided in the Commission's Rules, for any of the reasons it may dispense with notice of proposed rulemaking under Article 11.L. The Commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.

3. Notice of all Commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the notice shall include the mechanism for access to the meeting.

4. The Commission may convene in a closed, non-public meeting for the Commission to discuss:

a. Non-compliance of a Member State with its obligations under the Compact;

b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices or procedures;

c. Current or threatened discipline of a Licensee by the Commission or by a Member State's Licensing Authority;

d. Current, threatened, or reasonably anticipated litigation;

e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

f. Accusing any person of a crime or formally censuring any person;

g. Trade secrets or commercial or financial information that is privileged or confidential;

h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

i. Investigative records compiled for law enforcement purposes;

j. Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;

k. Legal advice;

l. Matters specifically exempted from disclosure to the public by federal or Member State law; or

m. Other matters as promulgated by the Commission by Rule.

5. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

6. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

G. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Member State and impose fees on Licensees of Member States to whom it grants a Multistate License to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for Member States shall be allocated based upon a formula that the Commission shall promulgate by Rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

H. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission are immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph H.1. shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission does not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission

employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member State's State action immunity or State action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Member States or by the Commission.

ARTICLE 10
DATA SYSTEM

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system.

B. The Commission shall assign each applicant for a Multistate License a unique identifier, as determined by the Rules of the Commission.

C. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a license and information related thereto;
4. Non-confidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation;
5. Any denial of application for licensure, and the reason(s) for such denial (excluding the reporting of any criminal history record information where prohibited by law);
6. The existence of Investigative Information;
7. The existence of Current Significant Investigative Information; and
8. Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the Rules of the Commission.

D. The records and information provided to a Member State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, constitute the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial, or administrative proceedings in a Member State.

E. The existence of Current Significant Investigative Information and the existence of Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

F. It is the responsibility of the Member States to monitor the database to determine whether Adverse Action has been taken against such a Licensee or License applicant. Adverse

Action information pertaining to a Licensee or License applicant in any Member State will be available to any other Member State.

G. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

H. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Member State contributing the information shall be removed from the Data System.

ARTICLE 11
RULEMAKING

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer the purposes and provisions of the Compact. A Rule is invalid and has no force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the Compact, or the powers granted hereunder, or based upon another applicable standard of review.

B. The Rules of the Commission have the force of law in each Member State, provided, however, that where the Rules of the Commission conflict with the laws of the Member State that establish the Member State's scope of practice laws governing the Practice of Cosmetology as held by a court of competent jurisdiction, the Rules of the Commission are ineffective in that State to the extent of the conflict.

C. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted become binding as of the date specified by the commission for each Rule.

D. If a majority of the legislatures of the Member States rejects a Rule or portion of a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule has no further force and effect in any Member State or to any State applying to participate in the Compact.

E. Rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in advance of the meeting at which the Commission will hold a public hearing on the proposed Rule, the Commission shall provide a notice of proposed rulemaking:

1. On the website of the Commission or other publicly accessible platform;

2. To persons who have requested notice of the Commission's notices of proposed rulemaking; and

3. In such other way(s) as the Commission may by Rule specify.

H. The notice of proposed rulemaking shall include:

1. The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed Rule and, if different, the time, date, and location of the meeting where the Commission will consider and vote on the proposed Rule;

2. If the hearing is held via telecommunication, video conference, or other electronic means, the mechanism for access to the hearing in the notice of proposed rulemaking;

3. The text of the proposed Rule and the reason therefor;

4. A request for comments on the proposed Rule from any interested person; and

5. The manner in which interested persons may submit written comments.

I. All hearings will be recorded. A copy of the recording and all written comments and documents received by the Commission in response to the proposed Rule shall be available to the public.

J. Nothing in this Article shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this Article.

K. The Commission shall, by majority vote of all members, take final action on the proposed Rule based on the rulemaking record and the full text of the Rule.

1. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.

2. The Commission shall provide an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.

3. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in Article 11.L, the effective date of the Rule shall be no sooner than forty-five (45) days after the Commission issuing the notice that it adopted or amended the Rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with five (5) days' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the Compact and in this Article shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of a Rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision is subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No Member State's rulemaking requirements apply under this Compact.

ARTICLE 12
OVERSIGHT, DISPUTE RESOLUTION

AND ENFORCEMENT

A. Oversight

1. The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein affects or limits the selection or propriety of venue in any action against a Licensee for professional malpractice, misconduct, or any such similar matter.

3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process renders a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall provide written notice to the defaulting State. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Commission may take, and shall offer training and specific technical assistance regarding the default.

2. The Commission shall provide a copy of the notice of default to the other Member States.

3. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the delegates of the Member States, and all rights, privileges, and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

4. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the defaulting State's State Licensing Authority, and each of the Member States' State Licensing Authority.

5. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

6. Upon the termination of a State's membership from this Compact, that State shall immediately provide notice to all Licensees who hold a Multistate License within that State of such termination. The terminated State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of said notice of termination.

7. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

8. The defaulting State may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact and the Commission's Rules.

2. By majority vote as provided by Commission Rule, the Commission may initiate legal action against a Member State in default in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein are not the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or the defaulting Member State's law.

3. A Member State may initiate legal action against the Commission in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

4. No individual or entity other than a Member State may enforce this Compact against the Commission.

ARTICLE 13
EFFECTIVE DATE, WITHDRAWAL AND AMENDMENT

A. The Compact comes into effect on the date on which the Compact statute is enacted into law in the seventh Member State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the Charter Member States to determine if the statute enacted by each such Charter Member State is materially different than the model Compact statute.

a. A Charter Member State whose enactment is found to be materially different from the model Compact statute is entitled to the default process set forth in Article 12.

b. If any Member State is later found to be in default, or is terminated or withdraws from the Compact, the Commission remains in existence and the Compact remains in effect even if the number of Member States should be less than seven (7).

2. Member States enacting the Compact subsequent to the Charter Member States are subject to the process set forth in Article 9.C.24 to determine if their enactments are materially

different from the model Compact statute and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

4. Any State that joins the Compact is subject to the Commission's Rules and bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission has the full force and effect of law on the day the Compact becomes law in that State.

B. Any Member State may withdraw from this Compact by enacting a statute repealing that State's enactment of the Compact.

1. A Member State's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute.

2. Withdrawal does not affect the continuing requirement of the withdrawing State's State Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing from this Compact, a State shall immediately provide notice of such withdrawal to all Licensees within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of such notice of withdrawal.

C. Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

D. This Compact may be amended by the Member States. No amendment to this Compact becomes effective and binding upon any Member State until it is enacted into the laws of all Member States.

ARTICLE 14
CONSTRUCTION AND SEVERABILITY

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Member State, of a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person, or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person, or circumstance shall not be affected thereby.

C. Notwithstanding Article 14.B, the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Article 12, terminate a Member State's

participation in the Compact, if it determines that a constitutional requirement of a Member State is a material departure from the Compact. Otherwise, if this Compact is held to be contrary to the constitution of any Member State, the Compact remains in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

ARTICLE 15
CONSISTENT EFFECT AND CONFLICT
WITH OTHER STATE LAWS

A. Nothing herein prevents or inhibits the enforcement of any other law of a Member State that is not inconsistent with the Compact.

B. Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.

C. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

Source: L. 2024: Entire part added, (HB 24-1111), ch. 381, p. 2575, § 1, effective August 7.

24-60-4902. Construction of terms. (1) As used in this part 49, unless the context otherwise requires:

(a) "Licensee" means, with respect to San Andreas, a cosmetologist holding an unrestricted license issued by the director of the division of professions and occupations in the department of regulatory agencies pursuant to article 105 of title 12.

(b) "State licensing authority" means, with respect to San Andreas, the director of the division of professions and occupations created in the department of regulatory agencies pursuant to section 12-20-103.

Source: L. 2024: Entire part added, (HB 24-1111), ch. 381, p. 2601, § 1, effective August 7.

24-60-4903. Notice to revisor of statutes - effective date of compact. This part 49 will take effect on the date the compact is enacted into law in the seventh compact state. The director of the division of professions and occupations in the department of regulatory agencies shall notify the revisor of statutes in writing when the condition specified in this section has occurred by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This part 49 takes effect upon the date identified in the notice that the compact is enacted into law in the seventh compact state or upon the date of the notice to the revisor of statutes if the notice does not specify a different date.

Source: L. 2024: Entire part added, (HB 24-1111), ch. 381, p. 2601, § 1, effective August 7.

Editor's note: As of publication date, the revisor of statutes has not received the notice referred to in this section.

ARTICLE 61

Taxation Compact Between the
Southern Ute Indian Tribe, La Plata County,
and the State of San

Andreas PART 1

APPROVAL AND TEXT OF COMPACT

24-61-101. Compact as basis for payments - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is in the interest of the state of San Andreas for the general assembly to act to assist in the resolution of a dispute between the state, the county of La Plata, and the Southern Ute Indian tribe concerning the imposition of taxes and charges on property and property interests owned or held by the Southern Ute Indian tribe within the exterior boundaries of the Southern Ute Indian reservation;

(b) It is within the authority of the general assembly pursuant to section 4 of the Enabling Act of San Andreas to approve special provisions with respect to taxes and charges that the state could otherwise seek to impose upon property and property interests owned or held by the Southern Ute Indian tribe; and

(c) In approving the special provisions set forth in the taxation compact described in this article, the state does not waive its claims, concede its rights, or otherwise impair its position with respect to its authority to levy taxes and other charges on property and property interests owned or held by the Southern Ute Indian tribe except as specifically set forth in said taxation compact and acknowledges that the Southern Ute Indian tribe has similarly not impaired its position to challenge such authority except as specifically set forth in said taxation compact.

(2) It is the intent of the general assembly that, for the duration of the taxation compact set forth in this article, with respect to the taxes and charges imposed pursuant to article 29 of title 39, S.A.R.S., concerning severance taxes, article 60 of title 34, S.A.R.S., concerning the conservation levy and environmental response fund surcharge, and article 1 of title 39, S.A.R.S., concerning ad valorem property taxes, the payments established pursuant to said taxation compact on property described in said taxation compact shall be made as an alternative to said taxes, charges, surcharges, and levies.

Source: L. 96: Entire article added, p. 1705, § 1, effective June 3. **L. 2000:** (1)(c) and (2) amended, p. 1863, § 83, effective August 2. **L. 2005:** (2) amended, p. 771, § 45, effective June 1.

24-61-102. Taxation compact between the Southern Ute Indian tribe, La Plata county, and the state of San Andreas. The general assembly hereby approves the taxation compact between the Southern Ute Indian tribe, La Plata county, and the state of San Andreas, referred to in this section as the "Taxation Compact", dated March 18, 1996, and signed by Roy Romer, governor of the state of San Andreas; Leonard C. Burch, chairman of the Southern Ute Indian tribal council; Fred W. Klatt, III, chairman of the La Plata county board of county commissioners;

Craig Larson, La Plata county assessor; and Ed Murray, La Plata county treasurer. Said compact is as follows:

TAXATION COMPACT

between

THE SOUTHERN UTE INDIAN TRIBE, LA PLATA COUNTY and

THE STATE OF SAN ANDREAS

THIS AGREEMENT ("Taxation Compact") is entered into this 18th day of March, 1996, by, between and among the STATE OF SAN ANDREAS, on behalf of itself, its political subdivisions, offices, and officials ("the State"), the SOUTHERN UTE INDIAN TRIBE, by and through the Southern Ute Indian Tribal Council ("the Tribe"), and the COUNTY OF LA PLATA, by and through the Board of County Commissioners of La Plata county and the La Plata County Assessor and Treasurer ("County").

Article One

Recitals.

1.01. Litigation.
The parties to this Taxation Compact have been engaged in protracted litigation regarding the authority of the County and the State to tax the real or personal property owned or acquired by the Tribe within the exterior boundaries of the Southern Ute Indian Reservation ("Reservation"). That litigation ("the Litigation") has not provided the parties with definitive answers regarding the scope of such taxing authority or the scope of tribal immunity from such taxation ("the Dispute"). In the absence of agreement, the parties will be compelled to reinstitute litigation and to incur substantial litigation costs and commitments of time and energy to such disputes.

1.02. Intergovernmental Agreement.
Prior to refiling the Litigation, the parties to this taxation Compact entered into good faith negotiations in an effort to resolve the Dispute amicably in a manner consistent with the respective interests of the parties. In furtherance of the negotiation efforts, the parties entered into an Intergovernmental Agreement Concerning Taxation Negotiations which addressed procedures for maintaining the status quo and preserving the legal positions of the parties pending negotiation.

1.03. Principal Individual Interests.
During the negotiations, the Tribe has requested recognition of its claimed immunity from State and County taxation with respect to any interests in real or personal property it owns or may acquire within the boundaries of the Reservation, regardless of whether such property is held in trust for its benefit by the United States of America. The County has taken the position that interests in real or personal property owned or acquired by the Tribe within the boundaries of the Reservation are subject to ad valorem property taxes in circumstances where those real or personal property interests within the Reservation have been previously taxed to or are taxable in non-Tribal ownership. The county has reiterated its concern that recognition of taxing immunity to the Tribe with respect to any interest in real or personal property owned or acquired by the

Tribe when that property has been taxed or taxable under non-Tribal ownership will have an adverse economic impact on those governmental institutions which rely upon general ad valorem property tax revenue to carry out governmental functions, particularly if Tribal acquisition efforts continue to escalate. The State's position is that real property acquired by the Tribe and not placed or held in trust by the federal government for the benefit of the Tribe is subject to taxation. The State has attempted to assist in the identification of governmental mechanisms that could be employed by the parties to settle their Dispute reasonably in a manner that will minimize adverse economic consequences resulting from possible recognition of the Tribe's claimed immunity. As used herein, the words "tax" and "taxes" includes ad valorem and severance taxes as well as the oil and gas conservation levy and the environmental response fund surcharge.

1.04. Mutual Interests.

Each of the parties seeks to avoid further litigation in a manner consistent with the best interests of the respective constituents of each government. Further, in recognition of the fact that there are many substantive areas that require mutual cooperation of the parties, including social issues, economic development, land use and environmental protection, the parties seek to improve their government-to-government relationships for the present and the future.

1.05. Educational Equalization.

The parties acknowledge that the State maintains as part of its system of public school financing a program which is intended to provide equalization in funding for students in the various public school districts throughout the State as reflected in, inter alia, "The Public School Finance Act of 1994" (article 54 of title 22, S.A.R.S.). The public school finance system also establishes a state public school fund which is available to provide relief to individual school districts in the event that unforeseen difficulties in maintaining assessment levels of property within any such district or in collecting property taxes is encountered. See section 22-54-117, S.A.R.S. Based on the status of public school financing, the parties acknowledge that the level of financing available for educating public school students within the boundaries of the Reservation will not be adversely affected in a material way so long as a system of State-wide equalization of student funding is maintained by the State.

1.06. Settlement.

Based upon the foregoing, the parties have agreed to settle the Dispute, subject to the fulfillment of certain conditions hereinafter set forth, and each party finds that the settlement reflected in this Taxation Compact is in furtherance of the individual and mutual interests of the parties.

Article Two

Conditions Precedent.

2.01. Legislative Ratification.

As a condition precedent to implementation of this Taxation Compact, the parties agree that the San Andreas General Assembly and the Governor of the State of San Andreas must approve, and the Office of the San Andreas Attorney General must review, this Taxation Compact and permit the County and the State to perform the covenants herein contained. If such authorization is not obtained prior to the close of the 1996 legislative session, this Taxation Compact shall become null and void, unless otherwise agreed by the parties.

2.02. Statutory Amendment.

As an additional condition precedent, the parties agree that such amendments to existing State statutes needed to implement the terms of this Taxation Compact shall be enacted prior to the close of the 1996 legislative session. If such amendments are not so enacted, then this Taxation Compact shall become null and void.

2.03. Tribal Enactment.

As an additional condition precedent, the parties agree that the Tribe, prior to expiration of the 1996 legislative session of the San Andreas General Assembly, through its Tribal Council, shall have enacted such resolutions or ordinances permitting the implementation of this Taxation Compact, including, but not limited to: Authorization for issuing annual tribal declarations of real property acquired by the Tribe, as provided in Article Five, infra; authorization for issuing annual payments, as provided in Article Six, infra; a mechanism for requiring non-Indians constructing facilities on tribal land to report to the County Assessor notice of completion of such facilities, as provided in Article Eight, infra; and a system for the recognition of County liens validly obtained under State law against the property of non-Indians, as well as, a system for foreclosure of such liens, as provided in Article Ten, infra.

2.04. Federal Approval.

To the extent that the Taxation Compact constitutes an agreement with an Indian Tribe related to land owned by an Indian Tribe, it is arguable that the validity of such Taxation Compact is dependent upon obtaining the approval of the Secretary of the Interior of the United States or his authorized representative pursuant to 25 U.S.C. sec. 81. Accordingly, as an additional condition precedent, prior to the close of the 1996 legislative session of the San Andreas General Assembly, the parties must obtain the written approval of the Secretary of the Interior, or his authorized representative, of this Taxation Compact, or, alternatively, a written statement from such duly authorized official indicating that such written approval is not necessary or required under federal law.

2.05. Intergovernmental Agreement Operative.

Until such time that each of the conditions set forth above in Paragraphs 2.01, 2.02, 2.03, and 2.04 has been satisfied, the parties agree to honor and carry out the provisions of the Intergovernmental Agreement Concerning Taxation Negotiations referenced in Paragraph 1.02, above, and the parties hereby expressly extend the duration of said Intergovernmental Agreement Concerning Taxation Negotiations until the earlier of: (a) The close of the 1996 legislative session of the San Andreas General Assembly; or (b) The satisfaction of the referenced conditions. In the event that each of the aforementioned conditions is not satisfied in the time provided, then, upon the close of the legislative session, the Intergovernmental Agreement Concerning Taxation Negotiations shall terminate, unless otherwise extended by the parties in writing.

Article Three

Tribal Immunity From Taxation.

3.01. Trust Property.

The parties acknowledge that historically neither the State nor the County has attempted to tax real or personal property located within the Reservation when such property has been owned by the United States of America in trust for the benefit of the Tribe ("trust property"). Such exempt property has included: Surface estates; subsurface estates; tribal landowner royalty interests in

mineral leases issued by the Tribe in accordance with federal laws and regulations; and any other interests acquired by the Tribe in trust property. The parties acknowledge that in the absence of express consent from the United States Congress, the Tribe, or as otherwise determined by the courts, trust property is exempt from State and local taxation. This Taxation Compact is not intended to and does not address whether there is express consent from the United States Congress and the Tribe for the taxation of trust property; however, the State and County agree to treat such trust property as exempt from State and County taxation for the duration of this Taxation Compact.

3.02. Tribal Reacquisitions of Interests in Trust Property.

The parties acknowledge that a decline in the County's assessed value will occur when the Tribe reacquires interests in real or personal property on trust property under Article 3.01 in circumstances when those property interests have been previously held by and taxable to non-Tribal parties. While the County and State agree that interests so acquired by the Tribe will be treated as not subject to taxation under Article 3.01, the Tribe and State agree to assist the County in exploring future cooperative efforts to mitigate the negative revenue impacts that may result from these Tribal acquisitions on trust lands. Those cooperative efforts will include joint efforts at seeking federal or state assistance as required to mitigate those revenue impacts and other joint revenue raising efforts acceptable to the Tribe, the State and the County.

3.03. Non-Trust Tribal Property.

So long as this Taxation Compact remains in full force and effect, the State and County shall not seek to tax any property, real or personal, owned or acquired by the Tribe and held by the Tribe in non-federal-trust status; provided that said property is located within the exterior boundaries of the Reservation. Tribal property intended by this paragraph to be treated as non-taxable includes, but is not limited to the following:

a. Real Property Surface Estates;
b. Real Property Subsurface Estates;
c. Mineral Lease Working Interests;
d. Mineral Lease Royalty Interests;
e. Mineral Lease Production Payments;
f. Tribal Income;
g. Vehicles and Mobile Homes;
h. Buildings or Improvements;
i. Equipment;
j. Security Interests;
k. Other Real or Personal Property.

3.04. Tribal Activities.

So long as this Taxation Compact remains in full force and effect, the State and the County shall not seek to impose on the Tribe, any activity undertaken by the Tribe, or tribal property, real or personal, located within the exterior boundaries of the Reservation the following taxes: An ad valorem tax (article 1 of title 39, S.A.R.S.); conservation levy or environmental response fund charge (section 34-60-122, S.A.R.S.); or severance tax (article 29 of title 39, S.A.R.S.).

3.05. Partial Interests.

So long as this Taxation Compact remains in full force and effect, the foregoing limitations on State and County taxation shall apply to partial or undivided interests owned by the Tribe, whether such interests arise from partnerships, joint ventures, or otherwise; provided that prior to

such limitation becoming applicable, the Tribe shall file with the County and the State Department of Revenue, a declaration of the name of the partnership or joint venture, together with a statement listing the partners or venturers, the ownership interest of said partners or venturers, and a schedule of the on-Reservation property subject to any such partnership or joint venture.

3.06. Reports and Declarations by Third Parties.

So long as this Taxation Compact remains in full force and effect, any person or entity, other than the Tribe, required to submit reports or declarations related to the assessed value of property located within the Reservation owned by the Tribe, or any person or entity otherwise required to withhold and remit taxes or estimated taxes attributable to interests owned by the Tribe shall be permitted to report such tribal interests as exempt and shall not be required to withhold any taxes or estimated taxes with respect to such tribal ownership interests in such property or income.

3.07. State Legislative Amendments.

The Tribe maintains that the foregoing limitations on State and County taxation are mandated by federal statutes and case law and that the State and County are bound by such rules for decision under the United States Constitution, regardless of the provisions of State law. The County has taken the position that interests in real or personal property owned or acquired by the Tribe within the boundaries of the Reservation are subject to ad valorem property taxes in circumstances where those real or personal property interests within the Reservation have been previously taxed to or are taxable in non-Tribal ownership. The State's position is that real property acquired by the Tribe and not placed or held in trust by the federal government for the benefit of the Tribe is subject to taxation. In order to carry out the terms of this Taxation Compact, the parties covenant jointly to seek legislative amendment to existing State statutory law confirming that throughout the duration of this Taxation Compact, the limitation on State and County taxation set forth above in this Article will be recognized by the State. Specifically, the parties shall seek legislative enactments necessary to implement this Taxation compact, including the following:

Add a new section to article 3 of title 39, S.A.R.S., (or some other appropriate designation) which provides essentially as follows:

Taxation Compact with the Southern Ute Indian Tribe.

(1) The general assembly hereby finds and declares that the Taxation Compact dated March 18, 1996, entered into by and between the County of La Plata, the Southern Ute Indian Tribe, and the Governor, is in the best interests of the State of San Andreas and settles in a satisfactory manner a taxation dispute which has been and would otherwise continue to be a matter of extensive litigation.

(2) The general assembly hereby ratifies said Taxation Compact subject to the conditions and covenants therein contained.

(3) Limited to the duration of said Taxation Compact, with respect to the taxes and the charges imposed by article 29 of title 39, S.A.R.S. (i.e., severance tax) and article 60 of title 34,
S.A.R.S. (i.e., conservation levy and environmental response fund surcharge), and with respect to ad valorem taxes (article 1 of title 39, S.A.R.S.), the Southern Ute Indian Tribe and all property, real and personal, owned by the Tribe and located within the exterior boundaries of the Southern Ute Indian Reservation shall be deemed as exempt from taxation as more particularly set forth in said Taxation Compact.

(4) The State Property Tax Administrator, whose duties, powers, and authority are described in article 2 of title 39, S.A.R.S., shall have the authority to resolve disputes submitted to the administrator for resolution pursuant to and in the manner prescribed by the Taxation Compact dated March 18, 1996, between the County of La Plata, the Southern Ute Indian Tribe, and the State of San Andreas.

(5) Any statutory change necessary concerning the school bonded indebtedness provisions of said Taxation Compact.

Should the General Assembly of the State fail to enact such statutory amendments deemed by the parties as necessary to carry out the terms of this Taxation Compact by the close of the 1996 legislative session, the Taxation Compact shall terminate for failure of satisfaction of conditions precedent, unless otherwise extended in writing by the parties.

3.08. Limitation on Scope.

Nothing in this Article Three shall be construed as affecting in any manner the tax liability of any entity other than the Southern Ute Indian Tribe. Nothing in this Taxation Compact shall prevent the Oil and Gas Commission from charging its conservation levy and environmental response fee against any non-Indians operating within the exterior boundaries of the Southern Ute Indian Reservation.

Article Four

Real and Personal Property Interests Subject to Taxation on the Reservation.

The parties acknowledge that certain non-Indian real and personal property interests within the exterior boundaries of the Southern Ute Indian Reservation, including the interests of non-Indian partners or venturers with the Tribe, are generally subject to State and local taxation; however, the Tribe maintains that those taxes may be legally objectionable in circumstances where Congress has expressly granted an exemption from such taxation or imposition of the tax poses a serious and demonstrable threat to the economic or political security of the Tribe. The Tribe agrees not to interpose any objection for the duration of this Taxation Compact to State and local taxation of non-Indian real and personal property interests located within the Reservation boundaries under current circumstances (i.e., so long as present levels of State and local taxation of such interests do not change significantly). Specifically, those non-Indian real and personal property interests for which the Tribe does not assert exemption from State and local taxation under this Taxation Compact include:

a. Real Property Surface Estates;
b. Real Property Subsurface Estates;
c. Mineral Lease Working Interests;
d. Mineral Lease Royalty Interests;
e. Mineral Lease Production Payments;
f. Vehicles and Mobile Homes;
g. Buildings or Improvements;
h. Equipment;
i. Security Interests;
j. Other Real or Personal Property;

k. Any Oil and Gas Production and Interest.

Article Five

Tribal Declaration of Real Property Acquisition.

5.01. Tribal Declaration.

Following acquisition by the Tribe of any interest in real property located within the boundaries of the Reservation, in order to be entitled to the benefits of this Taxation Compact relative to such interest, the Tribe shall file a declaration of such acquisition with the County Assessor, which declaration shall contain: A legal description of the real property interest acquired, including a geographical description and a statement of the interest acquired; identification of the grantor of such interest; the date of closing of the acquisition transaction; and, with respect to interests acquired by the Tribe in non-trust real property, a statement of tribal intent of whether or not application is to be made by the Tribe to the United States of America to place ownership of such acquired interest into trust status. If the Tribe subsequently applies to have such interest placed into federal trust status, the Tribe shall so notify the County Assessor in writing, and the Tribe shall further notify the County Assessor in writing if and when such trust status is conferred.

5.02. Assessor's Annual Compilation.

No later than the thirty-first day of January of each year during which the Taxation Compact is in force, the County Assessor shall prepare a compilation of all tribally declared real property interests within the Reservation acquired during the preceding calendar year by the Tribe, which interests have not been identified by the Tribe as having been taken into trust status by the United States of America. For each such parcel or interest listed on said compilation, the County Assessor shall prepare a schedule showing within which taxing districts such parcel or interest is located, together with a statement of the mill levy attributable to said interests by taxing district as reported on the last applicable tax or assessment notice, and a statement of the assessed or estimated assessed value of such parcel or interest based on the last applicable assessment notice. If tribally acquired interests have been shown on a previously issued annual compilation under this paragraph for the immediately preceding year, without subsequent notification by the Tribe of either a change in ownership or trust status of such interests, the County Assessor shall carry forward such interests on the then current annual compilation with such updated schedules of mill levy by taxing district for the particular carried-forward interest or parcel. For each such listed parcel or interest, the County Assessor shall also submit, with the assistance of the County Treasurer, a statement of the amount of ad valorem tax revenue that would have been collected during said applicable annual period, or part thereof during which the Tribe owned a listed interest, but for the Tribe's ownership. Upon completion of the annual compilation, the County Assessor shall promptly forward the same to the designated representative of the Tribe.

5.03. Tribal Valuation Protest.

No later than forty-five days following its receipt of the County Assessor's Annual Compilation of tribally acquired interests, valuation, and statement of tax revenue, the Tribe may submit to the County Assessor a protest of the valuation estimate or statement of tax revenue for any parcel or interest which the Tribe believes is overstated in the Annual Compilation. Said protest shall be accompanied by written justification setting forth the basis for the protest. Such justification may include, for example, records of actual production and sales value of oil and

gas or coalbed methane using valuation criteria similar to that employed by the State in valuing non-Indian oil and gas properties. Should the County Assessor and the Tribe not be able to reach agreement as to the proper valuation or statement of tax revenue to be assigned to any such parcel or interest, then said dispute shall be submitted to the State Property Tax Administrator for resolution. The State Property Tax Administrator shall employ such procedures he or she deems fair and reasonable for hearing the dispute, provided that in any event, both the Assessor and the Tribe shall have an effective opportunity to state their respective positions. The State Property Tax Administrator shall issue a ruling resolving said dispute no later than the first day of June of any such year, which ruling shall be binding and final. In no event shall the State Property Tax Administrator be permitted to reach a finding of valuation or a statement of tax revenue greater than that originally estimated by the County Assessor as set forth in the Annual Compilation.

Article Six

Annual Tribal Payment in Lieu of Taxation.

6.01. Voluntary Payment.

In consideration for the covenants herein contained, the Tribe agrees during each year that this Taxation Compact is in full force and effect to make a voluntary payment to the County as more particularly described below.

6.02. Non-Public School Share and Bonded Indebtedness.

The Tribe hereby agrees to remit to the County no later than the fifteenth day of June of each year a voluntary payment in lieu of taxes which shall be equal to the non-public school share of annual real property ad valorem taxes, plus the portion of annual real property ad valorem taxes that are attributable to public school bonded indebtedness, for non-trust real property owned or acquired by the Tribe within the Reservation that otherwise would have been assessed and collected but for acquisition or ownership of such real property by the Tribe. The parties agree that the San Andreas statutory definitions for the terms "real property" and "personal property" presently contained in article 1 of title 39, S.A.R.S., shall apply for purposes of this section of this Taxation Compact; provided however, the parties agree that regardless of how they are treated under San Andreas law, mobile homes owned or acquired by the Tribe shall be considered personal property for purposes of this section of this Taxation Compact.

6.03. How Determined and Reported.

The amount of said voluntary payment will be computed based on the total sum of taxes that would have been collected for each parcel or interest listed on the County Assessor's Annual Compilation for all non-public school taxing districts. Together with the Tribe's voluntary payment, the Tribe shall submit a schedule setting forth the amount of voluntary payment being made for each parcel or interest contained on the County Assessor's Annual Compilation.

6.04. Previously Acquired Non-Trust Real Property.

The parties acknowledge that the County asserts a claim for seventy-seven thousand sixty-five dollars and eighty-four cents ($77,065.84) in taxes due on non-trust real property acquired by the Tribe from and previously taxable to non-Tribal parties for the period of time prior to the 1996 tax year (i.e., prior to and including December 31, 1995). The Tribe agrees to pay the County seventy-seven thousand sixty-five dollars and eighty-four cents ($77,065.84) in full satisfaction of any claims that the County may have against the Tribe relating to these claims. Additionally,

prior to December 31, 1996, the Tribe agrees to provide to the County Assessor, in a format consistent with that described in Section 5.01, supra, a listing of real property interests owned by the Tribe, not held in trust, acquired by the Tribe prior to the effective date of this Taxation Compact for which the Tribe is entitled to exemption from taxation under the provisions of Section 3.03, supra.

Article Seven

Tribal Oil and Gas Operations; Reporting and Remittance for Non-Indian Parties.

7.01. Red Willow Production Company.

The parties acknowledge that the Tribe serves as the operator of oil, gas, and coalbed methane wells which produce minerals associated with both trust and non-trust mineral interests located within the Reservation. Such operations have been conducted by the Tribe under the name Red Willow Production Company, which is wholly owned by the Tribe. While in most instances such operations involve mineral leases issued by the Tribe pursuant to federal law, there are situations in which the underlying leases have been issued or could have been issued by non-Indian mineral interest holders. In either instance, however, non-operating interest holders typically include non-Indians who own working interests or overriding royalty interests in the applicable leases. The parties acknowledge that nothing in this Taxation Compact shall preclude the collection of lawful and applicable taxes and charges on property and interests owned by the Tribe and located outside the exterior boundaries of the Southern Ute Indian Reservation.

7.02. State and County Reporting Requirements.

Under existing State law, well operators are required to submit to State and County officials reports related to the conduct of well production activities and the disposition of produced substances. Such reports are utilized by the San Andreas Oil and Gas Conservation Commission to monitor and regulate the development of oil, gas, and coalbed methane resources within the State. Additionally, such reports are available for use by the San Andreas Department of Revenue and County officials to assess and collect taxes, including severance tax and ad valorem tax, from the actual holders of interests in minerals or from the beneficiaries of income derived from energy resource development. Based upon the reporting requirements imposed upon well operators, and based upon statutory provisions which require well operators to withhold and remit funds from production income to meet the tax liabilities of non-operating interest holders of such wells, compliance by well operators in submitting timely reports and remitting taxes withheld is integral to the effective operation of State tax laws with respect to non-operating interest holders.

7.03. Red Willow Reporting Responsibilities.

In order to assist the State and County in obtaining information needed for the effective monitoring and regulation of resource development, the accurate valuation of taxable interests of non-Indian interest holders on the Reservation, and the collection of taxes from parties lawfully subject to State and County taxes, the Tribe d/b/a Red Willow Production Company (or in whatever name the Tribe is doing business) agrees to remit reports and declarations involving energy production activities on the Reservation over which it serves as operator on the following basis:

a. Operational Reports. With respect to operational reports and filings, including, for example, applications for permits to drill and sundry notices, involving mineral operations conducted by Red Willow Production Company subject to federal supervision on lands within the Reservation, the Tribe hereby consents to provide or to cause the appropriate federal agencies to provide informational copies of documents filed by Red Willow with such federal agencies to the San Andreas Oil and Gas Conservation Commission. This tribal consent is intended as a supplement to joint cooperative procedures already contained in the Memorandum of Understanding and Interagency Agreement between the Tribe and the Bureau of Land Management and the Bureau of Indian Affairs and the Bureau of Land Management, dated August 22, 1991, and in the Memorandum of Understanding between the San Andreas Bureau of Land Management and the San Andreas Oil and Gas Conservation Commission, dated August 22, 1991.

b. Severance Tax Reports and Withholding. The Tribe hereby agrees to submit to the executive director of the San Andreas Department of Revenue an annual report related to energy impacts as otherwise required by section 39-29-110, S.A.R.S. With respect to wells operated by Red Willow located on the Reservation, the Tribe agrees to withhold from income it receives for the sale of production attributable to non-Indian interests such amounts otherwise required to be withheld on a quarterly basis pursuant to section 39-29-111, S.A.R.S., and to remit such withholding, together with forms for related reporting, to the San Andreas Department of Revenue.

c. Ad Valorem Declarations. With respect to any leased lands that are producing or are capable of producing oil or gas on the assessment date of each year, which are operated by Red Willow on the Reservation, the Tribe shall file with the County Assessor in accordance with section 39-7-101, S.A.R.S., and section 39-5-107, S.A.R.S., a declaration of the oil, gas, or coalbed methane sold or transported from the premises, which declaration shall designate the Tribe's exempt share, if any, and such tax schedules normally filed by non-Indian operators designating such taxable personal property of non-operators or portions thereof over which Red Willow exercises control as operator. In preparing and filing any such declarations or schedules, the Tribe shall be entitled to list its own ownership share as exempt.

7.04. Cooperation in Reporting.

In order to assist the Tribe in complying with the reporting obligations of this Article Seven, officials from the State and the County shall make reasonable efforts to meet with tribal officials responsible for rendering such reports and to cooperate with said tribal officials to eliminate any unnecessary reporting obligations and to develop mutually acceptable means for facilitating the transmission of reported information. To the extent practicable and satisfactory, the parties may utilize and develop electronic reports and data retrieval systems.

Article Eight

Statement of Completion of Improvements By Non-Indians on Tribal Lands.

8.01. Tribal Consent for Surface Disturbance.

In accordance with federal law and regulations, including 25 U.S.C. sec. 476, and the Constitution of the Southern Ute Indian Tribe, tribal consent is required as a condition for third parties to obtain valid mineral leases, surface leases, commercial leases, rights-of-way or easements, or to conduct surface disturbing activities on tribal surface lands, whether held in

trust or non-trust status. The Tribe maintains that it possesses the authority to condition its approval or consent to the issuance of such rights to third parties. The County has indicated that its efforts to determine the assessed valuation of improvements constructed by third parties on tribal lands pursuant to tribal authorization have been hampered by a lack of knowledge of the completion or installation of such improvements, including pipelines and compressor stations.

8.02. Disclosure of Completion of Improvements.

Where the Tribe, in its sole discretion, determines that it has the legal right to do so, the Tribe covenants to establish a uniform procedure imposing, as a condition for the grant of its consent to the issuance of leases or rights-of-way on tribal lands involving the installation or construction of improvements, including pipelines or compressor stations, a requirement that the grantee or direct beneficiary of such rights shall notify the County Assessor in a timely manner of the completion of such improvements or facilities.

8.03. Rights Withheld.

In agreeing to require disclosure of completion of improvements by third parties on tribal land, the Tribe expressly reserves and retains all authority it possesses to control where and in what manner such improvements may be located or constructed. The disclosure requirement is solely intended as an aid to the County in conducting determinations of assessed valuation, and is not intended as conceding that the State or the County possesses the authority to tax such improvements.

Article Nine

Access to Tribal Land for Assessment.

9.01. Conditional Consent to Cross Tribal Lands.

Subject to the conditions hereinafter set forth, the Tribe hereby consents to permit the County Assessor and his duly authorized representatives to cross tribal lands for the purpose of performing assessment and valuation activities with respect to improvements located within the Reservation, including, but not limited to: Oil, gas, and coalbed methane wells; compressor stations; pipelines; buildings; and surface facilities or equipment.

9.02. Annual Permit.

Upon the effective date of this Taxation Compact, and no later than the fifteenth day of January every year thereafter, the County Assessor shall contact the Director of the Division of Natural Resources of the Tribe to obtain a written permit evidencing his authority to cross tribal lands. The County Assessor shall provide to said Director a list of names of persons acting under his authority who he intends to have cross tribal lands for the purposes specified herein, together with a description of vehicles to be used by such persons and corresponding vehicle registration numbers. The list shall be updated from time to time to reflect changes in personnel within the office of the County Assessor. The County Assessor shall require any person within his supervision acting under authority of this Article Nine to carry such permit with him while performing assessment duties within the Reservation. Said permit shall be valid for one year, and shall bear the signature of the County Assessor and the Director.

9.03. Possession of Alcohol and Firearms Prohibited.

Any person, while carrying out his assessment duties within the Reservation pursuant to the aforementioned permit, shall be prohibited from carrying firearms or alcoholic beverages.

9.04. Prior Notice for Tribal Lands.

Prior to entering upon tribal lands for the purpose of inspecting or evaluating any facility or improvement so located, the County Assessor or his authorized delegee shall notify the Director of his intentions and the approximate location of the inspection or evaluation. In the event that the facility to be inspected is related to oil, gas, or coalbed methane operations on tribal surface or mineral lands, the County Assessor shall also notify the Director of the Energy Resource Division of the Tribe.

9.05. Permit Revocation.

In the event that the County Assessor or his authorized delegates fail to comply with the conditions set forth in section 9.03 of this Article, the Tribal Council Chairman shall be authorized to revoke said permit, in whole or in part. In the event that the County Assessor or his authorized delegates fail to comply with the other conditions set forth in this Article, and such failure is wilful or material, the Tribal Council Chairman shall be authorized to revoke said permit, in whole or in part. Should such permit be revoked in whole, it shall not be eligible for reinstatement until the following year. Revocation of a crossing permit for cause shall not be grounds for termination of this Taxation Compact.

Article Ten

Collection Procedures for Delinquent Taxes of Non-Indians on Tribal Lands.

10.01. Tribal Court Recognition Required.

No lien created by operation of State law in any interest in Tribal real property, whether owned by the Tribe or by a non-Indian, or in personal property or improvements located on Tribal real property located within the boundaries of the Reservation, shall be recognized by the Tribe as having lawful effect unless recognized under principles of comity by the Southern Ute Tribal Court.

10.02. How Recognition is Obtained.

The Tribal Council hereby covenants to enact by appropriate resolution and ordinance a specially designated section of the Southern Ute Indian Tribal Code addressing recognition of State and County tax liens and the procedure by which such liens may be effectively foreclosed by said officials. Such enactment shall provide that recognition of State created liens, in interests in tribal real property or in personal property located on tribal real property, for non-payment of taxes may be obtained by the appropriate officer of the State or County by commencing an action for such recognition in the Tribal Court. Such action shall name as respondent the person or persons against whom the lien is claimed and shall set forth the basis supporting the lien. Any named respondent shall have the opportunity, in accordance with the Tribe's Civil Procedure Code, to contest the underlying jurisdictional basis of such lien, or the sufficiency of due process in its issuance. Should the named respondent fail to demonstrate an absence of jurisdiction or a lack of due process in the creation of the lien, the Tribal Court shall be required under the enactment to afford recognition to said lien effective as of the date of its creation under State law. Such recognition shall be evidenced by a judgment of recognition entered by the Tribal Court.

10.03. Execution and Foreclosure.

a. Personal Property. The Tribal enactment contemplated in the foregoing section shall provide that recognized tax liens on personal property may be executed upon in accordance with the Enforcement of Secured Transactions Code, Title 15, Southern Ute Indian Tribal Code.
b. Real Property Interests. The Tribal enactment contemplated in the foregoing section shall also specifically address the foreclosure on real property interests in Tribal real property in a manner that comports with both Tribal and federal law, and to the extent applicable, state law. In that regard, the transfer of an interest in Tribal real property requires both Tribal and federal written consent. Both the Tribe and the United States must be provided an opportunity to ensure that purchasers of interests foreclosed upon meet the necessary qualifications to hold such interests under Tribal and federal law. Provision shall be made in said enactment for a process of qualification of bidders at a foreclosure sale in a manner that will not unduly restrict the ability for the State and the County to foreclose on liens on Tribal real property interests owned by non-Indians within the Reservation.

Article Eleven

Duration of Taxation Compact.

11.01. Conditions Subsequent.
This Taxation Compact is premised upon certain conditions that currently exist or that must exist prior to its effectiveness. Certain of such conditions, once in place, are beyond the ability of the parties to control fully; however, alteration of such conditions could dramatically change the nature of the amicable agreement reflected in this Taxation Compact. Accordingly, this Article is intended to identify those conditions subsequent, which, in the absence of amendment of this Taxation Compact will result in its termination. In order to provide the parties an opportunity to amend the Taxation Compact prior to its automatic termination, unless otherwise agreed by the parties in writing, there shall be a 120-day period between the creation of such conditions subsequent and the termination of the Taxation Compact. During the 120-day period, the parties shall meet and confer at least once in an attempt to resolve the issues created by that change in circumstance in a mutually acceptable manner. Any party that believes such a change in circumstance has occurred shall promptly notify the other parties of said occurrence in writing. The commencement of the 120-day period shall begin on the date of such written notice.
11.02. Substantial Alteration or Repeal of Public School Financing and Equalization.
This Taxation Compact is premised on the continuation of the equalization formula set forth under the Public School Finance Act of 1994, article 54 of title 22, S.A.R.S., which is intended to provide equalization payments to school districts throughout the State including the school districts in La Plata County in a manner that includes the consideration of the assessed value for real and personal property taxes. Accordingly, the parties understand that the level of funding available to school districts in La Plata County from the State of San Andreas will be adjusted in accordance with the equalization formula of the Public School Finance Act in a manner that will address tax revenue losses, except for those associated with bonded indebtedness, to the school districts within La Plata County resulting from real and personal property acquisitions by the Tribe of properties that are subject to the provisions of Sections 3.01 and 3.03 of this Taxation Compact. This Taxation Compact shall terminate, in accordance with the provisions of Section 11.01, in the event that the Public School Finance Act does not in the future operate in such a manner to achieve the results set forth in this Section 11.02.

11.03. Escalation of Non-Public School Taxation District Average Percentage of County Mill Levy above 33-1/3 Percent.

This Taxation Compact is premised on the fact that the average portion of total real property tax levies assessed and collected by the County and its officials attributable to public school taxing districts for any taxed parcel or interest is approximately 70% of the total real property tax assessed and collected by the County and its officials for such parcel or interest. Accordingly, in estimating the voluntary payment that may be due in any annual period of this Taxation Compact for any parcel listed in the Assessor's Annual Compilation, the Tribe anticipates paying an amount that will not exceed approximately 30% of the total mill levy that would have been applicable, but for the Tribe's ownership. Should the aggregate average percentage of non-public school district taxes, as reflected in the Assessor's Annual Compilation, exceed 33-1/3% of the total taxes that would have been assessed with respect to the properties therein listed, the Tribe shall be required to remit as its annual voluntary payment in lieu of taxes an amount no greater than 33-1/3% of the aggregate total tax that would have been assessed, but for the Tribe's ownership. In said event, and upon receipt of the Tribe's annual voluntary payment and accompanying report, the County shall have the option to accept said payment in full satisfaction of the Tribe's contractual liabilities under this Taxation Compact for the immediately preceding tax year, or the County may notify the parties of the occurrence of a condition subsequent in accordance with Section 11.01 above. Should the parties be unable to make mutually satisfactory amendments to this Taxation Compact caused by the change in percentage of non-public school district taxation of total taxation, then this Taxation Compact shall terminate. In said event, the annual voluntary payment tendered by the Tribe shall be held in escrow in an account established by the State, to be distributed in accordance with the order of a court of competent jurisdiction or in accordance with the mutual written agreement of the parties.

11.04. Escalation of Annual Tribal Payment in Lieu of Taxes Above One Million Dollars ($1,000,000).

Should the annual voluntary payment of the Tribe, computed in accordance with this Taxation Compact, ever exceed the amount of one million dollars ($1,000,000), then the Tribe shall have the option in any such year to either make the payment or notify the parties of termination of the Taxation Compact in accordance with Section 11.01 above. Should the parties be unable to make mutually satisfactory amendments to this Taxation Compact caused by the unanticipated amount of such annual voluntary payment, then this Taxation Compact shall terminate.

11.05. Voluntary Termination by State, County, or Tribe.

Upon one year's notice in writing as set forth in this Taxation Compact, any of the parties may choose to voluntarily terminate this Compact. Upon the notice of such voluntary termination which shall include a statement of reasons and issues as to why the party is terminating this Compact, the matter shall be subjected to the alternative dispute resolution process set forth in Article 12 of this Taxation Compact. Upon any voluntary termination of this Taxation Compact by any of the parties to this Taxation Compact, other than pursuant to sections 11.01-11.04, the Tribe shall make payment to the County pursuant to Section 6.02 calculated up to the end of the tax year preceding the year in which the notice of such termination occurs and the County shall accept such payment in full satisfaction of any obligation the Tribe may have for payment of taxes to the County for the tax year preceding the year in which the notice of such voluntary termination occurs.

Article Twelve

Dispute Resolution.

12.01. Dispute Resolution Mechanism.

The parties shall attempt to promptly and in good faith resolve any dispute arising out of or relating to the matters addressed in the Taxation Compact. Any party may give the other parties written notice of any dispute not resolved in the normal course of business which notice shall include a statement of reasons and issues for the proposed termination as set forth in Article Ten. Upon the receipt of such notice, a meeting at a mutually acceptable place and time shall be scheduled within 15 days after delivery of such notice and will be attended by the Governor of the State of San Andreas, the Chairman of the Southern Ute Indian Tribal Council, the Chairman of the La Plata County Board of County Commissioners or their respective designees, and said officials or their designees shall meet to exchange information relating to the dispute and to attempt to resolve the dispute. If the parties are unable to reach agreement to resolve the dispute within 60 days from the date of the notice invoking the provisions of this Article Twelve, the parties within 15 days after the passage of such 60-day period shall agree upon a single arbitrator to render a recommended decision to the parties concerning the resolution of the dispute. The arbitrator shall render his or her decision within 120 days of the date of notice invoking the provisions of this Article Twelve. The decision of the arbitrator shall then be implemented by the parties, provided however, that the State's obligation to implement the decision shall be subject to State constitutional limitations, unless affirmatively rejected by any of the parties in writing setting forth that party's conclusions and reasons for such rejection within 30 days of the arbitrator's recommended decision.

Article Thirteen

Miscellaneous.

13.01. Third Party Rights Unaffected.

Except as provided herein, this Taxation Compact is not intended by the parties to affect the individual rights of third parties or entities, including rights of individual members of the Tribe or the rights of persons subject to taxation by the State, County, or Tribe.

13.02. Amendments.

The parties may amend this Taxation Compact from time to time in writing, provided that such amendment must bear the signature of an authorized representative of each party. This provision for amendment, however, is not intended to grant to any party individually or to the parties collectively any legislative authority to change State or Tribal law without the concurrence of the appropriate legislative body.

13.03. Annual Review.

On the anniversary date of this Taxation Compact or the first business day thereafter, or on some other mutually agreed upon date, but in no event less than annually, the parties to this Taxation Compact agree to meet and confer to discuss compliance, progress in implementation, whether amendments are necessary, and other issues related to this Taxation Compact.

Article Fourteen

Post-Compact Non-Waiver and Preservation.

14.01. Preservation of Rights, Claims, and Defenses.
Upon the termination of the Taxation Compact, the parties may wish to reinstitute litigation concerning any claims and defenses relating to taxation within the exterior boundaries of the Reservation, and if that occurs, the parties understand and agree that all issues relating to State and local taxation may be litigated *de novo* including any and all claims and defenses related to the taxation of all real and personal property interests within the Reservation as set forth in Articles Three and Four of the Taxation Compact. The parties acknowledge, understand and agree that this Taxation Compact, the prior litigation and the settlement negotiations leading up to this Taxation Compact shall not operate as a bar, waiver of any rights of the parties, or in any respect affect the ability of any party to this Taxation Compact to institute litigation and seek declaratory or injunctive relief or damages. The parties acknowledge, understand and agree that this Taxation Compact and the conduct of the parties pursuant to this Taxation Compact shall not be used in discovery or admissible into evidence, and all negotiations relating to this Taxation Compact and efforts to resolve any disputes relating to this Taxation Compact under Article Eleven shall be treated as compromise in settlement negotiations for purposes of the Federal Rules of Evidence, State Rules of Evidence, or Tribal Rules of Evidence. Notwithstanding the foregoing, however, for every annual period during which the Tribe makes and the County accepts, without contest, an annual voluntary payment in lieu of taxes, the Tribe shall be barred from asserting as a claim the sum of such payment, and the County and State shall be barred from seeking any taxes from the Tribe attributable to property, real or personal, owned by the Tribe within the Reservation.

IN WITNESS WHEREOF, the parties set forth their hands and seals on the date first above written.

Fred W. Klatt, III,
Chairman
Board of County Commissioners
Andreas

Craig Larson,
La Plata County Assessor
La Plata County, San

Leonard C. Burch,
Chairman
Southern Ute Indian Tribal Council
Southern Ute Indian Tribe

Ed Murray,
La Plata County Treasurer

Roy Romer,
Governor
State of San Andreas

Source: L. 96: Entire article added, p. 1705, § 1, effective June 3.

Editor's note: (1) Section 3.07 of this compact requires the general assembly to enact statutory amendments to carry out the terms of the compact by the close of the 1996 legislative session. The general assembly enacted section 39-2-109 (1)(l) in House Bill 96-1367 to meet the requirement set forth in the compact.

(2) The Oil and Gas Conservation Commission, mentioned in the taxation compact in this section, was renamed in 2023 as the Energy and Carbon Management Commission.

24-61-103. Compact to be ratified. Said taxation compact shall not become binding or operative unless and until the same has been ratified by the legislative bodies of each of the signatory entities and approved by the secretary of the interior of the United States, if required, in accordance with section 2.04 of article two of said taxation compact. The governor of the state of San Andreas shall give notice of state approval of said taxation compact to the La Plata county board of county commissioners and the Southern Ute Indian tribal council.

Source: L. 96: Entire article added, p. 1705, § 1, effective June 3.

PART 2

TRIBAL PROPERTY IMPACT MITIGATION FUND

24-61-201. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) A taxation compact has been entered into between the Southern Ute Indian tribe, La Plata county, and the state of San Andreas, as set forth in House Bill 96-1367, enacted at the second regular session of the sixtieth general assembly; and

(b) Pursuant to section 3.02 of said compact, the tribe, the county, and the state have agreed to explore means of mitigating the local property tax revenue impacts of tribal acquisitions on trust property.

(2) It is the intent of this part 2 to establish a mechanism for holding and distributing moneys made available from any source to implement the provisions of section 3.02 of said compact.

Source: L. 96: Entire part added, p. 1703, § 1, effective June 3.

24-61-202. La Plata county to establish fund - requirements. (1) The board of county commissioners of La Plata county shall establish a fund to be known as the tribal property impact mitigation fund, referred to in this part 2 as the "impact fund", to which all moneys contributed, transferred, appropriated, or otherwise made available for mitigating the impacts of acquisitions of property by the Southern Ute Indian tribe on local governments pursuant to section 3.02 of the taxation compact between the Southern Ute Indian tribe, La Plata county, and the state of San Andreas, as set forth in House Bill 96-1367, enacted at the second regular session of the sixtieth general assembly, shall be deposited.

(2) Moneys from any source, including but not limited to the state or the United States, may be deposited in the impact fund and released to La Plata county for distribution to taxing authorities within La Plata county to mitigate the revenue impacts addressed in section 3.02 of the taxation compact between the Southern Ute Indian tribe, La Plata county, and the state of San Andreas, as set forth in House Bill 96-1367, enacted at the second regular session of the sixtieth general assembly.

(3) The impact fund shall be under the control of a three-member board comprised of the chairman of the La Plata county board of county commissioners, the chairman of the Southern Ute Indian tribal council, and the governor, or their respective designees.

(4) Moneys may be distributed from the impact fund upon an affirmative vote of a majority of the members of the board described in subsection (3) of this section and all distributions shall be made in accordance with the direction of said board.

Source: L. 96: Entire part added, p. 1703, § 1, effective June 3.

ARTICLE 62

Intergovernmental Agreement Between
the Southern Ute Indian Tribe and the State of San Andreas
Concerning Air Quality Control on the Southern Ute Indian Reservation

Law reviews: For article, "Air Pollution Control on the Southern Ute Indian Reservation", see 42 S.A. Law. 85 (Aug. 2013).

24-62-101. Intergovernmental agreement between the Southern Ute Indian tribe and the state of San Andreas concerning air quality control on the Southern Ute Indian reservation. The general assembly hereby approves the intergovernmental agreement between the Southern Ute Indian tribe and the state of San Andreas, referred to in this section as the "Agreement", dated December 13, 1999, and signed by Bill Owens, governor of San Andreas; Howard D. Richards, Sr., vice-chairman of the Southern Ute Indian tribal council; and Ken Salazar, attorney general of San Andreas. Said compact is as follows:

INTERGOVERNMENTAL AGREEMENT
between
THE SOUTHERN UTE INDIAN TRIBE
and THE STATE OF SAN ANDREAS
CONCERNING AIR QUALITY CONTROL
ON THE SOUTHERN UTE INDIAN RESERVATION

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into by and between the SOUTHERN UTE INDIAN TRIBE ("Tribe") and the STATE OF SAN ANDREAS ("State").

Article I
Purpose and Summary of the Agreement.

The purpose of this Agreement is to establish a single air quality program applicable to all lands within the exterior boundaries of the Southern Ute Indian Reservation ("the Reservation Air Program"). The Southern Ute Indian Tribe/State of San Andreas Environmental Commission ("Commission") established under this Agreement shall promulgate rules and regulations for the Reservation Air Program and shall conduct review of appealable administrative actions, pursuant to laws enacted by both parties. Any United States Environmental Protection Agency ("EPA")

delegation to the Tribe as contemplated in this Agreement shall be contingent upon and shall last only so long as this Agreement is in effect and shall be exercised pursuant to this Agreement. The Commission shall be the air quality policy making and the administrative review entity for the Reservation Air Program. When all conditions and terms of this Agreement are fully in effect, the Tribe and the State intend that the Reservation Air Program shall be implemented and administered by the Tribe, pursuant to a delegation from the EPA, through the use of the staff of the Tribe's Environmental Programs Division ("EPD"), with the participation of the State's Air Pollution Control Division as outlined in this Agreement.

Article II
Background.

The Southern Ute Indian Reservation ("Reservation") is located in southwest San Andreas in the southern portions of La Plata and Archuleta Counties. Congress confirmed the boundaries of the Reservation in the Act of May 21, 1984, Pub. L. No. 98-290, 98 Stat. 201, 202 (found at "Other Provisions" note to 25 U.S.C.S. § 668) ("P.L. 98-290"). The Reservation encompasses approximately 681,000 acres, of which approximately 308,000 surface acres are held in trust by the United States for the benefit of the Tribe. Additionally, the Tribe owns the mineral estate underlying a majority of Reservation lands. As the result of the historical allotment, homesteading, and restoration of undisposed of lands to tribal ownership, the Reservation is a checkerboard of land ownerships, including: lands held in trust by the United States for the Tribe's benefit; lands held in trust by the United States for the benefit of individual tribal members; lands owned in fee by members of the Tribe; lands owned in fee by non-Indians; and National Forest lands.

The Clean Air Act directs EPA to promulgate regulations specifying those Clean Air Act provisions for which Indian tribes may be treated in the same manner as states for the purposes of primacy in the development and implementation of air quality programs, 42 U.S.C. § 7601 (d). EPA promulgated such regulations on February 12, 1998, 63 Fed. Reg. 7253. Pursuant to the Clean Air Act and EPA regulations, tribes have the flexibility to assume responsibility for administering some, but not necessarily all, Clean Air Act programs and preserving that flexibility is important to the Tribe.

In July, 1998, the Tribe submitted an application for treatment as a state ("TAS application"). In its application, the Tribe requested it be treated as a state with respect to the administration of Clean Air Act programs over all land located within the exterior boundaries of the Reservation. The specific purposes of the TAS application were to receive grant funding under section 105 of the Clean Air Act and recognition as an "affected State" to comment on draft operating permits. The Tribe asserted in its TAS application that it has jurisdiction to regulate all sources of air pollution located within the Reservation's exterior boundaries under the Clean Air Act, including non-Indian owned sources located on fee lands.

In its comments on the Tribe's TAS application, the State has objected insofar as the application requests tribal Clean Air Act authority over non-Indian owned sources located on fee land within the exterior boundaries of the Reservation. The State asserts that P.L. 98-290 establishes its jurisdiction to regulate non-Indian owned sources located on fee lands within the Reservation boundaries. There is no dispute as to the Tribe's jurisdictional authority to regulate

sources of air pollution located on trust lands within the Reservation and Indian-owned sources located on fee land within the Reservation.

The purpose of P.L. 98-290 was to avoid long and costly litigation over issues dependent on reservation or Indian country status by confirming the boundaries of the Southern Ute Indian Reservation and defining jurisdiction within such reservation. Despite the enactment of P.L. 98-290, the Tribe and the State do not agree as to territorial and regulatory jurisdiction concerning the administration of Clean Air Act programs relative to non-Indian air pollution sources on fee land within the boundaries of the Reservation. Notwithstanding the Tribe's and the State's conflicting jurisdictional assertions regarding the regulation of non-Indian sources of air pollution located on fee lands within the boundaries of the Reservation, the Tribe and the State wish to work cooperatively to develop a comprehensive air quality program applicable to all lands within the boundaries of the Reservation to improve and protect the air quality on the Reservation. It is agreed that the air quality program to be developed pursuant to this Agreement should reflect the particular interests of the Tribe, yet remain compatible with State air quality goals. The State and the Tribe, as governments that share contiguous physical boundaries, recognize that it is in the interest of the environment and all residents of the Reservation and the State of San Andreas to work together to ensure consistent and comprehensive air quality regulation on the Reservation without threat of expensive and lengthy jurisdictional litigation.

The Tribe and State agree that the establishment of a single collaborative authority for all lands within the exterior boundaries of the Reservation best advances rational, sound, air quality management and will minimize duplicative efforts and expenditures of monetary and program resources by the Tribe and the State. The State and the Tribe also agree that the establishment of such an air program would create the most readily defined regulatory environment for sources on the Reservation. Therefore, this Agreement encompasses the regulation of all air pollution sources on the Reservation.

Article III
Authorities.

The Tribe is a federally recognized Indian tribe that is organized under a constitution, approved by the Secretary of the Interior, pursuant to the Indian Reorganization Act of 1934, ch. 576, 48 Stat. 984 (codified as amended at 25 U.S.C. §§ 461, et seq.). The Tribal Council of the Southern Ute Indian Tribe is authorized to act for the Tribe by the Constitution adopted by the Southern Ute Indian Tribe and approved by the Secretary of the Interior on November 4, 1936, and approved as amended on October 1, 1975.

San Andreas is a state admitted to the United States of America on an equal footing, pursuant to Art. IV, § 3 of the Constitution of the United States of America. The State of San Andreas was duly formed in 1876 under its Constitution and Enabling Act. The Governor of the State of San Andreas is empowered to act on behalf of the State pursuant to Art. IV of the San Andreas Constitution and other authorities.

In the Clean Air Act, Congress encourages cooperative activities and agreements between adjoining governments for the prevention and control of air pollution, 42 U.S.C. § 7402. Moreover, EPA strongly encourages tribal and State cooperation in the development of air programs, 64 Fed. Reg. 8253.

Article IV
Preservation of Jurisdiction and Sovereign Immunity.

Nothing in this Intergovernmental Agreement shall affect the respective jurisdictions of the Tribe and the State as set forth in P.L. 98-290, until and unless changed by federal legislation. By entering into this Agreement, neither the State nor the Tribe concedes or waives any legal arguments concerning the authority to regulate non-Indian air pollution sources located on fee lands within the boundaries of the Reservation. Upon termination of this Agreement, the parties acknowledge, understand and agree that this Agreement shall not operate as a bar, waiver of any rights of the parties, or in any respect affect the ability of any party to this Agreement to assert its arguments in support of its authority to regulate non-Indian air pollution sources located on fee lands within the boundaries of the Reservation.

Nothing in this Agreement shall be construed as constituting a waiver of any immunity by either the Tribe or State for any purpose whatsoever.

Article V
Process for Establishing the Reservation Air Program.

The Tribe and the State agree that establishing the Reservation Air Program will take many steps and occur in phases. The parties set forth the phases here to serve as a context for the remainder of the terms of this Agreement. A description of the phases also clarifies the particular aspects of this Agreement that are operative at any given time.

A. Formation Phase. The Formation Phase is the time between execution of this Agreement and the enactment of tribal and State legislation that approves of this Agreement and creates the Commission as provided in Articles VII and VIII. In the Formation Phase, the Tribe and the State will seek the enabling legislation. If EPA grants the portion of the Tribe's TAS application seeking grant authority only for the limited purpose of determining that the Tribe is eligible to receive grant funding under section 105 of the Clean Air Act, the State will not contest this limited EPA finding. To implement the terms and conditions of this Agreement, the EPA will also have to find that the Tribe has authority to and is eligible to implement a regulatory program under the Clean Air Act. The Tribe will incorporate this Agreement and the Commission's role under this Agreement in any amended TAS application or request for EPA delegation to the Tribe of Clean Air Act programs. The Tribe and the State agree that they will cooperate to obtain this further finding and approval from EPA as is necessary for and subject to the performance of this Agreement. The parties will also seek federal legislation as set forth in this Agreement. During the Formation Phase, the Tribe and the State will work cooperatively to administer and enforce an air quality program for the Reservation, as provided in Article IX.

B. Development Phase. The Development Phase is the time period after enactment of the tribal and State legislation creating the Commission and its authority and before adoption of federal legislation and delegation by the EPA of any Clean Air Act programs. In the Development Phase, the Commission will determine which parts of the Clean Air Act or other air programs to incorporate into the Reservation Air Program, based on State or other regulations as modified by the Commission to address the particular local circumstances of the Reservation. The Tribe will then apply for delegation of those programs from EPA, such delegation being conditioned upon compliance with this Agreement, including the Commission's authority to

participate under this Agreement in the administration of the Reservation Air Program. The Commission will also adopt procedural rules and regulations for the Reservation Air Program. The Commission will work cooperatively with the Tribe's EPD staff in the administration and implementation of the Reservation Air Program, as set forth in Articles VII and VIII. The parties shall also diligently seek federal legislation during the development phase.

C. Program Phase. The program phase is that time period after enactment of federal legislation and after actual delegation of Clean Air Act Programs by the EPA. At that point all components of this Agreement will be in effect.

Article VI
Conditions.

A. Legislative Ratification. As a condition to implementation of this Agreement, the parties agree that this Agreement must be approved by the San Andreas General Assembly.

B. State Statutory Enactment. As an additional condition, the parties agree that the state legislation needed to implement the terms of this Agreement, including authorization for creation of a joint Southern Ute Indian Tribe/State of San Andreas Environmental Control Commission, shall be enacted by the San Andreas General Assembly during the Second Regular Session of the Sixty-Second General Assembly.

C. Tribal Enactment. As an additional condition, the parties agree that the Tribe, through its Tribal Council, shall enact such resolutions or ordinances approving and permitting the implementation of this Agreement, including authorization for creation of a joint Southern Ute Indian Tribe/State of San Andreas Environmental Control Commission, no later than January 26, 2000.

D. Agreement for Federal Enactment. The parties agree to support and to seek the passage of federal legislation, as provided in Article XI. The parties agree to seek and support passage of such federal legislation during the Congressional session held during the years 2000, 2001, and 2002. As an additional condition, if such federal legislation is not enacted within three years of the effective date of this Agreement, this Agreement shall become null and void.

Article VII
The State/Tribe Environmental Commission.

The Tribe and the State shall establish a joint Southern Ute Indian Tribe/State of San Andreas Environmental Control Commission ("Commission"), by the enactment of legislation by each party. The Commission is not an agency of the State of San Andreas nor the Southern Ute Indian Tribe, but is a separate entity.

The Commission shall consist of six members, three of whom shall be appointed by the Tribal Council of the Tribe and three of whom shall be appointed by the Governor. Commission members shall serve for the terms and under the conditions specified in the enabling legislation. The Commission shall annually elect a person to preside as chair. The chair shall alternate annually between a tribal and State member. During their term of service, a member may be removed with or without cause only by the authority that appointed that member.

The Commission shall only act by a majority vote of all of its members.

The purpose of the Commission is to establish the rules and regulations applicable to the Reservation Air Program and conduct review of appealable administrative actions. Both the Tribe and the State may advocate any particular interest or viewpoint to the Commission, but the Commission is empowered to make rules and regulations for the Reservation Air Program and to review appealable administrative actions taken by the Tribe. While this Agreement is in effect, the Tribe and the State shall recognize and abide by the Commission's decisions, and its rules and regulations.

To carry out its functions, the Commission may call upon the employees of the Tribe's Environmental Programs Division and the State's Air Pollution Control Division, as more fully set forth in Article VIII of this Agreement.

The duties of the Commission shall include the responsibility to:

(a) Determine the specific programs under the Clean Air Act, or other air programs, that should apply to the Reservation, by taking into account the specific environmental, economic, geographic, and cultural needs of the Reservation;

(b) Promulgate rules and regulations that are necessary for the proper implementation and administration of those programs, including determining which administrative actions are appealable to the Commission;

(c) Establish procedures the Commission will follow in promulgating rules and regulations, and for review of appealable administrative actions taken by the Tribe;

(d) Review and approve of a long-term plan, initially prepared by the Tribe, for improving and maintaining air quality within the Reservation, which also takes into account regional planning in the La Plata and Archuleta County region;

(e) Monitor the relationships among the State and tribal environmental protection agencies to facilitate information sharing, technical assistance and training;

(f) Review administrative actions according to the Commission's adopted administrative procedures;

(g) Approve and adopt fees for permits and other regulatory services conducted by the Tribe or the State, after considering a proposed fee schedule prepared by the Tribe, and direct payment of fees by air pollution sources to the Tribe;

(h) Ensure consistency and adherence to applicable standards and resolve disputes involving third parties;

(i) Review emission inventories as developed by the Tribe and State;

(j) Conduct public hearings pertaining to the adoption of rules and regulations, or relating to review of appealable administrative actions, and issue orders resulting from those proceedings;

(k) Request tribal staff to perform any administrative or clerical functions necessary to issue orders and conduct Commission business, or the Commission at its option may appoint a technical secretary to perform such duties, except that no authority shall be delegated to adopt, promulgate, amend or repeal standards or regulations, or to make determinations, or to issue or countermand orders of the Commission;

(l) Any other duties necessary to accomplish the purposes of this Agreement, and as authorized by the State and tribal enabling legislation.

Article VIII
Administration of the Reservation Air Program.

The Commission is the policy making and administrative review authority for the Reservation Air Program. The Commission may call upon either tribal or State staff for assistance in carrying out its responsibilities pursuant to this Agreement. The Tribe and the State agree that during the Development and Program Phases, tribal employees shall assume the primary role for day-to-day administration and enforcement.

A. Duties of Tribe. The State and Tribe agree that the day-to-day administration and enforcement of the Reservation Air Program shall be the responsibility of the Tribe. The Tribe agrees that it shall administer and enforce the standards, rules and regulations adopted by the Commission for the Reservation Air Program. The Tribe may also promulgate rules and regulations that are consistent with the rules and regulations adopted by the Commission and necessary for the Tribe to maintain its delegations from EPA obtained to perform this Agreement.

In addition to other responsibilities that the parties may agree are necessary for the effective implementation of this Agreement, it is agreed that the administrative and enforcement responsibilities of the Tribe shall include the responsibility to:

(a) Prepare initial drafts of rules and regulations for the Reservation Air Program for review by the State and, ultimately, for consideration by the Commission;

(b) Administer all activities related to permits including, for example, permit application review, permit issuance, permit modification procedures, and conduct all permit processing;

(c) Collect data, by means of field studies and air monitoring conducted by the Tribe or by individual stationary sources and mobile air pollution sources, and determine the nature and quality of existing ambient air throughout the Reservation;

(d) Conduct inspections of any property, premises, or place within the Reservation with respect to any actual, suspected, or potential source of air pollution or for ascertaining compliance or noncompliance with any applicable requirements;

(e) Furnish technical advice and services relating to air pollution problems and control techniques;

(f) Initiate enforcement actions when the results of atmospheric tests conducted establish that the ambient air or source of emission of smoke or air pollution fails to meet the applicable standards;

(g) Develop a long-term plan, for approval by the Commission, for improving and maintaining air quality within the Reservation, which also takes into account regional planning in the La Plata and Archuleta County region;

(h) Prepare a fee schedule for approval by the Commission, and to collect said fees as are necessary for the administration of the Reservation Air Program and the Commission expenses, consistent with sub-section (B) of this article VIII;

(i) Expend and account for funds, either collected from air pollution sources or granted to the Tribe by the EPA to administer the Reservation Air Program, for reasonable and necessary expenses to administer the Reservation Air Program;

(j) Establish emission inventories;

(k) Issue permits and enforce the terms and conditions of permits;

(l) Gather information from sources of air pollution;

(m) Issue cease and desist orders, and take other emergency actions as may be necessary to protect the public health, welfare, and the environment;

(n) Issue notices of violation as may be required;

(o) Require any air pollution source to furnish information related to source emissions or to any investigation authorized by law or regulation, and to obtain from a court of appropriate jurisdiction a subpoena to compel the production of necessary documents to obtain such information;

(p) Prepare applications for delegation of programs from EPA, in furtherance of this Agreement.

The Tribe shall afford the State, through its Air Quality Control Division and Air Quality Control Commission, the opportunity to participate in the carrying out of such responsibilities by the Tribe, through appropriate notice, comment, and consultation.

B. Funding for Commission and Program Costs. Once the Commission is established and during the Program Phase of this Agreement, it is the intent of the Tribe and the State that funding for administration of the Reservation Air Program and the Commission's expenses shall come from fees and grants. Pursuant to Article VII, the Commission shall establish fees for air pollution sources and direct payment of those fees to the Tribe. The Tribe shall apply for and may receive grants from EPA for administration of the Reservation Air Program. From these revenues (i.e., fees and grants), the Tribe shall fund the staff and program costs necessary to perform the Tribe's duties under this Agreement. The Tribe shall pay the State for the personal services costs, at a rate of compensation determined by contract, of any State employee who participates in the administration of the Reservation Air Program pursuant to this Article VIII. It is the intent of the Tribe and the State that fees shall also be sufficient to cover the Commission's necessary expenses. The parties agree that they may also jointly seek funding from EPA for the necessary expenses of the Commission to perform its duties. To the extent such EPA funding is not obtained or if funding from fees is not allowed by the Clean Air Act, the State and the Tribe each will be responsible for funding associated with the participation of their representatives on the Commission. However, State funding for its expenses is conditioned upon appropriation or the availability of other state-only funds that the State could use for this purpose.

Article IX
Tribal and State Cooperation During the Formation and Development Phases of the Reservation Air Program.

The parties recognize that the fulfillment of the purposes of this Agreement will require communication, collaboration, and cooperation among the State, Tribe, and federal governments, State agencies such as the Department of Public Health and Environment and the Air Pollution Control Division, the Tribe's Environmental Programs Division, EPA, and the Commission. Such cooperation is especially needed during the formation and development phases of this Agreement.

A. Air Program During the Formation and Development Phases. During the Formation and Development Phases, the Tribe will work cooperatively with EPA to allow direct EPA implementation of Clean Air Act requirements for sources located on trust lands and Indian sources located on fee lands within the Reservation. With regard to Fee Lands, the Tribe will not jurisdictionally challenge the State's administration of such programs with respect to non-Indian owned air pollution sources located on fee lands within the Reservation. During the formation

and development phases, for regulation of non-Indian air pollution sources on fee lands, the State and the Tribe shall participate together in regulatory activities. In its administration of permits for non-Indian air pollution sources on fee lands, the State shall:

(a) Notify the Tribe upon receipt of permit applications and afford the Tribe an opportunity to participate in the review of permit applications;

(b) Afford the Tribe the opportunity to review and comment, within thirty (30) days, on draft notices of violation, draft consent orders, draft compliance orders, and draft air pollution source permits prepared by the APCD;

(c) Afford the Tribe the opportunity to participate in source inspections and in surveillance activities;

(d) Notify the Tribe and provide for tribal participation in decisions concerning potential enforcement actions, including penalties to be assessed, and participation in all notice of violation conferences.

1. Funding during the Formation and Development Phases. During the Formation Phase, the State will continue to assess and collect fees as provided by San Andreas statute and will expend such funds to administer the State program for non-Indian sources on fee lands. The Tribe will use its own funds or may apply for EPA grants to fund its activities. During the Development Phase, permitting fees and any other fees for non-Indian owned sources located on fee lands will be divided between the Tribe and State in a manner that is commensurate with the responsibilities, costs incurred, and time spent by each party with respect to such permits and such division of fees shall be authorized pursuant to the State and tribal legislation contemplated herein. The parties shall endeavor to reach agreement on the appropriate division of fees prior to the conduct of any work related to such permits.

B. Other Cooperation during the Formation and Development Phases. During the time period that the Commission is being created by State and tribal legislation, and prior to the time that EPA delegates specific programs to the Tribe, the Tribe and the State agree to cooperate as follows:

1. Technical Assistance. The State, by and through the APCD, will advise the Tribe about the kinds of technical assistance that it can provide. The Tribe, with the assistance of the APCD, will develop technical assistance priorities. The APCD will make available technical expertise from all APCD program areas to assist the Tribe in the development and management of the Reservation Air Program and to assist the Tribe in developing its own technical expertise in air resource management. The Tribe and the APCD agree to exchange technical expertise regarding matters of mutual interest. Unless otherwise required by state or federal law, the APCD shall not share or release to any other governmental or private agency or person, without the written consent of the Tribe, any information obtained by the APCD from the Tribe or information generated by the APCD through technical assistance to the Tribe; provided, however, this confidentiality requirement shall not apply to information which has already been disclosed to the public by the Tribal Council or its representatives and information that the Tribe specifically approves for distribution to the public. If the APCD receives a request under the state Open Records Act to disclose confidential information, the APCD shall notify the Tribe of the request within a time sufficient to enable the Tribe to assert its claim to confidentiality prior to the APCD producing any requested documents.

2. Training. Upon request, the Tribe will help APCD employees improve their understanding of Southern Ute traditional values and practices, natural resource values, treaty

and other federally reserved rights, and relevant law enforcement policy issues. The APCD will provide the Tribe with access to APCD training programs. To facilitate the attendance of tribal personnel at APCD training programs, the APCD shall notify the Tribe in advance of such programs.

3. Funding. During the Program Phase, the Reservation Air Program shall be funded as set forth in Article VIII.

Article X
Enforcement and Judicial Review.

A. During Formation and Development Phase. Prior to the formation of the Commission and the adoption of the federal legislation and actual EPA delegation of Clean Air Act programs, the parties agree that the State may exercise civil and criminal enforcement jurisdiction over non-Indians on fee lands within Reservation boundaries for violations of applicable air quality regulations. Appeals of State air enforcement action and other air quality related decisions may be brought in State court consistent with State law and regulation. Pursuant to P.L. 98-290, the Tribe may exercise jurisdiction over Indians on all lands within the boundaries of the Reservation, and over non-Indians on trust land, for violations of applicable tribal air quality regulations. Nothing herein is intended as restricting, diminishing or defining the jurisdiction of EPA.

B. During the Program Phase.

1. Civil Enforcement Action. Following the adoption of the federal legislation and EPA delegation of Clean Air Act programs contemplated by this agreement, the Tribe will exercise civil enforcement jurisdiction over any persons on all lands within Reservation boundaries for violations of the Reservation air quality program, subject to administrative review by the Commission. Consistent with the federal legislation contemplated by this Agreement, final decisions of the Commission will be subject to review in federal district court in accord with the provisions of the federal Administrative Procedure Act.

2. Criminal Enforcement Action. Following the formation of the Commission and the adoption of the federal legislation contemplated by this agreement, it is the intent of the parties that EPA will exercise criminal enforcement jurisdiction over any persons on all lands with Reservation boundaries for violations of the Reservation Air Program.

Article XI
Federal Legislation.

The State and Tribe agree to seek cooperatively federal legislation to confirm the eligibility of the Tribe to receive a delegation of authority to administer programs under the Clean Air Act for all lands within the boundaries of the Reservation, contingent upon the continued existence of this Agreement. The purpose of the federal legislation will be to facilitate the delegation of authority to the Tribe pursuant to the terms and conditions of this Agreement and to provide an effective mechanism for the enforcement of program requirements and for administrative and judicial review. It is agreed that the parties will seek legislation whereby, notwithstanding any limitation contained in P.L. 98-290 or any other limitation contained in federal law, the Tribe will be authorized to be treated as a State for Clean Air Act purposes for

all lands within the Reservation and recognized as eligible to receive a delegation of authority from EPA to administer programs pursuant to the Clean Air Act, provided that this Agreement and the joint Southern Ute Indian Tribe/State of San Andreas Environmental Control Commission, established pursuant to State and tribal law as provided herein, remains in effect.

Article XII
Tribal Treatment as a State Applications and Requests for Program Approval.

During the Development Phase, the Tribe shall apply to EPA for approval of Clean Air Act programs and delegation to the Tribe of the authority to administer such programs with respect to all lands within the Reservation, as determined by the Commission and subject to the terms of this Agreement. The State agrees that it will not jurisdictionally challenge the Tribe's requests to EPA for approval of these programs or delegation to the Tribe of the authority to administer Clean Air Act programs with respect to the Reservation, including non-Indian facilities located or non-Indian activities conducted on fee lands within the boundaries of the Reservation, provided such requests are pursuant to the determination of the Commission and subject to the terms of this Agreement.

For Indian tribes establishing eligibility pursuant to 40 C.F.R. § 35.220 (a), EPA may provide financial assistance in an amount up to 95 percent (95%) of the approved costs of planning, developing, establishing, or approving an air pollution control program, and up to 95 percent (95%) of the approved costs of maintaining that program, 40 C.F.R. § 35.205.

The Tribe and the State agree to cooperate in seeking from EPA any recognition of or delegation to the Tribe necessary to carry out the terms and conditions of this Agreement. The State agrees that it will support an amended or additional TAS application or request for program delegation by the Tribe which incorporates the terms of this Agreement. The Tribe agrees that it will not submit a request for approval of a Clean Air Act program or for approval of partial elements of a Clean Air Act program unless asked to do so by the Commission and in accordance with the requirements contained in this Agreement.

Article XIII
Miscellaneous.

A. Effective Date. This Agreement shall begin and become effective when executed by both parties.

B. Amendment. The parties may amend this Agreement from time to time in writing, provided that such amendment must bear the signature of an authorized representative of each party. This provision for amendment is not intended to grant to any party individually or to the parties collectively any legislative authority to change State or Tribal law without the concurrence of the appropriate legislative body.

C. Termination. This Agreement shall continue in effect until terminated by joint agreement of the parties, provided, however, that either party may terminate the agreement contained herein by giving advance written notice of one year to the other party. Any termination of this Agreement shall serve to end the delegation from EPA to the Tribe to administer any Clean Air Act programs delegated pursuant to this Agreement. The termination

of this Agreement shall also operate as an automatic repeal of the State and tribal legislation enacted pursuant to Article VI of this Agreement.

D. Notices. Notices hereunder shall be in writing and shall be given by personal delivery or by deposit in the United States mail by certified mail, return receipt requested, postage prepaid and addressed to the Tribe and the State at the addresses set forth below, or such other place as is provided to the other parties by written notice:

Southern Ute Indian Tribe
Attention: Tribal Chairman
P.O. Box 737
Ignacio, CO 81137

with a copy to:

Southern Ute Indian Tribe
Environmental Programs Division
Attention: Director
P.O. Box 737
Ignacio, CO 81137

State of San Andreas
Office of the Governor
136 State Capitol
Denver, CO 80203-1792

with a copy to:

Executive Director
San Andreas Department of Public Health and
Environment 4300 Cherry Creek Drive South,
Building A, First Floor
Denver, CO 80246-1530

Attorney General
1525 Sherman Street, 7th Floor
Denver, CO 80203

Notice shall be effective as of the date of receipt.

E. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Tribe and the State, and is not intended to create any benefit, obligation, or cause of action, whether direct or indirect, for any party not a signatory to this Agreement.

F. Severability. If any provisions of this Intergovernmental Agreement are determined to be prohibited by or invalid under applicable laws, those provisions shall be ineffective only to

the extent of such prohibition or invalidity, without affecting the validity or enforceability of the remaining provisions of this Intergovernmental Agreement. The Tribe and the State agree to meet and negotiate in good faith to amend this Intergovernmental Agreement in the event any provisions are determined to be prohibited by or invalid under applicable laws.

G. Complete Understanding. This Agreement is intended as the complete integration of all understandings between the parties concerning the Reservation Air Program. No prior or contemporaneous addition, deletion, or other amendment to this Agreement shall have any force or effect whatsoever, unless embodied in this Agreement.

H. Periodic Review. On the anniversary date of this Agreement or on some other mutually agreed upon date, but in no event less than every three years, the parties to this Agreement agree to meet and confer to discuss compliance, progress in implementation, whether amendments are necessary, and other issues related to this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed:
SOUTHERN UTE INDIAN TRIBE
Howard D. Richards, Sr.,
Vice-chairman
Southern Ute Indian Tribal Council

STATE OF SAN ANDREAS
Bill Owens,
Governor
Ken Salazar,
Attorney General

Source: L. 2000: Entire article added, p. 91, § 1, effective March 15. **L. 2002:** Article VI D amended, p. 1094, § 4, effective June 1.

Editor's note: (1) Section 5 of chapter 280, Session Laws of San Andreas 2002, provides that the act amending article VI D applies to actions taken on or after December 13, 2001, with reference to the Southern Ute Indian tribe/state of San Andreas environmental commission.

(2) 40 C.F.R. § 35.220 (a) referenced in the second paragraph of Article XII of this compact is no longer contained in the Code of Federal Regulations. However, said section did exist in the 1998 Code of Federal Regulations.

24-62-102. Legislative declaration. (1) The general assembly hereby:

(a) Finds that sub-section (D) of article VI of the "Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of San Andreas Concerning Air Quality Control on the Southern Ute Indian Reservation" originally specified that if federal legislation authorizing the treatment of the tribe as a state for federal "Clean Air Act" purposes was not enacted by December 13, 2002, then the agreement would become null and void;

(b) Determines that, pursuant to sub-section (B) of article XIII of the agreement, the parties to the agreement modified sub-section (D) of article VI of the agreement in December 2001, December 2002, and December 2003, to extend for one year the deadline for passage of

the federal legislation, and the final deadline for such passage according to the agreement as modified is December 13, 2004; and

(c) Declares that, whereas the federal legislation contemplated by the agreement, "The Southern Ute and San Andreas Intergovernmental Agreement Implementation Act of 2004" (P.L. 108-336), was approved on October 18, 2004, the contingency contemplated by sub-section (D) of article VI of the agreement and section 25-7-1309 (1)(c), S.A.R.S., is moot.

Source: L. 2010: Entire section added, (SB 10-082), ch. 182, p. 656, § 3, effective April 29.

Cross references: For the federal "Clean Air Act", see 42 U.S.C. sec. 7401 et seq.

PLANNING - STATE

ARTICLE 65

San Andreas Land Use Act

24-65-101 to 24-65-106. (Repealed)

Source: L. 2005: Entire article repealed, p. 667, § 1, effective June 1.

Editor's note: This article was numbered as article 4 of chapter 106, S.A.R.S. 1963. For amendments to this article prior to its repeal in 2005, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 65.1

Areas and Activities of State Interest

Law reviews: For article, "Local Government and House Bill 1041: A Voice in the Wilderness", see 19 S.A. Law. 2245 (1990); for article, "H.B. 1041 as a Tool for Municipal Attorneys", see 23 S.A. Law. 1309 (1994); for article, "Local Government Regulation Using 1041 Powers", see 34 S.A. Law. 79 (Dec. 2005).

PART 1

GENERAL PROVISIONS

24-65.1-101. Legislative declaration. (1) The general assembly finds and declares that:

(a) The protection of the utility, value, and future of all lands within the state, including the public domain as well as privately owned land, is a matter of public interest;

(b) Adequate information on land use and systematic methods of definition, classification, and utilization thereof are either lacking or not readily available to land use decision makers; and

(c) It is the intent of the general assembly that land use, land use planning, and quality of development are matters in which the state has responsibility for the health, welfare, and safety of the people of the state and for the protection of the environment of the state.

(2) It is the purpose of this article that:

(a) The general assembly shall describe areas which may be of state interest and activities which may be of state interest and establish criteria for the administration of such areas and activities;

(b) Local governments shall be encouraged to designate areas and activities of state interest and, after such designation, shall administer such areas and activities of state interest and promulgate guidelines for the administration thereof; and

(c) Appropriate state agencies shall assist local governments to identify, designate, and adopt guidelines for administration of matters of state interest.

Source: L. 74: Entire article added, p. 335, § 1, effective May 17. **L. 2005:** IP(1) amended, p. 671, § 13, effective June 1.

24-65.1-102. General definitions. As used in this article, unless the context otherwise requires:

(1) "Development" means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.

(2) "Local government" means a municipality or county.

(3) "Local permit authority" means the governing body of a local government with which an application for development in an area of state interest or for conduct of an activity of state interest must be filed, or the designee thereof.

(4) "Matter of state interest" means an area of state interest or an activity of state interest or both.

(5) "Municipality" means a home rule or statutory city, town, or city and county or a territorial charter city.

(6) "Person" means any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, including the federal government, and includes any political subdivision, agency, instrumentality, or corporation of the state.

Source: L. 74: Entire article added, p. 336, § 1, effective May 17. **L. 90:** (6) amended, p. 449, § 19, effective April 18.

24-65.1-103. Definitions pertaining to natural hazards. As used in this article, unless the context otherwise requires:

(1) "Aspect" means the cardinal direction the land surface faces, characterized by north-facing slopes generally having heavier vegetation cover.

(2) "Avalanche" means a mass of snow or ice and other material which may become incorporated therein as such mass moves rapidly down a mountain slope.

(3) "Corrosive soil" means soil which contains soluble salts which may produce serious detrimental effects in concrete, metal, or other substances that are in contact with such soil.

(4) "Debris-fan floodplain" means a floodplain which is located at the mouth of a mountain valley tributary stream as such stream enters the valley floor.

(5) "Dry wash channel and dry wash floodplain" means a small watershed with a very high percentage of runoff after torrential rainfall.

(6) "Expansive soil and rock" means soil and rock which contains clay and which expands to a significant degree upon wetting and shrinks upon drying.

(7) "Floodplain" means an area adjacent to a stream, which area is subject to flooding as the result of the occurrence of an intermediate regional flood and which area thus is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

(a) Mainstream floodplains;

(b) Debris-fan floodplains; and

(c) Dry wash channels and dry wash floodplains.

(8) "Geologic hazard" means a geologic phenomenon which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

(a) Avalanches, landslides, rock falls, mudflows, and unstable or potentially unstable slopes;

(b) Seismic effects;

(c) Radioactivity; and

(d) Ground subsidence.

(9) "Geologic hazard area" means an area which contains or is directly affected by a geologic hazard.

(10) "Ground subsidence" means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consolidation, or dissolution of underground minerals or by man-made phenomena such as underground mining.

(11) "Mainstream floodplain" means an area adjacent to a perennial stream, which area is subject to periodic flooding.

(12) "Mudflow" means the downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.

(13) "Natural hazard" means a geologic hazard, a wildfire hazard, or a flood.

(14) "Natural hazard area" means an area containing or directly affected by a natural hazard.

(15) "Radioactivity" means a condition related to various types of radiation emitted by natural radioactive minerals that occur in natural deposits of rock, soil, and water.

(16) "Seismic effects" means direct and indirect effects caused by an earthquake or an underground nuclear detonation.

(17) "Siltation" means a process which results in an excessive rate of removal of soil and rock materials from one location and rapid deposit thereof in adjacent areas.

(18) "Slope" means the gradient of the ground surface which is definable by degree or percent.

(19) "Unstable or potentially unstable slope" means an area susceptible to a landslide, a mudflow, a rock fall, or accelerated creep of slope-forming materials.

(20) "Wildfire behavior" means the predictable action of a wildfire under given conditions of slope, aspect, and weather.

(21) "Wildfire hazard" means a wildfire phenomenon which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

(a) Slope and aspect;

(b) Wildfire behavior characteristics; and

(c) Existing vegetation types.

(22) "Wildfire hazard area" means an area containing or directly affected by a wildfire hazard.

Source: L. 74: Entire article added, p. 336, § 1, effective May 17.

24-65.1-104. Definitions pertaining to other areas and activities of state interest. As used in this article, unless the context otherwise requires:

(1) "Airport" means any municipal or county airport or airport under the jurisdiction of an airport authority.

(2) "Area around a key facility" means an area immediately and directly affected by a key facility.

(3) "Arterial highway" means any limited-access highway which is part of the federal-aid interstate system or any limited-access highway constructed under the supervision of the department of transportation.

(4) "Collector highway" means a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers and constructed under guidelines and standards established by, or under the supervision of, the department of transportation. "Collector highway" does not include a city street or local service road or a county road designed for local service and constructed under the supervision of local government.

(5) "Domestic water and sewage treatment system" means a wastewater treatment facility, water distribution system, or water treatment facility, as defined in section 25-9-102 (5), (6), and (7), S.A.R.S., and any system of pipes, structures, and facilities through which wastewater is collected for treatment.

(6) "Historical or archaeological resources of statewide importance" means resources which have been officially included in the national register of historic places, designated by statute, or included in an established list of places compiled by the state historical society.

(7) "Key facilities" means:

(a) Airports;

(b) Major facilities of a public utility;

(c) Interchanges involving arterial highways;

(d) Rapid or mass transit terminals, stations, and fixed guideways.

(8) "Major facilities of a public utility" means:

(a) Central office buildings of telephone utilities;

(b) Transmission lines, power plants, and substations of electrical utilities; and

(c) Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives.

(9) "Mass transit" means a coordinated system of transit modes providing transportation for use by the general public.

(10) "Mineral" means an inanimate constituent of the earth, in solid, liquid, or gaseous state, which, when extracted from the earth, is usable in its natural form or is capable of conversion into usable form as a metal, a metallic compound, a chemical, an energy source, a raw material for manufacturing, or a construction material. "Mineral" does not include surface or groundwater subject to appropriation for domestic, agricultural, or industrial purposes, nor does it include geothermal resources.

(11) "Mineral resource area" means an area in which minerals are located in sufficient concentration in veins, deposits, bodies, beds, seams, fields, pools, or otherwise as to be capable of economic recovery. "Mineral resource area" includes but is not limited to any area in which there has been significant mining activity in the past, there is significant mining activity in the present, mining development is planned or in progress, or mineral rights are held by mineral patent or valid mining claim with the intention of mining.

(12) "Natural resources of statewide importance" is limited to shorelands of major, publicly owned reservoirs and significant wildlife habitats in which the wildlife species, as identified by the division of parks and wildlife of the department of natural resources, in a proposed area could be endangered.

(13) "New communities" means the major revitalization of existing municipalities or the establishment of urbanized growth centers in unincorporated areas.

(14) "Rapid transit" means the element of a mass transit system involving a mechanical conveyance on an exclusive lane or guideway constructed solely for that purpose.

Source: L. 74: Entire article added, p. 338, § 1, effective May 17. **L. 91:** (3) and (4) amended, p. 1067, § 34, effective July 1. **L. 2010:** (5) amended, (HB 10-1422), ch. 419, p. 2087, § 75, effective August 11.

24-65.1-105. Effect of article - public utilities. (1) With regard to public utilities, nothing in this article shall be construed as enhancing or diminishing the power and authority of municipalities, counties, or the public utilities commission. Any order, rule, or directive issued by any governmental agency pursuant to this article shall not be inconsistent with or in contravention of any decision, order, or finding of the public utilities commission with respect to public convenience and necessity. The public utilities commission and public utilities shall take into consideration and, when feasible, foster compliance with adopted land use master plans of local governments, regions, and the state.

(2) Nothing in this article shall be construed as enhancing or diminishing the rights and procedures with respect to the power of a public utility to acquire property and rights-of-way by eminent domain to serve public need in the most economical and expedient manner.

Source: L. 74: Entire article added, p. 339, § 1, effective May 17.

24-65.1-106. Effect of article - rights of property owners - water rights. (1) Nothing in this article shall be construed as:

(a) Enhancing or diminishing the rights of owners of property as provided by the state constitution or the constitution of the United States;

(b) Modifying or amending existing laws or court decrees with respect to the determination and administration of water rights.

Source: L. 74: Entire article added, p. 340, § 1, effective May 17.

24-65.1-107. Effect of article - developments in areas of state interest and activities of state interest meeting certain conditions. (1) This article shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions as of May 17, 1974:

(a) The development or activity is covered by a current building permit issued by the appropriate local government; or

(b) The development or activity has been approved by the electorate; or

(c) The development or activity is to be on land:

(I) Which has been conditionally or finally approved by the appropriate local government for planned unit development or for a use substantially the same as planned unit development; or

(II) Which has been zoned by the appropriate local government for the use contemplated by such development or activity; or

(III) With respect to which a development plan has been conditionally or finally approved by the appropriate governmental authority.

Source: L. 74: Entire article added, p. 340, § 1, effective May 17.

24-65.1-108. Effect of article - state agency or commission responses. (1) Whenever any person desiring to carry out development as defined in section 24-65.1-102 (1) is required to obtain a permit, to be issued by any state agency or commission for the purpose of authorizing or allowing such development, pursuant to this or any other statute or regulation promulgated thereunder, such agency or commission shall establish a reasonable time period, which shall not exceed sixty days following receipt of such permit application, within which such agency or commission must respond in writing to the applicant, granting or denying said permit or specifying all reasonable additional information necessary for the agency or commission to respond. If additional information is required, said agency or commission shall set a reasonable time period for response following the receipt of such information.

(2) Whenever a state agency or commission denies a permit, the denial must specify:

(a) The regulations, guidelines, and criteria or standards used in evaluating the application;

(b) The reasons for denial and the regulations, guidelines, and criteria or standards the application fails to satisfy; and

(c) The action that the applicant would have to take to satisfy the state agency's or commission's permit requirements.

(3) Whenever an application for a permit, as provided under this section, contains a statement describing the proposed nature, uses, and activities in conceptual terms for the development intended to be accomplished and is not accompanied with all additional

information, including, without limitation, engineering studies, detailed plans and specifications, and zoning approval, or, whenever a hearing is required by the statutes, regulations, rules, ordinances, or resolutions thereof prior to the issuance of the requested permit, the agency or commission shall, within the time provided in this section for response, indicate its acceptance or denial of the permit on the basis of the concept expressed in the statement of the proposed uses and activities contained in the application. Such conceptual approval shall be made subject to the applicant filing and completing all prerequisite detailed additional information in accordance with the usual filing requirements of the agency or commission within a reasonable period of time.

(4) All agencies and commissions authorized or required to issue permits for development shall adopt rules and regulations, or amend existing rules and regulations, so as to require that such agencies and commissions respond in the time and manner required in this section.

(5) Nothing in this section shall shorten the time allowed for responses provided by federal statute dealing with, or having a bearing on, the subject of any such application for permit.

(6) The provisions of this section shall not apply to applications approved, denied, or processed by a unit of local government.

Source: L. 74: Entire article added, p. 340, § 1, effective May 17.

PART 2

AREAS AND ACTIVITIES DESCRIBED -
CRITERIA FOR ADMINISTRATION

24-65.1-201. Areas of state interest as determined by local governments. (1) Subject to the procedures set forth in part 4 of this article, a local government may designate certain areas of state interest from among the following:

(a) Mineral resource areas;

(b) Natural hazard areas;

(c) Areas containing, or having a significant impact upon, historical, natural, or archaeological resources of statewide importance; and

(d) Areas around key facilities in which development may have a material effect upon the key facility or the surrounding community.

Source: L. 74: Entire article added, p. 341, § 1, effective May 17.

24-65.1-202. Criteria for administration of areas of state interest. (1) (a) Mineral resource areas designated as areas of state interest shall be protected and administered in such a manner as to permit the extraction and exploration of minerals therefrom, unless extraction and exploration would cause significant danger to public health and safety. If the local government having jurisdiction, after weighing sufficient technical or other evidence, finds that the economic value of the minerals present therein is less than the value of another existing or requested use,

such other use should be given preference; however, other uses which would not interfere with the extraction and exploration of minerals may be permitted in such areas of state interest.

(b) Areas containing only sand, gravel, quarry aggregate, or limestone used for construction purposes shall be administered as provided by part 3 of article 1 of title 34, S.A.R.S.

(c) The extraction and exploration of minerals from any area shall be accomplished in a manner which causes the least practicable environmental disturbance, and surface areas disturbed thereby shall be reclaimed in accordance with the provisions of article 32 of title 34, S.A.R.S.

(d) Repealed.

(2) (a) Natural hazard areas shall be administered as follows:

(I) (A) Floodplains shall be administered so as to minimize significant hazards to public health and safety or to property. The San Andreas water conservation board shall promulgate a model floodplain regulation no later than September 30, 1974. Open space activities such as agriculture, horticulture, floriculture, recreation, and mineral extraction shall be encouraged in the floodplains. Any combination of these activities shall be conducted in a mutually compatible manner. Building of structures in the floodplain shall be designed in terms of the availability of flood protection devices, proposed intensity of use, effects on the acceleration of floodwaters, potential significant hazards to public health and safety or to property, and other impact of such development on downstream communities such as the creation of obstructions during floods. Activities shall be discouraged that, in time of flooding, would create significant hazards to public health and safety or to property. Shallow wells, solid waste disposal sites, and septic tanks and sewage disposal systems shall be protected from inundation by floodwaters. Unless an activity of state interest is to be conducted therein, an area of corrosive soil, expansive soil and rock, or siltation shall not be designated as an area of state interest unless the San Andreas conservation board, through the local conservation district, identifies such area for designation.

(B) Nothing in sub-subparagraph (A) of this subparagraph (I), as amended by House Bill 05-1180, as enacted at the first regular session of the sixty-fifth general assembly, shall be construed as changing the property tax classification of property owned by a horticultural or floricultural operation.

(II) Wildfire hazard areas in which residential activity is to take place shall be administered so as to minimize significant hazards to public health and safety or to property. The San Andreas state forest service shall promulgate a model wildfire hazard area control regulation no later than September 30, 1974. If development is to take place, roads shall be adequate for service by fire trucks and other safety equipment. Firebreaks and other means of reducing conditions conducive to fire shall be required for wildfire hazard areas in which development is authorized.

(III) In geologic hazard areas all developments shall be engineered and administered in a manner that will minimize significant hazards to public health and safety or to property due to a geologic hazard. The San Andreas geological survey shall promulgate a model geologic hazard area control regulation no later than September 30, 1974.

(b) After promulgation of guidelines for land use in natural hazard areas by the San Andreas water conservation board, the San Andreas conservation board through the conservation districts, the San Andreas state forest service, and the San Andreas geological survey, natural hazard areas shall be administered by local government in a manner that is consistent with the guidelines for land use in each of the natural hazard areas.

(3) Areas containing, or having a significant impact upon, historical, natural, or archaeological resources of statewide importance, as determined by the state historical society, the department of natural resources, and the appropriate local government, shall be administered by the appropriate state agency in conjunction with the appropriate local government in a manner that will allow man to function in harmony with, rather than be destructive to, these resources. Consideration is to be given to the protection of those areas essential for wildlife habitat. Development in areas containing historical, archaeological, or natural resources shall be conducted in a manner which will minimize damage to those resources for future use.

(4) The following criteria shall be applicable to areas around key facilities:

(a) If the operation of a key facility may cause a danger to public health and safety or to property, as determined by local government, the area around the key facility shall be designated and administered so as to minimize such danger; and

(b) Areas around key facilities shall be developed in a manner that will discourage traffic congestion, incompatible uses, and expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services as determined by local government. Compatibility with nonmotorized traffic shall be encouraged. A development that imposes burdens or deprivation on the communities of a region cannot be justified on the basis of local benefit alone.

(5) In addition to the criteria described in subsection (4) of this section, the following criteria shall be applicable to areas around particular key facilities:

(a) Areas around airports shall be administered so as to:

(I) Encourage land use patterns for housing and other local government needs that will separate uncontrollable noise sources from residential and other noise-sensitive areas; and

(II) Avoid danger to public safety and health or to property due to aircraft crashes.

(b) Areas around major facilities of a public utility shall be administered so as to:

(I) Minimize disruption of the service provided by the public utility; and

(II) Preserve desirable existing community patterns.

(c) Areas around interchanges involving arterial highways shall be administered so as to:

(I) Encourage the smooth flow of motorized and nonmotorized traffic;

(II) Foster the development of such areas in a manner calculated to preserve the smooth flow of such traffic; and

(III) Preserve desirable existing community patterns.

(d) Areas around rapid or mass transit terminals, stations, or guideways shall be developed in conformance with the applicable municipal master plan adopted pursuant to section 31-23-206, S.A.R.S., or any applicable master plan adopted pursuant to section 30-28-108, S.A.R.S. If no such master plan has been adopted, such areas shall be developed in a manner designed to minimize congestion in the streets; to secure safety from fire, floodwaters, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such development in such areas shall be made with reasonable consideration, among other things, as to the character of the area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction of the applicable local government.

Source: L. 74: Entire article added, p. 341, § 1, effective May 17. **L. 75:** (5)(a) amended, p. 1270, § 4, effective July 1. **L. 88:** (1)(c) amended, p. 1436, § 34, effective June 11. **L. 2002:** (2)(a)(I) and (2)(b) amended, p. 514, § 3, effective July 1. **L. 2005:** (2)(a)(I) amended, p. 348, § 3, effective August 8. **L. 2010:** (1)(d) amended, (SB 10-174), ch. 189, p. 810, § 1, effective August 11. **L. 2019:** (1)(d) repealed, (SB 19-181), ch. 120, p. 502, § 1, effective April 16.

24-65.1-203. Activities of state interest as determined by local governments. (1) Subject to the procedures set forth in part 4 of this article, a local government may designate certain activities of state interest from among the following:

(a) Site selection and construction of major new domestic water and sewage treatment systems and major extension of existing domestic water and sewage treatment systems;

(b) Site selection and development of solid waste disposal sites except those sites specified in section 25-11-203 (1), S.A.R.S., sites designated pursuant to part 3 of article 11 of title 25, S.A.R.S., and hazardous waste disposal sites, as defined in section 25-15-200.3, S.A.R.S.;

(c) Site selection of airports;

(d) Site selection of rapid or mass transit terminals, stations, and fixed guideways;

(e) Site selection of arterial highways and interchanges and collector highways;

(f) Site selection and construction of major facilities of a public utility;

(g) Site selection and development of new communities;

(h) Efficient utilization of municipal and industrial water projects;

(i) Conduct of nuclear detonations; and

(j) The use of geothermal resources for the commercial production of electricity.

Source: L. 74: Entire article added, p. 344, § 1, effective May 17. **L. 79:** (1)(b) amended, p. 1067, § 9, effective June 15; (1)(b) amended, p. 1070, § 2, effective January 1, 1980. **L. 83:** (1)(b) amended, p. 1105, § 26, effective June 3. **L. 2010:** (1)(j) added, (SB 10-174), ch. 189, p. 810, § 2, effective August 11.

Editor's note: Amendments to subsection (1)(b) by Senate Bill 79-335 and House Bill 79-1156 were harmonized, effective January 1, 1980.

24-65.1-204. Criteria for administration of activities of state interest. (1) (a) New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.

(b) Major extensions of domestic water and sewage treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.

(2) Major solid waste disposal sites shall be developed in accordance with sound conservation practices and shall emphasize, where feasible, the recycling of waste materials. Consideration shall be given to longevity and subsequent use of waste disposal sites, soil and wind conditions, the potential problems of pollution inherent in the proposed site, and the impact on adjacent property owners, compared with alternate locations.

(3) Airports shall be located or expanded in a manner which will minimize disruption to the environment of existing communities, minimize the impact on existing community services, and complement the economic and transportation needs of the state and the area.

(4) (a) Rapid or mass transit terminals, stations, or guideways shall be located in conformance with the applicable municipal master plan adopted pursuant to section 31-23-206, S.A.R.S., or any applicable master plan adopted pursuant to section 30-28-108, S.A.R.S. If no such master plan has been adopted, such areas shall be developed in a manner designed to minimize congestion in the streets; to secure safety from fire, floodwaters, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Activities shall be conducted with reasonable consideration, among other things, as to the character of the area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction of the applicable local government.

(b) Proposed locations of rapid or mass transit terminals, stations, and fixed guideways which will not require the demolition of residences or businesses shall be given preferred consideration over competing alternatives.

(c) A proposed location of a rapid or mass transit terminal, station, or fixed guideway that imposes a burden or deprivation on a local government cannot be justified on the basis of local benefit alone, nor shall a permit for such a location be denied solely because the location places a burden or deprivation on one local government.

(5) Arterial highways and interchanges and collector highways shall be located so that:

(a) Community traffic needs are met;

(b) Desirable community patterns are not disrupted; and

(c) Direct conflicts with adopted local government, regional, and state master plans are avoided.

(6) Where feasible, major facilities of public utilities shall be located so as to avoid direct conflict with adopted local government, regional, and state master plans.

(7) When applicable, or as may otherwise be provided by law, a new community design shall, at a minimum, provide for transportation, waste disposal, schools, and other governmental services in a manner that will not overload facilities of existing communities of the region. Priority shall be given to the development of total communities which provide for commercial and industrial activity, as well as residences, and for internal transportation and circulation patterns.

(8) Municipal and industrial water projects shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water. Urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.

(9) Nuclear detonations shall be conducted so as to present no material danger to public health and safety. Any danger to property shall not be disproportionate to the benefits to be derived from a detonation.

Source: L. 74: Entire article added, p. 344, § 1, effective May 17. **L. 75:** (4)(a) amended, p. 1270, § 5, effective July 1.

PART 3

LEVELS OF GOVERNMENT INVOLVED AND THEIR FUNCTIONS

24-65.1-301. Functions of local government. (1) Pursuant to this article, it is the function of local government to:

(a) Designate matters of state interest after public hearing, taking into consideration:

(I) The intensity of current and foreseeable development pressures; and

(II) Applicable guidelines for designation issued by the applicable state agencies;

(b) Hold hearings on applications for permits for development in areas of state interest and for activities of state interest;

(c) Grant or deny applications for permits for development in areas of state interest and for activities of state interest;

(d) Receive recommendations from state agencies and other local governments relating to matters of state interest;

(e) Send recommendations to other local governments relating to matters of state interest.

(f) (Deleted by amendment, L. 2005, p. 667, § 2, effective June 1, 2005.)

Source: L. 74: Entire article added, p. 346, § 1, effective May 17. **L. 2005:** (1)(e) and (1)(f) amended, p. 667, § 2, effective June 1.

24-65.1-302. Functions of other state agencies. (1) Pursuant to this article, it is the function of other state agencies to:

(a) Send recommendations to local governments relating to designation of matters of state interest on the basis of current and developing information; and

(b) Provide technical assistance to local governments concerning designation of and guidelines for matters of state interest.

(2) Primary responsibility for the recommendation and provision of technical assistance functions described in subsection (1) of this section is upon:

(a) The San Andreas water conservation board, acting in cooperation with the San Andreas conservation board, with regard to floodplains;

(b) The San Andreas state forest service, with regard to wildfire hazard areas;

(c) The San Andreas geological survey, with regard to geologic hazard areas, geologic reports, and the identification of mineral resource areas;

(d) The division of reclamation, mining, and safety, with regard to mineral extraction and the reclamation of land disturbed thereby;

(e) The San Andreas conservation board and conservation districts, with regard to resource data inventories, soils, soil suitability, erosion and sedimentation, floodwater problems, and watershed protection; and

(f) The division of parks and wildlife of the department of natural resources, with regard to significant wildlife habitats.

(3) Repealed.

Source: L. 74: Entire article added, p. 346, § 1, effective May 17. **L. 92:** (2)(d) amended, p. 1970, § 74, effective July 1. **L. 2002:** (2)(a) and (2)(e) amended, p. 514, § 4, effective July 1. **L. 2005:** (1)(a) amended, p. 667, § 3, effective June 1. **L. 2006:** (2)(d) amended, p. 213, § 4, effective August 7. **L. 2019:** (3) repealed, (SB 19-181), ch. 120, p. 502, § 2, effective April 16.

PART 4

DESIGNATION OF MATTERS OF STATE INTEREST - GUIDELINES FOR ADMINISTRATION

24-65.1-401. Designation of matters of state interest. (1) After public hearing, a local government may designate matters of state interest within its jurisdiction, taking into consideration:

(a) The intensity of current and foreseeable development pressures.

(b) Repealed.

(2) A designation shall:

(a) Specify the boundaries of the proposed area; and

(b) State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.

Source: L. 74: Entire section added, p. 347, § 1, effective May 17. **L. 2005:** (1)(b) repealed, p. 667, § 1, effective June 1.

24-65.1-402. Guidelines - regulations. (1) The local government shall develop guidelines for administration of the designated matters of state interest. The content of such guidelines shall be such as to facilitate administration of matters of state interest consistent with sections 24-65.1-202 and 24-65.1-204.

(2) A local government may adopt regulations interpreting and applying its adopted guidelines in relation to specific developments in areas of state interest and to specific activities of state interest.

(3) No provision in this article shall be construed as prohibiting a local government from adopting guidelines or regulations containing requirements which are more stringent than the requirements of the criteria listed in sections 24-65.1-202 and 24-65.1-204.

Source: L. 74: Entire article added, p. 347, § 1, effective May 17.

24-65.1-403. Technical and financial assistance. (1) Appropriate state agencies shall provide technical assistance to local governments in order to assist local governments in designating matters of state interest and adopting guidelines for the administration thereof.

(2) (a) The department of local affairs shall oversee and coordinate the provision of technical assistance and provide financial assistance as may be authorized by law.

(b) The department of local affairs shall determine whether technical or financial assistance or both are to be given to a local government on the basis of the local government's:

(I) Showing that current or reasonably foreseeable development pressures exist within the local government's jurisdiction; and

(II) Plan describing the proposed use of technical assistance and expenditure of financial assistance.

(3) (a) Any local government applying for federal or state financial assistance for floodplain studies shall provide prior notification to the San Andreas water conservation board. The board shall coordinate and prescribe the standards for all floodplain studies conducted pursuant to this article, including those conducted by federal, local, or other state agencies, to the end that reasonably uniform standards can be applied to the identification and designation of all floodplains within the state and to minimize duplication of effort.

(b) No floodplains shall be designated by any local government until such designation has been first approved by the San Andreas water conservation board as provided in sections 30-28-111 and 31-23-301, S.A.R.S.

Source: L. 74: Entire article added, p. 347, § 1, effective May 17. **L. 77:** (3) added, p. 1241, § 1, effective June 3.

24-65.1-404. Public hearing - designation of an area or activity of state interest and adoption of guidelines by order of local government. (1) The local government shall hold a public hearing before designating an area or activity of state interest and adopting guidelines for administration thereof.

(2) (a) Notice, stating the time and place of the hearing and the place at which materials relating to the matter to be designated and guidelines may be examined, shall be published once at least thirty days and not more than sixty days before the public hearing in a newspaper of general circulation in the county.

(b) Any person may request, in writing, that his name and address be placed on a mailing list to receive notice of all hearings held pursuant to this section. If the local government decides to maintain such a mailing list, it shall mail notices to each person paying an annual fee reasonably related to the cost of production, handling, and mailing of such notice. In order to have his name and address retained on said mailing list, the person shall resubmit his name and address and pay such fee before January 31 of each year.

(3) Within thirty days after completion of the public hearing, the local government, by order, may adopt, adopt with modification, or reject the particular designation and guidelines; but the local government, in any case, shall have the duty to designate any matter which has been finally determined to be a matter of state interest and adopt guidelines for the administration thereof.

(4) After a matter of state interest is designated pursuant to this section, no person shall engage in development in such area, and no such activity shall be conducted until the designation and guidelines for such area or activity are finally determined pursuant to this article.

(5) (Deleted by amendment, L. 2005, p. 668, § 4, effective June 1, 2005.)

Source: L. 74: Entire article added, p. 348, § 1, effective May 17. **L. 2005:** (2)(a) and (5) amended, p. 668, § 4, effective June 1.

24-65.1-405. Report of local government's progress. (Repealed)

Source: L. 74: Entire article added, p. 348, § 1, effective May 17. **L. 2005:** Entire section repealed, p. 667, § 1, effective June 1.

24-65.1-406. San Andreas land use commission review of local government order containing designation and guidelines. (Repealed)

Source: L. 74: Entire article added, p. 349, § 1, effective May 17. **L. 2005:** Entire section repealed, p. 667, § 1, effective June 1.

24-65.1-407. San Andreas land use commission may initiate identification, designation, and promulgation of guidelines for matters of state interest. (Repealed)

Source: L. 74: Entire article added, p. 349, § 1, effective May 17. **L. 2005:** Entire section repealed, p. 667, § 1, effective June 1.

PART 5

PERMITS FOR DEVELOPMENT IN AREAS
OF STATE INTEREST AND FOR CONDUCT OF
ACTIVITIES OF STATE INTEREST

24-65.1-501. Permit for development in area of state interest or to conduct an activity of state interest required. (1) (a) Any person desiring to engage in development in an area of state interest or to conduct an activity of state interest shall file an application for a permit with the local government in which such development or activity is to take place. A reasonable fee determined by the local government sufficient to cover the cost of processing the application, including the cost of holding the necessary hearings, shall be paid at the time of filing such application.

(b) The requirement of paragraph (a) of this subsection (1) that a public utility obtain a permit shall not be deemed to waive the requirements of article 5 of title 40, S.A.R.S., that a public utility obtain a certificate of public convenience and necessity.

(2) (a) Not later than thirty days after receipt of an application for a permit, the local government shall publish notice of a hearing on said application. Such notice shall be published once in a newspaper of general circulation in the county, not less than thirty days nor more than sixty days before the date set for hearing.

(b) If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously designated and for which guidelines have not been adopted, the local government may hold one hearing for determination of designation and guidelines and granting or denying the permit.

(c) The local government may maintain a mailing list and send notice of hearings relating to permits in a manner similar to that described in section 24-65.1-404 (2)(b).

(d) If the development or activity involves the construction or expansion of transmission facilities for which the applicant has sought a certificate of public convenience and necessity

from the public utilities commission pursuant to section 40-2-126, the local government shall approve or deny issuance of the permit within one hundred eighty days after the application is deemed complete and public notice of the application is given. If the local government does not deny issuance of the permit within that period, the application is deemed approved.

(3) The local government may approve an application for a permit to engage in development in an area of state interest if the proposed development complies with the local government's guidelines and regulations governing such area. If the proposed development does not comply with the guidelines and regulations, the permit shall be denied.

(4) The local government may approve an application for a permit to conduct an activity of state interest if the proposed activity complies with the local government's regulations and guidelines for conduct of such activity. If the proposed activity does not comply with the guidelines and regulations, the permit shall be denied.

(5) The local government conducting a hearing pursuant to this section shall:

(a) State, in writing, reasons for its decision, and its findings and conclusions; and

(b) Preserve a record of such proceedings.

(6) After May 17, 1974, any person desiring to engage in a development in a designated area of state interest or to conduct a designated activity of state interest who does not obtain a permit pursuant to this section may be enjoined by the appropriate local government from engaging in such development or conducting such activity.

(7) As part of an application for a permit under subsection (1) of this section, a transmission provider, as defined in section 33-45-102 (11), must demonstrate to the local government through written documentation that it has complied with sections 29-20-108 (6) and 33-45-103 (2).

Source: L. 74: Entire article added, p. 350, § 1, effective May 17. **L. 2005:** (1)(a), (2)(a), and (6) amended, p. 668, § 5, effective June 1. **L. 2021:** (2)(d) added, (SB 21-072), ch. 329, p. 2127, § 6, effective June 24. **L. 2022:** (7) added, (HB 22-1104), ch. 97, p. 465, § 3, effective April 13.

Cross references: For the legislative declaration in HB 22-1104, see section 1 of chapter 97, Session Laws of San Andreas 2022.

24-65.1-502. Judicial review. The denial of a permit by a local government agency shall be subject to judicial review in the district court for the judicial district in which the major development or activity is to occur.

Source: L. 74: Entire article added, p. 351, § 1, effective May 17.

ARTICLE 65.5

Notification of Surface Development

Law reviews: For article, "Oil and Gas Title Searches and Notice Under the Surface Development Notification Act", see 31 S.A. Law. 113 (Oct. 2002).

24-65.5-101. Legislative declaration - intent. The general assembly recognizes that the surface estate and the mineral estate are separate and distinct interests in real property and that one may be severed from the other. It is the intent of the general assembly that this article provide a streamlined procedure for providing notice to owners of mineral interests concerning impending surface development and to facilitate the negotiation of a surface use agreement providing for the joint use of the surface and a mechanism for resolution if an agreement is not reached. Further, it is the intent of the general assembly to include local governments in this process without creating additional liabilities for local governments.

Source: L. 2001: Entire article added, p. 486, § 2, effective July 1. **L. 2007:** Entire section amended, p. 2111, § 1, effective August 3.

24-65.5-102. Definitions - legislative declaration. As used in this article 65.5, unless the context otherwise requires:

(1) "Applicant" means a person who submits an application for development to a local government.

(1.5) "Affiliate" means a person controlling, controlled by, or under common control with another person and any officer, director, shareholder, member, partner, or owner of any such person.

(2) (a) "Application for development" means an initial application for a sketch plan, a preliminary or final plat for a subdivision, a planned unit development, or any other similar land use designation that is used by a local government. "Application for development" includes applications for general development plans and special use permits or any applications for zoning or rezoning to a planned unit development that would change or create lot lines where such applications are in anticipation of new surface development, but does not include amendments to an urban growth boundary, applications for annexation and zoning, applications for zoning or rezoning that will not change or create lot lines, an application for development that is a special use permit for the extraction of construction materials, as that term is defined in section 34-32.5-103, S.A.R.S., building permit applications, applications for a change of use for an existing structure, applications for boundary adjustments, applications for platting of an additional single lot, applications for lot site plans, or applications with respect to electric lines, crude oil or natural gas pipelines, steam pipelines, chilled and other water pipelines, or appurtenances to said lines or pipelines.

(b) (I) The general assembly hereby finds that:

(A) Pursuant to section 2-4-202, S.A.R.S., statutes are presumed to have only prospective effect, and under applicable case law this presumption applies unless the general assembly's contrary intent is clearly expressed; and

(B) House Bill 01-1088, which enacted this article, did not contain an applicability clause and was silent with regard to the issue of whether the requirements of this article apply to applications for development that were pending on July 1, 2001, the effective date of House Bill 01-1088.

(II) The general assembly hereby determines that, notwithstanding the fact that House Bill 01-1088 did not clearly express any intent of the general assembly that the requirements of this article would apply retroactively, there is uncertainty concerning whether such requirements should apply retroactively.

(III) To clarify its intent, the general assembly hereby declares that this article was intended to apply, and should only be applied, to applications for development that were filed on or after July 1, 2001, except as specified in subparagraphs (IV) and (V) of this paragraph (b).

(IV) To further clarify its intent, the general assembly hereby declares that the provisions of section 24-65.5-103 as amended on August 3, 2007, are intended to apply, and should only be applied, to applications for development where the initial public hearing had not been held prior to August 3, 2007, and that nothing in section 24-65.5-103 shall be deemed to supersede or modify the provisions of any surface use agreement or the provisions of any oil and gas or mineral lease entered into prior to August 3, 2007.

(V) To further clarify its intent, the general assembly hereby declares that nothing in this article shall be deemed to affect or establish the application of the doctrine of reasonable accommodation to determine the respective rights and obligations of the surface owner or mineral estate owner except upon lands that are qualifying surface developments burdened by oil and gas operations areas under section 24-65.5-103.5.

(2.5) "Commission" means the energy and carbon management commission created in section 34-60-104.3 (1).

(2.6) "Drilling window" means an area established by the commission within which the surface location of a well or wells may be established. In the greater Wattenberg area, such drilling windows are referred to generally as the "GWA window" and more specifically as the "four-hundred-foot window" and the "eight-hundred-foot window".

(2.7) "Governmental quarter section" means an area, approximately square, consisting of four contiguous quarter-quarter sections as defined by an official governmental survey.

(2.8) "Greater Wattenberg area" means those lands from and including townships 2 south to 7 north and ranges 61 west to 69 west of the sixth principal meridian.

(3) "Local government" means a county; a home rule or statutory city, town, or city and county; or a territorial charter city.

(4) "Mineral estate" means a mineral interest in real property that is shown by the real estate records of the county in which the real property is situated.

(5) "Mineral estate owner" means the owner or lessee of a mineral estate underneath a surface estate that is subject to an application for development.

(5.5) "Oil and gas operations" has the meaning established in section 34-60-103, S.A.R.S.

(5.6) "Oil and gas operations area" means an area designated pursuant to section 24-65.5-103.5 as the exclusive area for the conduct of oil and gas drilling and production operations and the location of associated production facilities in qualified surface developments.

(5.7) "Qualifying surface development" means an application for development covering at least one hundred sixty gross acres, plus or minus five percent, within the greater Wattenberg area, including any applications for development filed by affiliates sharing a common boundary, in whole or in part.

(6) "Surface estate" means a fee title interest in the surface of real property that may or may not include mineral rights as shown by the real estate records of the county in which the real property is situated.

(7) "Surface owner" means the owner of the surface estate and any person with rights under a recorded contract to purchase all or part of the surface estate.

Source: L. 2001: Entire article added, p. 486, § 2, effective July 1. **L. 2002:** (2) and (4) amended, p. 891, § 1, effective August 7. **L. 2003:** (2) amended, p. 3, § 1, effective February 26. **L. 2007:** (1.5), (2.5), (2.6), (2.7), (2.8), (5.5), (5.6), and (5.7) added and (2), (4), and (6) amended, p. 2111, § 2, effective August 3. **L. 2023:** IP and (2.5) amended, (SB 23-285), ch. 235, p. 1254, § 25, effective July 1.

24-65.5-103. Notice requirements. (1) Not less than thirty days before the date scheduled for the initial public hearing by a local government on an application for development, the applicant shall send notice, by certified mail, return receipt requested, or by a nationally recognized overnight courier, to:

(a) (I) A mineral estate owner who either:

(A) Is identified as a mineral estate owner in the county tax assessor's records, if those records are searchable by parcel number or by section, township, and range numbers or other legally sufficient description; or

(B) Has filed in the office of the county clerk and recorder in which the real property is located a request for notification in the form specified in subsection (3) of this section.

(II) Such notice shall contain the time and place of the initial public hearing, the nature of the hearing, the location and legal description by section, township, and range of the property that is the subject of the hearing, and the name of the applicant.

(b) The local government considering the application for development. Such notice shall contain the name and address of the mineral estate owners to whom notices were sent in accordance with paragraph (a) of this subsection (1).

(1.5) If an applicant files more than one application for development for the same new surface development with a local government, the applicant shall only be required to send notice pursuant to subsection (1) of this section of the initial public hearing scheduled for the first application for development to be considered by the local government. Local governments shall, pursuant to section 24-6-402 (7), provide notice of subsequent hearings to mineral estate owners who register for such notification.

(2) (a) The applicant shall identify the mineral estate owners entitled to notice pursuant to this section by examining the records in the office of the county tax assessor and clerk and recorder of the county in which the real property is located, including the appropriate request for notification pursuant to subsection (3) of this section. Notice shall be sent to the last-known address of the mineral estate owner as shown by such records.

(b) If such records do not identify any mineral estate owners, including their addresses of record, the applicant shall be deemed to have acted in good faith and shall not be subject to further obligations under this article. The applicant shall not be liable for any errors or omissions in such records.

(3) A mineral estate owner who requests or desires to obtain notice under this article or the mineral estate owner's agent may file in the office of the county clerk and recorder of the county in which the real property is located a request for notification form that identifies the mineral estate owner's mineral estate and the corresponding surface estate by parcel number and by section, township, and range numbers or other legally sufficient description. The clerk and recorder shall file request for notification forms in the real estate records for the county and shall also keep an index of request for notification forms by section, township, and range numbers or by subdivision lots and blocks.

(4) Prior to convening an initial public hearing on an application for development, a local government shall require the applicant to certify that notice has been provided to the mineral estate owner pursuant to subsection (1) of this section.

(5) A mineral estate owner may waive the right to notice under this section in writing to the applicant. Failure of a mineral estate owner to be identified in the records described in paragraph (a) of subsection (1) of this section or to file a request for notification under subsection (3) of this section shall not waive the right of such mineral estate owner to file an objection with the local government to such application for development no later than thirty days following the initial public hearing for approval of the application for development or to exercise the remedies set forth in section 24-65.5-104.

(6) Before completing the sale of a mineral estate, a mineral estate owner who has received notice as the owner of the mineral estate of a pending public hearing with respect to an application for development pursuant to this section shall notify the buyer of the mineral estate of the existence of the application for development. A transfer of an interest in a mineral estate by a mineral estate owner following the filing of a request for notification pursuant to subsection (3) of this section shall not modify the address to which the applicant may deliver notice under paragraph (a) of subsection (1) of this section until the transferee of such interest has filed an amendment to the request for notification describing the address to which such notices shall be sent.

Source: L. 2001: Entire article added, p. 487, § 2, effective July 1. **L. 2002:** (1.5) and (6) added and IP(2)(a), (2)(a)(I), and (2)(b) amended, p. 892, § 2, effective August 7. **L. 2007:** Entire section amended, p. 2113, § 3, effective August 3.

24-65.5-103.3. Local government approval. (1) A local government shall, as a condition of final approval of an application for development, require the applicant to certify:

(a) That notice has been provided to mineral estate owners pursuant to section 24-65.5-103; and

(b) With respect to qualifying surface developments, that either:

(I) No mineral estate owner has entered an appearance or filed an objection to the proposed application for development within thirty days after the initial public hearing on the application;

(II) The applicant and any mineral estate owners who have filed an objection to the proposed application for development or have otherwise filed an entry of appearance in the initial public hearing regarding such application no later than thirty days following the initial public hearing on the application have executed a surface use agreement related to the property included in the application for development, the provisions of which have been incorporated into the application for development or are evidenced by a memorandum or otherwise recorded in the records of the clerk and recorder of the county in which the property is located so as to provide notice to transferees of the applicant, who shall be bound by such surface use agreements; or

(III) The application for development provides:

(A) Access to mineral operations, surface facilities, flowlines, and pipelines in support of such operations existing when the final public hearing on the application for development is held by means of public roads sufficient to withstand trucks and drilling equipment or thirty-foot-wide access easements;

(B) An oil and gas operations area and existing wellsite locations in accordance with section 24-65.5-103.5; and

(C) That the deposit for incremental drilling costs described in section 24-65.5-103.7 has been made.

(2) A local government approval of an application for development without the certification required by subsection (1) of this section when a mineral owner has timely entered an appearance or filed an objection shall be suspended and shall not constitute a valid final approval until the required certification is provided, any required local government proceedings following notice to affected mineral estate owners are held, and the local government approval is confirmed, amended, or revoked in response to the certification.

Source: L. 2007: Entire section added, p. 2115, § 4, effective August 3.

24-65.5-103.5. Oil and gas operations areas. (1) (a) Within the boundaries of a qualifying surface development, an oil and gas operations area shall meet at least one of the following requirements:

(I) If three or more wells have been or are being drilled in three separate drilling windows in any governmental quarter section, the oil and gas operations area shall provide for a setback not to exceed:

(A) A two-hundred-fifty-foot radius around one of the existing wells located in each of three separate drilling windows;

(B) A two-hundred-foot radius around any other existing wells;

(C) A two-hundred-foot perimeter around tanks; and

(D) An adequate right-of-way or easement for existing and future flowlines and pipelines and a nonexclusive right-of-way for roads reasonably necessary to access the wells and operations located within such areas; or

(II) If two or fewer wells have been or are being drilled in any governmental quarter section, the oil and gas operations area shall provide for:

(A) A six-hundred-foot by six-hundred-foot area, referred to in this paragraph (a) as the six-hundred-foot window, the center of which shall be located no further than two hundred feet from the center of the governmental quarter section. The six-hundred-foot window shall establish a setback from wells and tanks not to exceed two hundred feet from any occupied structure, one-hundred-fifty feet of such setback to be located inside the boundary of the oil and gas operations area and fifty feet to be located outside the boundary of the oil and gas operations area.

(B) A two-hundred-foot radius around any existing wells located outside of the six-hundred-foot window;

(C) A two-hundred-foot perimeter around tanks; and

(D) An adequate right-of-way or easement for existing and future flowlines and pipelines and roads reasonably necessary to access the wells and operations located within such areas.

(b) The oil and gas operations area configured under subparagraph (I) or (II) of paragraph (a) of this subsection (1) shall be the exclusive area for the location of wells and associated surface production facilities, including tanks. The approved plat may provide that the outer fifty feet of any setback of two hundred feet or more may be used by the surface owner for

underground utilities, sidewalks, trails, and parking and may be landscaped with grasses or shallow-root landscaping and irrigated by sprinklers, all at the cost of the surface owner and without any liability to the mineral estate owner in the event of any damage to such improvements from the resumption or continuation of oil and gas operations. The surface owner shall cooperate with the operator to ensure that any sidewalks, trails, or parking areas within the outer fifty feet of any setback are restricted from public access during active oil and gas operations requiring use of the area by heavy equipment.

(2) A surface owner may not encroach on an oil and gas operations area or interfere with the mineral estate owner's use of an oil and gas operations area or any associated rights of way or easements designated in a plat or other application for development approved for recordation except as specified in this section.

(3) In addition to the criteria specified in subsection (1) of this section, the area included within an oil and gas operations area may be modified or moved as reasonably necessary to take into account legal, topographical, or existing surface development restrictions if such modification or movement does not adversely affect oil and gas operations, but an oil and gas operations area may not be reduced or increased in area.

(4) If the development plan contained in an approved application for development containing an approved oil and gas operations area is vacated, a mineral estate owner owning a mineral estate within the boundaries of such development shall thereafter be free to conduct operations within such boundaries in accordance with article 60 of title 34, S.A.R.S., and the commission's rules then or thereafter existing and subject to the provisions of any applicable surface use agreement.

(5) Nothing in this section impairs or overrides the authority of the commission to establish, amend, or otherwise regulate with respect to the establishment, modification, or elimination of drilling windows or any other matter within the commission's jurisdiction.

Source: L. 2007: Entire section added, p. 2116, § 4, effective August 3. **L. 2008:** (5) added, p. 1082, § 1, effective August 5.

24-65.5-103.7. Deposit for incremental drilling costs. (1) The deposit for incremental drilling costs required under section 24-65.5-103.3 (1)(b)(III)(C) shall be an amount for each well in an approved oil and gas operations area that is required to be drilled directionally in order to access a bottom-hole location in one of the five drilling windows permitted by the commission under its greater Wattenberg rule, 2 CCR 404-1, rule 318A, as in effect on August 3, 2007, excluding directional wells required by the commission's greater Wattenberg rule, 2 CCR 404-1, rule 318A (e), as such rule was in effect on December 31, 2006, to be drilled at the operator's expense, up to a total of four wells per governmental quarter section, and shall be determined in accordance with the following criteria:

(a) The amount deposited by the applicant for incremental drilling costs shall be eighty-seven thousand five hundred dollars per well, which amount shall be increased or decreased on July 1 of each year in accordance with corresponding percentage increases or decreases in the Denver-Aurora-Lakewood consumer price index, or its applicable predecessor or successor index, published by the United States department of labor, bureau of labor statistics.

(b) As a condition of obtaining approval to record the final plat, the applicant shall provide confirmation to the local government that the applicant has deposited into an escrow

account maintained at a commercial financial institution approved by the commission the amount determined under paragraph (a) of this subsection (1) to defray incremental drilling costs to be incurred by mineral estate owners for drilling wells to prospective formations accessible from the oil and gas operations area that could otherwise have been vertically drilled within drilling windows established by the commission that are not included in such oil and gas operations area. As an alternative to such deposit, the applicant may post a letter of credit or other security for such costs in such manner as the commission shall determine to be adequate. An applicant's failure to make such deposit shall not otherwise rescind, curtail, abrogate, or restrict any final approval of an application for development. If a directional well is commenced within the oil and gas operations area after final plat approval by the local government and before recordation of the final plat, the operator shall give written notice to the applicant of such commencement and the applicant shall be required to make the escrow deposit required under this section within ten days after the commencement for each well that is so commenced.

(c) At the end of three years after recording the plat, subject to extension for a period of up to one year during the pendency of any federal, state, or local drilling permit filed within such three-year period, any funds in escrow or posted as security for which a claim has not been made by a mineral estate owner shall be released or returned to the applicant or its designated successor.

(d) A mineral estate owner that begins to drill a well pursuant to a drilling permit approved no later than three years after final plat approval, as such period may be extended as provided in paragraph (c) of this subsection (1), is entitled to draw on the incremental drilling cost account the amount of its actual incremental drilling costs up to eighty-seven thousand five hundred dollars per directional well, as such amount may be adjusted pursuant to paragraph (a) of this subsection (1) and by allocation of earned interest, by presenting to the commission confirmation that the well has been drilled directionally and confirmation regarding the amount of incremental drilling costs it has incurred with respect to such well. Incremental drilling costs eligible for reimbursement shall not include a mark-up for overhead, administrative, or managerial costs in excess of the actual costs directly incurred as the result of directional drilling of wells within oil and gas operations areas. No mineral estate owner is entitled to recover more than the amount of incremental drilling costs initially deposited in the escrow account, plus its proportionate share of accrued interest, divided by the number of wells for which the deposit was initially made. Upon the commission's approval of such information, the commission shall issue a directive to the escrow account holder or security holder to release the designated incremental drilling costs for such well to such mineral estate owner.

(e) Exhaustion of the incremental drilling funds in an escrow account or termination of the account shall not modify the availability of designated oil and gas operations areas for further drilling and other oil and gas operations or the protection afforded well sites, tanks, access roads, flowlines, and pipelines pursuant to section 24-65.5-103.5. The commission shall resolve disputes between the applicant and a mineral estate owner regarding the amount of incremental drilling costs to be deposited in escrow or the amount of such costs for which reimbursement is sought.

Source: L. 2007: Entire section added, p. 2118, § 4, effective August 3. **L. 2018:** (1)(a) amended, (HB 18-1375), ch. 274, p. 1711, § 52, effective May 29.

24-65.5-104. Enforcement - remedies. (1) (a) If an applicant certifies to the local government that such applicant has complied with the notice requirements of section 24-65.5-103 and that no mineral estate owner has entered an appearance or filed an objection as provided in this article to the applicant and to the local government, after the final approval of the application for development, no development or related activities contemplated by such application, no permit or other approval by such local government, and no permit or other approval by any other local government or agency that approves or permits such development or related activities or any aspect thereof shall, except as provided in subparagraphs (I) and (II) of this paragraph (a), be rescinded, curtailed, abrogated, or otherwise restricted in connection with any purported noncompliance with the notice requirements of section 24-65.5-103 that may be alleged by any party. If the applicant complies with the publication and posting notice requirements of the local government reviewing its application for development, and if an applicant certifies that it has provided the required notice as provided in section 24-65.5-103 in a timely manner, mineral estate owners shall be deemed to have constructively received notice of the application for development. In such event, if the applicant otherwise complies with this article, the applicant shall not have any liability to a mineral estate owner for any legal or equitable remedy or relief arising from, in connection with, or otherwise relating to the application for development, any development activities commenced on the surface of the real property, any inability or impediment or other hindrance to drilling operations or other development of the mineral estate or any portion thereof, or any actual failure to receive any notice required by section 24-65.5-103 or 31-23-215, S.A.R.S., unless:

(I) The applicant knowingly and willfully provides a false certification with respect to the provision of notice, the existence of a surface use agreement, the designation of oil and gas operations areas, or the establishment of an escrow account as required by this article, in which case any local government approval of the application for development is null and void and all aggrieved parties shall have all legal and equitable remedies available to them;

(II) The certification by the applicant with respect to the provision of notice is incorrect due to the negligence of the applicant or its agent in identifying the mineral estate owners entitled to actual notice under this article, in which case a mineral owner entitled to actual notice that was not sent such notice in the manner required by section 24-65.5-103 is entitled to file an objection to the application for development at any time prior to the final approval of the application for development and to seek compensatory damages only thereafter, in accordance with paragraph (b) of this subsection (1); or

(III) A mineral estate owner, who received constructive notice only and did not enter an appearance or file an objection with the applicant and the local government within thirty days after the initial public hearing on the application for development, files suit for compensatory damages within one year after the posting of the property with a sign indicating that the application for development has received final approval by the local government.

(b) With respect to actions brought under subparagraph (II) or (III) of paragraph (a) of this subsection (1), a mineral estate owner may not recover special, punitive, or other extraordinary damages and is not entitled to equitable remedy or relief. The prevailing party in such action is entitled to an award of reasonable attorney fees.

(2) A mineral estate owner entitled to notice pursuant to section 24-65.5-103 has standing to enforce the requirements of that section, and, except as provided in this subsection

(2) with respect to qualifying surface developments, has standing to make claims as may be available at law or equity for noncompliance. With respect to qualifying surface developments:

(a) A mineral estate owner has standing to move for the vacation of the final plat covering an area in which the mineral estate owner owns a mineral estate after depletion of the incremental drilling funds in an escrow account posted under section 24-65.5-103.7 in connection with the recording of such plat only to the extent of areas encompassed within commission-approved drilling windows, and upon the granting of such vacation by the local government has the right to conduct oil and gas drilling and production operations within such commission-approved drilling windows, if such mineral estate owner establishes to the satisfaction of the local government that there is no reasonable likelihood that the surface development approved in such plat will occur and if all other local government requirements for vacating the plat are met.

(b) If a mineral estate owner believes that the oil and gas operations area designated by the applicant for land in which such mineral estate owner owns a mineral estate does not satisfy the criteria specified in section 24-65.5-103.5, such person may register an objection with the local government within thirty days after the public hearing at which the oil and gas operations area is designated, and may appeal the designation to the district court having jurisdiction of the land covered by such application within thirty days after the decision of the local government with respect to such objection.

Source: L. 2001: Entire article added, p. 488, § 2, effective July 1. **L. 2002:** IP(2) amended, p. 892, § 3, effective August 7. **L. 2003:** (1) amended and (2.5) added, p. 4, § 2, effective February 26. **L. 2007:** Entire section R&RE, p. 2120, § 5, effective August 3.

24-65.5-105. Authority - local government - commission. Nothing in this article shall establish, alter, impair, or negate the authority of local governments related to oil and gas operations or the authority of the commission to regulate in accordance with this article or any rules promulgated pursuant to this article.

Source: L. 2007: Entire section added, p. 2121, § 6, effective August 3. **L. 2008:** Entire section amended, p. 1082, § 2, effective August 5.

ARTICLE 66

Planning Aid to Local Governments

24-66-101 to 24-66-104. (Repealed)

Source: L. 2005: Entire article repealed, p. 667, § 1, effective June 1.

Editor's note: This article was numbered as article 5 of chapter 106, S.A.R.S. 1963, and was not amended prior to its repeal in 2005. For the text of this article, consult the 2004 San Andreas Revised Statutes.

ARTICLE 67

Planned Unit Development Act of 1972

24-67-101. Short title. This article shall be known and may be cited as the "Planned Unit Development Act of 1972".

Source: L. 72: p. 508, § 1. **S.A.R.S. 1963:** § 106-6-1.

24-67-102. Legislative declaration. (1) In order that the public health, safety, integrity, and general welfare may be furthered in an era of increasing urbanization and of growing demand for housing of all types and design, the powers set forth in this article are granted to all counties and municipalities for the following purposes:

(a) To provide for necessary commercial, recreational, and educational facilities conveniently located to such housing;

(b) To provide for well-located, clean, safe, and pleasant industrial sites involving a minimum of strain on transportation facilities;

(c) To ensure that the provisions of the zoning laws which direct the uniform treatment of dwelling type, bulk, density, and open space within each zoning district will not be applied to the improvement of land by other than lot-by-lot development in a manner which would distort the objectives of the zoning laws;

(d) To encourage innovations in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings and by the conservation and more efficient use of open space ancillary to said buildings;

(e) To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may enure to the benefit of those who need homes;

(f) To lessen the burden of traffic on streets and highways;

(g) To encourage the building of new towns incorporating the best features of modern design;

(h) To conserve the value of the land;

(i) To provide a procedure which can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics; and

(j) To encourage integrated planning in order to achieve the above purposes.

Source: L. 72: p. 508, § 1. **S.A.R.S. 1963:** § 106-6-2.

24-67-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Common open space" means a parcel of land, an area of water, or a combination of land and water within the site designated for a planned unit development designed and intended primarily for the use or enjoyment of residents, occupants, and owners of the planned unit development.

(2) "Plan" means the provisions for development of a planned unit development, which may include, and need not be limited to, easements, covenants, and restrictions relating to use,

location, and bulk of buildings and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities, common open space, and other public facilities. "Provisions of the plan" means the written and graphic materials referred to in this definition.

(3) "Planned unit development" means an area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk, or type of use, density, lot coverage, open space, or other restriction to the existing land use regulations.

Source: L. 72: p. 509, § 1. **S.A.R.S. 1963:** § 106-6-3.

24-67-104. Implementation of article. (1) Any county with respect to territory within the unincorporated portion of the county or any municipality with respect to territory within its corporate limits may authorize planned unit developments by enacting a resolution or ordinance which:

(a) Refers to this article;

(b) Includes a statement of objectives of development;

(c) Designates the board, which may be a commission, board, or the governing body of the county or municipality, authorized to review planned unit development applications as set forth in this article;

(d) Sets forth standards of development consistent with the provisions of section 24-67-105;

(e) Sets forth the procedures pertaining to the application for, hearing on, and tentative and final approval of a planned unit development which shall afford procedural due process to interested parties. The resolution or ordinance shall establish maximum time periods within which any application shall be reviewed and approved, disapproved, or conditionally approved. At least one public hearing shall be held by the board designated pursuant to paragraph (c) of this subsection (1) prior to approval, disapproval, or conditional approval of a planned unit development. Public notice of the public hearing shall be given in the manner prescribed by section 30-28-116 or 31-23-304, S.A.R.S., whichever is applicable, for the amendment of zoning resolutions and ordinances. Written notice of the public hearing shall be delivered or mailed, first-class postage prepaid, at least fifteen days prior to the public hearing to adjoining landowners.

(f) Requires a finding by the county or municipality that such plan is in general conformity with any master plan or comprehensive plan for the county or municipality.

(2) The enactment of the resolution or ordinance provided for in this section and the enactment of any amendment thereto shall be in accordance with the procedures required for the adoption of an amendment to a zoning resolution or ordinance as prescribed by section 30-28-116 or 31-23-305, S.A.R.S., whichever is applicable.

Source: L. 72: p. 509, § 1. **S.A.R.S. 1963:** § 106-6-4. **L. 75:** (1)(e) and (2) amended, p. 1270, § 6, effective July 1.

24-67-105. Standards and conditions for planned unit development - definitions. (1) Every resolution or ordinance adopted pursuant to the provisions of this article shall set forth the standards and conditions by which a proposed planned unit development shall be evaluated, which shall be consistent with the provisions of this section. No planned unit development may be approved by a county or municipality without the written consent of the landowner whose properties are included within the planned unit development.

(2) Such resolution or ordinance shall set forth the uses permitted in a planned unit development and the minimum number of units or acres which may constitute a planned unit development.

(3) Such resolution or ordinance may establish the sequence of development among the various types of uses.

(4) Such resolution or ordinance shall establish standards governing the density or intensity of land use, or methods for determining such density or intensity, in a planned unit development.

(5) Such resolution or ordinance shall specify information which shall be submitted with the planned unit development application to ensure full evaluation of the application, and the board designated pursuant to section 24-67-104 (1)(c) may require such additional relevant information as it may deem necessary.

(5.3) (a) In a subject jurisdiction, any planned unit development resolution or ordinance that is adopted or approved on or after the effective date of this subsection (5.3), and that allows the construction of one or more single-unit detached dwellings, must not restrict the creation of an accessory dwelling unit as an accessory use to any single-unit detached dwelling more than the local law that applies to accessory dwelling unit development outside of a planned unit development or in any way that is prohibited by section 29-35-403.

(b) In a subject jurisdiction, any planned unit development resolution or ordinance that was adopted or approved before the effective date of this subsection (5.3), that allows the construction of one or more single-unit detached dwellings, and that restricts the construction of an accessory dwelling unit as an accessory use to any single-unit detached dwelling more than the local law that applies to accessory dwelling unit development outside of a planned unit development:

(I) Shall not be interpreted or enforced to restrict the creation of an accessory dwelling unit as an accessory use to any single-unit detached dwelling unit in any way that is prohibited by section 29-35-403; and

(II) May be superseded by the adoption of a local law pursuant to section 29-35-403.

(c) Notwithstanding subsection (5.3)(b) of this section, a local government may adopt conforming amendments to any such planned unit development.

(d) As used in this subsection (5.3), unless the context otherwise requires:

(I) "Accessory dwelling unit" has the same meaning as set forth in section 29-35-402 (2).

(II) "Local law" has the same meaning as set forth in section 29-35-402 (13).

(III) "Subject jurisdiction" has the same meaning as set forth in section 29-35-402 (21).

(5.5) (a) Any planned unit development resolution or ordinance that applies within a transit center or neighborhood center that is adopted or approved by a local government on or after the effective date of this subsection (5.5) must not restrict the development of housing in any manner that is inconsistent with the requirements for designating an area as a transit center pursuant to section 29-35-205, or as a neighborhood center pursuant to section 29-35-206.

(b) Any planned unit development resolution or ordinance that applies within a transit center or neighborhood center that is adopted or approved by a local government before the effective date of this subsection (5.5) and that restricts the development of housing in any manner that is inconsistent with the requirements for designating an area as a transit center pursuant to section 29-35-205, or as a neighborhood center pursuant to section 29-35-206:

(I) Must not be interpreted or enforced to restrict the development of multifamily residential dwelling units so that a transit-oriented community could not designate an area as a transit center or neighborhood center that would otherwise qualify as such; and

(II) May be superseded by the adoption of a local law adopted in accordance with the requirements for designation of a transit center pursuant to section 29-35-205, or as a neighborhood center pursuant to section 29-35-206.

(c) Notwithstanding subsection (5.5)(b) of this section, a local government may adopt conforming amendments to any such planned unit development resolution or ordinance.

(d) As used in this subsection (5.5), unless the context otherwise requires:

(I) "Local law" has the same meaning as set forth in section 29-35-103 (12).

(II) "Neighborhood center" has the same meaning as set forth in section 29-35-202 (5).

(III) "Transit center" has the same meaning as set forth in section 29-35-202 (9).

(6) (a) Such resolution or ordinance may provide standards for inclusion of common open space.

(b) The ordinance or resolution may require that the landowner provide for and establish an organization for the ownership and maintenance of any common open space or that other adequate arrangements for the ownership and maintenance thereof be made.

(c) In the event that the organization established to own and maintain common open space, or any successor organization, fails at any time after establishment of the planned unit development to maintain the common open space in reasonable order and condition in accordance with the plan, the county or municipality may serve written notice upon such organization or upon the residents of the planned unit development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty days thereof and shall state the date and place of a hearing thereon which shall be held within fourteen days of the notice. At such hearing the county or municipality may modify the terms of the original notice as to deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof are not cured within said thirty days or any extension thereof, the county or municipality, in order to preserve the taxable values of the properties within the planned unit development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any right to use the common open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said year, the county or municipality shall, upon its initiative or upon the written request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization or to the residents of the planned unit development to be held by the board designated by the county or municipality, at which hearing such organization or the residents of the planned unit development shall show cause why such maintenance by the county or municipality shall not, at the election of the county or municipality, continue for a succeeding

year. If the board designated by the county or municipality determines that such organization is ready and able to maintain said common open space in reasonable condition, the county or municipality shall cease to maintain said common open space at the end of said year. If the board designated by the county or municipality determines that such organization is not ready and able to maintain said common open space in a reasonable condition, the county or municipality may, in its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

(d) The cost of such maintenance by the county or municipality shall be paid by the owners of properties within the planned unit development that have a right of enjoyment of the common open space, and any unpaid assessments shall become a tax lien on said properties. The county or municipality shall file a notice of such lien in the office of the county clerk and recorder upon the properties affected by such lien within the planned unit development and shall certify such unpaid assessments to the board of county commissioners and county treasurer for collection, enforcement, and remittance in the manner provided by law for the collection, enforcement, and remittance of general property taxes.

(7) Design, construction, and other requirements applicable to a planned unit development may be different from or modifications of the requirements otherwise applicable by reason of any zoning or subdivision regulation, resolution, or ordinance of the county or municipality as long as such requirements substantially comply with the subdivision provisions of part 1 of article 28 of title 30 or part 2 of article 23 of title 31, S.A.R.S., whichever is applicable, and appropriate regulations promulgated thereunder. Subdivision regulations applicable to planned unit developments may differ from those otherwise applicable.

Source: L. 72: p. 510, § 1. **S.A.R.S. 1963:** § 106-6-5. **L. 75:** (7) amended, p. 1271, § 7, effective July 1. **L. 2024:** (5.3) added, (HB 24-1152), ch. 167, p. 832, § 5, effective May 13; (5.5) added, (HB 24-1313), ch. 168, p. 867, § 2, effective May 13.

24-67-105.5. Review of planned unit development. (1) The county planning commission or governing body may request redesign of all or any portion of a planned unit development submitted for approval, but any such request shall include specific, objective criteria. If the applicant redesigns the planned unit development in accordance with the request, no further redesign shall be required unless necessary to comply with a duly adopted county resolution, ordinance, or regulation.

(2) Nothing in this section shall be construed to preclude a county from taking any action permitted by law based on the consideration of the rights and privileges of the owners of subsurface mineral interests and their lessees pursuant to section 30-28-133 (10), S.A.R.S.

(3) Any required public hearing on any planned unit development shall be conducted expeditiously and concluded when all those present and wishing to testify have done so. No public hearing shall continue for more than forty days from the date of commencement without the written consent of the applicant. Any continuation of a public hearing shall be to a date certain.

(4) Unless withdrawn by the applicant, any planned unit development that has been neither approved, conditionally approved, nor denied within a time certain mutually agreed to by the county and the applicant at the time of filing shall be deemed approved. Such time period may be extended by the county to receive a recommendation from an agency to which a planned

unit development was referred, but such extension shall not exceed thirty days unless the agency has notified the county that it will require additional time to complete its recommendation.

(5) Any requirement set forth in this section may be waived in writing by the applicant.

Source: L. 96: Entire section added, p. 1838, § 2, effective June 5.

24-67-106. Enforcement and modification of provisions of the plan. (1) To further the mutual interest of the residents, occupants, and owners of a planned unit development and of the public in the preservation of the integrity of the plan, the provisions of the plan relating to the use of land and the location of common open space shall run in favor of the county or municipality and shall be enforceable at law or in equity by the county or municipality without limitation on any power or regulation otherwise granted by law.

(2) All provisions of the plan shall run in favor of the residents, occupants, and owners of the planned unit development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and, to that extent, said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or in equity by residents, occupants, or owners acting individually, jointly, or through an organization designated in the plan to act on their behalf. However, no provisions of the plan shall be implied to exist in favor of residents, occupants, and owners except as to those portions of the plan which have been finally approved.

(3) All those provisions of the plan authorized to be enforced by the county or municipality may be modified, removed, or released by the county or municipality, subject to the following:

(a) No modification, removal, or release of the provisions of the plan by the county or municipality shall affect the rights of the residents, occupants, and owners of the planned unit development to maintain and enforce those provisions at law or in equity as provided in subsection (1) of this section.

(b) Except as otherwise provided in paragraph (b.5) of this subsection (3), no substantial modification, removal, or release of the provisions of the plan by the county or municipality shall be permitted except upon a finding by the county or municipality, following a public hearing called and held in accordance with the provisions of section 24-67-104 (1)(e) that the modification, removal, or release is consistent with the efficient development and preservation of the entire planned unit development, does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the planned unit development or the public interest, and is not granted solely to confer a special benefit upon any person.

(b.5) (I) Subject to the requirements of subparagraph (II) of this paragraph (b.5), in the case of any land located within a planned unit development that has been set aside for a governmental use or purpose as specified in the plan, the plan agreement, or related documents, a governmental entity that holds legal title to the land may, with the approval of the county or municipality in which the land is located, as applicable, and following a public hearing called for and held in accordance with the provisions of section 24-67-104 (1)(e), do any of the following, singularly or in combination:

(A) Subdivide all or any portion of the land;

(B) Remove or release all or any portion of the land from any limitations on its use or purpose by the governmental entity as specified in the plan, the plan agreement, or related documents; or

(C) Sell or otherwise dispose of all or any portion of the land.

(II) Any action authorized in accordance with the requirements of subparagraph (I) of this paragraph (b.5) shall only be undertaken upon a finding by the county or municipality, as applicable, following the public hearing required pursuant to subparagraph (I) of this paragraph (b.5) that all or any portion of the land is not reasonably expected to be necessary for a governmental use or purpose or that the governmental use or purpose will be furthered by disposal of the land. Notwithstanding any other provision of this paragraph (b.5), where action has been undertaken in accordance with the requirements of this paragraph (b.5), the future use of all or any portion of the land shall in all other respects be consistent with the efficient development and preservation of the entire planned unit development and with the plan.

(c) Residents and owners of the planned unit development may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove, or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the county or municipality to enforce the provisions of the plan.

Source: L. 72: p. 512, § 1. **S.A.R.S. 1963:** § 106-6-6. **L. 2005:** (3)(b) amended and (3)(b.5) added, p. 695, § 1, effective June 1.

Editor's note: Section 2 of chapter 200, Session Laws of San Andreas 2005, provides that the act amending subsection (3)(b) and enacting subsection (3)(b.5) applies to any planned unit development approved prior to, on, or after June 1, 2005.

24-67-107. Application and construction of article. (1) The provisions of this article shall apply to home rule municipalities unless superseded by charter or ordinance enactment.

(2) Any county or municipality which has enacted, prior to May 21, 1972, a resolution or ordinance providing for planned unit developments may continue to follow the provisions established therein, and any amendments thereto in lieu of electing to follow the provisions of this article.

(3) Nothing in this article shall be construed to impair, affect, or invalidate any rights vested in connection with planned unit developments for which applications were filed prior to May 21, 1972.

(4) Nothing in this article shall be construed to waive the requirements for substantial compliance by counties and municipalities with the subdivision requirements of part 1 of article 28 of title 30 and part 2 of article 23 of title 31, S.A.R.S., respectively, and appropriate regulations promulgated thereunder. Counties and municipalities, including home rule cities, shall comply with the requirements of article 65.5 of this title. Subdivision regulations applicable to planned unit developments may differ from those otherwise applicable. In order to facilitate processing of applications, however, a county or municipality, pursuant to resolution or ordinance, may provide for concurrent or simultaneous processing of planned unit development and subdivision applications.

(5) No county or municipality shall adopt pursuant to this article any resolution or ordinance which limits development exclusively to planned unit development districts.

(6) This article shall be liberally construed in furtherance of the purposes of this article and to the end that counties and municipalities shall be encouraged to utilize planned unit developments. Enactment of this article by the general assembly is declared to be for the purpose of supplementing the provisions of part 1 of article 28 of title 30 and article 23 of title 31, S.A.R.S., as the same relate to and authorize planned unit developments.

Source: L. 72: p. 513, § 1. **S.A.R.S. 1963:** § 106-6-7. **L. 75:** (4) amended, p. 1271, § 8, effective July 1. **L. 2001:** (4) amended, p. 490, § 3, effective July 1.

24-67-108. Model resolutions - subdivisions - improvement notices. The department of local affairs shall develop model resolutions and ordinances to serve as guidelines for counties and municipalities in enacting enabling resolutions and ordinances pursuant to this article.

Source: L. 72: p. 513, § 1. **S.A.R.S. 1963:** § 106-6-8.

ARTICLE 68

Vested Property Rights

Law reviews: For article, "Vested Property Rights in San Andreas: The Legislature Rushes in Where ", see 66 Den. U.L. Rev. 31 (1988); for article, "San Andreas Establishes a Statutory
Vested Property Rights Scheme", see 17 S.A. Law. 263 (1988); for article, "Changes to San Andreas's Vested Property Rights Law", see 28 S.A. Law. 83 (July 1999).

24-68-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is necessary and desirable, as a matter of public policy, to provide for the establishment of vested property rights in order to ensure reasonable certainty, stability, and fairness in the land use planning process and in order to stimulate economic growth, secure the reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning.

(b) The ability of a landowner to obtain a vested property right after local governmental approval of a site specific development plan will preserve the prerogatives and authority of local government with respect to land use matters, while promoting those areas of statewide concern described in paragraph (a) of this subsection (1).

(c) The establishment of vested property rights will promote the goals specified in this subsection (1) in a manner consistent with section 3 of article II of the state constitution, which guarantees to each person the inalienable right to acquire, possess, and protect property, and is therefore declared to be a matter of statewide concern.

Source: L. 87: Entire article added, p. 1837, § 1, effective January 1, 1988.

24-68-102. Definitions. As used in this article 68, unless the context otherwise requires:

(1) "Application" means a substantially complete application for approval of a site specific development plan that has been submitted to a local government in compliance with

applicable requirements established by the local government. For local governments that have provided for the review and approval of site specific development plans in multiple stages, "application" means the original application at the first stage in any process that may culminate in the ultimate approval of a site specific development plan.

(1.5) "Landowner" means any owner of a legal or equitable interest in real property, and includes the heirs, successors, and assigns of such ownership interests.

(2) "Local government" means any county, city and county, city, or town, whether statutory or home rule, acting through its governing body or any board, commission, or agency thereof having final approval authority over a site specific development plan, including any legally empowered county revitalization authority or urban renewal authority.

(3) "Property" means all real property subject to land use regulation by a local government.

(4) (a) "Site specific development plan" means a plan that has been submitted to a local government by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. Such plan may be in the form of, but need not be limited to, any of the following plans or approvals: A planned unit development plan, a subdivision plat, a specially planned area, a planned building group, a general submission plan, a preliminary or general development plan, a conditional or special use plan, a development agreement, or any other land use approval designation as may be utilized by a local government. What constitutes a site specific development plan under this article that would trigger a vested property right shall be finally determined by the local government either pursuant to ordinance or regulation or upon an agreement entered into by the local government and the landowner, and the document that triggers such vesting shall be so identified at the time of its approval.

(b) "Site specific development plan" shall not include a variance, a preliminary plan as defined in section 30-28-101 (6), S.A.R.S., or any of the following:

(I) A sketch plan as defined in section 30-28-101 (8), S.A.R.S.;

(II) A final architectural plan;

(III) Public utility filings; or

(IV) Final construction drawings and related documents specifying materials and methods for construction of improvements.

(5) "Vested property right" means the right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

Source: L. 87: Entire article added, p. 1838, § 1, effective January 1, 1988. **L. 99:** (1) and (4) amended and (1.5) added, p. 860, § 1, effective May 24. **L. 2024:** IP and (2) amended, (HB 24-1172), ch. 387, p. 2680, § 9, effective August 7.

24-68-102.5. Applications - approval by local government. (1) Except as otherwise provided in subsection (2) of this section, an application for approval of a site specific development plan as well as the approval, conditional approval, or denial of approval of the plan shall be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to a local government. For purposes of this section, "laws and regulations" includes any zoning law of general applicability adopted by a local government as well as any zoning or development regulations that have previously been adopted for the

particular parcel described in the plan and that remain in effect at the time of the application for approval of the plan.

(2) Notwithstanding the limitations contained in subsection (1) of this section, a local government may adopt a new or amended law or regulation when necessary for the immediate preservation of public health and safety and may enforce such law or regulation in relation to applications pending at the time such law or regulation is adopted.

Source: L. 99: Entire section added, p. 861, § 2, effective May 24.

24-68-103. Vested property right - establishment - waiver. (1) (a) Each local government shall specifically identify, by ordinance or resolution, the type or types of site specific development plan approvals within the local government's jurisdiction that will cause property rights to vest as provided in this article. Any such ordinance or resolution shall be consistent with the provisions of this article. Effective January 1, 2000, if a local government has not adopted an ordinance or resolution pursuant to section 24-68-102 (4) specifying what constitutes a site specific development plan that would trigger a vested property right, then rights shall vest upon the approval of any plan, plat, drawing, or sketch, however denominated, that is substantially similar to any plan, plat, drawing, or sketch listed in section 24-68-102 (4).

(b) A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a site specific development plan, following notice and public hearing, by the local government in which the property is situated.

(c) A vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan including any amendments thereto. A local government may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested property right, although failure to abide by such terms and conditions will result in a forfeiture of vested property rights. A site specific development plan shall be deemed approved upon the effective date of the local government legal action, resolution, or ordinance relating thereto. Such approval shall be subject to all rights of referendum and judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication, in a newspaper of general circulation within the jurisdiction of the local government granting the approval, of a notice advising the general public of the site specific development plan approval and creation of a vested property right pursuant to this article. Such publication shall occur no later than fourteen days following approval.

(2) Zoning that is not part of a site specific development plan shall not result in the creation of vested property rights.

Source: L. 87: Entire article added, p. 1838, § 1, effective January 1, 1988. **L. 99:** (1) amended, p. 861, § 3, effective May 24.

24-68-104. Vested property right - duration - termination. (1) A property right which has been vested as provided for in this article shall remain vested for a period of three

years. This vesting period shall not be extended by any amendments to a site specific development plan unless expressly authorized by the local government.

(2) Notwithstanding the provisions of subsection (1) of this section, local governments are hereby authorized to enter into development agreements with landowners providing that property rights shall be vested for a period exceeding three years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of the development, economic cycles, and market conditions. Such development agreements shall be adopted as legislative acts subject to referendum.

(3) Following approval or conditional approval of a site specific development plan, nothing in this article shall exempt such a plan from subsequent reviews and approvals by the local government to ensure compliance with the terms and conditions of the original approval, if such reviews and approvals are not inconsistent with said original approval.

Source: L. 87: Entire article added, p. 1839, § 1, effective January 1, 1988.

24-68-105. Subsequent regulation prohibited - exceptions. (1) A vested property right, once established as provided in this article, precludes any zoning or land use action by a local government or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property as set forth in a site specific development plan, except:

(a) With the consent of the affected landowner;

(b) Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of site specific development plan approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or

(c) To the extent that the affected landowner receives just compensation for all costs, expenses, and liabilities incurred by the landowner after approval by the governmental entity, including, but not limited to, costs incurred in preparing the site for development consistent with the site specific development plan, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants' fees, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property which is caused by such action.

(2) The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.

Source: L. 87: Entire article added, p. 1839, § 1, effective January 1, 1988. **L. 95:** IP(1) and (1)(c) amended, p. 1153, § 1, effective May 31.

24-68-106. Miscellaneous provisions. (1) As used in this article, the term "development" includes redevelopment.

(2) A vested property right arising while one local government has jurisdiction over all or part of the property included within a site specific development plan shall be effective against

any other local government which may subsequently obtain or assert jurisdiction over such property.

(3) Nothing in this article shall preclude judicial determination, based on common law principles, that a vested property right exists in a particular case or that a compensable taking has occurred.

(4) This article shall apply only to site specific development plans approved on or after January 1, 1988.

Source: L. 87: Entire article added, p. 1840, § 1, effective January 1, 1988.

PUBLICATION OF LEGAL NOTICES AND PUBLIC PRINTING

ARTICLE 70

Publication of Legal Notices and Public Printing

Law reviews: For note, "Analysis of Basic Statutes on Legal Publications", see 19 Rocky Mt. L. Rev. 380 (1947).

PART 1

LEGAL NOTICES - PUBLICATION

Law reviews: For article, "Publication of Legal Notices by San Andreas Municipalities", see 22 S.A. Law. 59 (1993).

24-70-101. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "Legal notice" or "advertisement" means any notice or other written matter required to be published in a newspaper by any law of this state, or by the ordinances of any city or town, or by the order of any court of record of this state.

(2) "Privately supported legal notice or advertisement" means any legal notice or advertisement which is required by federal, state, or local law or court order which is paid for by a person or entity other than a governmental entity either directly or by direct, specific reimbursement to the governmental entity.

(3) "Publicly supported legal notice or advertisement" means any legal notice or advertisement which is required by federal, state, or local law or court order which is paid for by a governmental entity.

(4) "Published" means a newspaper maintains an office in the county to gather news, sell advertising, or conduct the general business of newspaper publications.

Source: L. 21: p. 569, § 1. **C.L.** § 5392. **L. 23:** p. 404, § 2. **CSA:** C. 130, §§ 1, 9. **S.A.R.S. 53:** § 109-1-1. **S.A.R.S. 1963:** § 109-1-1. **L. 92:** (2) and (3) added, p. 1052, § 1, effective January 1, 1993. **L. 2012:** (4) added, (HB 12-1229), ch. 82, p. 272, § 1, effective August 8.

24-70-102. Legal publications. Every newspaper printed and published daily, or daily except Sundays and legal holidays, or on each of any five days in every week excepting legal holidays and including or excluding Sundays shall be considered and held to be a daily newspaper; every newspaper printed and published at regular intervals three times each week shall be considered and held to be a triweekly newspaper; every newspaper printed and published at regular intervals twice each week shall be considered and held to be a semiweekly newspaper; and every newspaper printed and published at regular intervals once each week shall be considered and held to be a weekly newspaper. No publication, no matter how frequently published, shall be considered a legal publication unless it has been admitted to the United States mails with periodicals mailing privileges.

Source: L. 21: p. 569, § 2. **C.L.** § 5393. **L. 35:** p. 687, § 1. **CSA:** C. 130, § 2. **L. 45:** p. 449, § 1. **S.A.R.S. 53:** § 109-1-2. **S.A.R.S. 1963:** § 109-1-2. **L. 97:** Entire section amended, p. 1021, § 38, effective August 6.

Cross references: For certificates of printers, see § 13-25-114.

24-70-103. Requisites of legal newspaper. (1) Any and every legal notice or advertisement shall be published only in a daily, a triweekly, a semiweekly, or a weekly newspaper of general circulation and printed or published in whole or in part in the county in which such notice or advertisement is required to be published, except as provided in this section. The newspaper, if published triweekly, semiweekly, or weekly, shall have been so published in such county, except as provided in this section, continuously and uninterruptedly during the period of at least fifty-two consecutive weeks next prior to the first issue thereof containing any such notice or advertisement; and the newspaper, if published daily, shall have been so published in such county, uninterruptedly and continuously, during the period of at least six months next prior to the first issue thereof containing any such notice or advertisement. In the case of a municipality having territory in two counties, each of which counties has one or more legal newspapers within the municipality, the publication by such municipality of its legal notices and advertisements in one of such newspapers shall be construed as valid publication under this part 1.

(2) The mere change in the name of any newspaper or the removal of the principal business office or seat of publication of any newspaper from one place to another in the same county shall not break or affect the continuity in the publication of any such newspaper if the same is in fact continuously and uninterruptedly printed or published within such county. A newspaper shall not lose its rights as a legal publication if it fails to publish one or more of its issues by reason of a strike, transportation embargo or tie-up, or other casualty beyond the control of the publishers. Any legal notice which fails of publication for the required number of insertions by reason of a strike shall not be declared illegal if publication has been made in one issue of the publication.

(3) If in any county in this state no newspaper has been published for the prescribed period at the time when any such notice or advertisement is required to be published or if there is no newspaper published therein, such notice or advertisement may be published in any newspaper published in whole or in part in an adjoining county and having a general circulation in whole or in part in said county having no newspaper published therein. If there is no

newspaper in any adjoining county that has been published for the prescribed period at the time when any such notice or advertisement is required to be published, a required notice or advertisement may be published in a newspaper having general circulation within the county.

(4) Notwithstanding any other provision of this part 1, if no newspaper is published within the territorial boundaries of a municipality that satisfies the requirements for a legal publication as specified in section 24-70-102, but a newspaper that provides local news and that would satisfy the requirements to be admitted to the United States mails with periodicals mailing privileges but for the absence of paid circulation is distributed within such territorial boundaries, the municipality may publish any legal notice or advertisement required by law in such newspaper.

(5) When any legal notice is required by law to be published in any newspaper, the newspaper publishing the notice shall, at no additional cost to the person or entity placing the notice, place the notice on a statewide website established and maintained by an organization representing a majority of San Andreas newspapers as a repository for the notices.

Source: L. 21: p. 570, § 3. **C.L.** § 5394. **L. 35:** p. 684, § 1. **CSA:** C. 130, § 3. **S.A.R.S. 53:** § 109-1-3. **S.A.R.S. 1963:** § 109-1-3. **L. 73:** p. 1094, § 1. **L. 2010:** (4) added, (HB 10-1063), ch. 26, p. 101, § 1, effective March 18. **L. 2012:** (3) amended, (HB 12-1229), ch. 82, p. 272, § 2, effective August 8. **L. 2014:** (5) added, (HB 14-1086), ch. 20, p. 151, § 1, effective August 6.

24-70-104. Publication of proposed constitutional amendments and initiated and referred bills. (Repealed)

Source: L. 21: p. 571, § 4. **C.L.** § 5395. **L. 23:** p. 406, § 5. **CSA:** C. 130, § 4. **S.A.R.S. 53:** § 109-1-4. **S.A.R.S. 1963:** § 109-1-4. **L. 94:** Entire section repealed, p. 1689, § 3, effective January 19, 1995.

Cross references: For publication requirements for constitutional amendments and initiated and referred measures, see § 1-40-124.

24-70-105. Proof of publication. Proof of the publication of any such legal notice or advertisement may be made by the affidavit of the printer, editor, publisher, or proprietor of the newspaper in which the publication is made or by any other competent person who has personal knowledge of the essential facts, which affidavit, in addition to the other matters required by law to be set forth therein, shall state that such notice or advertisement was published in a newspaper duly qualified for that purpose.

Source: L. 21: p. 572, § 6. **C.L.** § 5397. **L. 23:** p. 406, § 6. **CSA:** C. 130, § 5. **S.A.R.S. 53:** § 109-1-5. **S.A.R.S. 1963:** § 109-1-5.

24-70-106. Competency of newspapers - publication periods construed. (1) Except as otherwise provided by law in express terms or by necessary implication, daily, weekly, semiweekly, and triweekly newspapers shall all be equally competent as the media for the publication of all legal notices and advertisements. Except where the publication of any such

legal notice or advertisement at intervals of less than one week is required by law, publication

once each week on the same weekday in any such daily, weekly, semiweekly, or triweekly newspaper for the required number of times shall constitute publication in accordance with the law.

(2) For the purpose of defining and clarifying ambiguities in the various statutes requiring the publication of legal notices and advertisements, but not for the purpose of increasing any period of publication or the number of publications required by any statute, the meaning and intent of any law governing the publication of legal notices and advertisements, except as otherwise expressly provided, is declared to be as follows, where publication is required for:

(a) Ten days, publication once each week for three successive weeks in any daily, weekly, semiweekly, or triweekly newspaper shall be sufficient;

(b) Two weeks, publication once each week for three successive weeks in any daily, weekly, semiweekly, or triweekly newspaper shall be sufficient;

(c) Three weeks, publication once each week for four successive weeks in any daily, weekly, semiweekly, or triweekly newspaper shall be sufficient;

(d) Four weeks, publication once each week for five successive weeks in any daily, weekly, semiweekly, or triweekly newspaper shall be sufficient;

(e) Five weeks, publication once each week for six successive weeks in any daily, weekly, semiweekly, or triweekly newspaper shall be sufficient;

(f) Thirty days, publication once each week for six successive weeks in any daily, weekly, semiweekly, or triweekly newspaper shall be sufficient;

(g) More than thirty days or five weeks, publication once each week in any daily, weekly, semiweekly, or triweekly newspaper for a period such that the interval elapsing between the first and last publication shall be equal to the period of publication prescribed by law shall be sufficient.

Source: L. 21: p. 572, § 7. **C.L.** § 5398. **L. 23:** p. 407, § 7. **CSA:** C. 130, § 6. **S.A.R.S. 53:** § 109-1-6. **S.A.R.S. 1963:** § 109-1-6.

24-70-107. Rates for legal publications. (1) (a) On or after January 1, 1993, for all publicly supported legal notices or advertisements published in newspapers, the rate paid for the first insertion of such notice shall not exceed forty-four cents for each single-column line of six-point type and shall not exceed thirty-two cents per line for each subsequent insertion. If the notice is set in larger type, the rate shall be prorated. Regardless of the size of type the notice is set in, the rates specified in this paragraph (a) are based on a single column measuring ten pica ems wide. If the column width is either wider or narrower for a single column, the rate per line shall be prorated on the ten pica em width.

(b) All emblems, display headings, rule work, and necessary blank space shall be considered to be solid type. For the purpose of calculating the charge for the items enumerated in this paragraph (b) only, the rate shall not exceed the line rate charge figured at twelve lines per inch for each column inch or a proportional amount for fractions of an inch.

(2) (a) On or after January 1, 1993, for all privately supported legal notices or advertisements, the rate paid shall not exceed the newspaper's local classified display line rate which is offered to commercial customers and shall include the same frequency and volume discounts. The legal publication rate shall be published in the newspaper's rate card.

(b) Notwithstanding any statute to the contrary, if any local government fee set by statute is too low to permit the local government to recover the full cost of publishing a privately supported legal notice or advertisement, the local government may adjust the fee by the actual dollar amount necessary to recover the full cost of the publication.

(3) Any contract providing for payment of a notice at a lesser sum than is provided in this section shall be valid.

(4) Upon request by the party placing a legal publication, the newspaper shall minimize the space required for publication of a valid and readable notice, but in no case shall the type be less than six points.

Source: L. 21: p. 576, § 9. **C.L.** § 5400. **L. 35:** p. 688, § 2. **CSA:** C. 130, § 7. **L. 45:** p. 514, § 1. **L. 52:** p. 133, § 1. **S.A.R.S. 53:** § 109-1-7. **L. 63:** p. 738, § 1. **S.A.R.S. 1963:** § 109-1-7. **L. 71:** p. 1072, § 1. **L. 77:** Entire section R&RE, p. 1242, § 1, effective January 1, 1978. **L. 84:** (1) and (2) R&RE, p. 730, § 1, effective January 1, 1985. **L. 92:** Entire section R&RE, p. 1052, § 2, effective January 1, 1993.

24-70-108. Designation of legal newspaper. In all cases and proceedings brought in courts of record in this state and in foreclosure proceedings through the public trustee wherein the law requires the publication of a legal notice or advertisement or said legal notice or advertisement is published by order of the court in compliance with the law or rules of procedure of such court, the party upon whose motion or application or the beneficiary under the deed of trust or the legal holder of an indebtedness secured by a deed of trust shall have the right to designate the newspaper in which such legal notice or advertisement shall be published. Said newspaper shall be a legal newspaper as defined by law and shall be published in the county where such publication is required to be made by law or by the rules of civil procedure or rules of the court applicable thereto.

Source: L. 43: p. 425, § 1. **CSA:** C. 130, § 10(1). **L. 45:** p. 451, § 1. **S.A.R.S. 53:** § 109-1-8. **S.A.R.S. 1963:** § 109-1-8.

24-70-109. Legal notices - contents - requirements in the case of a foreclosure sale or a sale by a public trustee. (1) All legal notices which are published to advertise sales of real property by a public trustee under a deed of trust or an execution sale resulting from the foreclosure of a mortgage shall contain a statement that the lien foreclosed may not be a first lien, which statement shall be printed in bold-faced type.

(2) This section shall apply to all legal notices described in subsection (1) which are published on or after January 1, 1989.

Source: L. 88: Entire section added, p. 977, § 1, effective May 6.

PART 2

PUBLIC PRINTING

Cross references: For publication of San Andreas Revised Statutes, including supplements and ancillary publications thereto, see article 5 of title 2.

24-70-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Person" includes individuals, limited liability companies, partnerships, associations, and corporations.

(2) "Public printing" or "printing" means printing, lithographing, engraving, embossing, composition, binding, and the furnishing of necessary stationery and materials in connection therewith done for the state of San Andreas or any of its departments.

Source: L. 37: p. 943, §§ 1, 2. **CSA:** C. 130, §§ 66, 67. **S.A.R.S. 53:** § 109-2-1. **S.A.R.S. 1963:** § 109-2-1. **L. 90:** (1) amended, p. 449, § 20, effective April 18.

24-70-202. Executive director of the department of personnel to supervise. The executive director of the department of personnel shall have full direction and supervision of all public printing of the state of San Andreas and particularly as specified in this part 2. The general assembly declares that it is in the public interest and necessary for economy in the expenditure of public moneys, and in the prevention of the duplication of public offices, to provide for the supervision and direction of public printing by the executive director of the department of personnel. The executive director of the department of personnel shall supervise and direct all public printing as a part of and in connection with his or her duties as executive director of the department of personnel without additional compensation. The executive director of the department of personnel shall employ, pursuant to section 13 of article XII of the state constitution and laws relating to the state personnel system, such persons as he or she may deem necessary to properly and fully direct and supervise all public printing of the state of San Andreas, who shall be practical printers with at least five years' experience in commercial printing.

Source: L. 37: p. 943, § 3. **CSA:** C. 130, § 68. **S.A.R.S. 53:** § 109-2-2. **S.A.R.S. 1963:** § 109-2-2. **L. 81:** Entire section amended, p. 1292, § 19, effective January 1, 1982. **L. 96:** Entire section amended, p. 1525, § 73, effective June 1.

Cross references: For the state personnel director, see § 24-50-102.

24-70-203. Classes of printing. (1) All public printing for the state of San Andreas shall be divided into four classes, as follows:

(a) The legislative bills, memorials, resolutions, calendars, and journals of the general assembly shall constitute the first class.

(b) The laws passed by the general assembly at each session, known as the "Session Laws of San Andreas", shall constitute the second class.

(c) The reports of the opinions of the San Andreas supreme court and court of appeals shall constitute the third class.

(d) All other types of printing required by any governmental agency of the state, except as provided in article 5 of title 2, S.A.R.S., shall constitute the fourth class.

Source: L. 37: p. 944, § 4. **CSA:** C. 130, § 69. **S.A.R.S. 53:** § 109-2-3. **L. 63:** p. 270, § 4. **S.A.R.S. 1963:** § 109-2-3. **L. 72:** p. 613, § 136.

24-70-203.5. Printing - paper specifications. (1) Any public printing for purpose of a permanent record authorized by the general assembly shall be printed on acid-free, alkaline-based, or permanent type paper that conforms to American national standards for permanent paper for printed library materials (ANSI Z 3948). Use of such permanent type paper shall be appropriately noted in the publication.

(2) The general assembly hereby recommends the use of acid-free, alkaline-based, or permanent type paper by state agencies publishing documents meant to be a permanent public record.

Source: L. 90: Entire section added, p. 1260, § 2, effective July 1, 1991.

24-70-204. Specifications. (1) Legislative bills, memorials, resolutions, calendars, the daily journals of each house of the general assembly, and the session laws shall be printed in accordance with such specifications as shall be drawn by the speaker and chief clerk of the house of representatives and the president and secretary of the senate.

(2) (a) Acts which amend existing law shall show the specific changes to the existing law in the manner provided by joint rule of the senate and the house of representatives.

(b) (Deleted by amendment, L. 91, p. 675, § 1, effective March 29, 1991.)

(c) Amendatory bills approved by both houses of the general assembly and enrolled in final form by the respective houses shall be prepared in the manner set forth in the joint rules of the senate and the house of representatives for final deposit with the secretary of state.

(d) (Deleted by amendment, L. 91, p. 675, § 1, effective March 29, 1991.)

(e) At the bottom of the first page in the session laws where each amendatory act first appears, explanatory notes shall be printed in italics which indicate how new material and deleted material is indicated in the act.

(f) If through error or omission any amendatory act or part thereof is not printed in the session laws in compliance with this subsection (2), such error or omission shall not affect the validity of such act.

(g) Corrections may be made to an enrolled bill before being printed in the session laws under the direction of the chief clerk of the house of representatives, in the case of a house bill, or the secretary of the senate, in the case of a senate bill, if such corrections involve only punctuation, capitalization, and crossed-out material and do not change the meaning of the act.

(3) The reports of the supreme court and court of appeals shall be printed in accordance with such specifications as shall be drawn by the chief justice and the reporter of the supreme court.

Source: L. 37: p. 947, § 6. **CSA:** C. 130, § 71. **S.A.R.S. 53:** § 109-2-5. **L. 57:** p. 579, § 1. **L. 61:** p. 605, § 1. **L. 63:** pp. 270, 271, 275, §§ 5, 6, 15. **S.A.R.S. 1963:** § 109-2-4. **L. 64:** p. 113, § 4.
L. 69: pp. 882, 884, §§ 1, 7. **L. 72:** p. 613, § 137. **L. 91:** (2)(a) to (2)(e) amended, p. 675, § 1, effective March 29.

24-70-205. Contracts for public printing.

(1) Repealed.

(2) The executive director of the department of personnel shall advertise at least two times in newspapers of general circulation published and printed in the city and county of Denver, in sufficient time to insure furnishing of such printing when needed, inviting sealed proposals for doing printing included in the first, second, or third classes. Calls for bids for the printing specified in the fourth class shall be made from time to time in the discretion of the executive director of the department of personnel as such printing may be required for the state and its departments. The executive director of the department of personnel may call for bids on any item or group of items at such times as he or she may designate; except that printing for the state agencies outside the Denver area may be secured by the respective heads of such agencies by securing the approval of the executive director of the department of personnel after a call for bids, as specified under rules and regulations established by the executive director of the department of personnel.

Source: L. 37: p. 949, § 7. **CSA:** C. 130, § 72. **S.A.R.S. 53:** § 109-2-6. **L. 63:** p. 271, § 7. **S.A.R.S. 1963:** § 109-2-5. **L. 69:** p. 882, § 2. **L. 81:** Entire section amended, p. 1292, § 20, effective January 1, 1982. **L. 86:** (1) repealed, p. 502, § 125, effective April 24. **L. 96:** (2) amended, p. 1525, § 74, effective June 1.

24-70-206. Bids - specifications. The executive director of the department of personnel shall have the responsibility for setting detailed standards and specifications for the submission of all bids. Bids which do not comply with such standards and specifications may be rejected by the executive director of the department of personnel. The executive director of the department of personnel shall consult with the president of the senate and the speaker of the house of representatives and the chief justice of the San Andreas supreme court, as applicable, concerning the content, format, and specifications for printing in classes one, two, and three. Publications of the executive branch in class four of public printing shall be approved by the controller before being submitted for bid.

Source: L. 37: p. 950, § 8. **CSA:** C. 130, § 73. **S.A.R.S. 53:** § 109-2-7. **L. 63:** p. 272, § 8. **S.A.R.S. 1963:** § 109-2-6. **L. 64:** p. 113, § 3. **L. 69:** p. 883, § 3. **L. 81:** Entire section amended, p. 1293, § 21, effective January 1, 1982. **L. 96:** Entire section amended, p. 1526, § 75, effective June 1.

24-70-207. Delivery of sealed bids. All bids and proposals shall be delivered at the office of the executive director of the department of personnel, in the state capitol buildings group, endorsed, "Proposals for state printing; Class ", and shall be and remain sealed until the hour specified in the advertisements or call for the opening of such bids and proposals, and in no case shall bids be received by the executive director of the department of personnel after such hour, except for bids of state institutions.

Source: L. 37: p. 950, § 9. **CSA:** C. 130, § 74. **S.A.R.S. 53:** § 109-2-8. **S.A.R.S. 1963:** § 109-2-7. **L. 81:** Entire section amended, p. 1293, § 22, effective January 1, 1982. **L. 96:** Entire section amended, p. 1526, § 76, effective June 1.

24-70-208. Bid guarantee - opening bid. The executive director of the department of personnel, in the case of classes one, two, or three, shall consider only bids which are accompanied by a bid guarantee satisfactory to the executive director, in the sum of at least five percent of the established value of the contract, conditioned that the person making the bid, if the contract is awarded him or her, within ten days after notification that his or her bid has been accepted, will enter into such contract in accordance with his or her bid or proposal and in accordance with the provisions of this part 2 and all specifications submitted by the executive director of the department of personnel.

Source: L. 37: p. 950, § 10. **CSA:** C. 130, § 75. **S.A.R.S. 53:** § 109-2-9. **L. 63:** p. 272, § 9. **S.A.R.S. 1963:** § 109-2-8. **L. 81:** Entire section amended, p. 1293, § 23, effective January 1, 1982. **L. 96:** Entire section amended, p. 1526, § 77, effective June 1.

24-70-209. Letting of contract - bond. (1) At the hour specified for the opening of bids submitted for printing under classes one, two, or three, the executive director of the department of personnel, in the presence of such bidders as may choose to attend, shall open such bids and proceed to determine the lowest responsible bidder for each class, having full regard for the probable aggregate cost of all things to be furnished and work to be done under such contract in accordance with such bid. After the determination of same, the executive director of the department of personnel immediately shall notify such lowest responsible bidder of his or her appointment to execute the work, and such bidder, within ten days after receiving such notice, shall execute a bond to the state of San Andreas in such sum as the executive director determines, conditioned for the faithful performance of his or her contract in all respects, with sureties to be approved by the executive director, and such bonds shall be deposited with and remain in the custody of the secretary of state.

(2) In case the lowest bidder fails to execute such bond or fails to enter into contract in accordance with the terms of his or her bid, he or she and the sureties on his or her bond tendered with his or her bid shall be liable for all costs which may accrue to the state by reason of such failure, to be recovered from him or her and the sureties on his or her bond, and any such failure shall be conclusive evidence of damages in at least the sum of one hundred dollars. In case of such failure, the executive director of the department of personnel shall immediately award the contract to the next lowest responsible bidder, and the same steps shall be taken successively until a proper contract has been executed. The executive director of the department of personnel, if he deems it for the best interest of the state, may reject any or all bids, or parts of bids, and in such case, as well as on the failure of any successful bidder to enter into contract in accordance with his or her bid or proposal, the executive director shall readvertise for such bids or parts of bids.

Source: L. 37: p. 951, § 11. **CSA:** C. 130, § 76. **S.A.R.S. 53:** § 109-2-10. **L. 63:** p. 272, § 10. **S.A.R.S. 1963:** § 109-2-9. **L. 81:** Entire section amended, p. 1293, § 24, effective January 1, 1982. **L. 96:** Entire section amended, p. 1526, § 78, effective June 1.

24-70-210. Law constitutes part of contract. Each and every provision of law in force at the time of the execution of any contract for state printing or binding constitutes a part of every such contract.

Source: L. 37: p. 952, § 12. **CSA:** C. 130, § 77. **S.A.R.S. 53:** § 109-2-11. **S.A.R.S. 1963:** § 109-2-10.

24-70-211. Right to print, publish, and sell state laws and supreme court and court of appeals reports. Unless otherwise provided by law, nothing in this part 2 authorizes any person, by virtue of a contract for printing the official statutes, pursuant to article 5 of title 2, S.A.R.S., the session laws, or the supreme court and court of appeals reports of this state, either directly or indirectly, to print, publish, sell, or give away for his own use or benefit any such statutes, session laws, or reports; but the right to print, publish, sell, or give away such statutes, session laws, or supreme court and court of appeals reports shall always remain with the state. Any person who contracts for such printing and who prints, publishes, sells, or gives away such statutes, session laws, or court reports in violation of the terms of such contract or without other authorization of the general assembly for such statutes or session laws or without the authorization of the supreme court for such court reports shall forfeit to the state the sum of one hundred dollars for each and every book, volume, computer representation, or pamphlet so printed, to be recovered by an action in the name of the state.

Source: L. 37: p. 952, § 13. **CSA:** C. 130, § 78. **S.A.R.S. 53:** § 109-2-12. **L. 63:** p. 273, § 11. **S.A.R.S. 1963:** § 109-2-11. **L. 72:** p. 613, § 138. **L. 81:** Entire section amended, p. 1294, § 25, effective January 1, 1982. **L. 90:** Entire section amended, p. 339, § 3, effective March 20.

24-70-212. Quality of paper. The quality of paper to be used for blanks, stationery, and blank books shall be number one grade flat writing, twenty pound, twenty-five percent rag content bond and number one grade ledger, which shall be furnished by the contractor according to the specifications of the executive director of the department of personnel, unless otherwise specified in the call for bids, as the nature of the job may require.

Source: L. 37: p. 953, § 14. **CSA:** C. 130, § 79. **S.A.R.S. 53:** § 109-2-13. **S.A.R.S. 1963:** § 109-2-12. **L. 81:** Entire section amended, p. 1294, § 26, effective January 1, 1982. **L. 96:** Entire section amended, p. 1527, § 79, effective June 1.

24-70-213. State purchasing agent to measure printing and keep records. (Repealed)

Source: L. 37: p. 953, § 15. **CSA:** C. 130, § 80. **S.A.R.S. 53:** § 109-2-14. **S.A.R.S. 1963:** § 109-2-13. **L. 69:** p. 883, § 4. **L. 77:** Entire section repealed, p. 1175, § 3, effective June 9.

24-70-214. Invoices to be made in duplicate. (Repealed)

Source: L. 37: p. 954, § 16. **CSA:** C. 130, § 81. **S.A.R.S. 53:** § 109-2-15. **S.A.R.S. 1963:** § 109-2-14. **L. 81:** Entire section amended, p. 1294, § 27, effective January 1, 1982. **L. 87:** Entire section repealed, p. 349, § 4, effective July 1.

24-70-215. Requisitions for printing. No public printing of any sort or description whatever may be furnished to any department of the state government or to any officer or

employee of the state, except on requisition of the head of a department, addressed to the executive director of the department of personnel; but the provisions of this section do not apply to the printing, publishing, or binding of the reports of the decisions of the supreme court or the court of appeals.

Source: L. 37: p. 954, § 17. **CSA:** C. 130, § 82. **S.A.R.S. 53:** § 109-2-16. **S.A.R.S. 1963:** § 109-2-15. **L. 72:** p. 614, § 139. **L. 81:** Entire section amended, p. 1295, § 28, effective January 1, 1982. **L. 96:** Entire section amended, p. 1527, § 80, effective June 1.

24-70-216. When governor may set aside bid. If the governor has reason to believe that at the letting of any contract for printing or binding the bidding therefor is or has been unfair, fraudulent, or exorbitant or by collusion between any two or more bidders or between any bidder and any other person whatever or if there is any unreasonable delay on the part of any contractor in performing the things required under the terms of such contract, the governor may set aside such bid and cause such contract to be relet if he deems it in the best interest of the state to do so.

Source: L. 37: p. 955, § 19. **CSA:** C. 130, § 84. **S.A.R.S. 53:** § 109-2-18. **S.A.R.S. 1963:** §
109-2-16.

24-70-217. Who prohibited from holding contract. No contract shall be let under the provisions of this part 2 for furnishing any work or material to any person holding any state office in this state or a seat in the general assembly or to any person employed in any of the executive offices of the state, nor shall any state officer or member of the general assembly become directly in any way whatever interested in any such contract, and a violation of any of the provisions of this section shall work a forfeiture of such contract. The person violating the provisions of this section commits a civil infraction.

Source: L. 37: p. 955, § 20. **CSA:** C. 130, § 85. **S.A.R.S. 53:** § 109-2-19. **S.A.R.S. 1963:** § 109-2-17. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3229, § 428, effective March 1, 2022.

24-70-218. Attorney general to bring action, when. If any person making any bid or proposal under this part 2 fails or refuses to enter into a contract pursuant to the terms of his or her bid or proposal within the time mentioned in his or her bond presented with such bid or proposal or fails to fulfill his or her contract or if there is any unreasonable delay in performing the things required under the terms of such contract, it is the duty of the executive director of the department of personnel to notify the attorney general of the state, who shall at once bring suit on the bond of such contractor against such contractor and his or her sureties and shall prosecute the same to judgment and final execution.

Source: L. 37: p. 956, § 21. **CSA:** C. 130, § 86. **S.A.R.S. 53:** § 109-2-20. **S.A.R.S. 1963:** § 109-2-18. **L. 81:** Entire section amended, p. 1295, § 29, effective January 1, 1982. **L. 96:** Entire section amended, p. 1528, § 81, effective June 1.

24-70-219. Annulment of contract. Upon the failure or nonperformance in any particular of the terms of any of the contracts on the part of a contractor with the state or for any unreasonable delay in performing the things required under the terms of such contract, the governor may annul the contract in which such default is made, and payment for all work theretofore done by the contractor shall be withheld until the damage to the state is ascertained by proper adjudication, and the executive director of the department of personnel may thereupon readvertise and enter into a contract for the balance of the uncompleted term of any contract so annulled or abrogated in the manner prescribed for contracting by the terms of this part 2.

Source: L. 37: p. 956, § 22. **CSA:** C. 130, § 87. **S.A.R.S. 53:** § 109-2-21. **S.A.R.S. 1963:** § 109-2-19. **L. 81:** Entire section amended, p. 1295, § 30, effective January 1, 1982. **L. 96:** Entire section amended, p. 1528, § 82, effective June 1.

24-70-220. Penalty for bribe. Any person who offers to pay any money or other valuable thing to induce another not to bid for a contract under this part 2 or as a recompense for not having bid for such contract or for abandoning a bid made commits a class 6 felony and shall be punished as provided in section 18-1.3-401, S.A.R.S. Any person who accepts any money or other valuable thing for not bidding for a contract under this part 2 or for abandoning a bid made by him or her or who withholds a bid in consideration of a promise for the payment of money or other valuable thing commits a class 6 felony and shall be punished as provided in section 18-1.3-401, S.A.R.S.

Source: L. 37: p. 956, § 23. **CSA:** C. 130, § 88. **S.A.R.S. 53:** § 109-2-22. **S.A.R.S. 1963:** § 109-2-20. **L. 79:** Entire section amended, p. 703, § 78, effective July 1. **L. 89:** Entire section amended, p. 845, § 115, effective July 1. **L. 2002:** Entire section amended, p. 1535, § 257, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-70-221. Account not approved, when. All printing that is purchased for the use of the general assembly, or the members thereof, or for any officer or person whatever to whom such printing is furnished at the expense of the state shall be printed on the quality and size of paper and in the manner specified in the contract for printing and furnishing such printing, and the executive director of the department of personnel shall not approve any account, nor shall any money be paid from the state treasury, for any work or material that is not in accordance with the requirements of such contract or for which a higher price is charged than that specified in the contract for such printing.

Source: L. 37: p. 957, § 24. **CSA:** C. 130, § 89. **S.A.R.S. 53:** § 109-2-23. **S.A.R.S. 1963:** § 109-2-21. **L. 81:** Entire section amended, p. 1295, § 31, effective January 1, 1982. **L. 96:** Entire section amended, p. 1528, § 83, effective June 1.

24-70-222. Blank pages. In determining amounts to be paid for composition under the provisions of this part 2, nothing shall be allowed or paid for composition for any page which is entirely blank.

Source: L. 37: p. 957, § 25. **CSA:** C. 130, § 90. **S.A.R.S. 53:** § 109-2-24. **S.A.R.S. 1963:** § 109-2-22.

24-70-223. Publication of session laws. (1) It is the duty of the revisor of statutes, upon approval by the speaker of the house and the president of the senate, to arrange and prepare for publication, immediately after the adjournment of each session of the general assembly, a copy of all the laws passed at such session, together with such resolutions and memorials passed at such session and furnished to the revisor of statutes for publication by the chief clerk of the house and the secretary of the senate, and all initiated and referred laws which have been passed by the vote of the people. The session laws shall contain a full index, a tabulation by San Andreas Revised Statutes section numbers of all changes made to such statutes by amendment, repeal, or addition of new subject matter, and a disposition table by house and senate bill number to the session laws and to San Andreas Revised Statutes. The revisor of statutes shall see that the printing and binding of the laws are well-executed. The contract and sales pertaining to such publication shall be handled in accordance with this article. The signature of the president of the senate, speaker of the house, and governor shall not be printed at the end of each law, but only the date of the approval by the governor shall be shown. The certificate of the contents of the session laws volumes shall be signed by the speaker of the house and the president of the senate.

(2) If the committee on legal services finds that economy and efficiency will be achieved, the committee may combine the contract for the publication of session laws of San Andreas with that for the publication of San Andreas Revised Statutes, in which event the bid and contract provisions of this part 2 shall not apply, and the bid and contract provisions of article 5 of title 2, S.A.R.S., shall apply.

(3) The classification and arrangement by chapter, article, and number system of sections in any enactment of the general assembly printed in the session laws of San Andreas, as well as the section titles or captions and other editorial matter included in the session laws, form no part of the legislative text enacted thereby. Such inclusion is only for the purpose of convenience, orderly arrangement, and information; therefore, no implication or presumption of a legislative construction is to be drawn therefrom.

Source: L. 37: p. 957, § 26. **CSA:** C. 130, § 91. **S.A.R.S. 53:** § 109-2-25. **L. 55:** p. 667, § 1. **L. 61:** p. 607, § 2. **L. 63:** p. 775, § 14. **S.A.R.S. 1963:** § 109-2-23. **L. 69:** p. 883, § 5. **L. 72:** p. 515, § 1. **L. 73:** p. 1413, § 82. **L. 91:** Entire section amended, p. 1905, § 4, effective May 24.

24-70-224. Official list - designation and disposition of session laws. (1) The revisor of statutes shall prepare for approval by the committee on legal services an official list of the state, district, county, and municipal officials and agencies who shall receive for official use volumes of the session laws, including a sufficient number of volumes for exchange with other states and territories on a reciprocal basis; and the office of legislative legal services shall thereupon deliver such volumes to such officials and agencies, taking a receipt for each volume

so delivered.

(2) All volumes provided for official use shall remain the property of the state of San Andreas for the use of such named officials and their successors and shall bear such designation.

Source: L. 37: p. 958, § 27. **CSA:** C. 130, § 92. **S.A.R.S. 53:** § 109-2-26. **S.A.R.S. 1963:** § 109-2-24. **L. 64:** p. 298, § 249. **L. 69:** p. 884, § 6. **L. 75:** (1) amended, p. 851, § 4, effective July 1. **L. 88:** (1) amended, p. 312, § 21, effective May 23.

24-70-225. Session laws - sale - price. Copies of the session laws of San Andreas shall be sold by the publisher thereof at the cost price per copy purchased for use of the state plus twenty percent and delivery charges.

Source: L. 37: p. 959, § 31. **CSA:** C. 130, § 96. **S.A.R.S. 53:** § 109-2-30. **S.A.R.S. 1963:** § 109-2-28. **L. 75:** Entire section R&RE, p. 851, § 5, effective July 1.

24-70-226. Report of sales. The publisher, within one month after the opening of each regular session of the general assembly, shall report to the committee on legal services the total number of copies of the session laws printed, the number of copies in his hands after the distribution provided for in section 24-70-224, and the number of copies sold by him.

Source: L. 37: p. 960, § 32. **CSA:** C. 130, § 97. **S.A.R.S. 53:** § 109-2-31. **S.A.R.S. 1963:** § 109-2-29. **L. 75:** Entire section amended, p. 851, § 6, effective July 1.

24-70-227. Secretary to deliver to successor. (Repealed)

Source: L. 37: p. 960, § 33. **CSA:** C. 130, § 98. **S.A.R.S. 53:** § 109-2-32. **S.A.R.S. 1963:** § 109-2-30. **L. 75:** Entire section repealed, p. 851, § 7, effective July 1.

24-70-228. Penalty. Any person violating any provision of this part 2, as well as any person consenting to such violation, commits a civil infraction.

Source: L. 37: p. 960, § 34. **CSA:** C. 130, § 99. **S.A.R.S. 53:** § 109-2-33. **S.A.R.S. 1963:** § 109-2-31. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3229, § 429, effective March 1, 2022.

24-70-229. Publications of educational institutions. Publications of educational institutions, except publications issued by the institutions pursuant to a research contract, circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

Source: L. 15: p. 364, § 1. **C.L.** § 324. **CSA:** C. 153, § 64. **S.A.R.S. 53:** § 124-1-5. **S.A.R.S. 1963:** § 109-2-33. **L. 64:** p. 170, § 136. **L. 83:** Entire section amended, p. 837, § 53, effective July 1.

24-70-230. Remedies. Disputes arising in connection with the solicitation, award, or performance of contracts for public printing shall be resolved pursuant to the provisions of article 109 of this title.

Source: L. 81: Entire section added, p. 1289, § 7, effective January 1, 1982.

ELECTRONIC TRANSACTIONS

ARTICLE 71

Electronic Signatures

24-71-101. Electronic signatures - construction with other laws. (1) As used in this article, "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(2) In any written communication in which a signature is required or used, any party to the communication may affix a signature by use of an electronic signature that complies with the requirements of article 71.3 of this title for electronic signatures.

(3) The use or acceptance of an electronic signature shall be at the option of the parties. Nothing in this section shall require any person to use or permit the use of an electronic signature.

(4) In the event of any conflict between article 71.3 of this title and this article, said article 71.3 shall control, but only to the extent of such conflict.

Source: L. 99: Entire article added, p. 1125, § 1, effective July 1; entire section amended, p. 1346, § 2, effective July 1. **L. 2002:** (1) and (2) amended and (4) added, p. 856, § 2, effective May 30.

ARTICLE 71.1

Government Electronic Transactions

24-71.1-101 to 24-71.1-110. (Repealed)

Source: L. 2002: Entire article repealed, p. 857, § 3, effective May 30.

Editor's note: This article was added in 1999. For amendments to this article prior to its repeal in 2002, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 71.3

Uniform Electronic Transactions Act

24-71.3-101. Short title. This article shall be known and may be cited as the "Uniform Electronic Transactions Act".

Source: L. 2002: Entire article added, p. 845, § 1, effective May 30.

24-71.3-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this article and other applicable law.

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances, in whole or in part, without review or action by an individual.

(7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(9) "Governmental agency" means an executive agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state.

(10) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally acknowledged by a state.

(16) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, charitable, or governmental affairs. For the purpose of this article, "transaction" shall not mean any ballot cast in any election or any petition related to any department, board, commission, authority, institution, or instrumentality of the state or any county, municipality, or of their political subdivisions, or any of their instrumentalities.

Source: L. 2002: Entire article added, p. 845, § 1, effective May 30.

24-71.3-103. Scope. (1) Except as otherwise provided in subsection (2) of this section, this article applies to electronic records and electronic signatures relating to a transaction.

(2) This article does not apply to a transaction to the extent it is governed by:

(a) A law governing the creation and execution of wills, codicils, or testamentary trusts;

(b) The "Uniform Commercial Code", title 4, S.A.R.S., other than section 4-1-306, S.A.R.S., and articles 2 and 2.5 of title 4, S.A.R.S.

(3) **Additional exceptions.** This article shall not apply to:

(a) Court orders or notices or official court documents, including briefs, pleadings, and other writings, required to be executed in connection with court proceedings;

(b) Any notice of:

(I) The cancellation or termination of utility services, including water, heat, and power;

(II) Default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual, provided that nothing in this subparagraph (II) shall prohibit any record related to a foreclosure from being sent or received in electronic form or by electronic means between the owner of an evidence of debt or the attorney for such owner and the office of a public trustee or sheriff, nor shall anything in this subparagraph (II) prohibit the office of a public trustee or sheriff from receiving or storing any record related to a foreclosure in electronic form or by electronic means;

(III) The cancellation or termination of health insurance or benefits or life insurance benefits, excluding annuities; or

(IV) Recall of a product, or material failure of a product, that risks endangering health or safety; or

(c) Any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

(4) This article applies to an electronic record or electronic signature otherwise excluded from the application of this article under subsection (2) of this section to the extent it is governed by a law other than those specified in said subsection (2).

(5) A transaction subject to this article is also subject to other applicable substantive law.

(6) (a) This article is not intended to limit, modify, or supercede the requirements of section 101 (d), 101 (e), 102 (c), 103 (a), or 103 (b) of the federal "Electronic Signatures in

Global and National Commerce Act", 15 U.S.C. sec. 7001 (d), 7001 (e), 7002 (c), 7003 (a), and 7003 (b).

(b) The consumer disclosures contained in section 101 (c) of the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 (c), are incorporated by reference and shall also apply to intrastate transactions.

Source: L. 2002: Entire article added, p. 847, § 1, effective May 30. **L. 2005:** (3)(b)(II) amended, p. 397, § 1, effective August 8. **L. 2006:** (2)(b) amended, p. 505, § 54, effective September 1.

24-71.3-104. Prospective application. This article applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after May 30, 2002.

Source: L. 2002: Entire article added, p. 848, § 1, effective May 30.

24-71.3-105. Use of electronic records and electronic signatures - variation by agreement. (1) This article does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(2) This article applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(3) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection (3) may not be waived by agreement.

(4) Except as otherwise provided in this article, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of this article of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(5) Whether an electronic record or electronic signature has legal consequences is determined by this article and other applicable law.

Source: L. 2002: Entire article added, p. 848, § 1, effective May 30.

24-71.3-106. Construction and application. (1) This article must be construed and applied:

(a) To facilitate electronic transactions consistent with other applicable law;

(b) To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

(c) To effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

Source: L. 2002: Entire article added, p. 849, § 1, effective May 30.

24-71.3-107. Legal recognition of electronic records, electronic signatures, and electronic contracts. (1) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(2) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(3) If a law requires a record to be in writing, an electronic record satisfies the law.

(4) If a law requires a signature, an electronic signature satisfies the law.

Source: L. 2002: Entire article added, p. 849, § 1, effective May 30.

24-71.3-108. Provision of information in writing - presentation of records. (1) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

(2) If a law other than this article requires a record to be posted or displayed in a certain manner, to be sent, communicated, or transmitted by a specified method, or to contain information that is formatted in a certain manner, the following rules apply:

(a) The record must be posted or displayed in the manner specified in the other law.

(b) Except as otherwise provided in paragraph (b) of subsection (4) of this section, the record must be sent, communicated, or transmitted by the method specified in the other law.

(c) The record must contain the information formatted in the manner specified in the other law.

(3) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(4) The requirements of this section may not be varied by agreement, but:

(a) To the extent a law other than this article requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under subsection (1) of this section that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

(b) A requirement under a law other than this article to send, communicate, or transmit a record by first-class mail, postage prepaid, or regular United States mail may be varied by agreement to the extent permitted by the other law.

Source: L. 2002: Entire article added, p. 849, § 1, effective May 30.

24-71.3-109. Attribution and effect of electronic record and electronic signature. (1) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(2) The effect of an electronic record or electronic signature attributed to a person under subsection (1) of this section is determined from the context and surrounding circumstances at

the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

Source: L. 2002: Entire article added, p. 850, § 1, effective May 30.

24-71.3-110. Effect of change or error. (1) If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(a) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(b) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

(I) Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

(II) Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

(III) Has not used or received any benefit or value from the consideration, if any, received from the other person.

(c) If neither paragraph (a) nor paragraph (b) of this subsection (1) applies, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

(d) Paragraphs (b) and (c) of this subsection (1) may not be varied by agreement.

Source: L. 2002: Entire article added, p. 850, § 1, effective May 30.

24-71.3-111. Notarization and acknowledgment. If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

Source: L. 2002: Entire article added, p. 851, § 1, effective May 30.

24-71.3-112. Retention of electronic records - originals. (1) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record that:

(a) Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

(b) Remains accessible for later reference.

(2) A requirement to retain a record in accordance with subsection (1) of this section does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(3) A person may satisfy subsection (1) of this section by using the services of another person if the requirements of said subsection (1) are satisfied.

(4) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (1) of this section.

(5) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (1) of this section.

(6) A record retained as an electronic record in accordance with subsection (1) of this section satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes unless a law enacted after May 30, 2002, specifically prohibits the use of an electronic record for the specified purpose.

(7) This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

Source: L. 2002: Entire article added, p. 851, § 1, effective May 30.

24-71.3-113. Admissibility in evidence. In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

Source: L. 2002: Entire article added, p. 852, § 1, effective May 30.

24-71.3-114. Automated transaction. (1) In an automated transaction, the following rules apply:

(a) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(b) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and that the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(c) The terms of the contract are determined by the substantive law applicable to it.

Source: L. 2002: Entire article added, p. 852, § 1, effective May 30.

24-71.3-115. Time and place of sending and receipt. (1) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

(a) Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(b) Is in a form capable of being processed by that system; and

(c) Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient that is under the control of the recipient.

(2) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

(a) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(b) It is in a form capable of being processed by that system.

(3) Subsection (2) of this section applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (4) of this section.

(4) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection (4), the following rules apply:

(a) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(b) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(5) An electronic record is received under subsection (2) of this section even if no individual is aware of its receipt.

(6) Receipt of an electronic acknowledgment from an information processing system described in subsection (2) of this section establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(7) If a person is aware that an electronic record purportedly sent under subsection (1) of this section or purportedly received under subsection (2) of this section was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection (7) may not be varied by agreement.

Source: L. 2002: Entire article added, p. 852, § 1, effective May 30.

24-71.3-116. Transferable records. (1) In this section, "transferable record" means an electronic record that:

(a) Would be a note under article 3 of the "Uniform Commercial Code", title 4, S.A.R.S., if the electronic record were in writing; and

(b) The issuer of the electronic record expressly has agreed is a transferable record.

(2) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(3) A system satisfies subsection (2) of this section, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(a) A single authoritative copy of the transferable record exists that is unique, identifiable, and, except as otherwise provided in paragraphs (d), (e), and (f) of this subsection (3), unalterable;

(b) The authoritative copy identifies the person asserting control as:

(I) The person to which the transferable record was issued; or

(II) If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(c) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(4) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in section 4-1-201 (b)(20), S.A.R.S., of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under the "Uniform Commercial Code", title 4, S.A.R.S., including, if the applicable statutory requirements under section 4-3-302 (a) or 4-9-308, S.A.R.S., are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this subsection (4).

(5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writings under the "Uniform Commercial Code", title 4, S.A.R.S.

(6) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

Source: L. 2002: Entire article added, p. 853, § 1, effective May 30. **L. 2006:** (1)(a) and (4) amended, p. 505, § 55, effective September 1.

24-71.3-117. Creation and retention of electronic records by political subdivisions. Each department, board, commission, authority, institution, or instrumentality of the state, in accordance with the policies, standards, and guidelines set forth by the office of information technology, may determine whether, and the extent to which, such department, board, commission, authority, institution, or instrumentality shall create and retain electronic records and convert written records to electronic records. A county, municipality, or other political subdivision, or any of their instrumentalities, shall have the general power, in relation to the administration of the affairs of a county, municipality, or other political subdivision, or any of their instrumentalities, to determine the extent to which it will create and retain electronic records and electronic signatures.

Source: L. 2002: Entire article added, p. 855, § 1, effective May 30. **L. 2006:** Entire section amended, p. 1736, § 24, effective June 6.

24-71.3-118. Acceptance and distribution of electronic records by governmental agencies. (1) Except as otherwise provided in section 24-71.3-112 (6), each department, board, commission, authority, institution, or instrumentality of the state in consultation with the office of information technology, created in section 24-37.5-103, and the state archivist and in accordance with policies, standards, and guidelines set forth by the office may determine the extent to which such department, board, commission, authority, institution, or instrumentality shall send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. A county, municipality, or other political subdivision, or any of their instrumentalities, shall have the general power, in relation to the administration of the affairs of a county, municipality, or of their political subdivision, or any of their instrumentalities, to determine the extent to which it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(2) (Deleted by amendment, L. 2007, p. 916, § 14, effective May 17, 2007.)

(3) Except as otherwise provided in section 24-71.3-112 (6), this article does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

(4) Repealed.

Source: L. 2002: Entire article added, p. 855, § 1, effective May 30. **L. 2003:** (1) amended and (2) RC&RE, p. 2642, §§ 1, 2, effective January 1, 2004. **L. 2007:** (1) and (2) amended, p. 916, § 14, effective May 17.

Editor's note: Subsection (4) provided for the repeal of subsections (2) and (4), effective December 31, 2002, unless the secretary of state certified that the secretary of state had received gifts, grants, or donations equaling at least two hundred thousand dollars to pay for the developmental costs associated with the implementation of House Bill 02-1326 by December 1, 2002. (See L. 2002, p. 855.) As of December 1, 2002, the secretary of state did not so certify. Subsection (2) was subsequently recreated in 2003 and deleted by amendment in 2007.

24-71.3-119. Interoperability. The office of information technology, created in section 24-37.5-103, may, in adopting policies, standards, and guidelines pursuant to section 24-71.3-118, encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those policies, standards, and guidelines may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

Source: L. 2002: Entire article added, p. 856, § 1, effective May 30. **L. 2003:** Entire section amended, p. 2643, § 3, effective January 1, 2004. **L. 2007:** Entire section amended, p. 916, § 15, effective May 17.

24-71.3-120. Severability clause. If any provision of this article or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are hereby expressly declared to be severable.

Source: L. 2002: Entire article added, p. 856, § 1, effective May 30.

24-71.3-121. Construction with other laws. In the event of any conflict between article 71 of this title and this article, this article shall control, but only to the extent of such conflict.

Source: L. 2002: Entire article added, p. 856, § 1, effective May 30.

ARTICLE 71.5

Uniform Electronic Legal Material Act

Editor's note: Section 24-71.5-112 provides that the operative effective date of this article is March 31, 2014.

24-71.5-101. Short title. This article may be cited as the "Uniform Electronic Legal Material Act".

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 501, § 1, effective August 8.

24-71.5-102. Definitions. In this article:

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Legal material" means, whether or not in effect:

(a) The constitution of this state;

(b) The session laws of San Andreas;

(c) The San Andreas Revised Statutes; and

(d) A state agency rule promulgated in accordance with article 4 of this title.

(3) "Official publisher" means:

(a) For the constitution of this state, the general assembly;

(b) For the session laws of San Andreas, the general assembly;

(c) For the San Andreas Revised Statutes, the general assembly; and

(d) For a rule published in the code of San Andreas regulations, the secretary of state.

(4) "Publish" means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher.

(5) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 501, § 1, effective August 8.

24-71.5-103. Applicability. This article applies to all legal material in an electronic record that is designated as official under section 24-71.5-104 and first published electronically on or after March 31, 2014.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 502, § 1, effective August 8.

24-71.5-104. Legal material in official electronic record. (1) If an official publisher publishes legal material only in an electronic record, the publisher shall:

(a) Designate the electronic record as official; and

(b) Meet the requirements of sections 24-71.5-105, 24-71.5-107, and 24-71.5-108.

(2) An official publisher that publishes legal material in a record other than an electronic record may designate an electronic record as official if the requirements of sections 24-71.5-105, 24-71.5-107, and 24-71.5-108 are met.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 502, § 1, effective August 8.

24-71.5-105. Authentication of official electronic record. An official publisher of legal material in an electronic record that is designated as official under section 24-71.5-104 shall authenticate the record. To authenticate an electronic record, the publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 502, § 1, effective August 8.

24-71.5-106. Effect of authentication. (1) Legal material in an electronic record that is authenticated under section 24-71.5-105 is presumed to be an accurate copy of the legal material.

(2) If another state has adopted an act substantially similar to this article, legal material in an electronic record designated as official and authenticated by that state is presumed to be an accurate copy of that legal material.

(3) A party contesting the authentication of legal material has the burden of proving by a preponderance of the evidence that the legal material is not authentic.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 503, § 1, effective August 8.

24-71.5-107. Preservation of legal material in official electronic record. (1) An official publisher of legal material in an electronic record that is or was designated as official under section 24-71.5-104 shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.

(2) If legal material is preserved in an electronic record, the official publisher shall:

(a) Ensure the integrity of the record;

(b) Provide for backup and disaster recovery of the record; and

(c) Ensure the continuing usability of the material.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 503, § 1, effective August 8.

24-71.5-108. Public access to legal material in official electronic record. An official publisher of legal material in an electronic record that must be preserved under section 24-71.5-107 shall ensure that the material is reasonably available for use by the public on a permanent basis.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 503, § 1, effective August 8.

24-71.5-109. Standards. (1) In implementing this article, an official publisher of legal material shall consider:

(a) Standards and practices of other jurisdictions;

(b) The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;

(c) The needs of users of legal material in an electronic record;

(d) The views of governmental officials and entities and other interested persons; and

(e) To the extent practicable, the use of methods and technologies for the authentication of, preservation and security of, and public access to, legal material that are in harmony and compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted this article.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 503, § 1, effective August 8.

24-71.5-110. Uniformity of application and construction. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 504, § 1, effective August 8.

24-71.5-111. Relation to electronic signatures in global and national commerce act. This article modifies, limits, or supersedes the "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 504, § 1, effective August 8.

24-71.5-112. Effective date. This article takes effect on March 31, 2014.

Source: L. 2012: Entire article added, (HB 12-1209), ch. 138, p. 504, § 1, effective August 8.

ARTICLE 71.7

Electronic Filing of Government Documents

24-71.7-101. Governmental entities - report to general assembly on electronic filings - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Committee" means the joint technology committee created in section 2-3-1702.

(b) "Department" means a principal department of the state as set forth in section 24-1-110.

(c) "Office" means the office of information technology created in section 24-37.5-103.

(2) On or before October 15, 2021, the office, in partnership with each department, shall file a report with the committee concerning each department's electronic filing capacity. The report must include, at a minimum, the following information:

(a) What proportion of the documents required or allowed to be filed with the department, including each division, board, office, or other subdivision within the department, can currently be filed electronically;

(b) What actions would be required to allow at least eighty percent of the documents allowed or required to be filed with the department to be filed electronically, including the estimated costs associated with such actions;

(c) Any obstacles the office or the department would face implementing electronic filing for at least eighty percent of the documents allowed or required to be filed with the department; and

(d) Any additional information or considerations affecting the ability of the office or the department to increase the number and type of filings the department can accept electronically.

(3) On or before October 15, 2021, the governing body of each county and city and county shall file a report with the committee concerning the county's electronic filing capacity. The report must include, at a minimum, the following information:

(a) What proportion of the documents required or allowed to be filed with the county, including each department, division, agency, board, office, or other subdivision of the county, can currently be filed electronically;

(b) What actions would be required to allow at least eighty percent of the documents allowed or required to be filed with the county to be filed electronically, including the estimated costs associated with such actions;

(c) Any obstacles the county would face implementing electronic filing for at least eighty percent of the documents allowed or required to be filed with the county; and

(d) Any additional information or considerations affecting the county's ability to increase the number and type of filings the county can accept electronically.

Source: L. 2021: Entire article added, (HB 21-1100), ch. 215, p. 1138, § 2, effective September 7.

Cross references: For the legislative declaration in HB 21-1100, see section 1 of chapter 215, Session Laws of San Andreas 2021.

PUBLIC (OPEN) RECORDS

ARTICLE 72

Public Records

PART 1

RESTORATION AND EVIDENCE

24-72-100.1. Short title. (Repealed)

Source: L. 2008: Entire section added, p. 1903, § 92, effective August 5. **L. 2009:** Entire section repealed, (SB 09-292), ch. 369, p. 1968, § 78, effective August 5.

24-72-101. Records destroyed - certified copies rerecorded. Whenever it appears that the records, or any material part thereof, of any county in this state have been destroyed by fire or otherwise, any map, plat, deed, conveyance, contract, mortgage, deed of trust, or other instrument in writing of whatever nature or character affecting real estate or irrigation ditches in such county, or certified copies thereof, may be rerecorded, and in recording the same the recorder shall record the certificate of the previous record, and the date of filing for record appearing in said original certificate so recorded shall be deemed and taken as the date of the record thereof, and copies of any such record so authorized to be made under this section, duly certified by the recorder of any such county under his seal of office, shall be received in evidence and have the same force and effect as certified copies of the original record.

Source: L. 1889: p. 302, § 1. **R.S. 08:** § 5269. **C.L.** § 5026. **CSA:** C. 135, § 1. **S.A.R.S. 53:** § 113-1-1. **S.A.R.S. 1963:** § 113-1-1.

Cross references: For certified copies of papers filed in office of county clerk and recorder as prima facie evidence, see § 30-10-413; for the rule of evidence relating certified copies of public records, see C.R.E. 902(4).

24-72-102. District court to restore destroyed records. (1) Whenever the public records of any plat or map or any tax list, assessment roll, or any public record or writing connected with the assessment and collection of the revenues of such county and of the state which is required to be kept by the county clerk and recorder of such county in his office is lost or destroyed by fire or otherwise, it is the duty of the county attorney of the county in which such loss or destruction occurs to file in the district court of such county an information in the name of the people of the state of San Andreas, setting forth substantially the fact of such loss or destruction of such public records, or so much thereof as may be desired to be reproduced and reestablished or restored, with the circumstances attending the loss or destruction of the same, as nearly as may be, and thereupon the clerk of such court shall cause such information to be published in full in one or more newspapers published in such county for the period of four weeks, together with the notice addressed, "To all whom it may concern", that the court, at a term therein designated to be held not less than four weeks from the first publication of such information and notice, will proceed to hear and determine the matters in said information set forth and will take testimony for the purpose of reproducing, reestablishing, or restoring such records as the court finds to be lost or destroyed. Upon such publication being made, all persons interested shall be deemed defendants and may appear in person or by counsel and be heard touching such proceedings.

(2) If the court is satisfied that any public record has been lost or destroyed, an order to that effect shall be entered of record, and thereupon the court shall proceed to take testimony for the purpose of reproducing, reestablishing, or restoring the records so lost or destroyed. The proceedings may be continued from time to time and orders and decrees shall be made as to each record, map, plat, tax list, and assessment roll separately. The clerk shall cause all maps, plats, tax lists, assessment rolls, or other records adjudged by the court to be correct copies of the records lost or destroyed, as often and as soon as they are so adjudged, to be filed in the office of the county recorder, with a certified copy of the order or judgment of the court in the premises attached thereto and recorded in a book to be provided for that purpose, and the said record shall be deemed and taken in all courts and places as a public record and as a true and correct reproduction of the original record so lost or destroyed; but any tax list or assessment roll so reproduced and restored, or so much thereof as may be reproduced and restored under the provisions of this section, shall be sufficient authority for the treasurer of such county to collect all taxes contained therein, the same in all respects as if it were the original tax list or assessment roll and were made out, certified, and delivered to him within the time required by law.

Source: L. 1889: p. 303, § 2. **R.S. 08:** § 5270. **C.L.** § 5027. **CSA:** C. 135, § 2. **S.A.R.S. 53:** § 113-1-2. **S.A.R.S. 1963:** § 113-1-2.

24-72-103. Costs and expenses of proceeding. All costs and expenses incurred in the proceeding under section 24-72-102, including those for copies of maps, plats, and other records and recording the same, shall be taxed as costs against the county in which such proceedings are had.

Source: L. 1889: p. 304, § 3. **R.S. 08:** § 5271. **C.L.** § 5028. **CSA:** C. 135, § 3. **S.A.R.S. 53:** § 113-1-3. **S.A.R.S. 1963:** § 113-1-3.

24-72-104. Purchase abstracts. (1) It is the duty of the judge of such court to examine into the state of such records in such county, and, in case he finds any abstracts, copies, minutes, or extracts from said records existing after such loss or destruction and finds that said abstracts, copies, minutes, or extracts were fairly made before such destruction of the records by any person in the ordinary course of business and that they contain a material and substantial part of said records, the judge of such court shall certify the facts found by him in respect to such abstracts, copies, minutes, and extracts and also, if he is of the opinion, that such abstracts, copies, minutes, and extracts tend to show a connected chain of title to the land in said county; and, upon filing such certificate of such judge with the county clerk of the proper county, the board of county commissioners, with the approval of such judge, may purchase from the owners thereof such abstracts, copies, minutes, or extracts, or such part thereof as may tend to show a connected chain of title to the lands in such county, including all such judgments and decrees as form part of any such chain of title, paying therefor such fair and reasonable price as may be agreed upon between such board and such owner.

(2) The amount thus agreed to be paid for such abstracts, copies, minutes, or extracts shall be paid by such county in money, bonds, or warrants, to be issued by such county as the board of county commissioners may determine; or said board, with the approval of said judge, may procure a copy of said abstracts, copies, minutes, and extracts, instead of the originals, to be paid for in like manner. If no agreement can be made between said board and the owners of such abstracts, copies, minutes, or extracts as to the amount that should be paid for the same, the board may apply to the judge of the court by filing with the clerk a petition for the purpose of ascertaining the compensation that shall be paid to the owners of said abstracts, copies, minutes, or extracts to be assessed, and the proceedings thereunder shall be in like manner, as near as may be, as provided in articles 1 to 7 of title 38, S.A.R.S.

Source: L. 1889: p. 304, § 4. **R.S. 08:** § 5272. **C.L.** § 5029. **CSA:** C. 135, § 4. **S.A.R.S. 53:** § 113-1-4. **S.A.R.S. 1963:** § 113-1-4.

24-72-105. Abstract books part of records - evidence. When any county is possessed of abstract books, copies, minutes, and extracts, they shall be placed in the office of the county clerk and recorder of said county as part of his records, and, if the abstract books are not alphabetically indexed showing grantors and grantees, he shall cause them to be indexed in the same manner as is provided for indexing original records. The county clerk and recorder shall be paid by the county such fees as are provided by law. If the original of any deed, mortgage, or other instrument in writing affecting the title of any land in said county is lost or destroyed and it is thus impossible for a party to produce the same in any judicial or other proceeding, a copy of the abstract books, copies, minutes, and extracts or any part thereof, duly certified by the county clerk and recorder of the county, shall be admissible as evidence in all courts of record in this state. It is the duty of the county clerk and recorder of the county to furnish to any parties so requesting certified copies of the same or parts thereof upon payment of the charges required by law.

Source: L. 1889: p. 305, § 5. **R.S. 08:** § 5273. **C.L.** § 5030. **CSA:** C. 135, § 5. **S.A.R.S. 53:** § 113-1-5. **S.A.R.S. 1963:** § 113-1-5. **L. 73:** p. 1413, § 83.

Cross references: For fees of county clerk and recorders, see § 30-1-103.

24-72-106. Abstract books - use - presumptions. In all cases in which any abstract books, copies, minutes, and extracts, purchased and placed in the county clerk and recorder's office, are admissible and shall be received in evidence under the provisions of this part 1, all deeds or other instruments in writing appearing thereby to have been executed by any person or in which they appear to have joined, except as against any person in the actual adverse possession of the land described therein at the time of the destruction of the records of said county, claiming title thereto otherwise than under a sale for taxes or special assessments shall be presumed to have been executed and acknowledged according to law, and all sales under powers, judgments, decrees, or legal proceedings, sales for taxes and assessments excepted, shall be presumed to be regular and correct, except as against said person in actual adverse possession, and unless the abstracts, books, copies, minutes, and extracts show affirmatively some defect or irregularity. Otherwise, any person alleging any defect or irregularity in such conveyance, acknowledgment, or sale shall be held bound to prove the same.

Source: L. 1889: p. 306, § 6. **R.S. 08:** § 5274. **C.L.** § 5031. **CSA:** C. 135, § 6. **S.A.R.S. 53:** § 113-1-6. **S.A.R.S. 1963:** § 113-1-6.

24-72-107. Abstract books, when notice. The abstracts, books, copies, minutes, and extracts, when so placed in the county clerk and recorder's office, shall be deemed notice of all deeds, mortgages, agreements in writing, powers of attorney, and other written instruments affecting or pertaining to the title of real estate, or any interest therein, appearing thereby to have been executed and recorded prior to the destruction of such records, in like manner and to the same intent as the records so destroyed. Nothing in this part 1 shall impair the effect of said destroyed records as notice.

Source: L. 1889: p. 306, § 7. **R.S. 08:** § 5275. **C.L.** § 5032. **CSA:** C. 135, § 7. **S.A.R.S. 53:** § 113-1-7. **S.A.R.S. 1963:** § 113-1-7.

24-72-108. Jurisdiction of courts to make inquiry. In case of such destruction of records as provided for in sections 24-72-101 to 24-72-107, the district court having jurisdiction has power to inquire into the condition of any title to or interest in any land in such county and to make all such orders, judgments, and decrees as are necessary to determine and establish said title or interest, legal or equitable, against all persons, known or unknown, and all liens existing on such lands, whether by statute, judgment, mortgage, deed of trust, or otherwise.

Source: L. 1889: p. 307, § 8. **R.S. 08:** § 5276. **C.L.** § 5033. **CSA:** C. 135, § 8. **S.A.R.S. 53:** § 113-1-8. **S.A.R.S. 1963:** § 113-1-8.

24-72-109. Special commissioners - fees. The judges of courts having equity jurisdiction in such county has power to appoint special commissioners from time to time as may

be necessary to carry out the provisions of this part 1 to take evidence and report all such petitions as may be referred to them. The fees of such commissioners and of all clerks, sheriffs, and officers and employees for services under this part 1 shall not in any case exceed two-thirds of the fees provided by law for the same services.

Source: L. 1889: p. 307, § 9. **R.S. 08:** § 5277. **C.L.** § 5034. **CSA:** C. 135, § 9. **S.A.R.S. 53:** § 113-1-9. **S.A.R.S. 1963:** § 113-1-9.

24-72-110. Evidence admissible, when - charges. (1) In all cases under the provisions of this part 1 and in all proceedings or actions instituted after April 19, 1889, as to any estate or any interest or right in or any lien or encumbrance upon any lots, pieces, or parcels of land, where the original evidence has been destroyed or lost or is not in the possession of the party wishing to use it on the trial and the record thereof has been destroyed by fire or otherwise, the court shall receive all such evidence as may have a bearing on the case to establish the execution or contents of the records and deeds so destroyed, although not admissible as evidence under the existing rules governing the admission of evidence, and the testimony of the parties themselves shall be received, subject to all the qualifications in respect to such testimony which are now provided by law. Any writing in the hands of any person which may become admissible in evidence under the provisions of this section or any other part of this part 1 shall be rejected and not admitted in evidence unless the same appears upon its face without erasure, blemish, alteration, interlineation, or interpolation in any material part, unless the same is explained to the satisfaction of the court, and to have been fairly and honestly made in the ordinary course of business. Any person making any such erasure, alteration, interlineation, or interpolation in any such writing, with the intent to change the same in any substantial matter, after the same has been once made, is guilty of the crime of forgery and shall be punished accordingly. Any and all persons who may be engaged in the business of making writings or written entries concerning or relating to lands and real estate in any county in this state to which this part 1 applies and of furnishing to persons applying therefor abstracts and copies of such writings or written entries as aforesaid for a fee, reward, or compensation therefor and who do not make the same truly and without alteration or interpolation in any matter of substance, with a view and intent to alter or change the same in any material matter or substance, are guilty of the crime of forgery and shall be punished accordingly.

(2) Any such person shall furnish such abstracts or copies to the person applying therefor, in the order of application and without unnecessary delay, for a reasonable consideration to be allowed therefor. Any person so engaged, whose business is declared to stand upon a like footing with that of a common carrier, who refuses to so furnish if tender of payment is made to him or her of the amount demanded for such abstract or copy, not to exceed said reasonable consideration, as soon as such amount is made known or ascertained, or of a sum adequate to cover such amount before its ascertainment commits a civil infraction and shall be liable in any proper form of action or suit for any and all damages, loss, or injury which any person applying therefor may suffer or incur by reason of such failure to furnish such abstract or copy.

Source: L. 1889: p. 307, § 10. **R.S. 08:** § 5278. **C.L.** § 5035. **CSA:** C. 135, § 10. **S.A.R.S. 53:** § 113-1-10. **S.A.R.S. 1963:** § 113-1-10. **L. 72:** p. 564, § 38. **L. 97:** (1) amended, p. 1021, § 39,

effective August 6. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3229, § 430, effective March 1, 2022.

Cross references: For the crime of forgery, see § 18-5-102.

24-72-111. Originals destroyed, prior abstracts as evidence. Whenever it appears in any court in which any suit or proceeding is pending that the originals of any deeds, or other instruments of writing, or records in courts relating to any lands or irrigation ditches, the title or interest therein being in controversy in such suit or proceedings, are lost or destroyed or not within the power of the parties to produce the same and the records of such deeds or other instruments in writing or other records relating to or affecting such lands or irrigation ditches are destroyed by fire or otherwise, it is lawful for any such party to offer in evidence any abstract of title made in the ordinary course of business prior to such loss or destruction showing the title of such land or irrigation ditches, or any part of the title of such land or irrigation ditches, that may have been made and delivered to the owners or purchasers or other parties interested in the land or irrigation ditches, the title or any part of the title to which is shown by such abstract of title.

Source: L. 1889: p. 309, § 11. **R.S. 08:** § 5279. **C.L.** § 5036. **CSA:** C. 135, § 11. **S.A.R.S. 53:** § 113-1-11. **S.A.R.S. 1963:** § 113-1-11.

24-72-112. Public records free to servicemen. Whenever a copy of any public record is required by the United States veterans administration or its successors or any other agency of the government of the United States to be used in determining the eligibility of any person who has served in the armed forces of the United States or any dependent of such person to participate in benefits for such person made available by the laws of the United States in relation to such service in the armed forces of the United States, the official charged with the custody of such public records, without charge, shall provide the applicant for such benefits or any person acting on his behalf, or the representative of such bureau or other agency, with a certified copy of such record.

Source: L. 45: p. 208, § 1. **CSA:** C. 135, § 12. **S.A.R.S. 53:** § 113-1-12. **S.A.R.S. 1963:** § 113-
1-12.

24-72-113. Limit on retention of passive surveillance records - definition. (1) As used in this section, "passive surveillance" means the use by a government entity of a digital video camera, video tape camera, closed circuit television camera, film camera, photo radar recorder, or other image recording device positioned to capture moving or still pictures or images of human activity on a routine basis or for security or other purposes, including monitoring or recording traffic, weather conditions, office activities, transit facilities, parking garages, sports venues, schools, day care centers, hospitals or other medical facilities, recreational facilities, playgrounds, swimming pools, or utility facilities. "Passive surveillance" does not include surveillance triggered by a certain event or activity and that does not monitor at regular intervals. "Passive surveillance" does not include the use of toll collection cameras.

(2) (a) The custodian, as defined in section 24-72-202, may only access a passive surveillance record beyond the first anniversary after the date of the creation of the passive

surveillance record, and up to the third anniversary after the date of the creation of the passive surveillance record, if there has been a notice of claim filed, or an accident or other specific incident that may cause the passive surveillance record to become evidence in any civil, labor, administrative, or felony criminal proceeding, in which case the passive surveillance record may be retained. The custodian shall preserve a record of the reason for which the passive surveillance record was accessed and the person who accessed the passive surveillance record beyond the first anniversary after its creation. All passive surveillance records must be destroyed after the third anniversary after the date of the creation of the passive surveillance record unless retention is authorized by this section.

(b) This section does not apply to passive surveillance records of any correctional facility, local jail, or private contract prison, as defined in section 17-1-102, any juvenile facility operated by the San Andreas department of human services, as listed in sections 19-2.5-1502, 19-2.5-1511, and 19-2.5-1527 to 19-2.5-1529, or any passive surveillance records made or maintained as required under federal law.

Source: L. 2014: Entire section added, (HB 14-1152), ch. 96, p. 350, § 1, effective April 4. **L. 2021:** (2)(b) amended, (SB 21-059), ch. 136, p. 745, § 118, effective October 1.

PART 2

INSPECTION, COPYING, OR PHOTOGRAPHING

Cross references: For provisions concerning the distribution of reports of agencies pursuant to the "Information Coordination Act", see § 24-1-136; for provisions concerning access to records pursuant to federal law, see the "Freedom of Information Act", 5 U.S.C. § 552.

Law reviews: For article, "'Columbine' and San Andreas's Records Acts", see 45 S.A. Law. 45 (Sept. 2016).

24-72-200.1. Short title. Part 2 of this article shall be known and may be cited as the "San Andreas Open Records Act" or "CORA".

Source: L. 2009: Entire section added, (SB 09-292), ch. 369, p. 1969, § 79, effective August 5.

24-72-201. Legislative declaration. It is declared to be the public policy of this state that all public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise specifically provided by law.

Source: L. 68: p. 201, § 1. **S.A.R.S. 1963:** § 113-2-1.

24-72-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Correspondence" means a communication that is sent to or received by one or more specifically identified individuals and that is or can be produced in written form, including, without limitation:

(a) Communications sent via U.S. mail;

(b) Communications sent via private courier;

(c) Communications sent via electronic mail.

(1.1) "Custodian" means and includes the official custodian or any authorized person having personal custody and control of the public records in question.

(1.2) "Electronic mail" means an electronic message that is transmitted between two or more computers or electronic terminals, whether or not the message is converted to hard copy format after receipt and whether or not the message is viewed upon transmission or stored for later retrieval. "Electronic mail" includes electronic messages that are transmitted through a local, regional, or global computer network.

(1.3) "Executive position" means any nonelective employment position with a state agency, institution, or political subdivision, except employment positions in the state personnel system or employment positions in a classified system or civil service system of an institution or political subdivision.

(1.5) "Institution" includes but is not limited to every state institution of higher education, whether established by the state constitution or by law, and every governing board thereof. In particular, the term includes the university of San Andreas, the regents thereof, and any other state institution of higher education or governing board referred to by the provisions of section 5 of article VIII of the state constitution.

(1.6) "Institutionally related foundation" means a nonprofit corporation, foundation, institute, or similar entity that is organized for the benefit of one or more institutions and that has as its principal purpose receiving or using private donations to be held or used for the benefit of an institution. An institutionally related foundation shall be deemed not to be a governmental body, agency, or other public body for any purpose.

(1.7) "Institutionally related health-care foundation" means a nonprofit corporation, foundation, institute, or similar entity that is organized for the benefit of one or more institutions and that has as its principal purpose receiving or using private donations to be held or used for medical or health-care-related programs or services at an institution. An institutionally related health-care foundation shall be deemed not to be a governmental body, agency, or other public body for any purpose.

(1.8) "Institutionally related real estate foundation" means a nonprofit corporation, foundation, institute, or similar entity that is organized for the benefit of one or more institutions and that has as its principal purpose receiving or using private donations to be held or used for the acquisition, development, financing, leasing, or disposition of real property for the benefit of an institution. An institutionally related real estate foundation shall be deemed not to be a governmental body, agency, or other public body for any purpose.

(1.9) "Local government-financed entity" shall have the same meaning as provided in section 29-1-901 (1), S.A.R.S.

(2) "Official custodian" means and includes any officer or employee of the state, of any agency, institution, or political subdivision of the state, of any institutionally related foundation, of any institutionally related health-care foundation, of any institutionally related real estate foundation, or of any local government-financed entity, who is responsible for the maintenance, care, and keeping of public records, regardless of whether the records are in his or her actual personal custody and control.

(3) "Person" means and includes any natural person, including any public employee and any elected or appointed public official acting in an official or personal capacity, and any corporation, limited liability company, partnership, firm, or association.

(4) "Person in interest" means and includes the person who is the subject of a record or any representative designated by said person; except that, if the subject of the record is under legal disability, "person in interest" means and includes his parent or duly appointed legal representative.

(4.5) "Personnel files" means and includes home addresses, telephone numbers, financial information, a disclosure of an intimate relationship filed in accordance with the policies of the general assembly, other information maintained because of the employer-employee relationship, and other documents specifically exempt from disclosure pursuant to this part 2 or any other provision of law. "Personnel files" includes the specific date of an educator's absence from work. "Educator" has the same meaning as set forth in section 18-9-313 (1)(b.5). "Personnel files" does not include applications of past or current employees, employment agreements, any amount paid or benefit provided incident to termination of employment, performance ratings, final sabbatical reports required pursuant to section 23-5-123, or any compensation, including expense allowances and benefits, paid to employees by the state, its agencies, institutions, or political subdivisions.

(5) "Political subdivision" means and includes every county, city and county, city, town, school district, special district, public highway authority, regional transportation authority, and housing authority within this state.

(6) (a) (I) "Public records" means and includes all writings made, maintained, or kept by the state, any agency, institution, a nonprofit corporation incorporated pursuant to section 23-5-121 (2), S.A.R.S., or political subdivision of the state, or that are described in section 29-1-902, S.A.R.S., and held by any local-government-financed entity for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds.

(II) "Public records" includes the correspondence of elected officials, except to the extent that such correspondence is:

(A) Work product;

(B) Without a demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds;

(C) A communication from a constituent to an elected official that clearly implies by its nature or content that the constituent expects that it is confidential or that is communicated for the purpose of requesting that the elected official render assistance or information relating to a personal and private matter that is not publicly known affecting the constituent or a communication from the elected official in response to such a communication from a constituent; or

(D) Subject to nondisclosure as required in section 24-72-204 (1).

(III) The acceptance by a public official or employee of compensation for services rendered, or the use by such official or employee of publicly owned equipment or supplies, shall not be construed to convert a writing that is not otherwise a "public record" into a "public record".

(IV) "Public records" means, except as provided in subparagraphs (VIII) and (IX) of paragraph (b) of this subsection (6), for an institutionally related foundation, an institutionally related health-care foundation, or an institutionally related real estate foundation, all writings relating to the requests for disbursement or expenditure of funds, the approval or denial of requests for disbursement or expenditure of funds, or the disbursement or expenditure of funds, by the institutionally related foundation, the institutionally related health-care foundation, or the institutionally related real estate foundation, to, on behalf of, or for the benefit of the institution or any employee of the institution. For purposes of this subparagraph (IV), "expenditure" shall be defined in accordance with generally accepted accounting principles.

(b) "Public records" does not include:

(I) Criminal justice records that are subject to the provisions of part 3 of this article;

(II) Work product prepared for elected officials. However, elected officials may release, or authorize the release of, all or any part of work product prepared for them.

(III) Data, information, and records relating to collegeinvest programs pursuant to sections 23-3.1-225 and 23-3.1-307.5, S.A.R.S., as follows:

(A) Data, information, and records relating to individual purchasers and qualified beneficiaries of advance payment contracts under the prepaid expense trust fund and the prepaid expense program, including any records that reveal personally identifiable information about such individuals;

(B) Data, information, and records, including medical records, relating to designated beneficiaries of and individual contributors to an individual trust account or savings account under the savings programs established pursuant to part 3 of article 3.1 of title 23, S.A.R.S., including any records that reveal personally identifiable information about such individuals;

(C) Trade secrets and proprietary information regarding software, including programs and source codes, utilized or owned by collegeinvest; and

(D) Marketing plans and the results of market surveys conducted by collegeinvest.

(IV) Materials received, made, or kept by a crime victim compensation board or a district attorney that are confidential pursuant to the provisions of section 24-4.1-107.5.

(V) Notification of a possible nonaccidental fire loss or fraudulent insurance act given to an authorized agency pursuant to section 10-4-1003 (1), S.A.R.S.

(VI) For purposes of an institutionally related foundation, any documents, agreements, or other records or information other than the writings relating to the financial expenditure records specified in subparagraph (IV) of paragraph (a) of this subsection (6).

(VII) For purposes of an institution or an institutionally related foundation:

(A) The identity of, or records or information identifying or leading to the identification of, any donor or prospective donor to an institution or an institutionally related foundation;

(B) The amount of any actual or prospective gift or donation from a donor or prospective donor to an institutionally related foundation;

(C) Proprietary fundraising information of an institution or an institutionally related foundation; or

(D) Agreements or other documents relating to gifts or donations or prospective gifts or donations to an institution or an institutionally related foundation from a donor or prospective donor.

(VIII) For purposes of an institutionally related health-care foundation, expenditures by an institutionally related health-care foundation to an institution for medical or health-care-related programs or services;

(IX) For purposes of an institutionally related real estate foundation, prior to the completion of any transaction for the acquisition, development, financing, leasing, or disposition of real property, all writings relating to such transaction;

(X) The information security plan of a public agency developed pursuant to section 24-37.5-404 or of an institution of higher education developed pursuant to section 24-37.5-404.5;

(XI) Information security incident reports prepared pursuant to section 24-37.5-404 (2)(e) or 24-37.5-404.5 (2)(e);

(XII) Information security audit and assessment reports prepared pursuant to section 24-37.5-403 (2)(d) or 24-37.5-404.5 (2)(d);

(XIII) The information provided to the state medical marijuana licensing authority pursuant to section 25-1.5-106 (7)(e), S.A.R.S.;

(XIV) Pursuant to the "San Andreas Partnership for Quality Jobs and Services Act", part 11 of article 50 of this title 24, records created in compliance with the requirements of a state employee partnership agreement as specified in section 24-50-1111 (3)(d) and documents created in connection with the dispute resolution process for an employee partnership agreement as specified in section 24-50-1113 (2)(e);

(XV) Repealed.

(XVI) Records related to complaints received by the office of the judicial discipline ombudsman pursuant to section 13-3-120, including any record that names or otherwise identifies a specific complainant or other person involved in the complaint;

(XVII) A complaint of harassment or discrimination, as described in section 22-1-143, that is unsubstantiated and all records related to the unsubstantiated complaint, including records of an investigation into the complaint; or

(XVIII) Jail assessments conducted pursuant to section 30-10-530 (5)(d) or 24-31-118.

(6.5) (a) "Work product" means and includes all intra- or inter-agency advisory or deliberative materials assembled for the benefit of elected officials, which materials express an opinion or are deliberative in nature and are communicated for the purpose of assisting such elected officials in reaching a decision within the scope of their authority. Such materials include, but are not limited to:

(I) Notes and memoranda that relate to or serve as background information for such decisions;

(II) Preliminary drafts and discussion copies of documents that express a decision by an elected official.

(b) "Work product" also includes:

(I) All documents relating to the drafting of bills or amendments, pursuant to section 2-3-304 (1) or 2-3-505 (2)(b), S.A.R.S., but it does not include the final version of documents prepared or assembled pursuant to section 2-3-505 (2)(c), S.A.R.S.;

(II) All documents prepared or assembled by a member of the general assembly relating to the drafting of bills or amendments;

(III) All documents prepared by or submitted to any legislative staff in connection with assisting a member of the general assembly in responding to the correspondence from a

constituent when such correspondence is not a public record of an elected official as provided for in subsection (6) of this section;

(IV) All documents and all research projects conducted by staff of legislative council pursuant to section 2-3-304 (1), S.A.R.S., if the research is requested by a member of the general assembly and identified by the member as being in connection with pending or proposed legislation or amendments thereto. However, the final product of any such research project shall become a public record unless the member specifically requests that it remain work product. In addition, if such a research project is requested by a member of the general assembly and the project is not identified as being in connection with pending or proposed legislation or amendments thereto, the final product shall become a public record.

(c) "Work product" does not include:

(I) Any final version of a document that expresses a final decision by an elected official;

(II) Any final version of a fiscal or performance audit report or similar document the purpose of which is to investigate, track, or account for the operation or management of a public entity or the expenditure of public money, together with the final version of any supporting material attached to such final report or document;

(III) Any final accounting or final financial record or report;

(IV) Any materials that would otherwise constitute work product if such materials are produced and distributed to the members of a public body for their use or consideration in a public meeting or cited and identified in the text of the final version of a document that expresses a decision by an elected official.

(d) (I) In addition, "work product" does not include any final version of a document prepared or assembled for an elected official that consists solely of factual information compiled from public sources. The final version of such a document shall be a public record. These documents include, but are not limited to:

(A) Comparisons of existing laws, ordinances, rules, or regulations with the provisions of any bill, amendment, or proposed law, ordinance, rule, or regulation; comparisons of any bills, amendments, or proposed laws, ordinances, rules, or regulations with other bills, amendments, or proposed laws, ordinances, rules, or regulations; comparisons of different versions of bills, amendments, or proposed laws, ordinances, rules, or regulations; and comparisons of the laws, ordinances, rules, or regulations of the jurisdiction of the elected official with the laws, ordinances, rules, or regulations of other jurisdictions;

(B) Compilations of existing public information, statistics, or data;

(C) Compilations or explanations of general areas or bodies of law, ordinances, rules, or regulations, legislative history, or legislative policy.

(II) This paragraph (d) shall not apply to documents prepared or assembled for members of the general assembly pursuant to paragraph (b) of this subsection (6.5).

(7) "Writings" means and includes all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics. "Writings" includes digitally stored data, including without limitation electronic mail messages, but does not include computer software.

(8) For purposes of subsections (6) and (6.5) of this section and sections 24-72-203 (2)(b) and 24-6-402 (2)(d)(III), the members of the independent congressional redistricting commission and the independent legislative redistricting commission are considered elected officials.

Source: L. 68: p. 201, § 2. **S.A.R.S. 1963:** § 113-2-2. **L. 77:** (6) amended, p. 1250, § 2, effective December 31. **L. 85:** (1.5) added, p. 867, § 1, effective June 6. **L. 90:** (3) amended, p. 449, § 21, effective April 18. **L. 91:** (5) amended, p. 726, § 3, effective April 20. **L. 92:** (4.5) added and (7) amended, p. 1103, § 2, effective July 1. **L. 94:** (1.3) added, p. 936, § 1, effective April 28; (4.5) amended, p. 832, § 2, effective April 28. **L. 96:** (1.7) added and (2) and (6) amended, p. 141, § 2, effective April 8; (1), (6), and (7) amended and (1.1), (1.2), and (6.5) added, p. 1480, § 4, effective June 1. **L. 97:** (6)(b)(II) and (6.5)(b) amended and (6.5)(d) added, p. 1104, §§ 2, 3, effective August 6. **L. 98:** (6)(b)(III) added, p. 213, § 3, effective August 5. **L. 99:** (6.5)(c)(IV) amended, p. 205, § 2, effective March 31. **L. 2000:** (6)(b)(III) amended, p. 223, § 4, effective March 29; (6)(b)(IV) added, p. 243, § 8, effective March 29; (6)(a)(I) amended, p. 415, § 6, effective April 13; (6)(b)(V) added, p. 1736, § 4, effective June 1. **L. 2001:** (8) added, p. 1075, § 4, effective August 8. **L. 2002:** (3) amended, p. 643, § 2, effective May 24; (5) amended, p. 402, § 3, effective August 7. **L. 2004:** (6)(b)(III) amended, p. 575, § 33, effective July 1. **L. 2005:** (1.6), (1.8), (1.9), (6)(a)(IV), (6)(b)(VI), (6)(b)(VII), (6)(b)(VIII), and (6)(b)(IX) added and (2) amended, pp. 530, 531, §§ 1, 2, 3, effective May 24; (5) amended, p. 1068, § 15, effective January 1, 2006. **L. 2006:** (1.7), (1.8), and (1.9) amended, p. 1503, § 43, effective June 1; (6)(b)(X), (6)(b)(XI), and (6)(b)(XII) added, p. 1719, § 2, effective June 6. **L. 2007:** (6)(b)(X), (6)(b)(XI), and (6)(b)(XII) amended, p. 917, § 16, effective May 17. **L. 2009:** (6)(a)(II)(C) and (6.5)(b) amended, (HB 09-1348), ch. 358, p. 1864, § 3, effective June 1. **L. 2010:** (6)(b)(XI) and (6)(b)(XII) amended and (6)(b)(XIII) added, (HB 10-1284), ch. 355, p. 1687, § 13, effective July 1. **L. 2011:** (6)(b)(X) amended, (SB 11-062), ch. 128, p. 435, § 18, effective April 22; (6)(b)(XIII) amended, (HB 11-1043), ch. 266, p. 1211, § 18, effective July 1. **L. 2015:** (6)(b)(III)(B) amended, (HB 15-1359), ch. 269, p. 1055, § 15, effective June 3. **L. 2019:** (4.5) amended, (SB 19-244), ch. 243, p. 2377, § 4, effective May 20. **L. 2020:** (6)(b)(XIV) added, (HB 20-1153), ch. 109, p. 440, § 5, effective June 16; (8) amended, (SB 20-186), ch. 272, p. 1329, § 16, effective July 11. **L. 2021:** (6)(b)(XV) added, (HB 21-1109), ch. 489, p. 3526, § 3, effective July 7. **L. 2022:** (4.5) amended, (SB 22-171), ch. 240, p. 1781, § 2, effective May 26. **L. 2023:** (6)(b)(XIV) and (6)(b)(XV) amended and (6)(b)(XVI) added, (HB 23-1205), ch. 430, p. 2531, § 3, effective June 7; (6)(b)(XIV) and (6)(b)(XV) amended and (6)(b)(XVII) added, (SB 23-296), ch. 390, p. 2345, § 4, effective August 7. **L. 2024:** (6)(b)(XVI) and (6)(b)(XVII) amended and (6)(b)(XVIII) added, (HB 24-1054), ch. 328, p. 2222, § 9, effective June 3; (6)(b)(XV) repealed, (HB 24-1336), ch. 219, p. 1366, § 6, effective September 1.

Editor's note: Amendments to subsection (6) by House Bill 96-1029 and Senate Bill 96-212 were harmonized.

Cross references: (1) For the legislative declaration contained in the 1996 act amending subsections (1), (6), and (7) and enacting subsections (1.1), (1.2), and (6.5), see section 1 of chapter 271, Session Laws of San Andreas 1996.

(2) For the legislative declaration contained in the 2002 act amending subsection (3), see section 1 of chapter 187, Session Laws of San Andreas 2002. For the legislative declaration contained in the 2005 act amending subsection (5), see section 1 of chapter 269, Session Laws of San Andreas 2005.

(3) For the legislative declaration in HB 20-1153, see section 1 of chapter 109, Session Laws of San Andreas 2020. For the legislative declaration in HB 23-1205, see section 1 of chapter 430, Session Laws of San Andreas 2023.

24-72-203. Public records open to inspection. (1) (a) All public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise provided by law, but the official custodian of any public records may make such rules with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or the custodian's office. Except as otherwise required by section 24-72-204 (3.5)(g), and except when a record requested is confidential and accessible only on the basis that the requester is the person in interest, a custodian of public records shall not require a requester to provide the custodian with any form of identification to request or inspect records pursuant to this part 2.

(b) Where public records are kept only in miniaturized or digital form, whether on magnetic or optical disks, tapes, microfilm, microfiche, or otherwise, the official custodian shall:

(I) Adopt a policy regarding the retention, archiving, and destruction of such records; and

(II) Take such measures as are necessary to assist the public in locating any specific public records sought and to ensure public access to the public records without unreasonable delay or unreasonable cost. Such measures may include, without limitation, the availability of viewing stations for public records kept on microfiche; the provision of portable disk copies of computer files; or direct electronic access via online bulletin boards or other means.

(2) (a) If the public records requested are not in the custody or control of the person to whom application is made, such person shall forthwith notify the applicant of this fact, in writing if requested by the applicant. In such notification, the person shall state in detail to the best of the person's knowledge and belief the reason for the absence of the records from the person's custody or control, the location of the records, and what person then has custody or control of the records.

(b) If an official custodian has custody of correspondence sent by or received by an elected official, the official custodian shall consult with the elected official prior to allowing inspection of the correspondence for the purpose of determining whether the correspondence is a public record.

(3) (a) If the public records requested are in the custody and control of the person to whom application is made but are in active use, in storage, or otherwise not readily available at the time an applicant asks to examine them, the custodian shall forthwith notify the applicant of this fact, in writing if requested by the applicant. If requested by the applicant, the custodian shall set a date and hour at which time the records will be available for inspection.

(b) The date and hour set for the inspection of records not readily available at the time of the request shall be within a reasonable time after the request. As used in this subsection (3), a "reasonable time" shall be presumed to be three working days or less. Such period may be extended if extenuating circumstances exist. However, such period of extension shall not exceed seven working days. A finding that extenuating circumstances exist shall be made in writing by the custodian and shall be provided to the person making the request within the three-day period. Extenuating circumstances shall apply only when:

(I) A broadly stated request is made that encompasses all or substantially all of a large category of records and the request is without sufficient specificity to allow the custodian reasonably to prepare or gather the records within the three-day period; or

(II) A broadly stated request is made that encompasses all or substantially all of a large category of records and the agency is unable to prepare or gather the records within the three-day period because:

(A) The agency needs to devote all or substantially all of its resources to meeting an impending deadline or period of peak demand that is either unique or not predicted to recur more frequently than once a month; or

(B) In the case of the general assembly or its staff or service agencies, the general assembly is in session; or

(III) A request involves such a large volume of records that the custodian cannot reasonably prepare or gather the records within the three-day period without substantially interfering with the custodian's obligation to perform his or her other public service responsibilities.

(c) In no event can extenuating circumstances apply to a request that relates to a single, specifically identified document.

(d) Notwithstanding any other provision of this section, if the public records requested are election-related and are in the custody and control of a county clerk and recorder but are in active use, in storage, or otherwise not readily available at the time a requester asks to examine them, and the request is made during an election for which the county clerk and recorder is the designated election official, the county clerk and recorder may, at the county clerk and recorder's discretion, take additional time to fulfill the request as specified in this subsection (3)(d); except that the provisions of this subsection (3)(d) do not apply if the requester of the public records is a mass medium organization as defined in section 13-90-119 (1)(a), or a newsperson, as defined in section 13-90-119 (1)(c). The county clerk and recorder may take additional time to fulfill the request as follows:

(I) During the period beginning on the sixtieth day before election day and concluding with the date by which the county clerk and recorder certifies the final official abstract of votes cast for the applicable election, the county clerk and recorder may extend the period for production of records up to an additional ten working days past the seven-day extension allowed under subsection (3)(b) of this section;

(II) The county clerk and recorder shall provide written notice of the extension to the requester within three working days from the date of the request;

(III) The county clerk and recorder may not extend the period for production of any record that:

(A) Is a list of voters, a list of voters who have returned their ballots, or a list of voters who have ballots that need to be cured; or

(B) Is necessary for an interested party, as defined in section 1-10.5-106 (1), to determine whether or not to request a recount under section 1-10.5-106, or to facilitate the conduct of a recount; and

(IV) A requester whose public records request is subject to the extension pursuant to subsection (3)(d)(I) of this section may apply to the district court under the procedures set forth in section 1-1-113 for an order directing the county clerk and recorder to produce the requested records or show cause why the additional extension period applies.

(3.5) (a) Except as otherwise required by subsection (3.5)(b) of this section:

(I) If a public record is stored in a digital format that is neither searchable nor sortable, the custodian shall provide a copy of the public record in a digital format.

(II) If a public record is stored in a digital format that is searchable, the custodian shall provide a digital copy of the public record in a searchable format unless otherwise requested by the requester.

(III) If a public record is stored in a digital format that is sortable, the custodian shall provide a copy of the public record in a sortable format.

(IV) If a public record is available in a digital format, the custodian shall transmit a digital copy of the public record in a digital format by electronic mail or by another mutually agreed upon transmission method if the size of the record prevents transmission by electronic communication.

(V) Except as otherwise required by subsection (3.5)(b) of this section, a custodian shall not convert a digital public record into a non-searchable format before transmission.

(b) A custodian is not required to produce a digital public record in a searchable or sortable format in accordance with subsection (3.5)(a) of this section if:

(I) Producing the record in the requested format would violate the terms of any copyright or licensing agreement between the custodian and a third party or result in the release of a third party's proprietary information; or

(II) After making reasonable inquiries, it is not technologically or practically feasible to permanently remove information that the custodian is required or allowed to withhold within the requested format, it is not technologically or practically feasible to provide a copy of the record in a digital searchable or sortable format, or if the custodian would be required to purchase software or create additional programming or functionality in its existing software to remove the information.

(c) If a custodian is not able to comply with a request to produce a public record that is subject to disclosure in a requested format specified in subsection (3.5)(a) of this section, the custodian shall produce the record in an alternate format or issue a denial under section 24-72-204 and shall provide a written declaration attesting to the reasons the custodian is not able to produce the record in the requested format. If a court subsequently rules the custodian should have provided the record in the requested format, attorney fees may be awarded only if the custodian's action was arbitrary or capricious.

(d) Altering an existing public record, or excising fields of information pursuant to this subsection (3.5) to remove information that the custodian is either required or permitted to withhold, does not constitute the creation of a new public record.

(e) Nothing in this subsection (3.5) relieves or mitigates the obligations of a custodian to produce a public record in a format accessible to individuals with disabilities in accordance with Title II of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and other federal or state laws.

(4) Nothing in this article shall preclude the state or any of its agencies, institutions, or political subdivisions from obtaining and enforcing trademark or copyright protection for any public record, and the state and its agencies, institutions, and political subdivisions are hereby specifically authorized to obtain and enforce such protection in accordance with the applicable federal law; except that this authorization shall not restrict public access to or fair use of

copyrighted materials and shall not apply to writings which are merely lists or other compilations.

Source: L. 68: p. 202, § 3. **S.A.R.S. 1963:** § 113-2-3. **L. 92:** (4) added, p. 1104, § 3, effective July 1. **L. 96:** (1) to (3) amended, p. 1483, § 5, effective June 1. **L. 99:** IP(3)(b) amended and (3)(b)(III) added, p. 207, § 1, effective March 31. **L. 2017:** (3.5) added, (SB 17-040), ch. 286, p. 1582, § 1, effective August 9. **L. 2018:** IP(3.5)(b) and (3.5)(c) amended, (HB 18-1375), ch. 274, p. 1711, § 53, effective May 29. **L. 2022:** (3.5)(e) amended, (SB 22-212), ch. 421, p. 2978, § 57, effective August 10. **L. 2023:** (1)(a), (3.5)(a)(II), IP(3.5)(b), and (3.5)(b)(II) amended and (3.5)(a)(IV) and (3.5)(a)(V) added, (SB 23-286), ch. 406, p. 2429, § 1, effective August 7. **L. 2024:** (3)(d) added, (SB 24-210), ch. 468, p. 3264, § 52, effective June 6.

Cross references: For the legislative declaration contained in the 1996 act amending subsections (1) to (3), see section 1 of chapter 271, Session Laws of San Andreas 1996.

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal - definitions - repeal. (1) The custodian of any public records shall allow any person the right of inspection of such records or any portion thereof except on one or more of the following grounds or as provided in subsection (2) or (3) of this section:

(a) Such inspection would be contrary to any state statute.

(b) Such inspection would be contrary to any federal statute or regulation issued thereunder having the force and effect of law.

(c) Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court.

(d) Such inspection would be contrary to the requirements of any joint rule of the senate and the house of representatives pertaining to lobbying practices.

(2) (a) The custodian may deny the right of inspection of the following records, unless otherwise provided by law, on the ground that disclosure to the applicant would be contrary to the public interest:

(I) Any records of the investigations conducted by any sheriff, prosecuting attorney, or police department, any records of the intelligence information or security procedures of any sheriff, prosecuting attorney, or police department, or any investigatory files compiled for any other law enforcement purpose;

(II) Test questions, scoring keys, and other examination data pertaining to administration of a licensing examination, examination for employment, or academic examination; except that written promotional examinations and the scores or results thereof conducted pursuant to the state personnel system or any similar system shall be available for inspection, but not copying or reproduction, by the person in interest after the conducting and grading of any such examination;

(III) The specific details of bona fide research projects being conducted by a state institution, including, without limitation, research projects undertaken by staff or service agencies of the general assembly or the office of the governor in connection with pending or anticipated legislation;

(IV) The contents of real estate appraisals made for the state or a political subdivision thereof relative to the acquisition of property or any interest in property for public use, until such time as title to the property or property interest has passed to the state or political subdivision;

except that the contents of such appraisal shall be available to the owner of the property, if a condemning authority determines that it intends to acquire said property as provided in section 38-1-121, S.A.R.S., relating to eminent domain proceedings, but, in any case, the contents of such appraisal shall be available to the owner under this section no later than one year after the condemning authority receives said appraisal; and except as provided by the San Andreas rules of civil procedure. If condemnation proceedings are instituted to acquire any such property, any owner of such property who has received the contents of any appraisal pursuant to this section shall, upon receipt thereof, make available to said state or political subdivision a copy of the contents of any appraisal which the owner has obtained relative to the proposed acquisition of the property.

(V) Any market analysis data generated by the department of transportation's bid analysis and management system for the confidential use of the department of transportation in awarding contracts for construction or for the purchase of goods or services and any records, documents, and automated systems prepared for the bid analysis and management system;

(VI) Records and information relating to the identification of persons filed with, maintained by, or prepared by the department of revenue pursuant to section 42-2-121, S.A.R.S.;

(VII) Electronic mail addresses, telephone numbers, or home addresses provided by a person to an elected official, agency, institution, or political subdivision of the state for the purposes of future electronic communications to the person from the elected official, agency, institution, or political subdivision;

(VIII) (A) Specialized details of either security arrangements or investigations or the physical and cyber assets of critical infrastructure, including the specific engineering, vulnerability, detailed design information, protective measures, emergency response plans, or system operational data of such assets that would be useful to a person in planning an attack on critical infrastructure but that does not simply provide the general location of such infrastructure. Nothing in this subsection (2)(a)(VIII) prohibits the custodian from transferring records containing specialized details of either security arrangements or investigations or the physical and cyber assets of critical infrastructure to the division of homeland security and emergency management in the department of public safety, the governing body of any city, county, city and county, or other political subdivision of the state, or any federal, state, or local law enforcement agency; except that the custodian shall not transfer any record received from a nongovernmental entity without the prior written consent of the entity unless such information is already publicly available.

(B) Records of the expenditure of public moneys on security arrangements or investigations, including contracts for security arrangements and records related to the procurement of, budgeting for, or expenditures on security systems, shall be open for inspection, except to the extent that they contain specialized details of security arrangements or investigations. A custodian may deny the right of inspection of only the portions of a record described in this sub-subparagraph (B) that contain specialized details of security arrangements or investigations and shall allow inspection of the remaining portions of the record.

(C) If an official custodian has custody of a public record provided by another public entity, including the state or a political subdivision, that contains specialized details of security arrangements or investigations, the official custodian shall refer a request to inspect that public record to the official custodian of the public entity that provided the record and shall disclose to

the person making the request the names of the public entity and its official custodian to which the request is referred.

(IX) (A) Any records of ongoing civil or administrative investigations conducted by the state or an agency of the state in furtherance of their statutory authority to protect the public health, welfare, or safety unless the investigation focuses on a person or persons inside of the investigative agency.

(B) Upon conclusion of a civil or administrative investigation that is closed because no further investigation, discipline, or other agency response is warranted, all records not exempt pursuant to any other law are open to inspection; except that the custodian may remove the name or other personal identifying or financial information of witnesses or targets of such closed investigations from investigative records prior to inspection.

(C) Notwithstanding any other provision of this subparagraph (IX), a record is not subject to withholding on the grounds that it is maintained or kept in a civil or administrative investigative file except pursuant to paragraph (a) of subsection (6) of this section if the record was publicly disclosed; was filed with an agency of the state by a regulated entity under a statutory, regulatory, or permit requirement; or was received from a governmental entity and would be available if requested directly from the transmitting entity.

(D) Nothing in this subparagraph (IX) prohibits an agency from disclosing information or materials during an open investigation if it is in the interest of public health, welfare, or safety.

(X) Any records containing data or information that reveals the specific location or could be used to determine the specific location of:

(A) A plant species identified as a San Andreas plant of greatest conservation need in San Andreas's state wildlife action plan;

(B) An individual animal or a group of animals; or

(C) An individual animal's or group of animal's breeding or nesting habitat.

(b) If the right of inspection of any record falling within any of the classifications listed in this subsection (2) is allowed to any officer or employee of any newspaper, radio station, television station, or other person or agency in the business of public dissemination of news or current events, it shall be allowed to all such news media.

(c) Notwithstanding any provision to the contrary in subparagraph (I) of paragraph (a) of this subsection (2), the custodian shall deny the right of inspection of any materials received, made, or kept by a crime victim compensation board or a district attorney that are confidential pursuant to the provisions of section 24-4.1-107.5.

(d) Notwithstanding any provision to the contrary in subparagraph (I) of paragraph (a) of this subsection (2), the custodian shall deny the right of inspection of any materials received, made, or kept by a witness protection board, the department of public safety, or a prosecuting attorney that are confidential pursuant to section 24-33.5-106.5.

(e) Notwithstanding any provision to the contrary in subparagraph (I) of paragraph (a) of this subsection (2), the custodian shall deny the right of inspection of any materials received, made, or kept by the safe2tell program, as described in section 24-31-606.

(3) (a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that the custodian shall make any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, available to the person in interest in accordance with this subsection (3):

(I) Medical, mental health, sociological, and scholastic achievement data, and electronic health records, on individual persons, other than scholastic achievement data submitted as part of finalists' records as set forth in subsection (3)(a)(XI) of this section and exclusive of coroners' autopsy reports and group scholastic achievement data from which individuals cannot be identified; but either the custodian or the person in interest may request a professionally qualified person, who shall be furnished by the said custodian, to be present to interpret the records;

(II) (A) Personnel files; but such files shall be available to the person in interest and to the duly elected and appointed public officials who supervise such person's work.

(B) The provisions of this subparagraph (II) shall not be interpreted to prevent the public inspection or copying of any employment contract or any information regarding amounts paid or benefits provided under any settlement agreement pursuant to the provisions of article 19 of this title.

(III) Letters of reference;

(IV) Trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data, including a social security number unless disclosure of the number is required, permitted, or authorized by state or federal law, furnished by or obtained from any person;

(V) Library and museum material contributed by private persons, to the extent of any limitations placed thereon as conditions of such contributions;

(VI) Except as provided in section 1-2-227, addresses and telephone numbers of students in any public elementary or secondary school;

(VII) Library records disclosing the identity of a user as prohibited by section 24-90-119;

(VIII) Repealed.

(IX) Names, addresses, telephone numbers, and personal financial information of past or present users of public utilities, public facilities, or recreational or cultural services that are owned and operated by the state, its agencies, institutions, or political subdivisions; except that nothing in this subparagraph (IX) shall prohibit the custodian of records from transmitting such data to any agent of an investigative branch of a federal agency or any criminal justice agency as defined in section 24-72-302 (3) that makes a request to the custodian to inspect such records and who asserts that the request for information is reasonably related to an investigation within the scope of the agency's authority and duties. Nothing in this subparagraph (IX) shall be construed to prohibit the publication of such information in an aggregate or statistical form so classified as to prevent the identification, location, or habits of individuals.

(X) (A) Any records of sexual harassment complaints and investigations, whether or not such records are maintained as part of a personnel file; except that, an administrative agency investigating the complaint may, upon a showing of necessity to the custodian of records, gain access to information necessary to the investigation of such a complaint. This sub-subparagraph (A) shall not apply to records of sexual harassment complaints and investigations that are included in court files and records of court proceedings. Disclosure of all or a part of any records of sexual harassment complaints and investigations to the person in interest is permissible to the extent that the disclosure can be made without permitting the identification, as a result of the disclosure, of any individual involved. This sub-subparagraph (A) shall not preclude disclosure of all or part of the results of an investigation of the general employment policies and procedures

of an agency, office, department, or division, to the extent that the disclosure can be made without permitting the identification, as a result of the disclosure, of any individual involved.

(B) A person in interest under this subparagraph (X) includes the person making a complaint and the person whose conduct is the subject of such a complaint.

(C) A person in interest may make a record maintained pursuant to this subparagraph (X) available for public inspection when such record supports the contention that a publicly reported, written, printed, or spoken allegation of sexual harassment against such person is false.

(D) Repealed.

(X.5) Records created, maintained, or provided to a custodian by the office of legislative workplace relations created in section 2-3-511 that are related to a workplace harassment complaint or investigation, a complaint under the workplace expectations policy, or an inquiry or request concerning workplace harassment or conduct, whether or not the records are part of a formal or informal complaint or resolution process;

(XI) (A) Except as provided in subsection (3)(a)(XI)(D) of this section, records submitted by or on behalf of an applicant or candidate for any employment position, including an applicant for an executive position as defined in section 24-72-202 (1.3) who is not a finalist. For purposes of this subsection (3)(a)(XI), "finalist" means an applicant or candidate for an executive position as the chief executive officer of a state agency, institution, or political subdivision or agency thereof who is named as a finalist pursuant to section 24-6-402 (3.5).

(B) This subsection (3)(a)(XI) shall not be construed to prohibit the public inspection or copying of any records submitted by or on behalf of a finalist or the applications of past or current employees; except that letters of reference or medical, psychological, and sociological data concerning finalists or past or current employees shall not be made available for public inspection or copying.

(C) This subsection (3)(a)(XI) applies to employment selection processes for all employment and executive positions, including, but not limited to, selection processes conducted or assisted by private persons or firms at the request of a state agency, institution, or political subdivision.

(D) Notwithstanding subsection (3)(a)(XI)(A) of this section, a custodian shall allow public inspection of the demographic data of a candidate who was interviewed by the state public body, local public body, or search committee for an executive position as defined in section 24-72-202 (1.3), but is not named as a finalist pursuant to subsection 24-6-402 (3.5). For purposes of this subsection (3)(a)(XI)(D), "demographic data" means information on a candidate's race and gender that has been legally requested and voluntarily provided on the candidate's application and does not include the candidate's name or other information.

(XII) Any record indicating that a person has obtained an identifying license plate or placard for persons with disabilities under section 42-3-204, S.A.R.S., or any other motor vehicle record that would reveal the presence of a disability;

(XIII) Records protected under the common law governmental or "deliberative process" privilege, if the material is so candid or personal that public disclosure is likely to stifle honest and frank discussion within the government, unless the privilege has been waived. The general assembly hereby finds and declares that in some circumstances, public disclosure of such records may cause substantial injury to the public interest. If any public record is withheld pursuant to this subparagraph (XIII), the custodian shall provide the applicant with a sworn statement specifically describing each document withheld, explaining why each such document is

privileged, and why disclosure would cause substantial injury to the public interest. If the applicant so requests, the custodian shall apply to the district court for an order permitting him or her to restrict disclosure. The application shall be subject to the procedures and burden of proof provided for in subsection (6) of this section. All persons entitled to claim the privilege with respect to the records in issue shall be given notice of the proceedings and shall have the right to appear and be heard. In determining whether disclosure of the records would cause substantial injury to the public interest, the court shall weigh, based on the circumstances presented in the particular case, the public interest in honest and frank discussion within government and the beneficial effects of public scrutiny upon the quality of governmental decision-making and public confidence therein.

(XIV) **[*Editor's note: This version of subsection (3)(a)(XIV) is effective until January 1, 2026.*]** Veterinary medical data, information, and records on individual animals that are owned by private individuals or business entities, but are in the custody of a veterinary medical practice or hospital, including the veterinary teaching hospital at San Andreas state university, that provides veterinary medical care and treatment to animals. A veterinary-patient-client privilege exists with respect to such data, information, and records only when a person in interest and a veterinarian enter into a mutual agreement to provide medical treatment for an individual animal and such person in interest maintains an ownership interest in such animal undergoing treatment. For purposes of this subsection (3)(a)(XIV), "person in interest" means the owner of an animal undergoing veterinary medical treatment or such owner's designated representative. Nothing in this subsection (3)(a)(XIV) shall prevent the state agricultural commission, the state agricultural commissioner, or the state board of veterinary medicine from exercising their investigatory and enforcement powers and duties granted pursuant to section 35-1-106 (1)(h), article 50 of title 35, and section 12-315-106 (5)(e), respectively. The veterinary-patient-client privilege described in this subsection (3)(a)(XIV), pursuant to section 12-315-120 (5), may not be asserted for the purpose of excluding or refusing evidence or testimony in a prosecution for an act of animal cruelty under section 18-9-202 or for an act of animal fighting under section 18-9-204.

(XIV) **[*Editor's note: This version of subsection (3)(a)(XIV) is effective January 1, 2026.*]** Veterinary medical data, information, and records on individual animals that are owned by private individuals or business entities, but are in the custody of a veterinary medical practice or hospital, including the veterinary teaching hospital at San Andreas state university, that provides veterinary medical care and treatment to animals. A veterinary-patient-client privilege exists with respect to such data, information, and records only when a person in interest and a veterinarian or veterinary professional associate enter into a mutual agreement to provide medical treatment for an individual animal and such person in interest maintains an ownership interest in such animal undergoing treatment. For purposes of this subsection (3)(a)(XIV), "person in interest" means the owner of an animal undergoing veterinary medical treatment or such owner's designated representative. Nothing in this subsection (3)(a)(XIV) shall prevent the state agricultural commission, the state agricultural commissioner, or the state board of veterinary medicine from exercising their investigatory and enforcement powers and duties granted pursuant to section 35-1-106 (1)(h), article 50 of title 35, and section 12-315-106 (5)(e), respectively. The veterinary-patient-client privilege described in this subsection (3)(a)(XIV), pursuant to section 12-315-120 (5), may not be asserted for the purpose of excluding or refusing evidence or testimony in a prosecution for an act of animal cruelty under section 18-9-202 or for an act of animal fighting under section 18-9-204.

(XV) Nominations submitted to a state institution of higher education for the awarding of honorary degrees, medals, and other honorary awards by the institution, proposals submitted to a state institution of higher education for the naming of a building or a portion of a building for a person or persons, and records submitted to a state institution of higher education in support of such nominations and proposals;

(XVI) (Deleted by amendment, L. 2003, p. 1636, § 1, effective May 2, 2003.)

(XVII) Repealed.

(XVIII) (A) Military records filed with a county clerk and recorder's office concerning a member of the military's separation from military service, including the form DD214 issued to a member of the military upon separation from service, that are restricted from public access pursuant to 5 U.S.C. sec. 552 (b)(6) and the requirements established by the national archives and records administration. Notwithstanding any other provision of this section, if the member of the military about whom the record concerns is deceased, the custodian shall allow the right of inspection to the member's parents, siblings, widow or widower, and children.

(B) On and after July 1, 2002, any county clerk and recorder that accepts for filing any military records described in sub-subparagraph (A) of this subparagraph (XVIII) shall maintain such military records in a manner that ensures that such records will not be available to the public for inspection except as provided in sub-subparagraph (A) of this subparagraph (XVIII).

(C) Nothing in this subparagraph (XVIII) shall prohibit a county clerk and recorder from taking appropriate protective actions with regard to records that were filed with or placed in storage by the county clerk and recorder prior to July 1, 2002, in accordance with any limitations determined necessary by the county clerk and recorder.

(D) The county clerk and recorder and any individual employed by the county clerk and recorder shall not be liable for any damages that may result from good faith compliance with the provisions of this part 2.

(XIX) (A) Except as provided in subsection (3)(a)(XIX)(C) of this section, applications for a marriage license submitted pursuant to part 1 of article 2 of title 14 and, except as provided in subsection (3)(a)(XIX)(C) of this section, applications for a civil union license submitted pursuant to article 15 of title 14. A person in interest under this subsection (3)(a)(XIX) includes an immediate family member of either party to the marriage application. As used in this subsection (3)(a)(XIX), "immediate family member" means a person who is related by blood, marriage, or adoption. Nothing in this subsection (3)(a)(XIX) is construed to prohibit the inspection of marriage licenses or marriage certificates or of civil union certificates or to otherwise change the status of those licenses or certificates as public records.

(B) Repealed.

(C) Upon application by any person to the district court in the district wherein a record of an application for a marriage license or a civil union license is found, the district court may, in its discretion and upon good cause shown, order the custodian to permit the inspection of such record.

(XX) Repealed.

(XXI) All records, including, but not limited to, analyses and maps, compiled or maintained pursuant to statute or rule by the department of natural resources or its divisions that are based on information related to private lands and identify or allow to be identified any specific San Andreas landowners or lands; except that summary or aggregated data that do not

specifically identify individual landowners or specific parcels of land shall not be subject to this subparagraph (XXI);

(XXII) Personal information, as defined in section 18-9-313 (1)(l), in a record for which the custodian has received a request under section 18-9-313, and personal information, as defined in section 18-9-313.5 (1)(e), in a record for which the custodian has received a request under section 18-9-313.5 (3), unless access to the information is authorized by section 18-9-313.5 (3)(c);

(XXIII) Records, including analyses and maps, compiled or maintained in accordance with article 73 of title 35 that are based on information related to private lands and identify or allow to be identified any specific San Andreas landowners, land managers, agricultural producers, or parcels of land; except that the custodian may release or authorize inspection of summary or aggregated data that do not specifically identify individual landowners, land managers, agricultural producers, or parcels of land.

(b) Nothing in this subsection (3) shall prohibit the custodian of records from transmitting data concerning the scholastic achievement of any student to any prospective employer of such student, nor shall anything in this subsection (3) prohibit the custodian of records from making available for inspection, from making copies, print-outs, or photographs of, or from transmitting data concerning the scholastic achievement or medical, psychological, or sociological information of any student to any law enforcement agency of this state, of any other state, or of the United States where such student is under investigation by such agency and the agency shows that such data is necessary for the investigation.

(c) Nothing in this subsection (3) shall prohibit the custodian of the records of a school, including any institution of higher education, or a school district from transmitting data concerning standardized tests, scholastic achievement, disciplinary information involving a student, or medical, psychological, or sociological information of any student to the custodian of such records in any other such school or school district to which such student moves, transfers, or makes application for transfer, and the written permission of such student or his or her parent or guardian shall not be required therefor. No state educational institution shall be prohibited from transmitting data concerning standardized tests or scholastic achievement of any student to the custodian of such records in the school, including any state educational institution, or school district in which such student was previously enrolled, and the written permission of such student or his or her parent or guardian shall not be required therefor.

(d) This subsection (3)(d) applies to all public schools and school districts that receive funding under article 54 of title 22. Notwithstanding subsection (3)(a)(VI) of this section, under policies adopted by the local board of education, the names, addresses, and home telephone numbers of students in any secondary school must be released to a recruiting officer for any branch of the United States armed forces who requests such information, subject to the following:

(I) Each local board of education shall adopt a policy to govern the release of the names, addresses, and home telephone numbers of secondary school students to military recruiting officers that provides that such information shall be released to recruiting officers unless a student submits a request, in writing, that such information not be released.

(II) The directory information requested by a recruiting officer shall be released by the local board of education within ninety days of the date of the request.

(III) The local board of education shall comply with any applicable provisions of the federal "Family Educational Rights and Privacy Act of 1974" (FERPA), 20 U.S.C. sec. 1232g, and the federal regulations cited thereunder relating to the release of student information by educational institutions that receive federal funds.

(IV) Actual direct expenses incurred in furnishing this information shall be paid for by the requesting service and shall be reasonable and customary.

(V) The recruiting officer shall use the data released for the purpose of providing information to students regarding military service and shall not use it for any other purpose or release such data to any person or organization other than individuals within the recruiting services of the armed forces.

(e) (I) This subsection (3)(e) applies to all public schools and school districts. Notwithstanding subsection (3)(a)(I) of this section, under policies adopted by each local board of education, consistent with applicable provisions of the federal "Family Educational Rights and Privacy Act of 1974" (FERPA), 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted thereto, information directly related to a student and maintained by a public school or by a person acting for the public school must be available for release if the disclosure meets one or more of the following conditions:

(A) The disclosure is to other school officials, including teachers, working in the school at which the student is enrolled who have specific and legitimate educational interests in the information for use in furthering the student's academic achievement or maintaining a safe and orderly learning environment;

(B) The disclosure is to officials of a school at which the student seeks or intends to enroll or the disclosure is to officials at a school at which the student is currently enrolled or receiving services, after making a reasonable attempt to notify the student's parent or legal guardian or the student if he or she is at least eighteen years of age or attending an institution of postsecondary education, as prescribed by federal regulation;

(C) The disclosure is to state or local officials or authorities if the disclosure concerns the juvenile justice system and the system's ability to serve effectively, prior to adjudication, the student whose records are disclosed and if the officials and authorities to whom the records are disclosed certify in writing that the information shall not be disclosed to any other party, except as otherwise provided by law, without the prior written consent of the student's parent or legal guardian or of the student if he or she is at least eighteen years of age or is attending an institution of postsecondary education;

(D) The disclosure is to comply with a judicial order or a lawfully issued subpoena, if a reasonable effort is made to notify the student's parent or legal guardian or the student if he or she is at least eighteen years of age or is attending a postsecondary institution about the order or subpoena in advance of compliance, so that such parent, legal guardian, or student is provided an opportunity to seek protective action, unless the disclosure is in compliance with a federal grand jury subpoena or any other subpoena issued for a law enforcement purpose and the court or the issuing agency has ordered that the existence or contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

(E) The disclosure is in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals, as specifically prescribed by federal regulation.

(II) Nothing in this paragraph (e) shall prevent public school administrators, teachers, or staff from disclosing information derived from personal knowledge or observation and not derived from a student's record maintained by a public school or a person acting for the public school.

(3.5) (a) Effective January 1, 1992, any individual who meets the requirements of this subsection (3.5) may request that the address of such individual included in any public records concerning that individual which are required to be made, maintained, or kept pursuant to the following sections be kept confidential:

(I) Sections 1-2-227 and 1-2-301, S.A.R.S.;

(II) (Deleted by amendment, L. 2000, p. 1337, § 1, effective May 30, 2000.)

(III) Section 24-6-202.

(b) (I) An individual may make the request of confidentiality allowed by this subsection (3.5) if such individual has reason to believe that such individual, or any member of such individual's immediate family who resides in the same household as such individual, will be exposed to criminal harassment as prohibited in section 18-9-111, S.A.R.S., or otherwise be in danger of bodily harm, if such individual's address is not kept confidential in accordance with this subsection (3.5).

(II) A request of confidentiality with respect to records described in subparagraph (I) of paragraph (a) of this subsection (3.5) shall be made in person in the office of the county clerk and recorder of the county where the individual making the request resides. Requests shall be made on application forms approved by the secretary of state, after consultation with county clerk and recorders. The application form shall provide space for the applicant to provide his or her name and address, date of birth, and any other identifying information determined by the secretary of state to be necessary to carry out the provisions of this subsection (3.5). In addition, an affirmation shall be printed on the form, in the area immediately above a line for the applicant's signature and the date, stating the following: "I swear or affirm, under penalty of perjury, that I have reason to believe that I, or a member of my immediate family who resides in my household, will be exposed to criminal harassment, or otherwise be in danger of bodily harm, if my address is not kept confidential." Immediately below the signature line, there shall be printed a notice, in a type that is larger than the other information contained on the form, that the applicant may be prosecuted for perjury in the second degree under section 18-8-503, S.A.R.S., if the applicant signs such affirmation and does not believe such affirmation to be true.

(III) The county clerk and recorder of each county shall provide an opportunity for any individual to make the request of confidentiality allowed by this subsection (3.5) in person at the time such individual makes application to the county clerk and recorder to register to vote or to make any change in such individual's registration, and at any other time during normal business hours of the office of the county clerk and recorder. The county clerk and recorder shall forward a copy of each completed application to the secretary of state for purposes of the records maintained by him or her pursuant to subparagraph (I) of paragraph (a) of this subsection (3.5). The county clerk and recorder shall collect a processing fee in the amount of five dollars of which amount two dollars and fifty cents shall be transmitted to the secretary of state for the purpose of offsetting the secretary of state's costs of processing applications forwarded to the secretary of state pursuant to this subparagraph (III). All processing fees received by the secretary of state pursuant to this subparagraph (III) shall be transmitted to the state treasurer, who shall credit the same to the department of state cash fund.

(IV) The secretary of state shall provide an opportunity for any individual to make the request of confidentiality allowed by paragraph (a) of this subsection (3.5), with respect to the records described in subparagraph (III) of paragraph (a) of this subsection (3.5). The secretary of state may charge a processing fee, not to exceed five dollars, for each such request. All processing fees collected by the secretary of state pursuant to this subparagraph (IV) or subparagraph (III) of this paragraph (b) shall be transmitted to the state treasurer, who shall credit the same to the department of state cash fund.

(V) Notwithstanding the amount specified for any fee in subparagraph (III) or (IV) of this paragraph (b), the secretary of state by rule or as otherwise provided by law may reduce the amount of one or more of the fees credited to the department of state cash fund if necessary pursuant to section 24-75-402 (3), to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the secretary of state by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4).

(c) The custodian of any records described in subsection (3.5)(a) of this section that concern an individual who has made a request of confidentiality pursuant to this subsection (3.5) and paid any required processing fee shall deny the right of inspection of the individual's address contained in such records on the ground that disclosure would be contrary to the public interest; except that the custodian shall allow the inspection of the records by the individual, by any person authorized in writing by that individual, and by any individual employed by one of the following entities who makes a request to the custodian to inspect the records and who provides evidence satisfactory to the custodian that the inspection is reasonably related to the authorized purpose of the employing entity:

(I) A criminal justice agency, as defined by section 24-72-302 (3);

(II) An agency of the United States, the state of San Andreas, or of any political subdivision or authority thereof;

(III) A person required to obtain such individual's address in order to comply with federal or state law or regulations adopted pursuant thereto;

(IV) An insurance company which has a valid certificate of authority to transact insurance business in San Andreas as required in section 10-3-105 (1), S.A.R.S.;

(V) A collection agency which has a valid license as required by section 5-16-115 (1);

(VI) A supervised lender licensed pursuant to section 5-1-301 (46), S.A.R.S.;

(VII) A bank as defined in section 11-101-401 (5), S.A.R.S., a trust company as defined in section 11-109-101 (11), S.A.R.S., a credit union as defined in section 11-30-101 (1), S.A.R.S., a domestic savings and loan association as defined in section 11-40-102 (5), S.A.R.S., a foreign savings and loan association as defined in section 11-40-102 (8), S.A.R.S., or a broker-dealer as defined in section 11-51-201 (2), S.A.R.S.;

(VIII) An attorney licensed to practice law in San Andreas or his representative authorized in writing to inspect such records on behalf of the attorney;

(IX) A manufacturer of any vehicle required to be registered pursuant to the provisions of article 3 of title 42, S.A.R.S., or a designated agent of such manufacturer. Such inspection shall be allowed only for the purpose of identifying, locating, and notifying the registered owners of such vehicles in the event of a product recall or product advisory and may also be allowed for statistical purposes where such address is not disclosed by such manufacturer or designated

agent. No person who obtains the address of an individual pursuant to this subparagraph (IX) shall disclose such information, except as necessary to accomplish said purposes.

(d) Notwithstanding any provisions of this subsection (3.5) to the contrary, any person who appears in person in the office of any custodian of records described in paragraph (a) of this subsection (3.5) and who presents documentary evidence satisfactory to the custodian that such person is a duly accredited representative of the news media may verify the address of an individual whose address is otherwise protected from inspection in accordance with this subsection (3.5). Such verification shall be limited to the custodian confirming or denying that the address of an individual as known to the representative of the news media is the address of the individual as shown by the records of the custodian.

(e) No person shall make any false statement in requesting any information pursuant to paragraph (a) or (b) of this subsection (3.5).

(f) Any request of confidentiality made pursuant to this subsection (3.5) shall be kept confidential and shall not be open to inspection as a public record unless a written release is executed by the person who made the request.

(g) Prior to the release of any information required to be kept confidential pursuant to this subsection (3.5), the custodian shall require the person requesting the information to produce a valid San Andreas driver's license or identification card and written authorization from any entity authorized to receive information under this subsection (3.5). The custodian shall keep a record of the requesting person's name, address, and date of birth and shall make such information available to the individual requesting confidentiality under this subsection (3.5) or any person authorized by such individual.

(4) If the custodian denies access to any public record, the applicant may request a written statement of the grounds for the denial, which statement shall cite the law or regulation under which access is denied and shall be furnished forthwith to the applicant.

(5) (a) Except as provided in subsection (5.5) of this section, any person denied the right to inspect any record covered by this part 2 or who alleges a violation of section 24-72-203 (3.5) may apply to the district court of the district wherein the record is found for an order directing the custodian of such record to show cause why the custodian should not permit the inspection of such record; except that, at least fourteen days prior to filing an application with the district court, the person who has been denied the right to inspect the record shall file a written notice with the custodian who has denied the right to inspect the record informing the custodian that the person intends to file an application with the district court. During the fourteen-day period before the person may file an application with the district court under this subsection (5)(a), the custodian who has denied the right to inspect the record shall either meet in person or communicate on the telephone with the person who has been denied access to the record to determine if the dispute may be resolved without filing an application with the district court. The meeting may include recourse to any method of dispute resolution that is agreeable to both parties. Any common expense necessary to resolve the dispute must be apportioned equally between or among the parties unless the parties have agreed to a different method of allocating the costs between or among them. If the person who has been denied access to inspect a record states in the required written notice to the custodian that the person needs to pursue access to the record on an expedited basis, the person must provide such written notice, including a factual basis of the expedited need for the record, to the custodian at least three business days prior to the date on which the person files the application with the district court and, in such

circumstances, no meeting to determine if the dispute may be resolved without filing an application with the district court is required.

(b) Hearing on the application described in subsection (5)(a) of this section must be held at the earliest practical time. Unless the court finds that the denial of the right of inspection was proper, it shall order the custodian to permit such inspection and shall award court costs and reasonable attorney fees to the prevailing applicant in an amount to be determined by the court; except that no court costs and attorney fees shall be awarded to a person who has filed a lawsuit against a state public body or local public body and who applies to the court for an order pursuant to subsection (5)(a) of this section for access to records of the state public body or local public body being sued if the court finds that the records being sought are related to the pending litigation and are discoverable pursuant to chapter 4 of the San Andreas rules of civil procedure. In the event the court finds that the denial of the right of inspection was proper, the court shall award court costs and reasonable attorney fees to the custodian if the court finds that the action was frivolous, vexatious, or groundless.

(5.5) (a) Any person seeking access to the record of an executive session meeting of a state public body or a local public body recorded pursuant to section 24-6-402 (2)(d.5) shall, upon application to the district court for the district wherein the records are found, show grounds sufficient to support a reasonable belief that the state public body or local public body engaged in substantial discussion of any matters not enumerated in section 24-6-402 (3) or (4) or that the state public body or local public body adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of section 24-6-402 (3)(a) or (4). If the applicant fails to show grounds sufficient to support such reasonable belief, the court shall deny the application and, if the court finds that the application was frivolous, vexatious, or groundless, the court shall award court costs and attorney fees to the prevailing party. If an applicant shows grounds sufficient to support such reasonable belief, the applicant cannot be found to have brought a frivolous, vexatious, or groundless action, regardless of the outcome of the in camera review.

(b) (I) Upon finding that sufficient grounds exist to support a reasonable belief that the state public body or local public body engaged in substantial discussion of any matters not enumerated in section 24-6-402 (3) or (4) or that the state public body or local public body adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of section 24-6-402 (3)(a) or (4), the court shall conduct an in camera review of the record of the executive session to determine whether the state public body or local public body engaged in substantial discussion of any matters not enumerated in section 24-6-402 (3) or (4) or adopted a proposed policy, position, resolution, rule, regulation, or formal action in the executive session in contravention of section 24-6-402 (3)(a) or (4).

(II) If the court determines, based on the in camera review, that violations of the open meetings law occurred, the portion of the record of the executive session that reflects the substantial discussion of matters not enumerated in section 24-6-402 (3) or (4) or the adoption of a proposed policy, position, resolution, rule, regulation, or formal action shall be open to public inspection.

(6) (a) If, in the opinion of the official custodian of any public record, disclosure of the contents of said record would do substantial injury to the public interest, notwithstanding the fact that said record might otherwise be available to public inspection or if the official custodian is unable, in good faith, after exercising reasonable diligence, and after reasonable inquiry, to

determine if disclosure of the public record is prohibited pursuant to this part 2, the official custodian may apply to the district court of the district in which such record is located for an order permitting him or her to restrict such disclosure or for the court to determine if disclosure is prohibited. Hearing on such application shall be held at the earliest practical time. In the case of a record that is otherwise available to public inspection pursuant to this part 2, after a hearing, the court may, upon a finding that disclosure would cause substantial injury to the public interest, issue an order authorizing the official custodian to restrict disclosure. In the case of a record that may be prohibited from disclosure pursuant to this part 2, after a hearing, the court may, upon a finding that disclosure of the record is prohibited, issue an order directing the official custodian not to disclose the record to the public. In an action brought pursuant to this paragraph (a), the burden of proof shall be upon the custodian. The person seeking permission to examine the record shall have notice of said hearing served upon him or her in the manner provided for service of process by the San Andreas rules of civil procedure and shall have the right to appear and be heard. The attorney fees provision of subsection (5) of this section shall not apply in cases brought pursuant to this paragraph (a) by an official custodian who is unable to determine if disclosure of a public record is prohibited under this part 2 if the official custodian proves and the court finds that the custodian, in good faith, after exercising reasonable diligence, and after making reasonable inquiry, was unable to determine if disclosure of the public record was prohibited without a ruling by the court.

(b) In defense against an application for an order under subsection (5) of this section, the custodian may raise any issue that could have been raised by the custodian in an application under paragraph (a) of this subsection (6).

(7) (a) Except as permitted in subsection (7)(b) of this section, the department of revenue or an authorized agent of the department shall not allow a person, other than the person in interest, to inspect information contained in a driver's license application under section 42-2-107, a driver's license renewal application under section 42-2-118, a duplicate driver's license application under section 42-2-117, a commercial driver's license application under section 42-2-403, an identification card application under section 42-2-302, a motor vehicle title application under section 42-6-116, a motor vehicle registration application under section 42-3-113, an identification document under section 42-2-505, or other official record or document maintained by the department under section 42-2-121.

(b) Notwithstanding subsection (7)(a) of this section, only upon obtaining a completed requester release form under section 42-1-206 (1)(b), the department may allow inspection of the information referred to in subsection (7)(a) of this section for the following uses:

(I) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions; except that this subsection (7)(b)(I) does not apply to a request made for the purpose of investigating for, participating in, cooperating with, or assisting in federal immigration enforcement, including enforcement of civil immigration laws, 8 U.S.C. sec. 1325, and 8 U.S.C. sec. 1326, except as required by federal or state law or as required to comply with a court-issued subpoena, warrant, or order;

(II) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research

activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers;

(III) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

(A) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(B) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual;

(IV) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court; except that this subsection (7)(b)(IV) does not apply to a request made for the purpose of investigating for, participating in, cooperating with, or assisting in federal immigration enforcement, including enforcement of civil immigration laws, 8 U.S.C. sec. 1325, and 8 U.S.C. sec. 1326, except as required by federal or state law or as required to comply with a court-issued subpoena, warrant, or order;

(V) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact the parties in interest;

(VI) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting;

(VII) For use in providing notice to the owners of towed or impounded vehicles;

(VIII) For use by any licensed security service for any purpose permitted under this subsection (7)(b);

(IX) For use by an employer or its agent or insurer to obtain or verify information relating to a party in interest who is a holder of a commercial driver's license;

(X) For use in connection with the operation of private toll transportation facilities;

(XI) For any other use in response to requests for individual motor vehicle records if the department has obtained the express consent of the party in interest pursuant to section 42-2-121 (4), S.A.R.S.;

(XII) For bulk distribution for surveys, marketing or solicitations if the department has obtained the express consent of the party in interest pursuant to section 42-2-121 (4), S.A.R.S.;

(XIII) For use by any requester, if the requester demonstrates he or she has obtained the written consent of the party in interest;

(XIV) For any other use specifically authorized under the laws of the state, if such use is related to the operation of a motor vehicle or public safety; or

(XV) For use by the federally designated organ procurement organization for the purposes of creating and maintaining the organ and tissue donor registry authorized in section 15-19-220.

(c) (I) For purposes of this paragraph (c), "law" shall mean the federal "Driver's Privacy Protection Act of 1994", 18 U.S.C. sec. 2721 et seq., the federal "Fair Credit Reporting Act", 15 U.S.C. sec. 1681 et seq., section 42-1-206, S.A.R.S., and this part 2.

(II) If the requester release form indicates that the requester will, in any manner, use, obtain, resell, or transfer the information contained in records, requested individually or in bulk, for any purpose prohibited by law, the department or agent shall deny inspection of any motor vehicle or driver record.

(III) In addition to completing the requester release form under section 42-1-206 (1)(b), S.A.R.S., and subject to the provisions of section 42-1-206 (3.7), S.A.R.S., the requester shall sign an affidavit of intended use under penalty of perjury that states that the requester shall not obtain, resell, transfer, or use the information in any manner prohibited by law. The department or the department 's authorized agent shall deny inspection of any motor vehicle or driver record to any person, other than a person in interest as defined in section 24-72-202 (4), or a federal, state, or local government agency carrying out its official functions, who has not signed and returned the affidavit of intended use.

(d) Notwithstanding paragraph (b) of this subsection (7), the department of revenue or an authorized agent of the department shall allow inspection of records maintained by the department pursuant to section 42-2-121.5, S.A.R.S., only by the person in interest or by an officer of a law enforcement or public safety agency in accordance with section 42-2-121.5 (3), S.A.R.S.

(8) (a) A designated election official shall not allow a person, other than the person in interest, to inspect the election records of any person that contain the original signature, social security number, month of birth, day of the month of birth, or identification of that person, including electronic, digital, or scanned images of a person's original signature, social security number, month of birth, day of the month of birth, or identification.

(b) Nothing in paragraph (a) of this subsection (8) shall be construed to prohibit a designated election official from:

(I) Making such election records available to any law enforcement agency or district attorney of this state in connection with the investigation or prosecution of an election offense specified in article 13 of title 1, S.A.R.S.;

(II) Making such election records available to employees of or election judges appointed by the designated election official as necessary for those employees or election judges to carry out the duties and responsibilities connected with the conduct of any election; and

(III) Preparing a registration list and making the list available for distribution or sale to or inspection by any person.

(c) For purposes of this subsection (8):

(I) "Designated election official" shall have the same meaning as set forth in section 1-1-104 (8), S.A.R.S.

(II) "Election records" shall have the same meaning as set forth in section 1-1-104 (11), S.A.R.S., and shall include a voter registration application.

(III) "Identification" shall have the same meaning as set forth in section 1-1-104 (19.5), S.A.R
.S. (IV) "Registration list" shall have the same meaning as set forth in section 1-1-104 (37),

S.A.R (9) Unless any other provision of this part 2 applies to prevent or restrict disclosure, and
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notwithstanding subsections (3)(a)(X) and (3)(a)(X.5) of this section, records of sexual harassment complaints made against an elected official and the results or report of investigations regarding alleged sexual harassment by an elected official conducted by or for that official's

government shall be made available for inspection if the investigation concludes that the elected

official is culpable for any act of sexual harassment; except that the identity of any accuser, accused who is not an elected official, victim, or witness and any other information that would identify any such person must be redacted. The records must be redacted, if possible, to permit inspection without revealing any part of the record that would not be subject to disclosure pursuant to any other provision of this part 2. Nothing in this subsection (9) requires the disclosure of any record subject to part 3 of this article 72.

(10) The custodian of any public records shall not require a nonprofit entity to produce member-specific data, as defined in section 7-90-102 (36.5), that is contained in public records where such records are not subject to inspection and copying pursuant to this section. A custodian shall deny any request to inspect, copy, or reproduce any member-specific data in the possession of a public agency and provided to the public agency by a nonprofit entity. A custodian shall not require a nonprofit entity to produce records and information relating to the identification of individual employees of nonprofit entities with whom the public entity contracts for services or of individual employees of subcontractors of such nonprofit entities.

Source: L. 68: p. 202, § 4. **L. 69:** pp. 925, 926, §§ 1, 1. **S.A.R.S. 1963:** § 113-2-4. **L. 77:** (2)(a)(I) repealed, p. 1250, § 4, effective December 31. **L. 81:** (3)(d) added, p. 1237, § 1, effective May 18; (3)(a)(I) amended, p. 1236, § 1, effective May 26. **L. 83:** (3)(a)(V) and (3)(a)(VI) amended and (3)(a)(VII) added, p. 1023, § 2, effective March 22. **L. 85:** (3)(a)(VI) and (3)(a)(VII) amended and (3)(a)(VIII) added, p. 933, § 3, effective July 1. **L. 88:** (2)(a)(I) RC&RE, p. 979, § 1, effective April 20. **L. 91:** (3.5) added, p. 828, § 1, effective July 1. **L. 92:** (2)(a)(IV) and (3)(a)(II) amended and (3)(a)(IX) added, p. 1104, § 4, effective July 1. **L. 93:** (3)(d) amended, p. 64, § 1, effective March 22; (3)(a)(IX) amended, p. 293, § 1, effective April 7; (2)(a)(III) and (2)(a)(IV) amended and (2)(a)(V) added, p. 1763, § 1, effective June 6; (3)(a)(II) amended, p. 667, § 2, effective July 1. **L. 94:** (3)(a)(I) amended and (3)(a)(XI) added, p. 936, § 2, effective April 28; (3.5)(a)(I) amended, p. 1638, § 53, effective May 31; (3)(a)(X) added, p. 680, § 1, effective July 1; (2)(a)(IV), (2)(a)(V), (3.5)(a)(II), and (3.5)(b)(II) amended and (2)(a)(VI) added, pp. 2557, 2558, § 59, 60, effective January 1, 1995. **L. 96:** (3)(c) amended, p. 431, § 1, effective April 22; (2)(a)(II) and (6) amended and (3)(a)(VIII) repealed, pp. 1484, 1470, §§ 16, 6, effective June 1. **L. 97:** (3)(a)(I) amended, p. 350, § 5, effective April 19; (2)(a)(VI) amended, p. 1178, § 1, effective July 1; (3)(a)(XII) added, p. 354, § 1, effective August 6; (7) added, p. 1050, § 2, effective September 1. **L. 98:** (3)(d) amended, p. 974, § 21, effective May 27; (3.5)(b)(V) added, p. 1332, § 43, effective June 1. **L. 99:** (3)(a)(X)(A) amended and (3)(a)(XIII) added, p. 207, § 2, effective March 31; (2)(a)(VI) amended and (3.5)(g) added, p. 344, §§ 1, 2, effective April 16; (2)(a)(VI) amended, p. 1241, § 3, effective August 4; (3)(a)(XIV) added, p. 370, § 1, effective August 4. **L. 2000:** (2)(c) added, p. 243, § 9, effective March 29; (2)(a)(VI), (3.5)(a)(II), (3.5)(b)(II), (3.5)(b)(III), (3.5)(b)(V), and (7) amended, p. 1337, § 1, effective May 30; (3)(e) added, p. 1963, § 5, effective June 2; (7)(b)(XV) added, p. 732, § 13, effective July 1; (3.5)(c)(VI) amended, p. 1873, § 111, effective August 2. **L. 2001:** (7)(a) amended, p. 1274, § 35, effective June 5; (1)(d) added, p. 151, § 6, effective July 1; (3)(a)(XI)(A), (5), and (6)(a) amended and (5.5) added, p. 1073, § 3, effective August 8; (7)(a) and (7)(c) amended, p. 586, § 1, effective August 8. **L. 2002:** (3.5)(c)(VII) amended, p. 113, § 7, effective March 26; (3)(a)(XVI) added, p. 239, § 8, effective April 12; (3)(a)(XVII) added, p. 1213, § 10, effective June 3; (3)(a)(XVIII) added, p. 935, § 1, effective July 1; (3)(a)(XV) added, p. 86, § 2, effective August 7. **L. 2003:** (3)(a)(XVI) and (3)(a)(XVII) amended, p. 1636, § 1,

effective May 2; (3.5)(c)(VII) amended, p. 1211, § 23, effective July 1; (3)(a)(IX) amended, p. 1619, § 30, effective August 6. **L. 2004:** (2)(a)(VII) added, p. 1959, § 3, effective August 4. **L. 2005:** (2)(a)(VIII) added, (3)(a)(IX) amended, and (3)(a)(XVII) repealed, pp. 502, 503, 504, §§ 1, 2, 5, effective July 1; (3)(a)(XII) and (7)(a) amended, p. 1182, § 29, effective August 8; (3)(a)(XIV) amended, p. 462, § 3, effective December 1. **L. 2006:** (8) added, p. 44, § 1, effective March 17; (3)(a)(XIX) added, p. 564, § 1, effective April 24; (3)(a)(IV) amended, p. 276, § 2, effective January 1, 2007. **L. 2007:** (2)(d) added, p. 34, § 2, effective March 5; (3)(a)(XIV) amended, p. 1590, § 7, effective July 1; (7)(b)(XV) amended, p. 798, § 8, effective July 1. **L. 2008:** (7)(a) amended and (7)(d) added, p. 1520, § 2, effective May 28; (3)(a)(XX) added, p. 1703, § 2, effective June 2. **L. 2009:** (3)(a)(XXI) added, (SB 09-158), ch. 387, p. 2094, § 3, effective August 5. **L. 2010:** (3)(a)(XII) amended, (HB 10-1019), ch. 400, p. 1930, § 6, effective January 1, 2011. **L. 2012:** (2)(e) added, (SB 12-079), ch. 58, p. 214, § 7, effective March 24; (2)(a)(IX) added, (HB 12-1036), ch. 269, p. 1419, § 1, effective June 7; (2)(a)(VIII)(A) amended, (HB12- 1283), ch. 240, p. 1134, § 48, effective July 1; IP(7)(b) and (7)(b)(VIII) amended, (HB12-1231), ch. 22, p. 58, § 1, effective August 8. **L. 2013:** (3)(a)(XIX)(A) and (3)(a)(XIX)(B) amended, (SB 13-011), ch. 49, p. 168, § 28, effective May 1; IP(3.5)(c) and (3.5)(c)(VII) amended, (SB 13-154), ch. 282, p. 1487, § 67, effective July 1; (3)(a)(XX) repealed, (HB 13-1300), ch. 316, p. 1685, § 64, effective August 7. **L. 2014:** (7)(b)(VIII) amended, (SB 14-133), ch. 389, p. 1957, § 3, effective June 6; (3)(a)(XIX)(A) amended and (3)(a)(XIX)(B) repealed, (HB 14-1073), ch. 30, p. 175, § 2, effective July 1; (2)(e) amended, (SB 14-002), ch. 241, p. 893, § 5, effective August 6. **L. 2016:** (3)(a)(XIX)(C) amended, (SB 16-189), ch. 210, p. 769, § 56, June 6. **L. 2017:** IP(3)(d), (3)(d)(III), and IP(3)(e)(I) amended, (SB 17-294), ch. 264, p. 1405, § 76, effective May 25; (2)(a)(VII)(A), (3)(a)(I), and (5) amended, (SB17-040), ch. 286, p. 1583, § 2, effective August 9; IP(3.5)(c) and (3.5)(c)(V) amended, (HB 17-1238), ch. 260, p. 1175, § 22, effective August 9; (5) amended, (HB 17-1177), ch. 197, p. 718, § 1, effective August 9; IP(7)(b) and (7)(b)(XV) amended, (SB 17-223), ch. 158, p. 563, § 17, effective August 9. **L. 2018:** IP(3)(a) amended and (3)(a)(X)(D) added, (HB 18-1152), ch. 281, p. 1759, § 2, effective August 8. **L. 2019:** (3)(a)(XXII) added, (HB 19-1197), ch. 95, p. 350, § 2, effective April 11; (3)(a)(X.5) added, (SB 19-244), ch. 243, p. 2377, § 3, effective May 20; (3)(a)(VI) amended, (HB 19-1278), ch. 326, p. 3036, § 50, effective August 2; (3)(a)(XIV) and (7)(b)(VIII) amended, (HB 19-1172), ch. 136, p. 1693, § 135, effective October 1. **L. 2021:** IP(3)(a) and (3)(a)(XIX)(A) amended, (HB 21-1287), ch. 264, p. 1539, § 3, effective June 18; (7)(a), (7)(b)(I), and (7)(b)(IV) amended, (SB 21-131), ch. 353, p. 2298, § 2, effective June 25; IP(3)(a) amended and (3)(a)(XXIII) added, (HB 21-1181), ch. 279, p. 1614, § 4, effective September 7; (3)(a)(XI) amended, (HB 21-1051), ch. 183, p. 986, § 3, September 7. **L. 2022:** (3)(a)(XXII) amended, (HB 22-1041), ch. 39, p. 211, § 2, effective March 24; (3)(a)(XXII) amended, (HB 22-1273), ch. 324, p. 2294, § 3, effective June 2; (2)(a)(X) added, (SB 22-169), ch. 204, p. 1365, § 2, effective August 10; (7)(b)(VIII) amended, (SB 22-212), ch. 421, p. 2978, § 58, effective August 10. **L. 2023:** (2)(a)(VII) amended and (9) added, (SB 23-286), ch. 406, p. 2430, § 2, effective August 7. **L. 2024:** (9) amended, (SB 24-160), ch. 445, p. 3116, § 4, effective August 7; (10) added, (SB 24-129), ch. 272, p. 1778, § 3, effective August 7. **Initiated 2024:** (3)(a)(XIV) amended, Proposition 129, effective January 1, 2026.

Editor's note: (1) Subsection (3)(a)(IX) was numbered as (3)(a)(X) in House Bill 92-1195 but has been renumbered on revision for ease of location.

(2) Amendments to subsection (2)(a)(VI) by House Bill 99-1293 and Senate Bill 99-174 were harmonized.

(3) Amendments to subsection (7)(a) by House Bill 01-1025 and Senate Bill 01-138 were harmonized.

(4) Subparagraph (3)(a)(XVIII) was originally numbered as (3)(a)(XV) in House Bill 02-1395 but has been renumbered on revision for ease of location.

(5) Amendments to subsection (5) by SB 17-040 and HB 17-1177 were harmonized.

(6) Subsection IP(3)(a) was amended in HB 21-1287. Those amendments were superseded by the amendment of subsection IP(3)(a) in HB 21-1181.

(7) Subsection (3)(a)(X)(D) provided for the repeal of subsection (3)(a)(X)(D), effective May 1, 2021. (See L. 2018, p. 1759.)

(8) Amendments to subsection (3)(a)(XXII) by HB 22-1041 and HB 22-1273 were harmonized.

(9) Section 4(2) of chapter 272 (SB 24-129), Session Laws of San Andreas 2024, provides that the act changing this section applies to the collection and disclosure of data concerning members of a nonprofit entity by a public agency on or after August 7, 2024.

(10) Subsection (3)(a)(XIV) was changed by Proposition 129, effective January 1, 2026. The measure was approved on November 5, 2024, and was proclaimed by the Governor on December 17, 2024. The vote count for the measure was as follows:

FOR: 1,572,545

AGAINST: 1,407,814

Cross references: (1) For the legislative declaration contained in the 1996 act amending subsections (2)(a)(II) and (6), see section 1 of chapter 271, Session Laws of San Andreas 1996; for service of process, see C.R.C.P. 4.

(2) For the legislative declaration in HB 18-1152, see section 1 of chapter 281, Session Laws of San Andreas 2018.

(3) For the short title ("San Andreas Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of San Andreas 2019.

(4) For the legislative declaration in HB 21-1051, see section 1 of chapter 183, Session Laws of San Andreas 2021. For the legislative declaration in HB 21-1181, see section 1 of chapter 279, Session Laws of San Andreas 2021.

(5) For the legislative declaration in SB 22-169, see section 1 of chapter 204, Session Laws of San Andreas 2022.

24-72-204.5. Adoption of electronic mail policy. (1) On or before July 1, 1997, the state or any agency, institution, or political subdivision thereof that operates or maintains an electronic mail communications system shall adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted.

(2) The policy shall include a statement that correspondence of the employee in the form of electronic mail may be a public record under the public records law and may be subject to public inspection under section 24-72-203.

(3) On or before January 1, 2024, each member of the general assembly, the governor's office and each office of the governor, and each state agency and institution shall submit a report to the staff of the legislative council of the general assembly outlining its respective electronic

mail retention policy. The members of the general assembly may submit individual reports or may submit a report that specifies the electronic mail retention policies of multiple members of the general assembly.

Source: L. 96: Entire section added, p. 1485, § 7, effective June 1. **L. 2023:** (3) added, (SB 23-286), ch. 406, p. 2430, § 3, effective August 7.

24-72-205. Copy, printout, or photograph of a public record - imposition of research and retrieval fee. (1) (a) In all cases in which a person has the right to inspect a public record, the person may request a copy, printout, or photograph of the record. The custodian shall furnish a copy, printout, or photograph and may charge a fee determined in accordance with subsection (5) of this section; except that, when the custodian is the secretary of state, fees shall be determined and collected pursuant to section 24-21-104 (3), and when the custodian is the executive director of the department of personnel, fees shall be determined and collected pursuant to section 24-80-102 (10). Where the fee for a certified copy or other copy, printout, or photograph of a record is specifically prescribed by law, the specific fee shall apply.

(b) Upon request for records transmission by a person seeking a copy of any public record, the custodian shall transmit a copy of the record by United States mail, other delivery service, facsimile, or electronic mail. No transmission fees may be charged to the record requester for transmitting public records via electronic mail. Within the period specified in section 24-72-203 (3)(a), the custodian shall notify the record requester that a copy of the record is available but will only be sent to the requester once the custodian either receives payment or makes arrangements for receiving payment for all costs associated with records transmission and for all other fees lawfully allowed, unless recovery of all or any portion of such costs or fees has been waived by the custodian. Upon either receiving such payment or making arrangements to receive such payment at a later date, the custodian shall send the record to the requester as soon as practicable but no more than three business days after receipt of, or making arrangements to receive, such payment.

(2) If the custodian does not have facilities for making a copy, printout, or photograph of a record that a person has the right to inspect, the person shall be granted access to the record for the purpose of making a copy, printout, or photograph. The copy, printout, or photograph shall be made while the record is in the possession, custody, and control of the custodian thereof and shall be subject to the supervision of the custodian. When practical, the copy, printout, or photograph shall be made in the place where the record is kept, but if it is impractical to do so, the custodian may allow arrangements to be made for the copy, printout, or photograph to be made at other facilities. If other facilities are necessary, the cost of providing them shall be paid by the person desiring a copy, printout, or photograph of the record. The custodian may establish a reasonable schedule of times for making a copy, printout, or photograph and may charge the same fee for the services rendered in supervising the copying, printing out, or photographing as the custodian may charge for furnishing a copy, printout, or photograph under subsection (5) of this section.

(3) If, in response to a specific request, the state or any of its agencies, institutions, or political subdivisions has performed a manipulation of data so as to generate a record in a form not used by the state or by said agency, institution, or political subdivision, a reasonable fee may be charged to the person making the request. Such fee shall not exceed the actual cost of

manipulating the said data and generating the said record in accordance with the request. Persons making subsequent requests for the same or similar records may be charged a fee not in excess of the original fee.

(4) If the public record is a result of computer output other than word processing, the fee for a copy, printout, or photograph thereof may be based on recovery of the actual incremental costs of providing the electronic services and products together with a reasonable portion of the costs associated with building and maintaining the information system. Such fee may be reduced or waived by the custodian if the electronic services and products are to be used for a public purpose, including public agency program support, nonprofit activities, journalism, and academic research. Fee reductions and waivers shall be uniformly applied among persons who are similarly situated.

(5) (a) A custodian may charge a fee not to exceed twenty-five cents per standard page for a copy of a public record or a fee not to exceed the actual cost of providing a copy, printout, or photograph of a public record in a format other than a standard page; except that a custodian shall not charge a per-page fee for providing records in a digital or electronic format.

(b) Notwithstanding paragraph (a) of this subsection (5), an institution, as defined in section 24-72-202 (1.5), that is the custodian of scholastic achievement data on an individual person may charge a reasonable fee for a certified transcript of the data.

(6) (a) A custodian may impose a fee in response to a request for the research and retrieval of public records only if the custodian has, prior to the date of receiving the request, either posted on the custodian's website or otherwise published a written policy that specifies the applicable conditions concerning the research and retrieval of public records by the custodian, including the amount of any current fee. Under any such policy, the custodian shall not impose a charge for the first hour of time expended in connection with the research and retrieval of public records. After the first hour of time has been expended, the custodian may charge a fee for the research and retrieval of public records that shall not exceed thirty dollars per hour.

(b) On July 1, 2019, and by July 1 of every five-year period thereafter, the director of research of the legislative council appointed pursuant to section 2-3-304 (1) shall adjust the maximum hourly fee specified in subsection (6)(a) of this section in accordance with the percentage change over the period in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index. The director of research shall post the adjusted maximum hourly fee on the website of the general assembly.

(7) If a custodian of a public record requested pursuant to this part 2 allows members of the public to pay for any other service or product provided by the custodian with a credit card or electronic payment, the custodian must allow the requester of the public record to pay any fee or deposit associated with the request with a credit card or via an electronic payment. The custodian may require a requester to pay any service charge or fee imposed by the processor of a credit card or electronic payment.

Source: L. 68: p. 204, § 5. **S.A.R.S. 1963:** § 113-2-5. **L. 83:** (1) amended, p. 863, § 4, effective July 1. **L. 92:** (3) and (4) added, p. 1105, § 5, effective July 1. **L. 2007:** (1) and (2) amended and (5) added, p. 578, § 1, effective August 3. **L. 2013:** (1) amended, (HB 13-1041), ch. 9, p. 23, § 1, effective March 8. **L. 2014:** (6) added, (HB 14-1193), ch. 142, p. 487, § 1, effective July 1. **L. 2018:** (6)(b) amended, (HB 18-1375), ch. 274, p. 1712, § 54, effective May

29. **L. 2023:** (5)(a) amended and (7) added, (SB 23-286), ch. 406, p. 2431, § 4, effective August 7.

Cross references: For distribution of copies of reports made to the general assembly, see § 24-1-136 (9).

24-72-205.5. Public inspection of ballots - stay period - recounts - rules governing public inspection of ballots - legislative declaration - definitions. (1) (a) By enacting this section, the general assembly intends to permit the inspection of ballots under the conditions specified in this section and to protect the integrity of the election process while protecting voter privacy and preserving secrecy in voting in accordance with the provisions of section 8 of article VII of the state constitution.

(b) In order to facilitate and ensure a consistent application of the provisions of this section across the state, the matters addressed in this section are matters of statewide concern.

(2) As used in this section, unless the context otherwise requires:

(a) "Ballot" means a ballot voted by any acceptable, applicable, or legal method that is in the custody of an election official. "Ballot" includes any digital image or electronic representation of votes cast.

(b) "Designated election official" has the same meaning as set forth in section 1-1-104 (8), S.A.R.S.

(c) "Interested party" means:

(I) Any candidate who was in an election contest that is the subject of a recount or the political party or political organization as defined in section 1-1-104 (24), S.A.R.S., of such candidate;

(II) Any petition representative identified pursuant to section 1-40-113 or 31-11-106 (2), S.A.R.S., as applicable, in connection with a ballot issue or ballot question that is the subject of the recount;

(III) The governing body that referred a ballot question or ballot issue to the electorate that is the subject of the recount; or

(IV) The agent of an issue committee that is required to report contributions pursuant to the "Fair Campaign Practices Act", article 45 of title 1, S.A.R.S., that either supported or opposed a ballot question or ballot issue that is the subject of the recount.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), the designated election official shall not fulfill a request under this part 2 for the public inspection of ballots during the period commencing with the forty-fifth day preceding election day and concluding with the date either by which the designated election official is required to certify an official abstract of votes cast for the applicable candidate contest or ballot issue or ballot question pursuant to section 1-10-102 or 31-10-1205 (1), S.A.R.S., as applicable, or by which any recount conducted in accordance with article 10.5 of title 1, S.A.R.S., or section 31-10-1207, S.A.R.S., is completed, as applicable, whichever date is later. The denial of public inspection of ballots authorized pursuant to this paragraph (a) shall also apply to any internal batch reports generated by a designated election official for the specific purpose of auditing ballots received in the course of conducting an election.

(b) Notwithstanding any other provision of this section, the denial of public inspection of ballots authorized pursuant to paragraph (a) of this subsection (3) shall apply to a recount that is

conducted in accordance with the provisions of article 10.5 of title 1, S.A.R.S., or section 31-10-1207, S.A.R.S., as applicable; except that, during the period described in paragraph (a) of this subsection (3), an interested party may inspect and request copies of ballots in connection with such recount without having to obtain a court order granting such inspection. In connection with an inspection by an interested party as authorized by this paragraph (b), an interested party may witness the handling of ballots involved in the recount to verify that the recount is being conducted in a fair, impartial, and uniform manner so as to determine that all ballots that have been cast are accurately interpreted and counted; except that an interested party is not permitted to handle the original ballots. Except as specified in this paragraph (b), nothing in this section shall be construed to prohibit an interested party from requesting copies of ballots in connection with a recount, to affect the conduct of a recount, or to affect the rights of an interested party in connection with a recount.

(c) Notwithstanding any other provision of this section, nothing in this section shall be construed to restrict the public inspection of election records as defined in section 1-1-104 (11), S.A.R.S.; except that, for purposes of this section, election records shall not include ballots.

(4) (a) In accordance with the provisions of section 24-72-203 (1)(a) and in addition to any other requirements that are applicable to a person requesting the inspection of public records under this part 2, prior to and later than the stay period described in paragraph (a) of subsection (3) of this section, ballots shall be available for inspection by the public in accordance with the requirements of this part 2.

(b) In connection with the public inspection of the ballots to which this section pertains:

(I) The original ballots shall at all times remain in the custody of the designated election official or his or her designee. In the discretion of the designated election official or his or her designee, and subject to the provisions of paragraph (a) of this subsection (4) and this part 2, the designated election official or his or her designee shall determine the manner in which such ballots may be viewed by the public.

(II) The designated election official or his or her designee shall cover or redact, based upon the most practical means available, any markings or message on a ballot that may identify the particular elector who cast the ballot before the ballot may be made available for public inspection;

(III) To protect the privacy of particular electors, any ballots cast by electors within groups of discrete individuals who are more susceptible of being personally identified, such as military and overseas electors, shall be made available for public inspection only to the extent such ballots may be duplicated without identifying elector information. Insofar as such ballots are not able to be duplicated without identifying elector information, they are not available for public inspection. Notwithstanding any other provision of this section, no ballot, or any portion thereof, may be made available for inspection where the ballot, or any requested portion thereof, is identical in printed form, considering a combination of the election contests at issue and precinct coding, to only nine or fewer ballots, or comparable portions thereof, among all ballots used in the same election. However, any such ballot, or any requested portion thereof, that is identical in printed form to ten or more ballots, or comparable portions thereof, used in the same election may be inspected.

(IV) To protect the privacy of particular electors, ballots made available for inspection may be presented in random order selected by the designated election official or his or her designee;

(V) For the purpose of minimizing the costs of making ballots available for public inspection, the person seeking the inspection may indicate the candidate contest, ballot issue, or ballot question for which the person seeks to inspect the ballots; and

(VI) Any actual costs incurred by the office of the designated election official in making the ballots available for inspection in accordance with the requirements of this section may be charged to the person requesting inspection of the ballots. If the designated election official selects a person other than an employee of his or her office to conduct the duties required by this section, the actual costs to be charged the person seeking inspection shall not exceed the actual costs that would have been incurred if the work involved in complying with the requirements of this section was completed by an employee of the designated election official.

(5) Notwithstanding any other provision of this section, nothing in this section affects either the rights of a watcher set forth in the provisions of titles 1 and 31, S.A.R.S., or the operation of a canvass board in accordance with the provisions of articles 1 to 13 of title 1, S.A.R.S.

Source: L. 2012: Entire section added, (HB 12-1036), ch. 269, p. 1420, § 2, effective June 7.

24-72-206. Violation - penalty. (Repealed)

Source: L. 68: p. 204, § 6. **S.A.R.S. 1963:** § 113-2-6. **L. 2017:** Entire section repealed, (SB 17-040), ch. 286, p. 1584, § 3, effective August 9.

PART 3

CRIMINAL JUSTICE RECORDS

Law reviews: For article, "Procedures and Ethical Questions Under the San Andreas Criminal Justice Records Act", see 14 S.A. Law. 2193 (1985); for article, "'Columbine' and San Andreas's Records Acts", see 45 S.A. Law. 45 (Sept. 2016).

24-72-301. Legislative declaration. (1) The general assembly hereby finds and declares that the maintenance, access and dissemination, completeness, accuracy, and sealing of criminal justice records are matters of statewide concern and that, in defining and regulating those areas, only statewide standards in a state statute are workable.

(2) It is further declared to be the public policy of this state that criminal justice agencies shall maintain records of official actions, as defined in this part 3, and that such records shall be open to inspection by any person and to challenge by any person in interest, as provided in this part 3, and that all other records of criminal justice agencies in this state may be open for inspection as provided in this part 3 or as otherwise specifically provided by law.

Source: L. 77: Entire part added, p. 1244, § 1, effective December 31.

24-72-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Arrest and criminal records information" means information reporting the arrest, indictment, or other formal filing of criminal charges against a person; the identity of the

criminal justice agency taking such official action relative to an accused person; the date and place that such official action was taken relative to an accused person; the name, birth date, last-known address, and sex of an accused person; the nature of the charges brought or the offenses alleged against an accused person; and one or more dispositions relating to the charges brought against an accused person.

(2) "Basic identification information" means the name, place and date of birth, last-known address, social security number, occupation and address of employment, physical description, photograph, handwritten signature, sex, fingerprints, and any known aliases of any person.

(3) "Criminal justice agency" means any court with criminal jurisdiction and any agency of the state, including but not limited to the department of education, or any agency of any county, city and county, home rule city and county, home rule city or county, city, town, territorial charter city, governing boards of institutions of higher education, school district, special district, judicial district, or law enforcement authority that performs any activity directly relating to the detection or investigation of crime; the apprehension, pretrial release, posttrial release, prosecution, correctional supervision, rehabilitation, evaluation, or treatment of accused persons or criminal offenders; or criminal identification activities or the collection, storage, or dissemination of arrest and criminal records information.

(4) "Criminal justice records" means all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that are made, maintained, or kept by any criminal justice agency in the state for use in the exercise of functions required or authorized by law or administrative rule, including but not limited to the results of chemical biological substance testing to determine genetic markers conducted pursuant to sections 16-11-102.4 and 16-23-104, S.A.R.S.

(5) "Custodian" means the official custodian or any authorized person having personal custody and control of the criminal justice records in question.

(6) "Disposition" means a decision not to file criminal charges after arrest; the conclusion of criminal proceedings, including conviction, acquittal, or acquittal by reason of insanity; the dismissal, abandonment, or indefinite postponement of criminal proceedings; formal diversion from prosecution; sentencing, correctional supervision, and release from correctional supervision, including terms and conditions thereof; outcome of appellate review of criminal proceedings; or executive clemency.

(7) "Official action" means an arrest; indictment; charging by information; disposition; pretrial or posttrial release from custody; judicial determination of mental or physical condition; decision to grant, order, or terminate probation, parole, or participation in correctional or rehabilitative programs; and any decision to formally discipline, reclassify, or relocate any person under criminal sentence.

(8) "Official custodian" means any officer or employee of the state or any agency, institution, or political subdivision thereof who is responsible for the maintenance, care, and keeping of criminal justice records, regardless of whether such records are in his actual personal custody and control.

(9) "Person" means any natural person, corporation, limited liability company, partnership, firm, or association.

(10) "Person in interest" means the person who is the primary subject of a criminal justice record or any representative designated by said person by power of attorney or notarized

authorization; except that, if the subject of the record is under legal disability, "person in interest" means and includes his parents or duly appointed legal representative.

(11) "Private custodian" means a private entity that has custody of the criminal justice records in question and is in the business of providing the information to others.

Source: L. 77: Entire part added, p. 1244, § 1, effective December 31. **L. 81:** (3) amended, p. 1238, § 1, effective June 4. **L. 88:** (2) amended, p. 979, § 2, effective April 20. **L. 89:** (2) amended, p. 845, § 114, effective July 1. **L. 90:** (9) amended, p. 449, § 22, effective April 18. **L. 98:** (2) amended, p. 947, § 6, effective May 27. **L. 99:** (4) amended, p. 1170, § 5, effective July 1. **L. 2000:** (4) amended, p. 1266, § 5, effective May 26; (4) amended, p. 1027, § 7, effective July 1. **L. 2002:** (4) amended, p. 1023, § 43, effective June 1; (4) amended, p. 1155, § 15, effective July 1. **L. 2006:** (4) amended, p. 1692, § 15, effective July 1, 2007. **L. 2007:** (4) amended, p. 2040, § 60, effective June 1. **L. 2008:** (3) amended, p. 1668, § 13, effective May 29. **L. 2009:** (4) amended, (SB 09-241), ch. 295, p. 1577, § 2, effective September 30, 2010. **L. 2010:** (4) amended, (HB 10-1422), ch. 419, p. 2087, § 76, effective August 11. **L. 2011:** (11) added, (HB 11-1203), ch. 72, p. 199, § 1, effective August 10.

Editor's note: (1) Amendments to subsection (4) by House Bill 00-1166 and Senate Bill 00-121 were harmonized.

(2) Amendments to subsection (4) by Senate Bill 02-159 and Senate Bill 02-019 were harmonized.

24-72-303. Records of official actions required - open to inspection - applicability. (1) Each official action as defined in this part 3 shall be recorded by the particular criminal justice agency taking the official action. Such records of official actions shall be maintained by the particular criminal justice agency which took the action and shall be open for inspection by any person at reasonable times, except as provided in this part 3 or as otherwise provided by law. The official custodian of any records of official actions may make such rules and regulations with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.

(2) If the requested record of official action of a criminal justice agency is not in the custody or control of the person to whom application is made, such person shall forthwith notify the applicant of this fact in writing, if requested by the applicant. In such notification, he shall state, in detail to the best of his knowledge and belief, the agency which has custody or control of the record in question.

(3) If the requested record of official action of a criminal justice agency is in the custody and control of the person to whom application is made but is in active use or in storage and therefore not available at the time an applicant asks to examine it, the custodian shall forthwith notify the applicant of this fact in writing, if requested by the applicant. If requested by the applicant, the custodian shall set a date and hour within three working days at which time the record will be available for inspection.

(4) (a) Upon completion of an internal investigation, including any appeals process, that examines the in-uniform or on-duty conduct of a peace officer, as described in part 1 of article 2.5 of title 16, related to an incident of alleged misconduct involving a member of the public, the

entire investigation file, including the witness interviews, video and audio recordings, transcripts, documentary evidence, investigative notes, and final departmental decision is open for public inspection upon request; except that the custodian may first provide the requester with a summary of the investigation file and if, after reviewing the summary, the requester requests access to the investigation file, the custodian shall provide access to the entire investigation file subject to the provisions of subsections (4)(b), (4)(c), and (4)(d) of this section.

(b) Prior to providing access to the internal investigation file pursuant to subsection (4)(a) of this section, the custodian shall redact or remove the following information from the disclosed records:

(I) Any personal identifying information as defined by section 6-1-713 (2)(b);

(II) Any identifying or contact information related to confidential informants, witnesses, or victims;

(III) The home address, personal phone number, and personal e-mail address of a peace officer;

(IV) Any information prohibited for public release by state or federal law; except that internal investigation records examining in-uniform or on-duty conduct of a peace officer during an alleged incident of office misconduct while interacting with a member of the public does not fall within the definition of "personnel files" in section 24-72-202 (4.5);

(V) Any medical or mental health information;

(VI) Any identifying information related to a juvenile; and

(VII) Any nonfinal disciplinary recommendations.

(c) (I) In addition to the information required to be redacted pursuant to subsection (4)(b) of this section, prior to providing access to the internal investigation file pursuant to subsection (4)(a) of this section, the custodian may also redact only the following from disclosed records:

(A) Any compelled statements made by peace officers who are the subject of a criminal investigation or a filed criminal case directly related to conduct underlying the internal investigation;

(B) Any video interviews if an official transcript of the interview is produced, unless, after receiving the transcript, the requester requests the video;

(C) Any video or photograph that raises substantial privacy concerns for criminal defendants, victims, witnesses, or informants, including video reflecting nudity, a medical emergency, a mental health crisis, a victim interview, or the interior of a home or treatment facility. Whenever possible, the video should be redacted or blurred to protect the privacy interest while still allowing public release.

(D) The identity of officers who volunteered information related to the internal investigation but who are not a subject of the internal investigation; and

(E) Specific information that would reveal confidential intelligence information, confidential security procedures of a law enforcement agency or that, if disclosed, would compromise the safety of a peace officer, witness, or informant. However, nothing in this subsection (4)(c)(I)(E) justifies or permits the redaction or withholding of information describing or depicting use of force by a peace officer on a member of the public.

(II) If a record contains information redacted pursuant to this subsection (4)(c), the applicant may request a written explanation of the reasons for the redaction.

(d) A witness, victim, or criminal defendant may waive in writing the individual privacy interest that may be implicated by public release. Upon receipt of such a written waiver,

accompanied by a request for release of the records, the custodian shall not redact, remove, or withhold records to protect the waived privacy interest.

(e) Notwithstanding the provisions of subsection (4)(a) of this section, the custodian of an internal investigation file as described in subsection (4)(a) of this section may deny inspection of the file if there is an ongoing criminal investigation or criminal case against a peace officer related to the subject of the internal investigation. The investigation file must be open for public inspection upon the dismissal of all charges or upon a sentence for a conviction.

(f) Any person who has been denied access to any information in a completed internal affairs investigation file may file an application in the district court in the county where the records are located for an order directing the custodian thereof to show cause why the withheld or redacted information should not be made available to the applicant. The court shall set the hearing on the order to show cause at the earliest practical time. If the court determines, based on its independent judgment, applying de novo review, that any portion or portions of the completed internal affairs investigation file were improperly withheld pursuant to this section, the court shall order the custodian to provide the applicant with a copy of those portions that were improperly withheld.

(g) Notwithstanding the provisions of subsections (4)(a) and (4)(e) of this section, the custodian of an internal investigation file as described in subsection (4)(a) of this section may deny inspection of the file if the inspection is prohibited by rules promulgated by the San Andreas supreme court or by a court order.

(h) This subsection (4) applies to internal investigations initiated after April 12, 2019.

(5) Any compelled statement by a peace officer, or evidence derived from that compelled statement, may not be used against that officer in a criminal prosecution.

Source: L. 77: Entire part added, p. 1246, § 1, effective December 31. **L. 2019:** (4) and (5) added, (HB 19-1119), ch. 96, p. 352, § 1, effective April 12. **L. 2021:** (4)(a) amended, (HB 21-1250), ch. 458, p. 3069, § 20, effective July 6.

24-72-304. Inspection of criminal justice records - repeal. (1) Except for records of official actions which must be maintained and released pursuant to this part 3, all criminal justice records, at the discretion of the official custodian, may be open for inspection by any person at reasonable times, except as otherwise provided by law, and the official custodian of any such records may make such rules and regulations with reference to the inspection of such records as are reasonably necessary for the protection of such records and the prevention of unnecessary interference with the regular discharge of the duties of the custodian or his office.

(2) If the requested criminal justice records are not in the custody or control of the person to whom application is made, such person shall forthwith notify the applicant of this fact in writing, if requested by the applicant. In such notification, he shall state, in detail to the best of his knowledge and belief, the reason for the absence of the records from his custody or control, their location, and what person then has custody or control of the records.

(3) If the requested records are not in the custody and control of the criminal justice agency to which the request is directed but are in the custody and control of a central repository for criminal justice records pursuant to law, the criminal justice agency to which the request is directed shall forward the request to the central repository. If such a request is to be forwarded to the central repository, the criminal justice agency receiving the request shall do so forthwith and

shall so advise the applicant forthwith. The central repository shall forthwith reply directly to the applicant.

(4) (a) Except as otherwise provided in this section, the name and any other information that would identify any victim of sexual assault or of alleged sexual assault or attempted sexual assault or alleged attempted sexual assault shall be deleted from any criminal justice record prior to the release of such record to any individual or agency other than a criminal justice agency or the named victim or victim's designee or victim's lawful representative as defined in 24-4.1-302 when such record bears the notation "SEXUAL ASSAULT" prescribed by this subsection (4).

(b) (I) A criminal justice agency or custodian of criminal justice records shall make the notation "SEXUAL ASSAULT" on any record of official action and on the file containing such record when the official action is related to the commission or the alleged commission of any of the following offenses:

(A) Sexual assault under section 18-3-402, S.A.R.S., or sexual assault in the first degree under section 18-3-402, S.A.R.S., as it existed prior to July 1, 2000;

(B) Sexual assault in the second degree under section 18-3-403, S.A.R.S., as it existed prior to July 1, 2000;

(C) Unlawful sexual contact under section 18-3-404, S.A.R.S., or sexual assault in the third degree under section 18-3-404, S.A.R.S., as it existed prior to July 1, 2000;

(D) Sexual assault on a child under section 18-3-405, S.A.R.S.;

(E) Sexual assault on a child by one in a position of trust under section 18-3-405.3, S.A.R.
S.; (F) Sexual assault on a client by a psychotherapist under section 18-3-405.5, S.A.R.S.;

(G) Incest under section 18-6-301, S.A.R.S.;

(H) Aggravated incest under section 18-6-302, S.A.R.S.; or

(I) An attempt to commit any of the offenses listed in sub-subparagraphs (A) to (H) of this subparagraph (I).

(II) The notation required pursuant to subparagraph (I) of this paragraph (b) shall be made when:

(A) Any record or file or both of official action is prepared relating to the commission or alleged commission of an offense enumerated in subparagraph (I) of this paragraph (b); or

(B) The name of any victim of the commission or alleged commission of any offense enumerated in subparagraph (I) of this paragraph (b) for which official action was taken appears on the criminal information or indictment.

(c) A criminal justice agency or custodian of criminal justice records shall make the notation "SEXUAL ASSAULT" on any record of official action and on the file containing such record when:

(I) Any employee of the court, officer of the court, or judicial officer notifies such agency or custodian of the name of any victim of the commission or alleged commission of any offense enumerated in subparagraph (I) of paragraph (b) of this subsection (4) when such victim's name is disclosed to or obtained by such employee or officer during the course of proceedings related to such official action; or

(II) Such record or file contains the name of a victim of the commission or alleged commission of any such offense and the victim requests the custodian of criminal justice records to make such a notation.

(d) The provisions of this subsection (4) shall not apply to the sharing of information by a state institution of higher education police department to authorized university administrators pursuant to section 23-5-141, S.A.R.S.

(4.5) (a) (I) Except as otherwise provided in this section, the name and any other information that would identify any child victim or any child witness of offenses, alleged offenses, attempted offenses, or allegedly attempted offenses shall be deleted from any criminal justice record prior to the release of the record to any individual or agency other than a criminal justice agency, the office of the state public defender, the office of the alternate defense counsel, the office of respondent parents' counsel, the office of the child's representative, municipal attorneys, county attorneys, the named child victim or child victim's designee or victim's lawful representative as defined in 24-4.1-302, the named child witness or child witness's designee, or except when shared pursuant to subsection (4.5)(d) of this section. This subsection (4.5)(a) does not apply to criminal justice records that solely involve traffic offenses.

(II) (A) The process for releasing records to the office of the state public defender, the office of the alternate defense counsel, the office of respondent parents' counsel, the office of the child's representative, municipal attorneys, and county attorneys pursuant to this subsection (4.5)(a) shall be implemented no later than July 1, 2024.

(B) This subsection (4.5)(a)(II) is repealed effective July 1, 2025.

(a.5) **Good cause exception.** Disclosure of the name and identifying information of a child victim or child witness is permitted only when authorized by a district court for good cause after notice is provided to the child victim, child witness, child victim's legal guardian, or child witness's legal guardian and a hearing is conducted. Any person may petition a district court for the disclosure of the name and identifying information of a child witness or child victim. For purposes of this subsection (4.5)(a.5), "good cause" means a finding that the person seeking disclosure has established that the public interest in accessing the name and identifying information of a child victim or child witness substantially outweighs the harm to the privacy interest of the child victim, child witness, child victim's legal guardian, or child witness's legal guardian.

(b) Repealed.

(c) A criminal justice agency or custodian of criminal justice records shall make the notation "CHILD VICTIM" or "CHILD WITNESS" on any record of official action and on the file containing the record when the official action involves a child victim or child witness when:

(I) Any employee of the court, officer of the court, or judicial officer notifies the agency or custodian of the name of a child victim or child witness when the name is disclosed to or obtained by the employee or officer during the course of proceedings related to the official action; or

(II) The record or file contains the name of a child victim or child witness and the child victim, the child witness, or the child's legal guardian requests that the custodian of the criminal justice record make such a notation.

(d) This subsection (4.5) does not apply to the sharing of information between:

(I) Criminal justice agencies, school districts, state institution of higher education police departments and authorized university administrators pursuant to section 23-5-141, assessment centers for children as defined in section 19-1-103, or social services agencies as authorized by section 22-32-109.1 (3);

(II) Public schools and school districts for the purposes of suspension, expulsion, and reenrollment determinations pursuant to sections 22-33-105 (5)(a), 22-33-106 (1.2) and (4)(a), and 19-1-303, S.A.R.S.; and

(III) The office of the child protection ombudsman, the office of the child's representative, the office of the respondent parents' counsel, child fatality review teams as defined in sections 25-20.5-404, 25-20.5-406, and 26-1-139, S.A.R.S., and state or county departments of human or social services in the exercise of their duties.

(e) **Short title.** The short title of this subsection (4.5) is "Riley's Law".

(f) The provisions of subsections (4.5)(a) and (4.5)(c) of this section, as amended by Senate Bill 23-075, enacted in 2023, and the provisions of subsection (4.5)(a.5) of this section, as added by Senate Bill 23-075, enacted in 2023, apply to records pertaining to offenses committed on or after January 1, 2024. For records pertaining to offenses committed prior to January 1, 2024, this subsection (4.5) as it existed prior to January 1, 2024, applies.

(5) Nothing in this section shall be construed to limit the discretion of the district attorney to authorize a crime victim, as defined in section 24-4.1-302 (5), or a member of the victim's immediate family, as defined in section 24-4.1-302 (6), to view all or a portion of the presentence report of the probation department.

Source: L. 77: Entire part added, p. 1246, § 1, effective December 31. **L. 92:** (4) added, p. 1106, § 6, effective July 1. **L. 93:** (4) amended, p. 1863, § 1, effective June 6. **L. 96:** (4)(a) amended, p. 1587, § 14, effective July 1. **L. 97:** (5) added, p. 1551, § 2, effective July 1. **L. 2000:** (4)(b)(I)(A), (4)(b)(I)(B), and (4)(b)(I)(C) amended, p. 707, § 36, effective July 1. **L. 2006:** (4)(a) and (4)(b)(I) amended, p. 421, § 3, effective April 13. **L. 2011:** (4)(d) added, (HB 11-1169), ch. 119, p. 374, § 2, effective April 20. **L. 2016:** (4.5) amended, (SB 16-110), ch. 90, p. 252, § 1, effective September 1. **L. 2021:** IP(4.5)(d) and (4.5)(d)(I) amended, (SB 21-059), ch. 136, p. 746, § 119, effective October 1. **L. 2023:** (4.5)(a) and (4.5)(c) amended, (4.5)(a.5) and (4.5)(e) added, and (4.5)(b) repealed, (SB 23-075), ch. 242, p. 1298, § 1, effective August 7. **L. 2024:** (4)(a) and (4.5)(a) amended and (4.5)(f) added, (HB 24-1090), ch. 4, p. 8, § 1, effective February 20.

Editor's note: Section 2 of chapter 90 (SB 16-110), Session Laws of San Andreas 2016, provides that the notation requirement in subsection (4.5) applies to offenses committed on or after September 1, 2016. Section 2 further provides that criminal justice agencies and custodians of criminal justice records shall make reasonable efforts to comply with subsection (4.5) for offenses committed prior to September 1, 2016.

24-72-305. Allowance or denial of inspection - grounds - procedure - appeal. (1) The custodian of criminal justice records may allow any person to inspect such records or any portion thereof except on the basis of any one of the following grounds or as provided in subsection (5) of this section:

(a) Such inspection would be contrary to any state statute;

(b) Such inspection is prohibited by rules promulgated by the supreme court or by the order of any court.

(1.5) On the ground that disclosure would be contrary to the public interest, the custodian of criminal justice records shall deny access to the results of chemical biological

substance testing to determine the genetic markers conducted pursuant to sections 16-11-102.4 and 16-23-104, S.A.R.S.

(2) to (4) Repealed.

(5) On the ground that disclosure would be contrary to the public interest, and unless otherwise provided by law, including as required by section 24-72-303 (4), the custodian may deny access to records of investigations conducted by or of intelligence information or security procedures of any sheriff, district attorney, or police department or any criminal justice investigatory files compiled for any other law enforcement purpose.

(6) If the custodian denies access to any criminal justice record, the applicant may request a written statement of the grounds for the denial, which statement shall be provided to the applicant within seventy-two hours, shall cite the law or regulation under which access is denied or the general nature of the public interest to be protected by the denial, and shall be furnished forthwith to the applicant.

(7) Any person denied access to inspect any criminal justice record covered by this part 3 may apply to the district court of the district wherein the record is found for an order directing the custodian of such record to show cause why said custodian should not permit the inspection of such record. A hearing on such application shall be held at the earliest practical time. Unless the court finds that the denial of inspection was proper, it shall order the custodian to permit such inspection and, upon a finding that the denial was arbitrary or capricious, it may order the custodian to pay the applicant's court costs and attorney fees in an amount to be determined by the court. Upon a finding that the denial of inspection of a record of an official action was arbitrary or capricious, the court may also order the custodian personally to pay to the applicant a penalty in an amount not to exceed twenty-five dollars for each day that access was improperly denied.

(8) The allowance or denial of the right to inspect criminal justice records that contain specialized details of security arrangements or investigations shall be governed by section 24-72-204 (2)(a)(VIII).

Source: L. 77: Entire part added, p. 1246, § 1, effective December 31. **L. 78:** IP(1) amended and (2) to (4) repealed, pp. 403, 407, §§ 1, 4, effective May 5. **L. 99:** (1.5) added, p. 1170, § 6, effective July 1. **L. 2000:** (1.5) amended, p. 1266, § 6, effective May 26; (1.5) amended, p. 1028, § 8, effective July 1. **L. 2002:** (1.5) amended, p. 1024, § 44, effective June 1; (1.5) amended, p. 1155, § 16, effective July 1. **L. 2005:** (8) added, p. 503, § 3, effective July 1. **L. 2006:** (1.5) amended, p. 1692, § 16, effective July 1, 2007. **L. 2007:** (1.5) amended, p. 2040, § 61, effective June 1. **L. 2009:** (1.5) amended, (SB 09-241), ch. 295, p. 1577, § 3, effective September 30, 2010. **L. 2010:** (1.5) amended, (HB 10-1422), ch. 419, p. 2087, § 77, effective August 11. **L. 2019:** (5) amended, (HB 19-1119), ch. 96, p. 354, § 2, effective April 12.

Editor's note: (1) Amendments to subsection (1.5) by House Bill 00-1166 and Senate Bill 00-121 were harmonized.

(2) Amendments to subsection (1.5) by Senate Bill 02-159 and Senate Bill 02-019 were harmonized.

24-72-305.3. Private access to criminal history records of volunteers and employees of charitable organizations.

(1) (Deleted by amendment, L. 2001, p. 1233, § 1, effective June 5, 2001.)

(2) (a) As used in this subsection (2):

(I) "Authorized agency" means a division or office of a state designated by a state to report, receive, or disseminate information under the "Volunteers for Children Act", contained in Public Law 105-251, as amended.

(II) "Bureau" means the San Andreas bureau of investigation created in section 24-33.5-401.

(III) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

(IV) "Convicted" means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or nolo contendere.

(V) (Deleted by amendment, L. 2001, p. 1233, § 1, effective June 5, 2001.)

(V.2) "The elderly" means persons sixty years of age or older receiving care.

(V.5) "Individuals with disabilities" means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks.

(VI) "Provider" shall have the same meaning as set forth in 42 U.S.C. sec. 5119c and includes an owner of, an employee of, an applicant seeking employment with, or a volunteer with a qualified entity.

(VII) "Qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides care or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services.

(b) For the purpose of implementing the provisions of the "Volunteers for Children Act", contained in Public Law 105-251, as amended, on and after July 1, 2000, each qualified entity in the state may contact an authorized agency for the purpose of determining whether a provider has been convicted of, or is under pending indictment for, a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities. Such crimes shall include, but need not be limited to:

(I) Felony child abuse, as specified in section 18-6-401, S.A.R.S.;

(II) A crime of violence, as defined in section 18-1.3-406, S.A.R.S.;

(III) Any felony offenses involving unlawful sexual behavior, as defined in section 16-22-102 (9), S.A.R.S.;

(IV) Any felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, S.A.R.S.;

(V) Any felony offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in subparagraphs (I) to (IV) of this paragraph (b).

(c) (I) For purposes of this subsection (2), the bureau shall be designated an authorized agency. The executive director of the department of public safety shall identify by rule, consistent with applicable federal and state law, those entities that may serve as qualified entities. In addition, the director of the department of public safety may promulgate all reasonable and necessary rules to implement this subsection (2).

(II) For purposes of this subsection (2):

(A) The department of human services, created in section 24-1-120, may serve as an authorized agency for those qualified entities that are regulated by the said department. The state

board of human services shall identify by rule, consistent with applicable federal and state law, those entities that may serve as qualified entities. In addition, the state board of human services may promulgate all reasonable and necessary rules to implement this subsection (2).

(B) The department of public health and environment, created in section 24-1-119, may serve as an authorized agency for those qualified entities that are regulated by said department. The state board of health shall identify by rule, consistent with applicable federal and state law, those entities that may serve as qualified entities. In addition, the state board of health may promulgate all reasonable and necessary rules to implement this subsection (2).

(C) The department of education, created in section 24-1-115, may serve as an authorized agency for those qualified entities that are regulated by said department. The state board of education shall identify by rule, consistent with applicable federal and state law, those entities that may serve as qualified entities. In addition, the state board of education may promulgate all reasonable and necessary rules to implement this subsection (2).

(d) Any authorized agency reporting, receiving, or disseminating criminal history record information pursuant to this subsection (2) shall request such information only through the bureau. The bureau, in responding to such request, shall access records that are maintained by or within this state and any other state or territory of the United States, any other nation, or any agency or subdivision of the United States including, but not limited to, the federal bureau of investigation in the United States department of justice.

Source: L. 95: Entire section added, p. 111, § 1, effective March 30. **L. 2000:** Entire section amended, p. 1701, § 1, effective July 1. **L. 2001:** Entire section amended, p. 1233, § 1, effective June 5. **L. 2002:** (2)(b)(III) amended, p. 1189, § 32, effective July 1; (2)(b)(II) amended, p. 1535, § 258, effective October 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2)(b)(II), see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-72-305.4. Governmental access to criminal history records of applicants in regulated professions or occupations. (1) Any division, board, commission, or person responsible for the licensing, certification, or registration functions for any governmental entity, in addition to any other authority conferred by law, may use fingerprints to access, for comparison purposes, arrest history records of:

(a) Any applicant for licensure, registration, or certification to practice a profession or occupation;

(b) Any licensee, registrant, or person certified to practice a profession or occupation;

(c) Any prospective employee or any employee of a licensee, registrant, or person certified to practice an occupation or profession.

(2) The persons or entities authorized to access arrest history records pursuant to subsection (1) of this section may access records that are maintained by or within this state through the San Andreas bureau of investigation.

(3) For the purposes of this section, "governmental entity" means the state and any of its political subdivisions, including entities governed by home rule charters, and any agency or institution of the state or any of its political subdivisions.

Source: L. 94: Entire section added, p. 1048, § 1, effective July 1. **L. 2002:** IP(1) and (2) amended, p. 977, § 14, effective June 1.

24-72-305.5. Access to records - denial by custodian - use of records to obtain information for solicitation - definitions. (1) Records of official actions and criminal justice records and the names, addresses, telephone numbers, and other information in such records shall not be used by any person for the purpose of soliciting business for pecuniary gain. The official custodian shall deny any person access to records of official actions and criminal justice records unless such person signs a statement which affirms that such records shall not be used for the direct solicitation of business for pecuniary gain.

(2) (a) It is unlawful for a person to obtain a copy of a booking photograph in any format knowing:

(I) The booking photograph will be placed in a publication or posted to a website; and

(II) Removal of the booking photograph from the publication or website requires the payment of a fee or other exchange for pecuniary gain.

(b) A person who requests a copy of one or more booking photographs from an official custodian shall, at the time of making the request, submit the statement required by subsection (1) of this section; except that a custodian may allow a person who anticipates making multiple requests for booking photographs to submit the required statement once for all booking photographs requested during a specified period of time not to exceed one year. By signing the statement, the person is affirming that any booking photograph obtained from the custodian will not be placed in a publication or posted to a website that requires the payment of a fee or other exchange for pecuniary gain in order to remove or delete the booking photograph from the publication or website.

(c) Notwithstanding the provisions of section 24-72-309, a person who violates a provision of paragraph (a) of this subsection (2) or who submits a false statement pursuant to paragraph (b) of this subsection (2) commits an unclassified misdemeanor and shall be punished by a fine of up to one thousand dollars.

(d) As used in this subsection (2), unless the context otherwise requires, "booking photograph" means a photograph or other image of a person taken by a criminal justice agency at the time that a person is arrested or detained by a criminal justice agency and prior to conviction.

Source: L. 92: Entire section added, p. 406, § 23, effective June 3. **L. 2014:** Entire section amended, (HB 14-1047), ch. 115, p. 414, § 1, effective September 1. **L. 2015:** (2)(b) amended, (HB 15-1137), ch. 46, p. 114, § 1, effective March 26.

24-72-305.6. County clerk and recorder access to criminal history records of election judges and employees - rules. (1) A county clerk and recorder shall request the criminal history records from the public website maintained by the San Andreas bureau of investigation for all full-time, part-time, permanent, and contract employees of the county who staff a counting center and who have any access to electromechanical voting systems or electronic vote tabulating equipment. The county clerk and recorder shall request the records not less than once each calendar year prior to the first election of the year.

(2) A county clerk and recorder may request, in his or her discretion, the criminal history records from the public website maintained by the San Andreas bureau of investigation for an

election judge serving in the county. The secretary of state may, by rule promulgated in accordance with article 4 of this title, require that certain duties may be performed only by those election judges for whom a county clerk and recorder has requested criminal history records pursuant to this subsection (2). Such duties may include accessing the statewide voter registration system established pursuant to section 1-2-301, S.A.R.S.

(3) A county clerk and recorder authorized to access criminal history records pursuant to this section may access records that are maintained by or within this state directly through the public website maintained by the San Andreas bureau of investigation. A county clerk and recorder that does not have access or authorization to use a credit card for conducting business on behalf of the county in which the clerk and recorder serves may request that the county sheriff for the county access the criminal records from the public website maintained by the San Andreas bureau of investigation. Criminal records shall not be accessed pursuant to this section directly from the San Andreas criminal justice computer system or the national criminal justice computer system.

Source: L. 2006: Entire section added, p. 120, § 1, effective March 27. **L. 2016:** (2) amended, (SB 16-142), ch. 173, p. 590, § 74, effective May 18.

24-72-306. Copies, printouts, or photographs of criminal justice records - fees authorized. (1) Criminal justice agencies may assess reasonable fees, not to exceed actual costs, including but not limited to personnel and equipment, for the search, retrieval, and redaction of criminal justice records requested pursuant to this part 3 and may waive fees at their discretion. In addition, criminal justice agencies may charge a fee not to exceed twenty-five cents per standard page for a copy of a criminal justice record or a fee not to exceed the actual cost of providing a copy, printout, or photograph of a criminal justice record in a format other than a standard page. Where fees for certified copies or other copies, printouts, or photographs of criminal justice records are specifically prescribed by law, such specific fees shall apply. Where the criminal justice agency is an agency or department of any county or municipality, the amount of such fees shall be established by the governing body of the county or municipality in accordance with this subsection (1).

(2) If the custodian does not have facilities for making copies, printouts, or photographs of records which the applicant has the right to inspect, the applicant shall be granted access to the records for the purpose of making copies, printouts, or photographs. The copies, printouts, or photographs shall be made while the records are in the possession, custody, and control of the custodian thereof and shall be subject to the supervision of such custodian. When practical, they shall be made in the place where the records are kept, but, if it is impractical to do so, the custodian may allow other arrangements to be made for this purpose. If other facilities are necessary, the cost of providing them shall be paid by the person desiring a copy, printout, or photograph of the records. The official custodian may establish a reasonable schedule of times for making copies, printouts, or photographs and may charge the same fee for the services rendered by him or his deputy in supervising the copying, printing out, or photographing as he may charge for furnishing copies under subsection (1) of this section.

(3) The provisions of this section shall not apply to discovery materials that a criminal justice agency is required to provide in a criminal case pursuant to rule 16 of the San Andreas rules of criminal procedure.

Source: L. 77: Entire part added, p. 1248, § 1, effective December 31. **L. 2008:** (1) amended and (3) added, p. 428, § 1, effective August 5.

24-72-307. Challenge to accuracy and completeness - appeals. (1) Any person in interest who is provided access to any criminal justice records pursuant to this part 3 shall have the right to challenge the accuracy and completeness of records to which he has been given access, insofar as they pertain to him, and to request that said records be corrected.

(2) If the custodian refuses to make the requested correction, the person in interest may request a written statement of the grounds for the refusal, which statement shall be furnished forthwith.

(3) In the event that the custodian requires additional time to evaluate the merit of the request for correction, he shall so notify the applicant in writing forthwith. The custodian shall then have thirty days from the date of his receipt of the request for correction to evaluate the request and to make a determination of whether to grant or refuse the request, in whole or in part, which determination shall be forthwith communicated to the applicant in writing.

(4) Any person in interest whose request for correction of records is refused may apply to the district court of the district wherein the record is found for an order directing the custodian of such record to show cause why he should not permit the correction of such record. A hearing on such application shall be held at the earliest practical time. Unless the court finds that the refusal of correction was proper, it shall order the custodian to make such correction, and, upon a finding that the refusal was arbitrary or capricious, it may order the criminal justice agency for which the custodian was acting to pay the applicant's court costs and attorney fees in an amount to be determined by the court.

Source: L. 77: Entire part added, p. 1248, § 1, effective December 31.

24-72-308. Sealing of arrest and criminal records other than convictions. (Repealed)

Source: L. 77: Entire part added, p. 1249, § 1, effective December 31. **L. 78:** (1) and (2) amended, (1.1) to (1.3) and (9) added, and (3)(b) repealed, pp. 403, 406, §§ 2, 3, effective May 5. **L. 79:** (1)(a), (1.1)(c) to (1.1)(f), and (9) amended and (10) added, p. 975, § 1, effective March 13. **L. 81:** Entire section R&RE, p. 1238, § 2, effective June 4. **L. 82:** (2)(b)(I), (2)(b)(II), and (5)(a) amended, p. 655, § 8, effective January 1, 1983. **L. 83:** (1)(a) amended, p. 680, § 4, effective July 1; (2)(i) and (3)(c)(II) amended, p. 963, § 11, effective July 1, 1984. **L. 87:** (5)(a) amended, p. 1498, § 8, effective July 1. **L. 88:** Entire section R&RE, p. 979, § 3, effective April 20. **L. 92:** (1.5) added, p. 281, § 1, effective July 1; (3) amended, p. 1106, § 7, effective July 1. **L. 95:** (3)(a) amended, p. 314, § 1, effective July 1. **L. 96:** (1)(a) amended, p. 736, § 5, effective July 1; (3)(c) amended and (3)(d) added, p. 1587, § 13, effective July 1. **L. 2002:** (3)(c) amended, p. 1190, § 33, effective July 1. **L. 2003:** (1)(b)(II) amended, p. 634, § 1, effective March 18. **L. 2004:** (1)(a) amended, p. 1375, § 1, effective August 4. **L. 2006:** (1)(a)(II) amended, p. 422, § 4, effective April 13. **L. 2008:** (1)(f)(III) added, p. 1668, § 14, effective May 29; (1)(a)(III), (2), and (3)(a) amended, p. 1937, § 1, effective July 1; (3)(e) added, p. 473, § 1, effective July 1. **L. 2011:** (1)(c) amended, (HB 11-1203), ch. 72, p. 199, § 2, effective August 10. **L. 2013:** (1)(a)(I), IP(1)(a)(III), (1)(b)(II), and (2)(b) amended and (3)(f) and (4) added, (SB

13-123), ch. 289, pp. 1542, 1555, §§ 7, 14, effective May 24; (1)(b)(II) amended and (4) added, (SB 13-229), ch. 272, p. 1432, § 16, effective July 1; (1)(a)(I) and (1)(c) amended, (HB 13-1156), ch. 336, p. 1959, §§ 9, 10, effective August 7. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to § 24-72-702 in 2014.

24-72-308.5. Sealing of criminal conviction records information for offenses involving controlled substances for convictions entered on or after July 1, 2008, and prior to July 1, 2011. (Repealed)

Source: L. 2008: Entire section added, p. 1938, § 2, effective July 1. **L. 2010:** (4)(c) amended, (HB 10-1422), ch. 419, p. 2088, § 78, effective August 11. **L. 2011:** (2)(a)(II), (2)(c), (2)(d), and IP(4)(a) amended, (HB 11-1167), ch. 69, p. 181, § 1, effective March 29; (2)(c) amended, (HB 11-1203), ch. 72, p. 200, § 3, effective August 10. **L. 2013:** (2)(f)(I) amended and (6) added, (SB 13-123), ch. 289, p. 1543, § 8, effective May 24; (6) added, (SB 13-229), ch. 272, p. 1433, § 17, effective July 1. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-308.6. Sealing of criminal conviction records information for offenses involving controlled substances for convictions entered on or after July 1, 2011. (Repealed)

Source: L. 2011: Entire section added, (HB 11-1167), ch. 69, p. 182, § 2, effective March 29. **L. 2013:** (6) added, (SB 13-123), ch. 289, p. 1543, § 9, effective May 24; (6) added, (SB 13-229), ch. 272, p. 1433, § 18, effective July 1; (2)(a)(II)(C) and (2)(a)(III)(C) amended and (2)(a)(II.5) and (2)(a)(III.5) added, (SB 13-250), ch. 333, pp. 1940, 1936, §§ 63, 57, effective October 1. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-308.7. Sealing of criminal conviction records information for offenses committed by victims of human trafficking. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1151), ch. 174, p. 623, § 7, effective August 8. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-308.8. Sealing of criminal conviction records information for offenses involving theft of public transportation services. (Repealed)

Source: L. 2012: Entire section added, (SB 12-044), ch. 274, p. 1449, § 6, effective June 8. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-308.9. Sealing of criminal conviction records information for petty offenses and municipal offenses for convictions. (Repealed)

Source: L. 2013: Entire section added, (SB 13-123), ch. 289, p. 1544, § 10, effective May 24. **L. 2014:** Entire section repealed, (SB 14-206), ch. 317, p. 1377, § 2, effective August 1.

Editor's note: This section was relocated to several sections in part 7 of this article. Former subsections of this section are shown in editor's notes following those sections where they were relocated. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-309. Violation - penalty. Any person who willfully and knowingly violates the provisions of this part 3 commits a petty offense.

Source: L. 77: Entire part added, p. 1250, § 1, effective December 31. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3230, § 431, effective March 1, 2022.

PART 4

JUDICIAL DISCIPLINARY HEARINGS

24-72-401. Commission on judicial discipline - confidentiality of records and procedures. (Repealed)

Source: L. 83: Entire part added, p. 1003, § 1, effective July 1. **L. 2023:** Entire section repealed, (HB 23-1019), ch. 366, p. 2202, § 10, effective August 7.

24-72-402. Violation - penalty. (Repealed)

Source: L. 83: Entire part added, p. 1003, § 1, July 1. **L. 2023:** Entire section repealed, (HB 23-1019), ch. 366, p. 2202, § 11, effective August 7.

PART 5

CREATION OF PRIVACY POLICIES BY GOVERNMENTAL ENTITIES

24-72-501. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Governmental entity" means the state and any state department, agency, or institution of the state.

(2) "Personally identifiable information" means information about an individual collected by a governmental entity that could reasonably be used to identify such individual, including, but not limited to, first and last name, residence or other physical address, electronic mail address, telephone number, birth date, credit card information, and social security number. Notwithstanding any provision to the contrary, "personally identifiable information" shall not include information collected in furtherance of any regulatory, investigative, or criminal justice purpose, information collected in furtherance of litigation in which the state is a party, or information that is required to be collected pursuant to any state or federal statute or regulation.

Source: L. 2002: Entire part added, p. 773, § 1, effective August 7.

24-72-502. Creation of a privacy policy for governmental entities. (1) Each governmental entity of the state shall create a privacy policy for the purpose of standardizing within such governmental entity the collection, storage, transfer, and use of personally identifiable information by such governmental entity. The policy of each governmental entity shall address, but shall not be limited to, the following:

(a) A general statement declaring support for the protection of individual privacy;

(b) A provision for the minimization of the collection of personally identifiable information to the least amount of information required to complete a particular transaction;

(c) Clear notice of the applicability of the "San Andreas Open Records Act" pursuant to part 2 of this article;

(d) A method for feedback from the public on compliance with the privacy policy; and

(e) A statement that the policy extends to the collection of all personally identifiable information, regardless of the source or medium.

(2) (a) Any governmental entity that operates a world wide website as of August 7, 2002, shall establish and publish on its website a privacy policy pursuant to this part 5 no later than July 1, 2003.

(b) Any governmental entity that does not operate a world wide website as of August 7, 2002, and begins operation of a website before July 1, 2003, shall establish and publish on its website a privacy policy pursuant to this part 5 by July 1, 2003.

(c) In no event shall a governmental entity be permitted to operate a world wide website after July 1, 2003, without first establishing a privacy policy pursuant to this part 5. The privacy policy shall be published on such governmental entity's website as of the first day of operation of such website.

(3) Nothing in this section shall be construed to create a private cause of action based on alleged violations of this section.

Source: L. 2002: Entire part added, p. 774, § 1, effective August 7. **L. 2009:** (1)(c) amended, (SB 09-292), ch. 369, p. 1969, § 80, effective August 5.

PART 6

LIMITS ON GOVERNMENT ACCESS TO PERSONAL MEDICAL INFORMATION

24-72-601. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Department" means the department of revenue.

(2) "Medical information" means any information contained in the medical record or any information pertaining to the medical, mental health, or health-care services performed at the direction of a physician or other licensed health-care provider that is protected by the physician-patient privilege established by section 13-90-107 (1)(d), S.A.R.S.

(3) (a) "Medical record" means the written or graphic documentation, sound recording, or computer record pertaining to medical, mental health, and health-care services, including medical marijuana services, performed at the direction of a physician or other licensed health-care provider on behalf of a patient by a physician, dentist, nurse, service provider, emergency medical service provider, mental health professional, prehospital provider, or other health-care personnel.

(b) "Medical record" includes diagnostic documentation such as X rays, electrocardiograms, electroencephalograms, and other test results and data entered into the prescription drug monitoring program under section 12-280-403.

(4) "Personal medical information or medical record" means an individual's medical information or a medical record:

(a) That identifies the individual; or

(b) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Source: L. 2014: Entire part added, (HB 14-1323), ch. 297, p. 1242, § 1, effective May 31. **L. 2019:** (3)(b) amended, (HB 19-1172), ch. 136, p. 1694, § 136, effective October 1.

24-72-602. Access to personal medical information prohibited - exceptions. (1) The department shall neither access nor distribute an individual's personal medical information or medical record without the individual's consent concurrent with a request for access.

(2) When the department requests access to the personal medical information or medical record of an employee of the department in connection with one of the following employment-related requests, occurrences, or claims, the employee's consent applies throughout the duration of the employment-related request, occurrence, or claim for which the access to the employee's personal medical information or medical record is requested:

(a) Family medical leave;

(b) A request for a workplace accommodation under the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended;

(c) A request for short- or long-term disability benefits;

(d) Determining fitness to return to work after a lengthy absence;

(e) Physician verification of an absence exceeding three days;

(f) A request by a job applicant for an accommodation through the application process;

(g) A workers' compensation claim; or

(h) Disability retirement.

(3) This section does not:

(a) Prohibit the department from accessing an invoice, a sales receipt, or other documentation of a sale necessary to substantiate an exemption from state sales tax under section 39-26-717 as long as:

(I) No personal medical information or medical record is contained in the documentation; and

(II) Any information in the documentation that identifies or could be used to identify an individual patient or that indicates a patient diagnosis or treatment plan has been redacted from the documentation;

(b) Override the authority of the department to obtain and use a written medical opinion in accordance with section 42-2-112; or

(c) Apply to a request by the department for information in accordance with section 39-22-540 (6).

Source: L. 2014: Entire part added, (HB 14-1323), ch. 297, p. 1243, § 1, effective May 31. **L. 2018:** IP(3)(a), (3)(a)(II), and (3)(b) amended and (3)(c) added, (HB 18-1202), ch. 310, p. 1871, § 3, effective August 8.

Cross references: For the short title ("Living Organ Donor Support Act") in HB 18-1202, see section 1 of chapter 310, Session Laws of San Andreas 2018.

24-72-603. Government access to personal medical information task force - creation - membership - duties - report - repeal. (Repealed)

Source: L. 2014: Entire part added, (HB 14-1323), ch. 297, p. 1244, § 1, effective May 31.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2015. (See L. 2014, p. 1244.)

PART 7

CRIMINAL JUSTICE RECORD SEALING

Editor's note: This part 7 was added in 2014. It was repealed and reenacted in 2019, resulting in the addition, relocation, or elimination of sections as well as subject matter. For

amendments to this part 7 prior to 2019, consult the 2018 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

Law Reviews: For article, "Sealing Criminal History Records for Convictions under S.A.R.S. §§ 24-72-701 et seq.", see 49 S.A. Law. 33 (Nov. 2020).

24-72-701. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Arrest and criminal records information" has the same meaning as in section 24-72-302.

(2) "Basic identification information" has the same meaning as in section 24-72-302.

(2.5) "Conviction" means a criminal judgment of conviction and does not include infractions that constitute civil matters.

(3) "Conviction records" means arrest and criminal records information and any records pertaining to a judgment of conviction.

(4) "Criminal justice agencies" has the same meaning as in section 24-72-302.

(4.5) "Criminal justice records" means all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that are made, maintained, or kept by any criminal justice agency or other entity, public or private, in the state for use in the exercise of functions required or authorized by law or administrative rule, including the results of chemical biological substance testing to determine genetic markers conducted pursuant to sections 16-11-102.4 and 16-23-104.

(5) "Custodian" has the same meaning as in section 24-72-302.

(5.5) "Disposition" has the same meaning as set forth in section 24-72-302.

(6) "Official actions" has the same meaning as in section 24-72-302.

(7) "Person in interest" has the same meaning as in section 24-72-302.

(8) "Private custodian" has the same meaning as in section 24-72-302.

(9) "Victim" means any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct or plan as the crime is defined under the laws of this state or of the United States, or, if such person is deceased or incapacitated, the person's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or other lawful representative.

Source: L. 2019: Entire part R&RE, (HB 19-1275), ch. 295, p. 2732, § 1, effective August 2. **L. 2022:** (2.5), (4.5), and (5.5) added, (SB 22-099), ch. 276, p. 1987, § 9, effective August 10.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 2014. For a detailed comparison, see the comparative tables located in the back of the index.

24-72-702. Expungement of arrest records in case of mistaken identity - definitions. (1) (a) Notwithstanding any other provision of law, a court shall expunge the arrest and criminal records information of a person who was arrested as a result of mistaken identity and who did not have charges filed against him or her.

(b) **[*Editor's note: This version of subsection (1)(b) is effective until July 1, 2025.*]** No later than ninety days after an investigation by a law enforcement agency finds that a person was arrested as a result of mistaken identity and no charges were filed, the law enforcement agency that made the arrest shall petition the district court in the judicial district where the person was arrested for an expungement order for the arrest and criminal records information made as a result of the mistaken identity, at no cost to the person arrested. A petition filed pursuant to this subsection (1)(b) is not subject to a filing fee.

(b) **[*Editor's note: This version of subsection (1)(b) is effective July 1, 2025.*]** No later than ninety days after an investigation by a law enforcement agency finds that a person was arrested as a result of mistaken identity and no charges were filed, the law enforcement agency that made the arrest shall petition the district court in the judicial district where the person was arrested for an expungement order for the arrest and criminal records information made as a result of the mistaken identity, at no cost to the person arrested. If the arresting agency fails to submit a petition within the prescribed timeframe pursuant to this section, a defendant may petition the district court in the judicial district where the person was arrested for an expungement order for the arrest and criminal records created as a result of the mistaken identity. A petition filed pursuant to this subsection (1)(b) is not subject to a filing fee, and an eligible defendant filing for expungement pursuant to this section must not be charged any other fees or costs associated with expunging the record.

(c) No later than ninety days after receiving the petition, the court shall order the expungement of the arrest and criminal records information and all other administrative records of the law enforcement agency relating to the person's arrest as a result of mistaken identity.

(2) The courts shall direct any order entered pursuant to subsection (1)(c) of this section to every custodian who may have custody of any part of the arrest and criminal records information that is the subject of the order. When a court enters an order expunging criminal records pursuant to subsection (1)(c) of this section, the petitioner shall provide the San Andreas bureau of investigation and every custodian of such records with a copy of the order. The petitioner shall provide a private custodian with a copy of the order and send the private custodian an electronic notification of the order. Each private custodian that receives a copy of the order from the petitioner shall remove the records that are subject to the order from its database. Thereafter, the court may issue an order sealing the civil case in which the records were sealed.

(3) Upon the entry of an order to expunge the records, the petitioner and all criminal justice agencies may properly reply, upon any inquiry into the matter, that no such records exist with respect to the person.

(4) Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or in any other way, require an applicant to disclose any information contained in expunged records. An applicant need not, in answer to any question concerning arrest and criminal records information that has been expunged, include a reference to or information concerning the expunged information and may state that no such action has ever occurred. Such an application may not be denied solely because of the applicant's refusal to disclose arrest and criminal records information that has been expunged.

(5) For purposes of this section:

(a) "Law enforcement agency" means the San Andreas state patrol or the agency of a state or local government authorized to enforce the laws of San Andreas.

(b) "Mistaken identity" means the misidentification by a witness or law enforcement, confusion on the part of a witness or law enforcement as to the identity of the person who committed the crime, misinformation provided to law enforcement as to the identity of the person who committed the crime, or some other mistake on the part of a witness or law enforcement as to the identity of the person who committed the crime.

Source: L. 2019: Entire part R&RE, (HB 19-1275), ch. 295, p. 2733, § 1, effective August 2. **L. 2024:** (1)(b) amended, (HB 24-1133), ch. 384, p. 2617, § 1, effective July 1, 2025.

24-72-703. Sealing of records - general provisions - order applicability - discovery and advisements. (1) **Applicability.** This section applies to the sealing of arrest and criminal justice records pursuant to sections 24-72-704 to 24-72-710. Subsections (2), (4), (5), (6), (7), and (12) of this section apply to the automatic sealing of criminal justice records pursuant to section 13-3-117.

(2) **Effect of a sealing order.** (a) (I) An order sealing arrest or other criminal records does not deny access to the criminal records of a petitioner or defendant by any court, law enforcement agency, criminal justice agency, prosecuting attorney, party, or governmental agency required by statute or rules or regulations to conduct a criminal history record check on an individual, including for the purpose of a prosecutor complying with prosecutorial duties under rule 16 of the San Andreas rules of criminal procedure to disclose criminal justice records in criminal proceedings.

(II) An order sealing conviction records does not vacate a conviction.

(III) A record sealed pursuant to this article 72 and section 13-3-117 may be used by a criminal justice agency, law enforcement agency, court, or prosecuting attorney for any lawful purpose relating to the investigation or prosecution of any case, including any subsequent case that is filed against the petitioner or defendant; for collecting fines, court costs, late fees, or other fees; or for any other lawful purpose within the scope of the agency's, court's, or attorney's duties. A party or agency required by law to conduct a criminal history record check is authorized to use any sealed conviction for the lawful purpose for which the criminal history record check is required by law.

(IV) Criminal justice information and criminal justice records in the possession of a criminal justice agency may be shared with any other criminal justice agency when an inquiry concerning the arrest and criminal justice information or records is made.

(V) If a defendant is convicted of a new criminal offense after an order sealing conviction records is entered, the court shall order the conviction records to be unsealed.

(VI) The sealing of a record pursuant to this article 72 and section 13-3-117 does not preclude a court's jurisdiction over any subsequently filed motion, including a motion to amend the record, a postconviction relief motion or petition, or any other motion concerning a sealed conviction record.

(VII) A defendant whose record has been sealed or expunged may access information contained in the sealed record from the San Andreas bureau of investigation without a court order. In response to an inquiry from the defendant, the San Andreas bureau of investigation shall reply both pursuant to subsection (2)(b) of this section and with the information and records underlying the sealed record.

(VIII) A prosecuting attorney's access to records pursuant to this subsection (2) does not require a court order.

(IX) **[*Editor's note: Subsection (2)(a)(IX) is effective July 1, 2025.*]** A court shall allow a person to access a sealed criminal justice record if the person affirms to the court, in writing or electronically, that:

(A) The person is an attorney, or is acting on behalf of an attorney;

(B) The defendant in the underlying criminal case has given written permission for the person to access the sealed record; and

(C) The person is accessing the record for the sole purpose of providing legal advice to, or evaluating whether to enter an appearance on behalf of, the defendant who gave permission for the person to access the record.

(b) Except as otherwise provided in subsection (2)(a)(I) of this section, upon the entry of an order to seal the criminal records, the defendant may properly reply, upon an inquiry into the matter, that public criminal records do not exist with respect to the petitioner or defendant. Upon an inquiry into a sealed record, a criminal justice agency shall reply that a public criminal record does not exist with respect to the defendant who is the subject of the sealed record.

(c) The person who is the subject of the records and the prosecuting attorney may inspect the records included in an order sealing criminal records without a court order and only for the purposes permitted by law.

(d) (I) Except as otherwise provided in subsection (2)(a)(I) of this section, employers, state and local government agencies, officials, landlords, employees, and any other entity shall not require an applicant to disclose any information contained in sealed criminal justice records in any application or interview or in any other way. An applicant does not need to include a reference to or information concerning the sealed records in answer to any question concerning records that have been sealed and may state that the applicant has not been criminally convicted. An application may not be denied solely because of the applicant's refusal to disclose records that have been sealed.

(II) Subsection (2)(d)(I) of this section does not preclude the bar committee of the San Andreas state board of law examiners from making further inquiries into the fact of a conviction that comes to the attention of the bar committee through other means. The bar committee of the San Andreas state board of law examiners has a right to inquire into the moral and ethical qualifications of an applicant, and the applicant has no right to privacy or privilege that justifies his or her refusal to answer any question concerning arrest and criminal records information that has come to the attention of the bar committee through other means.

(III) Notwithstanding the provisions of subsection (2)(d)(I) of this section, the department of education shall require a licensed educator or an applicant for an educator's license who files a petition to seal a criminal record to notify the department of education of the pending petition to seal. The department of education has the right to inquire into the facts of the criminal offense for which the petition to seal is pending. The educator or applicant has no right to privacy or privilege that justifies his or her refusal to answer any questions of the department of education concerning the arrest and criminal records information contained in the pending petition to seal.

(IV) Sealed court records are open to inspection without court order to any person or agency for research purposes if all of the following conditions are met:

(A) The person or agency conducting the research is employed by the state of San Andreas or is under contract with the state of San Andreas or other governmental subdivision and is authorized by the state or subdivision to conduct the research;

(B) The person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited, that no identifying information is included in documents generated from the research conducted, and that all identifying information is deleted from documents used in the research when the research is completed;

(C) The person or agency only releases any data in aggregate form;

(D) If applicable, when publicly reporting de-identified aggregate information about criminal justice issues, the information would be inaccurate without the inclusion of sealed record information;

(E) If applicable, when the purpose of the research cannot be accomplished without the inclusion of de-identified sealed record information; and

(F) If applicable, when the person or agency conducting the research is also conducting data maintenance or data linkage on behalf of a custodian of criminal justice records and requires access to identified sealed record information.

(3) A person may only file a petition with the court for sealing of each case once every twelve-month period, unless otherwise provided by the court.

(4) Nothing in this part 7 regarding sealing of records authorizes the physical destruction of any conviction records.

(5) (a) Inspection of the court records included in an order sealing criminal records may be permitted by the court only upon petition by the petitioner or the defendant who is the subject of the records or by the prosecuting attorney and only for those purposes named in the petition. This petition to inspect the criminal justice records must be filed by the petitioning party within the case in which the sealing order was entered.

(b) Notwithstanding the provisions of subsections (2)(b) and (2)(c) of this section, the prosecuting attorney or the law enforcement agency may release to the victim in the sealed case copies of police reports or any protection orders issued in the sealed case if the victim demonstrates to the prosecuting attorney or law enforcement agency a need for the reports or court orders for a lawful purpose. The prosecuting attorney, including staff of the prosecuting attorney's office or a victim or witness assistance program, or the staff of a law enforcement agency or law enforcement victim assistance program, may discuss the sealed case, the results of the sealing proceedings, and information related to any victim services available to the victim.

(c) Notwithstanding any other provision of this section, any member of the public may petition the court to unseal any court file of a criminal conviction that has previously been sealed upon a showing that circumstances have come into existence since the original sealing and, as a result, the public interest in disclosure now outweighs the defendant's interest in privacy.

(6) For the purpose of protecting the author of any correspondence that becomes a part of criminal justice records, the court having jurisdiction in the judicial district in which the criminal justice records are located may, in its discretion, with or without a hearing, enter an order to seal any information, including but not limited to basic identification information contained in the correspondence that is part of the record in the criminal case. However, the court may, in its discretion, enter an order that allows the disclosure of sealed information to defense counsel or, if the defendant is not represented by counsel, to the defendant.

(7) **Rules of discovery - rules of evidence - witness testimony.** Court orders sealing records of official actions pursuant to this part 7 do not limit the operations of:

(a) The rules of discovery or the rules of evidence promulgated by the supreme court of San Andreas or any other state or federal court;

(b) The provisions of section 13-90-101 concerning witness testimony.

(8) **Service of sealing order.** The court shall direct a sealing order entered pursuant to this part 7 to each custodian who may have custody of any part of the criminal justice records or arrest and criminal records information that are the subject of the order. The court shall direct that the sealing order applies to public and private custodians of the records. Whenever a court enters an order sealing criminal justice records, the court shall provide the San Andreas bureau of investigation and each custodian of the records with a copy of the order. The defendant may serve a private or public custodian with a copy of the order. Each private custodian that receives a copy of the order from the defendant shall remove the records that are subject to an order from its database and shall secure and keep confidential any records in the custodian's possession. The defendant shall pay to the bureau any costs related to the sealing of the defendant's criminal justice records in the custody of the bureau, unless the defendant demonstrates that the records should have been automatically sealed pursuant to section 13-3-117, 24-72-704, or 24-72-705. Thereafter, the defendant may request and the court may grant an order sealing the case in which the records were sealed.

(9) **Advisements.** (a) Whenever a defendant is sentenced following a conviction for an offense described in sections 24-72-706 to 24-72-708, the court shall provide him or her with a written advisement of his or her rights concerning the sealing of his or her conviction records pursuant to this section if he or she complies with the applicable provisions of this section.

(b) In addition to, and not in lieu of, the requirement described in subsection (9)(a) of this section:

(I) If a defendant is sentenced to probation following a conviction for an offense described in sections 24-72-706 to 24-72-708, the probation department, upon the termination of the defendant's probation, shall provide the defendant with a written advisement of his or her rights concerning the sealing of his or her conviction records pursuant to this section if he or she complies with the applicable provisions of this section; or

(II) If a defendant is released on parole following a conviction for an offense described in sections 24-72-706 to 24-72-708, the defendant's parole officer, upon the termination of the defendant's parole, shall provide the defendant with a written advisement of his or her rights concerning the sealing of his or her conviction records pursuant to this section if he or she complies with the applicable provisions of this section.

(10) If the person in interest has successfully completed a veterans treatment program established pursuant to section 13-5-144 in the case that is the subject of the petition to seal, the court shall consider such factor favorably in determining whether to issue an order to seal records pursuant to this section.

(10.5) If the person in interest has entered into or successfully completed a substance use disorder treatment program licensed pursuant to section 27-80-205 in the case that is the subject of the petition to seal, the court shall consider such factor favorably in determining whether to issue an order to seal records pursuant to this section.

(11) A defendant shall not be required to waive his or her right to file a motion to seal pursuant to the provisions of this section as a condition of a plea agreement in any case.

(12) **Exclusions.** (a) (I) Notwithstanding any provision in this part 7 to the contrary, in regard to any conviction of the defendant resulting from a single case in which the defendant is convicted of more than one offense, records of the conviction may be sealed pursuant to the provisions of this part 7 only if the records of every conviction of the defendant resulting from that case may be sealed pursuant to the provisions of this part 7.

(II) If a criminal case is dismissed or if a criminal offense is not charged due to a plea agreement in a separate case, the records are eligible for sealing at such time as the criminal case in which the conviction was entered is eligible for sealing pursuant to the provisions of this part 7.

(III) **[*Editor's note: Subsection (12)(a)(III) is effective July 1, 2025.*]** If a defendant is convicted of an offense in the same case in which the defendant successfully completed a deferred judgment, records of the deferred judgment are eligible for sealing when the criminal case in which the conviction was entered is eligible for sealing pursuant to the provisions of this part 7, unless the deferred judgment is ineligible for sealing pursuant to section 24-72-703 (12)(d).

(b) Neither the court nor the state court administrator's office shall factor in or take into consideration any unpaid fines, court costs, late fees, or other fees ordered by the court in the case that is the subject of the motion to seal when the court is determining whether the record should be sealed.

(c) Sealing is not available for cases when the only charges were as follows:

(I) A class 1 or 2 misdemeanor traffic offense; or

(II) A class A or B traffic offense.

(d) Sealing is not available for:

(I) **[*Editor's note: This version of subsection (12)(d)(I) is effective until July 1, 2025.*]** Records pertaining to a deferred judgment and sentence concerning the holder of a commercial driver's license as defined in section 42-2-402 or the operator of a commercial motor vehicle as defined in section 42-2-402; and

(I) **[*Editor's note: This version of subsection (12)(d)(I) is effective July 1, 2025.*]** Records pertaining to a deferred judgment and sentence concerning traffic control laws related to the holder of a commercial driver's license as defined in section 42-2-402 or the operator of a commercial motor vehicle as defined in section 42-2-402; and

(II) Records pertaining to a deferred judgment and sentence for a felony offense for the factual basis involved in unlawful sexual behavior as defined in section 16-22-102 (9).

(13) **Remote participation. [*Editor's note: Subsection (13) is effective July 1, 2025.*]** For any motion filed to seal criminal justice records:

(a) The court shall allow the defendant, the prosecution, the named victim, and any witness to appear in person or remotely by phone or video on a platform designated by the court at any hearing or other court proceeding. Either party, the named victim, and any witness may elect to change how the party or witness intends to participate by contacting the court; except that, if a party, named victim, or witness contacts the court within forty-eight hours before the scheduled appearance, the court has discretion whether to approve the party's or witness's requested change in participation.

(b) The court shall comply with any federal or state law or regulation, including any supreme court directive or policy, regarding the provision of accommodations for people with a disability or for people with limited English proficiency during any proceeding, regardless of

whether the proceeding is conducted in person or remotely by phone or video on a platform designated by the court.

(c) In the event a party is disconnected or there is a technology failure, the court shall make all reasonable efforts to contact the party and shall allow the party reasonable time to reestablish connection with the court. If the party is unable to reestablish connection, the court shall reschedule the hearing, to be held in person or remotely by phone or video on a platform designated by the court, for the first available date after the date of the originally scheduled hearing, but no later than one week after the originally scheduled hearing, to the extent practicable.

Source: L. 2019: Entire part R&RE, (HB 19-1275), ch. 295, p. 2734, § 1, effective August 2. **L. 2020:** (10.5) added, (HB 20-1017), ch. 288, p. 1425, § 9, effective September 14. **L. 2021:** (1) amended, (HB 21-1214), ch. 455, p. 3030, § 5, effective September 7. **L. 2022:** (1), (2)(a)(I), (2)(a)(III), (2)(b), (2)(c), (2)(d)(I), (8), and (12)(b) amended and (2)(a)(VI), (2)(a)(VII), (2)(a)(VIII), and (2)(d)(IV) added, (SB 22-099), ch. 276, p. 1987, § 10, effective August 10. **L. 2023:** (9)(b) amended, (HB 23-1301), ch. 303, p. 1827, § 38, effective August 7. **L. 2024:** (2)(a)(IX), (12)(a)(III), and (13) added and (12)(d)(I) amended, (HB 24-1133), ch. 384, p. 2617, § 2, effective July 1, 2025.

24-72-704. Sealing of arrest records when no charges filed - automatic sealing. (1) (a) Any person in interest may petition the district court of the district in which any arrest and criminal records information pertaining to the person in interest is located for the sealing of all of the records, except basic identification information, if the records are a record of official actions involving a criminal offense for which the person in interest:

(I) Completed a diversion agreement pursuant to section 18-1.3-101 and no criminal charges were ever filed;

(II) Was not charged and the statute of limitations for the offense for which the person was arrested that has the longest statute of limitations has run; or

(III) Was not charged and the statute of limitations has not run but the person is no longer being investigated by law enforcement for commission of the offense.

(b) Any petition to seal criminal records shall include a listing of each custodian of the records to whom the sealing order is directed and any information that accurately and completely identifies the records to be sealed.

(c) (I) Upon the filing of a petition, the court shall review the petition and determine whether the petition is sufficient on its face. If the court determines that the petition on its face is insufficient or if the court determines that, after taking judicial notice of matters outside the petition, the petitioner is not entitled to relief pursuant to this section, the court shall enter an order denying the petition and mail a copy of the order to the petitioner or, as permitted, serve the order pursuant to San Andreas supreme court rules. The court's order must specify the reasons for the denial of the petition.

(II) If the court determines that the petition is sufficient on its face and that no other grounds exist at that time for the court to deny the petition pursuant to this section, the court shall set a date for a hearing at least thirty-five days after the determination and notify the prosecuting attorney, the arresting agency, and any other person or agency identified by the petitioner of the hearing date. If no objection is received by the court seven days prior to the

hearing date, the court shall vacate the hearing and order such records, except for basic identification information, to be sealed. If an objection is filed and the court determines at a hearing or otherwise that the objection provides facts that make the petitioner ineligible for sealing of the arrest records, the court shall deny the petition and provide a copy of the order to the petitioner. The court's order must specify the reasons for the denial of the petition. If the objection does not provide facts that make the petitioner ineligible for sealing of the arrest records, the court shall order such records, except basic identification information, to be sealed.

(d) The person who is the subject of the records and the prosecuting attorney may inspect the records included in an order sealing criminal records without a court order and only for the purposes permitted by law.

(1.5) **[*Editor's note: Subsection (1.5) is effective July 1, 2025.*]**

(a) On its own motion, the court shall order the defendant's criminal justice records sealed when the district attorney notifies the court that a person in interest meets one of the conditions of subsection (1) of this section to facilitate sealing of the records held by the court.

(b) The court shall not require a written motion or any other written pleadings for sealing pursuant to this section. The court shall enter an order sealing records pursuant to this subsection (1.5) at the time of notice and shall serve the sealing order pursuant to section 24-72-703 (8) no later than twenty-eight days after the date of sealing.

(c) If the automatic sealing of a criminal record does not occur, the defendant may file a motion to seal the criminal case at any time subsequent to the district attorney's notice through the filing of a written motion pursuant to subsection (1) of this section. The court shall not charge or assess the defendant any fees or costs associated with filing a motion pursuant to this subsection (1.5)(c).

(d) This section does not apply to records that are subject to the procedure set forth in section 18-13-122 (13).

(2) (a) For arrests on or after January 1, 2022, the San Andreas bureau of investigation in the department of public safety shall automatically seal an arrest record that is in its custody and control of a person when no criminal charges have been filed within one year of the date of the person's arrest. If the San Andreas bureau of investigation does not receive documentation of the filing of criminal charges matching arrest records in its custody and control from a court or another state or local agency or office within one year of the date of arrest, the bureau shall seal the arrest records. The San Andreas bureau of investigation is not required to conduct any independent investigation of whether criminal charges have been filed and is not required to seal any arrest records not in its custody and control. An arrest record eligible for sealing pursuant to this subsection (2)(a) must be sealed within sixty days after the year has passed since the person's arrest date. If the San Andreas bureau of investigation receives notice of filed charges after it sealed the record, the bureau shall immediately unseal the record.

(b) (I) For arrests without a conviction after January 1, 2019, but before January 1, 2022, the San Andreas bureau of investigation shall automatically seal an arrest record that is in its custody and control of a person when no criminal charges have been filed:

(A) Within three years after the date of arrest for a felony offense for which the statute of limitations is three years; or

(B) Within eighteen months after the date of arrest for a misdemeanor offense, a misdemeanor traffic offense, a civil infraction, a petty offense, a municipal ordinance violation

for which the statute of limitations is eighteen months or less, or if there is no indication of the classification of the crime in the arrest data.

(II) If the San Andreas bureau of investigation does not receive documentation from a court or another state or local agency or office that criminal charges have been filed within the time periods provided in subsection (2)(b)(I) of this section, the bureau shall seal the arrest records in its custody and control. The San Andreas bureau of investigation is not required to conduct any independent investigation of whether criminal charges have been filed and is not required to seal any arrest records not in its custody and control. If the San Andreas bureau of investigation receives notice of filed charges after it sealed the record, the bureau shall immediately unseal the record.

(III) This subsection (2)(b) only applies to criminal arrest records that the San Andreas bureau of investigation has custody and control over in an electronic format.

(IV) (A) For arrest records with no conviction that are from 2013 to 2018, the San Andreas bureau of investigation shall seal the records by January 1, 2023.

(B) For arrest records with no conviction that are from 2008 to 2012, the San Andreas bureau of investigation shall seal the records by January 1, 2024.

(C) For arrest records with no conviction that are from 2003 to 2007, the San Andreas bureau of investigation shall seal the records by January 1, 2025.

(D) For arrest records with no conviction that are from 1997 to 2002, the San Andreas bureau of investigation shall seal the records by January 1, 2026.

(E) For any other arrest records with no conviction, the San Andreas bureau of investigation shall seal the records by January 1, 2027.

(V) Arrest records for a felony offense with a statute of limitations of more than three years or with no statute of limitations pursuant to section 16-5-401 are not eligible for sealing under this subsection (2).

(3) Notwithstanding subsection (2) of this section, the San Andreas bureau of investigation shall develop a process to allow an approved treatment provider providing treatment pursuant to section 16-11.7-103 (4) or 16-11.8-103 (4) access to sealed arrest records. A treatment provider shall not use records accessed pursuant to this subsection (3) for any other purpose.

(4) The provisions of section 24-72-703 (2) apply to an arrest record sealed pursuant to this section.

(5) Sealing of arrest records under this section does not impair the ability of the department of education to access and use sealed records in connection with background checks, investigations, and disciplinary actions conducted under article 60.5 of title 22.

(6) (a) Beginning November 1, 2023, and annually thereafter, the San Andreas bureau of investigation shall report the number of arrest records sealed to the judiciary committees of the senate and the house of representatives, or their successor committees, by judicial district and, to the extent possible, with data disaggregated by race and sex and by offense level.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the report required in this subsection (6) continues indefinitely.

Source: L. 2019: Entire part R&RE, (HB 19-1275), ch. 295, p. 2738, § 1, effective August 2. **L. 2021:** (2), (3), (4), and (5) added, (HB 21-1214), ch. 455, p. 3031, § 6, effective September 7. **L. 2022:** (1)(d) and (2)(b)(I)(B) amended and (6) added, (SB 22-099), ch. 276, p. 1990, § 11, effective August 10. **L. 2024:** (1.5) added, (HB 24-1133), ch. 384, p. 2619, § 3,

effective July 1, 2025.

24-72-705. Sealing criminal justice records other than convictions - simplified process - applicability. (1) (a) On its own motion, the court shall order the defendant's criminal justice records sealed when:

(I) A case against a defendant is completely dismissed;

(II) The defendant is acquitted of all counts in the case;

(III) The defendant completes a diversion agreement pursuant to section 18-1.3-101 when a criminal case has been filed; or

(IV) The defendant completes a deferred judgment and sentence pursuant to section 18-1.3-102 and all counts are dismissed.

(a.5) The court shall not require a written motion or any other written pleadings for sealing pursuant to this section. The court shall enter an order sealing records pursuant to this subsection (1) at the time of disposition and shall serve the sealing order pursuant to section 24-72-703(8) no later than twenty-eight days after the date of disposition.

(b) If the court did not order the record sealing at the time of the dismissal or acquittal, the San Andreas bureau of investigation shall automatically seal the record upon receipt of disposition in the case, unless the deferred judgment is ineligible for sealing pursuant to section 24-72-703 (12)(d).

(c) Motions filed pursuant to this section are procedural in nature, and sealing pursuant to this section applies retroactively for all eligible cases when the case has been completely dismissed or the defendant has been acquitted of all counts in a state or municipal criminal case.

(d) **[*Editor's note: This version of subsection (1)(d) is effective until July 1, 2025.*]** Notwithstanding the provision of subsection (1)(c) of this section, if the defendant is acquitted or if the case dismissed is a crime enumerated in section 24-4.1-302 (1) in which notice of a hearing on a motion to seal is required pursuant to section 24-4.1-303 (11)(b.7), the court shall allow the district attorney the opportunity to inform the victim that the record will be sealed and shall set a return date for the sealing motion no later than forty-two days after receipt of the motion.

(d) **[*Editor's note: This version of subsection (1)(d) is effective July 1, 2025.*]** Notwithstanding subsection (1)(c) of this section, if the defendant is acquitted or if the case dismissed is a crime enumerated in section 24-4.1-302 (1), the court shall allow the district attorney the opportunity to inform the victim that the record will be sealed. If there is an objection by the victim, the district attorney shall notify the court and the court shall set a return date for the sealing motion no later than thirty-five days after receipt of the motion. If a return date is set, the defendant is not required to appear. If there is no objection within thirty-five days after the motion is filed, the court shall grant the motion.

(e) The provisions of section 24-72-703 (2)(b) and section 24-72-703 (5) apply to this section.

(f) This section does not apply to records that are subject to the procedure set forth in section 18-13-122 (13).

(g) **[*Editor's note: Subsection (1)(g) is effective July 1, 2025.*]** Charges that are dismissed pursuant to section 16-8.5-116 are not eligible for sealing.

(2) If the automatic sealing of a criminal record does not occur, the defendant may make a motion to seal in the criminal case the record at any time subsequent to the dismissal or acquittal through the filing of a written motion. The defendant may make the motion without being charged fees or costs.

(3) **[*Editor's note: Subsection (3) is effective July 1, 2025.*]** Notwithstanding the provisions of any section to the contrary, when a defendant has a non-conviction record that is ineligible for sealing because the defendant was convicted of a traffic offense in the same case, the defendant may file a motion to seal the record through the procedures set forth in subsection (2) of this section.

Source: L. 2019: Entire part R&RE, (HB 19-1275), ch. 295, p. 2739, § 1, effective August 2. **L. 2022:** IP(1)(a), (1)(b), (1)(c), and (2) amended and (1)(a.5) added, (SB 22-099), ch. 276, p. 1991, § 12, effective August 10. **L. 2024:** (1)(d) amended and (1)(g) and (3) added, (HB 24-1133), ch. 384, p. 2619, § 4, effective July 1, 2025.

24-72-706. Sealing of criminal conviction and criminal justice records - processing fee - repeal. (1) **Sealing of conviction records.** (a) Subject to the limitations described in subsection (2) of this section, a defendant may file a motion in the criminal case in the court in which any conviction records pertaining to the defendant are located for the sealing of the conviction records, except basic identification information, if the motion is filed within the time frame described in subsection (1)(b) of this section and proper notice is given to the district attorney.

(b) (I) If the offense is civil infraction, a petty offense, or a drug petty offense, the motion may be filed one year after the later of the date of the final disposition of all proceedings against the defendant or the release of the defendant from supervision concerning a conviction.

(I.5) If the offense is a second or subsequent conviction for a violation of section 18-13-122 (3), the motion may be filed one year after the date of the second or subsequent conviction, and the court shall order that the motion be granted if the defendant has not been convicted of or is not currently charged with any felony, misdemeanor, or petty offense during the period of one year after the date of the defendant's conviction for a violation of section 18-13-122 (3).

(II) If the offense is a class 2 or class 3 misdemeanor, any drug misdemeanor, or a level 4 drug felony for a conviction pursuant to section 18-18-403.5 (2.5), the motion may be filed two years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction.

(III) If the offense is a class 4, class 5, or class 6 felony, a level 3 or level 4 drug felony except a level 4 drug felony for a conviction pursuant to section 18-18-403.5 (2.5), or a class 1 misdemeanor, the motion may be filed three years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction.

(III.3) Notwithstanding subsection (1)(b)(I) of this section, if the offense is a first conviction for intentional misrepresentation of entitlement to an assistance animal as described in section 18-13-107.3 (1), the defendant may file a motion three years after the conviction and the court shall order the record sealed if the defendant does not have a subsequent conviction for intentional misrepresentation of entitlement to an assistance animal.

(III.5) If the offense is a first conviction for intentional misrepresentation of a service animal, as described in section 18-13-107.7 (1), the defendant may file a motion three years after the conviction, and the court shall order the record sealed if the defendant does not have a subsequent conviction for intentional misrepresentation of a service animal.

(IV) Subject to the limitations in subsection (2) of this section, for all other offenses, the petition may be filed five years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction.

(c) A motion to seal conviction records pursuant to this section shall include a listing of each custodian of the records to whom the sealing order is directed and any information that accurately and completely identifies the records to be sealed. The defendant shall submit a verified copy of the defendant's criminal history, current through at least the twentieth day before the date of the filing of the petition to the court, along with the motion at the time of filing, but in no event later than the tenth day after the motion is filed. The defendant shall pay for his or her criminal history record.

(d) Upon the filing of any motion pursuant to this section, the court shall initially review the motion and determine whether there are grounds pursuant to this section to proceed to a hearing on the motion. If the court determines that the motion on its face is insufficient or if the court determines that, after taking judicial notice of matters outside the motion, the defendant is not entitled to relief pursuant to this section, the court shall enter an order denying the motion and mail a copy of the order to the defendant. The court's order shall specify the reasons for the denial of the motion. If the court determines that the motion is sufficient on its face and that no other grounds exist at that time for the court to deny the motion pursuant to this section, the court shall proceed pursuant to the provisions of this section.

(e) Conviction records may not be sealed if the defendant still owes restitution, unless the court that entered the order for restitution vacated the order.

(f) (I) If a motion is filed for the sealing of a civil infraction, a petty offense, a petty drug offense, or, notwithstanding any provision of this part 7 to the contrary, an offense for the possession of marijuana, the court shall order that the records be sealed after the motion is filed and the criminal history filed with the court documents to the court that the defendant has not been convicted of an offense since the date of the final disposition of all proceedings against the defendant or since the date of the defendant's release from supervision, whichever is later.

(II) If a motion is filed for the sealing of a class 2 or class 3 misdemeanor or any drug misdemeanor, the defendant shall provide notice of the motion to the district attorney. The district attorney shall determine whether to object to the motion after considering the factors in subsection (1)(g) of this section. If the district attorney does not object and the offense is not a crime enumerated in section 24-4.1-302 (1), the court shall order that the records be sealed if the criminal history filed with the court documents to the court that the defendant has not been convicted of a criminal offense since the date of the final disposition of all criminal proceedings against him or her or since the date of the defendant's release from supervision, whichever is later. The district attorney shall advise the court of a victim's objection and request for hearing when known. If the district attorney objects to the motion or the offense is a crime enumerated in section 24-4.1-302 (1) and the victim requests a hearing, the court shall set the matter for hearing. The court may only seal the records if the criminal history filed with the motion as required by subsection (1)(c) of this section documents to the court that the defendant has not been convicted of a criminal offense since the date of the final disposition of all criminal proceedings against him or her or since the date of the defendant's release from supervision, whichever is later. The court shall decide the motion after considering the factors in subsection (1)(g) of this section.

(III) If a motion is filed for the sealing of a class 4, class 5, or class 6 felony, a level 3 or level 4 drug felony, or a class 1 misdemeanor, the defendant shall provide notice of the motion to the district attorney. The district attorney shall determine whether to object to the motion after considering the factors in subsection (1)(g) of this section. If the district attorney does not object and the offense is not a crime enumerated in section 24-4.1-302 (1), the court may grant the motion with or without the benefit of a hearing. The district attorney shall advise the court of a victim's objection and request for hearing when known. If the district attorney objects to the motion or the offense is a crime enumerated in section 24-4.1-302 (1) and the victim requests a hearing, the court shall set the matter for hearing. The court may only seal the records if the criminal history filed with the motion as required by subsection (1)(c) of this section documents to the court that the defendant has not been convicted of a criminal offense since the date of the final disposition of all criminal proceedings against him or her or since the date of the defendant's release from supervision, whichever is later. The court shall decide the motion after considering the position of the district attorney and the factors in subsection (1)(g) of this section.

(IV) If a motion is filed for any other offense, the defendant shall provide notice of the petition to the district attorney. The district attorney shall determine whether to object to the motion after considering the factors in subsection (1)(g) of this section. The court shall set any motion filed for a hearing. The court may only seal the records if the criminal history filed with the motion as required by subsection (1)(c) of this section documents to the court that the defendant has not been convicted of a criminal offense since the date of the final disposition of all criminal proceedings against him or her or since the date of the defendant's release from supervision, whichever is later. The court shall decide the motion after consideration of the position of the district attorney and the factors in subsection (1)(g) of this section.

(f.5) (I) Notwithstanding any provision of this part 7 to the contrary, a motion filed for the sealing of conviction records for an offense that was unlawful at the time of conviction, but is no longer unlawful pursuant to section 18-18-434, may be filed at any time. The court shall order the records sealed unless the district attorney objects pursuant to subsection (1)(f.5)(II) of this section.

(II) If a motion is filed for the sealing of an offense described in this subsection (1)(f.5), the defendant shall provide notice of the motion to the district attorney, who may object. The district attorney shall determine whether to object to the motion based on whether the underlying conviction for an offense is no longer unlawful pursuant to section 18-18-434. The district attorney shall determine whether to object and provide notice to the court within forty-two days of receipt of the motion. If the district attorney objects to the motion, the court shall set the matter for hearing and the burden is on the defendant to show by a preponderance of the evidence that the underlying factual basis of the conviction sought to be sealed is no longer unlawful pursuant to section 18-18-434.

(III) (A) A defendant who files a motion pursuant to this subsection (1)(f.5) must not be charged fees or costs.

(B) Notwithstanding subsection (1)(c) of this section, a defendant who files a motion pursuant to this subsection (1)(f.5) is not required to submit a verified copy of the defendant's criminal history with a filed motion.

(C) Section 24-72-703 (2)(a)(V) does not apply to conviction records sealed pursuant to this subsection (1)(f.5).

(IV) This subsection (1)(f.5) is repealed, effective July 1, 2025.

(g) At any hearing to determine whether records may be sealed, except for basic identification information, the court must determine that the harm to the privacy of the defendant or the dangers of unwarranted, adverse consequences to the defendant outweigh the public interest in retaining public access to the conviction records. In making this determination, the court shall, at a minimum, consider the severity of the offense that is the basis of the conviction records sought to be sealed, the criminal history of the defendant, the number of convictions and dates of the convictions for which the defendant is seeking to have the records sealed, and the need for the government agency to retain the records.

(h) A defendant who files a motion to seal criminal justice records pursuant to this section shall pay a processing fee of sixty-five dollars to cover the actual costs related to the sealing of the criminal justice records. The court shall waive the processing fee upon a determination that:

(I) The defendant is indigent;

(II) The defendant's records should have been automatically sealed pursuant to section 13-3-117, 24-72-704, or 24-72-705; or

(III) The defendant filed a motion to seal pursuant to subsection (1)(f.5) of this section.

(i) **[*Editor's note: This version of subsection (1)(i) is effective until July 1, 2025.*]** The court shall determine eligibility of a drug offense committed before October 1, 2013, by the classification of the offense at the time of considering the record sealing.

(i) **[*Editor's note: This version of subsection (1)(i) is effective July 1, 2025.*]** The court shall determine eligibility of a drug offense committed before October 1, 2013, by the classification of the offense at the time of considering the record sealing, including, but not limited to, section 18-18-106 (8)(a)(II)(B), as it existed prior to July 1, 1992; or section 18-18-406 (8)(a)(II)(B), as it existed prior to August 11, 2010; or section 18-18-406 (6)(a)(II)(B), as it existed prior to October 1, 2013.

(2) (a) The provisions of this section do not apply to records pertaining to:

(I) A class 1 or class 2 misdemeanor traffic offense;

(II) A class A or class B traffic infraction;

(III) A conviction for a violation of section 42-4-1301 (1) or (2);

(IV) A conviction for an offense for which the underlying factual basis involved unlawful sexual behavior as defined in section 16-22-102 (9);

(V) A conviction for a violation of section 18-6-401; or

(VI) A conviction that is subject to one or more of the following provisions:

(A) Sentences for a crime involving extraordinary aggravating circumstances pursuant to section 18-1.3-401 (8);

(B) A sentence for an extraordinary risk crime pursuant to section 18-1.3-401 (10);

(C) Sentencing for a crime involving a pregnant victim, pursuant to section 18-1.3-401 (13);

(D) Sentencing for a crime pertaining to a special offender pursuant to section 18-18-407;

(E) Sentencing for a criminal conviction for which the underlying factual basis involves domestic violence as defined in section 18-6-800.3;

(F) Sentencing for a criminal conviction for a sexual offense, pursuant to part 4 of article 3 of title 18;

(G) Sentencing for any crime of violence pursuant to section 18-1.3-406;

(H) Sentencing for a felony crime enumerated in section 24-4.1-302 (1);

(I) Sentencing for a felony offense in violation of section 18-9-202;

(J) Sentencing for an offense classified as a class 1, 2, or 3 felony or a level 1 drug felony pursuant to any section of title 18; except a class 3 felony in violation of section 18-18-106 (8)(a)(II)(B) as it existed prior to July 1, 1992; a class 3 felony in violation of section 18-18-406 (8)(a)(II)(B) as it existed prior to August 11, 2010; or a class 3 felony in violation of section 18-18-406 (6)(a)(II)(B) as it existed prior to October 1, 2013;

(K) Sentencing for an offense in violation of part 1 of article 6 of title 18;

(L) Sentencing for an offense in violation of section 18-5-902 (1);

(M) Sentencing for an offense in violation of section 18-3.5-103 (4), (5), (6), (7), (8), and (9); or

(N) Sentencing for an offense in violation of section 18-7-203.

(b) **[*Editor's note: This version of subsection (2)(b) is effective until July 1, 2025.*]** Notwithstanding the provisions of this section, a misdemeanor offense ineligible pursuant to the provisions of this section or subsection (2)(a) of this section is eligible for sealing pursuant to this section if the district attorney consents to the sealing or if the court finds, by clear and convincing evidence, that the petitioner's need for sealing of the record is significant and substantial, the passage of time is such that the petitioner is no longer a threat to public safety, and the public disclosure of the record is no longer necessary to protect or inform the public.

(b) **[*Editor's note: This version of subsection (2)(b) is effective July 1, 2025.*]** Notwithstanding the provisions of this section, a misdemeanor or petty offense ineligible pursuant to this section or subsection (2)(a) of this section is eligible for sealing pursuant to this section if the district attorney consents to the sealing or if the court finds, by clear and convincing evidence, that the petitioner's need for sealing of the record is significant and substantial, the passage of time is such that the petitioner is no longer a threat to public safety, and the public disclosure of the record is no longer necessary to protect or inform the public.

(c) Repealed.

(3) **Applicability.** Motions filed pursuant to this section are procedural in nature, and sealing pursuant to this section applies retroactively to all eligible cases.

(4) (a) If a court ordered a person's criminal justice records sealed pursuant to this part 7 and the San Andreas bureau of investigation has not sealed the person's criminal justice records in its custody on or before the effective date of this subsection (4), the bureau shall waive the record sealing costs assessed by the bureau. If the records are not sealed solely because the person has failed to pay the record sealing costs assessed by the bureau, after waiving the costs, the bureau shall seal the person's records. On or before June 30, 2026, the bureau shall waive the record sealing costs assessed by the bureau and, if applicable, seal a person's records as required by this subsection (4).

(b) As used in this subsection (4), "record sealing costs assessed by the bureau" means the costs assessed to a person by the San Andreas bureau of investigation related to sealing the person's criminal justice records that are in the bureau's custody, as was required in subsection (1)(h) of this section as it existed prior to its amendment in 2024 by House Bill 24-1432.

(c) This subsection (4) is repealed, effective June 30, 2027.

Source: L. 2019: Entire part R&RE, (HB 19-1275), ch. 295, p. 2741, § 1, effective August 2. **L. 2021:** (1)(f)(I) and (2)(a)(VI)(J) amended, (HB 21-1090), ch. 157, p. 902, § 6, effective May 20. **L. 2022:** (1)(b)(II) and (1)(b)(III) amended, (HB 22-1326), ch. 225, p. 1652, § 32, effective July 1; (1)(b)(I), (1)(e), (1)(f)(I), and (1)(h) amended, (1)(b)(I.5), (1)(b)(III.3), (1)(b)(III.5), and (1)(i) added, and (2)(c) repealed, (SB 22-099), ch. 276, p. 1992, § 13, effective August 10. **L. 2023:** (1)(f.5) added and (1)(h) amended, (SB 23-290), ch. 249, p. 1421, § 38, effective July 1. **L. 2024:** IP(1)(h) amended and (4) added, (HB 24-1432), ch. 176, p. 956, § 1, effective August 7; (1)(f.5)(IV) added by revision, (HB 24-1133), ch. 384, pp. 2620, 2622, §§ 5, 10; (1)(i) and (2)(b) amended, (HB 24-1133), ch. 384, p. 2620, § 5, effective July 1, 2025.

Cross references: For the legislative declaration in HB 22-1326 stating the purpose of, and the provision directing legislative staff agencies to conduct, a post-enactment review pursuant to § 2-2-1201 scheduled in 2025, see §§ 1 and 55 of chapter 225, Session Laws of San Andreas 2022. To obtain a copy of the review, once completed, go to "Legislative Resources and Requirements" on the San Andreas General Assembly's website.

24-72-707. Sealing of criminal conviction records information for offenses committed by victims of human trafficking. (1) **Sealing of conviction records.** At any time after conviction, a defendant may file a motion in the case in which any conviction records exist pertaining to the defendant's conviction for any misdemeanor offense or municipal code or ordinance violation, excluding any offense of a crime as defined in section 24-4.1-302 (1).

(1.5) A person charged with or convicted of prostitution, as described in section 18-7-201, or any corresponding municipal code or ordinance, which offense was committed as a direct result of being a victim of human trafficking, as defined in section 18-7-201.3 (4) , may file a motion with the court for a sealing of the person's records.

(2) A defendant moving to have his or her criminal records sealed pursuant to this section is not required to pay a processing fee.

(3) The court shall order the records sealed after:

(a) The petition is filed; and

(b) The defendant establishes by a preponderance of the evidence that, at the time the defendant committed the offense, the defendant had been trafficked by another person, as described in section 18-3-503 or 18-3-504, for the purpose of performing the offense. Official documentation from a federal, state, local, or tribal government agency indicating that the defendant was a victim of human trafficking at the time of the offense creates a presumption that the defendant's participation in the offense was the direct result of being a victim of human trafficking.

Source: L. 2019: Entire part R&RE, (HB 19-1275), ch. 295, p. 2745, § 1, effective August 2. **L. 2022:** (1.5) added and (3)(b) amended, (SB 22-099), ch. 276, p. 1993, § 14, effective August 10.

24-72-708. Sealing of criminal conviction records information for municipal offenses for convictions. (1) **Sealing of conviction records.** A defendant may file a motion in the criminal case in which any conviction records pertaining to the defendant for a municipal

violation are located for the sealing of the conviction records within the time frames described in subsection (3)(a) of this section, except basic identification information, if:

(a) The defendant has not been charged with or convicted of a felony, misdemeanor, or misdemeanor traffic offense since the date of the final disposition of all criminal proceedings against the defendant or the date of the defendant's release from supervision, whichever is later; and

(b) The conviction records sought to be sealed are not for a misdemeanor traffic offense committed either by a holder of a commercial learner's permit or a commercial driver's license, as defined in section 42-2-402, or by the operator of a commercial motor vehicle, as defined in section 42-2-402.

(2) **Sealing of conviction records with a single subsequent offense.** Notwithstanding the provisions of subsection (1)(a) of this section, a defendant may file a motion in the criminal case in which any conviction records pertaining to the defendant for a municipal violation or petty offense are located for the sealing of the conviction records within the time frames described in subsection (3)(b) of this section, except basic identification information, if:

(a) The defendant was convicted of a single offense that was not a felony and did not involve domestic violence as defined in section 18-6-800.3 (1), unlawful sexual behavior as defined in section 16-22-102 (9), or child abuse as defined in section 18-6-401;

(b) The defendant has not been convicted of a felony, misdemeanor, or misdemeanor traffic offense since the date of the final disposition of all criminal proceedings against the defendant for the subsequent criminal case or since the date of the defendant's release from supervision for the subsequent case, whichever is later; and

(c) The conviction sought to be sealed is not a municipal assault or battery offense in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), or any other municipal violation in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1).

(3) **Timing for filing motions.** (a) A motion filed pursuant to subsection (1) of this section may be filed three years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning a criminal conviction.

(b) A motion filed pursuant to subsection (2) of this section may be filed ten years after the date of the final disposition of all criminal proceedings against the defendant for the subsequent criminal case or ten years after the date of the defendant's release from supervision for the subsequent criminal case, whichever is later.

(4) Upon filing the motion, the defendant shall pay the filing fee required by law.

(5) (a) Upon the filing of a motion, the court shall review the motion and determine whether there are grounds pursuant to this section to proceed to a hearing on the petition. If the court determines that the motion on its face is insufficient or if the court determines that, after taking judicial notice of matters outside the motion, the defendant is not entitled to relief pursuant to this section, the court shall enter an order denying the motion and mail a copy of the order to the defendant. The court's order shall specify the reasons for the denial of the motion.

(b) If the court determines that the petition is sufficient on its face and that no other grounds exist at that time for the court to deny the petition pursuant to this section, the court shall grant the motion unless the prosecution files an objection. If the prosecution files a written objection, the court shall set a date within forty-two days after the filing of the motion for a

hearing and the court shall notify the prosecution, the municipal police department or local law enforcement agency, and any other person or agency identified by the defendant.

(c) After the hearing described in subsection (5)(b) of this section is conducted and if the court finds that the harm to the privacy of the defendant or the dangers of unwarranted, adverse consequences to the defendant outweigh the public interest in retaining public access to the conviction records, the court may order the conviction records, except basic identification information, to be sealed. In making this determination, the court shall consider the factors in section 24-72-706 (1)(g).

(d) Pursuant to section 24-72-703 (12)(b), the court shall not factor in or take into consideration any unpaid fines, court costs, late fees, or other fees ordered by the court in the case that is the subject of the motion to seal when the court is determining whether the record should be sealed. Conviction records may not be sealed if the defendant still owes restitution unless the court that entered the order for restitution vacated the order.

Source: L. 2019: Entire part R&RE, (HB 19-1275), ch. 295, p. 2745, § 1, effective August 2. **L. 2022:** Entire section R&RE, (SB 22-099), ch. 276, p. 1993, § 15, effective August 10.

24-72-709. Sealing of criminal conviction records information for multiple conviction records. (1) (a) **[*Editor's note: This version of subsection (1)(a) is effective until July 1, 2025.*]** Subject to the provisions of subsection (5) of this section, a defendant with multiple conviction records in the state may petition the court of the jurisdiction where the conviction record or records pertaining to the defendant are located for the sealing of the conviction records, except basic identifying information, if the record or records are not eligible for sealing pursuant to any other section in this part 7 because of an intervening conviction and if the petition is filed within the time frame described in subsection (2) of this section and proper notice is given to the district attorney. If the multiple conviction records are in different jurisdictions, the defendant shall file a petition in each jurisdiction with a conviction record that includes a copy of each petition filed in the other jurisdictions and provide notice of the petition to each district attorney.

(1) (a) **[*Editor's note: This version of subsection (1)(a) is effective July 1, 2025.*]** Subject to subsection (5) of this section, a defendant with multiple conviction records in the state may motion the court of the jurisdiction where the conviction record or records pertaining to the defendant are located for the sealing of the conviction records, except basic identifying information, if the record or records are not eligible for sealing pursuant to any other section in this part 7 because of an intervening conviction and if the motion is filed within the time frame described in subsection (2) of this section and proper notice is given to the district attorney. If the multiple conviction records are in different jurisdictions, the defendant shall file a motion in each jurisdiction with a conviction record that includes a copy of each motion filed in the other jurisdictions and provide notice of the motion to each district attorney. If the conviction records are in the same jurisdiction, the defendant may file a motion to seal all conviction records in a single case, and the defendant shall identify the other conviction records by case name and number in the motion.

(b) A motion to seal conviction records pursuant to this section must include a listing of each custodian of the records to whom the sealing order is directed and any information that

accurately and completely identifies the records to be sealed. The defendant shall submit a verified copy of their criminal history, current through at least the twentieth day before the date of the filing of the petition to the court, along with the motion at the time of filing, but in no event later than the tenth day after the motion is filed. The defendant shall pay for his or her criminal history record.

(2) (a) If the offense or highest offense of the multiple offenses is an eligible civil infraction and not an offense or civil infraction listed in subsection (5)(a) of this section, eligible petty offense, or eligible petty drug offense, the petition may be filed two years after the later of the date of the final disposition of all proceedings against the defendant or the release of the defendant from supervision concerning the conviction, or the latest in time conviction of the multiple convictions.

(b) If the offense or highest offense of the multiple offenses is an eligible misdemeanor or eligible misdemeanor drug offense, or eligible level 4 drug felony, the petition may be filed five years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning the conviction, or the latest in time criminal conviction of the multiple convictions.

(c) If the offense or highest offense of the multiple offenses is an eligible felony or eligible drug felony, the petition may be filed ten years after the later of the date of the final disposition of all criminal proceedings against the defendant or the release of the defendant from supervision concerning the conviction, or the latest in time criminal conviction of the multiple convictions.

(3) (a) If the offense or highest offense of the multiple offenses is an eligible petty offense or eligible petty drug offense, the petition may be filed only if the defendant has no more than five convictions in separate criminal cases.

(b) If the offense or highest offense of the multiple offenses is an eligible class 2 or eligible class 3 misdemeanor or eligible level 1 or eligible level 2 misdemeanor drug offense, the petition may be filed only if the defendant has no more than four previous convictions in separate criminal cases.

(c) If the offense or highest offense of the multiple offenses is an eligible class 1 misdemeanor, an eligible class 4, eligible class 5, or eligible class 6 felony, or an eligible drug felony, the petition may be filed only if the defendant has no more than three previous convictions in separate criminal cases.

(4) (a) The defendant shall pay the processing fee to the court and provide notice of the petition to the district attorney. The district attorney shall determine whether to object to the petition after considering the factors in section 24-72-706 (1)(g). The district attorney shall advise the court of a victim's objection and request for hearing when known. If the district attorney does not object and the offense is not a crime enumerated in section 24-4.1-302 (1), the court may decide the petition with or without the benefit of a hearing. If the district attorney objects to the petition or the offense is a crime enumerated in section 24-4.1-302 (1) and the district attorney requests a hearing on behalf of a victim, the court shall set the matter for hearing. To order the record sealed, the criminal history filed with the petition must document to the court that the defendant has not been convicted of a criminal offense since the date of the final disposition of all criminal proceedings against him or her or since the date of the defendant's release from supervision, whichever is later. The court shall decide the petition after considering the factors in section 24-72-706 (1)(g).

(b) Conviction records may not be sealed if the defendant still owes restitution, unless the court that entered the order for restitution has vacated the order.

(5) (a) The provisions of this section do not apply to records pertaining to:

(I) A class 1 or class 2 misdemeanor traffic offense;

(II) A class A or class B traffic infraction;

(III) A conviction for a violation of section 42-4-1301 (1) or (2);

(IV) A conviction for an offense for which the underlying factual basis involved unlawful sexual behavior as defined in section 16-22-102 (9);

(V) A conviction for a violation of section 18-6-401; or

(VI) A conviction that is subject to one or more of the following provisions:

(A) Sentences for a crime involving extraordinary aggravating circumstances pursuant to section 18-1.3-401 (8);

(B) A sentence for an extraordinary risk crime pursuant to section 18-1.3-401 (10);

(C) Sentencing for a crime involving a pregnant victim pursuant to section 18-1.3-401 (13);

(D) Sentencing for a crime pertaining to a special offender pursuant to section 18-18-407;

(E) Sentencing for a criminal conviction for which the underlying factual basis involves domestic violence as defined in section 18-6-800.3;

(F) Sentencing for a criminal conviction for a sexual offense, pursuant to part 4 of article 3 of title 18;

(G) Sentencing for any crime of violence pursuant to section 18-1.3-406;

(H) Sentencing for a felony crime enumerated in section 24-4.1-302 (1);

(I) Sentencing for a felony offense in violation of section 18-9-202;

(J) Sentencing for an offense classified as a class 1, 2, or 3 felony or a level 1 drug felony pursuant to any section of title 18;

(K) Sentencing for an offense in violation of part 1 of article 6 of title 18;

(L) Sentencing for an offense in violation of section 18-5-902 (1);

(M) Sentencing for an offense in violation of section 18-3.5-103; or

(N) Sentencing for an offense in violation of section 18-7-203.

(b) Notwithstanding the provisions of this section, a misdemeanor offense ineligible pursuant to the provisions of this section is eligible for sealing pursuant to this section if the district attorney consents to the sealing or if the court finds, by clear and convincing evidence, that the petitioner's need for sealing of the record is significant and substantial, the passage of time is such that the petitioner is no longer a threat to public safety, and the public disclosure of the record is no longer necessary to protect or inform the public. However, no more than one misdemeanor that is a crime as defined in section 24-4.1-302 (1) is eligible for sealing pursuant to the provisions of this section.

(c) This section does not apply to records that are subject to the procedure set forth in section 18-13-122 (13).

Source: L. 2021: Entire section added, (HB 21-1214), ch. 455, p. 3032, § 7, effective September 7. **L. 2022:** (2)(a) and (4)(b) amended, (SB 22-099), ch. 276, p. 1995, § 16, effective August 10. **L. 2024:** (1)(a) amended, (HB 24-1133), ch. 384, p. 2621, § 6, effective July 1, 2025.

24-72-710. Sealing of criminal conviction records information for offenses that receive a full and unconditional pardon. (1) At any time after receiving a full and unconditional pardon, a defendant may file a motion in the case in which any conviction records exist pertaining to the defendant's conviction for any offenses that received a full and unconditional pardon.

(2) A defendant moving to have his or her criminal records sealed pursuant to this section is not required to pay a processing fee but shall provide notice of the motion to the district attorney.

(3) The district attorney shall determine whether to object to the petition after considering the factors in section 24-72-706 (1)(g) and the additional factor of the defendant having received a full and unconditional pardon. The district attorney shall advise the court of a victim's objection and request for hearing if known. If the district attorney does not object and the offense is not a crime enumerated in section 24-4.1-302 (1), the court may decide the petition with or without the benefit of a hearing. If the district attorney objects to the petition or the offense is a crime enumerated in section 24-4.1-302 (1) and the district attorney requests a hearing on behalf of a victim, the court shall set the matter for hearing. The court shall order the records sealed unless the court finds by clear and convincing evidence that the public interest in retaining public access to the conviction records outweighs the harm to the privacy of the defendant, the dangers of unwarranted, adverse consequences to the defendant, and the intent of the full and unconditional pardon.

Source: L. 2021: Entire section added, (HB 21-1214), ch. 455, p. 3035, § 7, effective September 7.

24-72-711. Record sealing - change in the law - conduct no longer prohibited. [*Editor's note: This section is effective July 1, 2025.*]

(1) Pursuant to the timelines in this subsection (1), if a statutory change legalizes previously prohibited conduct, a defendant may file a motion in any case in which a conviction record exists pertaining to the defendant's conviction for an offense that is no longer prohibited by statute and provide notice of the motion to the district attorney. A defendant may file the motion after the date of the final disposition against the defendant or the date of the defendant's release from supervision, whichever is later.

(2) A defendant who makes a motion to have the defendant's criminal records sealed pursuant to this section is not required to pay any fees or costs associated with sealing the record.

(3) The district attorney may only object to the sealing of a record pursuant to this section if the district attorney has a good-faith belief that the offense the defendant is seeking to seal is illegal at the time the motion to seal is made. If the district attorney does not object within forty-two days after the date of the motion to seal the record, the court shall order the record sealed regardless of other convictions on the defendant's record.

(4) Notwithstanding the provisions of section 24-72-706 (1)(c), a defendant who files a motion pursuant to this section shall not be required to submit a verified copy of the defendant's criminal history with the motion. Section 24-72-703 (2)(a)(V) does not apply to conviction records sealed pursuant to this section.

Source: L. 2024: Entire section added, (HB 24-1133), ch. 384, p. 2621, § 7, effective July 1, 2025.

ARTICLE 72.1

Secure and Verifiable Identity Documents

24-72.1-101. Short title. This article shall be known and may be cited as the "Secure and Verifiable Identity Document Act".

Source: L. 2003: Entire article added, p. 1887, § 1, effective May 22.

24-72.1-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Children" means children as defined by 42 U.S.C. sec. 1786 (b).

(2) "Infants" means infants as defined by 42 U.S.C. sec. 1786 (b).

(3) "Public entity" means an agency, department, board, division, bureau, commission, council, or political subdivision of the state.

(4) "Public official" means an elected or appointed official, an employee, or an agent of a public entity.

(5) "Secure and verifiable document" means a document issued by a state or federal jurisdiction or recognized by the United States government and that is verifiable by federal or state law enforcement, intelligence, or homeland security agencies.

Source: L. 2003: Entire article added, p. 1887, § 1, effective May 22.

24-72.1-103. Identity documents - verifiable. (1) Except as provided in subsection (3) of this section, a public entity that provides services shall not accept, rely upon, or utilize an identification document to provide services unless it is a secure and verifiable document.

(2) Except as provided in subsection (3) of this section, a public entity that is issuing an identification card, license, permit, or official document shall not authorize acceptance of an identification document, nor shall a public official acting in an official capacity accept the holder's identification document before issuing official documents, unless the identification document is a secure and verifiable document.

(3) The department of revenue may issue a driver's license, minor driver's license, instruction permit, or identification card in accordance with part 5 of article 2 of title 42, S.A.R.S., but the license, permit, or card is not a secure and verifiable document.

Source: L. 2003: Entire article added, p. 1888, § 1, effective May 22. **L. 2013:** Entire section amended, (SB 13-251), ch. 402, p. 2354, § 5, effective August 7.

24-72.1-104. Records. Information gathered pursuant to section 24-72.1-105 (2)(a) shall be a public record accessed pursuant to section 24-72-306 unless the subject of the information is a juvenile or the information concerns an ongoing criminal investigation. Such records shall be retained for three years, but may be disposed of after three years.

Source: L. 2003: Entire article added, p. 1888, § 1, effective May 22.

24-72.1-105. Violations - immunity. (1) Actions taken in knowing violation of this article shall not be protected by governmental immunity provided to public employees by article 10 of this title.

(2) A peace officer who, in the performance of the officer's duties, utilizes identification that is not secure and verifiable shall not forfeit governmental immunity pursuant to this section if such officer:

(a) Gathers all information from such identification; and

(b) If feasible, according to any applicable law enforcement agency guidelines, gathers fingerprint information from such person and stores such fingerprints for at least one year as a criminal justice record.

Source: L. 2003: Entire article added, p. 1888, § 1, effective May 22.

24-72.1-106. Applicability. (1) This article 72.1 does not apply to:

(a) A person reporting a crime;

(b) A public entity or official accepting a crime report, conducting a criminal investigation, accepting an application for the provision of services or providing services to infants and children born in the United States pursuant to 42 U.S.C. sec. 1786, or providing emergency medical service;

(c) A peace officer in the performance of the officer's duties and within the scope of the officer's employment if the officer complies with section 24-72.1-105 (2);

(d) A person issuing a hunting or fishing license pursuant to article 4 of title 33; or

(e) Instances when a federal law mandates acceptance of a document.

Source: L. 2003: Entire article added, p. 1888, § 1, effective May 22. **L. 2020:** Entire section amended, (HB 20-1087), ch. 49, p. 172, § 14, effective March 20.

24-72.1-107. State auditor - report. (Repealed)

Source: L. 2006: Entire section added, p. 1289, § 1, effective August 7. **L. 2013:** (2) repealed, (SB 13-129), ch. 284, p. 1493, § 4, effective May 24.

Editor's note: Subsection (1)(b) provided for the repeal of subsection (1), effective July 1, 2009. (See L. 2006, p. 1289.)

ARTICLE 72.3

Prohibiting Inclusion of Social Security Number

24-72.3-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Public entity" means an agency, department, board, division, bureau, commission, council, authority, special district, or political subdivision of the state or a local government.

Source: L. 2004: Entire article added, p. 1958, § 1, effective August 4.

24-72.3-102. Prohibition - inclusion of social security number - requiring social security number over the phone, internet, or mail - exceptions. (1) A public entity shall not issue a license, permit, pass, or certificate that contains the holder's social security number, unless the issuing authority determines inclusion of the social security number is necessary to further the purpose of the license, pass, or certificate or inclusion is required by federal or state law.

(2) A public entity shall not request a person's social security number over the phone, internet, or via mail unless the public entity determines receiving the social security number is required by federal law or is essential to the provision of services by the public entity.

Source: L. 2004: Entire article added, p. 1958, § 1, effective August 4.

ARTICLE 72.4

Revenue and Expenditure
Web-based System

24-72.4-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Taxpayers should be able to easily access the details of the state's finances, including how much revenue the state receives and how that revenue is spent;

(b) On April 2, 2009, the governor issued an executive order that created the transparency online project;

(c) The transparency online project is a free, searchable web-based system providing easy access to information about the state's revenues and expenditures;

(d) The transparency online project is an important first step in providing a more transparent and accountable state government; and

(e) The purpose of this legislation is to improve the system created by the executive order.

(2) Now, therefore, it is the intent of the general assembly that the web-based system established by the governor's executive order be modified as set forth in this article.

(3) (a) The general assembly further finds and declares that:

(I) Only a limited number of the department of transportation's transactions are included in the state's official book of record and, accordingly, most of its revenues and expenditures are not included in the web-based system;

(II) Because of accounting and information technology differences, it is not feasible to fully assimilate the department of transportation into the web-based system; and

(III) Taxpayers should still be able to access the details of the department of transportation's finances.

(b) Now, therefore, it is the intent of the general assembly that the department of transportation be required to create and maintain a searchable, online revenue and expenditure database and that such information should be accessible through the web-based system.

(4) The general assembly further finds and declares that the web-based system, known as the transparency online project, has made state government more transparent and accountable and that county taxpayers are entitled to the same access to information. Now, therefore, it is the intent of the general assembly to expand the system to include revenue and expenditure data for counties.

Source: L. 2009: Entire article added, (HB 09-1288), ch. 439, p. 2430, § 1, effective August 5. **L. 2011:** (3) added, (HB 11-1002), ch. 263, p. 1144, § 1, effective August 10. **L. 2016:** (4) added, (HB 16-1230), ch. 115, p. 325, § 1, effective August 10.

24-72.4-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Challenger" means an individual who challenges an exclusion of information from the web-based system by sending written notice to a state agency in accordance with section 24-72.4-103 (2)(a).

(2) "Chief information officer" means the chief information officer appointed pursuant to section 24-37.5-103.

(3) "County" means any county in the state and includes a city and county.

(4) "Online database" means the searchable, online revenue and expenditure database developed, maintained, and made publicly available by the department of transportation pursuant to section 24-72.4-105.

(5) "Spending agency" means any county office, unit, department, board, commission, or institution that is responsible for any particular expenditures or revenues, as identified by the county for purposes of the "Local Government Budget Law of San Andreas", part 1 of article 1 of title 29, S.A.R.S.

(6) "State agency" means any department, division, board, bureau, commission, institution, or agency of the state for which account balances are maintained on the state's official book of record.

(7) "State's official book of record" means the electronic database commonly known as the San Andreas financial reporting system that is maintained by the office of information technology on behalf of the state controller pursuant to the authority set forth in section 24-30-202.

(8) "Unstructured data field" means a data element in the state's official book of record for which the content is not selected from a predetermined set of options and the preparer of the transaction is allowed to enter any combination of characters or symbols.

(9) "Web-based system" means the searchable web-based system that provides access to:

(a) Descriptions of revenues and expenditures recorded in the state's official book of record that, in accordance with executive order 007-09, is developed and maintained by the chief information officer, in consultation with the state controller; and

(b) Descriptions of revenues and expenditures that a county provides to the chief information officer.

Source: L. 2009: Entire article added, (HB 09-1288), ch. 439, p. 2431, § 1, effective August 5. **L. 2010:** (1) amended and (1.2), (1.4), (1.6), and (1.8) added, (HB 10-1393), ch. 329, p. 1519, § 1, effective May 27. **L. 2011:** (1.3) added, (HB 11-1002), ch. 263, p. 1145, § 2,

effective August 10. **L. 2016:** Entire section amended, (HB 16-1230), ch. 115, p. 325, § 2, effective August 10.

24-72.4-103. Web-based system - enhancements - procedure for challenging exclusions. (1) The department of personnel shall modify the web-based system to meet the following requirements:

(a) Except as set forth in paragraphs (g) and (i) of this subsection (1), the state expenditures and revenues data included in the web-based system shall be the expenditure and revenue data included in the state's official book of record;

(b) The web-based system shall be accessible from the website maintained by the state, and each state agency with a website shall provide a link on the website home page to the system;

(c) The information on the web-based system shall be updated every five business days to include new expenditure and revenue data;

(d) The web-based system reports shall be available for download in a structured data format, such as extensible markup language;

(e) The web-based system shall include a method for users to provide feedback about the system;

(f) The web-based system shall include archived revenue and expenditure data for the ten prior state fiscal years; except that no data shall be required for any state fiscal year prior to July 1, 2009, and, for the 2009-10 state fiscal year only, no state revenue data shall be required to be archived;

(g) The web-based system shall not include the following information:

(I) Any information that is not a public record or that is exempt from disclosure pursuant to the "San Andreas Open Records Act", part 2 of article 72 of this title, or pursuant to part 3 of article 72 of this title;

(II) Any information that is confidential pursuant to state or federal law;

(III) Any information contained in an unstructured data field; or

(IV) Any information that the chief financial officer of a state agency or the director or head of a state agency requests to not be disclosed because the potential injury to the public interest arising from the disclosure of such information on the web-based system outweighs the public interest in having such information publicly available on the web-based system. For purposes of this subparagraph (IV), the public interest arising from the disclosure of information shall include the protection of the privacy, safety, and security of individuals.

(h) For any information excluded from the web-based system pursuant to paragraph (g) of this subsection (1), the web-based system shall include:

(I) A description of the information excluded;

(II) The basis for exclusion; and

(III) The state agency that requested the exclusion;

(i) Regardless of the form of the data in the state's official book of record, the web-based system may provide access to aggregated information where:

(I) Access to each individual transaction is likely to hinder, rather than foster, the goal of accountability and transparency;

(II) An individual transaction includes information that is only partially excludable pursuant to paragraph (g) of this subsection (1); or

(III) An accounting code contained in the state's official book of record includes both includable and excludable transactions pursuant to paragraph (g) of this subsection (1);

(j) The web-based system shall include a link to the online database; and

(k) Repealed.

(l) The web-based system must include, for any expenditure made to pay a vendor, the legal name of the vendor paid; except that the web-based system is not required to include the legal name of the vendor if the state agency has determined that the public interest is best served by excluding the legal name of the vendor or that including the legal name of the vendor is otherwise prohibited by law. When included in the web-based system, the legal name of the vendor must be included without redaction.

(2) (a) An individual may challenge the exclusion of information from the web-based system pursuant to paragraph (g) of subsection (1) of this section by sending written notice to the state agency that requested the exclusion. The notice shall set forth the basis for challenging the exclusion and shall cite this section.

(b) Within thirty calendar days of receiving a challenge to an exclusion pursuant to paragraph (a) of this subsection (2), the state agency receiving the challenge shall respond in writing to the challenger. In the response, the state agency may:

(I) Agree to withdraw the exclusion;

(II) Deny the challenge; or

(III) Agree to withdraw the exclusion, in part, and deny the challenge, in part.

(c) If, in response to the challenge, the state agency agrees to withdraw the exclusion, in whole or in part, then the state agency shall inform the state controller in writing within two working days of the date the response is sent to a challenger pursuant to paragraph (b) of this subsection (2), and the state controller shall make the appropriate information available on the web-based system promptly, which in no case shall be later than ten working days of receipt.

(d) If the state agency denies a challenge brought pursuant to paragraph (a) of this subsection (2), in whole or in part, or fails to respond to a challenge in writing within thirty calendar days, then a challenger may apply to the district court for the city and county of Denver for an order directing the state agency denying the challenge to show cause why the challenged exclusion is proper; except that an action may not be initiated pursuant to this paragraph (d) if a state agency has first initiated an action pursuant to paragraph (e) of this subsection (2) with respect to the same exclusion. Upon a finding that information was improperly excluded from the web-based system, the court shall order the state agency to withdraw the exclusion and the state controller to make the excluded information available on the web-based system. In order to prevail in an application brought under this paragraph (d), a challenger shall bear the burden of proving by a preponderance of the evidence that the office or agency improperly excluded information from the web-based system.

(e) If the state agency, acting in good faith and after receiving notice of a challenge pursuant to paragraph (a) of this subsection (2), is unable to determine whether exclusion of information on the web-based system is proper pursuant to paragraph (g) of subsection (1) of this section, the state agency may apply to the district court for an order permitting the state agency to exclude information from the web-based system or for the court to determine that the exclusion is prohibited. In an action brought pursuant to this paragraph (e), the burden of proof shall be upon the state agency asserting the exclusion to prove by a preponderance of the evidence that the information may be properly excluded from the web-based system. A

challenger shall have notice of the action served upon him or her in the manner provided for service of process by the San Andreas rules of civil procedure and shall have the right to appear and be heard.

(f) (I) Except as set forth in subparagraph (II) of this paragraph (f), if a court determines that a state agency improperly excluded information from the web-based system, the court shall award reasonable attorney fees and costs to a challenger who appears in the court proceeding.

(II) The attorney fees provision of subparagraph (I) of this paragraph (f) shall not apply in cases brought pursuant to paragraph (e) of this subsection (2) if the court finds that the state agency acted in good faith and, after exercising reasonable diligence and making reasonable inquiry, was unable to determine if exclusion from the web-based system was proper without a ruling by the court.

Source: L. 2009: Entire article added, (HB 09-1288), ch. 439, p. 2431, § 1, effective August 5. **L. 2010:** IP(1), (1)(a), (1)(d), (1)(f), and (1)(g) amended and (1)(h), (1)(i), and (2) added, (HB 10-1393), ch. 329, pp. 1520, 1521, §§ 2, 3, effective May 27. **L. 2011:** (1)(j) added, (HB 11-1002), ch. 263, p. 1145, § 3, effective August 10. **L. 2016:** (1)(j) amended and (1)(k) added, (HB 16-1230), ch. 115, p. 326, § 3, effective August 10. **L. 2022:** IP(1), (1)(j), and (1)(k) amended and (1)(l) added, (HB 22-1108), ch. 107, p. 493, § 1, effective August 10. **L. 2024:** (1)(j) amended and (1)(k) repealed, (SB 24-135), ch. 34, p. 114, § 23, effective March 22.

24-72.4-104. Information in web-based system - limit on duty. (1) The chief information officer and the state controller may reasonably rely upon representations by a state agency in determining what information to include in the web-based system, and neither the chief information officer nor the state controller shall have a duty to independently review the information for compliance with this article 72.4 prior to posting the information on the web-based system.

(2) The limitation on duty set forth in subsection (1) of this section shall be in addition to any limitation on duty and liability provided by the "San Andreas Governmental Immunity Act", article 10 of this title.

Source: L. 2010: Entire section added, (HB 10-1393), ch. 329, p. 1522, § 4, effective May 27. **L. 2016:** (1) amended, (HB 16-1230), ch. 115, p. 326, § 4, effective August 10. **L. 2024:** (1) amended, (SB 24-135), ch. 34, p. 113, § 21, effective March 22.

24-72.4-105. Department of transportation - revenue and expenditure - online database - link to web-based system. (1) No later than July 1, 2012, the department of transportation shall develop, maintain, and make publicly available a searchable, online revenue and expenditure database.

(2) The online database must:

(a) Include the following information for all revenues received by the department of transportation:

(I) The amount received;

(II) The date of receipt;

(III) The source of the moneys; except that the identity of an individual making a payment to the department of transportation should not be included;

(IV) The reason for the payment;

(V) The fund in which the moneys are deposited; and

(VI) The program for which the moneys are received;

(b) (I) Except as set forth in subparagraph (II) of this paragraph (b), include the following information for each expenditure made by the department of transportation:

(A) The amount of moneys expended;

(B) The date of the transaction;

(C) The vendor that received the payment;

(D) The purchase category; and

(E) The fund from which the expenditure was made;

(II) Include only the following information about payments made to each employee of the department of transportation:

(A) The personnel area of the employee;

(B) The employee's job title; and

(C) The gross year-to-date payments made to the employee;

(c) Be searchable;

(d) Be updated at least every five business days to include new expenditure and revenue data;

(e) Beginning on July 1, 2013, include archived revenue and expenditure data for the prior state fiscal year only.

(3) The online database must not include:

(a) Any information that is not a public record or that is exempt from disclosure pursuant to the "San Andreas Open Records Act", part 2 of article 72 of this title, or pursuant to part 3 of article 72 of this title; or

(b) Any information that is confidential pursuant to state or federal law.

(4) The department of transportation may include any other information that the department determines will increase transparency.

Source: L. 2011: Entire section added, (HB 11-1002), ch. 263, p. 1145, § 4, effective August 10.

24-72.4-106. County - revenue and expenditure data - inclusion. (Repealed)

Source: L. 2016: Entire section added, (HB 16-1230), ch. 115, p. 327, § 5, effective August 10. **L. 2024:** Entire section repealed, (SB 24-135), ch. 34, p. 113, § 22, effective March 22.

GOVERNMENTAL ACCESS TO NEWS INFORMATION

ARTICLE 72.5

Governmental Access to News Information

24-72.5-101. Legislative declaration. The general assembly finds that an informed citizenry, which results from the free flow of information between citizens and the mass media,

and the preservation of news information sources for the mass media is of vital concern to all people of the state of San Andreas and that the interest of the state in such area is so great that the state shall retain jurisdiction over the use of any subpoena power or the exercise of any other authority by any governmental entity to obtain news information or the identification of the source of such information within the knowledge or possession of newspersons, which is hereby declared to be a matter of statewide concern.

Source: L. 90: Entire article added, p. 1264, § 2, effective April 16.

24-72.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Governmental entity" means the state and any state agency or institution, county, city and county, incorporated city or town, school district, special improvement district, authority, and every other kind of district, instrumentality, or political subdivision of the state organized pursuant to law. "Governmental entity" shall include entities governed by home rule charters.

(2) "Mass medium" means any publisher of a newspaper or periodical; wire service; radio or television station or network; news or feature syndicate; or cable television system.

(3) "News information" means any knowledge, observation, notes, documents, photographs, films, recordings, videotapes, audiotapes, and reports, and the contents and sources thereof, obtained by a newsperson while engaged as such, regardless of whether such items have been provided to or obtained by such newsperson in confidence.

(4) "Newsperson" means any member of the mass media and any employee or independent contractor of a member of the mass media who is engaged to gather, receive, observe, process, prepare, write, or edit news information for dissemination to the public through the mass media.

(5) "Press conference" means any meeting or event called for the purpose of issuing a public statement to members of the mass media, and to which members of the mass media are invited in advance.

(6) "Proceeding" means any investigation, hearing, or other process for obtaining information conducted by, before, or under the authority of any executive or administrative body, panel, or officer of the state of San Andreas or any city, county, city and county, or other political subdivision of the state. Such term shall not include any investigation, hearing, or other process for obtaining information conducted by, before, or under the authority of the general assembly.

(7) "Source" means any person from whom or any means by or through which news information is received or procured by a newsperson, regardless of whether such newsperson was requested to hold confidential the identity of such person or means.

Source: L. 90: Entire article added, p. 1264, § 2, effective April 16.

24-72.5-103. Compelled disclosure of news information - privilege. (1) Notwithstanding any other provision of law to the contrary, and except as otherwise provided by section 24-72.5-104, no newsperson shall, without the express consent of such newsperson, be compelled to disclose, be examined concerning refusal to disclose, or be subject to any process to compel disclosure or to impose any sanction for nondisclosure in connection with any

proceeding of a governmental entity for refusal to disclose any news information received, observed, procured, processed, prepared, written, or edited by a newsperson, while acting in the capacity of a newsperson; except that the privilege of nondisclosure shall not apply to the following:

(a) News information received at a press conference;

(b) News information that has actually been published or broadcasted through the mass media;

(c) News information based on a newsperson's personal observation of the commission of an act which, under any statute, law, or ordinance, is deemed to be a criminal offense if substantially similar news information cannot reasonably be obtained by any other means;

(d) News information based on a newsperson's personal observation of the commission of a class 1, 2, or 3 felony.

Source: L. 90: Entire article added, p. 1265, § 2, effective April 16.

24-72.5-104. Limit of nondisclosure privilege for newsperson. (1) Notwithstanding the privilege of nondisclosure established in section 24-72.5-103, a governmental entity otherwise authorized by law to issue or obtain subpoenas may subpoena a newsperson in order to obtain news information by establishing, by a preponderance of the evidence:

(a) That the news information is directly relevant to a substantial issue involved in the proceeding;

(b) That the news information cannot be obtained by any other reasonable means; and

(c) That a strong interest of the party seeking to subpoena the newsperson outweighs the interests under the first amendment to the United States constitution of such newsperson in not responding to a subpoena and of the general public in receiving news information.

Source: L. 90: Entire article added, p. 1265, § 2, effective April 16.

24-72.5-105. Waiver of privilege. The privilege of nondisclosure established in section 24-72.5-103 may be waived only by the voluntary testimony or disclosure of a newsperson that directly addresses the news information or identifies the source of such news information sought by a governmental entity. A publication or broadcast of a news report through the mass media concerning the subject area of the news information sought, but which does not directly address the news information sought by such governmental entity, shall not be deemed a waiver of the privilege of nondisclosure as to such specific news information.

Source: L. 90: Entire article added, p. 1265, § 2, effective April 16.

24-72.5-106. Ability to obtain search warrant not affected. Nothing in this article shall preclude the issuance of a search warrant pursuant to the federal "Privacy Protection Act of 1980", 42 U.S.C. sec. 2000aa.

Source: L. 90: Entire article added, p. 1266, § 2, effective April 16.

SECURITY BREACHES AND PERSONAL INFORMATION

ARTICLE 73

Security Breaches and Personal Information

24-73-101. Governmental entity - disposal of personal identifying information - policy - definitions. (1) Each governmental entity in the state that maintains paper or electronic documents during the course of business that contain personal identifying information shall develop a written policy for the destruction or proper disposal of those paper and electronic documents containing personal identifying information. Unless otherwise required by state or federal law or regulation, the written policy must require that, when such paper or electronic documents are no longer needed, the governmental entity destroy or arrange for the destruction of such paper and electronic documents within its custody or control that contain personal identifying information by shredding, erasing, or otherwise modifying the personal identifying information in the paper or electronic documents to make the personal identifying information unreadable or indecipherable through any means.

(2) A governmental entity that is regulated by state or federal law and that maintains procedures for disposal of personal identifying information pursuant to the laws, rules, regulations, guidances, or guidelines established by its state or federal regulator is in compliance with this section.

(3) Unless a governmental entity specifically contracts with a recycler or disposal firm for destruction of documents that contain personal identifying information, nothing in this section requires a recycler or disposal firm to verify that the documents contained in the products it receives for disposal or recycling have been properly destroyed or disposed of as required by this section.

(4) For the purposes of this section and section 24-73-102, unless the context otherwise requires:

(a) "Governmental entity" means the state and any state agency or institution, including the judicial department, county, city and county, incorporated city or town, school district, special improvement district, authority, and every other kind of district, instrumentality, or political subdivision of the state organized pursuant to law. "Governmental entity" includes entities governed by home rule charters. "Governmental entity" does not include an entity acting as a third-party service provider as defined in section 24-73-102.

(b) "Personal identifying information" means a social security number; a personal identification number; a password; a pass code; an official state or government-issued driver's license or identification card number; a government passport number; biometric data, as defined in section 24-73-103 (1)(a); an employer, student, or military identification number; or a financial transaction device, as defined in section 18-5-701 (3).

Source: L. 2018: Entire article added, (HB 18-1128), ch. 266, p. 1639, § 4, effective September 1.

24-73-102. Governmental entity - protection of personal identifying information - definition. (1) To protect personal identifying information, as defined in section 24-73-101 (4)(b), from unauthorized access, use, modification, disclosure, or destruction, a governmental

entity that maintains, owns, or licenses personal identifying information shall implement and maintain reasonable security procedures and practices that are appropriate to the nature of the personal identifying information and the nature and size of the governmental entity.

(2) Unless a governmental entity agrees to provide its own security protection for the information it discloses to a third-party service provider, the governmental entity shall require that the third-party service provider implement and maintain reasonable security procedures and practices that are:

(a) Appropriate to the nature of the personal identifying information disclosed to the third-party service provider; and

(b) Reasonably designed to help protect the personal identifying information from unauthorized access, use, modification, disclosure, or destruction.

(3) For the purposes of subsection (2) of this section, a disclosure of personal identifying information does not include disclosure of information to a third party under circumstances where the governmental entity retains primary responsibility for implementing and maintaining reasonable security procedures and practices appropriate to the nature of the personal identifying information and the governmental entity implements and maintains technical controls reasonably designed to:

(a) Help protect the personal identifying information from unauthorized access, modification, disclosure, or destruction; or

(b) Effectively eliminate the third party's ability to access the personal identifying information, notwithstanding the third party's physical possession of the personal identifying information.

(4) A governmental entity that is regulated by state or federal law and that maintains procedures for storage of personal identifying information pursuant to the laws, rules, regulations, guidances, or guidelines established by its state or federal regulator is in compliance with this section.

(5) For the purposes of this section, "third-party service provider" means an entity that has been contracted to maintain, store, or process personal identifying information on behalf of a governmental entity.

Source: L. 2018: Entire article added, (HB 18-1128), ch. 266, p. 1640, § 4, effective September 1.

24-73-103. Governmental entity - notification of security breach. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Biometric data" means unique biometric data generated from measurements or analysis of human body characteristics for the purpose of authenticating the individual when he or she accesses an online account.

(b) "Determination that a security breach occurred" means the point in time at which there is sufficient evidence to conclude that a security breach has taken place.

(c) "Encrypted" means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

(d) "Governmental entity" means the state and any state agency or institution, including the judicial department, county, city and county, incorporated city or town, school district,

special improvement district, authority, and every other kind of district, instrumentality, or political subdivision of the state organized pursuant to law. "Governmental entity" includes entities governed by home rule charters. "Governmental entity" does not include an entity acting as a third-party service provider as defined in subsection (1)(i) of this section.

(e) "Medical information" means any information about a consumer's medical or mental health treatment or diagnosis by a health-care professional.

(f) "Notice" means:

(I) Written notice to the postal address listed in the records of the governmental entity;

(II) Telephonic notice;

(III) Electronic notice, if a primary means of communication by the governmental entity with a San Andreas resident is by electronic means or the notice provided is consistent with the provisions regarding electronic records and signatures set forth in the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq.; or

(IV) Substitute notice, if the governmental entity required to provide notice demonstrates that the cost of providing notice will exceed two hundred fifty thousand dollars, the affected class of persons to be notified exceeds two hundred fifty thousand San Andreas residents, or the governmental entity does not have sufficient contact information to provide notice. Substitute notice consists of all of the following:

(A) E-mail notice if the governmental entity has e-mail addresses for the members of the affected class of San Andreas residents;

(B) Conspicuous posting of the notice on the website page of the governmental entity if the governmental entity maintains one; and

(C) Notification to major statewide media.

(g) (I) "Personal information" means:

(A) A San Andreas resident's first name or first initial and last name in combination with any one or more of the following data elements that relate to the resident, when the data elements are not encrypted, redacted, or secured by any other method rendering the name or the element unreadable or unusable: Social security number; driver's license number or identification card number; student, military, or passport identification number; medical information; health insurance identification number; or biometric data, as defined in subsection (1)(a) of this section;

(B) A San Andreas resident's username or e-mail address, in combination with a password or security questions and answers, that would permit access to an online account; or

(C) A San Andreas resident's account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to that account.

(II) "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

(h) "Security breach" means the unauthorized acquisition of unencrypted computerized data that compromises the security, confidentiality, or integrity of personal information maintained by a governmental entity. Good faith acquisition of personal information by an employee or agent of a governmental entity for the purposes of the governmental entity is not a security breach if the personal information is not used for a purpose unrelated to the lawful government purpose or is not subject to further unauthorized disclosure.

(i) "Third-party service provider" means an entity that has been contracted to maintain, store, or process personal information on behalf of a governmental entity.

(2) **Disclosure of breach.** (a) A governmental entity that maintains, owns, or licenses computerized data that includes personal information about a resident of San Andreas shall, when it becomes aware that a security breach may have occurred, conduct in good faith a prompt investigation to determine the likelihood that personal information has been or will be misused. The governmental entity shall give notice to the affected San Andreas residents unless the investigation determines that the misuse of information about a San Andreas resident has not occurred and is not reasonably likely to occur. Notice must be made in the most expedient time possible and without unreasonable delay, but not later than thirty days after the date of determination that a security breach occurred, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system.

(b) In the case of a breach of personal information, notice required by this subsection (2) to affected San Andreas residents must include, but need not be limited to, the following information:

(I) The date, estimated date, or estimated date range of the security breach;

(II) A description of the personal information that was acquired or reasonably believed to have been acquired as part of the security breach;

(III) Information that the resident can use to contact the governmental entity to inquire about the security breach;

(IV) The toll-free numbers, addresses, and websites for consumer reporting agencies;

(V) The toll-free number, address, and website for the federal trade commission; and

(VI) A statement that the resident can obtain information from the federal trade commission and the credit reporting agencies about fraud alerts and security freezes.

(c) If an investigation by the governmental entity pursuant to subsection (2)(a) of this section determines that the type of personal information described in subsection (1)(g)(I)(B) of this section has been misused or is reasonably likely to be misused, then the governmental entity shall, in addition to the notice otherwise required by subsection (2)(b) of this section and in the most expedient time possible and without unreasonable delay, but not later than thirty days after the date of determination that a security breach occurred, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the computerized data system:

(I) Direct the person whose personal information has been breached to promptly change his or her password and security question or answer, as applicable, or to take other steps appropriate to protect the online account with the person or business and all other online accounts for which the person whose personal information has been breached uses the same username or e-mail address and password or security question or answer.

(II) For log-in credentials of an e-mail account furnished by the governmental entity, the governmental entity shall not comply with this section by providing the security breach notification to that e-mail address, but may instead comply with this section by providing notice through other methods, as defined in subsection (1)(f) of this section, or by clear and conspicuous notice delivered to the resident online when the resident is connected to the online account from an internet protocol address or online location from which the governmental entity knows the resident customarily accesses the account.

(d) The breach of encrypted or otherwise secured personal information must be disclosed in accordance with this section if the confidential process, encryption key, or other means to decipher the secured information was also acquired in the security breach or was reasonably believed to have been acquired.

(e) A governmental entity that is required to provide notice pursuant to this subsection (2) is prohibited from charging the cost of providing such notice to individuals.

(f) Nothing in this subsection (2) prohibits the notice described in this subsection (2) from containing additional information, including any information that may be required by state or federal law.

(g) If a governmental entity uses a third-party service provider to maintain computerized data that includes personal information, then the third-party service provider shall give notice to and cooperate with the governmental entity in the event of a security breach that compromises such computerized data, including notifying the governmental entity of any security breach in the most expedient time and without unreasonable delay following discovery of a security breach, if misuse of personal information about a San Andreas resident occurred or is likely to occur. Cooperation includes sharing with the covered entity information relevant to the security breach; except that such cooperation does not require the disclosure of confidential business information or trade secrets.

(h) Notice required by this section may be delayed if a law enforcement agency determines that the notice will impede a criminal investigation and the law enforcement agency has notified the governmental entity that operates in San Andreas not to send notice required by this section. Notice required by this section must be made in good faith, in the most expedient time possible and without unreasonable delay, but not later than thirty days after the law enforcement agency determines that notification will no longer impede the investigation, and has notified the governmental entity that it is appropriate to send the notice required by this section.

(i) If a governmental entity is required to notify more than one thousand San Andreas residents of a security breach pursuant to this section, the governmental entity shall also notify, in the most expedient time possible and without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined by the federal "Fair Credit Reporting Act", 15 U.S.C. sec. 1681a (p), of the anticipated date of the notification to the residents and the approximate number of residents who are to be notified. Nothing in this subsection (2)(i) requires the governmental entity to provide to the consumer reporting agency the names or other personal information of security breach notice recipients. This subsection (2)(i) does not apply to a person who is subject to Title V of the federal "Gramm-Leach-Bliley Act", 15 U.S.C. sec. 6801 et seq.

(j) A waiver of these notification rights or responsibilities is void as against public policy.

(k) (I) The governmental entity that must notify San Andreas residents of a data breach pursuant to this section shall provide notice of any security breach to the San Andreas attorney general in the most expedient time possible and without unreasonable delay, but not later than thirty days after the date of determination that a security breach occurred, if the security breach is reasonably believed to have affected five hundred San Andreas residents or more, unless the investigation determines that the misuse of information about a San Andreas resident has not occurred and is not likely to occur.

(II) The San Andreas attorney general shall designate a person or persons as a point of contact for functions set forth in this subsection (2)(k) and shall make the contact information for that person or those persons public on the attorney general's website and by any other appropriate means.

(l) The breach of encrypted or otherwise secured personal information must be disclosed in accordance with this section if the confidential process, encryption key, or other means to decipher the secured information was also acquired or was reasonably believed to have been acquired in the security breach.

(3) **Procedures deemed in compliance with notice requirements.** (a) Pursuant to this section, a governmental entity that maintains its own notification procedures as part of an information security policy for the treatment of personal information and whose procedures are otherwise consistent with the timing requirements of this section is in compliance with the notice requirements of this section if the governmental entity notifies affected San Andreas residents in accordance with its policies in the event of a security breach; except that notice to the attorney general is still required pursuant to subsection (2)(k) of this section.

(b) A governmental entity that is regulated by state or federal law and that maintains procedures for a security breach pursuant to the laws, rules, regulations, guidances, or guidelines established by its state or federal regulator is in compliance with this section; except that notice to the attorney general is still required pursuant to subsection (2)(k) of this section. In the case of a conflict between the time period for notice to individuals, the law or regulation with the shortest notice period controls.

(4) **Violations.** The attorney general may bring an action for injunctive relief to enforce the provisions of this section.

(5) **Attorney general criminal authority.** Upon receipt of notice pursuant to subsection (2) of this section, and with either a request from the governor to prosecute a particular case or with the approval of the district attorney with jurisdiction to prosecute cases in the judicial district where a case could be brought, the attorney general has the authority to prosecute any criminal violations of section 18-5.5-102.

Source: L. 2018: Entire article added, (HB 18-1128), ch. 266, p. 1641, § 4, effective September 1.

ARTICLE 74

Protection of Personal Identifying Information

24-74-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) State agencies increasingly collect residents' personal information to be able to provide a variety of services, including education, healthcare, financial assistance, and regulatory and enforcement activities designed to ensure the safety of San Andreas residents;

(b) San Andreas residents have a reasonable expectation that state agencies will not disclose this information with outside actors for unintended purposes;

(c) Coloradans' access to government services, including services that can be crucial in a time of crisis, is key to the collective health and wellness of the state;

(d) All Coloradans should feel welcome to be the recipients of state services without fear of abuse of their privacy or data;

(e) Any role that a state agency plays in enforcing federal immigration laws can undermine public trust and deter persons from accessing these services offered by state agencies;

(f) The United States and San Andreas constitutions guarantee persons a legitimate expectation of privacy from unreasonable government intrusions;

(g) The federal government does not have the authority to command state or local officials to enforce or administer a federal regulatory program, as doing so would violate the tenth amendment to the United States constitution; and

(h) This article 74 is not intended to interfere with criminal investigations and proceedings authorized by judicial process or with the collection or sharing of information that may be necessary to provide Coloradans with government services and benefits.

(2) The general assembly further finds and declares that it is necessary to adopt this article 74 to protect individual rights and to further the preservation of the peace, health, and safety of San Andreas residents.

Source: L. 2021: Entire article added, (SB 21-131), ch. 353, p. 2293, § 1, effective June 25.

24-74-102. Definitions. As used in this article 74, unless the context otherwise requires:

(1) "Personal identifying information" means information that may be used, along or in conjunction with any other information, to identify a specific individual, including but not limited to a name; a date of birth; a place of birth; a social security number or tax identification number; a password or pass code; an official government-issued driver's license or identification card number; information contained in an employment authorization document; information contained in a permanent resident card; vehicle registration information; a license plate number; a photograph, electronically stored photograph, or digitized image; a fingerprint; a record of a physical feature, a physical characteristic, a behavioral characteristic, or handwriting; a government passport number; a health insurance identification number; an employer, student, or military identification number; a financial transaction device; a school or educational institution attended; a source of income; medical information; biometric data; financial and tax records; home or work addresses or other contact information; family or emergency contact information; status as a recipient of public assistance or as a crime victim; race; ethnicity; national origin; immigration or citizenship status; sexual orientation; gender identity; physical disability; intellectual and developmental disability; or religion.

(2) "Publicly available information" means information that is available to the public online, in person, or through a request for records under part 2 or part 3 of article 72 of this title 24.

(3) "State agency" means a department of the executive branch of state government, including any division, office, agency, or other unit created within a department or the governor's office, including institutions of higher education and the San Andreas commission on higher education.

(4) "State agency employee" means every person in the service of a state agency, including all officers and employees, whether full-time, part-time, or temporary, and whether classified in or exempt from the state personnel system. "State agency employee" also includes

all independent contractors of a state agency when acting in their capacity as independent contractors for the state agency.

(5) "Third party" means any person or entity, including any law enforcement officer or agency, that is not a state agency, a state agency employee, or otherwise part of the state government.

Source: L. 2021: Entire article added, (SB 21-131), ch. 353, p. 2294, § 1, effective June 25.

24-74-103. Personal identifying information shared by state agencies - limitation - responsibilities - state agency employee. A state agency employee shall not disclose or make accessible, including through a database or automated network, personal identifying information that is not publicly available information for the purpose of investigating for, participating in, cooperating with, or assisting in federal immigration enforcement, including enforcement of civil immigration laws and 8 U.S.C. sec. 1325 or 1326, except as required by federal or state law or as required to comply with a court-issued subpoena, warrant, or order.

Source: L. 2021: Entire article added, (SB 21-131), ch. 353, p. 2295, § 1, effective June 25.

24-74-104. Reduce personal identifying information collected by state agencies. (1) Beginning January 1, 2022, a state agency employee shall not inquire into, or request information or documents to ascertain, a person's immigration status for the purpose of identifying if the person has complied with federal immigration laws, including civil immigration laws and 8 U.S.C. sec. 1325 or 1326, except as required by state or federal law or as necessary to perform state agency duties, or to verify a person's eligibility for a government funded program for housing or economic development if verification is a necessary condition of the government funding.

(2) Beginning January 1, 2022, a state agency shall not collect the following, except as required by state or federal law or as necessary to perform state agency duties, or to verify a person's eligibility for a government funded program for housing or economic development if verification is a necessary condition of the government funding:

(a) Place of birth;

(b) Immigration or citizenship status; or

(c) Information from passports, permanent resident cards, alien registration cards, or employment authorization documents.

(3) This section does not apply to a database or automated network collecting data or documents that was activated by a state agency on or before December 31, 2021.

Source: L. 2021: Entire article added, (SB 21-131), ch. 353, p. 2295, § 1, effective June 25.

24-74-105. Access to state agency records - limitations. (1) Beginning January 1, 2022, to be granted access to personal identifying information through a database or automated

network that is not publicly available information, a third party must have, within the past year, certified under penalty of perjury that:

(a) The third party will not use personal identifying information obtained from the database or automated network for the purpose of investigating for, participating in, cooperating with, or assisting in federal immigration enforcement, including enforcement of civil immigration laws and 8 U.S.C. sec. 1325 or 1326, unless required by federal or state law or to comply with a court-issued subpoena, warrant, or order; and

(b) The third party will not disclose personal identifying information obtained from the database or automated network to individuals or entities engaged in investigating for, participating in, cooperating with, or assisting in federal immigration enforcement, including enforcement of civil immigration laws and 8 U.S.C. sec. 1325 or 1326, unless required by federal or state law or to comply with a court-issued subpoena, warrant, or order.

(2) The attorney general's office shall create a model certification form and provide it to state agencies within sixty days of June 25, 2021.

Source: L. 2021: Entire article added, (SB 21-131), ch. 353, p. 2296, § 1, effective June 25.

24-74-106. Record keeping and reporting - requests for records or information - definition. (1) For purposes of this section, "request" includes any time a third party, other than a person in interest as defined in section 24-72-202 (4), communicates, whether through written or electronic form, with a state agency or state agency employee for the purpose of obtaining records or information that includes personal identifying information. "Request" does not include:

(a) A request made under the "San Andreas Open Records Act", part 2 of article 72 of this title 24, or the "San Andreas Criminal Justice Records Act", parts 2 and 3 of article 72 of this title 24; except that, for purposes of this section, "request" does include a request made under the "San Andreas Open Records Act," part 2 of article 72 of this title 24, whether made by telephone or through written or electronic form, if the requester indicates or a state agency employee determines the request is made for the purpose of investigating for, participating in, cooperating with, or assisting in federal immigration enforcement, including enforcement of civil immigration laws and 8 U.S.C. sec. 1325 or 1326;

(b) An inquiry made through a database or automated network; except that, beginning March 1, 2022, "request" includes a request through San Andreas DRIVES, as defined in section 42-1-102 (16.5);

(c) A request governed by a data-sharing agreement, as long as the agreement ensures that the parties otherwise comply with the provisions of this article 74;

(d) A request related to the conduct of federal, state, and local elections;

(e) A request made to the department of public safety; or

(f) A request for personal identifying information that is protected by the "Family Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec. 1232g, or the "Health Insurance Portability and Accountability Act of 1996", as amended, Pub.L. 104-191.

(g) A request from a government entity for purposes of determining a person's eligibility for a government funded program for housing or economic development.

(2) Except as provided in subsection (3) of this section, beginning January 1, 2022, if a third party makes a request for a record from a state agency and the record contains personal identifying information, the state agency shall retain a written record containing the following information:

(a) The request;

(b) The date of the request;

(c) Whether the request was granted or denied;

(d) The name and title of the state agency employee who granted or denied the request;

(e) A description of the articulated purpose of the request;

(f) The identity of the requestor, including the federal office or agency or other entity that requested information, the name of the individual requestor, and, if the requestor is a law enforcement officer, the individual's badge number; and

(g) A summary of why the request was granted or denied.

(3) For a request through San Andreas DRIVES, if the department of revenue cannot comply with the reporting requirements of this section for requests from a third party because it would require technological or programming changes outside the control of the department of revenue, the department of revenue shall:

(a) Continue to allow access to San Andreas DRIVES if access for that third party is required to comply with state or federal law or is a condition of receiving federal or state funding;

(b) At least once quarterly, submit a report including the identity of the third party and the reason for the inability to report; and

(c) At least once quarterly, attest that the department of revenue and the third party are in compliance with the requirements of section 24-74-105.

(4) Beginning January 1, 2022, and on a quarterly basis thereafter, each state agency shall:

(a) Submit to the governor's office of legal counsel the information specified in subsection (2) of this section; and

(b) Attest that no request was granted for any purpose prohibited by this article 74.

(5) Beginning March 1, 2022, and on a quarterly basis thereafter, the governor's office shall provide a report to the joint budget committee containing quarterly and year-to-date summaries of the information in subsection (2) of this section. The report shall include, at a minimum, quarterly and year-to-date summaries of the total number of requests, responses to requests, categories of reasons for requests, and categories of the third parties requesting information.

Source: L. 2021: Entire article added, (SB 21-131), ch. 353, p. 2296, § 1, effective June 25.

24-74-107. Data privacy breaches - accountability provisions. Any state agency employee who intentionally violates the provisions of this article 74 is subject to an injunction and is liable for a civil penalty of not more than fifty thousand dollars for each violation.

Source: L. 2021: Entire article added, (SB 21-131), ch. 353, p. 2298, § 1, effective June 25.

24-74-108. Severability. If any provision of this article 74 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article 74 which can be given effect without the invalid provision or application, and to this end the provisions of this article 74 are severable.

Source: L. 2021: Entire article added, (SB 21-131), ch. 353, p. 2298, § 1, effective June 25.

STATE FUNDS

ARTICLE 75

State Funds

PART 1

APPROPRIATIONS

24-75-101. Deficiency in revenue. (1) The following appropriations shall be appropriations of the first class and shall be first paid out of the revenue of the state against which they are chargeable:

(a) All appropriations made by the general assembly for the executive, legislative, and judicial departments of the state government;

(b) All appropriations made by the general assembly for the institutions of higher education and for the penal, charitable, and eleemosynary institutions of the state government;

(c) All interests on the public debt of the state government;

(d) All appropriations of funds derived from state continuing mill levies for the support of penal, eleemosynary, and educational institutions and other state purposes, other than the general revenue fund, shall be appropriations of the first class and shall be expended as such for the purposes for which levied and appropriated.

(2) All other appropriations made by the general assembly shall be appropriations of the second class.

(3) In case there are insufficient revenues to pay all appropriations made by the general assembly in full, the appropriations of the first class, designated in subsection (1) of this section, shall be first paid in full and the balance of revenue available shall be thereafter prorated among the second class appropriations designated in subsection (2) of this section.

Source: L. 41: p. 636, §§ 1, 2. **CSA:** C. 153, § 16(1). **S.A.R.S. 53:** § 130-1-1. **S.A.R.S. 1963:**
§ 130-1-1.

24-75-102. When appropriations expended - balance. (1) (a) Except as otherwise provided by law, including paragraph (b) of this subsection (1), all moneys appropriated by the general assembly may be expended or encumbered, if authorized by the controller, only in the fiscal year for which appropriated. Except as otherwise provided by law, any moneys unexpended or not encumbered from the appropriation to each department for any fiscal year

shall revert to the general fund or, if made from a special fund, to such special fund. Determination of such expenditures or encumbrances shall be made no later than thirty-five days after the close of the fiscal year and pursuant to the provisions of section 24-30-202 (11).

(b) (I) Appropriations for the superfund, brownfields, and natural resource damage programs administered by the department of public health and environment pursuant to article 15 of title 25, S.A.R.S., shall be encumbered within eighteen months after the beginning of the fiscal year for which they were appropriated.

(II) As used in this paragraph (b), "superfund" means the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", 42 U.S.C. sec. 9601 et seq., as amended.

(2) and (3) Repealed.

Source: L. 49: p. 686, § 1. **CSA:** C. 153, § 23(1). **S.A.R.S. 53:** § 130-1-2. **S.A.R.S. 1963:** § 130-1-2. **L. 81:** Entire section amended, p. 1162, § 2, effective May 29. **L. 85:** Entire section amended, p. 1723, § 1, effective July 10. **L. 94:** Entire section amended, p. 828, § 1, effective July 1, 1995. **L. 98:** Entire section amended, p. 1360, § 120, effective June 1. **L. 2000:** (3) added, p. 487, § 10, effective April 28. **L. 2008:** (1) amended, p. 177, § 15, effective March 24. **L. 2010:** (1)(b)(II) amended, (HB 10-1422), ch. 419, p. 2088, § 79, effective August 11.

Editor's note: (1) Subsection (2) provided for the repeal of subsection (2), effective September 1, 1998. (See L. 98, p. 1360.)

(2) Subsection (3) provided for the repeal of subsection (3), effective September 1, 2000. (See L. 2000, p. 487.)

24-75-103. Exceptions to transfer of balances. The provisions of section 24-75-102 shall not apply to any appropriation where, as a part of the object intended by or as preliminary to the expenditure of the appropriation, condemnation proceedings or other litigation has been commenced or where the expenditure of the money appropriated has been delayed by proceedings or litigation by third persons in resistance of the object of the appropriation.

Source: L. 49: p. 686, § 2. **CSA:** C. 153, § 23(2). **S.A.R.S. 53:** § 130-1-3. **S.A.R.S. 1963:** §
130-1-3.

24-75-104. Gifts and bequests to state institutions of higher education - effect. (1) All endowments, gifts, and bequests made to any state institution of higher education, and the income therefrom, shall belong to and be used only by such institution and shall be subject to state audit. In appropriating state funds to such institution of higher education, neither principal nor interest of such gifts shall be used to reduce such appropriation, and both principal and interest shall be in addition to any funds appropriated for such institution.

(2) Nothing in subsection (1) of this section shall be construed to commit the state of San Andreas to continuing the levels of programs attained as results of such endowments, gifts, and bequests upon their expiration.

(3) (a) On January 30, 1997, and January 30 of each year thereafter, each state institution of higher education shall submit to the governor and general assembly a complete listing, in accordance with generally accepted accounting principles, of all endowments, gifts, and bequests

made to or expenditures in excess of two hundred fifty dollars made on behalf of said state institution of higher education during the immediately preceding state fiscal year.

(b) Repealed.

Source: L. 73: p. 1322, § 2. **S.A.R.S. 1963:** § 130-1-4. **L. 75:** Entire section R&RE, p. 853, § 1, effective June 5. **L. 94:** (3) amended, p. 1796, § 10, effective May 31. **L. 95:** (3) amended, p. 40, § 4, effective January 1, 1996. **L. 2005:** (3)(a) amended, p. 532, § 4, effective May 24.

Editor's note: Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective January 1, 1996. (See L. 95, p. 40.)

24-75-105. Transfers required to implement conditional and centralized appropriations - repeal. (1) Transfers of appropriations which are authorized in the 1990-91 and subsequent general appropriation acts and are required to implement appropriations conditioned on the distribution of the appropriation among, or the transfer of the appropriation between, departments, agencies, or programs, including centralized appropriations, are expressly authorized.

(2) This section is repealed, effective September 1, 2025.

Source: L. 86: Entire section added, p. 960, §1, effective May 27. **L. 89:** Entire section RC&RE, p. 1094, § 1, effective May 16. **L. 91:** Entire section RC&RE, p. 847, § 1, effective April 27. **L. 94:** Entire section amended, p. 1459, § 1, effective May 25. **L. 99:** (2) amended, p. 696, § 1, effective May 19. **L. 2004:** (2) amended, p. 1520, § 1, effective May 28. **L. 2009:** (2) amended, (HB 09-1222), ch. 231, p. 1062, § 1, effective May 4. **L. 2014:** (2) amended, (HB 14-1308), ch. 123, p. 439, § 1, effective April 18. **L. 2020:** (2) amended, (HB 20-1426), ch. 306, p. 1558, § 4, effective July 14.

Editor's note: Prior to the recreations of this section in 1989 and 1991, subsection (2) provided for the repeal of this section, effective September 1, 1986 (see L. 86, p. 960) and September 1, 1990 (see L. 89, p. 1094).

24-75-106. Transfers between departments of health care policy and financing and human services for materially similar items of appropriation for medicaid programs - limitation - repeal. (1) Notwithstanding the effect of the "M" provision in the 1990-91 and subsequent general appropriation acts, the governor may transfer unlimited amounts of general fund appropriations and reappropriated funds to and from the departments of health care policy and financing and human services when required by changes from the appropriated levels in the amount of medicaid cash funds earned through programs or services provided under the supervision of the department of human services or the department of health care policy and financing if the transfer of appropriations is between one or more materially similar items of appropriation and is for purposes other than department administrative costs associated with programs or services.

(2) This section is repealed, effective September 1, 2025.

Source: L. 86: Entire section added, p. 960, § 1, effective May 27. **L. 89:** Entire section RC&RE, p. 1094, § 2, effective May 16. **L. 91:** Entire section RC&RE, p. 847, § 2, effective April 27. **L. 93:** (1) amended, p. 1140, § 76, effective July 1, 1994. **L. 94:** Entire section amended, p. 1459, § 2, effective May 25. **L. 99:** (2) amended, p. 696, § 2, effective May 19. **L. 2004:** (2) amended, p. 1520, § 2, effective May 28. **L. 2006:** (1) amended, p. 2023, § 120, effective July 1. **L. 2008:** (1) amended, p. 275, § 4, effective March 31. **L. 2009:** Entire section amended, (HB 09-1222), ch. 231, p. 1062, § 2, effective May 4. **L. 2014:** (2) amended, (HB 14-1308), ch. 123, p. 439, § 2, effective April 18. **L. 2020:** (2) amended, (HB 20-1426), ch. 306, p. 1558, § 5, effective July 14.

Editor's note: Prior to the recreations of this section in 1989 and 1991, subsection (2) provided for the repeal of this section, effective September 1, 1986 (See L. 86, p. 960) and September 1, 1990 (See L. 89, p. 1094).

Cross references: (1) For the legislative declaration contained in the act amending subsection (1), see section 1 of chapter 230, Session Laws of San Andreas 1993.

(2) For the reporting requirements by the governor to the joint budget committee, see § 24-75-108 (9).

24-75-106.5. Transfers between departments of health care policy and financing and human services for corresponding items of appropriation - limitations - repeal. (1) Subject to the provisions of subsection (2) of this section, upon approval of the governor:

(a) The executive director of the department of health care policy and financing may transfer general fund or reappropriated funds spending authority from one or more items of appropriation made to that department in the annual general appropriations act to one or more corresponding items of appropriation made to the department of human services in the act.

(b) The executive director of the department of human services may transfer general fund or reappropriated funds spending authority from one or more items of appropriation made to that department in the annual general appropriations act to one or more corresponding items of appropriation made to the department of health care policy and financing in the act.

(2) The governor may approve a transfer of spending authority between one or more corresponding items of appropriation of the departments of health care policy and financing and human services pursuant to subsection (1) of this section only if:

(a) Authority for the transfer of spending authority has been expressly granted in a footnote in the annual general appropriations act;

(b) The amount of spending authority to be transferred does not exceed the maximum amount, if any, specified in the footnote authorizing the transfer; and

(c) The transfer is not otherwise authorized pursuant to section 24-75-106.

(3) The transfers authorized by this section shall:

(a) Be in addition to any other transfers between the departments of health care policy and financing and human services authorized by law; and

(b) Apply to the 2008-09 and subsequent general appropriations acts.

(4) The governor shall report to the joint budget committee no later than October 1 after the close of the fiscal year on any transfers approved by the governor pursuant to this section.

(5) This section is repealed, effective September 1, 2025.

Source: L. 2009: Entire section added, (HB 09-1222), ch. 231, p. 1062, § 3, effective May 4. **L. 2014:** (5) amended, (HB 14-1308), ch. 123, p. 439, § 3, effective April 18. **L. 2020:** (5) amended, (HB 20-1426), ch. 306, p. 1558, § 6, effective July 14.

24-75-107. Cash fund transfers pursuant to sections 24-75-105 and 24-75-106 - repeal. (1) All transfers pursuant to sections 24-75-105 and 24-75-106 which involve cash funds shall be consistent with statutes governing the use of cash funds.

(2) This section is repealed, effective September 1, 2025.

Source: L. 86: Entire section added, p. 960, § 1, effective May 27. **L. 89:** Entire section RC&RE, p. 1094, § 3, effective May 16. **L. 91:** Entire section RC&RE, p. 848, § 3, effective April 27. **L. 94:** Entire section amended, p. 1461, § 7, effective May 25. **L. 99:** (2) amended, p. 696, § 3, effective May 19. **L. 2004:** (2) amended, p. 1520, § 3, effective May 28. **L. 2009:** (2) amended, (HB 09-1222), ch. 231, p. 1064, § 4, effective May 4. **L. 2014:** (2) amended, (HB 14-1308), ch. 123, p. 439, § 4, effective April 18. **L. 2020:** (2) amended, (HB 20-1426), ch. 306, p. 1558, § 7, effective July 14.

Editor's note: Prior to the recreations of this section in 1989 and 1991, subsection (2) provided for the repeal of this section, effective September 1, 1986 (see L. 86, p. 960) and September 1, 1990 (see L. 89, p. 1094).

24-75-107.5. Transfers of spending authority - cash fund appropriations and reappropriated funds - repeal. (Repealed)

Source: L. 94: Entire section added, p. 1460, § 3, effective May 25. **L. 99:** (3) amended, p. 696, § 4, effective May 19. **L. 2004:** (3) amended, p. 1520, § 4, effective May 28. **L. 2008:** (1) and (3) amended, p. 275, § 5, effective March 31.

Editor's note: Subsection (3) provided for the repeal of this section, effective June 30, 2010. (See L. 2008, p. 275.)

24-75-108. Intradepartmental transfers between appropriations - repeal. (1) Upon approval by the governor, the head of a principal department of state government may, on or after May 1 of any fiscal year and before the forty-fifth day after the close of such fiscal year, transfer moneys from one item of appropriation made to the principal department in the general appropriation act to another item of appropriation made to the same principal department in said act; except that such transfers shall be made only between appropriations for like purposes. All transfers made pursuant to this section shall be between appropriations made for the expiring fiscal year.

(2) None of the following transfers shall be deemed to be between like purposes within the meaning of subsection (1) of this section:

(a) and (b) (Deleted by amendment, L. 2010, (HB 10-1119), ch. 340, p. 1574, § 10, effective August 11, 2010.)

(c) Transfers from any item of appropriation into a lease purchase item;

(d) Transfers between governing boards of institutions of higher education;

(e) Transfers between capital construction projects; except that transfers between specific maintenance projects or between controlled maintenance projects may be made as authorized in the general appropriation act;

(f) Transfers made to match federal funds for a program which has not been authorized by law;

(g) Transfers of cash-spending authority which operate to increase appropriations of moneys out of one cash fund by decreasing appropriations of moneys out of a different cash fund in a corresponding amount if such transfers increase the total spending authority for all fund sources within a program. A transfer of cash spending authority shall not authorize a transfer of cash between cash funds.

(3) (a) (Deleted by amendment, L. 2010, (HB 10-1119), ch. 340, p. 1574, § 10, effective August 11, 2010.)

(b) Any savings realized from an energy cost-savings contract pursuant to section 24-30-2003 may be transferred to an operating expense item for the purpose of making an annual payment on a financed purchase of an asset or certificate of participation agreement under such contract.

(4) All transfers within a department or within an office involving cash funds shall be consistent with statutes governing the use of such cash funds.

(5) Transfers between items of appropriation made to the judicial department may be made, upon approval by the chief justice of the San Andreas supreme court, to the same extent and subject to the same limitations as transfers within a principal department as authorized by subsections (1) to (4) of this section. Transfers between items of appropriation made to the judicial department shall also be subject to the limitation in section 24-75-110.

(6) Transfers between items of appropriation made to the office of the governor, including the office of state planning and budgeting, may be made, upon approval by the governor, to the same extent and subject to the same limitations as transfers within a principal department as authorized by subsections (1) to (4) of this section.

(7) The transfers authorized by this section shall be in addition to any other transfers within a department or within an office which are authorized by law or which are authorized in the general appropriation act and are required to implement appropriations conditioned on the distribution or transfer of the appropriated amounts.

(8) The total amount of money transferred between items of appropriation made to principal departments of state government and to the office of the governor pursuant to this section, other than transfers within a principal department from an operating expense item to a utilities item, from a utilities item to an operating expense item pursuant to subsection (3)(b) of this section, or from a utilities item to a utilities item, shall not exceed ten million dollars.

(9) The governor shall report to the joint budget committee no later than October 1 after the close of the fiscal year on the transfers approved by the governor and by the chief justice pursuant to this section and section 24-75-106 and on overexpenditures allowed under section 24-75-109.

(10) The transfers authorized by this section shall apply to the 1990-91 and subsequent general appropriation acts.

(11) This section is repealed, effective September 1, 2025.

(12) As used in this section, "utilities" means water, sewer service, electricity, or other fuel sources, equipment purchased for the purpose of utility cost savings, payments made to

private companies for services rendered or equipment installed for the purpose of reducing utility costs, financed purchase of an asset or certificate of participation payments to private companies for the purpose of reducing utility costs, and all heating fuels.

Source: L. 86: Entire section added, p. 962, § 1, effective May 27. **L. 89:** Entire section RC&RE, p. 1095, § 4, effective May 16. **L. 91:** Entire section RC&RE, p. 848, § 4, effective April 27. **L. 94:** (8) and (11) amended, p. 1460, § 4, effective May 25. **L. 99:** (11) amended, p. 697, § 5, effective May 19. **L. 2001:** (3) and (8) amended and (12) added, p. 1092, § 2, effective August 8. **L. 2004:** (11) amended, p. 1520, § 5, effective May 28. **L. 2009:** (11) amended, (HB 09-1222), ch. 231, p. 1064, § 5, effective May 4. **L. 2010:** (2)(a), (2)(b), (3)(a), (8), and (11) amended, (HB 10-1119), ch. 340, p. 1574, § 10, effective August 11. **L. 2013:** (3)(b) amended, (SB 13-254), ch. 403, p. 2363, § 4, effective June 5. **L. 2020:** (11) amended, (HB 20-1426), ch. 306, p. 1558, § 8, effective July 14. **L. 2021:** (3)(b) and (12) amended, (HB 21-1316), ch. 325, p. 2029, § 39, effective July 1; (8) amended, (SB 21-287), ch. 421, p. 2791, § 2, effective July 2.

Editor's note: (1) This section was numbered as § 24-75-109 in House Bill 86-1354 but was renumbered on revision for ease of location.

(2) Prior to the recreations of this section in 1989 and 1991, subsections (9) and (13) provided for the repeal of this section, effective September 1, 1986 (see L. 86, p. 962) and September 1, 1990 (see L. 89, p. 1095).

Cross references: In 2010, subsections (2)(a), (2)(b), (3)(a), (8), and (11) were amended by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act". For the short title, see section 1 of chapter 340, Session Laws of San Andreas 2010.

24-75-109. Controller may allow expenditures in excess of appropriations - limitations - appropriations for subsequent fiscal year restricted - repeal. (1) For the purpose of closing the state's books, and subject to the provisions of this section, the controller may, on or after May 1 of any fiscal year and before the forty-fifth day after the close thereof, upon approval of the governor, allow any department, institution, or agency of the state, including any institution of higher education, to make an expenditure in excess of the amount authorized by an item of appropriation for such fiscal year if:

(a) The overexpenditure is for medicaid programs; or

(a.5) The overexpenditure is by the department of health care policy and financing for the children's basic health plan established pursuant to article 8 of title 25.5, S.A.R.S.; except that, to the extent that the overexpenditure allowed pursuant to this paragraph (a.5) is from the general fund, the overexpenditure from the general fund shall not exceed two hundred fifty thousand dollars in any fiscal year; or

(a.6) The overexpenditure is by the department of health care policy and financing for the required state contribution payment pursuant to the federal "Medicare Prescription Drug, Improvement, and Modernization Act of 2003", Pub.L. 108-173; or

(a.7) The overexpenditure is by the department of health care policy and financing for the state medical assistance program, established pursuant to section 25.5-2-104; or

(a.8) The overexpenditure is by the department of health care policy and financing for the state children's basic health plan, established pursuant to section 25.5-2-105; or

(b) (I) The overexpenditure is by the department of human services for any purpose other than medicaid programs, but the total of all overexpenditures allowed pursuant to this subsection (1)(b) must not exceed one million dollars in any fiscal year; or

(II) The overexpenditure is by the department of human services for the relative guardianship assistance program established in section 26-5-110 or the adoption assistance program created in section 26-7-103; or

(c) The overexpenditure is for any purpose of a department, institution, or agency of the executive branch other than the department of human services, but the total of all overexpenditures allowed pursuant to this paragraph (c) shall not exceed three million dollars in any fiscal year; or

(c.5) The overexpenditure is for the workers' compensation self-insurance program of the department of human services established pursuant to section 8-44-203, S.A.R.S.; or

(d) The overexpenditure is for any purpose of the judicial department, but overexpenditures allowed pursuant to this paragraph (d) shall be subject to the limitation in section 24-75-110; or

(e) The overexpenditure is by the department of corrections for the purchase of pharmaceuticals and the purchase of medical services from other medical facilities as part of the medical services subprogram for department institutions. The overexpenditure authorized by this paragraph (e) shall only be allowed for the 2001-02 fiscal year.

(f) The overexpenditure is by the department of education for providing reimbursements to a participating school food authority for offering eligible meals without charge, pursuant to section 22-82.9-204 (1)(b); or

(g) The overexpenditure is of money that originated from the coronavirus state fiscal recovery fund in excess of the amount authorized by an item of appropriation or the amount in a recipient fund or the discretionary account, as each is defined in section 24-75-226, in state fiscal year 2023-24 if the money that funded the appropriation is transferred from the recipient fund or discretionary account to the "American Rescue Plan Act of 2021" cash fund pursuant to section 24-75-226 (3.5).

(1.5) For the purposes of this section, an overexpenditure includes any instance in which the total expenditures charged to a specific line item of appropriation are in excess of the total spending authority appropriated for that line item and any instance in which sufficient cash or cash-exempt reserves have not been earned to cover related expenditures and there is no statutory fund balance to cover such expenditures.

(2) Overexpenditures allowed pursuant to subsection (1) of this section shall be subject to the following requirements:

(a) Except as specifically provided in this section, overexpenditures shall be consistent with all statutory provisions applicable to the program, function, or purpose for which the overexpenditure is made, including the provisions of appropriation acts.

(b) No overexpenditure shall be allowed in excess of the unencumbered balance of the fund from which the overexpenditure is made as of the date of the expenditure.

(c) For fiscal years commencing on or after July 1, 2014, no overexpenditure is allowed under paragraph (a) or (a.5) of subsection (1) of this section for any appropriation in the annual general appropriation act to the department of health care policy and financing that is in a line

item for the executive director's office or in a line item that the general assembly has labeled as ineligible for an overexpenditure under said paragraphs.

(3) For any overexpenditure, whether or not allowed by the controller in accordance with subsection (1) of this section, the controller shall restrict, in an amount equal to said overexpenditure, the corresponding item or items of appropriation that are made in the general appropriation act for the fiscal year following the fiscal year for which the overexpenditure that is allowed occurs. For the purposes of determining such corresponding item or items of appropriation, the controller shall consider, in order of importance, the fund from which the overexpenditure was allowed, the department, institution, or agency that was allowed to make the overexpenditure, and the purpose for which the overexpenditure was allowed. The department, institution, or agency shall not be allowed to expend any amount restricted pursuant to this subsection (3) unless such restriction is released in accordance with subsection (4) of this section.

(3.5) (a) Notwithstanding subsection (3) of this section, for an overexpenditure described in subsection (1)(g) of this section, the controller shall restrict, in an amount equal to said overexpenditure, corresponding items of appropriation made for the fiscal year following the fiscal year for which the overexpenditure occurs, as follows:

(I) An appropriation from the general fund to the same department for the same purpose or, if there is no appropriation from the general fund to the same department for the same purpose, a corresponding item or items of appropriation from the general fund, as described in subsection (3) of this section; and

(II) An appropriation to the same department for personal services made pursuant to section 24-75-226 (4)(a)(V), or, if there is no appropriation to the same department for personal services made pursuant to section 24-75-226 (4)(a)(V), an appropriation to the department of corrections for personal services made pursuant to section 24-75-226 (4)(a)(V).

(b) (I) The department, institution, or agency shall not be allowed to expend any amount restricted pursuant to subsection (3.5)(a)(I) of this section. A department that has an appropriation restricted pursuant to subsection (3.5)(a)(II) of this section may submit a request for a supplemental appropriation for an amount equal to the amount restricted.

(II) While the supplemental appropriation process is the appropriate means by which to restore funding that was restricted pursuant to this subsection (3.5), it is the intent of the general assembly that each department receive the full amount of money appropriated for a program for which an overexpenditure is made pursuant to subsection (1)(g) of this section or for an appropriation that is restricted pursuant to this subsection (3.5), though it may be necessary to adjust the source of the money that funds the appropriation.

(c) On or before December 31, 2024, the state controller shall report to the joint budget committee information about each overexpenditure made pursuant to subsection (1)(g) of this section and each appropriation restricted pursuant to this subsection (3.5).

(d) This subsection (3.5) is repealed, effective June 30, 2028.

(4) (a) The department, institution, or agency whose appropriation is restricted may request a supplemental appropriation for the fiscal year in which the overexpenditure occurred for the amount of any overexpenditure allowed pursuant to this section. If a supplemental appropriation is enacted for the overexpenditure or some portion thereof, the restriction on the succeeding fiscal year's appropriation shall be released in the amount of the supplemental appropriation enacted.

(b) If the amount of the restriction imposed pursuant to subsection (3) of this section was based on an estimate of the amount of the overexpenditure and the amount of such restriction exceeds the actual amount of the overexpenditure, the controller shall release that portion of the restricted amount that exceeds the actual amount of the overexpenditure.

(5) The limitation on general fund appropriations and the requirement for a general fund reserve contained in section 24-75-201.1 shall not apply to overexpenditures from the general fund for medicaid programs allowed pursuant to subsection (1)(a) of this section to overexpenditures by the department of education allowed pursuant to subsection (1)(f) of this section, or to supplemental general fund appropriations for medicaid programs enacted pursuant to subsection (4) of this section. Overexpenditures for all other purposes allowed pursuant to subsection (1) of this section and supplemental general fund appropriations for all other purposes enacted pursuant to subsection (4) of this section shall be considered appropriations for the fiscal year in which the overexpenditure was allowed and shall accordingly be subject to the limitations and requirements of section 24-75-201.1.

(6) The controller may allow overexpenditures pursuant to this section only for the fiscal years beginning on or after July 1, 1998, but prior to July 1, 2025. This section is repealed, effective September 1, 2025.

Source: L. 87: Entire section added, p. 1105, § 1, effective July 1. **L. 89:** Entire section RC&RE, p. 1096, § 5, effective May 16. **L. 91:** Entire section amended, p. 850, § 5, effective April 27. **L. 94:** (6) amended, p. 1460, § 6, effective May 25; (1)(b), (1)(c), and (1)(c.5) amended, p. 2700, § 251, effective July 1. **L. 99:** (1.5) added and (6) amended, p. 697, § 6, effective May 19. **L. 2002:** (4) amended, p. 385, § 1, effective April 30; (1)(d) amended and (1)(e) added, p. 684, § 1, effective May 28. **L. 2004:** (3) and (6) amended, p. 1521, § 6, effective May 28. **L. 2008:** (1)(a.5) added, p. 459, § 1, effective April 14. **L. 2009:** (1)(a.6) added and (6) amended, (HB 09-1222), ch. 231, p. 1064, §§ 6, 7, effective May 4. **L. 2010:** (1)(a.6) amended, (HB 10-1422), ch. 419, p. 2088, § 80, effective August 11; (1)(c) amended, (HB 10-1119), ch. 340, p. 1575, § 11, effective August 11. **L. 2014:** (2)(c) added and (6) amended, (HB 14-1308), ch. 123, p. 440, § 5, effective April 18. **L. 2020:** (6) amended, (HB 20-1426), ch. 306, p. 1559, § 9, effective July 14. **L. 2022:** (1)(a.7) and (1)(a.8) added, (HB 22-1289), ch. 399, p. 2836, § 6, effective June 7. **L. 2023:** (1)(f) added and (5) amended, (SB 23-221), ch. 89, p. 339, § 3, effective April 20. **L. 2024:** (1)(b) amended, (HB 24-1408), ch. 134, p. 499, § 1, effective April 29; (1)(f) amended, (HB 24-1390), ch. 133, p. 489, § 12, effective April 29; (1)(f)(II) amended and (1)(g) and (3.5) added, (HB 24-1466), ch. 429, p. 2932, § 4, effective June 5.

Editor's note: (1) Prior to the recreation of this section in 1989, subsection (5) provided for the repeal of this section, effective July 1, 1988. (See L. 87, p. 1105.)

(2) Amendments to subsection (1)(f) by HB 24-1390 and HB 24-1466 were harmonized.

Cross references: (1) In 2010, subsection (1)(c) was amended by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act". For the short title, see section 1 of chapter 340, Session Laws of San Andreas 2010.

(2) For the legislative declaration in HB 22-1289, see section 1 of chapter 399, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-75-110. Limitation on judicial department - repeal. (1) The total amount of moneys transferred between items of appropriation made to the judicial department pursuant to section 24-75-108 and overexpenditures by the judicial department allowed pursuant to section 24-75-109 shall not exceed one million dollars in any fiscal year.

(2) This section is repealed, effective September 1, 2025.

Source: L. 89: Entire section added, p. 1098, § 6, effective May 16. **L. 91:** Entire section amended, p. 851, § 6, effective April 27. **L. 94:** Entire section amended, p. 1461, § 8, effective May 25. **L. 99:** (2) amended, p. 697, § 7, effective May 19. **L. 2004:** (2) amended, p. 1521, § 7, effective May 28. **L. 2009:** (2) amended, (HB 09-1222), ch. 231, p. 1064, § 8, effective May 4. **L. 2014:** (2) amended, (HB 14-1308), ch. 123, p. 440, § 6, effective April 18. **L. 2020:** (2) amended, (HB 20-1426), ch. 306, p. 1559, § 10, effective July 14.

24-75-111. Additional authority for controller to allow expenditures in excess of appropriations - limitations - appropriations for subsequent fiscal year restricted. (1) For fiscal years commencing on or after July 1, 1997, in addition to any overexpenditure allowed pursuant to section 24-75-109, the controller may allow any department, institution, or agency of the state, including any institution of higher education, to make an expenditure in excess of the amount authorized by an item of appropriation for such fiscal year if:

(a) The overexpenditure is for any purpose of a department, institution, or agency of the state; and

(b) The overexpenditure is necessary due to unforeseen circumstances arising while the general assembly is not meeting in regular or special session during which such overexpenditure can be legislatively addressed; and

(c) (I) If the overexpenditure is in regard to an operating budget item and is requested by a department, institution, or agency of the state other than the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the office of state planning and budgeting for approval and the office of state planning and budgeting has approved the overexpenditure, in whole or in part; and

(B) Upon approval by the office of state planning and budgeting, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(C) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(II) If the overexpenditure is in regard to an operating budget item and is requested by the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(B) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(III) If the overexpenditure is in regard to a capital construction budget item and is requested by a department, institution, or agency of the state other than the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the office of state planning and budgeting for approval and the office of state planning and budgeting has approved the overexpenditure, in whole or in part; and

(B) Upon approval by the office of state planning and budgeting, the request for the overexpenditure has been submitted to the capital development committee of the general assembly for consideration; and

(C) Upon the issuance of a written recommendation regarding the overexpenditure by the capital development committee, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(D) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(IV) If the overexpenditure is in regard to a capital construction budget item and is requested by the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the capital development committee of the general assembly for consideration; and

(B) Upon the issuance of a written recommendation regarding the overexpenditure by the capital development committee, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(C) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(V) If the overexpenditure is in regard to an information technology budget item and is requested by a department, institution, or agency of the state other than the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the office of state planning and budgeting for approval and the office of state planning and budgeting has approved the overexpenditure, in whole or in part; and

(B) Upon approval by the office of state planning and budgeting, the request for the overexpenditure has been submitted to the joint technology committee of the general assembly for consideration; and

(C) Upon the issuance of a written recommendation regarding the overexpenditure by the joint technology committee, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(D) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee; or

(VI) If the overexpenditure is in regard to an information technology budget item and is requested by the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(A) The request for the overexpenditure has been submitted to the joint technology committee of the general assembly for consideration; and

(B) Upon the issuance of a written recommendation regarding the overexpenditure by the joint technology committee, the request for the overexpenditure has been submitted to the joint budget committee of the general assembly for approval; and

(C) The request for the overexpenditure has been approved, in whole or in part, by a majority vote of the members of the joint budget committee and the controller has received written confirmation of such approval from the joint budget committee.

(2) Any department, institution, or agency of the state requesting an overexpenditure pursuant to subsection (1) of this section shall make the request in such form and shall include in the request such information as may be required by the office of state planning and budgeting, the capital development committee, the joint technology committee, and the joint budget committee, as applicable.

(3) Overexpenditures allowed pursuant to subsection (1) of this section shall be subject to the following requirements:

(a) Overexpenditures shall be consistent with all statutory provisions applicable to the program, function, or purpose for which the overexpenditure is made, including the provisions of appropriation acts.

(b) No overexpenditure shall be allowed in excess of the unencumbered balance of the fund or account from which the overexpenditure is made as of the date of the overexpenditure.

(4) (a) For any overexpenditure allowed by the controller in accordance with subsection (1) of this section that is in regard to an operating budget item, the controller shall restrict, in an amount equal to said overexpenditure, the corresponding item or items of appropriation that are made in the general appropriation act for the fiscal year following the fiscal year for which the overexpenditure is allowed. For the purposes of determining such corresponding item or items of appropriation, the controller shall consider, in order of importance, the fund from which the overexpenditure was allowed, the department, institution, or agency that was allowed to make the overexpenditure, and the purpose for which the overexpenditure was allowed.

(b) For any overexpenditure allowed by the controller in accordance with subsection (1) of this section that is in regard to a capital construction budget item, the controller shall restrict, in an amount equal to said overexpenditure, an item or items of appropriation that are made in the general appropriation act for the fiscal year following the fiscal year for which the overexpenditure is allowed and that are made for the following purposes in the order specified: The capital construction budget item for which the overexpenditure was allowed; any other capital construction budget item of the department, institution, or agency that was allowed to make the overexpenditure; any operating budget item relating to the administration of the department, institution, or agency that was allowed to make the overexpenditure; and any other operating budget item of the department, institution, or agency that was allowed to make the overexpenditure. For the purposes of determining the item or items of appropriation for operating budget items to be restricted, the controller shall restrict the item or items of appropriation that would be the least disruptive to the operations of the department, institution, or agency.

(c) For any overexpenditure allowed by the controller in accordance with subsection (1) of this section that is in regard to an information technology budget item, the controller shall restrict, in an amount equal to said overexpenditure, the items of appropriation that are made in the general appropriation act for the fiscal year following the fiscal year for which the overexpenditure is allowed and that are made for the following purposes in the order specified: The information technology budget item for which the overexpenditure was allowed; any other information technology budget item of the department, institution, or agency that was allowed to make the overexpenditure; any operating budget item relating to the administration of the department, institution, or agency that was allowed to make the overexpenditure; and any other operating budget item of the department, institution, or agency that was allowed to make the overexpenditure. For the purposes of determining the items of appropriation for operating budget items to be restricted, the controller shall restrict the items of appropriation that would be the least disruptive to the operations of the department, institution, or agency.

(d) The department, institution, or agency shall not be allowed to expend any amount restricted pursuant to this subsection (4) unless such restriction is released in accordance with subsection (5) of this section.

(5) The joint budget committee of the general assembly shall introduce a supplemental appropriation for the fiscal year in which the overexpenditure occurred for the amount of any overexpenditure allowed pursuant to this section. If a supplemental appropriation is enacted for the overexpenditure or some portion thereof, the restriction on the succeeding fiscal year's appropriation shall be released in the amount of the supplemental appropriation enacted.

(6) Overexpenditures allowed pursuant to the provisions of subsection (1) of this section and supplemental general fund appropriations enacted pursuant to subsection (5) of this section shall be considered appropriations for the fiscal year in which the overexpenditure was allowed and shall accordingly be subject to the limitations and requirements of section 24-75-201.1.

Source: L. 98: Entire section added, p. 102, § 1, effective March 23. **L. 2007:** (1)(b) amended, p. 1997, § 2, effective June 1. **L. 2015:** (1)(c)(V), (1)(c)(VI), and (4)(d) added and (2), (3)(b), and (4)(c) amended, (HB 15-1266), ch. 115, p. 346, § 2, effective April 24. **L. 2016:** (1)(b) amended, (HB 16-1408), ch. 153, p. 465, § 10, effective July 1.

24-75-111.5. Additional authority for controller to allow expenditures for capital construction items in certain circumstances - definition. (1) For purposes of this section, "nonmonetary adjustment" means a change that does not affect the amount of the appropriation, including a name change, an extension of time for completion, a scope change, a transfer between departments, or other such similar changes.

(2) For fiscal years commencing on or after July 1, 2015, the controller may allow any department, institution, or agency of the state, including any institution of higher education, to expend moneys differently from the authority granted by an item of appropriation for a capital construction budget item or an information technology capital project if the capital construction, controlled maintenance, capital renewal project, or information technology capital project that the appropriation was for requires a nonmonetary adjustment for its timely continuation and the nonmonetary adjustment is due to unforeseen circumstances arising while the general assembly is not meeting in regular or special session during which such nonmonetary adjustment would be legislatively addressed, under the following circumstances:

(a) If the nonmonetary adjustment is in regard to a capital construction budget item and is requested by a department, institution, or agency of the state other than the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(I) The request for the nonmonetary adjustment has been submitted to the office of state planning and budgeting for approval and the office of state planning and budgeting has approved the nonmonetary adjustment, in whole or in part; and

(II) Upon approval by the office of state planning and budgeting, the request for the nonmonetary adjustment has been submitted to the capital development committee for consideration; and

(III) Upon the issuance of a written recommendation regarding the nonmonetary adjustment by the capital development committee, the request for the nonmonetary adjustment has been submitted to the joint budget committee for approval; and

(IV) The request for the nonmonetary adjustment has been approved, in whole or in part, by a majority vote of the members of the joint budget committee, and the controller has received written confirmation of such approval from the joint budget committee; or

(b) If the nonmonetary adjustment is in regard to a capital construction budget item and is requested by the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(I) The request for the nonmonetary adjustment has been submitted to the capital development committee for consideration; and

(II) Upon the issuance of a written recommendation regarding the nonmonetary adjustment by the capital development committee, the request for the nonmonetary adjustment has been submitted to the joint budget committee for approval; and

(III) The request for the nonmonetary adjustment has been approved, in whole or in part, by a majority vote of the members of the joint budget committee, and the controller has received written confirmation of such approval from the joint budget committee.

(c) If the nonmonetary adjustment is in regard to an information technology capital project and is requested by a department, institution, or agency of the state other than the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(I) The request for the nonmonetary adjustment has been submitted to the office of state planning and budgeting for approval and the office of state planning and budgeting has approved the nonmonetary adjustment, in whole or in part;

(II) Upon approval by the office of state planning and budgeting, the request for the nonmonetary adjustment has been submitted to the joint technology committee of the general assembly for consideration;

(III) Upon the issuance of a written recommendation regarding the nonmonetary adjustment by the joint technology committee, the request for the nonmonetary adjustment has been submitted to the joint budget committee for approval; and

(IV) The request for the nonmonetary adjustment has been approved, in whole or in part, by a majority vote of the members of the joint budget committee, and the controller has received written confirmation of such approval from the joint budget committee; or

(d) If the nonmonetary adjustment is in regard to an information technology capital project and is requested by the department of law, the department of the treasury, the department of state, the judicial department, or the legislative department:

(I) The request for the nonmonetary adjustment has been submitted to the joint technology committee of the general assembly for consideration;

(II) Upon the issuance of a written recommendation regarding the nonmonetary adjustment by the joint technology committee, the request for the nonmonetary adjustment has been submitted to the joint budget committee for approval; and

(III) The request for the nonmonetary adjustment has been approved, in whole or in part, by a majority vote of the members of the joint budget committee, and the controller has received written confirmation of such approval from the joint budget committee.

(3) Any department, institution, or agency of the state requesting a nonmonetary adjustment pursuant to subsection (1) of this section shall make the request in such form and shall include in the request such information as may be required by the office of state planning and budgeting, the capital development committee, the joint technology committee, and the joint budget committee, as applicable.

(4) Nonmonetary adjustments must be consistent with the original purpose for which the appropriation was made and may not change the amount of the appropriation.

(5) The joint budget committee shall introduce a supplemental appropriation for the fiscal year in which the nonmonetary adjustment occurred that reflects the nonmonetary adjustment.

Source: L. 2015: Entire section added, (SB 15-208), ch. 255, p. 927, § 1, effective May 29. **L. 2017:** IP(2) and (3) amended and (2)(c) and (2)(d) added, (SB 17-239), ch. 350, p. 1833, § 1, effective August 9.

24-75-112. Annual general appropriation act - headnote definitions - general provisions - footnotes. (1) As used in the annual general appropriation act, the following definitions and general provisions apply for the headnote terms preceding and specifying the purpose of certain line items of appropriation:

(a) (I) "Capital outlay" means:

(A) Equipment, furniture, motor vehicles, software, and other items that have a useful life of one year or more;

(B) Alterations and replacements, meaning major and extensive repair, remodeling, or alteration of buildings, the replacement thereof, or the replacement and renewal of the plumbing, wiring, electrical, fiber optic, heating, and air conditioning systems therein;

(C) New structures, meaning the construction of entirely new buildings, including the value of materials and labor, either state-supplied or supplied by contract; or

(D) Nonstructural improvements to land, meaning the grading, leveling, drainage, irrigation, and landscaping thereof and the construction of roadways, fences, ditches, and sanitary and storm sewers.

(II) "Capital outlay" does not include those things defined as capital construction, capital renewal, or controlled maintenance in section 24-30-1301 (2), (3), and (4).

(b) "Centralized appropriation" means the appropriation of funds to an executive director of a department or a central administrative program intended for subsequent allocation and

expenditure at and among a department's divisions, programs, agencies, or long bill groups in order to reflect the amount of such resources actually used in each program or division. Such centralized appropriations may include salary survey, step pay or anniversary increases, senior executive service, shift differential, group health and life insurance, capital outlay, ADP capital outlay, information technology asset maintenance, legal services, purchase of services from computer center, multiuse network payments, vehicle lease payments, leased space, financed purchase of an asset, certificate of participation, payment to risk management and property funds, short-term disability insurance, utilities, communications services payments, amortization equalization disbursements, supplemental amortization equalization disbursements, administrative law judge services, and centralized ADP. As provided in subsection (1)(l) of this section, capital outlay is included within the appropriation for "operating expenses".

(b.5) "Certificate of participation" means any certificate evidencing a participation right or a proportionate interest in any financing agreement or the right to receive proportionate payments from the state or an agency due under any financing agreement.

(c) "Communications services payments" means payments to the office of information technology created in section 24-37.5-103 for the cost of services from the state's public safety communications infrastructure.

(c.5) "Financed purchase of an asset" means a financing agreement that includes the purchase of an asset.

(d) (I) Except as otherwise provided in subparagraph (IV) of this paragraph (d), "full-time equivalent" or "FTE" means the budgetary equivalent of one permanent position continuously filled full time for an entire fiscal year by elected state officials or by state employees who are paid for at least two thousand eighty hours per fiscal year, with adjustments made to:

(A) Include in such time computation any sick, annual, administrative, or other paid leave;

(B) Exclude from such time computation any overtime or shift differential payments made in excess of regular or normal hours worked and any leave payouts upon termination of employment; and

(C) Account for the actual number of work hours in a given fiscal year.

(II) "Full-time equivalent" or "FTE" does not include contractual, temporary, or permanent seasonal positions.

(III) As used in this paragraph (d), "state employee" means a person employed by the state, whether or not such person is a classified employee in the state personnel system.

(IV) For purposes of higher education professional personnel and assistants in resident instruction and professional personnel in organized research and activities relating to instruction, "full-time equivalent" or "FTE" means the equivalent of one permanent position continuously filled for a nine-month or ten-month academic year.

(V) The number of FTE specified in a particular item of appropriation is the number utilized to calculate the amount appropriated and necessary to fund any combination of part-time positions or full-time positions equal to such number for the fiscal year to which the annual general appropriation act pertains in accordance with the definition contained in subsections (1)(d)(II) and (1)(d)(III) of this section and is not a limitation on the number of FTE that may be employed. No department shall make a material change in the number of FTE specified in a

particular item of appropriation prior to notifying the joint budget committee in writing of such change. This subsection (1)(d)(V) does not apply to state trainee positions.

(e) "Health, life, and dental" means the state contribution for group benefits plans pursuant to section 24-50-609. These contribution amounts shall be effective in accordance with section 24-50-104 (4)(d)(II).

(f) "Indirect cost assessment" means reimbursements made to an agency of the state from federal funds, other nonstate funds, cash funds, or reappropriated funds for the indirect expenses that have been incurred by the state in operating such programs. These recoveries are made by the departments using the approved indirect cost rate, as required by the state fiscal rules.

(g) "Leased space" means the use and acquisition of office facilities and office and parking space pursuant to a rental agreement.

(h) Repealed.

(i) "Legal services" means the purchase of legal services from the department of law; however, up to ten percent of the amount appropriated for legal services may instead be expended for operating expenses, contractual services, and tuition for employee training.

(j) "Motor vehicle" means a motor truck designated three-quarters of one ton or less, automobile, or other self-propelled vehicle.

(k) "Multiuse network payments" means payments to the department of personnel for the cost of administration and the use of the state's telecommunications network.

(l) "Operating expenses" means those supplies, materials, items, services, and travel-related expenses needed to administer the programs delegated to the departments, except for personal services, legal services, or capital construction.

(m) "Personal services" means:

(I) All salaries and wages, including overtime, whether to full-time, part-time, or temporary employees of the state, and also includes the state's contribution to the public employees' retirement association and the state's share of federal medicare tax paid for state employees;

(II) Professional services, meaning services requiring advanced study in a specialized discipline that are rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state, including but not limited to accounting, consulting, architectural, engineering, physician, nurse, specialized computer, and construction management services. No appropriation for such services shall be expended on the provision of legal services by the department of law or by a private attorney or law firm prior to notifying the joint budget committee in writing of such change. Payments for professional services shall be in compliance with section 24-30-202 (2) and (3).

(III) Temporary services, meaning clerical, administrative, and casual labor rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state. Payments for temporary services shall be in compliance with section 24-30-202 (2) and (3).

(IV) Tuition, meaning payments for graduate or undergraduate courses taken by state employees at institutions of higher education; or

(V) Payments for unemployment claims or insurance as required by the department of labor and employment.

(n) "Pueblo data entry center payments" means payments to the department of personnel for the cost of data entry services from the data entry center.

(o) "Purchase of services from computer center" means the purchase of automated data processing services from the general government computer center.

(p) "Short-term disability" means the state contribution for employee short-term disability pursuant to section 24-50-603 (13).

(q) "Utilities" means water, sewer service, electricity, payments to energy service companies, purchase of energy conservation equipment, and all heating fuels.

(r) "Vehicle lease payments" means the annual payments to the department of personnel for the cost of administration, repayment of a loan from the state treasury, and financed purchase of an asset or certificate of participation payments for new and replacement vehicles.

(2) (a) When it is not feasible, due to the format of the annual general appropriation act, to set forth fully in the line item description the purpose of an item of appropriation or a condition or limitation on the item of appropriation, the footnotes at the end of each section of the annual general appropriation act are provisions that set forth such purposes, conditions, or limitations. Such provisions are intended to be binding portions of the items of appropriation to which they relate to the extent that those purposes, conditions, or limitations are integral to the appropriation and are not, in accordance with the San Andreas supreme court decision in San Andreas General Assembly v. Owens, 136 P.3d 262 (S.A. 2006), conditions reserving to the general assembly powers of close supervision over the appropriation.

(b) The footnotes may also contain an explanation of any assumptions used in determining a specific amount of an appropriation. However, such footnotes shall not contain any provision of substantive law or any provision requiring or requesting that any administrative action be taken in connection with any appropriation. Footnotes may set forth any other statement of explanation or expression of legislative intent relating to any appropriation.

(3) Where no purpose is specified or where a special program is specified, the appropriation shall be for operating expenses and personal services.

(4) Expenditures of funds appropriated for the purchase of goods and services shall be in accord with section 17-24-111, S.A.R.S., which requires institutions, agencies, and departments to purchase such goods and services as are produced by the division of correctional industries from said division.

Source: L. 2008: Entire section added, p. 153, § 2, effective March 24. **L. 2009:** (1)(h) amended, (HB 09-1218), ch. 132, p. 570, § 2, effective July 1; (1)(c) amended, (HB 09-1150), ch. 309, p. 1667, § 6, effective August 5. **L. 2012:** (1)(d)(I) amended, (SB 12-112), ch. 32, p. 126, § 1, effective August 8; (1)(b) amended, (HB12-1321), ch. 260, p. 1352, § 13, effective September 1. **L. 2014:** (1)(a)(II) amended, (HB 14-1387), ch. 378, p. 1845, § 47, effective June 6. **L. 2021:** (1)(b) and (1)(r) amended, (1)(b.5) and (1)(c.5) added, and (1)(h) repealed, (HB 21-1316), ch. 325, p. 2030, § 40, effective July 1. **L. 2022:** (1)(d)(V) amended, (SB 22-226), ch. 179, p. 1191, § 8, effective May 18. **L. 2023:** (1)(d)(V) amended, (SB 23-051), ch. 37, p. 147, § 26, effective March 23. **L. 2024:** IP(1) and (1)(b) amended, (HB 24-1467), ch. 430, p. 3017, § 8, effective June 5.

Cross references: (1) For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 57, Session Laws of San Andreas 2008. For the legislative

declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014. For the legislative declaration in SB 22-226, see section 1 of chapter 179, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1467, see section 1 of chapter 430, Session Laws of San Andreas 2024.

(2) In 2012, subsection (1)(b) was amended by the "Modernization of the State Personnel System Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 260, Session Laws of San Andreas 2012.

24-75-112.5. Appropriation clauses - general provisions - legislative declaration - definition. (1) The general assembly hereby finds, determines, and declares that:

(a) The mechanism through which the general assembly commonly authorizes state agencies to spend moneys, the appropriation clause, has remained essentially unchanged for over a century;

(b) The typical appropriation clause employed prior to the 2015 regular legislative session features certain stock phrases that make ascertaining essential information more difficult;

(c) Legislation should, whenever possible, be written clearly and concisely; and

(d) It is therefore the intent of the general assembly, in enacting this section:

(I) To enhance comprehensibility of appropriation clauses by omitting the identified phrases formerly used in standard appropriation clauses; and

(II) To continue undisturbed the operation and legal effect of these phrases by codifying versions of them in a statute of general applicability.

(2) (a) Unless the context otherwise requires, and regardless of whether the law is statutory or noncodified, the following provisions apply to an appropriation made in a duly enacted law of the state:

(I) The appropriation is made in addition to any other appropriation;

(II) The appropriation is made from moneys that are not otherwise appropriated; and

(III) A state agency is only required to spend so much of the appropriation as may be necessary.

(b) As used in any appropriation clause, "S.A.R.S." means the San Andreas Revised Statutes.

(3) This section applies to legislation enacted on or after January 1, 2015.

Source: L. 2015: Entire section added, (SB 15-098), ch. 2, p. 2, § 1, effective February 25.

24-75-113. 2010 bills to increase state revenue - prohibition on hiring of new state employees. (1) No moneys derived from the increase in state revenues resulting from the passage of House Bill 10-1190, enacted in 2010, shall be appropriated for the purpose of funding additional full-time equivalent state employees.

(2) No moneys derived from the increase in state revenues resulting from the passage of House Bill 10-1191, enacted in 2010, shall be appropriated for the purpose of funding additional full-time equivalent state employees.

(3) Repealed.

(4) No moneys derived from the increase in state revenues resulting from the passage of House Bill 10-1193, enacted in 2010, shall be appropriated for the purpose of funding additional

full-time equivalent state employees, except for any full-time equivalent state employees necessary to enforce the provisions of said House Bill 10-1193.

(5) No moneys derived from the increase in state revenues resulting from the passage of House Bill 10-1194, enacted in 2010, shall be appropriated for the purpose of funding additional full-time equivalent state employees.

(6) Repealed.

Source: L. 2010: Entire section added, (HB 10-1191), ch. 7, p. 48, § 7, effective February 24; entire section added, (HB 10-1190), ch. 6, p. 43, § 6, effective February 24; entire section added, (HB 10-1193), ch. 9, p. 57, § 4, effective February 24; entire section added, (HB 10-1194), ch. 10, p. 60, § 5, effective February 24; entire section added, (HB 10-1195), ch. 11, p. 63, § 3, effective February 24; entire section added, (HB 10-1192), ch. 8, p. 52, § 6, effective March 1. **L. 2011:** (6) repealed, (HB 11-1005), ch. 194, p. 755, § 1, effective July 1; (3)(b) added by revision, (HB 11-1293), ch. 299, pp. 1436, 1440, §§ 2, 6.

Editor's note: (1) Amendments to this section by House Bills 10-1190, 10-1191, 10-1192, 10-1193, 10-1194, and 10-1195 were harmonized.

(2) Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 2012. (See L. 2011, pp. 1436, 1440.)

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 8, Session Laws of San Andreas 2010.

24-75-114. Appropriations for utilities - roll-forward spending authority - definition. (1) As used in this section, unless the context otherwise requires, "utilities" has the same meaning as set forth in section 24-75-112 (1)(q).

(2) Subject to fiscal rules promulgated by the state controller, any unexpended and unencumbered money appropriated to a department in a specific line item for utilities in a fiscal year commencing on or after July 1, 2021, remains available for expenditure in the next fiscal year without further appropriation for the department to purchase utilities conservation equipment or services. At the end of the next fiscal year, money that is unexpended or unencumbered reverts to the fund from which it was appropriated.

(3) Subsection (2) of this section does not apply to a line item from which utility expenses are paid but that is not specifically identified as "utilities".

Source: L. 2022: Entire section added, (SB 22-239), ch. 411, p. 2908, § 3, effective August 10.

24-75-115. Use of state funds - marketing featuring elected officials - prohibition. (1) A county clerk and recorder or designated election official who is administering an election and the department of state shall not use any appropriation of state or federal money to pay for advertising expenses that prominently feature a person who is a declared candidate for a federal, state, or local office for a future election. For purposes of this section, advertising does not include:

(a) Official notices or communications that are required or authorized by law; or

(b) Ongoing and routine communications, such as maintaining or publishing content on the website of the county clerk and recorder or designated election official or the secretary of state.

Source: L. 2023: Entire section added, (SB 23-276), ch. 399, p. 2398, § 54, effective June 6.

24-75-116. General fund appropriation for lease payments - department of revenue - temporary reduction - repeal. (1) (a) For the 2025-26 state fiscal year and for each state fiscal year thereafter, through the 2028-29 state fiscal year, the general assembly shall reduce the general fund appropriation to the department of revenue in the executive director's office for the purpose of leased space by four hundred thousand dollars.

(b) For the 2025-26 state fiscal year and for each state fiscal year thereafter, through the 2028-29 state fiscal year, the general assembly shall increase the general fund appropriation to the department of revenue in the executive director's office for the purpose of operating expenses by four hundred thousand dollars.

(2) This section is repealed, effective July 1, 2029.

Source: L. 2024: Entire section added, (SB 24-222), ch. 310, p. 2087, § 1, effective May 31.

PART 2

GENERAL FUND

24-75-201. General fund - general fund surplus - custodial money - repeal. (1) There is hereby created and established the general fund, to which shall be credited and paid all revenues and moneys not required by the state constitution or the provisions of any law to be credited and paid into a special fund. The surplus fund created before June 30, 1971, is hereby merged into the general fund. Any unrestricted balance remaining in the general fund at the end of any fiscal year shall be designated as the general fund surplus.

(2) (a) The general fund surplus shall be determined based upon the accrual system of accounting, as enunciated by the governmental accounting standards board; except that:

(I) For state fiscal years commencing before July 1, 2003, any general fund revenues that are designated as state revenues in excess of the constitutional limitation on state fiscal year spending shall be included as unrestricted revenues in the general fund surplus for the fiscal year in which such excess revenues were accrued. Such excess revenues shall be restricted in the next fiscal year to preserve their availability for refund unless voters have authorized the state to retain such excess revenues.

(II) General fund revenues shall be restricted only upon the issuance of a commitment voucher to the state controller by the department of health care policy and financing for the payment of a sufficient claim that warrants reimbursement in accordance with the "San Andreas Medical Assistance Act", articles 4, 5, and 6 of title 25.5, S.A.R.S., from general fund revenues appropriated for any nonadministrative expenditure that qualifies for federal financial participation under Title XIX of the federal "Social Security Act", except for expenditures under

the program for the medically indigent, article 3 of title 25.5, S.A.R.S., or for the contributions required by 42 U.S.C. sec. 1396u-5 (c).

(III) (A) General fund revenues shall be restricted only upon actual payment on the first working day of July of monthly salaries of state employees for the month of June from general fund revenues.

(B) Repealed.

(C) For purposes of this subparagraph (III), "state employee" means a person employed by the state whether or not a classified employee in the state personnel system.

(IV) (A) For the state fiscal year commencing July 1, 2010, and each state fiscal year thereafter, general fund revenues shall be restricted only upon payment for the purchase of services in July from the office of information technology created in section 24-37.5-103 in an amount reported to state agencies by the office of information technology as required in sub-subparagraph (B) of this subparagraph (IV). State agencies shall report to the office of information technology by June 30, 2010, the amounts for positions that restricted general fund revenues in the 2009-10 fiscal year.

(B) The office of information technology created in section 24-37.5-103 shall calculate and report to state agencies by June 30, 2011, and each June 30 thereafter, according to the office of information technology's accepted billing methodology, the amount of information technology billings related to the current costs that are comparable to the general fund personal services payments for work performed by information technology employees of any state agency in June 2010. The calculation shall be limited to amounts for positions that would have restricted general fund revenues in the state fiscal year that commences July 1, 2010, if not for those revenues subsequently being reappropriated due to the consolidation of information technology services required by Senate Bill 08-155, enacted in 2008.

(b) (Deleted by amendment, L. 2003, pp. 1899, 2638, §§ 1, 1, effective July 1, 2003.)

(c) (I) Any unrestricted balance remaining in the healthy school meals for all program general fund exempt account created in section 22-82.9-210 (2) at the end of any fiscal year shall not be designated as part of the general fund surplus.

(II) This subsection (2)(c) is repealed, effective July 1, 2025.

(3) (a) Custodial moneys do not include moneys granted by the federal government to the state for the support of general or essential state government services of the type for which expenditures are made in the most recently approved annual general appropriation act, including, but not limited to, additional payments received by the state under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", as amended, (Pub.L. 108-27), received by the state on or after April 30, 2004.

(b) Nothing in this subsection (3) shall cause federal relief payments under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", as amended, (Pub.L. 108-27), received by the state prior to April 30, 2004, to be credited or transferred to the general fund or any other fund of the state or to be subject to annual appropriation by the general assembly.

(c) All federal moneys described in paragraph (a) of this subsection (3) shall be credited and paid to the general fund unless otherwise provided by law and shall be subject to annual appropriation by the general assembly.

Source: L. 03: p. 103, § 1. **R.S. 08:** § 2717. **C.L.** § 333. **CSA:** C. 153, § 75. **S.A.R.S. 53:** § 130-4-1. **S.A.R.S. 1963:** § 130-4-1. **L. 71:** p. 1203, § 1. **L. 79:** Entire section amended, p. 977, § 1,

effective July 1. **L. 98:** Entire section amended, p. 848, § 3, effective May 26. **L. 2002:** (2) amended, p. 933, § 1, effective June 1. **L. 2003:** (2)(a) amended, p. 53, § 2, effective March 5; (2)(a) amended, p. 14, § 2, effective March 5; (2) amended, p. 1899, § 1, effective July 1; (2) amended, p. 2638, § 1, effective July 1. **L. 2004:** (3) added, p. 693, § 1, effective April 30. **L. 2006:** (2)(a)(II) amended, p. 917, § 2, effective May 11; IP(2)(a)(II) amended, p. 2011, § 76, effective July 1. **L. 2007:** (2)(a)(II) amended, p. 466, § 4, effective July 1. **L. 2009:** (2)(a)(IV) added, (HB 09-1367), ch. 321, p. 1712, § 1, effective June 1. **L. 2015:** (2)(a)(III)(A) amended, (HB 15-1392), ch. 320, p. 1304, § 2, effective June 5. **L. 2023:** (2)(c) added, (SB 23-221), ch. 89, p. 339, § 4, effective April 20; (2)(a)(III)(A) amended and (2)(a)(III)(B) repealed, (SB 23-180), ch. 138, p. 584, § 2, effective August 7. **L. 2024:** (2)(c) amended, (HB 24-1390), ch. 133, p. 489, § 13, effective April 29.

Editor's note: (1) Amendments to subsection (2) by House Bill 03-1238 and Senate Bill 03-222 were harmonized. Amendments to subsection (2)(a) by Senate Bill 03-196 and Senate Bill 03-197 were harmonized.

(2) Subsection (2)(a)(III) was originally numbered as (2)(a)(II) in Senate Bill 03-197 but has been renumbered on revision for ease of location.

(3) Amendments to subsection (2)(a)(II) by Senate Bill 06-129 and Senate Bill 06-219 were harmonized.

24-75-201.1. Restriction on state appropriations - legislative declaration - definitions - repeal. (1) (a) (I) For the fiscal year 1978-79 and each fiscal year thereafter ending with the fiscal year 1990-91, state general fund appropriations shall be limited to seven percent over the previous year plus such moneys as are necessary for reappraisals of any class or classes of taxable property for property tax purposes as required by section 39-1-105.5, S.A.R.S. The base for the calculation of the limitation on the increase in general fund appropriations for the fiscal year 1986-87 shall be state general fund appropriations for the fiscal year 1985-86 plus the amount appropriated for tax relief and for the cost of bringing civil actions pursuant to the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" for the fiscal year 1985-86.

(II) Except as otherwise provided for in subparagraphs (III) and (IV) of this paragraph (a), for the fiscal year 1991-92 and each fiscal year thereafter ending with the fiscal year 2008-09, the total state general fund appropriations shall be limited to such moneys as are necessary for reappraisals of any class or classes of taxable property for property tax purposes as required by section 39-1-105.5, S.A.R.S., plus the lesser of:

(A) An amount equal to five percent of San Andreas personal income; or

(B) Six percent over the total state general fund appropriations for the previous fiscal year.

(II.5) Except as otherwise provided in subparagraphs (III) and (IV) of this paragraph (a), for the fiscal year 2009-10 and each fiscal year thereafter, the total state general fund appropriations shall be limited to such moneys as are necessary for reappraisals of any class or classes of taxable property for property tax purposes as required by section 39-1-105.5, S.A.R.S., plus an amount equal to five percent of San Andreas personal income.

(III) The limitation on the level of state general fund appropriations set forth in subparagraphs (II) and (II.5) of this paragraph (a) shall not apply to:

(A) Any state general fund appropriation which, as a result of any requirement of federal law, is made for any new program or service or for any increase in the level of service for an existing program beyond the existing level of service;

(B) Any state general fund appropriation which, as a result of any requirement of a final state or federal court order, is made for any new program or service or for any increase in the level of service for an existing program beyond the existing level of service; or

(C) Any state general fund appropriation of any moneys which are derived from any increase in the rate or amount of any tax or fee which is approved by a majority of the registered electors of the state voting at any general election.

(IV) (A) The limitation on the level of state general fund appropriations as set forth in subparagraphs (II) and (II.5) of this paragraph (a) may be exceeded for a given fiscal year upon the declaration of a state fiscal emergency by the general assembly. A state fiscal emergency may be declared by the passage of a joint resolution which is approved by a two-thirds majority vote of the members of both houses of the general assembly and which is approved by the governor in accordance with section 39 of article V of the state constitution.

(B) Any funds appropriated in a given fiscal year which exceed the limitation on state general fund appropriations established by subparagraphs (II) and (II.5) of this paragraph (a) because of the declaration of a state fiscal emergency by the general assembly pursuant to sub-subparagraph (A) of this subparagraph (IV) shall not be included in the calculation of the maximum level of state general fund appropriations pursuant to sub-subparagraph (B) of subparagraph (II) of this paragraph (a) for subsequent fiscal years.

(V) No state cash fund appropriation which either supplants any state general fund appropriation or, if not made, would necessitate a state general fund appropriation shall be made in order to circumvent the limitation on the level of state general fund appropriations set forth in subparagraphs (II) and (II.5) of this paragraph (a). The provisions of this subparagraph (V) shall not apply to any state cash fund appropriation:

(A) Which authorizes an increase in expenditures necessary to offset an increase in costs to provide an existing program or service due to inflation or any increase in the number of recipients which does not result from any requirement of state law which either enlarges an existing class of recipients or adds a new class of recipients; or

(B) Which is funded by user charges that do not exceed the cost of the goods or services provided, and the purchase of such goods or services by the user is voluntary.

(VI) If the general assembly significantly restructures the method by which elementary, secondary, or postsecondary education in this state is financed, the general assembly shall examine the limitation on the level of state general fund appropriations set forth in this section and shall determine whether said limitation should be modified in light of such restructuring.

(VII) For purposes of this paragraph (a), unless the context otherwise requires:

(A) "San Andreas personal income" means the total personal income for San Andreas, as defined and officially reported by the bureau of economic analysis in the United States department of commerce, for the calendar year preceding the calendar year immediately preceding a given fiscal year.

(B) "Increase in the level of service for an existing program" does not include any increase in expenditures necessary to offset an increase in costs to provide such service due to inflation or any increase in the number of recipients of such service unless such increase results

from any requirement of federal law which either enlarges an existing class of recipients or adds a new class of recipients.

(C) "Requirement of federal law" means any federal law, rule, regulation, executive order, guideline, standard, or other federal action which has the force and effect of law and which either requires the state to take action or does not directly require the state to take action but will, according to federal law, result in the loss of federal funds if state action is not taken to comply with such federal action.

(D) "State cash fund appropriation" means any appropriation of moneys which are not general fund moneys and which are the result of the collection of any fee authorized by law.

(b) For the fiscal year 1984-85, any amount of general fund revenues in excess of seven percent plus such moneys as are necessary for reappraisals of any class or classes of taxable property for property tax purposes as required by section 39-1-105.5, S.A.R.S., and after retention of unrestricted general fund year-end balances of one hundred million dollars, shall be placed in a special reserve fund to be utilized for tax relief, for capital construction as defined in section 24-30-1301 (2), for construction, maintenance, and repair of highways, for water projects, and for the cost of bringing civil actions pursuant to the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980".

(c) (I) to (IV) Repealed.

(V) For the fiscal year 1989-90 and each fiscal year thereafter ending with the fiscal year 1990-91, fifty percent of general fund revenues in excess of general fund appropriations, after retention of the reserve as required by paragraph (d) of this subsection (1), shall be transferred to the capital construction fund as of the last day of the fiscal year. The general assembly may appropriate such funds for capital construction purposes during the regular legislative session next following the actual transfer of moneys thereto; except that, for the fiscal year 1989-90 only, the general assembly may appropriate such funds during the regular legislative session held in 1990 for the purpose of alleviating prison overcrowding for the fiscal year 1989-90 or for any future fiscal year and may appropriate such funds for any other capital construction purposes during the regular legislative session next following the actual transfer of moneys to the capital construction fund. General fund revenues in excess of general fund appropriations and the required reserve which are not transferred to the capital construction fund as specified in this subparagraph (V) shall be available for appropriation for the fiscal year in which the excess is realized or for any future fiscal year, subject to the limitation on general fund appropriations set forth in paragraph (a) of this subsection (1). For the purposes of applying this subparagraph (V) to the fiscal years 1990-91 and 1991-92, the required reserve shall be considered four percent of the amount appropriated for expenditure from the general fund, notwithstanding the actual percentage reserve requirement specified in subparagraph (IV) of paragraph (d) of this subsection (1).

(c.5) (I) (Deleted by amendment, L. 2002, p. 1005, § 1, effective August 7, 2002.)

(II) (Deleted by amendment, L. 2009, (SB 09-228), ch. 410, p. 2257, § 7, effective July 1, 2009.)

(d) For each fiscal year, unrestricted general fund year-end balances must be retained as a reserve in the following amounts:

(I) For fiscal years 1985-86 and 1986-87, five percent of the amount appropriated for expenditure from the general fund for the fiscal year;

(II) For the fiscal year 1987-88, six percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(III) For the fiscal year 1988-89 and each fiscal year thereafter ending with the fiscal year 2011-12, except for the fiscal years 1990-91, 1991-92, 1992-93, 2001-02, 2002-03, 2003-04, 2006-07, 2008-09, 2009-10, and 2010-11, as provided in subparagraphs (IV), (V), (VI), (VII), (VIII), (IX), (X), (XI), and (XI.5) of this paragraph (d), four percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(IV) For the fiscal years 1990-91 and 1991-92, three percent of the amount appropriated for expenditure from the general fund for that fiscal year. The additional amount of general fund moneys made available for appropriation by the reduction in the required reserve from four percent to three percent for the fiscal year 1990-91, as provided in this subparagraph (IV), may be appropriated only for the purpose of alleviating prison overcrowding, and any such appropriation shall not be subject to the limitation on general fund appropriations set forth in paragraph (a) of this subsection (1). The additional amount of general fund moneys made available for appropriation by the reduction in the required reserve from four percent to three percent for the fiscal year 1991-92, as provided in this subparagraph (IV), may be appropriated for any lawful purpose.

(V) For the fiscal year 1992-93, three percent of the amount appropriated for expenditure from the general fund for that fiscal year reduced by fourteen million dollars. The additional amount of general fund moneys made available for appropriation by the reduction in the required reserve from four percent to the amount provided in this subparagraph (V) may be appropriated during the fiscal year 1992-93 for any lawful purpose.

(VI) For the fiscal year 2001-02, no percentage of the amount appropriated for expenditure from the general fund for that fiscal year, as no reserve shall be required for said fiscal year. The additional amount of general fund moneys made available for appropriation by the elimination of the required reserve from four percent for the fiscal year 2001-02, as provided in this subparagraph (VI), may be appropriated for any lawful purpose.

(VII) and (VIII) Repealed.

(IX) For the fiscal year 2006-07, if the resources of the general fund are inadequate to meet the reserve required by subparagraph (III) of this paragraph (d), the state controller shall accrue a transfer from the capital construction fund to the general fund in the amount necessary to meet the reserve requirement of subparagraph (III) of this paragraph (d) up to thirty million dollars. The requirements of this subparagraph (IX) shall be applied before the requirements of section 39-26-123 (4)(a)(VI)(B), S.A.R.S.

(X) For the fiscal year 2008-09:

(A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (X), two percent of the amount appropriated for expenditure from the general fund for that fiscal year. The additional amount of general fund moneys made available for appropriation by the reduction in the required reserve from four percent to two percent may be appropriated during the fiscal year 2008-09 for any lawful purpose.

(B) If the revenue estimate prepared for the fiscal year 2008-09 in accordance with section 24-75-201.3 (2) in June of 2009 indicates that general fund expenditures for that fiscal year based on appropriations then in effect will exceed the amount of general fund revenues available, excluding the reserve required by sub-subparagraph (A) of this subparagraph (X), upon written order, the governor may further reduce the required reserve from two percent to

either a lower percentage or to a zero percentage as is necessary to cover to the greatest extent possible any appropriations then in effect made from the general fund for which general fund moneys would not otherwise be available comprising such reserve.

(XI) For the fiscal year 2009-10, two percent of the amount appropriated for expenditure from the general fund for that fiscal year. The additional amount of general fund moneys made available for appropriation by the reduction in the required reserve from four percent to two percent may be appropriated during the fiscal year 2009-10 for any lawful purpose.

(XI.5) For the fiscal year 2010-11, two and three-tenths percent of the amount appropriated for expenditure from the general fund for that fiscal year. The additional amount of general fund moneys made available for appropriation by the reduction in the required reserve from four percent to two and three-tenths percent may be appropriated during the fiscal year 2010-11 for any lawful purpose. Notwithstanding any provision of law to the contrary, on the date on which the state controller publishes the comprehensive annual financial report of the state for the fiscal year 2010-11, the state treasurer shall transfer the general fund surplus designated in accordance with section 24-75-201 (1) for the fiscal year 2010-11, which represents the unrestricted general fund balance after the applicable amount of reserve required pursuant to this subparagraph (XI.5), as follows:

(A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (XI.5), the general fund surplus shall be transferred to the state education fund created in section 17 (4) of article IX of the state constitution.

(B) An amount equal to the additional estimated revenue shall be transferred to the state public school fund created in section 22-54-114, S.A.R.S.; except that the transfer pursuant to this sub-subparagraph (B) shall not exceed sixty-seven million five hundred thousand dollars. For purposes of this sub-subparagraph (B), "additional estimated revenue" means the amount by which the June 2011 estimate of general fund revenue prepared by the office of state planning and budgeting for the 2010-11 fiscal year exceeds the March 2011 estimate of general fund revenue prepared by the office of state planning and budgeting for the 2010-11 fiscal year.

(XII) For the fiscal year 2012-13, five percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(XIII) For the fiscal year 2013-14, five percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(XIV) For the fiscal year 2014-15, six and one-half percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(XV) and (XVI) Repealed.

(XVII) For the fiscal year 2015-16, an amount equal to five and six-tenths percent of the amount appropriated for expenditure from the general fund for that fiscal year minus the total amount credited to the reserve created in section 39-29-107.8 in accordance with section 39-29-107.8 (2)(a);

(XVIII) For the fiscal year 2016-17, six percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(XVIII.5) For the fiscal year 2017-18, six and one-half percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(XIX) For the fiscal year 2018-19, seven and twenty-five one-hundredths percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(XX) For the fiscal year 2019-20, three and seven one-hundredths percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(XXI) For the fiscal year 2020-21, two and eighty-six one-hundredths percent of the amount appropriated for expenditure from the general fund for that fiscal year;

(XXII) For the fiscal year 2021-22, thirteen and four-tenths percent of the amount appropriated for expenditure from the general fund for that fiscal year; and

(XXIII) (A) Except as otherwise provided in subsection (1)(d)(XXIII)(B) of this section, for the fiscal year 2022-23 and each fiscal year thereafter, fifteen percent of the amount appropriated for expenditure from the general fund for that fiscal year; except that, for the 2023-24 state fiscal year, the amount retained as a reserve must be fifteen percent of the amount appropriated for expenditure from the general fund for that fiscal year plus fifteen percent of the amount of the general fund appropriations reduced pursuant to section 24-75-226 (4)(a)(I); and for the 2024-25 state fiscal year, the amount retained as a reserve must be fifteen percent of the amount appropriated for expenditure from the general fund plus fifty-six million four hundred ninety-three thousand five hundred forty-three dollars.

(B) For the fiscal year 2023-24 and each fiscal year thereafter until the escrow money is released as set forth in section 23-40-107, the amount of the reserve described in subsection (1)(d)(XXIII)(A) of this section for that fiscal year reduced by forty-one million two hundred fifty thousand dollars. As used in this subsection (1)(d)(XXIII)(B), "escrow money" has the same meaning as set forth in section 23-40-107 (1)(c).

(e) Repealed.

(2) The basis for the calculation of the reserve as specified in this section includes all appropriations for expenditure from the general fund for such fiscal year, except for any appropriations for:

(a) Expenditure from the general fund due to a state fiscal emergency as provided for in subparagraph (IV) of paragraph (a) of subsection (1) of this section;

(b) to (d) Repealed.

(e) (I) Expenditures from the healthy school meals for all program general fund exempt account created in section 22-82.9-210 (2).

(II) This subsection (2)(e) is repealed, effective July 1, 2025.

(3) Any reimbursement made by a county to the state for the cost incurred by the state in reappraising any class or classes of taxable property for property tax purposes for which reimbursement is required by section 39-1-105.5, S.A.R.S., shall be made to the state treasurer, who shall, upon receipt thereof, credit the amount of such reimbursement to the state general fund.

(4) Repealed.

Source: L. 77: Entire section amended, p. 1794, § 6, effective July 1. **L. 79:** Entire section amended, p. 1450, § 45, effective July 3. **L. 80:** Entire section amended, p. 728, § 29, effective May 1. **L. 83:** Entire section amended, pp. 1005, 2100, §§ 1, 15, effective July 1. **L. 84:** (1) amended and (3) added, p. 732, § 1, effective May 1. **L. 85:** (1) amended, p. 920, § 1, effective February 19; (1) and (2) amended, p. 285, § 4, effective May 23; (1) and (2) amended, p. 1269, § 11, effective May 30. **L. 87:** (1)(c), (1)(d)(I), and (1)(d)(II) amended, p. 1107, § 1, effective April 22; (1)(c)(III) amended, p. 1558, § 9, effective July 1. **L. 88:** (1)(d)(II) amended and (1)(d)(III) added, p. 982, § 1, effective June 21. **L. 89, 1st Ex. Sess.:** (1)(c)(I) amended, p.

18, § 2, effective June 1; (1)(c)(IV) added, p. 18, § 2, effective July 1. **L. 90:** (1)(c)(I) amended and (1)(c)(V) added, p. 1267, § 1, effective April 3; (1)(c)(V), (1)(d)(III), and (2) amended and (1)(d)(IV) added, pp. 1269, 1270, §§ 2, 3, effective June 8. **L. 91:** (1)(d)(III) and (1)(d)(IV) amended, p. 835, § 1, effective April 9; (1)(c)(V) amended, p. 845, § 1, effective April 11; (1)(a), (1)(c)(V), and (2) amended and (1)(c.5) added, p. 908, § 1, effective June 7. **L. 92:** (1)(d)(III) and (1)(d)(IV) amended, p. 1074, § 1, effective February 25; (1)(d)(III) and (1)(d)(IV) amended and (1)(d)(V) added, p. 554, § 35, effective May 28. **L. 93:** (1)(c.5) amended, p. 1857, § 1, effective July 1. **L. 94:** (1)(c.5)(II)(A) and (1)(c.5)(II)(B) amended, p. 1806, § 1, effective May 31. **L. 95:** (1)(c.5)(II)(B) amended and (1)(c.5)(II)(B.5) added, p. 1260, § 2, effective June 3. **L. 96:** (1)(c.5)(II)(B) amended and (1)(c.5)(II)(B.7) added, p. 1875, § 5, effective June 6. **L. 2000:** (4) added, p. 493, § 2, effective July 1. **L. 2001:** (4)(c) amended, p. 589, § 1, effective May 30. **L. 2002:** (1)(d)(III) amended and (1)(d)(VI) added, p. 387, § 1, effective April 30; (1)(d)(VI) amended, p. 681, § 1, effective May 28; (4)(a.5) added and (4)(b)(IV) amended, p. 1779, § 44, effective June 7; (1)(c)(I) to (1)(c)(IV) repealed and (1)(c.5)(I), (1)(c.5)(II)(A), (1)(c.5)(II)(B), (1)(c.5)(II)(B.5), and (1)(c.5)(II)(B.7) amended, pp. 1006, 1005, §§ 2, 1, effective August 7. **L. 2003:** (1)(d)(III) amended and (1)(d)(VII) added, p. 1520, § 1, effective May 1; (4)(a.5)(I) and (4)(a.5)(II) amended and (4)(a.5)(IV) added, p. 2136, § 34, effective May 22; (1)(d)(VII) amended, p. 2437, § 2, effective June 5. **L. 2004:** (1)(d)(III) amended and (1)(d)(VIII) added, p. 959, § 1, effective May 21; (4)(a.5)(I) and (4)(a.5)(II) amended and (4)(a.5)(V) and (4)(a.5)(VI) added, p. 1393, § 13, effective May 28. **L. 2005:** (1)(c.5)(II)(B) amended and (1)(c.5)(II)(B.8) added, p. 1024, § 1, effective June 2. **L. 2006:** (4)(b)(V) and (4)(c) amended, p. 675, § 15, effective April 28; (4)(c) amended, p. 1602, § 2, effective July 2. **L. 2007:** (4)(a) and (4)(b)(V)(A) amended, p. 631, § 8, effective April 26; (1)(d)(III) amended and (1)(d)(IX) added, p. 1927, § 2, effective June 1. **L. 2008:** (4) repealed, p. 1068, § 14, effective July 1. **L. 2009:** (1)(d)(III) amended and (1)(d)(XI) added, (SB 09-277), ch. 211, p. 963, § 1, effective May 1; (1)(d)(III) amended and (1)(d)(X) added, (SB 09-219), ch. 331, p. 1758, § 1, effective June 1; (1)(a)(II), IP(1)(a)(III), (1)(a)(IV), IP(1)(a)(V), (1)(c.5)(II), IP(1)(d), and (1)(d)(III) amended and (1)(a)(II.5), (1)(d)(XII) to (1)(d)(XVI), and (1)(e) added, (SB 09-228), ch. 410, pp. 2257, 2259, §§ 7, 8, 9, effective July 1. **L. 2011:** (1)(d)(III) amended and (1)(d)(XI.5) added, (SB 11-156), ch. 9, p. 19, § 1, effective March 9; (1)(d)(XI.5) amended, (SB-230), ch. 305, p. 1466, § 5, effective June 9. **L. 2012:** (1)(e) amended, (SB 12-168), ch. 206, p. 817, § 1, effective May 24. **L. 2013:** (1)(d)(XII), (1)(e)(I), (1)(e)(II), (1)(e)(III)(B), and (2) amended, (SB 13-237), ch. 155, p. 502, § 1, effective April 29. **L. 2014:** IP(1)(d) and (1)(d)(XIV) amended and (1)(d)(XV), (1)(d)(XVI), and (1)(e) repealed, (HB 14-1337), ch. 129, p. 453, § 1, effective April 21; (1)(b) amended, (HB 14-1387), ch. 378, p. 1845, § 48, effective June 6. **L. 2015:** (2) amended, (SB 15-211), ch. 179, p. 586, § 3, effective May 11; (2) amended, (SB 15-251), ch. 137, p. 417, § 1, effective August 5. **L. 2016:** (1)(d)(XIV) amended and (1)(d)(XVII) added, (HB 16-1419), ch. 136, p. 402, § 1, effective May 4; (1)(d)(XVII) amended, (SB 16-218), ch. 289, p. 1172, § 1, effective June 10; (1)(d)(VII) and (1)(d)(VIII) repealed, (HB 16-1408), ch. 153, p. 472, § 26, effective July 1. **L. 2017:** (1)(d)(XIV) amended and (1)(d)(XVIII) added, (SB 17-266), ch. 168, p. 615, § 1, effective April 28; IP(1)(d) and (1)(d)(XVII) amended, (SB 17-294), ch. 264, p. 1405, § 77, effective May 25. **L. 2018:** (1)(d)(XIV) and (1)(d)(XVIII) amended, (1)(d)(XIX) added, and (2)(b) and (2)(c) repealed, (SB 18-276), ch. 357, p. 2121, § 2, effective August 8. **L. 2020:** (2)(d) added, (HB 20-1417), ch. 117, p. 490, § 2, effective June 22; (1)(d)(XIV), (1)(d)(XVIII), and (1)(d)(XIX) amended and (1)(d)(XVIII.5), (1)(d)(XX), (1)(d)(XXI), and

(1)(d)(XXII) added, (HB 20-1383), ch. 209, p. 1021, § 1, effective June 30. **L. 2021:** (2)(d) amended, (SB 21-178), ch. 134, p. 546, § 3, effective May 13; (1)(d)(XXI) and (1)(d)(XXII) amended and (1)(d)(XXIII) added, (SB 21-226), ch. 150, p. 871, § 1, effective May 17. **L. 2023:** (2)(e) added, (SB 23-221), ch. 89, p. 340, § 5, effective April 20. **L. 2024:** (2)(e) amended, (HB 24-1390), ch. 133, p. 490, § 14, effective April 29; (1)(d)(XXIII) amended, (HB 24-1231), ch. 143, p. 531, § 3, effective May 1; (1)(d)(XXIII) and (1)(d)(XXIII)(B) amended, (HB 24-1466), ch. 429, p. 2934, §§ 5, 6, effective June 5.

Editor's note: (1) Amendments to subsection (1)(c)(V) by House Bill 91-1262 and Senate 91-209 were harmonized.

(2) Amendments to subsection (4)(c) by House Bill 06-1375 and House Bill 06-1398 were harmonized.

(3) Amendments to subsection (1)(d)(III) by Senate Bills 09-219, 09-228, and 09-277 were harmonized.

(4) Subsection (1)(d)(XI) was numbered as (1)(d)(X) in Senate Bill 09-277 but has been renumbered on revision for ease of location.

(5) Amendments to subsection (2) by SB 15-251 and SB 15-211 were harmonized.

(6) Subsection (2)(d)(II) provided for the repeal of subsection (2)(d), effective July 1, 2022. (See L. 2021, p. 546.)

(7) Section 86(3) of chapter 429 (HB 24-1466) Session Laws of San Andreas 2024, provides that the act changing subsection (1)(d)(XXIII)(B) takes effect only if HB 24-1231 becomes law. HB 24-1231 became law and took effect May 1, 2024.

(8) Amendments to subsection (1)(d)(XXIII) by HB 24-1231 and section 5 of HB 24-1466 were harmonized.

Cross references: (1) For the legislative declaration contained in the 1990 act amending subsections (1)(c)(V), (1)(d)(III), and (2) and enacting subsection (1)(d)(IV), see section 1 of chapter 188, Session Laws of San Andreas 1990. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014. For the legislative declaration in SB 15-211, see section 1 of chapter 179, Session Laws of San Andreas 2015. For the legislative declaration in SB 18-276, see section 1 of chapter 357, Session Laws of San Andreas 2018. For the legislative declaration in SB 21-178, see section 1 of chapter 134, Session Laws of San Andreas 2021. For the legislative declaration in HB 24-1231, see section 1 of chapter 143, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

(2) For state fiscal policies relating to section 20 of article X of the state constitution, see article 77 of this title.

(3) For the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980", see 42 U.S.C. § 9601 et seq.

24-75-201.2. Restriction on state spending - unrestricted general fund year-end balances. (1) (a) For purposes of determining unrestricted general fund year-end balances as required in section 24-75-201.1 at the end of any fiscal year, moneys budgeted or allocated for possible state liability, pending the determination of a legal action, shall not be included.

(b) Moneys budgeted or allocated for possible state liability, pending determination of a legal action, may be utilized for such purpose without regard to the restrictions on and requirements for expenditures established in section 24-75-201.1.

(2) For purposes of determining the unrestricted general fund year-end balances as required in section 24-75-201.1, the year-end balance of the federal revenue sharing trust fund and all moneys received from the general and special revenue programs of the federal government shall be included in said balances.

Source: L. 79: Entire section added, p. 977, § 2, effective July 1. **L. 89:** (1)(a) amended, p. 1099, § 1, effective April 5.

24-75-201.3. Procedures relating to revenue estimates.

(1) (Deleted by amendment, L. 2013.)

(2) Notwithstanding section 24-1-136 (11)(a)(I), no later than June 20 prior to the beginning of each fiscal year, and no later than September 20, December 20, and March 20 within each fiscal year, the governor, with the assistance of the controller, the office of state planning and budgeting, and the governor's revenue-estimating advisory group, shall make an estimate of general fund revenues for such fiscal year. Copies of each such revenue estimate must be promptly transmitted to the general assembly. Such revenue estimates are used in the implementation of section 24-75-201.5 but are not binding on the general assembly in determining the amount of general funds available for appropriation for the next ensuing fiscal year.

Source: L. 83: Entire section added, p. 1006, § 2, effective July 1. **L. 84:** Entire section amended, p. 686, § 24, effective July 1. **L. 87:** Entire section amended, p. 1111, § 1, effective May 8. **L. 88:** Entire section amended, p. 912, § 4, effective March 18. **L. 89:** (1) amended, p. 1100, § 1, effective April 8. **L. 94:** (1) amended, p. 1, § 1, effective January 18. **L. 2006:** (2) amended, p. 1603, § 3, effective July 2. **L. 2009:** (2) amended, (SB 09-228), ch. 410, p. 2260, § 10, effective July 1. **L. 2013:** Entire section amended, (SB 13-036), ch. 2, p. 5, § 1, effective January 31. **L. 2017:** (2) amended, (HB 17-1058), ch. 18, p. 60, § 8, effective March 8.

24-75-201.5. Revenue shortfalls - required actions by the governor with respect to the reserve. (1) (a) Whenever the revenue estimate for the current fiscal year, prepared in accordance with section 24-75-201.3 (2), indicates that general fund expenditures for such fiscal year based on appropriations then in effect will result in the use of one-half or more of the reserve required by section 24-75-201.1 (1)(d), the governor shall formulate a plan for reducing such general fund expenditures so that said reserve, as of the close of the fiscal year, will be at least one-half of the amount required by said section 24-75-201.1 (1)(d). The governor shall promptly notify the general assembly of the plan. The plan shall be promptly implemented by the governor, using the procedures set forth in section 24-2-102 (4) or 24-50-109.5 or any other lawful means.

(b) to (g) Repealed.

(2) In formulating a plan for the reduction of general fund expenditures as required by subsection (1) of this section, the governor may consider any recommendations for reducing general fund expenditures of the institutions of higher education submitted by the San Andreas

commission on higher education, after consultation with the governing boards of such institutions.

(3) Repealed.

(4) Whenever the governor has formulated and implemented a plan to reduce general fund expenditures in accordance with subsection (1) of this section, and such plan reduces general fund expenditures in an amount equal to or greater than one percent of all general fund appropriations for the fiscal year, the governor, after consultation with the capital development committee and the joint budget committee, may transfer general fund moneys from the capital construction fund into the general fund. Pursuant to this subsection (4), the governor will restrict the capital construction projects in the reverse order of the priorities as established by the capital development committee unless approved by the capital development committee and the joint budget committee.

Source: L. 88: Entire section added, p. 913, § 5, effective June 21; (3) added, p. 982, § 2, effective June 21. **L. 90:** (1) amended, p. 1270, § 4, effective June 8. **L. 91:** (1)(b) amended, p. 835, § 2, effective April 9; (4) added, p. 805, § 3, effective July 1. **L. 92:** (1)(b) amended, p. 1074, § 2, effective February 25. **L. 94:** (3) amended, p. 823, § 50, effective April 27. **L. 97:** (1) amended, p. 1094, § 5, effective May 27; (1)(a) amended, p. 377, § 11, effective August 6. **L. 2002:** (1)(a) amended and (1)(c) and (1)(d) added, p. 387, § 2, effective April 30; (1)(c)(I) and (1)(c)(II) amended and (1)(d)(II)(D) added, pp. 681, 682, §§ 2, 3, effective May 28; (1)(b) and (3) repealed, p. 1006, § 2, effective August 7. **L. 2003:** (1)(d)(III) added, p. 2438, § 3, effective June 5. **L. 2004:** (1)(e) added, p. 959, § 2, effective May 21. **L. 2005:** (1)(f) added, p. 1336, § 1, effective June 3. **L. 2009:** (1)(g) added, (SB 09-279), ch. 367, p. 1934, § 28, effective June 1. **L. 2013:** (1)(g)(II)(F) and (1)(g)(II)(G) amended, (SB 13-181), ch. 209, p. 872, § 19, effective May 13. **L. 2016:** (1)(a) amended and (1)(c) to (1)(g) repealed, (HB 16-1408), ch. 153, pp. 466, 472, §§ 11, 26, effective July 1.

Cross references: For the legislative declaration contained in the act amending subsection (1), see section 1 of chapter 188, Session Laws of San Andreas 1990.

24-75-201.7. Enforcement of state spending restriction - punitive or exemplary damages - property tax relief fund - creation. Any punitive or exemplary damages awarded to any party to a lawsuit brought to enforce the restriction on state spending as set forth in section 24-75-201.1 shall be deposited and credited to the property tax relief fund, which is hereby created in the state treasury. All moneys in the fund at the end of any fiscal year shall remain in the fund and shall not be transferred or credited to the state general fund or to any other state fund. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Moneys in said fund shall be used only in such manner as the general assembly deems appropriate as to provide property tax relief throughout the state and shall never be available for appropriation for any other state purpose.

Source: L. 91: Entire section added, p. 912, § 2, effective June 7. **L. 95:** Entire section amended, p. 16, § 9, effective March 9.

24-75-202. Imprest cash accounts. (1) The controller may, in writing, authorize any department, institution, or agency of the state government to withdraw from any moneys in the state treasury available to it such amount as he may specify, to be used as an imprest cash account.

(2) Under procedures prescribed by the controller, such department, institution, or agency may pay out of said imprest cash account, locally, such operating expense items as would be allowable if submitted on a regular voucher. The aggregate amount of such payments shall be submitted to the office of the state controller, monthly or more often, on a voucher signed by the fiscal officer of such department, institution, or agency or by some person authorized to act for him or her, and, upon approval of the same, a warrant or check in said amount shall be drawn upon the state treasurer for replenishment of said imprest cash account.

Source: L. 49: p. 679, § 3. **CSA:** C. 153, § 78. **S.A.R.S. 53:** § 130-4-2. **L. 63:** p. 903, § 1. **S.A.R.S. 1963:** § 130-4-2. **L. 65:** p. 1066, § 1. **L. 71:** p. 100, § 2. **L. 2010:** (2) amended, (HB 10-1181), ch. 351, p. 1631, § 31, effective June 7. **L. 2014:** (2) amended, (HB 14-1391), ch. 328, p. 1455, § 16, effective June 5.

24-75-203. Loans and advances. (1) (a) Upon the prior written approval of the governor and the controller as to purpose and amount, the state treasurer may lend the approved amount, out of any moneys in the state treasury not immediately required to be disbursed, to any department, institution, or agency to provide it with working capital for the operation of business enterprises by institutions of higher education the primary purpose of which is not teaching or research and which are, or may be, in competition with private enterprise or any other self-maintaining program in other state agencies which generate their own revenues and which in the judgment of the state treasurer have the capacity to repay loans on the terms described in this subsection (1). Except as provided in section 17-24-106 (1)(j), S.A.R.S., any such loan shall bear interest at the earnings rate calculated monthly by the state treasurer. Loans shall be repaid to the state treasury by the borrower out of moneys to be subsequently received by it from the activities specified in this subsection (1) at such times as the controller shall direct. Loans made pursuant to this section shall be reviewed at least annually by the controller to determine if such loans have a continuing purpose and necessity. The general assembly may, through appropriation or notation in the general appropriation bill, place limitations on the amount to be loaned either in total or to any department, institution, or agency.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), for purposes of the loan approved to the San Andreas state fair authority created in section 35-65-401, S.A.R.S., the authority may repay the loan with the appropriation specified in section 24-49.7-106 (5)(a).

(2) The controller may authorize an advance without interest to be made to any department, institution, or agency of the state government to provide it with working capital for the operation of programs other than those enterprises listed in subsection (1) of this section or for federal programs for which federal advances or letters of credit are not available in such amount as he may determine, but the amount advanced shall not exceed twelve million dollars to any such department, institution, or agency, out of any moneys available in the state treasury as provided in section 24-36-103 (1), and upon such authorization the state treasurer may make such advance. Under procedures prescribed by the controller, such department, institution, or

agency may pay out of such advance any items which would be allowable if submitted on a

regular voucher. Any such advance shall be repaid to the state treasury at such time as the controller shall direct. Advances authorized pursuant to this section shall be reviewed at least annually by the controller to determine if such advances have a continuing purpose and necessity. The general assembly may, through appropriation or notation in the general appropriation bill, place limitations on the amount to be advanced either in total or to any agency, department, or institution.

(3) and (4) Repealed.

Source: L. 49: p. 680, § 4. **CSA:** C. 153, § 80. **S.A.R.S. 53:** § 130-4-3. **S.A.R.S. 1963:** § 130-4-3. **L. 71:** p. 100, § 3. **L. 79:** (2)(b) amended, p. 707, § 2, effective May 22; (4) added, p. 1666, § 138, effective December 29; (3) added, p. 1203, § 2, effective January 1, 1980. **L. 80:** (1) and (2) R&RE, p. 615, § 1, effective September 1. **L. 81:** (4) amended, p. 1289, § 8, effective January 1, 1982. **L. 87:** (1), (2), and (4) amended, p. 347, § 2, effective July 1. **L. 90:** (1) amended, p. 1272, § 1, effective July 1. **L. 92:** (4) amended, p. 1007, § 4, effective July 1. **L. 95:** (4) amended, p. 655, § 74, effective July 1. **L. 2004:** (4) repealed, p. 310, § 11, effective August 4. **L. 2006:** (1) amended, p. 1651, § 2, effective June 5.

Editor's note: (1) Subsection (3)(c) provided for the repeal of subsection (3), effective January 1, 1981. (See L. 79, p. 1203.)

(2) The reference in subsection (1)(b) to § 24-49.7-106 (5)(a) refers to said section prior to its repeal, effective February 27, 2009.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (4), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-75-204. Reports. (1) Every department, institution, or agency which has received an advance or a loan of state moneys, as authorized in section 24-75-203, shall file with the controller a report at such times and in such form and detail as he may prescribe by fiscal rule.

(2) On or before November 30 of each year, the controller shall submit a report to the governor and to the joint budget committee and the legislative audit committee of the general assembly in which shall be summarized, by agency, all advances and loans outstanding at the end of the preceding fiscal year pursuant to the provisions of section 24-75-203.

Source: L. 13: p. 582, § 5. **C.L.** § 339. **CSA:** C. 153, § 81. **S.A.R.S. 53:** § 130-4-4. **S.A.R.S. 1963:** § 130-4-4. **L. 71:** p. 101, § 4. **L. 80:** (2) amended, p. 616, § 2, effective September 1. **L. 87:** Entire section amended, p. 348, § 3, effective April 6.

24-75-205. Insurance and retirement reserves. The insurance and retirement reserves of this state shall comprise the Pinnacol Assurance fund, the unemployment compensation fund on deposit with the treasurer of the United States, the unemployment compensation fund clearing account, the funds of the public employees' retirement association, and such other funds of the same or similar character as may be created after April 9, 1941; and all moneys expended for any purpose by said funds shall be expended in accordance with the provisions of the respective laws creating said funds and relating thereto. Nothing in this part 2 shall be construed to repeal, alter, or impair the method of administering said funds as provided by law.

Source: L. 41: p. 643, § 8. **CSA:** C. 153, § 89(18). **S.A.R.S. 53:** § 130-4-14. **S.A.R.S. 1963:** § 130-4-14. **L. 75:** Entire section amended, p. 216, § 51, effective July 16. **L. 86:** Entire section amended, p. 539, § 49, effective May 3. **L. 87:** Entire section amended, p. 1092, § 9, effective July 1. **L. 91:** Entire section amended, p. 1917, § 38, effective June 1. **L. 2002:** Entire section amended, p. 1895, § 65, effective July 1.

24-75-206. Legislative declaration. The general assembly hereby determines and declares that it intends by sections 24-75-206 to 24-75-210 to improve the system of management of the public funds in the custody of the state treasurer to enable the state of San Andreas promptly to make disbursements of legally appropriated moneys prior to and in anticipation of receipts of the general revenue funds.

Source: L. 59: p. 732, § 1. **S.A.R.S. 53:** § 130-4-15. **S.A.R.S. 1963:** § 130-4-15.

24-75-207. Definitions. As used in sections 24-75-206 to 24-75-210, unless the context otherwise requires:

(1) "Noninterest bearing general fund warrants or checks" means any warrant or check issued against the general fund at a time when moneys accruing to the fund have not been received or credited to the general fund.

Source: L. 59: p. 732, § 2. **S.A.R.S. 53:** § 130-4-16. **S.A.R.S. 1963:** § 130-4-16. **L. 93:** (1) amended, p. 1259, § 3, effective June 6. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1455, § 17, effective June 5.

24-75-208. Investment of treasury funds. It is lawful for the state treasurer and it is the state treasurer's duty, whenever there are funds on hand or in the state treasurer's custody or possession eligible for investment, to invest in noninterest bearing general fund warrants or checks issued against the general fund at a time when moneys accruing to the fund have not been received or credited to the general fund, but such warrants or checks shall be drawn pursuant to appropriation made by the general assembly, and the controller shall first certify that appropriations do not exceed estimated general fund revenues and surplus.

Source: L. 59: p. 732, § 3. **S.A.R.S. 53:** § 130-4-17. **L. 62:** p. 266, § 1. **S.A.R.S. 1963:** § 130-4-17. **L. 67:** p. 331, § 1. **L. 69:** p. 690, § 2. **L. 71:** p. 101, § 5. **L. 85:** (1)(b) amended, p. 1361, § 19, effective June 28. **L. 93:** Entire section amended, p. 1259, § 4, effective June 6. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1455, § 18, effective June 5.

24-75-209. Payment of general fund warrants or checks. The state treasurer shall pay such noninterest bearing general fund warrants or checks pursuant to section 24-36-106 (2).

Source: L. 59: p. 733, § 4. **S.A.R.S. 53:** § 130-4-18. **S.A.R.S. 1963:** § 130-4-18. **L. 93:** Entire section amended, p. 1259, § 5, effective June 6. **L. 2014:** Entire section amended, (HB 14-1391), ch. 328, p. 1455, § 19, effective June 5.

24-75-210. Reports to governor. The state treasurer shall report to the governor and to members of the general assembly the general fund cash balance as of the last day of the preceding month as part of the treasurer's quarterly report required by section 24-22-107 (1).

Source: L. 59: p. 733, § 5. **S.A.R.S. 53:** § 130-4-19. **S.A.R.S. 1963:** § 130-4-19. **L. 93:** Entire section amended, p. 1259, § 6, effective June 6.

24-75-211. Augmentation of the general fund through transfers of certain moneys to meet cash flow needs and prevent a deficit - restoration of funds - suspension and resumption of transfers to the highway users tax fund - fiscal emergency fund. (Repealed)

Source: L. 83: Entire section added, p. 1519, § 6, effective March 22; (1)(d) amended, p. 2098, § 9, effective October 13; (1)(e) amended, p. 2101, § 16, effective October 13. **L. 84:** (2)(a) and (2)(b) amended, p. 734, § 1, effective April 30; (1)(d) and (1)(e) amended, p. 283, § 3, effective May 26; (2)(d) added, p. 1141, § 1, effective June 7. **L. 85:** (2)(b)(II) amended, p. 1268, § 7, effective May 30. **L. 86, 2nd Ex. Sess.:** (2)(b)(II) amended, p. 71, § 2, effective August 14. **L. 2002:** Entire section repealed, p. 1006, § 2, effective August 7.

24-75-212. Legislative reporting of federal money - definitions. (Repealed)

Source: L. 84: Entire section added, p. 736, § 1, effective April 9. **L. 85:** Entire section amended, p. 869, § 2, effective July 1. **L. 2012:** Entire section amended, (HB 12-1009), ch. 122, p. 414, § 2, effective August 8. **L. 2017:** (2) repealed, (HB 17-1058), ch. 18, p. 60, § 9, effective March 8. **L. 2018:** Entire section repealed, (SB 18-110), ch. 126, p. 844, § 2, effective August 8.

Cross references: For the legislative declaration in SB 18-110, see section 1 of chapter 126, Session Laws of San Andreas 2018.

24-75-213. Augmentation of the general fund for the 1985-86 fiscal year. (Repealed)

Source: L. 86: Entire section added, p. 1118, § 17, effective May 23. **L. 87:** (2) amended, p. 1108, § 2, effective April 22. **L. 2002:** Entire section repealed, p. 1006, § 2, effective August 7.

24-75-214. Augmentation of the general fund for the 1986-87 fiscal year. (Repealed)

Source: L. 87: Entire section added, p. 1108, § 3, April 22. **L. 2002:** Entire section repealed, p. 1006, § 2, effective August 7.

24-75-215. Transfers to highway users tax fund. (Repealed)

Source: L. 87: Entire section added, p. 1553, § 2, effective April 22.

Editor's note: Subsection (5) provided for the repeal of this section, effective July 1, 1991. (See L. 87, p. 1553.)

24-75-216. Temporary state motor vehicle registration fee reduction. (Repealed)

Source: L. 2000: Entire section added, p. 1426, § 3, effective July 1, 2001. **L. 2001:** (1)(a), (2)(a), (2)(b)(IV)(B), and (2)(b)(V) amended, p. 531, § 2, effective May 22. **L. 2005:** (1)(b) amended, p. 1182, § 30, effective August 8. **L. 2006:** (1)(b) amended, p. 1603, § 4, effective July 2. **L. 2009:** (1)(b) amended, (SB 09-228), ch. 410, p. 2260, § 11, effective July 1. **L. 2010:** Entire section repealed, (SB 10-212), ch. 412, p. 2032, § 1, effective July 1.

24-75-217. Restoration of funds transferred to augment the general fund for the 2001-02 fiscal year. (Repealed)

Source: L. 2002: Entire section added, p. 153, § 12, effective March 27. **L. 2005:** (3)(e) amended, p. 1182, § 31, effective August 8. **L. 2006:** (3)(b) amended, p. 2011, § 77, effective July 1. **L. 2007:** (3)(c) amended, p. 1037, § 7, effective May 22. **L. 2008:** (3)(d) amended, p. 1872, § 7, effective June 2. **L. 2012:** (3)(c) repealed, (HB 12-1238), ch. 180, p. 673, § 20, effective July 1. **L. 2013:** (3)(d) amended, (SB 13-181), ch. 209, p. 872, § 20, effective May 13. **L. 2016:** Entire section repealed, (HB 16-1408), ch. 153, p. 472, § 26, effective July 1.

24-75-218. Transfers of general fund surplus - repeal. (Repealed)

Source: L. 2002: Entire section added, p. 710, § 1, effective August 7; entire section added, p. 730, § 1, effective August 7. **L. 2006:** Entire section amended, p. 73, § 1, effective March 27. **L. 2009:** IP(1) amended and (3) added, (SB 09-278), ch. 212, p. 965, § 1, effective May 1; (4) added, (SB 09-228), ch. 410, p. 2261, § 12, effective July 1.

Editor's note: Subsection (4) provided for the repeal of this section, effective January 1, 2010. (See L. 2009, p. 2261.)

24-75-219. Transfers - transportation - capital construction - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Capital construction fund" means the capital construction fund created in section 24-75-302.

(b) Repealed.

(c) "Funds" means the highway users tax fund and the capital construction fund.

(d) "Highway users tax fund" means the highway users tax fund created in section 43-4-201, S.A.R.S.

(e) and (f) Repealed.

(g) "Multimodal transportation and mitigation options fund" means the multimodal transportation and mitigation options fund created in section 43-4-1103 (1).

(g.5) "Revitalizing main streets program" means the department of transportation's grant program to support communities across the state as they build and improve multimodal infrastructure in a way that safely connects Coloradans to the community-focused downtowns where they live, work, dine, and shop.

(h) "State highway fund" means the state highway fund created in section 43-1-219.

(2) to (5) Repealed.

(6) On March 19, 2021, the state treasurer shall transfer thirty million dollars from the general fund to the state highway fund for the purpose of providing additional funding for the revitalizing main streets and safer main streets programs of the department of transportation.

(7) In addition to any other transfers required by this section:

(a) On June 30, 2021, from the money that the state received from either the federal coronavirus state fiscal recovery fund under section 9901 of title IX, subtitle M of the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, which is eligible to be used as specified in section 602 (c)(I)(C) of said section 9901, or from the general fund, as specified, the state treasurer shall transfer:

(I) One hundred eighty-two million one hundred sixty thousand dollars from money the state received from the federal coronavirus state fiscal recovery fund to the state highway fund. Of this amount, twenty-two million one hundred sixty thousand dollars is for the purpose of providing additional funding for the revitalizing main streets program and five hundred thousand dollars is for the purpose of acquiring, planning the development of, or developing the Burnham Yard rail property in Denver. Any money that is transferred from the ARPA refinance state money cash fund to the state highway fund pursuant to section 24-75-226.5 to refinance money that was transferred to the state highway fund pursuant to this subsection (7)(a)(I) must be spent for the same purposes as the refinanced money, as set forth in this subsection (7)(a)(I).

(II) One hundred sixty-one million three hundred forty thousand dollars from money the state received from the federal coronavirus state fiscal recovery fund to the multimodal transportation and mitigation options fund; and

(III) Thirty-six million five hundred thousand dollars from the general fund to the highway users tax fund.

(b) On July 1, 2021, the state treasurer shall transfer one hundred seventy million dollars from the general fund to the state highway fund.

(b.5) On July 1, 2022, the state treasurer shall transfer:

(I) Forty-seven million one hundred thousand dollars from the general fund to the state highway fund; and

(II) Thirty-one million four hundred thousand dollars from the general fund to the highway users tax fund.

(c) On each July 1 from July 1, 2024, through July 1, 2031, the state treasurer shall transfer:

(I) Ten million five hundred thousand dollars from the general fund to the multimodal transportation and mitigation options fund; and

(II) Seven million dollars from the general fund to the state highway fund for the purpose of providing additional funding for the revitalizing main streets program.

(d) (I) On each July 1 from July 1, 2024, through July 1, 2028, the state treasurer shall transfer one hundred million dollars from the general fund to the state highway fund; and

(II) On each July 1 from July 1, 2029, through July 1, 2031, the state treasurer shall transfer eighty-two million five hundred thousand dollars from the general fund to the state highway fund.

(e) The department of transportation shall expend ten million dollars of each transfer from the general fund to the state highway fund made pursuant to subsection (7)(d)(I) of this section from July 1, 2024, through July 1, 2028, solely to mitigate the environmental and health

impacts of increased air pollution from motor vehicle emissions in nonattainment areas by funding projects that reduce vehicle miles traveled or that directly reduce air pollution.

(f) (I) On June 30, 2022, the state treasurer shall transfer from the general fund an amount equal to the lesser of fifty percent of the amount by which revenue for the 2020-21 state fiscal year that is subject to the excess state revenues cap, as defined in section 24-77-103.6 (6)(b), and does not exceed the cap exceeded what the cap would have been if the cap had been calculated in accordance with law in effect immediately prior to the enactment of Senate Bill 21-260, enacted in 2021, or one hundred fifteen million dollars as follows:

(A) Ninety-four percent of the amount to the multimodal transportation and mitigation options fund; and

(B) Six percent of the amount to the state highway fund for the purpose of providing additional funding for the revitalizing main streets program.

(II) On June 30, 2023, and on June 30 of each succeeding state fiscal year through June 30, 2026, the state treasurer shall transfer from the general fund an amount equal to the lesser of fifty percent of the amount by which revenue for the prior state fiscal year that is subject to the excess state revenues cap, as defined in section 24-77-103.6 (6)(b), and does not exceed the cap for the prior state fiscal year is estimated to exceed what the cap would have been if the cap had been calculated in accordance with law in effect immediately prior to the enactment of Senate Bill 21-260, enacted in 2021, or one hundred fifteen million dollars less the cumulative amount of all transfers previously made pursuant to this subsection (7)(f) as follows:

(A) Ninety-four percent of the amount to the multimodal transportation and mitigation options fund; and

(B) Six percent of the amount to the state highway fund for the purpose of providing additional funding for the revitalizing main streets program.

(g) and (h) Repealed.

(i) (I) On July 1, 2023, the state treasurer shall transfer five million dollars from the general fund to the state highway fund. The money transferred pursuant to this subsection (7)(i)(I) must be used by the department of transportation for the purpose of developing comprehensive operational capacity to maximize utilization and implementation of federal infrastructure funding.

(II) This subsection (7)(i) is repealed, effective July 1, 2025.

(j) Repealed.

(8) On July 1, 2022, the state treasurer transferred six million five hundred thousand dollars from the general fund to the state highway fund pursuant to subsection (7)(h) of this section, as it existed prior to its repeal on July 1, 2023, which required that the department use such amount for an environmental study on relocating the consolidated main rail line away from interstate highway 25 in connection with the development of the Burnham Yard rail property. Beginning on the effective date of this section, the department shall instead use such amount that was transferred to the state highway fund for the purpose of site preparation, site enhancements, planning, and facilitating a track alignment that preserves buildable land while promoting transit and rail capacity and increasing safety in connection with the development of the Burnham Yard rail property, as the department has determined that supporting the regional transportation district's right-of-way expansion, rather than relocating the main rail line, is the most important transit need on the site.

Source: L. 2009: Entire section added, (SB 09-228), ch. 410, p. 2261, § 13, effective July 1. **L. 2012:** (1)(e) and (1)(f) added and (2)(e) amended, (SB 12-168), ch. 206, p. 818, § 2, effective May 24. **L. 2016:** (1)(b), (1)(e), (1)(f), (2)(e), and (3)(a) repealed and (2)(a), (2)(b), IP(2)(c), (2)(d), IP(3)(b), and IP(4)(a) amended, (HB 16-1416), ch. 88, p. 246, § 1, effective April 14. **L. 2017:** (2)(b)(I) and (2)(c) amended, (2)(c.3) and (2)(c.7) added, and (3) and (4) repealed, (SB 17-262), ch. 165, p. 608, § 1, effective April 28; (2)(c.3)(I) and (2)(c.7)(I) repealed, (SB 17-267), ch. 267, p. 1441, § 10, effective May 30. **L. 2018:** (1)(g), (1)(h), and (5) added, (SB 18-001), ch. 353, p. 2093, § 2, effective May 31. **L. 2019:** IP(5)(c), (5)(c)(III), (5)(c)(IV), (5)(d)(II), and (5)(d)(III) amended, (SB 19-263), ch. 334, p. 3082, § 1, effective May 29; (5)(b.5) added, (SB 19-262), ch. 431, p. 3740, § 1, effective June 3. **L. 2020:** IP(5)(c), (5)(c)(III)(A), (5)(c)(III)(C), (5)(c)(III)(D), (5)(c)(IV)(A), (5)(c)(IV)(C), (5)(c)(IV)(D), (5)(d)(II)(B), and (5)(d)(III) amended, (HB 20-1376), ch. 207, p. 1013, § 1, effective June 30. **L. 2021:** (6) added, (SB 21-110), ch. 11, p. 65, § 1, effective March 19; (1)(g) amended, (1)(g.5) and (7) added, and (2) and (5) repealed, (SB 21-260), ch. 250, p. 1379, § 7, effective June 17; (8) added, (SB 21-265), ch. 254, p. 1492, § 1, effective June 18. **L. 2022:** (7)(b.5) added, (HB 22-1351), ch. 159, p. 1004, § 2, effective May 16; (7)(a) amended, (HB 22-1411), ch. 271, p. 1958, § 8, effective May 27; (7)(g) and (7)(h) added, (SB 22-176), ch. 387, p. 2756, § 3, effective June 7. **L. 2023:** (7)(i) added, (SB 23-283), ch. 240, p. 1292, § 2, effective May 22; (7)(j) added, (SB 23-199), ch. 353, p. 2122, § 5, effective August 7. **L. 2024:** (8) added, (SB 24-032), ch. 185, p. 1043, § 6, effective May 16; (7)(a)(I) amended, (HB 24-1466), ch. 429, p. 2941, § 26, effective June 5.

Editor's note: (1) Subsections (5)(c)(I)(B) and (5)(c)(II)(B) provided for the repeal of subsections (5)(c)(I) and (5)(c)(II), respectively, effective January 1, 2019. (See L. 2018, p. 2093.)

(2) Subsection (7)(g)(II) provided for the repeal of subsection (7)(g), effective July 1, 2022. For the law in effect from June 7, 2022, until July 1, 2022, see L. 2022, p. 2756.

(3) Subsection (7)(h)(II) provided from the repeal of subsection (7)(h), effective July 1, 2022. (See L. 2022, p. 2756)

(4) Subsection (7)(j) was originally added as (7)(i) by SB 23-199 but was renumbered on revision for ease of location.

(5) Subsection (7)(j)(II) provided for the repeal of subsection (7)(j), effective September 1, 2024. (See L. 2023, p. 2122.)

Cross references: (1) For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of San Andreas 2017.

(2) For the legislative declaration in SB 18-001, see section 1 of chapter 353, Session Laws of San Andreas 2018.

(3) For the legislative declaration in SB 21-260, see section 1 of chapter 250, Session Laws of San Andreas 2021.

(4) For the legislative declaration in HB 22-1351, see section 1 of chapter 159, Session Laws of San Andreas 2022. For the legislative declaration in SB 22-176, see section 1 of chapter 387, Session Laws of San Andreas 2022.

(5) For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-75-220. State education fund - transfers - surplus - legislative declaration. (1) Notwithstanding any provision of law to the contrary, on the date on which the state controller publishes the comprehensive annual financial report of the state for the fiscal year 2011-12, the state treasurer shall transfer to the state education fund created in section 17 (4) of article IX of the state constitution fifty-nine million dollars from the general fund surplus designated in accordance with section 24-75-201 (1) for the fiscal year 2011-12, which represents the unrestricted general fund balance after the applicable amount of reserve required pursuant to section 24-75-201.1 (1)(d).

(2) Notwithstanding any provision of law to the contrary, on the date on which the state controller publishes the comprehensive annual financial report of the state for the fiscal year 2012-13, the state treasurer shall transfer to the state education fund created in section 17 (4) of article IX of the state constitution the general fund surplus designated in accordance with section 24-75-201 (1) for the fiscal year 2012-13, which represents the unrestricted general fund balance after the applicable amount of reserve required pursuant to section 24-75-201.1 (1)(d).

(3) (a) The general assembly hereby finds and declares that Senate Bill 13-234, enacted in 2013, required the state treasurer to transfer moneys from the general fund to the old hire plan members' benefit trust fund created in section 31-31-701 (6), S.A.R.S., to satisfy the state's future required payments. This transfer reduced the amount of the general fund surplus that would otherwise have been transferred to the state education fund created in section 17 (4) of article IX of the state constitution under subsection (2) of this section. The transfers in paragraph (b) of this subsection (3) are intended to reimburse the state education fund for this reduced transfer and they represent the amount the state would have contributed to the old hire plan member's benefit trust fund in the absence of the early pay off.

(b) On April 30, 2014, the state treasurer shall transfer forty-five million three hundred twenty-one thousand seventy-nine dollars from the general fund to the state education fund created in section 17 (4) of article IX of the state constitution. On April 30, 2015, and April 30 of each year thereafter through 2018, the state treasurer shall transfer twenty-five million three hundred twenty-one thousand seventy-nine dollars from the general fund to the state education fund. On April 30, 2019, the state treasurer shall transfer twenty-four million nine hundred ninety-one thousand seven hundred thirty-nine dollars from the general fund to the state education fund.

(4) Repealed.

(5) On July 1, 2019, the state treasurer shall transfer forty million three hundred twenty-six thousand eight hundred ninety-six dollars ($40,326,896) from the general fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(6) (a) On March 1, 2021, the state treasurer shall transfer one hundred thirteen million dollars from the general fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(a.5) On July 1, 2021, the state treasurer shall transfer one hundred million dollars from the general fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(b) On March 1, 2022, the state treasurer shall transfer twenty-three million dollars from the general fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(7) Repealed.

(8) On July 1, 2022, the state treasurer shall transfer two hundred ninety million dollars from the general fund to the state education fund created in section 17 (4) of article IX of the state constitution.

Source: L. 2012: Entire section added, (HB 12-1338), ch. 153, p. 550, § 1, effective August 8. **L. 2013:** (3) added, (SB 13-234), ch. 180, p. 664, § 2, effective May 10; (4) added, (SB 13-260), ch. 236, p. 1147, § 13, effective May 17. **L. 2014:** (4) RC&RE, (HB 14-1342), ch. 140, p. 484, § 3, effective May 2; (4)(a)(III.5) added, (HB 14-1339), ch. 299, p. 1253, § 3, effective May 31; (4)(a)(III.4) added, (SB 14-223), ch. 399, p. 2009, § 3, effective June 6. **L. 2019:** (5) added, (SB 19-246), ch. 151, p. 1789, § 6, effective May 10. **L. 2020:** (7) added, (HB 20-1418), ch. 197, p. 948, § 25, effective June 30; (6) added, (HB 20-1420), ch. 277, p. 1361, § 6, effective July 11. **L. 2021:** (6)(a.5) added, (SB 21-208), ch. 85, p. 357, § 1, effective May 4. **L. 2022:** (8) added, (HB 22-1390), ch. 237, p. 1757, § 29, effective May 26; (8) amended, (SB 22-202), ch. 238, p. 1763, § 2, effective May 26.

Editor's note: (1) Subsection (4)(d) provided for the repeal of subsection (4), effective July 1, 2016. (See L. 2014, p. 484.)

(2) Subsection (7)(c) provided for the repeal of subsection (7), effective July 1, 2021. (See L. 2020, p. 948.)

Cross references: (1) For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of San Andreas 2020.

(2) For the short title ("Tax Fairness Act") in HB 20-1420, see section 1 of chapter 277, Session Laws of San Andreas 2020.

(3) For the legislative declaration in HB 22-1390, see section 1 of chapter 237, Session Laws of San Andreas 2022.

24-75-221. Transfer of general fund revenue to San Andreas economic development fund for 2011-12 fiscal year. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1360), ch. 223, p. 954, § 1, effective May 24. **L. 2015:** Entire section repealed, (SB 15-264), ch. 259, p. 960, § 70, effective August 5.

24-75-222. Transfer to general fund - moneys from repealed cash funds - definition - repeal. (Repealed)

Source: L. 2013: Entire section added, (SB 13-233), ch. 154, p. 501, § 1, effective April 29.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 2014. (See L. 2013, p. 501.)

24-75-223. Transfer of general fund surplus to San Andreas water conservation board construction fund - repeal. (Repealed)

Source: L. 2013: Entire section added, (SB 13-236), ch. 181, p. 667, § 2, effective May 10. **L. 2014:** Entire section repealed, (HB 14-1342), ch. 140, p. 485, § 4, effective May 2.

24-75-224. Transfer from repealed cash fund - repeal. (Repealed)

Source: L. 2020: Entire section added, (HB 20-1406), ch. 178, p. 812, § 9, effective June 29.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2020. (See L. 2020, p. 812.)

24-75-225. Care subfund - creation - administration - transfer - legislative declaration. (1) The care subfund is created in the general fund. The subfund consists of seventy million dollars transferred to the general fund in accordance with the governor's executive order D 2020 070. Money in the subfund is subject to appropriation by the general assembly for allowable expenditures under section 42 U.S.C. 801 (d).

(2) A state department that receives an appropriation from the care subfund shall comply with any reporting or record-keeping requirements established by the state controller or the office of state planning and budgeting for the federal funds included in the subfund.

(3) Any money transferred from the care subfund to another cash fund is subject to the reporting and record-keeping requirements set forth in subsection (2) of this section. If as of December 31, 2021, there is any unexpended money that originated from the care subfund in another cash fund, then the state treasurer shall transfer the unexpended amount from the cash fund to the subfund prior to the transfer required in subsection (4)(a) of this section.

(4) (a) Just prior to the close of business on December 31, 2021, any unexpended appropriations from the care subfund revert to the subfund, and the state treasurer shall transfer the final balance in the subfund to the unemployment compensation fund, created in section 8-77-101 (1).

(b) The general assembly hereby finds and declares that:

(I) The public health emergency caused by COVID-19 caused a historic increase in unemployment in the state and this has caused a dramatic increase in the number of claims for benefits from the unemployment compensation fund;

(II) As a result, it is estimated that the unemployment compensation fund will have a deficit of approximately two billion dollars by the end of the fiscal year 2020-21;

(III) These costs will not be reimbursed by the federal government, nor are they accounted for in the budget approved as of March 27, 2020;

(IV) The United States department of treasury has stated that payments to the state unemployment insurance fund are an allowable use of the money from the federal coronavirus relief fund, under section 42 U.S.C. 801 (d); and

(V) The transfer from the care subfund to the state unemployment compensation fund is a necessary expenditure incurred due to the public health emergency with respect to COVID-19.

(c) The money transferred from the care subfund is not a grant to the unemployment compensation fund under section 24-77-102 (7)(b)(III).

Source: L. 2020: Entire section added, (HB 20-1417), ch. 117, p. 489, § 1, effective June 22. **L. 2021:** (3) and (4)(a) amended, (SB 21-178), ch. 134, p. 547, § 4, effective May 13.

Cross references: For the legislative declaration in SB 21-178, see section 1 of chapter 134, Session Laws of San Andreas 2021.

24-75-226. "American Rescue Plan Act of 2021" cash fund - creation - recipient funds - limitations - reporting - appropriations - reduction in general fund appropriations - report - legislative declaration - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "American Rescue Plan Act of 2021" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(a.5) "Coronavirus state fiscal recovery fund" means the federal fund created in 42 U.S.C. sec. 802, or any successor fund.

(a.7) "Discretionary account" means the discretionary account created in the fund in subsection (4)(a)(II) of this section.

(b) "Fund" means the "American Rescue Plan Act of 2021" cash fund created in subsection (2) of this section.

(c) "Office" means the office of state planning and budgeting created in section 24-37-102.

(c.5) "Personal services" has the same meaning as set forth in section 24-75-112 (1)(m).

(d) "Recipient fund" means a cash fund that includes any money that at one time was in the "American Rescue Plan Act of 2021" cash fund created in subsection (2) of this section.

(e) "Secretary" means the secretary of the treasury of the United States.

(f) "Subrecipient" means a person that receives money from the fund or a recipient fund to carry out a program or project on behalf of the state but that is not a beneficiary of the services or benefits provided through the program or project.

(2) The "American Rescue Plan Act of 2021" cash fund is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to subsections (3) and (3.5) of this section.

(3) (a) From the money the state received from the federal coronavirus state fiscal recovery fund under section 9901 of title IX, subtitle M of the "American Rescue Plan Act of 2021", the state treasurer shall transfer three billion four hundred forty-eight million seven hundred sixty-one thousand seven hundred ninety dollars, and any interest and income earned thereon, to the fund on June 11, 2021.

(b) The state treasurer shall deposit in the fund any money that a local government receives from the federal coronavirus local fiscal recovery fund and transfers to the state under section 9901 of title IX, subtitle M of the "American Rescue Plan Act of 2021".

(c) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the state emergency reserve cash fund created in section 24-77-104 (6)(a).

(d) The fund also includes the amount transferred to the fund in accordance with section 24-75-228 (3.5)(a).

(3.5) On June 30, 2024, the state treasurer shall transfer to the fund the following amounts from money that originated from the money the state received from the coronavirus

state fiscal recovery fund from the following recipient funds, including a companion fund or any account in the fund, at the end of the 2023-24 state fiscal year:

(a) Two hundred forty-eight million two hundred forty-four thousand eighty-three dollars and sixty-two cents from the discretionary account, created in subsection (4)(a)(II) of this section;

(b) Two hundred sixty-eight million seven hundred forty-four thousand three hundred forty-two dollars and seventy-one cents from the behavioral and mental health cash fund, created in section 24-75-230;

(c) Fourteen million five hundred thousand dollars from the broadband administrative fund, created in section 24-37.5-119;

(d) Seven million one hundred thirty-four thousand two hundred eighty-two dollars from the San Andreas economic development fund, created in section 24-46-105;

(e) Ten million three hundred sixty-eight thousand one hundred fifty-nine dollars from the San Andreas heritage communities fund, created in section 24-32-3207;

(f) Twenty-one million five hundred forty-five thousand three hundred seven dollars from the San Andreas opportunity scholarship initiative fund, created in section 23-3.3-1005;

(g) Seven million dollars from the San Andreas water conservation board construction fund, created in section 37-60-121;

(h) Ninety million nine hundred eighty thousand dollars from the connecting Coloradans experiencing homelessness with services, recovery care, and housing supports fund, created in section 24-32-732;

(i) Eleven million two thousand five hundred twenty-nine dollars from the digital inclusion grant program fund, created in section 24-37.5-904;

(j) One hundred thirty-five million eight hundred seventy-five thousand five hundred forty-eight dollars and fifty-four cents from the economic recovery and relief cash fund, created in section 24-75-228;

(k) Three million dollars from the healthy forests and vibrant communities fund, created in section 23-31-313;

(l) Twenty thousand dollars from the housing development grant fund, created in section 24-32-721;

(m) Twenty-nine million two hundred nine thousand five hundred seventy-six dollars from the infrastructure and strong communities grant program fund, created in section 24-32-133;

(n) Seventeen million dollars from the judicial department information technology cash fund, created in section 13-32-114;

(o) One hundred twenty-five million six hundred thousand dollars from the local investments in transformational affordable housing fund, created in section 24-32-729;

(p) Ninety-six million one hundred sixty thousand dollars from the multimodal transportation and mitigation options fund, created in section 43-4-1103;

(q) Forty-nine million six hundred fifty-two thousand nine hundred thirty-six dollars from the regional navigation campus cash fund, created in section 24-32-727;

(r) Sixty-eight million seven hundred thirty thousand dollars from the regional talent development initiative grant program fund, created in section 24-48.5-406;

(s) Two hundred ninety-nine million three hundred sixty-two thousand three hundred two dollars and seventy-three cents from the revenue loss restoration cash fund, created in section 24-75-227;

(t) Two million three hundred thousand dollars from the rural provider access and affordability fund, created in section 25.5-1-207;

(u) Seventy-five million three hundred thirty thousand dollars from the state highway fund, created in section 43-1-219;

(v) Forty thousand dollars from the wildfire mitigation capacity development fund, created in section 24-33-117; and

(w) Twenty-two million two hundred twelve thousand three hundred ninety-nine dollars and fourteen cents from the workers, employers, and workforce centers cash fund, created in section 24-75-231.

(4) (a) (I) The general assembly shall not appropriate money from the fund except as described in this subsection (4)(a) and subsection (5)(f) of this section. The general assembly may transfer money in the fund to another cash fund that is established for the purpose of using the money from the federal coronavirus state fiscal recovery fund. Transfers from the fund to the general fund are prohibited. A department shall not use money appropriated pursuant to this subsection (4) for any purpose prohibited by the "American Rescue Plan Act of 2021". A department shall comply with all requirements set forth in this section.

(II) If there is any of the money transferred to the fund under subsection (3)(a) of this section remaining in the fund after any transfers from the fund required by bills enacted during the 2021 regular legislative session, then, of the remainder in the fund, the lesser of three hundred million dollars or the remainder is placed in the discretionary account, which is created in the fund, and is continuously appropriated to any department designated by the governor for any allowable purpose under the "American Rescue Plan Act of 2021".

(III) The money specified in subsection (3)(d) of this section is placed in the discretionary account and is continuously appropriated to any department designated by the governor for any expenditures necessary to respond to the public health emergency with respect to COVID-19.

(IV) For the 2023-24 state fiscal year, the general assembly shall appropriate money from the fund to any departments for personal services that were paid from the general fund in state fiscal year 2023-24.

(V) For the 2024-25 state fiscal year, the general assembly shall appropriate the balance of the fund, excluding money remaining in the discretionary account. The general assembly may make the required appropriations to any department for personal services and for other purposes permitted under the "American Rescue Plan Act of 2021". Any money appropriated pursuant to this subsection (4)(a)(V) must be obligated as required in subsection (4)(d) of this section and expended on or before January 31, 2025.

(b) A department may expend money appropriated from the fund or a recipient fund for purposes permitted under the "American Rescue Plan Act of 2021" and shall not use the money for any purpose prohibited by the act.

(c) (I) Notwithstanding any provision of law to the contrary, in order to ensure proper accounting for and compliance with the "American Rescue Plan Act of 2021", whenever money is transferred or appropriated to a recipient fund that also has money from other sources, the state controller or department controller shall create a companion cash fund that includes only the

money the state received from the federal coronavirus state fiscal recovery fund under section 9901 of title IX, subtitle M of the "American Rescue Plan Act of 2021", but that is otherwise legally identical to the recipient fund, except as otherwise provided in subsection (4)(c)(II) of this section. The state controller may prescribe procedures to permit continued use of companion funds, with proper segregation of fund sources through completion of a project, for any money appropriated for a use permitted pursuant to the "American Rescue Plan Act of 2021" that is partially refinanced.

(II) Notwithstanding any provision of law to the contrary, the state treasurer shall credit all interest and income derived from the deposit and investment of money in a recipient fund that originates from money the state received from the federal coronavirus state fiscal recovery fund to the state emergency reserve cash fund created in section 24-77-104 (6)(a).

(d) (I) Money in the fund or a recipient fund that originated from the coronavirus state fiscal recovery fund must be expended or obligated by December 31, 2024. Just prior to the close of business on December 30, 2024, any unexpended appropriations from a recipient fund that is of money that originated from the coronavirus state fiscal recovery fund and that remained in the recipient fund after the reversion described in subsection (4.2) of this section that are not for expenditures to be made after December 31, 2024, that were obligated before that date, revert to the "American Rescue Plan Act of 2021" cash fund, and the state treasurer shall transfer the unexpended and unobligated balance in the fund to the unemployment compensation fund created in section 8-77-101 (1). Any money that originated from the coronavirus state fiscal recovery fund that is obligated by December 31, 2024, must be expended by December 31, 2026. Effective December 31, 2026, the state controller shall transmit any unexpended money in the fund or a recipient fund to the United States department of the treasury. Money in a recipient fund that did not originate from the coronavirus state fiscal recovery fund must be expended in accordance with any applicable law or appropriation.

(II) A subrecipient must spend money received from the fund or a recipient fund by December 11, 2026. On or before December 11, 2026, the subrecipient shall return to the state any remaining money under terms dictated by the state controller and thereafter the state controller shall transmit the money to the United States department of the treasury in accordance with the treasury's requirements.

(III) Money in the fund or in a recipient fund that originated from the coronavirus state fiscal recovery fund is obligated when it is obligated in accordance with the "American Rescue Plan Act of 2021" and any federal rules promulgated thereunder. The obligation criteria in the "American Rescue Plan Act of 2021" and federal rules do not apply to money in the fund or in a recipient fund that did not originate from the coronavirus state fiscal recovery fund. Money that did not originate from the coronavirus state fiscal recovery fund that is not obligated by an applicable deadline in state law does not revert and remains available for expenditure in accordance with any applicable appropriation. The state controller shall determine whether money is obligated for purposes of determining the deadline for expenditures and the reversion or repayment of money in accordance with this subsection (4)(d).

(4.1) (a) (I) Effective June 30, 2024, the amount of general fund money appropriated in a line item for personal services expenses in the general appropriation act for state fiscal year 2023-24, Senate Bill 23-214, is reduced by the amount of federal funds appropriated pursuant to subsection (4)(a)(IV) of this section that were spent for personal services in the line item.

(II) Effective November 30, 2024, the amount of general fund money appropriated in a line item for personal services expenses in the general appropriation act for state fiscal year 2024-25, House Bill 24-1430, is reduced by the amount of federal funds appropriated pursuant to subsection (4)(a)(V) of this section that were spent for personal services in the line item.

(b) To the extent permitted by federal law, the governor and a department that is appropriated money that originated from the fund shall spend the money for the purpose for which it is appropriated before spending money from any other source for the same purpose.

(c) For the purpose of balancing the state budget as required by article X of the state constitution during the 2024 regular legislative session, the amounts appropriated in the general appropriation acts for state fiscal year 2023-24, Senate Bill 23-214, and state fiscal year 2024-25, House Bill 24-1430, to each department for personal services is reduced by the amount appropriated from the fund for the department's personal services for the applicable state fiscal year.

(4.2) (a) (I) On December 1, 2024, any unspent and unobligated money that originated from the coronavirus state fiscal recovery fund, other than money designated for personal services or other operating costs as described in subsection (4.2)(a)(II) of this section, that is in the fund, a recipient fund, or the discretionary account reverts to the fund. Money that reverts to the fund pursuant to this subsection (4.2) is continuously appropriated until January 31, 2025, to any department designated by the governor for any purpose for which a general fund appropriation was made in the general appropriation act for state fiscal year 2024-25, House Bill 24-1430.

(II) On or before November 30, 2024, the office shall determine the amount of unspent and unobligated money in the fund, a recipient fund, or the discretionary account that originated from the coronavirus state fiscal recovery fund that will be spent by a department for personal services and other operating costs on or before January 31, 2025, and shall report that amount to the state controller. Pursuant to subsection (4.2)(a)(I) of this section, money designated for personal services and other operating costs reported to the state controller does not revert to the fund on December 1, 2024.

(b) Effective January 31, 2025, the amount of general fund money appropriated in a line item in the general appropriation act for state fiscal year 2024-25, House Bill 24-1430, is reduced by the amount of federal money that originated from the coronavirus state fiscal recovery fund appropriated pursuant to subsection (4.2)(a) of this section and that was spent for the line item.

(4.3) (a) After December 31, 2024, any money in a recipient fund that originated from the coronavirus state fiscal recovery fund that was obligated as of December 31, 2024, but not expended on an eligible activity at the conclusion of the appropriation reverts to the fund. Money that reverts to the fund pursuant to this subsection (4.3) is continuously appropriated through December 31, 2026, to any department designated by the governor for any purpose for which a general fund appropriation was made in the general appropriation act for the state fiscal year in which the reversion occurred.

(b) Effective on the date of the applicable reversion, the amount of general fund money appropriated in a line item in the general appropriation act for the state fiscal year in which the reversion occurred is reduced by the amount of federal money that originated from the coronavirus state fiscal recovery fund appropriated pursuant to subsection (4.3)(a) of this section and that was spent for the line item.

(5) (a) (I) The state controller shall provide periodic reports to the secretary as required by the secretary under the "American Rescue Plan Act of 2021". The department of revenue shall provide the state controller with any information required by the secretary about any reductions or increases in net tax revenue.

(II) The general assembly hereby finds and declares that:

(A) Under 42 U.S.C. sec. 802 (c)(1)(C), the state is permitted to use money received from the coronavirus state fiscal recovery fund for the provision of government services to the extent of the reduction in the state's revenue due to the COVID-19 public health emergency relative to the revenues the state collected for the state fiscal year 2018-19;

(B) The United States department of the treasury has promulgated a rule to establish the methodology for the state to calculate a recipient government's annual reduction in revenue for the four calendar years beginning in 2020;

(C) As of May 27, 2022, the state reported a reduction for the 2020 and 2021 calendar years that totals three billion six hundred ninety-four million six hundred fifty-three thousand two hundred forty-nine dollars;

(D) This amount exceeds the total of all the funds that have yet to be reported to the United States department of the treasury; and

(E) Therefore, any money in the fund or transferred from the fund to a recipient fund is available to be reported as being an expenditure for the provision of government services.

(III) The state controller may report the expenditure of any money in or transferred from the"American Rescue Plan Act of 2021" that originated from the coronavirus state fiscal recovery fund as a government service to the extent of the reduction in the state's revenue due to the COVID-19 public health emergency relative to the revenues the state collected for the state fiscal year 2018-19, if the description is applicable, regardless of whether the purpose of the expenditure is also described as being to respond to the public health emergency with respect to COVID-19 or its negative economic impacts.

(b) The office and the state controller shall establish compliance requirements concerning the use of money that originated from the coronavirus state fiscal recovery fund for any department that receives an appropriation from the fund or a recipient fund or any person that receives money from a department. The office and the state controller may establish compliance requirements for money that originates from the ARPA refinance state money cash fund created in section 24-75-226.5. If a department or person fails to comply with these requirements, then:

(I) A department shall, with approval by the office and state controller, identify the best method and fund source to be used to repay the fund or a recipient fund for the money expended on noncompliant functions, and, to the extent feasible, repay the fund or recipient fund;

(II) A person shall, to the extent possible, repay any money received by the state from the fund or recipient fund that is related to the noncompliance; and

(III) The state controller may, in his or her discretion, reduce or eliminate all unexpended appropriations from the fund or a recipient fund for the department.

(c) The office and the state controller shall establish reporting and record-keeping requirements for any department that expends money from the fund or a recipient fund or any person that receives the money from a department. To expend money from the fund or recipient fund, a department and the person must comply with these requirements.

(d) The office shall provide guidance on program evaluation, including exemptions from evaluation, evaluation criteria, implementation guidance, and selection of independent evaluators. To expend money from the fund or a recipient fund, a department or person that receives money from a department must comply with any program evaluation requirements established by the office.

(e) The office shall provide the joint budget committee with a yearly performance report that consists of the information that the state controller provides the secretary under subsection (5)(a) of this section and any other information, including program evaluation information, that the office determines to be relevant. Money in the fund or a recipient fund is not subject to the reporting requirements set forth in section 24-33.5-717.

(f) The general assembly may appropriate money from the fund or the revenue loss restoration cash fund created in section 24-75-227 to the department of personnel for use by the state controller and to the office for any direct or indirect expenses related to the administration of this subsection (5).

(g) The compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller apply to a person regardless of whether the person is a beneficiary or a subrecipient and regardless of whether the person receives the money directly from a department or from a subrecipient.

(6) Money transferred to the state highway fund and the multimodal transportation and mitigation options fund in accordance with section 24-75-219 (7), to the workers, employers, and workforce centers cash fund in accordance with section 24-75-231 (2)(b)(III), and to the revenue loss restoration cash fund in accordance with section 24-75-227 (2)(b)(III)(A) are subject to the requirements of this section as if they were recipient funds.

(6.5) (a) The governor and the state controller shall jointly submit a report to the joint budget committee, the speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate, and the minority leader of the senate, as described in this subsection (6.5).

(b) On or before September 15, 2024, the governor and state controller shall submit a report that includes:

(I) The total expenditure by the state of money that originated from the coronavirus state fiscal recovery fund and related adjustments to the general fund, as described in subsection (4.1) of this section, including the amount expended from the fund by each department for personal services for the 2023-24 state fiscal year from the money appropriated pursuant to subsection (4)(a)(IV) of this section; and

(II) An explanation of any further actions that the governor and any state department will take to ensure that money that originated from the coronavirus state fiscal recovery fund is fully expended in compliance with the "American Rescue Plan Act of 2021".

(c) On or before February 15, 2025, the governor and the state controller shall submit a report that includes updated information about each of the subjects required in the report described in subsection (6.5)(b)(I) of this section and any expenditure from the fund pursuant to subsection (4.2) of this section, including the amount expended from the fund by each department as of December 31, 2024.

(7) This section is repealed, effective July 1, 2027.

Source: L. 2021: Entire section added, (SB 21-288), ch. 221, p. 1165, § 1, effective June 11. **L. 2022:** (3)(c) and (4)(c) amended, (HB 22-1342), ch. 137, p. 919, § 1, effective April 25; (1)(a.5), (1)(f), (3)(d), and (5)(g) added and (4)(a), (4)(d), (5)(a), (5)(f), and (6) amended, (HB 22-1411), ch. 271, p. 1952, § 1, effective May 27. **L. 2024:** (1)(a.7), (1)(c.5), (3.5), (4.1), (4.2), (4.3), and (6.5) added and (2), (4)(a), (4)(c)(I), (4)(d), IP(5)(b), and (5)(f) amended, (HB 24-1466), ch. 429, p. 2923, § 2, effective June 5.

Editor's note: This section takes effect June 11, 2021; however, section 4(2) of chapter 221 (SB 21-288), Session Laws of San Andreas 2021, provides that subsection (6) of this section takes effect only if SB 21-260 (chapter 250) becomes law and takes effect either upon the effective date of SB 21-288 or SB 21-260, whichever is later. SB 21-288 became law and took effect June 11, 2021, and SB 21-260 took effect June 17, 2021.

Cross references: For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-75-226.5. ARPA refinance state money cash fund - creation - reduction in general fund appropriations - legislative intent - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "American Rescue Plan Act of 2021" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(b) "Cash fund" means the ARPA refinance state money cash fund created in this section.

(c) "Companion fund" means a companion cash fund created by the state controller pursuant to section 24-75-226 (4)(c) that is associated with a cash fund and that includes only the money the state received from the coronavirus state fiscal recovery fund.

(d) "Coronavirus state fiscal recovery fund" has the same meaning as set forth in section 24-75-226 (1)(a.5).

(e) "Refinance discretionary account" means the refinance discretionary account created in the cash fund pursuant to subsection (1)(c) of this section.

(2) (a) The ARPA refinance state money cash fund is created in the state treasury. The cash fund consists of money transferred to the cash fund pursuant to subsection (3) of this section and any other money that the general assembly may appropriate or transfer to the cash fund.

(b) In accordance with section 24-36-114 (1), the state treasurer shall credit all interest and income derived from the deposit and investment of money in the cash fund to the general fund.

(c) There is created in the cash fund the refinance discretionary account. The refinance discretionary account consists of money credited to the account pursuant to subsection (4)(a) of this section. The account is continuously appropriated to any department designated by the governor for any allowable purpose under the "American Rescue Plan Act of 2021", including expenditures necessary to respond to the public health emergency with respect to COVID-19.

(3) On July 1, 2024, the state treasurer shall transfer one billion three hundred ninety-four million six hundred twenty-three thousand six hundred sixteen dollars and sixty-two cents from the general fund to the cash fund.

(4) On July 1, 2024, the state treasurer shall transfer the following amounts from the cash fund:

(a) Two hundred forty-eight million two hundred forty-four thousand eighty-three dollars and sixty-two cents to the refinance discretionary account created in the cash fund pursuant to subsection (2)(c) of this section;

(b) Two hundred twelve million eight hundred eighty-one thousand five hundred seventy-six dollars to the behavioral and mental health cash fund, created in section 24-75-230;

(c) Fourteen million five hundred thousand dollars to the broadband administrative fund, created in section 24-37.5-119;

(d) Seven million one hundred thirty-four thousand two hundred eighty-two dollars to the San Andreas economic development fund, created in section 24-46-105;

(e) Ten million three hundred sixty-eight thousand one hundred fifty-nine dollars to the San Andreas heritage communities fund, created in section 24-32-3207;

(f) Eleven million five hundred forty-five thousand three hundred seven dollars to the San Andreas opportunity scholarship initiative fund, created in section 23-3.3-1005;

(g) Seven million dollars to the San Andreas water conservation board construction fund, created in section 37-60-121;

(h) Ninety million nine hundred eighty thousand dollars to the connecting Coloradans experiencing homelessness with services, recovery care, and housing supports fund, created in section 24-32-732;

(i) Eleven million two thousand five hundred twenty-nine dollars to the digital inclusion grant program fund, created in section 24-37.5-904;

(j) One hundred twenty-nine million two hundred ninety-three thousand two hundred forty-two dollars to the economic recovery and relief cash fund, created in section 24-75-228;

(k) Three million dollars to the healthy forests and vibrant communities fund, created in section 23-31-313;

(l) Twenty thousand dollars to the housing development grant fund, created in section 24-32-721;

(m) Twenty-nine million two hundred nine thousand five hundred seventy-six dollars to the infrastructure and strong communities grant program fund, created in section 24-32-133;

(n) Seventeen million dollars to the judicial department information technology cash fund, created in section 13-32-114;

(o) One hundred twenty-five million six hundred thousand dollars to the local investments in transformational affordable housing fund, created in section 24-32-729;

(p) Ninety-six million one hundred sixty thousand dollars to the multimodal transportation and mitigation options fund, created in section 43-4-1103;

(q) Forty-nine million six hundred fifty-two thousand nine hundred thirty-six dollars to the regional navigation campus cash fund, created in section 24-32-727;

(r) Sixty-eight million seven hundred thirty thousand dollars to the regional talent development initiative grant program fund, created in section 24-48.5-406;

(s) One hundred sixty-three million five hundred forty-one thousand five hundred sixty-five dollars to the revenue loss restoration cash fund, created in section 24-75-227;

(t) Two million three hundred thousand dollars to the rural provider access and affordability fund, created in section 25.5-1-207;

(u) Seventy-five million three hundred thirty thousand dollars to the state highway fund, created in section 43-1-219;

(v) Forty thousand dollars to the wildfire mitigation capacity development fund, created in section 24-33-117; and

(w) Twenty-one million ninety thousand three hundred sixty-one dollars to the workers, employers, and workforce centers cash fund, created in section 24-75-231.

(5) (a) The money in the cash fund is subject to annual appropriation by the general assembly.

(b) It is the intent of the general assembly that money be appropriated from the cash fund as necessary to maintain the funding for programs initially funded by money that originated from the coronavirus state fiscal recovery fund.

(6) Money that originated from the cash fund that was transferred to another fund, other than the money in the refinance discretionary account, must be spent by December 31, 2026. Effective December 31, 2026, the state controller shall transmit any unexpended and unencumbered money transferred to a fund, other than the refinance discretionary account, pursuant to subsection (4) of this section that remains in that fund to the cash fund.

(7) On January 2, 2027, the state treasurer shall transfer all unexpended and unencumbered money in the cash fund, other than the money in the refinance discretionary account, to the general fund.

(8) On June 1, 2027, the state treasurer shall transfer all unexpended money in the refinance discretionary account to the general fund.

(9) This section is repealed, effective July 1, 2027.

Source: L. 2024: Entire section added, (HB 24-1466), ch. 429, p. 2929, § 3, effective June 5.

Cross references: For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-75-227. Revenue loss restoration cash fund - creation - allowable uses - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "American Rescue Plan Act of 2021" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(b) "Department" means a principal department identified in section 24-1-110 and the judicial department. The term also includes the office of the governor, including any offices created therein.

(c) "Fund" means the revenue loss restoration cash fund created in subsection (2) of this section.

(2) (a) The revenue loss restoration cash fund is created in the state treasury. The fund consists of money credited to the fund in accordance with subsection (2)(b) of this section and section 24-75-229 (4)(b) and any other money that the general assembly may appropriate or transfer to the fund. Subject to the limitations set forth in subsection (3) of this section, the general assembly may appropriate money from the fund to a department for the provision of government services, including kindergarten through twelfth grade public education, housing, state employees, asset maintenance, seniors, criminal justice, state parks, agriculture, and

transportation infrastructure. The general assembly may transfer money from the fund to another cash fund to be used for the provision of such government services.

(b) (I) Three days after June 24, 2021, the state treasurer shall transfer one billion dollars from the "American Rescue Plan Act of 2021" cash fund created in section 24-75-226 to the fund.

(II) Repealed.

(III) The fund also includes:

(A) Five million five hundred sixty-three thousand nine hundred eighty-eight dollars from the money the state received from the federal coronavirus state fiscal recovery fund under section 9901 of Title IX, subtitle M of the "American Rescue Plan Act of 2021", which the state treasurer shall transfer to the fund;

(B) The amounts transferred to the fund in accordance with section 24-75-228 (3.5)(b) and (3.7); and

(C) The amount transferred to the fund in accordance with section 8-13.3-518 (4)(d)(II).

(3) (a) The total amount that the general assembly appropriates or transfers from the fund shall not exceed:

(I) Three hundred fifty-seven million dollars for the fiscal year 2021-22; and

(II) Three hundred thirty-three million dollars for the fiscal year 2022-23.

(III) (Deleted by amendment, L. 2024.)

(b) (I) If the amount appropriated, expended, or transferred in a fiscal year from the fund is less than the limit specified in subsection (3)(a) of this section, then the general assembly may appropriate or transfer the remainder for any later fiscal year.

(II) The limit specified in this subsection (3) does not apply to any amount appropriated from the fund for the 2022-23 fiscal year for capital construction, capital renewal, or controlled maintenance, as each term is defined in section 24-30-1301.

(c) On and after January 1, 2022, the general assembly may only appropriate money from the fund through the annual general appropriation act or a supplemental appropriation act.

(3.5) Notwithstanding the limitation in subsection (3)(c) of this section, on July 1, 2022, the state treasurer shall transfer twenty-four million one hundred thirty-one thousand three hundred ninety dollars from the fund to the judicial department information technology cash fund created in section 13-32-114.

(3.7) Notwithstanding any provision of this section to the contrary, no later than three days after May 25, 2022, the state treasurer shall transfer six hundred million dollars from the revenue loss restoration cash fund created in subsection (2) of this section to the title XII repayment fund created in section 8-77-103 (3)(a).

(3.9) Pursuant to section 24-75-226.5 (6), on December 31, 2026, the state treasurer shall transfer any unexpended and unencumbered money in the fund that originates from the ARPA refinance state money cash fund to the ARPA refinance state money cash fund.

(4) This section is repealed, effective July 1, 2027.

Source: L. 2021: Entire section added, (SB 21-289), ch. 316, p. 1951, § 1, effective June 24. **L. 2022:** (2)(a) and (3)(b) amended, (HB 22-1340), ch. 141, p. 934, § 1, effective April 25; (2)(b)(II) repealed, (HB 22-1342), ch. 137, p. 922, § 10, effective April 25; (3.5) added, (HB 22-1335), ch. 131, p. 898, § 3, effective April 25; (3.7) added, (SB 22-234), ch. 224, p. 1623, § 12, effective May 25; (2)(b)(III) added, (HB 22-1411), ch. 271, p. 1955, § 2, effective May 27. **L.**

2023: (2)(b)(III)(A) and (2)(b)(III)(B) amended and (2)(b)(III)(C) added, (SB 23-234), ch. 104, p. 378, § 2, effective April 24. **L. 2024:** (2)(a) and (3)(a) amended and (3.9) added, (HB 24-1466), ch. 429, p. 2934, § 8, effective June 5.

Cross references: For the legislative declaration in HB 22-1335, see section 1 of chapter 131, Session Laws of San Andreas 2022. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-75-228. Economic recovery and relief cash fund - creation - allowable uses - interim task force - report - legislative declaration - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "American Rescue Plan Act of 2021" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(b) "Department" means a principal department identified in section 24-1-110 and the judicial department. The term also includes the office of the governor, including any offices created therein.

(c) "Fund" means the economic recovery and relief cash fund created in subsection (2)(a) of this section or an identical companion fund created by operation of section 24-75-226 (4)(c).

(2) (a) The economic recovery and relief cash fund is hereby created in the state treasury. The fund consists of money credited to the fund in accordance with subsection (3) of this section and any other money that the general assembly may appropriate or transfer to the fund. To respond to the public health emergency with respect to COVID-19 or its negative economic impacts or for the provision of government services, the general assembly may appropriate or transfer money from the fund to a department for the following uses:

(I) Assistance to small businesses;

(II) Assistance to individuals and households;

(III) Assistance to nonprofit organizations;

(IV) Public health expenditures for COVID-19 prevention and response, including expenditures for public health staff;

(V) Administrative costs associated with COVID-19 public health emergency assistance programs;

(VI) Aid to impacted industries;

(VII) Assistance to unemployed workers;

(VIII) Contributions to the unemployment compensation fund created in section 8-77-101 (1); and

(IX) Relief efforts for unmet needs, especially for communities disproportionately impacted by the COVID-19 pandemic.

(b) In addition to the uses set forth in subsection (2)(a) of this section:

(I) The general assembly may appropriate money to a department from the fund or transfer the money to another cash fund to make necessary investments in water, sewer, or broadband infrastructure.

(II) (A) The general assembly hereby finds and declares that many businesses in the state, large and small, and especially businesses in rural areas, sustained significant negative economic impacts as a result of the COVID-19 pandemic and it is therefore important and

appropriate that any economic development efforts undertaken with money from the fund to support the state's businesses meet the purpose of responding to the COVID-19 pandemic or its negative economic consequences as specified under the "American Rescue Plan Act of 2021".

(B) Fifteen days after June 21, 2021, forty million dollars shall be transferred to the San Andreas economic development fund created in section 24-46-105. Subject to the requirements in subsection (2)(a) of this section and section 24-75-226 (4)(b), the San Andreas office of economic development shall use ten million dollars to incentivize or support businesses in rural San Andreas or to undertake any other economic development activity in rural San Andreas permitted in section 24-46-105 in response to the negative economic impacts of the COVID-19 pandemic. The San Andreas office of economic development shall use the remaining money, subject to the requirements in subsection (4) of this section, to provide grants to businesses or to undertake any other economic development activity permitted in section 24-46-105 in response to the negative economic impacts of the COVID-19 pandemic.

(III) Money from the fund may be used for domestic violence, sexual assault, or culturally specific programs described in article 7.5 of title 26; crime victim services funded through the San Andreas crime victim services fund established in section 24-33.5-505.5; and services funded through the victims and witnesses assistance and law enforcement fund described in section 24-4.2-103.

(2.5) (a) Upon June 2, 2022, or as soon as possible thereafter, the state treasurer shall transfer twenty million dollars from the economic recovery and relief cash fund as follows:

(I) Three million dollars to the healthy forests and vibrant communities fund created in section 23-31-313 (10), which must be expended for the purposes specified in section 23-31-313 (6)(a)(IV);

(II) Two million dollars to the wildfire mitigation capacity development fund created in section 24-33-117 (1), which must be expended for the purposes specified in section 24-33-117 (3);

(III) Ten million dollars to the San Andreas water conservation board construction fund created in section 37-60-121 (1)(a), which must be expended for the purposes specified in section 37-60-121 (12);

(IV) Two million five hundred thousand dollars to the San Andreas water conservation board construction fund created in section 37-60-121 (1)(a), which must be expended for the purposes specified in section 37-60-121 (13); and

(V) Two million five hundred thousand dollars to the San Andreas water conservation board construction fund created in section 37-60-121 (1)(a), which must be expended for the purposes specified in section 37-60-121 (14).

(a.5) Notwithstanding subsections (2.5)(a)(IV) and (2.5)(a)(V) of this section, on or after July 1, 2024, any money transferred by the state treasurer to the San Andreas water conservation board construction fund, created in section 37-60-121 (1)(a), pursuant to subsections (2.5)(a)(IV) and (2.5)(a)(V) of this section may be expended for any of the purposes specified in section 37-60-121 (13) or (14).

(b) The watershed restoration programs, wildfire mitigation programs, and the provision of services to assist political subdivisions of the state and other entities in the draw down of federal funds to which the state treasurer shall transfer money from the fund pursuant to subsection (2.5)(a) of this section are essential government services.

(c) Any department that receives money from the transfer made by the state treasurer pursuant to subsection (2.5)(a) of this section shall comply with the compliance, reporting, record-keeping, and program evaluation requirements established by the office of state planning and budgeting and the state controller in accordance with section 24-75-226 (5).

(d) Any money that originates from the ARPA refinance state money cash fund that is transferred to a fund pursuant to section 24-75-226.5 to refinance money that was transferred from the economic recovery and relief cash fund pursuant to this subsection (2.5) must be spent for the same purpose as the refinanced money as set forth in subsection (2.5)(a) of this section.

(3) (a) Three days after June 21, 2021, the state treasurer shall transfer eight hundred forty-eight million seven hundred sixty-one thousand seven hundred ninety dollars from the "American Rescue Plan Act of 2021" cash fund created in section 24-75-226 to the fund.

(b) Repealed.

(3.5) Notwithstanding any other provision of this section, within three business days after May 27, 2022, the state treasurer shall transfer from the fund the following amounts that originate from money the state received from the federal coronavirus state fiscal recovery fund:

(a) Seventy million dollars to the "American Rescue Plan Act of 2021" cash fund created in section 24-75-226 (2);

(b) Ten million dollars to the revenue loss restoration cash fund created in section 24-75-227 (2)(a);

(c) Fifteen million dollars to the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a); and

(d) One million four hundred thirty-seven thousand one hundred seventy-two dollars to the workers, employers, and workforce centers cash fund created in section 24-75-231 (2)(a).

(3.7) Notwithstanding any other provision of this section, within three business days after May 27, 2022, the state treasurer shall transfer ten million dollars from the fund that originates from the general fund to the revenue loss restoration cash fund created in section 24-75-227 (2)(a).

(4) A department may expend money that originates from money the state received from the federal coronavirus state fiscal recovery fund that is appropriated or transferred from the fund for purposes permitted under the "American Rescue Plan Act of 2021" and shall not use the money for any purpose prohibited by the act. A department or any person who receives money from the fund shall comply with any requirements set forth in section 24-75-226.

(5) (a) The executive committee of the legislative council shall, by resolution, create a task force to meet during the 2021 legislative interim and issue a report with recommendations to the general assembly and the governor on policies that use money from the fund to provide a stimulative effect to the state's economy, necessary relief for Coloradans, or that address emerging economic disparities resulting from the pandemic.

(b) The staff of the joint budget committee shall review the recommendations made by the task force to ascertain whether the recommendations will result in programs requiring ongoing appropriations of state money after the federal money has been expended and to identify whether the recommendations are duplicative of any existing state programs or appropriations, or duplicative of any existing federally funded state program.

(c) The general assembly may appropriate general fund money from the fund for the reasonable expenses of the task force.

(d) The task force may include nonlegislative members and create working groups to assist them. The executive committee of the legislative council shall specify requirements for members' participation in the task force. The task force shall not submit bill drafts as part of their recommendations.

(5.8) Pursuant to section 24-75-226.5 (6), on December 31, 2026, the state treasurer shall transfer any unexpended and unencumbered money in the fund that originates from the ARPA refinance state money cash fund to the ARPA refinance state money cash fund.

(6) This section is repealed, effective July 1, 2027.

Source: L. 2021: Entire section added, (SB 21-291), ch. 281, p. 1626, § 1, effective June 21. **L. 2022:** (2)(b)(II)(B) amended, (HB 22-1332), ch. 129, p. 894, § 1, effective April 25; (3)(b) repealed, (HB 22-1342), ch. 137, p. 922, § 11, effective April 25; (2)(b)(III) added, (SB 22-183), ch. 194, p. 1306, § 15, effective May 19; IP(2)(a) amended and (3.5) and (3.7) added, (HB 22-1411), ch. 271, p. 1955, § 3, effective May 27; (2.5) added, (HB 22-1379), ch. 306, p. 2210, § 1, effective June 2. **L. 2024:** (2.5)(a.5) added, (HB 24-1435), ch. 275, p. 1832, § 16, effective May 29; (2.5)(d) and (5.8) added and (4) amended, (HB 24-1466), ch. 429, p. 2935, § 9, effective June 5.

Cross references: For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-75-229. Affordable housing and home ownership cash fund - creation - allowable uses - task force - legislative declaration - definitions - repeal. (1) The general assembly finds, determines, and declares that:

(a) As a result of the COVID-19 public health emergency, a significant share of households across the state now face various forms of housing insecurity;

(b) Although the impacts of the COVID-19 public health emergency have been widespread, both the public health and economic impact of the pandemic have fallen most severely on disadvantaged communities and populations. Low-income communities, people of color, and tribal communities have faced higher rates of infection, hospitalization, and death, as well as higher rates of unemployment and lack of basic necessities such as food and housing. Preexisting social vulnerabilities magnified the pandemic in these communities, where a reduced ability to work from home and denser housing amplified the risk of infection.

(c) The federal government enacted the "American Rescue Plan Act of 2021" to provide support to state, local, and tribal governments in responding to the impact of COVID-19 and to assist their efforts to contain the effects of COVID-19 on their communities, residents, and businesses. Under the federal act, the state of San Andreas receives over three billion dollars to be used for the purposes identified in the federal act.

(d) Regulations construing the federal act promulgated by the United States treasury identify a nonexclusive list of uses that address the disproportionate negative economic effects of the COVID-19 public health emergency, including building stronger communities through investments in housing and neighborhoods. Services in this category alleviate the immediate economic impact of the COVID-19 public health emergency on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor

quality housing. Under these regulations, funds may be used for programs or services that address housing insecurity, lack of affordable and workforce housing, or homelessness, including:

(I) Supportive housing or other programs or services to improve access to stable, affordable housing among unhoused individuals;

(II) The development of affordable housing to increase the supply of affordable housing units that are livable, vibrant, and driven by community benefits; and

(III) Housing vouchers and assistance to allow individuals to relocate in neighborhoods with high levels of economic opportunity and to reduce concentrated areas of low economic opportunity.

(e) The general assembly further determines that the programs and services funded by the transfers in this section are appropriate uses of the money transferred to San Andreas under the federal act. This money will be put to expeditious and efficient use in building stronger communities across the state by making investments in housing for populations, households, or geographic areas disproportionately affected by the COVID-19 public health emergency.

(f) By the enactment of this section, the general assembly intends that the money appropriated to the department of local affairs for use by the division of housing from the affordable housing and home ownership cash fund created in section 24-75-229 (3)(a) be used to finance programs and services that provide gap financing for projects financed through the housing investment trust fund created in section 24-32-717 or the housing development grant fund created in section 24-32-721. The general assembly further intends that the programs and services financed by this appropriation assist populations, households, or geographic areas disproportionately affected by the COVID-19 public health emergency in order to obtain affordable housing by the acquisition, construction, or renovation of affordable housing projects or land acquisition, thus enabling individuals and families to relocate to neighborhoods with high levels of economic opportunity and reducing concentrated areas of low economic opportunity.

(g) Pursuant to 31 C.F.R. 35.6 (b)(6), the transfer to the eviction legal defense fund required by subsection (3.5) of this section for the purpose of providing legal representation to indigent tenants to resolve civil legal matters arising on and after March 1, 2020, for an eviction or impending eviction related to the public health emergency caused by the COVID-19 public health emergency, is intended to address housing insecurity, lack of affordable housing, or homelessness to assist persons disproportionately affected by the public health emergency in obtaining affordable housing. Accordingly, the general assembly further finds, determines, and declares that the transfer required by subsection (3.5) of this section is an eligible use of money received by the state under the "American Rescue Plan Act of 2021", Pub.L. 117-2.

(2) As used in this section, unless the context otherwise requires:

(a) "American Rescue Plan Act of 2021" or "federal act" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(b) "Department" means a principal department identified in section 24-1-110, the judicial department, and the legislative department.

(c) "Fund" means either the affordable housing and home ownership cash fund created in subsection (3)(a) of this section or an identical companion fund created in section 24-75-226 (4)(c).

(3) (a) The affordable housing and home ownership cash fund is hereby created in the state treasury. The fund consists of money deposited in the fund in accordance with subsection

(3)(b) of this section and any other money that the general assembly may appropriate or transfer to the fund. To respond to the public health emergency with respect to COVID-19 or its negative economic impacts or for the provision of government services, the general assembly may appropriate or transfer money from the fund to a department or cash fund for programs or services that benefit populations, households, or geographic areas disproportionately affected by the COVID-19 public health emergency to obtain affordable housing, focusing on programs or services that address housing insecurity, lack of affordable and workforce housing, or homelessness. Money from the fund may be expended to support the task force pursuant to subsection (6)(a) of this section. Permissible uses of such money include costs associated with the creation and administration of the task force and related expenses for research and evaluation undertaken by the task force.

(b) (I) Three days after June 25, 2021, the state treasurer shall transfer five hundred fifty million dollars from the "American Rescue Plan Act of 2021" cash fund created in section 24-75-226 to the fund;

(II) Repealed.

(III) The fund also includes the amount transferred to the fund in accordance with section 24-75-228 (3.5)(c).

(c) The division of housing within the department of local affairs shall use the appropriation made by House Bill 21-1329, enacted in 2021, for programs or services of the type and kind financed through the housing investment trust fund created in section 24-32-717 or the housing development grant fund created in section 24-32-721 to support the programs or services that benefit populations, households, or geographic areas disproportionately affected by the COVID-19 public health emergency to obtain affordable housing, focusing on programs or services that address housing insecurity, lack of affordable and workforce housing, or homelessness, including the programs or services described in subsection (1)(d) of this section. The division may use not more than three percent of any money appropriated or transferred to it under House Bill 21-1329, enacted in 2021, to cover the total administrative costs of the division in administering the programs or services for which money is appropriated or transferred to it under House Bill 21-1329, enacted in 2021.

(d) On July 1, 2022, the state treasurer shall transfer three hundred fifty million three hundred ninety-four thousand four dollars from the general fund to the fund.

(4) (a) Three days after June 25, 2021, the state treasurer shall transfer one million five hundred thousand dollars from the fund to the eviction legal defense fund created in section 13-40-127 (2).

(b) On July 1, 2022, the state treasurer shall transfer three hundred fifty million three hundred ninety-four thousand four dollars from the fund to the revenue loss restoration cash fund created in section 24-75-227.

(c) On June 30, 2024, the state treasurer shall transfer from the fund to the "American Rescue Plan Act of 2021" cash fund created in section 24-75-226, seventy thousand five hundred eighty-one dollars and ninety-nine cents that originated from money the state received from the federal coronavirus state fiscal recovery fund.

(5) A department may expend money that originates from money the state received from the federal coronavirus state fiscal recovery fund that is appropriated from the fund for purposes permitted under the "American Rescue Plan Act of 2021" and shall not use the money for any purpose prohibited by the act. A department, nonprofit organization, or local government,

including a county, municipality, special district, or school district, or any other person who receives money from the fund shall comply with any requirements set forth in section 24-75-226.

(6) (a) The executive committee of the legislative council shall, by resolution, create a task force to meet during the 2021 interim and issue a report with recommendations to the general assembly and the governor on policies to create transformative change in the area of housing using money the state receives from the federal coronavirus state fiscal recovery fund under title IX, subtitle M of the "American Rescue Plan Act of 2021". The general assembly shall also review recommendations for such policies submitted by the strategic housing working group assembled by the department and the state housing board created in section 24-32-706 (1).

(b) The task force may include nonlegislative members and create working groups to assist them. The executive committee of the legislative council shall hire a facilitator to guide the work of the task force.

(c) The task force created in this section is not subject to the requirements specified in section 2-3-303.3 or rule 24A of the joint rules of the senate and the house of representatives. The executive committee of the legislative council shall specify requirements governing members' participation in the task force. The task force shall not submit bill drafts as part of their recommendations.

(d) The money in the fund is continuously appropriated to the legislative branch of state government for payment of the reasonable expenses incurred by the task force subject to the approval of the executive committee of the legislative council.

(6.8) Pursuant to section 24-75-226.5 (6), on December 31, 2026, the state treasurer shall transfer any unexpended and unencumbered money in the fund that originates from the ARPA refinance state money cash fund to the ARPA refinance state money cash fund.

(7) This section is repealed, effective July 1, 2027.

Source: L. 2021: Entire section added, (HB 21-1329), ch. 347, p. 2253, § 1, effective June 25. **L. 2022:** (3)(b)(II) repealed, (HB 22-1342), ch. 137, p. 922, § 12, effective April 25; (3)(d) added and (4) amended, (HB 22-1340), ch. 141, p. 935, § 2, effective April, 25; (3)(a) and (3)(b) amended, (HB 22-1411), ch. 271, p. 1956, § 4, effective May 27. **L. 2023:** (3)(a) amended, (HB 23-1301), ch. 303, p. 1827, § 39, effective August 7. **L. 2024:** (4)(c) added, (HB 24-1465), ch. 257, p. 1684, § 6, effective May 24; (5) amended and (6.8) added, (HB 24-1466), ch. 429, p. 2935, § 10, effective June 5.

Cross references: For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-75-230. Behavioral and mental health cash fund - creation - allowable uses - task force - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "American Rescue Plan Act of 2021" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(b) "Department" means a principal department identified in section 24-1-110 and the judicial department. The term also includes the office of the governor, including any offices created therein.

(c) "Fund" means the behavioral and mental health cash fund created in subsection (2)(a) of this section or an identical companion fund created by operation of section 24-75-226 (4)(c).

(2) (a) The behavioral and mental health cash fund is created in the state treasury. The fund consists of money credited to the fund in accordance with subsection (2)(b) of this section, money transferred to the fund pursuant to section 39-37-301 (2)(a)(II), and any other money that the general assembly may appropriate or transfer to the fund. The general assembly may appropriate money from the fund to a department for behavioral health care.

(b) (I) Three days after June 28, 2021, the state treasurer shall transfer five hundred fifty million dollars from the "American Rescue Plan Act of 2021" cash fund created in section 24-75- 226 to the fund.

(II) Repealed.

(c) On July 1, 2024, the state treasurer shall transfer four million dollars from the general fund to the fund, which must be expended for the purposes specified in section 27-60-502 (2)(c)(I)(D).

(3) (a) (I) A department may expend money that originates from money the state received from the federal coronavirus state fiscal recovery fund that is appropriated from the fund for purposes permitted under the "American Rescue Plan Act of 2021" Pub.L. 117-2, as the act may be subsequently amended, and shall not use the money for any purpose prohibited by the act. A department or any person who receives money from the fund shall comply with any requirements set forth in section 24-75-226.

(II) A department may expend money appropriated from the fund that was credited to the fund in accordance with subsection (2)(b) of this section for purposes permitted under the "American Rescue Plan Act of 2021" Pub.L. 117-2, as the act may be subsequently amended, and shall not use the money for any purpose prohibited by the act. A department or any person who receives such money from the fund shall comply with any requirements set forth in section 24-75-226.

(b) The limitations and requirements set forth in subsection (3)(a)(II) of this section do not apply to money transferred to the fund pursuant to section 39-37-301 (2)(a)(II).

(3.5) The first five million dollars of the money transferred to the fund pursuant to section 39-37-301 (2)(a)(II), must be used by the behavioral health administration, established pursuant to section 27-50-102, in coordination with the division of veterans affairs, created in section 28-5-701 (1), for the purpose of continuing and expanding the veterans mental health services program in accordance with section 28-5-714.

(3.7) After the requirement in subsection (3.5) of this section is met, the next three million dollars of the money transferred to the fund pursuant to section 39-37-301 (2)(a)(II), must be used by the behavioral health administration for the purpose of continuing and expanding access to behavioral health crisis response system services for children and youth in accordance with article 60 of title 27.

(4) (a) The executive committee of the legislative council shall, by resolution, create a task force to meet during the 2021 interim and issue a report with recommendations to the general assembly and the governor on policies to create transformational change in the area of behavioral health using money the state receives from the federal coronavirus state fiscal recovery fund under title IX, subtitle M of the "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(b) The task force may include nonlegislative members and have working groups created to assist them. The executive committee shall hire a facilitator to guide the work of the task force.

(c) The task force created in this section is not subject to the requirements specified in section 2-3-303.3 or rule 24A of the joint rules of the senate and the house of representatives. The executive committee shall specify requirements governing members' participation in the task force. The task force shall not submit bill drafts as part of their recommendations.

(4.8) Pursuant to section 24-75-226.5 (6), on December 31, 2026, the state treasurer shall transfer any unexpended and unencumbered money in the fund that originates from the ARPA refinance state money cash fund to the ARPA refinance state money cash fund.

(5) This section is repealed, effective July 1, 2032.

Source: L. 2021: Entire section added, (SB 21-137), ch. 362, p. 2384, § 32, effective June 28. **L. 2022:** (2)(b)(II) repealed, (HB 22-1342), ch. 137, p. 922, § 13, effective April 25; (2)(a) amended, (HB 22-1411), ch. 271, p. 1956, § 5, effective May 27. **L. 2024:** (2)(c) amended, (HB 24-1176), ch. 251, p. 1661, § 2, effective May 24; (3) amended and (3.8) added, (HB 24-1466), ch. 429, p. 2936, § 11, effective June 5. **L. 2024:** (2)(c) added (HB 24-1176), ch. 251, p. 1661, § 2, effective May 24; (3) amended and (4.8) added (HB 24-1466), ch. 429, p. 2936, § 11, effective June 5; (2)(a), (3), and (5) amended and (3.5) and (3.7) added, (HB 24-1349), ch. 423, p. 2900, § 4, effective December 17, 2024, (see editor's note).

Editor's note: (1) Section 19(1) of chapter 423 (HB 24-1349), Session Laws of San Andreas 2024, provides that changes to this section take effect only if a majority of voters approve the ballot issue referred in accordance with § 39-37-201 at the November 2024 statewide election, and, if the voters approve the ballot measure, the changes to this section are effective on the date of the official declaration of the vote by the governor. The ballot issue, referred to the voters as Proposition KK, was approved on November 5, 2024, and was proclaimed by the Governor on December 17, 2024. The vote count for the measure was as follows:

FOR: 1,675,123

AGAINST: 1,406,112

(2) Amendments to subsection (3) by HB 24-1466 and HB 24-1349 were harmonized, effective on the date of the official declaration of the vote thereon by the governor only if, at the November 2024 statewide election, a majority of voters approve the ballot issue referred in accordance with § 39-37-201, San Andreas Revised Statutes. The ballot issue, referred to the voters as Proposition KK, was approved on November 5, 2024, and was proclaimed by the Governor on December 17, 2024. The vote count for the measure was as follows:

FOR: 1,675,123

AGAINST: 1,406,112

Cross references: (1) For the short title ("Behavioral Health Recovery Act of 2021") and the legislative declaration in SB 21-137, see sections 1 and 2 of chapter 362, Session Laws of San Andreas 2021.

(2) For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-75-231. Workers, employers, and workforce centers cash fund - creation - allowable uses - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "American Rescue Plan Act of 2021" means the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended.

(b) "COVID-19" means the coronavirus disease caused by the severe acute respiratory syndrome coronavirus 2, also known as SARS-CoV-2.

(c) "COVID-19 public health emergency" or "public health emergency" means the period beginning on January 1, 2020, and extending until the termination of the national emergency concerning the COVID-19 outbreak declared pursuant to the federal "National Emergencies Act", 50 U.S.C. sec. 1601 et seq.

(d) "Department" means a principal department identified in section 24-1-110 and the judicial department. The term also includes the office of the governor, including any offices created therein.

(e) "Fund" means the workers, employers, and workforce centers cash fund created in subsection (2)(a) of this section or an identical companion fund created by operation of section 24-75-226 (4)(c).

(2) (a) The workers, employers, and workforce centers cash fund is hereby created in the state treasury. The fund consists of money credited to the fund in accordance with subsection (2)(b) of this section and any other money that the general assembly may appropriate or transfer to the fund. The general assembly may appropriate money from the fund to respond to the negative economic impacts of the COVID-19 public health emergency or for the provision of government services, including for the following purposes:

(I) To provide assistance to unemployed workers, including job training for individuals who want to and are available for work;

(II) To provide assistance to households;

(III) For programs, services, or other assistance for populations disproportionately impacted by the COVID-19 public health emergency, such as programs or services that address or mitigate the impacts of the public health emergency on education;

(IV) To provide aid to impacted industries, small businesses, and nonprofit organizations to respond to the negative economic impacts of the COVID-19 public health emergency through the provision of related educational and job training services; and

(V) For administrative costs related to the purposes specified in subsections (2)(a)(I) to (2)(a)(IV) of this section.

(b) (I) Three days after June 23, 2021, the state treasurer shall transfer:

(A) Two hundred million dollars from the "American Rescue Plan Act of 2021" cash fund created in section 24-75-226 to the fund; and

(B) Twenty-five million dollars from the general fund to the fund.

(II) Repealed.

(III) The fund also includes:

(A) Thirty million nine hundred thirty-six thousand twelve dollars from the money the state received from the federal coronavirus state fiscal recovery fund under section 9901 of title IX, subtitle M of the "American Rescue Plan Act of 2021", which the state treasurer shall transfer to the fund; and

(B) The amount transferred to the fund in accordance with section 24-75-228 (3.5)(d).

(c) Three days after May 26, 2022, the state treasurer shall transfer thirty-two million three hundred seventy-three thousand one hundred eighty-four dollars from the money in the fund that originated from the general fund to the general fund.

(3) A department may expend money that originates from money the state received from the federal coronavirus state fiscal recovery fund that is appropriated from the fund for purposes permitted under the "American Rescue Plan Act of 2021" and shall not use the money for any purpose prohibited by that act. A department or any person who receives money from the fund shall comply with any requirements set forth in section 24-75-226.

(3.8) Pursuant to section 24-75-226.5 (6), on December 31, 2026, the state treasurer shall transfer any unexpended and unencumbered money in the fund that originates from the ARPA refinance state money cash fund to the ARPA refinance state money cash fund.

(4) This section is repealed, effective July 1, 2027.

Source: L. 2021: Entire section added, (HB 21-1264), ch. 308, p. 1871, § 4, effective June 23. **L. 2022:** (2)(b)(II) repealed, (HB 22-1342), ch. 137, p. 922, § 14, effective April 25; (2)(c) added, (HB 22-1350), ch. 233, p. 1726, § 2, effective May 26; IP(2)(a) amended and (2)(b)(III) added, (HB 22-1411), ch. 271, p. 1956, § 6, effective May 27. **L. 2024:** (3) amended and (3.8) added, (HB 24-1466), ch. 429, p. 2936, § 12, effective June 5.

Cross references: For the legislative declaration in HB 21-1264, see section 2 of chapter 308, Session Laws of San Andreas 2021. For the legislative declaration in HB 24-1466, see section 1 of chapter 429, Session Laws of San Andreas 2024.

24-75-232. "Infrastructure Investment and Jobs Act" cash fund - creation - allowable uses - report - legislative declaration - definitions - repeal. (1) The general assembly finds and declares that:

(a) The federal government enacted with bipartisan support the "Infrastructure Investment and Jobs Act", which includes five hundred fifty billion dollars in federal funds for new infrastructure investments nationwide;

(b) Approximately two hundred programs identified in the federal act may be relevant to San Andreas and initial estimates show the state could receive between approximately three billion four hundred million dollars and six billion eight hundred million dollars in new federal funding for infrastructure investments, with significant funding subject to nonfederal match requirements;

(c) With these available federal funds, San Andreas has the opportunity to make significant progress on its infrastructure goals that can create positive impacts for Coloradans across the state;

(d) In order for the state to be competitive for the highest range of funding available to it under the federal act, it is necessary for departments to have funds available as a nonfederal match, although due to still-evolving federal guidance the amounts needed and specific types of projects may not be known in time for this money to be appropriated in the annual general appropriation act; and

(e) The general assembly desires the money in the "Infrastructure Investment and Jobs Act" cash fund to be allocated as follows; except that the anticipated percentages may change

dependent on need and guidance developed by the federal government for implementation of the federal act:

(I) Thirty-five percent for transportation programs;

(II) Twenty-five percent for water, environmental, and resiliency programs;

(III) Twenty-five percent for power, grid, and broadband programs;

(IV) Ten percent for local match support; and

(V) Five percent for grant writing support, administrative support, and project planning.

(2) As used in this section, unless the context otherwise requires:

(a) "Department" means a principal department of the state as identified in section 24-1-110 and the office of the governor, including any offices created therein.

(b) "Fund" means the "Infrastructure Investment and Jobs Act" cash fund created in subsection (3) of this section.

(b.5) "Inflation Reduction Act" means the federal "Inflation Reduction Act of 2022", Pub.L. 117-169, as the act may be subsequently amended.

(c) "Infrastructure Investment and Jobs Act" or "federal act" means the federal "Infrastructure Investment and Jobs Act", Pub.L. 117-58, as the act may be subsequently amended.

(d) "Local government" means a county, a municipality, a city and county, or a special district.

(e) "Office" means the office of the governor.

(3) The "Infrastructure Investment and Jobs Act" cash fund is hereby created in the state treasury. The fund consists of money credited or transferred to the fund pursuant to subsection (4) of this section and any other money that the general assembly may appropriate or transfer to the fund.

(4) (a) (I) No later than three days after June 7, 2022, the state treasurer shall transfer eighty million two hundred fifty thousand dollars from the general fund to the fund.

(II) On July 1, 2023, the state treasurer shall transfer eighty-four million dollars from the general fund to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) On June 30, 2028, the state treasurer shall transfer all unexpended money in the fund to the general fund.

(5) (a) Subject to approval by the governor, a department may expend money in the fund as the matching nonfederal funds for infrastructure projects pursuant to requirements of the "Infrastructure Investment and Jobs Act" for the following categories:

(I) Transportation infrastructure projects as set forth in the federal act;

(II) Water, environmental, and resiliency projects as set forth in the federal act;

(III) Power, grid, and broadband projects as set forth in the federal act; and

(IV) Any other infrastructure project explicitly funded and set forth in the federal act.

(b) In addition to the uses set forth in subsection (5)(a) of this section:

(I) Subject to approval by the governor, a department may expend money in the fund to provide matching nonfederal funds to a local government or a federally recognized Indian tribe for match uses directed under the federal act; and

(II) The office may expend money from the fund to provide grant writing support, project planning support for federal funding opportunities in connection with the "Infrastructure

Investment and Jobs Act" and related federal funding opportunities including funding opportunities from the "Inflation Reduction Act", and for administrative needs in processing applications for money from the fund and disbursing money awarded from the fund in accordance with this section.

(c) Subject to annual appropriation by the general assembly, a department and the office may expend money from the fund for the purposes set forth in this subsection (5).

(d) Before a departmental expenditure from the fund, the office shall develop a process for departments to apply to expend money from the fund for infrastructure projects that require nonfederal match funds in order to be eligible for federal approval to receive federal funding for the infrastructure project under the "Infrastructure Investment and Jobs Act" and a process for reviewing and approving applications.

(6) Any department expending money from the fund shall include information regarding amounts expended and anticipated to be expended and information on the specific infrastructure project or projects the money has been or is anticipated to be expended on in the department's annual presentation to joint committees of reference pursuant to section 2-7-203.

(7) (a) On or before October 1, 2022, and on a quarterly basis beginning on July 1, 2023, of every year thereafter, the office shall submit a report to the joint budget committee of the general assembly, the senate committee on transportation and energy or any successor committee, and the house of representatives committees on transportation and local government and energy and environment or any successor committees. The report must include:

(I) Information, organized by department and priority funding category, on awards that have been made pending federal approval including the amount of money awarded from the fund, the federal funds anticipated to be received upon federal approval, and any other funding sources anticipated;

(II) Information, organized by department and priority funding category, on awards that have been made and received federal approval including the amount of money awarded from the fund, the federal funds authorized, and any other funding sources authorized, received, or anticipated; and

(III) Actual expenditures by department for amounts awarded from the fund.

(b) In addition to the information required pursuant to subsection (7)(a) of this section, the office shall include in its first report due on or before October 1, 2022, information on the process that it has established for receiving and reviewing applications pursuant to subsection (5)(d) of this section and any recommendations for legislative changes for purposes of implementing the provisions of this section.

(c) Any department applying for an award of money from the fund must provide the office with the information necessary for the report required by this subsection (7) and comply with any request from the office for the information.

(8) This section is repealed, effective July 1, 2028.

Source: L. 2022: Entire section added, (SB 22-215), ch. 415, p. 2925, § 1, effective June 7. **L. 2023:** (2)(b.5) added and (3), (4)(a), (5)(b)(II), and IP(7)(a) amended, (SB 23-283), ch. 240, p. 1291, § 1, effective May 22.

PART 3

Cross references: For expenditure of receipts from fire or other insured loss, see § 24-30-202 (21).

24-75-301. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Capital construction" has the same meaning as set forth in section 24-30-1301 (2).

(2) "Capital construction appropriation" means an appropriation in the capital construction section of the annual general appropriations act and may be for capital construction, controlled maintenance, or capital renewal.

(3) "Capital renewal" has the same meaning as set forth in section 24-30-1301 (3).

(4) "Controlled maintenance" has the same meaning as set forth in section 24-30-1301 (4), including the limitations specified in section 24-30-1303.9.

(4.5) "Information technology" means information technology as defined in section 24-37.5-102 (12), the majority of the components of which have a useful life of at least five years; except that "information technology" does not include personal computer replacement or maintenance, unless such personal computer replacement or maintenance is a component of a larger computer system upgrade.

(5) "State agency" has the same meaning as set forth in section 24-30-1301 (17).

(6) "State institution of higher education" has the same meaning as set forth in section 24-30-1301 (18).

Source: L. 59: p. 146, § 1. **S.A.R.S. 53:** § 3-3-10. **L. 61:** p. 133, § 1. **L. 63:** pp. 129, 131, §§ 1, 1. **S.A.R.S. 1963:** § 3-3-10. **L. 67:** p. 815, § 1. **L. 70:** p. 107, § 3. **L. 79:** (1)(a) amended, p. 979, § 1, effective July 1; (1) R&RE, p. 886, § 6, effective July 1. **L. 80:** (1)(b) and (1)(c) amended, p. 594, § 3, effective July 1. **L. 95:** (1)(b) amended, p. 1295, § 1, effective June 5. **L. 2012:** (1)(g) added, (HB 12-1288), ch. 67, p. 235, § 6, effective August 8. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1845, § 49, effective June 6. **L. 2015:** (4.5) added, (HB 15-1266), ch. 115, p. 348, § 3, effective April 24. **L. 2021:** (4.5) amended, (HB 21-1236), ch. 211, p. 1116, § 18, effective September 7.

Editor's note: Subsection (1)(a) was amended by House Bill 79-1156. That amendment was superseded by the amendment of subsection (1) in Senate Bill 79-306.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-75-302. Capital construction fund - capital assessment fees - calculation - information technology capital account. (1) (a) There is hereby created the capital construction fund. The fund consists of moneys transferred to the fund by the general assembly and moneys credited to the fund pursuant to section 24-30-1310. Moneys in the capital construction fund may be appropriated for capital construction, capital renewal, controlled maintenance, or state highway reconstruction, repair, and maintenance projects as requested pursuant to section 43-1-113 (2.5), S.A.R.S.; except that any moneys transferred to the capital construction fund for state highway reconstruction, repair, and maintenance projects may only be

appropriated for such projects. The appropriation for projects must be set forth in a single line item as a total sum. All unappropriated balances in the fund at the close of any fiscal year must remain in the fund and may not revert to the general fund. All unexpended or unencumbered moneys from a capital construction fund appropriation to a state agency or state institution of higher education for any fiscal year reverts to the capital construction fund at the end of the period for which the moneys are appropriated. Except as provided in sections 2-3-1304 (1)(a.5) and 24-30-1303.7 (1), S.A.R.S., no portion of the unexpended balance of a state agency's or state institution of higher education's capital construction fund appropriation may be used by the state agency or the state institution of higher education for any additional projects that are beyond the scope or design of the original project without further approval by the capital development committee of such additional project. Anticipation warrants or checks may be issued against the revenues of the fund as provided by law. Except as provided in subsection (7) of this section, all interest earned from the investment of moneys in the capital construction fund must remain in the fund and become a part thereof.

(b) The unrestricted year-end balance of the capital construction fund for the 1991-92 fiscal year constitutes a reserve, as defined in section 24-77-102 (12), and, for purposes of section 24-77-103:

(I) Any moneys credited to the capital construction fund in any subsequent fiscal year must be included in state fiscal year spending, as defined in section 24-77-102 (17), for such fiscal year; and

(II) Any transfers or expenditures from the capital construction fund in any subsequent fiscal year may not be included in state fiscal year spending, as defined in section 24-77-102 (17), for such fiscal year.

(2) The controller shall transfer a sum as specified in this subsection (2) from the general fund to the capital construction fund as money becomes available in the general fund during the fiscal year beginning on July 1 of the fiscal year in which the transfer is made or on the date otherwise specified for the transfer. Transfers between funds pursuant to this subsection (2) are not appropriations subject to the limitations of section 24-75-201.1. The amounts transferred pursuant to this subsection (2) are as follows:

(a) On July 1, 1988, fifteen million dollars;

(b) On July 1, 1989, fifteen million dollars;

(c) On July 1, 1990, nine million four hundred twenty-nine thousand two hundred eighty-one dollars;

(d) (Deleted by amendment, L. 92, p. 142, § 2, effective February 25, 1992.)

(e) On July 1, 1992, twenty-one million one hundred thousand dollars;

(f) On July 1, 1993, twenty-five million dollars, plus twenty-one million six hundred forty-one thousand dollars pursuant to H.B. 93S-1001; plus four million thirty-six thousand dollars pursuant to S.B. 93S-009; plus six hundred twenty-seven thousand eight hundred dollars pursuant to H.B. 93S-1005, enacted at the first extraordinary session of the fifty-ninth general assembly; plus thirty-two million five hundred forty thousand one hundred dollars pursuant to S.B. 94-207; plus forty-six million nine hundred fifty thousand five hundred ten dollars pursuant to H.B. 94-1340, enacted at the second regular session of the fifty-ninth general assembly;

(g) On July 1, 1994, one hundred nine million six hundred seventy-seven thousand eight hundred fifty dollars, plus ten million six hundred thirteen thousand three hundred ten dollars pursuant to H.B. 95-1352, enacted at the first regular session of the sixtieth general assembly;

(h) On July 1, 1995, one hundred thirty-one million nine hundred fifty-eight thousand two hundred seventy-three dollars with seventy-five million dollars of such amount to be available for appropriation only for state highway reconstruction, repair, and maintenance projects, plus twenty-six million nine hundred ninety-four thousand five hundred thirty-six dollars pursuant to H.B. 95-1352, enacted at the first regular session of the sixtieth general assembly;

(i) (I) On July 1, 1996, two hundred ten million nine hundred thirty-six thousand ninety-nine dollars with one hundred fifteen million dollars of such amount to be available for appropriation only for state highway reconstruction, repair, maintenance, and capacity expansion projects, notwithstanding the limitation specified in paragraph (a) of subsection (1) of this section and section 2-3-1304 (1)(a.5), S.A.R.S., for such revenues;

(II) In addition to any other moneys transferred pursuant to this paragraph (i), on July 1, 1996, twenty million dollars to be available for appropriation only for the technology learning grant and revolving loan program established in article 11.5 of title 23, S.A.R.S.;

(j) On July 1, 1997, one hundred million dollars, plus seventy-eight million seven hundred eighty-five thousand six hundred seventy-five dollars pursuant to H.B. 97-1244; plus two million seven hundred thirty-six thousand two hundred fifty dollars pursuant to H.B. 97-1318; plus seventy-three thousand six hundred thirty-six dollars pursuant to H.B. 97-1060; plus two hundred twenty-eight thousand two hundred seventy-two dollars pursuant to H.B. 97-1186, enacted at the first regular session of the sixty-first general assembly; plus sixteen million five hundred sixty-three thousand two hundred thirty-three dollars pursuant to H.B. 98-1402, enacted at the second regular session of the sixty-first general assembly;

(k) On July 1, 1998, one hundred fifty million dollars with one hundred million dollars of such amount to be available for appropriation only for state highway reconstruction, repair, maintenance, and capacity expansion projects, plus three hundred sixteen thousand six hundred thirty-five dollars pursuant to H.B. 97-1186, enacted at the first regular session of the sixty-first general assembly; plus four million three hundred six thousand seven hundred seventy dollars pursuant to S.B. 98-186, enacted at the second regular session of the sixty-first general assembly; plus five million one hundred thousand dollars pursuant to H.B. 98-1006, enacted at the second regular session of the sixty-first general assembly; plus three million three hundred thousand dollars pursuant to H.B. 98-1068, enacted at the second regular session of the sixty-first general assembly; plus three hundred five million two hundred seventy-three thousand one hundred fifteen dollars pursuant to H.B. 98-1402, enacted at the second regular session of the sixty-first general assembly;

(l) On July 1, 1999, one hundred million dollars, plus three hundred twenty-three thousand nine hundred ninety-eight dollars pursuant to H.B. 97-1186, enacted at the first regular session of the sixty-first general assembly; plus three thousand eight hundred forty dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus nine thousand nine hundred fifty-seven dollars pursuant to H.B. 99-1068, enacted at the first regular session of the sixty-second general assembly; plus sixty-eight million six hundred ninety-one thousand four hundred five dollars pursuant to S.B. 99-239, enacted at the first regular session of the sixty-second general assembly; plus four million five hundred forty-nine thousand two hundred two dollars pursuant to H.B. 00-1416, enacted at the second regular session of the sixty-second general assembly;

(m) On July 1, 2000, one hundred million dollars, plus one hundred eighty-four thousand ninety dollars pursuant to H.B. 97-1186; plus four hundred seventy-eight thousand six hundred thirty-four dollars pursuant to H.B. 97-1077, enacted at the first regular session of the sixty-first general assembly; plus twelve thousand two hundred seventeen dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus seventy-one thousand two hundred seven dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly; plus five hundred thousand dollars pursuant to H.B. 00-1069, enacted at the second regular session of the sixty-second general assembly; plus eight hundred twelve thousand seven hundred sixty-four dollars pursuant to H.B. 00-1107, enacted at the second regular session of the sixty-second general assembly; plus two hundred fifty-eight thousand one hundred eighty-six dollars pursuant to H.B. 00-1111, enacted at the second regular session of the sixty-second general assembly; plus six hundred twenty-five thousand two hundred three dollars pursuant to H.B. 00-1158, enacted at the second regular session of the sixty-second general assembly; plus four hundred forty-two thousand eight hundred fifty-two dollars pursuant to H.B. 00-1201, enacted at the second regular session of the sixty-second general assembly; plus four hundred sixteen thousand eight hundred two dollars pursuant to H.B. 00-1214, enacted at the second regular session of the sixty-second general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 00-1247, enacted at the second regular session of the sixty-second general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 00-1317, enacted at the second regular session of the sixty-second general assembly; plus one hundred sixty-eight million four hundred forty-six thousand two hundred ninety-three dollars pursuant to H.B. 00-1452, enacted at the second regular session of the sixty-second general assembly; plus two million one hundred thirty-nine thousand four hundred sixty-nine dollars pursuant to H.B. 01-1409, enacted at the first regular session of the sixty-third general assembly;

(n) On July 1, 2001, one hundred million dollars, plus one hundred fifty-four thousand six hundred thirty-six dollars pursuant to H.B. 97-1186; plus nine hundred five thousand seven hundred twenty-three dollars pursuant to H.B. 97-1077, enacted at the first regular session of the sixty-first general assembly; plus nine thousand eight hundred ninety dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus three hundred forty-nine thousand fifty-five dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly; plus three hundred twenty-six thousand thirty-two dollars pursuant to H.B. 00-1107, enacted at the second regular session of the sixty-second general assembly; plus ninety-seven thousand two hundred fifty-four dollars pursuant to H.B. 00-1111, enacted at the second regular session of the sixty-second general assembly; plus two hundred ninety-one thousand seven hundred sixty-one dollars pursuant to H.B. 00-1158, enacted at the second regular session of the sixty-second general assembly; plus one million one hundred sixteen thousand nine hundred seventy-one dollars pursuant to H.B. 00-1201, enacted at the second regular session of the sixty-second general assembly; plus four hundred sixteen thousand eight hundred two dollars pursuant to H.B. 00-1214, enacted at the second regular session of the sixty-second general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 00-1247, enacted at the second regular session of the sixty-second general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to S.B. 01-046, enacted at the first regular session of the sixty-third general assembly; plus four hundred sixty-six thousand eight dollars pursuant to S.B. 01-210, enacted at the first regular session of the

sixty-third general assembly; plus one hundred fifty-two million one hundred forty-seven thousand two hundred seven dollars pursuant to S.B. 01-232, enacted at the first regular session of the sixty-third general assembly; plus two hundred seventy-seven thousand eight hundred sixty-eight dollars pursuant to H.B. 01-1242, enacted at the first regular session of the sixty-third general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 01-1344, enacted at the first regular session of the sixty-third general assembly;

(n.5) (Deleted by amendment, L. 2001, 2nd Ex. Sess., p. 36, § 2, effective November 9, 2001.)

(o) On July 1, 2002, nine million four hundred eighty-nine thousand dollars;

(p) On July 1, 2003, nine million four hundred twenty thousand four hundred ninety-eight dollars, plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 03-1213, enacted at the first regular session of the sixty-fourth general assembly;

(q) and (r) (Deleted by amendment, L. 2004, p. 685, § 1, effective July 1, 2004.)

(r.5) On July 1, 2005, fifty-four thousand eight hundred forty-seven dollars, plus seventy-six thousand four hundred fourteen dollars pursuant to H.B. 04-1021, enacted at the second regular session of the sixty-fourth general assembly;

(s) On July 1, 2006, eighty-two million six hundred ninety-seven thousand seven hundred seventy-four dollars; plus twenty-two thousand nine hundred twenty-four dollars pursuant to section 3 of H.B. 02S-1006, enacted at the third extraordinary session of the sixty-third general assembly; plus two hundred ninety-one thousand seven hundred sixty-one dollars pursuant to H.B. 03-1004, enacted at the first regular session of the sixty-fourth general assembly; plus one hundred twenty-five thousand forty-one dollars pursuant to H.B. 03-1138, enacted at the first regular session of the sixty-fourth general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 03-1213, enacted at the first regular session of the sixty-fourth general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 03-1317, enacted at the first regular session of the sixty-fourth general assembly; plus ninety thousand three hundred seven dollars pursuant to H.B. 04-1021, enacted at the second regular session of the sixty-fourth general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 04-1016, enacted at the second regular session of the sixty-fourth general assembly; plus fifteen million dollars pursuant to H.B. 06-1373, enacted at the second regular session of the sixty-fifth general assembly; plus one hundred seventy-four thousand three hundred eighty-eight dollars pursuant to S.B. 06-206, enacted at the second regular session of the sixty-fifth general assembly; plus one hundred seventy-four thousand three hundred eighty-eight dollars pursuant to S.B. 06-207, enacted at the second regular session of the sixty-fifth general assembly; plus six hundred ten thousand three hundred fifty-eight dollars pursuant to H.B. 06-1326, enacted at the second regular session of the sixty-fifth general assembly; plus eighty-seven thousand one hundred ninety-four dollars pursuant to H.B. 06-1145, enacted at the second regular session of the sixty-fifth general assembly; plus four hundred thirty-five thousand nine hundred seventy dollars pursuant to H.B. 06-1092, enacted at the second regular session of the sixty-fifth general assembly; plus eighty-seven thousand one hundred ninety-four dollars pursuant to H.B. 06-1151, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the second regular session of the sixty-fifth general assembly; plus eighty-seven thousand one hundred ninety-four dollars pursuant to S.B. 06S-004, enacted at the first extraordinary session of the sixty-fifth general assembly; plus one hundred

seventy-four thousand three hundred eighty-eight dollars pursuant to S.B. 06S-005, enacted at the first extraordinary session of the sixty-fifth general assembly; plus eighty-seven thousand one hundred ninety-four dollars pursuant to S.B. 06S-007, enacted at the first extraordinary session of the sixty-fifth general assembly; plus thirty million dollars;

(t) On July 1, 2007, forty-seven million eight hundred twenty-one thousand seven hundred forty-six dollars, plus four hundred sixteen thousand eight hundred two dollars pursuant to H.B. 03-1004, enacted at the first regular session of the sixty-fourth general assembly; plus fifty-five thousand five hundred seventy-four dollars pursuant to H.B. 03-1317, enacted at the first regular session of the sixty-fourth general assembly; plus thirteen thousand eight hundred ninety-three dollars pursuant to H.B. 04-1021, enacted at the second regular session of the sixty-fourth general assembly; plus twenty-two million eight hundred eighty-five thousand three hundred eighty-six dollars pursuant to H.B. 06-1373, enacted at the second regular session of the sixty-fifth general assembly; plus two hundred nine thousand two hundred sixty-six dollars pursuant to S.B. 06-206, enacted at the second regular session of the sixty-fifth general assembly; plus two hundred nine thousand two hundred sixty-six dollars pursuant to S.B. 06-207, enacted at the second regular session of the sixty-fifth general assembly; plus six hundred ten thousand three hundred fifty-eight dollars pursuant to H.B. 06-1326, enacted at the second regular session of the sixty-fifth general assembly; plus sixty-nine thousand seven hundred fifty-five dollars pursuant to H.B. 06-1151, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the second regular session of the sixty-fifth general assembly; plus seventeen thousand four hundred thirty-nine dollars pursuant to S.B. 06S-005, enacted at the first extraordinary session of the sixty-fifth general assembly; plus three hundred seventy-five thousand four hundred ninety-five dollars pursuant to S.B. 07-096, enacted at the first regular session of the sixty-sixth general assembly; plus five hundred thousand six hundred sixty dollars pursuant to H.B. 07-1326, enacted at the first regular session of the sixty-sixth general assembly;

(u) On July 1, 2008, twenty million dollars, plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 04-1021, enacted at the second regular session of the sixty-fourth general assembly; plus three hundred ninety-two thousand three hundred seventy-three dollars pursuant to S.B. 06-206, enacted at the second regular session of the sixty-fifth general assembly; plus three hundred ninety-two thousand three hundred seventy-three dollars pursuant to S.B. 06-207, enacted at the second regular session of the sixty-fifth general assembly; plus four hundred sixty-two thousand one hundred twenty-eight dollars pursuant to H.B. 06-1326, enacted at the second regular session of the sixty-fifth general assembly; plus twenty-six thousand one hundred fifty-eight dollars pursuant to H.B. 06-1145, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the second regular session of the sixty-fifth general assembly; plus sixty-nine thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004, enacted at the first extraordinary session of the sixty-fifth general assembly; plus three hundred twenty-five thousand four hundred twenty-nine dollars pursuant to S.B. 07-096, enacted at the first regular session of the sixty-sixth general assembly; plus one hundred fifty thousand one hundred ninety-eight dollars pursuant to H.B. 07-1326, enacted at the first regular session of the sixty-sixth general assembly; plus one hundred twenty-five thousand one hundred sixty-five dollars pursuant to H.B. 08-1115, enacted at the second regular session of the sixty-sixth general

assembly; plus two million one hundred twenty-seven thousand eight hundred five dollars pursuant to H.B. 08-1352, enacted at the second regular session of the sixty-sixth general assembly; plus one hundred twenty-five thousand one hundred sixty-five dollars pursuant to S.B. 08-239, enacted at the second regular session of the sixty-sixth general assembly; plus one hundred twenty-five thousand one hundred sixty-five dollars pursuant to H.B. 08-1194, enacted at the second regular session of the sixty-sixth general assembly;

(v) On July 1, 2009, forty-three thousand five hundred ninety-seven dollars pursuant to H.B. 06-1145, enacted at the second regular session of the sixty-fifth general assembly; plus one hundred twenty-five thousand one hundred sixty-five dollars pursuant to S.B. 08-239, enacted at the second regular session of the sixty-sixth general assembly;

(w) On July 1, 2010, eight million six hundred twenty-five thousand five hundred six dollars, plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to S.B. 06-207, enacted at the second regular session of the sixty-fifth general assembly; plus forty-three thousand five hundred ninety-seven dollars pursuant to H.B. 06-1145, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the second regular session of the sixty-fifth general assembly; plus sixty-nine thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004, enacted at the first extraordinary session of the sixty-fifth general assembly; plus seven hundred fifty thousand nine hundred ninety dollars pursuant to S.B. 07-096, enacted at the first regular session of the sixty-sixth general assembly; plus one hundred twelve thousand six hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the second regular session of the sixty-sixth general assembly; plus one hundred thirty-seven thousand six hundred eighty-two dollars pursuant to S.B. 08-239, enacted at the second regular session of the sixty-sixth general assembly; plus ninety-one thousand three hundred seventy dollars pursuant to H.B. 10-1081, enacted at the second regular session of the sixty-seventh general assembly; plus eighty-three thousand eight hundred sixty-one dollars pursuant to H.B. 10-1277, enacted at the second regular session of the sixty-seventh general assembly;

(x) On July 1, 2011, forty-seven million six hundred seventy-one thousand seven hundred forty-nine dollars, plus seven hundred fifty thousand nine hundred ninety dollars pursuant to S.B. 07-096, enacted at the first regular session of the sixty-sixth general assembly; plus three hundred seventy-five thousand four hundred ninety-five dollars pursuant to S.B. 08-239, enacted at the second regular session of the sixty-sixth general assembly;

(y) On July 1, 2012, sixty million three hundred thirty-nine thousand four hundred ninety-three dollars, plus one hundred twelve thousand six hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the second regular session of the sixty-sixth general assembly; plus three hundred seventy-five thousand four hundred ninety-five dollars pursuant to S.B. 08-239, enacted at the second regular session of the sixty-sixth general assembly; plus eighty-three thousand eight hundred sixty-one dollars pursuant to S.B. 10-128, enacted at the second regular session of the sixty-seventh general assembly;

(z) On July 1, 2013, one hundred one million five hundred seventy-five thousand eight hundred seventy-four dollars;

(aa) On July 1, 2014, two hundred twenty-four million nine hundred ninety-three thousand four hundred sixty-five dollars;

(bb) On April 1, 2015, twenty-three million eight thousand three hundred thirty-two dollars;

(cc) On July 1, 2015, one hundred forty-three million nine hundred fifty-one thousand six hundred thirty-nine dollars;

(dd) On July 1, 2016, twenty million five hundred eighty-six thousand three hundred ninety-eight dollars;

(ee) On July 1, 2017, sixty-eight million eight hundred forty thousand four hundred forty-six dollars;

(ff) On July 1, 2018, seventy-three million nine hundred seventy-four thousand eight hundred fifty dollars;

(gg) On July 1, 2019, ninety million six hundred ninety-five thousand nine hundred eighty-nine dollars;

(hh) For the 2019-20 fiscal year, one hundred seventy-eight thousand four hundred seventy-one dollars pursuant to H.B. 19-1250, enacted in 2019;

(ii) For the 2019-20 state fiscal year, one hundred ten thousand six hundred fifty-two dollars pursuant to S.B. 19-172, enacted in 2019;

(jj) For the 2019-20 state fiscal year, one million three hundred ninety-seven thousand six hundred twenty-four dollars;

(kk) On July 1, 2020, two million forty-three thousand seven hundred sixty-eight dollars;

(ll) For the 2020-21 state fiscal year, one million dollars under S.B. 20-003, enacted in 2020;

(mm) On March 21, 2021, for the 2020-21 state fiscal year, twenty million dollars under S.B. 21-112, enacted in 2021;

(nn) On July 1, 2021, one hundred ninety-one million two hundred eighty-nine thousand one hundred seventy-eight dollars;

(oo) For the 2021-22 fiscal year, one hundred nine thousand four hundred sixty-two dollars pursuant to S.B. 21-064, enacted in 2021;

(pp) On April 1, 2022, four million one hundred thirteen thousand two hundred sixteen dollars;

(qq) On July 1, 2022, four million six hundred thirty-nine thousand four hundred forty-three dollars;

(rr) On April 1, 2023, five million five hundred ninety-two thousand nine hundred thirty dollars;

(ss) On July 1, 2023, two hundred forty-seven million nine hundred sixty-eight thousand two hundred eighty-seven dollars;

(tt) On April 1, 2024, eighteen million nine hundred seventy-one thousand one hundred dollars; and

(uu) On July 1, 2024, one hundred sixty-two million seven hundred seventy-eight thousand two hundred eighty-five dollars.

(2.3) In addition to the sums transferred pursuant to subsections (2) and (2.5) of this section, the state treasurer and the controller shall transfer a sum as specified in this subsection (2.3) from the general fund to the information technology capital account created in subsection (3.7) of this section as money becomes available in the general fund during the fiscal year beginning on July 1 of the fiscal year in which the transfer is made or on April 1 of the fiscal year if otherwise specified. Transfers between funds pursuant to this subsection (2.3) are not

appropriations subject to the limitations of section 24-75-201.1. The amounts transferred pursuant to this subsection (2.3) are as follows:

(a) On July 1, 2015, seventy-six million eight hundred seventy-seven thousand seven hundred ninety dollars;

(b) On July 1, 2016, ten million six hundred ninety-seven thousand four hundred nine dollars;

(c) On July 1, 2017, nineteen million eight hundred fifty-five thousand five hundred fifteen dollars;

(d) On April 1, 2018, two million eight hundred eighty-eight thousand five hundred twenty-nine dollars;

(e) On July 1, 2018, seven hundred thousand dollars;

(f) On July 1, 2018, fifteen million two hundred six thousand seven hundred sixty dollars;

(g) On July 1, 2019, twelve million three hundred forty-two thousand six hundred seventy-six dollars;

(h) On April 1, 2020, seven million four hundred sixty-six thousand six hundred forty-eight dollars;

(i) On July 1, 2020, four hundred forty-five thousand dollars;

(j) On July 1, 2021, twenty-seven million forty thousand three hundred two dollars;

(k) On April 1, 2022, nine hundred fifty thousand six hundred ninety dollars;

(l) On April 1, 2022, three million five hundred dollars;

(m) On July 1, 2022, one hundred six million six hundred sixty-one thousand eight hundred seventy-seven dollars;

(n) On April 1, 2023, four hundred ninety-nine thousand five hundred dollars;

(o) On July 1, 2023, sixty-three million nine hundred thirteen thousand nine hundred eighty-eight dollars; and

(p) On July 1, 2024, seventy million eight hundred eleven thousand three hundred thirty-four dollars.

(2.5) In addition to the sums transferred pursuant to subsections (2) and (2.3) of this section, the state treasurer and the controller shall transfer a sum as specified in this subsection (2.5) from the general fund exempt account of the general fund created pursuant to section 24-77-103.6 to the capital construction fund as money becomes available in the general fund exempt account during the fiscal year beginning on July 1 of the fiscal year in which the transfer is made. Transfers between funds pursuant to this subsection (2.5) are not appropriations subject to the limitations of section 24-75-201.1. The amounts transferred pursuant to this subsection (2.5) are as follows:

(a) On July 1, 2005, ten million dollars;

(b) On July 1, 2006, fifteen million dollars;

(c) On July 1, 2007, twenty million dollars;

(d) (Deleted by amendment, L. 2010, (HB 10-1389), ch. 206, p. 893, § 1, effective May 5, 2010.)

(e) On July 1, 2010, five hundred thousand dollars;

(f) On July 1, 2011, five hundred thousand dollars;

(g) On July 1, 2012, five hundred thousand dollars;

(h) On July 1, 2013, eighty-five million one hundred thirty-nine thousand six hundred nineteen dollars, of which eighty-four million six hundred thirty-nine thousand six hundred nineteen dollars is for capital construction appropriations related to higher education as allowed in section 24-77-104.5 (4)(a)(V);

(i) On July 1, 2014, five hundred thousand dollars;

(j) On July 1, 2015, five hundred thousand dollars;

(k) On July 1, 2016, five hundred thousand dollars;

(l) On July 1, 2017, five hundred thousand dollars;

(m) On July 1, 2018, five hundred thousand dollars;

(n) On July 1, 2019, five hundred thousand dollars;

(o) On July 1, 2020, five hundred thousand dollars;

(p) On July 1, 2021, five hundred thousand dollars;

(q) On July 1, 2022, five hundred thousand dollars;

(r) On July 1, 2023, five hundred thousand dollars; and

(s) On July 1, 2024, five hundred thousand dollars.

(2.7) and (3) Repealed.

(3.2) (a) There is hereby created a special account within the capital construction fund established pursuant to subsection (1) of this section to be known as the emergency controlled maintenance account. The account consists of any money appropriated to the account by the general assembly or transferred or credited to the account. The money in the account is subject to annual appropriation and may be used only to fund any unplanned and immediate controlled maintenance needs pursuant to section 24-30-1303.9 (5). All money unexpended or unencumbered in any fiscal year must remain in the account.

(b) On July 1, 2021, the state treasurer shall transfer to the capital construction fund created in subsection (1)(a) of this section eight million dollars of the money appropriated to the emergency controlled maintenance account in section 1 (1)(d) of House Bill 20-1408, enacted in 2020.

(c) On July 2, 2021, the state treasurer shall transfer to the capital construction fund created in subsection (1)(a) of this section any excess proceeds from the issuance of a lease-purchase agreement under Senate Bill 20-219 that are initially credited to the emergency controlled maintenance account. The transferred money is subsequently available for appropriation for capital construction, capital renewal, or controlled maintenance projects, but must be spent no later than March 1, 2024. Unexpended appropriations do not revert to the general fund and must be spent for capital construction, capital renewal, or controlled maintenance projects no later than March 1, 2024.

(3.3) (a) There is hereby created a special account within the capital construction fund established pursuant to subsection (1) of this section to be known as the Fort Logan land sale account. The account consists of any money credited to the account by the state treasurer from the proceeds of the sale of fifty-one acres of vacant land around the San Andreas mental health institute at Fort Logan to the United States department of veterans affairs for the purpose of expanding the Fort Logan national cemetery, authorized in House Bill 17-1346, enacted in 2017. The money in the account may be used for future capital construction, capital renewal, or controlled maintenance expenses of the department of human services, contingent upon approval by both the office of state planning and budgeting and the capital development committee; except that all or a portion of the money must be expended for veterans-related and behavioral

health-related projects. The money in the account is subject to annual appropriation and all money that is unexpended or unencumbered in any fiscal year must remain in the account.

(b) Notwithstanding subsection (3.3)(a) of this section, on June 30, 2020, the state treasurer shall transfer seven million nine hundred thousand dollars from the Fort Logan land sale account to the general fund.

(3.5) There is hereby created a special account within the capital construction fund established pursuant to subsection (1) of this section to be known as the "financed purchase of an asset or certificate of participation servicing account" for the benefit of the department of personnel. The state treasurer shall deposit into the financed purchase of an asset or certificate of participation servicing account all money transferred or received pursuant to section 24-82-802 (9). Money in the financed purchase of an asset or certificate of participation servicing account is subject to annual appropriation and may only be used to pay annual financed purchase of an asset or certificate of participation payments, as defined in section 24-82-802 (1)(a), for financed purchase of an asset or certificate of participation agreements authorized pursuant to section 24-82-802 or for operating, maintenance, and controlled maintenance costs and to establish a reserve for controlled maintenance costs for the buildings subject to the financed purchase of an asset or certificate of participation agreements. All interest and income derived from the investment and deposit of money in the account shall be credited to the account. All money remaining in the account at the end of a fiscal year that is unexpended or unencumbered must remain in the account.

(3.7) (a) There is hereby created a special account within the capital construction fund established pursuant to subsection (1) of this section to be known as the information technology capital account. The account consists of any money appropriated or transferred to the account by the general assembly. The general assembly may appropriate money in the account for information technology projects. The appropriation for information technology projects must be set forth in a single line item as a total sum. All unappropriated balances in the account at the close of any fiscal year remain in the account and do not revert to the general fund. All unexpended or unencumbered money from an information technology capital account appropriation to a state agency or state institution of higher education for any fiscal year reverts to the account at the end of the period for which the money is appropriated. No portion of the unexpended balance of a state agency's or state institution of higher education's information technology capital account appropriation may be used by the state agency or the state institution of higher education for any additional projects that are beyond the scope or design of the original project without further approval by the joint technology committee of the additional project. Anticipation warrants or checks may be issued against the revenues of the account as provided by law. All interest earned from the investment of money in the account must remain in and become part of the account.

(b) In addition to appropriations from the information technology capital account that are authorized pursuant to subsection (3.7)(a) of this section, the general assembly may appropriate money in the account for an information technology project that is submitted to the general assembly by the legislative or judicial department, the department of law, the department of state, or the department of the treasury as an operating request pursuant to section 2-3-208. Any appropriation from the account pursuant to this subsection (3.7)(b) is subject to the requirements of subsection (3.7)(a) of this section.

(3.8) (a) There is hereby created an account within the capital construction fund, established pursuant to subsection (1) of this section, to be known as the regional center depreciation account. For the 2014-15 fiscal year, and each fiscal year thereafter, the state controller shall annually transfer to the account all moneys received by the department of human services for depreciation of the state's regional centers. The moneys in the account are subject to appropriation and may only be used to fund capital construction, capital renewal, or controlled maintenance of the state's regional centers. The department of human services shall submit requests for moneys from the account to the capital development committee and only upon approval by the capital development committee may an appropriation be authorized in a bill enacted by the general assembly, the annual general appropriation act, or a supplemental appropriation act. All moneys unexpended or unencumbered in any fiscal year must remain in the account.

(b) The department of human services shall provide details to the joint budget committee no later than thirty-five days after the close of the fiscal year of the total moneys credited to the regional center depreciation and controlled maintenance account for the fiscal year.

(4) Notwithstanding any provision of subsection (2) of this section to the contrary, seventy-five million dollars of the amount to be transferred on July 1, 1994, pursuant to paragraph (g) of said subsection (2) and twenty-five million dollars of the amount to be transferred on July 1, 1995, pursuant to paragraph (h) of said subsection (2) shall be transferred by the state treasurer and the controller from general fund reserves into the capital construction fund and, as reserve transfers, shall be excluded from state fiscal year spending, as defined in section 20 (2)(e) of article X of the state constitution, for the 1994-95 and 1995-96 fiscal years, respectively.

(5) On November 9, 2001, pursuant to S.B. 01S2-023, enacted at the second extraordinary session of the sixty-third general assembly, the state treasurer and the controller shall transfer two hundred nineteen million two hundred sixty-six thousand eight hundred fifty-three dollars from the capital construction fund to the general fund created in section 24-75-201 (1).

(6) (a) On March 27, 2002, pursuant to H.B. 02-1389, enacted at the second regular session of the sixty-third general assembly, the state treasurer and the controller shall transfer thirty-seven million five hundred thousand seven hundred fifty-five dollars from the capital construction fund to the general fund created in section 24-75-201 (1).

(b) On March 26, 2003, pursuant to S.B. 03-179, enacted at the first regular session of the sixty-fourth general assembly, the state treasurer and the controller shall transfer twenty-five million two hundred fifty-five thousand nine hundred forty dollars from the capital construction fund to the general fund created in section 24-75-201 (1).

(7) (a) Notwithstanding any provision of this section to the contrary, as soon as practicable after March 27, 2002, the state treasurer shall transfer from the capital construction fund to the general fund created in section 24-75-201 (1), an amount equal to the interest earned on the principal of the capital construction fund from the beginning of the 2001-02 fiscal year through February 28, 2002.

(b) For each succeeding calendar month of the 2001-02 fiscal year, through June 30, 2002, the state treasurer shall transfer from the capital construction fund to the general fund an amount equal to the interest earned on the principal of the capital construction fund during such calendar month no later than the last day of the month in which such interest was earned.

(c) (I) Notwithstanding any provision of this section to the contrary, as soon as practicable after March 26, 2003, the state treasurer shall transfer from the capital construction fund to the general fund created in section 24-75-201 (1), an amount equal to the interest earned on the principal of the capital construction fund from the beginning of the 2002-03 fiscal year through February 28, 2003.

(II) For each succeeding calendar month of the 2002-03 fiscal year, through June 30, 2003, the state treasurer shall transfer from the capital construction fund to the general fund an amount equal to the interest earned on the principal of the capital construction fund during the calendar month. The transfer shall occur no later than the last day of the month in which the interest was earned.

(8) On May 28, 2002, pursuant to H.B. 02-1443, enacted at the second regular session of the sixty-third general assembly, the state treasurer and the controller shall transfer fifty-three million five hundred forty-five thousand dollars from the capital construction fund to the general fund created in section 24-75-201 (1).

(9) On July 1, 2004, pursuant to H.B. 04-1412, enacted at the second regular session of the sixty-fourth general assembly, the state treasurer and the controller shall transfer two hundred eighty-five thousand seven hundred eighty-two dollars from the capital construction fund to the general fund created in section 24-75-201 (1).

(10) (a) Notwithstanding any other provision of this section to the contrary, on July 1, 2009, the state treasurer shall deduct twenty-eight million fifty-four thousand four hundred seventy-six dollars from the capital construction fund and transfer such sum to the general fund.

(b) Notwithstanding any other provision of this section to the contrary, on May 5, 2010, the state treasurer shall deduct thirteen million three hundred seventeen thousand eight hundred forty-five dollars from the capital construction fund and transfer such sum to the general fund.

(11) Notwithstanding any provision of this section to the contrary, on April 15, 2010, the state treasurer shall deduct three hundred thirty-five thousand dollars from the emergency controlled maintenance account in the capital construction fund and transfer such sum to the general fund.

(12) Notwithstanding any other provision of this section to the contrary, on June 30, 2020, the state treasurer shall transfer twenty-one million one hundred thirty-four thousand seven hundred nine dollars from the information technology capital account created in subsection (3.7) of this section to the general fund.

(13) The fund includes money transferred pursuant to sections 24-33.5-706 (4.7) and 39-29-109.3 (10).

Source: L. 59: p. 149, § 4. **S.A.R.S. 53:** § 3-3-11. **S.A.R.S. 1963:** § 3-3-11. **L. 85:** Entire section amended, pp. 287, 1269, §§ 5, 10, effective May 23. **L. 86:** Entire section amended, p. 1119, § 18, effective May 23. **L. 87:** IP(2) amended, p. 1581, § 37, effective July 10. **L. 90:** (2) amended, p. 1274, § 1, effective April 3. **L. 91:** (1) amended, p. 812, § 1, effective April 11. **L. 91, 2nd Ex. Sess.:** (2)(d) amended, p. 64, § 5, effective October 16. **L. 92:** (2)(c) and (2)(d) amended, p. 142, § 2, effective February 25; (2)(e) amended, p. 555, § 36, effective May 28. **L. 93:** (1) amended, p. 1506, § 5, effective June 6; (3) added, p. 2029, § 4, effective June 9; (2)(g) and (2)(h) amended and (2)(i) to (2)(k) and (4) added, p. 1858, §§ 2, 3 effective July 1. **L. 93, 1st Ex. Sess.:** (2)(f) amended, p. 9, § 11, effective September 13; (2)(f) amended, p. 19, § 13, effective September 13; (2)(f) amended, p. 24, § 5, effective September 13. **L. 94:** IP(2), (2)(f),

(2)(g), and (4) amended, p. 1095, § 5, effective May 9; (2)(f) amended, p. 1212, § 1, effective May 22; (2)(f) amended, p. 1882, § 1, effective June 1. **L. 95:** (1)(a) and (2)(h) amended, p. 1296, § 3, effective June 5; (2)(g) and (2)(h) amended, p. 1279, § 16, effective June 5. **L. 96:** (2)(h) and (2)(i) amended, p. 1868, § 1, effective June 6. **L. 97:** (2)(j) amended, p. 956, § 1, effective May 21; (2)(j) amended, p. 1048, § 2, effective May 27; (2)(j) amended, p. 1588, § 4, effective June 4; IP(2), (2)(j), and (2)(k) amended and (2)(l) to (2)(n) added, p. 1593, § 3, effective July 1; IP(2) amended and (2)(m) and (2)(n) added, p. 1548, § 25, effective July 1; (2)(j) amended, p. 992, § 4, effective July 1. **L. 98:** (2)(l) to (2)(n) amended, p. 371, § 1, effective April 20; (2)(k) amended, p. 904, § 1, effective May 26; (2)(j) and (2)(k) amended, p. 931, § 1, effective May 27; (2)(k) amended, p. 939, § 5, effective May 27; (2)(k) amended, p. 1004, § 6, effective May 27; (2)(k) amended, p. 1164, § 2, effective June 1; IP(2) and (2)(l) to (2)(n) amended and (2)(o) added, p. 1264, § 2, effective July 1; IP(2), (2)(m), and (2)(n) amended and (2)(o) added, p. 1448, § 41, effective July 1; IP(2) amended and (2)(o) added, p. 1294, § 15, effective November 1. **L. 99:** (2)(l) amended, p. 596, § 1, effective May 17; (2)(l) amended, p. 661, § 4, effective July 1. **L. 2000:** IP(2) and (2)(o) amended and (2)(p) to (2)(r) added, p. 304, § 1, effective April 3; (2)(l) amended, p. 2397, § 1, effective May 12; (2)(m) amended, p. 672, § 2, effective May 22; (2)(m) amended, p. 2765, § 1, effective May 26; IP(2), (2)(m), (2)(n), and (2)(o) amended and (2)(q) added, p. 636, § 8, effective July 1; (2)(m) amended, p. 928, § 24, effective July 1; (2)(m) and (2)(n) amended, p. 649, § 7, effective July 1; (2)(m) and (2)(n) amended, p. 1015, § 10, effective July 1; (2)(m), (2)(n), and (2)(o) amended, p. 644, § 3, effective July 1; (2)(m), (2)(n), and (2)(o) amended, p. 713, § 51, effective July 1; (2)(m), (2)(n), and (2)(o) amended, p. 639, § 3, effective July 1. **L. 2001:** (1)(a) amended, p. 226, § 2, effective March 28; (2)(o) amended, p. 528, § 4, effective May 22; (2)(n) amended, p. 569, § 7, effective May 29; (2)(m), (2)(n), and (2)(n.5) amended, pp. 943, 944, §§ 2, 3, effective June 5; (2)(n) amended and (2)(n.5) added, p. 1560, § 1, effective June 5; (2)(n) amended, p. 606, § 6, effective July 1; (2)(n), (2)(o), (2)(p), and (2)(q) amended, p. 861, § 11, effective July 1; (2)(n) amended, p. 1058, § 3, effective July 1; (2)(p) amended, p. 1011, § 4, effective July 1. **L. 2001, 2nd Ex. Sess.:** (2)(n.5) amended and (5) added, p. 36, § 2, effective November 9. **L. 2002:** (1)(a) and (2)(o) amended and (7) added, p. 155, § 13, effective March 27; (6) added, p. 145, § 1, effective March 27; (2)(o) amended and (8) added, p. 674, § 1, effective May 28; (2)(o) amended, p. 1197, § 4, effective June 3; (2)(o) amended, p. 1129, § 4, effective June 3; (2)(o) to (2)(q) amended, p. 1271, § 3, effective July 1; (2)(o) to (2)(r) amended, p. 1267, § 3, effective August 7. **L. 2002, 3rd Ex. Sess.:** IP(2), (2)(o), and (2)(q) amended and (2)(s) added, pp. 40, 41, §§ 10, 12, effective July 17. **L. 2003:** (2)(o) and (6) amended and (7)(c) added, pp. 326, 327, §§ 1, 2, effective March 5; (2)(p) amended, p. 1469, § 1, effective May 1; IP(2) and (2)(s) amended and (2)(t) added, p. 2384, § 4, effective July 1; (2)(p) and (2)(s) amended, p. 1883, § 3, effective July 1; (2)(r) and (2)(s) amended, p. 2164, § 7, effective July 1; IP(2), (2)(q), (2)(r), and (2)(s) amended and (2)(t) added, p. 2389, § 6, effective July 1, 2004. **L. 2004:** (2)(s) amended, p. 801, § 3, effective May 21; (2)(q) and (2)(r) amended and (9) added, p. 685, § 1, effective July 1; (2)(r.5) and (2)(u) added and (2)(s) and (2)(t) amended, p. 790, §§ 16, 15, effective July 1. **L. 2006:** (2)(s) and (2)(t) amended, p. 287, § 4, effective March 31; IP(2), (2)(s), (2)(t), and (2)(u) amended and (2)(v) and (2)(w) added, p. 1309, § 4, effective May 30; IP(2), (2)(s), (2)(t), and (2)(u) amended and (2)(v) and (2)(w) added, p. 1303, § 3, effective May 30; (2)(s) amended and (2.5) added, p. 1432, § 1, effective June 1; IP(2), (2)(s), (2)(t), and (2)(u) amended and (2)(v) and (2)(w) added, p. 2060, § 11, effective July 1; IP(2), (2)(s), and (2)(u) amended and (2)(v) and

(2)(w) added, p. 1707, § 6, effective July 1; (2)(s) amended, p. 2045, § 7, effective July 1; (2)(s) and (2)(t) amended, p. 2049, § 3, effective July 1; (2)(s), (2)(t), and (2)(u) amended, p. 1325, § 12, effective July 1. **L. 2006, 1st Ex. Sess.:** (2)(s) amended, p. 20, § 3, effective July 31; (2)(s) and (2)(t) amended, p. 16, § 3, effective July 31; (2)(s), (2)(u), and (2)(w) amended, p. 12, § 3, effective July 31. **L. 2007:** IP(2), (2)(s), and (2.5) amended, p. 1924, § 1, effective June 1; (2)(s) amended, p. 1926, § 1, effective June 1; (2)(t), (2)(u), (2)(v), and (2)(w) amended and (2)(x) added, p. 2008, § 4, effective July 1; (2)(t), (2)(u), and (2)(v) amended, p. 1683, § 6, effective July 1. **L. 2008:** (2)(r.5) and (2)(t) amended, p. 302, § 1, effective April 3; (2)(t), (2)(u), IP(2.5), (2.5)(b), and (2.5)(c) amended and (2.5)(d) added, pp. 1751, 1752, §§ 1, 2, effective June 2; IP(2), (2)(u), and (2)(w) amended and (2)(y) added, p. 1030, § 3, effective July 1; IP(2), (2)(u), (2)(v), (2)(w), and (2)(x) amended and (2)(y) added, p. 852, § 3, effective July 1; (2)(u) and (2)(v) amended, p. 839, § 10, effective August 5; (2)(u) amended, p. 1036, § 3, effective August 5. **L. 2009:** (10) added, (SB 09-279), ch. 367, p. 1929, § 14, effective June 1. **L. 2010:** (11) added, (HB 10-1327), ch. 135, p. 450, § 5, effective April 15; (3.5) added, (SB 10-166), ch. 185, p. 669, § 2, effective April 29; (2)(u), (2)(v), (2)(w), IP(2.5), (2.5)(d), and (10) amended and (2.5)(e) added, (HB 10-1389), ch. 206, p. 893, § 1, effective May 5; (2)(w) amended, (HB 10-1277), ch. 262, p. 1191, § 5, effective July 1; (2)(w) amended (HB 10-1081), ch. 256, p. 1142, § 8, effective August 11; (2)(y) amended, (SB 10-128), ch. 415, p. 2049, § 11, effective July 1, 2012. **L. 2011:** (2)(x) amended, (SB 11-222), ch. 153, p. 532, § 2, effective May 5. **L. 2012:** IP(2), (2)(x), (2)(y), IP(2.5), and (2.5)(c) amended and (2.5)(f) and (2.5)(g) added, (HB 12-1344), ch. 160, p. 565, § 1, effective May 3; (3.2) added, (HB 12-1318), ch. 129, p. 447, § 2, effective August 8. **L. 2013:** IP(2), (2)(y), IP(2.5), (2.5)(f), and (2.5)(g) amended and (2)(z) and (2.5)(h) added, (SB 13-236), ch. 181, p. 666, § 1, effective May 10. **L. 2014:** IP(2), (2)(z), IP(2.5), (2.5)(g), and (2.5)(h) amended and (2)(aa), (2.5)(i), and (2.7) added, (HB 14-1342), ch. 140, p. 481, § 1, effective May 2; (1)(a) amended, (HB 14-1391), ch. 328, p. 1456, § 20, effective June 5; (1), (3.2), and (3.5) amended and (3) repealed, (HB 14-1387), ch. 378, p. 1847, § 50, effective June 6. **L. 2015:** IP(2), (2)(z), and (2)(aa) amended and (2)(bb) added, (SB 15-170), ch. 18, p. 43, § 1, effective March 13; (3.7) added, (HB 15-1266), ch. 115, p. 348, § 4, effective April 24; (1)(a) amended, (SB 15-211), ch. 179, p. 586, § 4, effective May 11; IP(2), (2)(z), (2)(aa), IP(2.5), (2.5)(h), and (2.5)(i) amended and (2)(cc), (2.3), and (2.5)(j) added, (SB 15-250), ch. 181, p. 590, § 1, effective May 11; (3.8) added, (HB 15-1333), ch. 327, p. 1338, § 1, effective June 5; (2.7)(b)(II) amended, (SB 15-264). ch. 259, p. 960, § 71, effective August 5. **L. 2016:** (2)(bb), (2)(cc), (2.3)(a), (2.5)(i), and (2.5)(j) amended and (2)(dd), (2.3)(b), and (2.5)(k) added, (HB 16-1417), ch. 140, p. 416, § 1, effective May 4. **L. 2017:** IP(2), (2)(cc), (2)(dd), (2.3), IP(2.5), (2.5)(j), and (2.5)(k) amended and (2)(ee) and (2.5)(l) added, (SB 17-263), ch. 166, p. 611, § 1, effective April 28; (3.3) added, (HB 17-1346), ch. 251, p. 1053, § 2, effective May 25. **L. 2018:** (2.3)(b) and (2.3)(c) amended and (2.3)(d) added, (HB 18-1173), ch. 13, p. 165, § 1, effective March 1; (2)(dd), (2)(ee), (2.3)(c), (2.3)(d), (2.5)(k), and (2.5)(l) amended and (2)(ff), (2.3)(f), and (2.5)(m) added, (HB 18-1340), ch. 347, p. 2067, § 1, effective May 30; (2.3)(c) and (2.3)(d) amended and (2.3)(e) added, (HB 18-1006), ch. 368, p. 2222, § 10, effective July 1. **L. 2019:** (2)(ee), (2)(ff), (2.3)(e), (2.3)(f), (2.5)(l), and (2.5)(m) amended and (2)(gg), (2.3)(g), and (2.5)(n) added, (SB 19-214), ch. 142, p. 1746, § 1, effective May 3; (2)(hh) added, (HB 19-1250), ch. 287, p. 2665, § 7, effective July 1; (2)(ii) added, (SB 19-172), ch. 365, p. 3361, § 5, effective July 1. **L. 2020:** IP(2.3), (2.3)(f), and (2.3)(a) amended and (2.3)(h) added, (HB 20-1261), ch. 16, p. 69, § 1, effective March 11; (2)(hh) and (2)(ii) amended and (2)(ll)

added, (SB 20-003), ch. 149, p. 642, § 3, effective June 29; (2)(hh), IP(2.3), (2.3)(f), (2.3)(g), (2.5)(m), and (2.5)(n) amended and (2)(jj), (2)(kk), (2.3)(i), (2.5)(o), and (12) added, (HB 20-1378), ch. 168, p. 774, § 1, effective June 29; (3.3) amended, (HB 20-1381), ch. 171, p. 785, § 3, effective June 29. **L. 2021:** (2)(kk) and (2)(ll) amended and (2)(mm) added, (SB 21-112), ch. 16, p. 91, § 2, effective March 21; (2)(kk), (2)(ll), (2.3)(h), (2.3)(i), (2.5)(n), (2.5)(o), and (3.2) amended and (2)(nn), (2.3)(j), and (2.5)(p) added, (SB 21-224), ch. 67, p. 269, § 1, effective April 29; (2)(kk) and (2)(ll) amended and (2)(oo) added, (SB 21-064), ch. 190, p. 1009, § 5, effective July 1; (3.5) amended, (HB 21-1316), ch. 325, p. 2031, § 41, effective July 1; (3.2) amended, (HB 21-1174), ch. 408, p. 2705, § 1, effective July 2. **L. 2022:** (2.3)(i) and (2.3)(j) amended and (2.3)(l) added, (HB 22-1197), ch. 5, p. 106, § 2, effective March 1; IP(2), (2)(nn), (2)(oo), (2.3)(i), and (2.3)(j) amended and (2)(pp) and (2.3)(k) added, (HB 22-1195), ch. 12, p. 120, § 1, effective March 7; IP(2), (2)(oo), (2)(pp), (2.3)(j), (2.3)(k), (2.5)(o), and (2.5)(p) amended and (2)(qq), (2.3)(m), and (2.5)(q) added, (HB 22-1340), ch. 141, p. 935, § 3, effective April 25; (13) added, (SB 22-206), ch. 173, p. 1159, § 10, effective May 17. **L. 2023:** (2)(pp), (2)(qq), (2.3)(l), and (2.3)(m) amended and (2)(rr) and (2.3)(n) added, (SB 23-141), ch. 5, p. 14, § 1, effective March 3; (3.7) amended, (SB 23-142), ch. 7, p. 25, § 2, effective March 3; (2)(qq), (2)(rr), (2.3)(m), (2.3)(n), (2.5)(p), and (2.5)(q) amended and (2)(ss), (2.3)(o), and (2.5)(r) added, (SB 23-243), ch. 99, p. 367, § 1, effective April 20; (13) amended, (SB 23-250), ch. 130, p. 497, § 2, effective April 28; (2)(ss) and (2.3)(o) amended, (SB 23-294), ch. 408, p. 2434, § 1, effective June 6. **L. 2024:** (2)(rr) and (2)(ss) amended and (2)(tt) added, (HB 24-1215), ch. 11, p. 25, § 1, effective February 27; (2)(ss), (2)(tt), (2.3)(n), (2.3)(o), (2.5)(q), and (2.5)(r) amended and (2)(uu), (2.3)(p), and (2.5)(s) added, (HB 24-1425), ch. 139, p. 515, § 2, effective April 29; (2)(uu) amended, (SB 24-222), ch. 310, p. 2087, § 2, effective May 31.

Editor's note: (1) Amendments to subsection (2)(f) by House Bill 93S-1001 were harmonized with Senate Bill 93S-009 and House Bill 93S-1005. Amendments to this section by House Bill 94-1340 and Senate Bills 94-006 and 94-207 were harmonized. Amendments to the introductory portion to subsection (2) by House Bill 97-1077 and House Bill 97-1186 were harmonized. Amendments to subsection (2)(j) by House Bills 97-1060, 97-1186, 97-1244, 97-1318, and 97-1359 were harmonized.

(2) Amendments to subsection (2)(k) by Senate Bill 98-186 harmonized with House Bills 98-1006, 98-1068, 98-1202, and 98-1402; amendments to subsection (2)(l) by Senate Bill 98-002 harmonized with Senate Bill 98-021; and amendments to subsection (2)(m) to (2)(o) by House Bill 98-1160 harmonized with Senate Bills 98-002 and 98-021 and House Bill 98-1156.

(3) Amendments to subsection (2)(l) by House Bill 99-1068 and Senate Bill 99-239 were harmonized.

(4) Amendments to the introductory portion to subsection (2) by House Bill 00-1201 and House Bill 00-1055 were harmonized. Amendments to subsections (2)(m) and (2)(n) by House Bill 00-1158, House Bill 00-1069, House Bill 00-1107, House Bill 00-1111, House Bill 00-1201, House Bill 00-1214, House Bill 00-1247, House Bill 00-1317, and House Bill 00-1452 were harmonized. Amendments to subsection (2)(o) by House Bill 00-1055, House Bill 00-1201, House Bill 00-1247, and House Bill 00-1214 were harmonized. Amendments to subsection (2)(q) by House Bill 00-1055 and HB 00-1201 were harmonized.

(5) Amendments to subsection (2)(n) by Senate Bill 01-046, Senate Bill 01-210, Senate Bill 01-232, House Bill 01-1242, and House Bill 01-1344 were harmonized. Amendments to

subsection (2)(o) by House Bill 01-1205 and House Bill 01-1242 were harmonized. Amendments to subsection (2)(p) by House Bill 01-1204 and House Bill 01-1242 were harmonized.

(6) Amendments to subsection (2)(o) by House Bill 02-1038, House Bill 02-1283, House Bill 02-1391, House Bill 02-1396, House Bill 02-1443, and Senate Bill 02-050 were harmonized. Amendments to subsections (2)(p) and (2)(q) by House Bill 02-1038 and Senate Bill 02-050 were harmonized.

(7) Amendments to subsection (2)(p) by Senate Bill 03-262 and House Bill 03-1213 were harmonized. Amendments to subsection (2)(r) by House Bill 03-1317 and House Bill 03-1138 were harmonized. Amendments to subsection (2)(s) by House Bill 03-1004, and House Bill 03-1317, House Bill 03-1138, and House Bill 03-1213 were harmonized. Amendments to subsection (2)(t) by House Bill 03-1004 and House Bill 03-1317 were harmonized.

(8) Amendments to subsection (2)(s) by House Bill 04-1021 and House Bill 04-1016 were harmonized.

(9) Amendments to subsection (2)(s) by House bill 06-1011, House Bill 06-1092, House Bill 06-1145, House Bill 06-1151, House Bill 06-1326, House Bill 06-1373, House Bill 06-1386, Senate Bill 06-206, and Senate Bill 06-207 were harmonized. Amendments to subsection (2)(t) by House Bill 06-1011, House Bill 06-1151, House Bill 06-1326, House Bill 06-1373, Senate Bill 06-206, and Senate Bill 06-207 were harmonized. Amendments to subsection (2)(u) by House Bill 06-1011, House Bill 06-1145, House Bill 06-1326, Senate Bill 06-206, and Senate Bill 06-207 were harmonized. Amendments to subsections (2)(v) and (2)(w) by House Bill 06-1011, House Bill 06-1145, Senate Bill 06-206, and Senate Bill 06-207 were harmonized.

(10) Amendments to subsection (2)(s) by Senate Bill 06S-004, Senate Bill 06S-005, and Senate Bill 06S-007 were harmonized.

(11) Amendments to subsection (2)(s) by Senate Bill 07-222 and Senate Bill 07-240 were harmonized. Amendments to subsections (2)(t), (2)(u), and (2)(v) by Senate Bill 07-096 and House Bill 07-1326 were harmonized.

(12) Amendments to subsection (2)(u) by House Bills 08-1115, 08-1194, 08-1352, and 08-1376 and Senate Bill 08-239 were harmonized. Amendments to subsection (2)(v) by House Bills 08-1115 and 08-1194 and Senate Bill 08-239 were harmonized. Amendments to subsections (2)(w) and (2)(y) by House Bill 08-1115 and Senate Bill 08-239 were harmonized.

(13) Amendments to subsection (2)(w) by House Bills 10-1081, 10-1277, and 10-1389 were harmonized.

(14) Amendments to subsection (1)(a) by HB 14-1387 and HB 14-1391 were harmonized.

(15) Subsections IP(2) and (2)(z) were amended in SB 15-170, effective March 13, 2015. However, those amendments were superseded by the amendment of subsections IP(2) and (2)(z) by SB 15-250, effective May 11, 2015.

(16) Subsection (2.7)(c) provided for the repeal of subsection (2.7), effective July 1, 2016. (See L. 2014, p. 481.)

(17) Amendments to the introductory portion of subsection (2.3) by HB 20-1261 and HB 20-1378 were harmonized.

(18) Amendments to subsection (3.2) by HB 21-1174 and SB 21-224 were harmonized.

Cross references: (1) For the legislative declaration contained in the 1998 act amending this section, see section 7 of chapter 315, Session Laws of San Andreas 1998.

(2) For the legislative declaration contained in the 2000 act amending subsections (2)(m) and (2)(n), see section 1 of chapter 159, Session Laws of San Andreas 2000.

(3) For the legislative declaration contained in the 2001 act amending subsection (2)(n), see section 1 of chapter 176, Session Laws of San Andreas 2001.

(4) For the legislative declaration contained in the 2003 act amending the introductory portion to subsection (2) and subsections (2)(q), (2)(r), and (2)(s) and enacting subsection (2)(t), see section 1 of chapter 360, Session Laws of San Andreas 2003. For the legislative declaration contained in the 2003 act amending subsections (2)(r) and (2)(s), see section 1 of chapter 340, Session Laws of San Andreas 2003.

(5) For the legislative declaration contained in the 2006 act amending the introductory portion to subsection (2) and subsections (2)(s) and (2)(u) and enacting subsections (2)(v) and (2)(w), see section 1 of chapter 341, Session Laws of San Andreas 2006. For the legislative declaration contained in the 2006 act amending subsections (2)(s) and (2)(t), see section 1 of chapter 91, Session Laws of San Andreas 2006.

(6) For the legislative declaration contained in the 2008 act amending subsection (2)(u) and (2)(v), see section 1 of chapter 221, Session Laws of San Andreas 2008.

(7) For the legislative intent in the 2010 act amending subsection (2)(w), see section 6 of chapter 262, Session Laws of San Andreas 2010.

(8) For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

(9) For the legislative declaration in SB 15-211, see section 1 of chapter 179, Session Laws of San Andreas 2015.

(10) For the legislative declaration in SB 19-172, see section 1 of chapter 365, Session Laws of San Andreas 2019.

(11) For the short title ("I Love San Andreas State Parks Act") and the legislative declaration in SB 20-003, see sections 1 and 2 of chapter 149, Session Laws of San Andreas 2020.

(12) For the legislative declaration in SB 21-112, see section 1 of chapter 16, Session Laws of San Andreas 2021.

(13) For the legislative declaration in SB 22-206, see section 1 of chapter 173, Session Laws of San Andreas 2022.

24-75-302.5. Controlled maintenance - trust fund - legislative declaration - repeal. (1) In light of the fluctuating amounts of state revenues that have been available for controlled maintenance purposes in the past, the general assembly hereby finds and declares that a stable, predictable, and consistent source of revenues for controlled maintenance projects will better allow the state to fund such projects on a timely basis and avoid higher replacement costs. In order to provide a consistent source of revenues, the general assembly hereby further finds and declares that it is appropriate to create a trust fund which will generate an annual amount of interest which will be dedicated to controlled maintenance.

(2) (a) There is hereby created the controlled maintenance trust fund, the principal of which shall consist of any general fund revenues appropriated or transferred thereto by law, moneys credited thereto pursuant to section 24-30-1310, and proceeds of leveraged leasing agreements deposited thereto pursuant to section 24-82-1003 (3). For the 1996-97 fiscal year and

fiscal years thereafter, the principal of the trust fund may constitute all or some portion of the state emergency reserve established pursuant to section 24-77-104 and may be expended in any given fiscal year as provided in said section. The principal of the trust fund shall not be expended or appropriated for any purpose other than use as part of the state emergency reserve. The state treasurer may in the state treasurer's discretion deposit, redeposit, invest, and reinvest moneys accrued or accruing to the controlled maintenance trust fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113.

(b) Beginning September 1, 1994, and on September 1 of each year thereafter, the state treasurer shall certify to the general assembly the amount of interest actually earned on the principal of the trust fund during the previous fiscal year and shall also provide an estimate of the interest expected to be earned on such principal during the current fiscal year.

(c) Beginning with the 1996-97 fiscal year, the interest earned on the principal of the trust fund balance may be appropriated for controlled maintenance, as defined in section 24-30-1301 (4), as follows: Up to fifty percent of the amount of interest expected to be earned on the principal of the trust fund during the current fiscal year as estimated by the state treasurer and the amount of interest actually earned on the principal of the trust fund during the previous fiscal year as certified by the state treasurer, not to exceed a maximum of thirty-five million dollars in any fiscal year.

(d) The principal of the trust fund and any unappropriated interest earned on the principal of the trust fund at the close of any fiscal year must remain in the trust fund and may not revert to the general fund.

(e) (Deleted by amendment, L. 2004, p. 261, § 1, effective April 5, 2004.)

(f) Repealed.

(2.3) For the fiscal year commencing July 1, 2017, the state treasurer shall transfer twenty million dollars from the general fund to the controlled maintenance trust fund.

(2.4) For the fiscal year commencing July 1, 2018, the state treasurer shall transfer thirty million dollars from the general fund to the controlled maintenance trust fund.

(2.5) For the state fiscal year commencing July 1, 2019, the state treasurer shall transfer forty-two million dollars from the general fund to the controlled maintenance trust fund.

(2.7) (a) On December 3, 2020, the state treasurer shall transfer one hundred million dollars from the general fund to the controlled maintenance trust fund.

(b) (I) Prior to July 1, 2021, the governor may transfer to the disaster emergency fund, created in section 24-33.5-706 (2)(a), any money in the controlled maintenance trust fund transferred thereto in accordance with subsection (2.7)(a) of this section, if the money available in the disaster emergency fund is insufficient for the public health and emergency response costs associated with the COVID-19 pandemic emergency. No other transfers of this money to the disaster emergency fund are permitted.

(II) If, after the date of a transfer to the disaster emergency fund under subsection (2.7)(b)(I) of this section, the state receives a reimbursement from the federal government for any expenditures from the disaster emergency fund, the state treasurer shall deposit the reimbursement into the controlled maintenance trust fund; except that the deposited amount shall not exceed the amount transferred under subsection (2.7)(b)(I) of this section.

(3) Notwithstanding any other provision of this section to the contrary:

(a) On July 1, 2001, the state treasurer and the controller shall transfer an amount equal to the principal balance of the trust fund as of June 30, 2001, to the general fund to be expended or transferred as provided by law.

(b) Repealed.

(4) Notwithstanding any other provision of this section to the contrary, on March 27, 2002, the state treasurer and the controller shall transfer nine million five hundred thousand dollars from the trust fund to the general fund.

(5) Notwithstanding any other provision of this section to the contrary, on June 1, 2006, the state treasurer and controller shall transfer one hundred eighty-five million six hundred twenty-seven thousand eight hundred one dollars from the trust fund to the general fund.

(6) (a) Notwithstanding any provision of this section to the contrary, on February 1, 2006, the state treasurer and the controller shall transfer three million one hundred forty-four thousand one hundred sixty-two dollars from the interest earned on the principal of the trust fund balance to the general fund to be used to increase the general fund appropriation for safety net provider payments for private hospitals under the San Andreas indigent care program created in part 1 of article 3 of title 25.5, S.A.R.S.

(b) If, on February 1, 2006, there is not sufficient interest earned on the principal of the trust fund to make the transfer required by paragraph (a) of this subsection (6), the state treasurer and controller shall transfer the available interest as of February 1, 2006, and shall transfer the remaining interest due as the interest accrues.

(c) This subsection (6) is repealed, effective July 1, 2025.

(7) Notwithstanding any provision of this section to the contrary, on July 1, 2009, the state treasurer shall deduct eight hundred three thousand six hundred ten dollars from the trust fund and transfer such sum to the general fund.

(8) Notwithstanding any provision of this section to the contrary, on July 1, 2014, the state treasurer shall deduct nine million six hundred seventy-two thousand dollars from the trust fund and transfer such sum to the general fund for the purpose of supporting a fiscal year 2014-15 appropriation for the San Andreas firefighting air corps created in section 24-33.5-1228.

(9) Notwithstanding any provision of this section to the contrary, on July 1, 2016, the state treasurer and the controller shall transfer one million dollars from the interest earned on the principal of the trust fund balance to the capital construction fund created in section 24-75-302.

(10) Notwithstanding any provision of this section to the contrary, on July 1, 2021, the state treasurer and the controller shall transfer one hundred ten million dollars from the general fund to the controlled maintenance trust fund for controlled maintenance budget requests prioritized by the office of the state architect as level one and level two priority projects under section 24-30-1303 (1)(t)(II).

(11) Notwithstanding any provision of this section to the contrary, on July 1, 2024, the state treasurer shall transfer eighty-four million eight hundred seventy-five thousand four hundred sixty-two dollars from the controlled maintenance trust fund to the capital construction fund created in section 24-75-302.

(12) Notwithstanding any provision of this section to the contrary, the state treasurer shall transfer all unexpended and unencumbered money in the controlled maintenance trust fund on July 31, 2024, to the general fund.

Source: L. 93: Entire section added, p. 1859, § 4, effective July 1. **L. 95:** (2) amended, p. 1261, § 3, effective June 3. **L. 97:** (2)(a) amended, p. 373, § 4, effective August 6. **L. 2001:** (3) added, p. 8, § 1, effective February 13; (3)(a) amended, p. 1288, § 84, effective June 5. **L. 2002:** (4) added, p. 156, § 14, effective March 27; (3)(b) amended, p. 391, § 1, effective April 30. **L. 2003:** (3)(b) amended, p. 1469, § 2, effective May 1; (2)(a) amended, p. 1719, § 2, effective May 14; (2)(a) amended and (2)(e) added, p. 2502, § 4, effective June 5. **L. 2004:** (2)(a) and (2)(e) amended and (2)(f) added, p. 261, § 1, effective April 5; (3)(b) repealed, p. 538, § 1, effective April 21. **L. 2005:** (2)(a) amended and (5) added, p. 1025, § 2, effective June 2; (6) added, p. 1044, § 1, effective June 2. **L. 2006:** (6)(a) amended, p. 2011, § 78, effective July 1. **L. 2009:** (7) added, (SB 09-279), ch. 367, p. 1929, § 15, effective June 1; (2)(a) amended, (SB 09-228), ch. 410, p. 2263, § 14, effective July 1. **L. 2014:** (8) added, (SB 14-189), ch. 197, p. 724, § 1, effective May 15; (1), (2)(c), and (2)(d) amended, (HB 14-1387), ch. 378, p. 1848, § 51, effective June 6. **L. 2015:** (2)(a) amended, (SB 15-211), ch. 179, p. 587, § 5, effective May 11. **L. 2016:** (9) added, (HB 16-1417), ch. 140, p. 417, § 2, effective May 4. **L. 2017:** (2.3) added, (SB 17-263), ch. 166, p. 612, § 2, effective April 28. **L. 2018:** (2.4) added, (HB 18-1340), ch. 347, p. 2068, § 2, effective May 30. **L. 2019:** (2.5) added, (SB 19-214), ch. 142, p. 1747, § 2, effective May 3. **L. 2020, 1st Ex. Sess.:** (2.7) added, (SB 20B-004), ch. 1, p. 2, § 2, effective December 3. **L. 2021:** (10) added, (SB 21-224), ch. 67, p. 270, § 2, effective April 29. **L. 2022:** (10) amended, (HB 22-1340), ch. 141, p. 936, § 4, effective April 25. **L. 2024:** (11) added, (HB 24-1425), ch. 139, p. 516, § 3, effective April 29; (12) added, (HB 24-1426), ch. 140, p. 517, § 1, effective April 29; (6)(c) added by revision, (HB 24-1399), ch. 76, pp. 255, 260, §§ 15, 33.

Editor's note: (1) Amendments to subsection (2)(a) by Senate Bill 03-342 and Senate Bill 03-249 were harmonized.

(2) Subsection (2)(f)(II) provided for the repeal of subsection (2)(f), effective July 1, 2004. (See L. 2004, p. 261.)

(3) Subsection (6) was originally numbered as subsection (5) in House Bill 05-1349 but has been renumbered on revision for ease of location.

Cross references: (1) For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

(2) For the legislative declaration in SB 15-211, see section 1 of chapter 179, Session Laws of San Andreas 2015.

(3) For the legislative declaration in SB 20B-004, see section 1 of chapter 1, Session Laws of San Andreas 2020, First Extraordinary Session.

24-75-303. Appropriation for capital construction. (1) The general assembly shall make a capital construction appropriation in such form, in such amounts, and from such funds as it deems necessary and may appropriate either for construction or for planning of any project.

(2) No capital construction appropriation may be made to or expended by any state agency or state institution of higher education that has not complied with the requirements of section 24-30-1303.5, with respect to preparation and maintenance of a state inventory of real property.

(2.5) No capital construction appropriation may be made to or expended by any state agency or state institution of higher education that has not received approval of a facility

management plan for a vacant facility controlled by the state agency or state institution of higher education pursuant to section 24-30-1303.5, unless the capital development committee exempts the state agency or state institution of higher education from the provisions of section 24-30-1303.5 (3.5)(f).

(3) A capital construction project for a state institution of higher education that is expected to be paid from cash funds or other nonstate moneys held by the institution must be commenced pursuant to section 23-1-106, S.A.R.S.

(3.5) If a capital construction project for a state institution of higher education is to be completed using a combination of capital construction appropriations pursuant to this section and cash funds or other nonstate moneys held by the institution, the institution may, at any time prior to or after receiving the cash funds or other nonstate moneys, earn the moneys appropriated from the state capital construction fund. For any project funded in part by capital construction appropriations pursuant to this section, if there are cash funds or other nonstate moneys remaining after the project is completed, the institution shall refund moneys to the state capital construction fund in proportion to the amount of state capital construction moneys appropriated for the project.

(4) All contracts required as the result of a capital construction appropriation shall be entered into in accordance with section 24-30-1404 (7).

(5) (a) Except for an appropriation for a financed purchase of an asset or certificate of participation payment, except as provided in subsection (5)(b) of this section, and unless otherwise noted in a footnote in an appropriation act, an appropriation for a capital construction budget item or an information technology capital project, including capital construction, controlled maintenance, or capital renewal projects, as such terms are defined in section 24-30-1301, included in:

(I) The annual general appropriation act is available for expenditure upon enactment of the act and remains available for expenditure or encumbrance for three full fiscal years commencing with the fiscal year for which the annual general appropriation act is enacted, or until the project is completed, whichever is first; and

(II) A supplemental appropriation act authorized or required by section 2-3-208, 24-37-304, 24-75-111 (5), or 24-75-111.5 (5) is available for expenditure upon enactment of the supplemental appropriation act and remains available for expenditure or encumbrance for three full fiscal years commencing with the fiscal year during which the supplemental appropriation act was enacted, or until the project is completed, whichever is first; except that expenditures and nonmonetary adjustments allowed under section 24-75-111 or 24-75-111.5 are available for expenditure as specified in such sections.

(b) If a portion of an appropriation for a capital construction budget item or an information technology capital project, including capital construction, controlled maintenance, or capital renewal projects, is not expended in the first fiscal year, then the appropriation does not remain available for expenditure or encumbrance as described in subsection (5)(a) of this section.

(c) Any unexpended and unencumbered money remaining after the periods set forth in subsection (5)(a) of this section reverts to the fund from which it was appropriated.

Source: L. 59: p. 149, § 5. **S.A.R.S. 53:** § 3-3-12. **S.A.R.S. 1963:** § 3-3-12. **L. 83:** Entire section amended, p. 895, § 2, effective July 1. **L. 92:** (3) added, p. 583, § 1, effective June 1. **L.**

95: (4) added, p. 165, § 2, effective April 7. **L. 2001:** (3) amended, p. 665, § 2, effective August 8. **L. 2003:** (2.5) added, p. 964, § 4, effective July 1. **L. 2008:** IP(3)(a) and (3)(a)(I) amended, p. 1482, § 28, effective May 28; IP(3)(a) amended, p. 1903, § 93, effective August 5. **L. 2009:** (3)(a) amended, (SB 09-290), ch. 374, p. 2041, § 6, effective January 1, 2010. **L. 2011:** (3.5) added, (HB 11-1301), ch. 297, p. 1430, § 29, effective August 10. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1849, § 52, effective June 6. **L. 2016:** (3) amended, (HB 16-1459), ch. 317, p. 1281, § 3, effective August 10. **L. 2018:** (5) added, (HB 18-1371), ch. 312, p. 1874, § 1, effective August 8. **L. 2021:** IP(5)(a) amended, (HB 21-1316), ch. 325, p. 2031, § 42, effective July 1.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-75-304. Legislative declaration. It is declared to be the intent of the general assembly in the passage of this section and section 24-75-305 to provide for orderly management of state funds and, as fiscal procedures may require, to temporarily augment the general revenue funds of the state in order to insure prompt payment of all warrants drawn against said general revenue funds pursuant to law.

Source: L. 64: p. 661, § 1. **S.A.R.S. 1963:** § 130-9-1. **L. 2014:** Entire section amended, (HB 14-1387), ch. 378, p. 1850, § 53, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-75-305. Transfers from capital construction fund. (1) In accordance with the legislative declaration as specified in section 24-75-304, the controller and the state treasurer shall, from time to time, during any fiscal year as fiscal procedures may require and upon the written approval of the governor, transfer from the capital construction fund to the general revenue funds such amounts of money as shall be necessary to insure prompt payment of all warrants drawn against said general revenue funds if the controller first certifies:

(a) That the general revenue funds shall have sufficient moneys accruing to them in the same fiscal year in which the transfer is made to retransfer to the capital construction fund any moneys so transferred;

(b) That appropriations from the general revenue funds do not exceed estimated general fund revenues and estimated surplus; and

(c) That the capital construction fund has, at the time of the transfer, and will have sufficient moneys accruing to it during the period prior to the anticipated retransfer to enable it to meet its own obligations.

(2) The controller and the state treasurer shall retransfer from the general revenue funds to the capital construction fund any moneys transferred under the provisions of subsection (1) of this section prior to June 30 of the fiscal year in which the transfer was made.

Source: L. 64: p. 661, § 2. **S.A.R.S. 1963:** § 130-9-2. **L. 85:** p. 1361, § 20.

24-75-306. Federal revenue sharing trust fund. (Repealed)

Source: L. 73: p. 1380, § 1. **S.A.R.S. 1963:** § 130-9-3. **L. 2014:** Entire section repealed, (HB 14-1387), ch. 378, p. 1850, § 54, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-75-307. Capitol complex master plan implementation fund - creation - transfers for fund. (1) The capitol complex master plan implementation fund is created in the state treasury. The fund consists of moneys transferred from the general fund to the fund as specified in subsection (2) of this section, any other money that the general assembly may transfer or appropriate to the fund, and interest and income derived from the deposit and investment of the fund, which remains in the fund and is not transferred to the general fund or any other fund at the end of any fiscal year.

(2) On July 1, 2019, and on July 1 of each succeeding fiscal year, the state treasurer, upon the request of the capital development committee, may make a transfer from the general fund to the capitol complex master plan implementation fund in an amount equal to twenty million dollars less the amount transferred to the national western center trust fund pursuant to section 23-31-902 (3), subject to the following limitations:

(a) If the state has not entered into one or more financed purchase of an asset or certificate of participation agreements as authorized by section 23-31-903, and no transfer is made to the national western center trust fund pursuant to section 23-31-902, ten million dollars may be transferred to the capitol complex master plan implementation fund and ten million dollars may be transferred to the controlled maintenance trust fund created in section 24-75-302.5 (2)(a); and

(b) The total amount transferred to the capitol complex master plan implementation fund pursuant to this subsection (2) shall not exceed eighty million dollars.

(2.5) On July 1, 2023, and on each July 1 thereafter through July 1, 2028, the state treasurer shall transfer any amount transferred to the capitol complex master plan implementation fund pursuant to subsection (2) of this section from the capitol complex master plan implementation fund to the capitol complex renovation fund created in section 24-30-1313.

(3) Subject to project-specific approval by the capital development committee of the general assembly and annual appropriation by the general assembly, the department of personnel may expend money from the capitol complex master plan implementation fund for any project that is included in the capitol complex master plan developed, and if applicable, modified or updated, pursuant to section 24-82-101 (3).

(4) On September 1, 2022, the state treasurer shall transfer eighteen million six hundred thousand dollars from the capitol complex master plan implementation fund to the capitol complex renovation fund created in section 24-30-1313.

Source: L. 2015: Entire section added, (HB 15-1344), ch. 207, p. 753, § 2, effective August 5. **L. 2021:** IP(2) and (2)(a) amended, (HB 21-1316), ch. 325, p. 2031, § 43, effective July 1. **L. 2022:** (4) added, (SB 22-239), ch. 411, p. 2908, § 4, effective August 10. **L. 2023:** (2.5) added, (SB 23-306), ch. 412, p. 2446, § 5, effective June 6.

PART 4

CASH FUNDS

Editor's note: This part 4 was numbered as article 5 of chapter 130, S.A.R.S. 1963. The substantive provisions of this part 4 were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 4 prior to 1973, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

24-75-401. Cash funds abolished. (1) All revenues derived on and after July 1, 1973, from the proceeds of the cash funds subject to the provisions of this part 4 immediately prior to July 1, 1973, without any deduction on account of salaries, fees, costs, charges, expenses, or claims of any description whatsoever shall be transmitted to the office of the state treasurer, and said moneys so transmitted together with all balances remaining in said funds after payment of all obligations of the preceding fiscal year shall be credited to the general fund of the state, and said cash funds are abolished.

(2) The general assembly shall make appropriations out of the general fund for the fiscal year beginning July 1, 1973, for the state agencies requiring an expenditure for any purpose formerly paid out of any of the cash funds abolished by subsection (1) of this section, and thereafter each such agency shall make a budgetary request for each fiscal year as provided by law.

Source: L. 73: R&RE, p. 1377, § 43. **S.A.R.S. 1963:** § 130-5-1.

24-75-402. Cash funds - limit on uncommitted reserves - reduction in the amount of fees - exclusions - definitions. (1) The general assembly hereby finds that:

(a) Section 20 of article X of the state constitution limits state fiscal year spending;

(b) Subject to certain exclusions specified in section 20 of article X of the state constitution, all state general fund revenues and all state cash fund revenues are subject to the limitation on state fiscal year spending;

(c) The legislative powers of the general assembly, including but not limited to its plenary power of appropriation, authorize and require the general assembly to assure compliance with the limitation on state fiscal year spending and to make fundamental fiscal policy decisions establishing the level of activity of all departments and agencies of state government, including those funded by revenues generated from fees;

(d) Consonant with the exercise of such legislative powers, the general assembly must establish limits on the amount of uncommitted reserves that may be maintained by state agencies for cash funds and exercise any other necessary controls on cash fund revenues, including but not limited to the power of appropriation;

(e) In order to ensure compliance with the limitations on the amount of uncommitted reserves that may be maintained for any cash fund, the general assembly may require reductions in the amount of fees collected by state agencies, even though such reductions may result in some persons paying more than other persons to receive state agency services.

(2) For purposes of this section, unless the context otherwise requires:

(a) "Alternative maximum reserve" means a maximum reserve balance established in the constitution, by law, or through a joint budget committee waiver that is different from sixteen and one-half percent of the amount expended from a cash fund during the fiscal year. The term also includes a minimum reserve balance established in the constitution or by law that is greater than sixteen and one-half percent of the amount expended from a cash fund during the fiscal year and that, for purposes of this section, is treated as a maximum balance.

(b) "Cash fund" means any fund that is established by law for a specific program or purpose and that includes moneys from fees; except that "cash fund" excludes the state general fund created by section 24-75-201, any federal fund, and any fund used by a state institution of higher education.

(c) (I) "Entity" means any organ of the legislative, executive, or judicial branch of the government of the state of San Andreas, including but not limited to:

(A) The departments of the executive branch;

(B) The legislative houses and agencies; and

(C) The appellate and trial courts and court personnel.

(D) Repealed.

(II) "Entity" does not include any enterprise, as defined in section 24-77-102 (3), any special purpose authority, or any state institution of higher education.

(d) "Excess uncommitted reserves" means the amount of uncommitted reserves for a cash fund that exceeds the maximum reserve or alternative maximum reserve for that cash fund.

(e) "Fees" means any moneys collected or received by an entity; except that "fees" does not include:

(I) Any moneys collected from sources excluded from state fiscal year spending, as defined in section 24-77-102 (17);

(II) Any moneys received through the imposition of penalties or fines or surcharges imposed on any person convicted of a crime;

(III) Any moneys appropriated or transferred from the state general fund;

(IV) Any moneys received through the imposition of taxes;

(V) Any moneys received from charges or assessments, the amount of which are established in law and over which the entity has no authority to change or are otherwise not determined by the entity;

(VI) Any moneys received from gifts or donations;

(VII) Any moneys received from local government grants or contracts;

(VIII) Any moneys received through direct transfers from another entity, an enterprise, or a special purpose authority;

(IX) Any moneys received as interest or other investment income.

(e.5) "Maximum reserve" means sixteen and five-tenths percent of the amount expended from a cash fund during the fiscal year.

(f) "Nonmonetary current asset" means an asset that either cannot be converted to cash or is held with the intent of being used rather than being converted to cash.

(g) Repealed.

(h) "Uncommitted reserves" means the fund balance of a cash fund as of June 30 of any fiscal year, minus the following:

(I) Any long-term assets credited to the cash fund, including a capital reserve identified in accordance with section 24-75-403;

(II) Any unencumbered fund balance previously appropriated for capital construction or other multiyear purposes;

(III) Any nonmonetary current assets credited to the cash fund, including but not limited to consumable inventory and prepaid expenses;

(IV) Any portion of the revenues credited to the cash fund that is estimated to be derived from non-fee sources.

(3) (a) and (b) Repealed.

(c) For the 2014-15 fiscal year and for each fiscal year thereafter, the uncommitted reserves of a cash fund at the conclusion of a given fiscal year shall not exceed the maximum reserve for that fiscal year; except that, for any cash fund for which an alternative maximum reserve is otherwise set by the joint budget committee in accordance with subsection (8) of this section or specified in the constitution or by law, the uncommitted reserves of the cash fund shall not exceed the alternative maximum reserve. If the amount of uncommitted reserves of any cash fund at the conclusion of any given fiscal year exceeds the applicable maximum reserve or alternative maximum reserve, each entity that collects one or more of the fees deposited in the cash fund shall by rule or as otherwise provided by law reduce the amount of one or more of the fees to an amount calculated to result in an amount of uncommitted reserves of the cash fund for the current fiscal year that does not exceed the corresponding maximum reserve or alternative maximum reserve.

(d) If more than one entity collects the fees that are deposited in a cash fund and the amount of said fees are required to be reduced pursuant to this subsection (3), the reduction in fees for each entity shall be proportional to the amount of fees contributed by each entity to the excess uncommitted reserves.

(e) In calculating the reduction in fees under this subsection (3), an entity may take into account increases in expenditures from the cash fund.

(4) (a) If an entity reduces the amount of a fee pursuant to subsection (3) of this section, the entity by rule or as otherwise provided by law may subsequently raise the amount of the fee so long as the projected amount of uncommitted reserves of the cash fund does not exceed the limitations specified in subsection (3) of this section. Any such fee increase by an entity in the executive branch, prior to promulgation or adoption, shall be subject to approval by the office of state planning and budgeting. The entity shall not increase the fee beyond any amount specified in statute for the fee.

(b) Any rule adopted by an entity in the executive branch that reduces the amount of a fee pursuant to subsection (3) of this section or increases the amount of a fee pursuant to this subsection (4) shall be subject to the requirements of the "State Administrative Procedure Act", article 4 of this title.

(5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

(a) Any cash fund for which revenues are derived solely from fees, the amounts of which are established by the federal government;

(b) Any cash fund for which revenues are derived solely from fees set by the San Andreas supreme court in the exercise of its exclusive authority to regulate the practice of law;

(c) Any cash fund for which revenues are derived solely from fees set by an enterprise, as defined in section 24-77-102 (3), or a special purpose authority;

(d) Any cash fund that is established to fund capital construction;

(e) Any cash fund for which the reserve amounts are based on actuarial requirements;

(f) Any trust fund;

(g) Any cash fund with uncommitted reserves of less than two hundred thousand dollars;

(h) The highway users tax fund and the state highway fund; except that the emergency medical services account created in section 25-3.5-603, the San Andreas state titling and registration account, as it existed before July 1, 2019, and the San Andreas DRIVES vehicle services account created in section 42-1-211 (2), and the AIR account created in section 42-3-304 (18)(a) included in the highway users tax fund shall be subject to this section;

(i) The petroleum storage tank fund created in section 8-20.5-103, S.A.R.S.;

(j) and (k) Repealed.

(l) The brand inspection fund created in section 35-41-102, S.A.R.S.;

(m) to (o) Repealed.

(p) The workers' compensation cash fund created in section 8-44-112 (7);

(q) to (z) Repealed.

(aa) The emergency fire fund created in section 24-33.5-1220 (2), the wildland fire equipment repair cash fund created in section 24-33.5-1220 (3), the wildland fire cost recovery fund created in section 24-33.5-1220 (4), the wildfire emergency response fund created in section 24-33.5-1226 (1), the wildfire preparedness fund created in section 24-33.5-1227 (1), and the San Andreas firefighting air corps fund created in section 24-33.5-1228 (3);

(bb) to (dd) Repealed.

(ee) The enterprise services cash fund created in section 24-80-209;

(ff) to (hh) Repealed.

(ii) The energy and carbon management cash fund created in section 34-60-122 (5);

(jj) Repealed.

(kk) The cybersecurity cash fund created in section 24-33.5-1906;

(ll) and (mm) Repealed.

(nn) The governor's mansion maintenance fund created in section 24-30-1303.8;

(oo) The justice center cash fund created in section 13-32-101 (7)(a);

(pp) The justice center maintenance fund created in section 13-32-101 (7)(d);

(qq) The small business recovery and resiliency fund created in section 24-48.5-608;

(rr) The emergency invasive-pest response fund created in section 35-1-106.4;

(ss) The community behavioral health disaster preparedness and response cash fund created in section 25-20.5-1303;

(tt) The community impact cash fund created in section 25-7-129 (1);

(uu) The 988 crisis hotline cash fund created in section 27-64-104;

(vv) The regional navigation campuses cash fund created in section 24-32-727;

(ww) The geothermal energy grant fund created in section 24-38.5-118 (7);

(xx) The commission on judicial discipline special cash fund created in section 13-5.3-105;

(yy) The disability support fund created in section 8-88-205 (1);

(zz) The responsible gaming grant program cash fund created in section 44-30-1702 (8);

(aaa) The agricultural products inspection cash fund created in section 35-23-114 (3);

(bbb) The wage theft enforcement fund created in section 8-4-113 (3)(a);

(ccc) The wildfire resiliency code board cash fund created in section 24-33.5-1236 (8);

(ddd) The closed landfill remediation grant program fund created in section 30-20-124 (8);

(eee) The educator licensure cash fund created in section 22-60.5-112 (1)(a);

(fff) The commercial historic preservation tax credit program cash fund created in section 39-22-514.5 (17);

(ggg) The workforce development tax credit program cash fund created in section 39-22-565 (14);

(hhh) The jail standards advisory committee cash fund created in section 30-10-530 (7);

(iii) The quantum business loan loss reserve cash fund created in section 39-22-568 (13);

(jjj) The employee ownership cash fund created in section 39-22-542.5 (8); and

(kkk) The community revitalization tax credit program cash fund created in section 39-22-569 (13).

(5.5) The exclusion from the limitations specified in this section for a cash fund under subsection (5) of this section applies for the last fiscal year prior to the repeal of the exclusion.

(6) Notwithstanding any provision of this section to the contrary, the limitations specified in this section shall not apply to any cash fund used to fund a single program if the program has been in existence less than two full fiscal years.

(7) The office of state planning and budgeting shall annually review the total amount of revenues credited to cash funds, including but not limited to the amounts received from fees and from other sources, and the report of uncommitted reserves prepared by the state controller pursuant to section 24-30-207 (3).

(7.5) Upon request by an entity with a program that has a multi-year revenue-collection cycle or revenue-contract period, the state controller may average the uncommitted reserves from the cash fund related to the program over the multi-year period. Notwithstanding any other provision of this section, the uncommitted reserves are equal to the averaged amount for purposes of this section.

(8) (a) Notwithstanding the maximum reserve limitation in paragraph (c) of subsection (3) of this section, for fiscal years beginning on or after July 1, 2015, the joint budget committee may grant a waiver of the maximum reserve for up to three years for an entity that demonstrates a specific purpose for which the entity needs to maintain uncommitted reserves in an amount greater than the maximum reserve. As part of the waiver, the joint budget committee may establish an alternative maximum reserve for the cash fund or exempt the cash fund altogether from any limits on uncommitted reserves. A specific purpose that may warrant a waiver pursuant to this subsection (8) includes, but is not limited to, purchase of a particular item of equipment or operation of a short-term program.

(b) To request a waiver in accordance with this subsection (8), an entity, during the annual budget-setting process, must present a plan to the joint budget committee that at a minimum specifies the specific purpose for which the entity needs the waiver, whether it would like a maximum alternative reserve or an exemption, the time period for the waiver, and the plan for reducing any excess uncommitted reserves that may remain on completion of the waiver period. The joint budget committee, in determining whether to approve a waiver pursuant to this subsection (8), shall consider the purpose for which the entity has requested the waiver, the reasonableness of the time period for the waiver, and the effect the waiver may have on the state's ability to comply with the limitations on state fiscal year spending imposed pursuant to section 20 of article X of the state constitution.

(c) The joint budget committee may grant any waiver requested in accordance with this subsection (8) that the committee deems appropriate. In a waiver, the committee shall specify the fund for which the waiver is granted, whether there is an alternative maximum reserve or an exemption, and the time period for the waiver.

(9) to (11) Repealed.

(12) If a cash fund has excess uncommitted reserves for three or more fiscal years in a row, the state controller shall restrict spending of any appropriation from the cash fund for the next fiscal year in an amount equal to the lesser of the excess uncommitted reserve or the applicable maximum reserve or alternative maximum reserve. The entity shall not expend any amount restricted pursuant to this subsection (12) unless the restriction is released. The restriction is released when the fund is in compliance with the maximum reserve or alternative maximum reserve requirement or when the joint budget committee approves a waiver for the excess uncommitted reserves in accordance with subsection (8) of this section.

Source: L. 98: Entire section added, p. 1311, § 1, effective June 1. **L. 2001:** (8)(a) amended and (9) added, p. 764, § 1, effective June 1. **L. 2002:** (5)(n) added, p. 225, § 1, effective April 5; (5)(o) and (5)(p) added, p. 551, § 1, effective May 24. **L. 2003:** (5)(q) added, p. 1975, § 2, effective May 22; (5)(r) added, p. 2672, § 4, effective June 6. **L. 2005:** (5)(h) amended, p. 771, § 46, effective June 1; (5)(h) amended, p. 1183, § 32, effective August 8. **L. 2006:** (5)(s) added, p. 1170, § 2, effective May 25. **L. 2008:** (10) added, p. 1022, § 4, effective May 21; (5)(u) added, p. 1345, § 4, effective May 27; (5)(v) added, p. 1239, § 2, effective May 27; (5)(t) added, p. 81, § 2, effective August 5; (10) added, p. 1095, § 5, effective August 5. **L. 2009:** (5)(w) added, (SB 09-041), ch. 56, p. 201, § 6, effective March 25; (5)(x) added, (SB 09-272), ch. 209, p. 950, § 2, effective May 1; (5)(y) added, (HB 09-1151), ch. 230, p. 1059, § 12, effective January 1, 2010. **L. 2010:** (5)(z) added, (HB 10-1284), ch. 355, p. 1685, § 6, effective July 1. **L. 2012:** (5)(aa) added, (HB12-1283), ch. 240, p. 1134, § 49, effective July 1; (5)(y) amended, (HB 12-1268), ch. 234, p. 1033, § 14, effective July 1, 2013. **L. 2013:** (11) added, (HB 13-1280), ch. 377, p. 2218, § 1, effective June 5; (5)(aa) amended, (HB 13-1300), ch. 316, p. 1685, § 65, effective August 7. **L. 2014:** (5)(bb) added, (SB 14-108), ch. 50, p. 231, § 2, effective March 20; (5)(aa) amended, (SB 14-154), ch. 313, p. 1356, § 3, effective May 31; (5)(cc) added, (SB 14-186), ch. 394, p. 1990, § 2, effective June 6; (5)(dd) added, (SB 14-155), ch. 237, p. 878, § 4, effective July 1. **L. 2015:** (11) RC&RE, (SB 15-112), ch. 13, p. 32, § 2, effective March 13; (2)(h)(I) amended, (HB 15-1280), ch. 176, p. 573, § 4, effective May 11; (2)(a), (2)(b), (2)(c)(I)(B), (2)(c)(I)(C), (2)(c)(II), (2)(d), IP(2)(e), (2)(e)(III), (2)(e)(V), (3)(c), (5)(g), (5)(j), (5)(k), (5)(m) to (5)(p), (5)(r) to (5)(z), (5)(cc), (5)(dd), and (8) amended, (2)(c)(I)(D), (2)(g), (3)(a), (3)(b), (5)(bb), (9), and (10) repealed, and (2)(e.5), (5)(ff) to (5)(ii), (5.5), (7.5), and (12) added, (HB 15-1261), ch. 322, p. 1307, § 1, effective June 5; (5)(ee) added, (SB 15-236), ch. 128, p. 398, § 2, effective July 1, 2015. **L. 2016:** (5)(hh) and (5)(ii) amended and (5)(jj) added, (HB 16-1415), ch. 139, p. 411, § 1, effective May 4; (5)(kk) added, (HB 16-1453), ch. 189, p. 673, § 2, effective July 1; (5)(s) amended, (HB 16-1414), ch. 155, p. 487, § 7, effective September 1. **L. 2017:** (5)(ll) added, (SB 17-255), ch. 172, p. 627, § 3, effective April 28; (5)(jj) and (5)(kk) amended and (5)(mm) added, (HB 17-1329), ch. 381, p. 1967, § 10, effective June 6; (5)(n) amended, (SB 17-243), ch. 256, p. 1073, § 9, effective July 1; (5)(h) amended, (HB 17-1107), ch. 101, p. 374, § 29, effective August 9; (5)(r) amended, (HB 17-1303), ch. 331, p. 1780, § 4, effective August 9. **L. 2018:** (5)(aa) amended, (SB 18-202), ch. 174, p. 1206, § 2, effective

April 30; (5)(p) RC&RE, (HB 18-1429), ch. 398, p. 2362, § 2, effective June 6; (5)(ll) and (5)(mm) amended and (5)(nn) added, (SB 18-208), ch. 292, p. 1797, § 2, effective August 8; (5)(ll) amended and (5)(oo) and (5)(pp) added, (SB 18-267), ch. 407, p. 2393, § 2, effective August 8. **L. 2020:** (2)(h)(IV) amended, (SB 20-134), ch. 69, p. 280, § 1, effective March 23; (5)(qq) added, (HB 20-1413), ch. 121, p. 518, § 2, effective June 23; (5)(mm) repealed, (HB 20-1390), ch. 131, p. 574, § 2, effective June 26; (5)(ll) repealed, (HB 20-1382), ch. 208, p. 1019, § 3, effective June 30. **L. 2021:** (5)(ss) added, (HB 21-1281), ch. 361, p. 2359, § 3, effective June 28; (5)(tt) added, (HB 21-1266), ch. 411, p. 2751, § 21, effective July 2; (5)(rr) added, (HB 21-1045), ch. 160, p. 911, § 3, effective September 7; (5)(uu) added, (SB 21-154), ch. 360, p. 2353, § 3, effective September 7. **L. 2022:** (5)(xx) added, (SB 22-201), ch. 201, p. 1358, § 3, effective May 20; (5)(tt) and (5)(uu) amended and (5)(vv) added, (HB 22-1378), ch. 287, p. 2058, § 3, effective May 31; (5)(jj) repealed, (HB 22-1339), ch. 135, p. 909, § 3, effective July 1; (5)(tt) and (5)(uu) amended and (5)(yy) added, (SB 22-217), ch. 378, p. 2683, § 6, effective August 10; (5)(ww) added, (HB 22-1381), ch. 334, p. 2368, § 2, effective August 10; (5)(zz) added, (HB 22-1402), ch. 402, p. 2869, § 9, effective August 10. **L. 2023:** (5)(bbb) added, (SB 23-231), ch. 79, p. 284, § 2, effective April 17; (5)(yy) and (5)(zz) amended and (5)(ccc) added, (SB 23-166), ch. 174, p. 863, § 2, effective May 12; (5)(vv) amended, (HB 23-1232), ch. 217, p. 1123, § 5, effective May 17; (5)(ii) amended, (SB 23-285), ch. 235, p. 1254, § 26, effective July 1; (5)(yy) and (5)(zz) amended and (5)(aaa) added, (HB 23-1179), ch. 103, p. 375, § 1, effective August 7; (5)(ddd) added, (HB 23-1194), ch. 225, p. 1166, § 5, effective August 7. **L. 2024:** (5)(ccc) and (5)(ddd) amended and (5)(eee) added, (SB 24-188), ch. 235, p. 1478, § 19, effective May 23; (5)(ccc) and (5)(ddd) amended and (5)(iii) added, (HB 24-1325), ch. 273, p. 1804, § 3, effective May 28; (5)(ccc) and (5)(ddd) amended and (5)(kkk) added, (HB 24-1295), ch. 268, p. 1754, § 5, effective May 28; (5)(ccc) and (5)(ddd) amended and (5)(hhh) added, (HB 24-1054), ch. 328, p. 2223, § 10, effective June 3; (5)(yy) amended, (HB 24-1360), ch. 324, p. 2166, § 6, effective July 1; (5)(ccc) and (5)(ddd) amended and (5)(fff) added, (HB 24-1314), ch. 245, p. 1621, § 2, effective August 7; (5)(ccc) and (5)(ddd) amended and (5)(jjj) added, (HB 24-1157), ch. 370, p. 2493, § 4, effective August 7; (5)(ggg) added, (HB 24-1365), ch. 478, p. 3361, § 8, effective August 7; (5)(qq) amended, (HB 24-1453), ch. 355, p. 2430, § 4, effective September 1.

Editor's note: (1) Subsection (5)(r) was originally lettered as (5)(q) in House Bill 03-1378 but has been relettered on revision for ease of location.

(2) Amendments to subsection (5)(h) by House Bill 05-1337 and House Bill 05-1107 were harmonized.

(3) Subsection (5)(q)(II) provided for the repeal of subsection (5)(q), effective July 1, 2006. (See L. 2003, p. 1975.)

(4) Subsection (5)(y) was originally lettered as (5)(x) in House Bill 09-1151 but has been relettered on revision for ease of location.

(5) Prior to the recreation of subsection (11) in 2015, subsection (11)(b) provided for the repeal of subsection (11), effective July 1, 2014. (See L. 2013, p. 2218.)

(6) Subsections (5)(j), (5)(k), (5)(m), (5)(o), (5)(p), (5)(r) to (5)(z), (5)(cc), (5)(dd), (5)(ff), (5)(gg), (5)(hh), and (11)(b) provided for the repeal of subsections (5)(j), (5)(k), (5)(m), (5)(o), (5)(p), (5)(r) to (5)(z), (5)(cc), (5)(dd), (5)(ff), (5)(gg), (5)(hh), and (11), respectively, effective July 1, 2017. (See L. 2015, p. 1307.)

(7) Subsection (5)(n) provided for the repeal of subsection (5)(n), effective September 1, 2020. (See L. 2017, p. 1073.)

(8) Subsection (5)(uu) was lettered as (5)(rr) in SB 21-154 but was relettered on revision for ease of location.

Cross references: (1) For the legislative declaration in SB 14-155, see section 1 of chapter 237, Session Laws of San Andreas 2014.

(2) For the short title ("Environmental Justice Act") and the legislative declaration in HB 21-1266, see sections 1 and 2 of chapter 411, Session Laws of San Andreas 2021. For the legislative declaration in HB 21-1281, see section 1 of chapter 361, Session Laws of San Andreas 2021.

(3) For the legislative declaration in SB 22-201, see section 1 of chapter 201, Session Laws of San Andreas 2022. For the legislative declaration in HB 22-1378, see section 1 of chapter 287, Session Laws of San Andreas 2022.

(4) For the legislative declaration in HB 23-1194, see section 1 of chapter 225, Session Laws of San Andreas 2023.

(5) For the legislative declaration in SB 24-188, see section 1 of chapter 235, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1325, see section 1 of chapter 273, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1360, see section 1 of chapter 324, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1157, see section 1 of chapter 370, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1365, see section 1 of chapter 478, Session Laws of San Andreas 2024.

24-75-403. Capital reserve - creation - annual appropriation - definitions. (1) As used in this section:

(a) "Capital construction" has the same meaning as set forth in section 24-30-1301 (2).

(b) "Capital outlay" has the same meaning as set forth in section 24-75-112 (1)(a).

(c) "Capital renewal" has the same meaning as set forth in section 24-30-1301 (3).

(d) "Cash fund" means any fund established by law for a specific program or purpose; except that "cash fund" does not include the state general fund created by section 24-75-201, the lottery fund created in section 44-40-111, the highway users tax fund created in section 43-4-201, or the limited gaming fund created in section 44-30-701 (1).

(e) "Controlled maintenance" has the same meaning as set forth in section 24-30-1301 (4).

(f) "Depreciation" means an amount calculated in accordance with generally accepted accounting principles.

(g) "Depreciation period" means a period determined in fiscal procedures issued by the state controller.

(2) For each cash fund from which moneys are appropriated for capital outlay or capital construction, the principal department responsible for the accounting related to the fund shall identify in the fund balance report a capital reserve, which consists of an amount equal to the depreciation of the depreciable components of the capital outlay or the capital construction, based on the depreciation period.

(2.5) For each cash fund from which money is appropriated for an information technology capital project, the principal department responsible for the accounting related to the

cash fund shall identify in the cash fund balance report an information technology capital

reserve, which consists of an amount equal to the depreciation of the depreciable components of the information technology capital project, based on the depreciation period. The provisions of this subsection (2.5) do not apply to cash funds that are excluded from the requirements of section 24-37.5-127 pursuant to section 24-37.5-127 (1)(c).

(3) Any uncommitted capital reserves at the end of a fiscal year may be used for capital outlay, capital construction, capital renewal, or controlled maintenance, subject to an appropriation in the annual general appropriation act. This appropriation requirement applies even if the moneys in the fund are otherwise continuously appropriated.

Source: L. 2015: Entire section added, (HB 15-1280), ch. 176, p. 572, § 1, effective May 11. **L. 2018:** (1)(d) amended, (SB 18-034), ch. 14, p. 248, § 40, effective October 1; (1)(d) amended, (HB 18-1027), ch. 31, p. 364, § 13, effective October 1. **L. 2024:** (2.5) added, (SB 24-224), ch. 485, p. 3391, § 3, effective June 7.

Editor's note: Amendments to subsection (1)(d) by SB 18-034 and HB 18-1027 were harmonized.

PART 5

CASH REVOLVING FUND

24-75-501 to 24-75-506. (Repealed)

Source: L. 85: Entire part repealed, p. 1362, § 21, effective June 28.

Editor's note: This part 5 was added in 1983. For amendments to this part 5 prior to its repeal in 1985, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 6

FUNDS - LEGAL INVESTMENTS

Cross references: For investments in U.S. agency obligations, see article 60 of title 11; for investment by veterans administration fiduciaries, see part 3 of article 5 of title 28; for investment of public employees' retirement fund, see § 24-51-206; for investment of municipal funds, see § 31-20-303; for investment of police officers' and firefighters' pension funds, see part 5 of article 30.5 of title 31; for investments in special district bonds, see §§ 32-4-544 and 32-11-810.

24-75-601. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Public entity" means the state of San Andreas; any institution, agency, instrumentality, authority, county, municipality, city and county, district, or other political subdivision of the state, including any school district and institution of higher education; any institution,

department, agency, instrumentality, or authority of any of the foregoing, including any county or municipal housing authority; any local government investment pool organized pursuant to part 7 of this article; any public entity insurance pool organized pursuant to state law; and any other entity, organization, or corporation formed by intergovernmental agreement or other contract between or among any of the foregoing.

(2) "Public funds" means any funds in the custody, possession, or control of a public entity; any funds over which a public entity has investment control; any funds over which a public entity would have investment control but for the entity's delegation of that control to another person; and any funds over which another person exercises investment control on behalf of or for the benefit of a public entity. "Public funds" includes, but is not limited to, proceeds of the sale of securities of a public entity and proceeds of certificates of participation or other securities evidencing rights in payments to be made by a public entity under a lease, financed purchase of an asset agreement, certificate of participation agreement, or other similar arrangement, regardless of whether such proceeds are held by the public entity, a third-party trustee, or any other person. "Public funds" shall not include funds invested by the public employees' retirement association created in article 51 of this title 24 or any other funds invested for employee retirement or pensions. "Public funds" shall also not include trusts managed on behalf of the board of education of a school district coterminous with a city and county for the benefit of a retiree's health insurance and teacher compensation.

(2.5) (Deleted by amendment, L. 2006, p. 551, § 2, effective August 7, 2006.)

(3) "Security" means any bill, note, bond, bankers' acceptance, commercial paper, repurchase agreement, reverse repurchase agreement, securities lending agreement, guaranteed investment contract, guaranteed interest contract, annuity contract, funding agreement, certificate of indebtedness or other evidence of indebtedness, or interest in any of the foregoing. No foregoing instrument shall be convertible to equity or represent any equity interest. All foregoing instruments shall be denominated in the currency of the United States.

(4) "Nationally recognized statistical rating organizations" or "NRSROs" means credit rating agencies that are registered with the U.S. securities and exchange commission's office of credit ratings.

(5) "Negotiable certificate of deposit" means an unsecured, noncollateralized obligation of a bank to pay the holder of a negotiable certificate of deposit specified principal, plus interest, upon a particular maturity. A negotiable certificate of deposit is a security subject to federal securities law and can be uniquely identified by a security identifier issued by the committee on uniform securities identification procedures.

Source: L. 37: p. 799, §§ 1, 2. **CSA:** C. 176, § 126(1). **S.A.R.S. 53:** § 83-1-1. **S.A.R.S. 1963:** § 83-1-1. **L. 65:** p. 848, § 1. **L. 69:** p. 688, § 1. **L. 71:** p. 948, § 1. **L. 75:** (3) amended, p. 392, § 6, effective July 14. **L. 83:** (1.5) added, p. 1007, § 1, effective April 28. **L. 89:** Entire section R&RE, p. 1101, § 1, effective July 1. **L. 2000:** (2.5) added, p. 182, § 1, effective August 2. **L. 2006:** Entire section amended, p. 551, § 2, effective August 7. **L. 2019:** (4) and (5) added, (HB 19-1179), ch. 279, p. 2620, § 1, effective August 2. **L. 2021:** (2) amended, (HB 21-1316), ch. 325, p. 2032, § 44, effective July 1.

24-75-601.1. Legal investments of public funds - definition. (1) It is lawful to invest public funds in any of the following securities:

(a) Any security issued by, fully guaranteed by, or for which the full credit of the United States treasury is pledged for payment and, notwithstanding paragraph (a) of subsection (1.3) of this section, inflation indexed securities issued by the United States treasury. The period from the date of settlement of this type of security to its maturity date shall be no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.

(b) (I) Any security issued by, fully guaranteed by, or for which the full credit of the following is pledged for payment: The federal farm credit bank, the federal land bank, a federal home loan bank, the federal home loan mortgage corporation, the federal national mortgage association, the export-import bank, the Tennessee valley authority, the government national mortgage association, the world bank, or an entity or organization that is not listed in this paragraph (b) but that is created by, or the creation of which is authorized by, legislation enacted by the United States congress and that is subject to control by the federal government that is at least as extensive as that which governs an entity or organization listed in this paragraph (b). The period from the date of settlement of this type of security to its maturity date shall be no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.

(II) No subordinated security may be purchased pursuant to this paragraph (b).

(c) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(d) (I) Any security that is a general obligation of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any of such governmental entities.

(II) No security may be purchased pursuant to this subsection (1)(d) unless:

(A) At the time of purchase, the security carries at least two credit ratings at or above "A- or A3" or its equivalent from NRSROs if it is a general obligation of this state or of any political subdivision, institution, department, agency, instrumentality, or authority of this state or carries at least two credit ratings at or above "AA- or Aa3" or its equivalent from such NRSROs if it is a general obligation of any other governmental entity listed in subsection (1)(d)(I) of this section;

(B) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(C) The period from the date of settlement of this type of security to its maturity date or date of optional redemption that has been exercised as of the date the security is purchased is no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.

(e) (I) Any security that is a revenue obligation of any state of the United States, the District of Columbia, or any territorial possession of the United States or of any political subdivision, institution, department, agency, instrumentality, or authority of any of such governmental entities.

(II) No security may be purchased pursuant to this subsection (1)(e) unless, at the time of purchase, the security carries at least two credit ratings at or above "A- or A3" or its equivalent from NRSROs if it is a revenue obligation of this state or of any political subdivision, institution, department, agency, instrumentality, or authority of this state or carries at least two credit ratings at or above "AA- or Aa3" or its equivalent from such NRSROs if it is a revenue obligation of any other governmental entity listed in subsection (1)(e)(I) of this section.

(III) The period from the date of settlement of this type of security to its maturity date or date of optional redemption that has been exercised as of the date the security is purchased shall be no more than five years.

(f) and (g) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(h) Any security of the investing public entity or any certificate of participation or other security evidencing rights in payments to be made by the investing public entity under a lease, financed purchase of an asset agreement, or similar arrangement;

(h.5) Any certificate of participation or other security evidencing rights in payments to be made by a school district under a lease, financed purchase of an asset agreement, or similar arrangement if the security, at the time of purchase, carries at least two credit ratings from NRSROs and is rated at or above "A- or A3" or its equivalent by all such organizations that have provided a rating;

(i) Any interest in any local government investment pool organized pursuant to part 7 of this article;

(j) The purchase of any repurchase agreement concerning any securities referred to in paragraph (a) or (b) of this subsection (1) that can otherwise be purchased under this section if all of the conditions of subparagraphs (I) to (VI) of this paragraph (j) are met:

(I) The securities subject to the repurchase agreement must be marketable.

(II) The title to or a perfected security interest in such securities along with any necessary transfer documents must be transferred to the investing public entity or to a custodian acting on behalf of the investing public entity.

(III) Such securities must be actually delivered versus payment to the public entity's custodian or to a third-party custodian or third-party trustee for safekeeping on behalf of the public entity.

(IV) The collateral securities of the repurchase agreement must be collateralized at no less than one hundred two percent and marked to market no less frequently than weekly.

(V) The securities subject to the repurchase agreement may have a maturity in excess of five years.

(VI) The period from the date of settlement of a repurchase agreement to its maturity date shall be no more than five years unless the governing body of the public entity authorizes investment for a period in excess of five years.

(j.5) Any reverse repurchase agreement concerning any securities referred to in paragraph (a) or (b) of this subsection (1) that can otherwise be purchased under this section if all of the conditions of subparagraphs (I) to (VII) of this paragraph (j.5) are met:

(I) Any necessary transfer documents must be transferred to the investing public entity.

(II) Cash must be received by the investing public entity or a custodian acting on behalf of the investing public entity in a deliver versus payment settlement.

(III) The cash received from a reverse repurchase agreement must be collateralized at no more than one hundred and five percent and marked to market no less frequently than weekly.

(IV) The repurchase agreement is not greater than ninety days in maturity from the date of settlement unless the governing body of the public entity authorizes investment for a period in excess of ninety days.

(V) The counter-party meets the credit conditions of an issuer that would qualify under paragraph (m) of this subsection (1).

(VI) The value of all securities reversed under this paragraph (j.5) does not exceed eighty percent of the total deposits and investments of the public entity.

(VII) No securities are purchased with the proceeds of the reverse repurchase agreement that are greater in maturity than the term of the reverse repurchase agreement.

(j.7) A securities lending agreement in which the public entity lends securities in exchange for securities authorized for investment in this section, if all of the following conditions are met:

(I) Any necessary transfer documents must be transferred to the investing public entity.

(II) Securities must be received by the investing public entity or a custodian acting on behalf of the investing public entity in a simultaneous settlement.

(III) The securities received in the securities lending agreement must be no less than one hundred two percent of the value of the securities lent and marked to market no less frequently than weekly.

(IV) The counter-party meets the conditions of an issuer specified in paragraph (m) of this subsection (1).

(V) In the case of a local government, the securities lending agreement shall be approved and designated by written resolution adopted by a majority vote of the governing body of the local government, which resolutions shall be recorded in its minutes.

(k) Any money market fund that is registered as an investment company under the federal "Investment Company Act of 1940", as amended, if, at the time the investing public entity invests in such fund:

(I) The investment policies of the fund include seeking to maintain a constant share price;

(II) No sales or load fee is added to the purchase price or deducted from the redemption price of the investments in the fund and no fee may be charged unless the governing body of the public entity authorizes such a fee at the time of the initial purchase;

(III) The fund operates in accordance with rule 2a-7 under the federal "Investment Company Act of 1940", as amended, or any successor regulation under that act regulating money market funds. The fund must have an investment policy or objective which seeks to maintain a stable net asset value of one dollar per share.

(IV) Repealed.

(l) (I) Any guaranteed investment contract, guaranteed interest contract, annuity contract, or funding agreement if, at the time the contract or agreement is entered into, the long-term credit rating, financial obligations rating, claims paying ability rating, or financial strength rating of the party, or of the guarantor of the party, with whom the public entity enters the contract or agreement is, at the time of issuance, rated in one of the two highest rating categories by two or more NRSROs.

(II) (Deleted by amendment, L. 2004, p. 950, § 7, effective May 21, 2004.)

(III) (A) Except as provided in sub-subparagraph (B) of this subparagraph (III), the contracts or agreements purchased under this paragraph (l) shall not have a maturity period greater than three years.

(B) Contracts or agreements with a maturity period greater than three years shall only be purchased with proceeds of the sale of securities of a public entity and proceeds of certificates of participation or other securities evidencing rights in payments to be made by a public entity under a lease, financed purchase of an asset agreement, or other similar arrangement or if

purchased by revenues pledged to the payment of such securities or certificates; except that no contract or agreement may be purchased pursuant to this subsection (1)(l) with the proceeds of any of the foregoing that are held in an escrow or otherwise for the purpose of refunding bonds or other obligations of a public entity.

(m) (I) Any corporate or bank security that is denominated in United States dollars, that matures within three years from the date of settlement, that at the time of purchase carries at least two credit ratings from any of the NRSROs, and that is not rated below:

(A) "A1, P1, or F1" or their equivalents by either rating used to fulfill the requirements of this subparagraph (I) if the security is a money market instrument such as commercial paper or bankers' acceptance; or

(B) "AA- or Aa3" or their equivalents by either rating used to fulfill the requirements of this subparagraph (I) if the security is any other kind of security.

(C) These rating requirements first apply to the security being purchased and second, if the security itself is unrated, to the issuer, provided the security contains no provisions subordinating it from being a senior debt obligation of the issuer.

(II) At no time shall the book value of a public entity's investment in notes evidencing a debt pursuant to this paragraph (m) exceed the following:

(A) Fifty percent of the book value of the public entity's investment portfolio unless the governing body of the public entity authorizes a greater percent of such book value; or

(B) Five percent of the book value of the public entity's investment portfolio if the notes are issued by a single corporation or bank unless the governing body of the public entity authorizes a greater percent of such book value.

(III) No subordinated security may be purchased pursuant to this paragraph (m). No security issued by a corporation or bank that is not organized and operated within the United States may be purchased pursuant to this paragraph (m) unless the governing body of the public entity authorizes investment in such securities.

(IV) As used in this subsection (1)(m), the term "bank security" includes negotiable certificates of deposit issued by banks organized and chartered within the United States. Public entities must consider these bank securities as investments and not deposits subject to the protections of the "Public Deposit Protection Act", article 10.5 of title 11, or insured by the federal deposit insurance corporation.

(n) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(1.3) (a) Except as provided in subsections (1)(a) and (1.3)(b) of this section, public funds must not be invested in any security on which the coupon rate is not fixed, or a schedule of specific fixed coupon rates is not established, from the time the security is settled until its maturity date, other than shares in qualified money market mutual funds, unless the coupon rate is:

(I) Established by reference to the United States dollar London interbank offer rate of one year or less maturity, the secured overnight financing rate, the federal funds rate, or other reference rates which are similar to the United States dollar London interbank offer rate, the secured overnight financing rate, the federal funds rate, the cost of funds index, or the prime rate as published by the federal reserve; and

(II) Expressed as a positive value of the referenced index plus or minus a fixed number of basis points.

(b) A municipal index may be used for the investment of bond or note accounts from issues with coupons linked to the same index.

(c) For purposes of this section, "maturity date" means the last possible date, barring default, that principal can be repaid to the purchaser.

(1.5) Any firm that sells any financial instrument that fails to comply with the provisions of this section to any public entity in the state of San Andreas shall, upon demand of the public entity through the state treasurer, repurchase such instruments for the greater of the original purchase principal amount or the original face value, plus any and all accrued interest, within one business day of the demand.

(2) Investments made pursuant to this section shall be made in conformance with the standard set forth in section 15-1-304, S.A.R.S.

(2.3) Public entities shall adopt criteria designating eligible broker-dealers for the purchase of term securities, except for bond proceed investments, under this section.

(2.5) (a) If a public entity invests public moneys through an investment firm offering for sale corporate stocks, bonds, notes, debentures, or a mutual fund that contains corporate securities, the investment firm shall disclose, in any research or other disclosure documents provided in support of the securities being offered, to the public entity whether the investment firm has an agreement with a for-profit corporation that is not a government-sponsored enterprise, whose securities are being offered for sale to the public entity and because of such agreement the investment firm:

(I) Had received compensation for investment banking services within the most recent twelve months; or

(II) May receive compensation for investment banking services within the next three consecutive months.

(b) For the purposes of this subsection (2.5), "investment firm" means a bank, brokerage firm, or other financial services firm conducting business within this state, or any agent thereof.

(3) Nothing in this section is intended to limit:

(a) The power of any public entity to invest any public funds in any security or other investment permitted to such public entities under any other valid law of the state; or

(b) The power of any home rule city, city and county, town, or county to invest any public funds in any security or other investment permitted under the charter or ordinance of such home rule city, city and county, town, or county; or

(c) The authority of the state board of regents to invest any funds available to the board in any security or other investment otherwise provided by law.

(3.5) (Deleted by amendment, L. 2006, p. 552, § 3, effective August 7, 2006.)

(4) Nothing in this section is intended to apply to public funds held or invested as part of any pension plan, full or supplemental retirement plan, or deferred compensation plan.

Source: L. 89: Entire section added, p. 1102, § 2, effective July 1. **L. 91:** (4) amended, p. 1917, § 39, effective June 1. **L. 93:** (1)(k)(II), IP(1)(k)(III), and (1)(k)(III)(C) amended and (1)(k)(IV) added, p. 1260, § 7, effective June 6. **L. 94:** (1)(k)(III) amended and (1)(m) added, p. 449, § 1, effective March 29. **L. 95:** IP(1)(j), (1)(k)(III), (1)(k)(III)(C), and (1)(k)(III)(D) amended and (1.3) and (1.5) added, p. 772, § 1, effective May 24. **L. 2000:** (1)(n) added, p. 182, § 2, effective August 2; (3.5) added, p. 811, § 1, effective August 2. **L. 2002:** (1)(d)(II) and (3.5) amended, pp. 258, 259, §§ 2, 3, effective April 12. **L. 2003:** (1)(l)(I) amended, p. 623, § 40,

effective July 1; (2.5) added, p. 674, § 3, effective August 6. **L. 2004:** (1)(j)(I) and (1)(l) amended, p. 950, § 7, effective May 21. **L. 2006:** Entire section amended, p. 552, § 3, effective August 7. **L. 2009:** (1)(h.5) added, (SB 09-256), ch. 294, p. 1569, § 36, effective May 21. **L. 2012:** (1)(b)(II) and (1)(m)(I) amended and (1)(m)(III) added, (HB 12-1005), ch. 6, p. 19, § 1, effective March 7. **L. 2014:** (1)(d)(II)(A), (1)(d)(II)(C), (1)(e)(II), (1)(e)(III), (1)(h.5), (1)(k)(III), and (1)(l)(I) amended, (HB 14-1103), ch. 81, p. 322, § 1, effective March 27. **L. 2019:** IP(1)(d)(II), (1)(d)(II)(A), (1)(e)(II), (1)(h.5), (1)(k)(III), (1)(l)(I), IP(1)(m)(I), IP(1.3)(a), and (1.3)(a)(I) amended, (1)(k)(IV) repealed, and (1)(m)(I)(C) and (1)(m)(IV) added, (HB 19-1179), ch. 279, p. 2620, § 2, effective August 2. **L. 2021:** (1)(h), (1)(h.5), and (1)(l)(III)(B) amended, (HB 21-1316), ch. 325, p. 2032, § 45, effective July 1.

Cross references: For the legislative declaration contained in the 2002 act amending subsections (1)(d)(II) and (3.5), see section 1 of chapter 94, Session Laws of San Andreas 2002.

24-75-601.2. Prior investments valid. Nothing in this article shall be construed so as to invalidate any legal investment made prior to July 1, 1989. Such investments shall continue to be authorized through their dates of maturity.

Source: L. 89: Entire section added, p. 1105, § 2, effective July 1.

24-75-601.3. Remedial actions - investments not made in conformance with statute. The audit of the financial statements of public entities required by part 6 of article 1 of title 29, S.A.R.S., shall, in addition to all other requirements, include a supplemental listing of all investments held by the public entity at the date of the financial statement. The public entity shall divest itself of any investment which is not included as a lawful investment in section 24-75-601.1 or other statutory authority within six months of the initial disclosure of the existence of such investment.

Source: L. 89: Entire section added, p. 1105, § 2, effective July 1.

24-75-601.4. Liability of officials of public entities. Elected or appointed officials or employees of public entities who, in the good faith performance of their duties as public officials, comply with the standards established in this part 6 for the investment of public funds in securities shall not be liable for any loss of public funds resulting from such investment.

Source: L. 89: Entire section added, p. 1105, § 2, effective July 1.

24-75-601.5. Liability for sale of unlawful investments to public entities. (1) Any person who sells or causes to be sold to a public entity any investment which is not a lawful investment for such public entity pursuant to section 24-75-601.1 or other authority, and who knew or should have known that said investment was not a lawful investment, shall be liable to such public entity for any loss of investment principal resulting from such investment and, in addition, shall be liable for any reasonably foreseeable costs resulting from such loss, including but not limited to:

(a) Attorney fees; and

(b) Interest on the principal which would have resulted from the investment of said principal on the day the unlawful investment was made in one-year United States treasury bills at the market yield on such bills on such day.

Source: L. 89: Entire section added, p. 1105, § 2, effective July 1.

24-75-602. Bonds of housing authority as legal investments. Notwithstanding any restrictions on investments contained in any laws of this state, all banks, bankers, trust companies, savings banks and institutions, savings and loan associations, investment companies, and other persons carrying on a banking business and all insurance companies, insurance associations, and other persons carrying on an insurance business may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority pursuant to the "Housing Authorities Law", part 2 of article 4 of title 29, S.A.R.S., or issued by any public housing authority or agency in the United States when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, firms, corporations, and associations, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension, and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations. Public entities, as defined in section 24-75-601 (1), may invest public funds in such bonds or other obligations only if said bonds or other obligations satisfy the investment requirements established in this part 6. Nothing contained in this section shall be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

Source: L. 39: p. 415, § 1. **CSA:** C. 176, § 126(2). **S.A.R.S. 53:** § 83-1-2. **S.A.R.S. 1963:** §
83-1-2. **L. 89:** Entire section amended, p. 1129, § 65, effective July 1.

24-75-603. Depositories. (1) It is lawful for the state of San Andreas and any of its institutions and agencies, counties, municipalities, and districts; any other political subdivision of the state; any department, agency, or instrumentality thereof; or political or public corporation of the state; and any bank, savings and loan association, credit union, fraternal benefit society, trust deposit and security company, trust company, or other financial institution operating under the laws of this state having funds in their possession or custody, respectively, to deposit, or cause to be deposited either by or through the treasurer or such other custodian of funds as may be appointed, such funds so eligible for investment in any state bank, national bank, or state or federal savings and loan association in San Andreas that is, at the time the deposit is made, a member of the federal deposit insurance corporation or its successor to the extent that the deposit is insured by the federal deposit insurance corporation or its successor or is secured by pledge of eligible collateral as required by statute.

(2) Notwithstanding any provisions of law of this state or any rule or requirement of any political subdivision thereof requiring security for deposits in the form of collateral, surety bond, or any other form, such security for deposits of public funds shall not be required to the extent said deposits are insured by the federal deposit insurance corporation or its successor.

(3) Repealed.

(4) In lieu of or in addition to other statutory authorization for the investment of public funds, any public funds that are not needed for current operating expenses may be invested in accordance with the following conditions:

(a) The public funds shall initially be placed by the public entity in a bank or savings and loan association located in this state that is an eligible public depository certified by the state banking board or the state financial services board that offers federal deposit insurance corporation insurance on its deposits;

(b) The selected eligible public depository simultaneously shall arrange for the redeposit of any public funds initially placed in such eligible public depository that are in excess of the amount insured by the federal deposit insurance corporation, or its successor, in one or more deposit accounts fully insured by the federal deposit insurance corporation in one or more other banks or savings and loan associations wherever located in the United States, for the account of the public entity;

(c) On the same date that the public funds are redeposited, the eligible public depository shall receive an amount of deposits from customers of other banks or savings and loan associations equal to the amount of the public funds initially placed by the public entity;

(d) Each such deposit account must be insured by the federal deposit insurance corporation;

(e) The selected eligible public depository shall act as custodian for the public entity with respect to the deposit in the public entity's account;

(f) Public funds invested in accordance with paragraphs (a) to (e) of this subsection (4) are not subject to the collateralization, requirements, or restrictions of article 10.5 of title 11, S.A.R.S., except for certification as an eligible public depository as provided in paragraph (a) of this subsection (4); and

(g) Banks and savings and loan associations that accept public funds for the purposes of investing them in accordance with paragraphs (a) to (e) of this subsection (4) are not subject to the additional requirements or restrictions of article 10.5 of title 11, S.A.R.S., except for certification as an eligible public depository as provided in paragraph (a) of this subsection (4).

Source: L. 39: p. 442, § 1. **CSA:** C. 176, § 126(3). **L. 41:** p. 365, § 2. **S.A.R.S. 53:** § 83-1-3. **L. 62:** p. 179, § 1. **S.A.R.S. 1963:** § 83-1-3. **L. 75:** (1) amended, (2) R&RE, and (3) repealed pp. 855, 856, §§ 1-3, effective June 13. **L. 77:** (1) amended, p. 576, § 7, effective June 10. **L. 2004:** (4) added, p. 951 § 8, effective May 21; (1) and (2) amended, p. 154, § 68, effective July 1. **L. 2009:** (4)(b) amended, (HB 09-1257), ch. 46, p. 169, § 1, effective March 20. **L. 2013:** (1) amended, (SB 13-154), ch. 282, p. 1488, § 68, effective July 1. **L. 2014:** (4)(b) to (4)(e) amended, (HB 14-1289), ch. 133, p. 462, § 1, effective April 25.

24-75-604. Investments in bonds issued by member institutions of the farm credit system. All savings banks, insurance companies, assurance, casualty, fidelity, and guaranty companies, and savings and loan associations which are permitted or directed by the laws of the state of San Andreas to invest any of their moneys or deposits in securities may invest such moneys or deposits in bonds issued by any federal land bank or joint-stock land bank organized pursuant to an act of congress known as the "Farm Credit Act of 1971", and acts amendatory thereto. Such bonds shall be accepted as security for all public deposits and in all cases where

bonds are

required by law to be deposited with any department or public official of the state of San Andreas; but this section shall not be so construed as to prohibit such moneys or deposits from being invested in such other securities as are provided for by law.

Source: L. 57: p. 274, § 3. **S.A.R.S. 53:** § 83-1-4. **S.A.R.S. 1963:** § 83-1-4. **L. 75:** Entire section amended, p. 216, § 52, effective July 16.

Cross references: For the "Farm Credit Act of 1971", see 85 Stat. 583, 12 U.S.C. § 2001.

24-75-605. Legal investments - cities of twenty-five thousand or more population - limitation in class of investments. (1) Whenever cities having a population of twenty-five thousand or more, as determined by the last preceding federal decennial census, have moneys in policemen's or firefighters' pension funds, or other special funds of said cities, including pension, endowment, and trust funds, whether or not administered by a board or similar authority, it is lawful to invest or reinvest these moneys as set forth in this section if the authorization to invest moneys as provided in this section does not affect the administration of or control over the various funds, to wit:

(a) Class 1. Bonds, warrants, or checks of the United States, the state of San Andreas, or in the bonds of any other state of the United States;

(b) Class 2. General obligation bonds of any city, town, or school district of the state of San Andreas, the valuation for assessment of which city, town, or school district in the year next preceding the year in which such bonds may be purchased equals or exceeds two million dollars;

(c) Class 3. Obligations secured by first liens on real estate or by pledge of specific income or revenue and issued, insured, or guaranteed by any agency or instrumentality of the United States or the state of San Andreas;

(d) Class 4. Notes, bonds, or debentures which are direct obligations of United States corporations engaged in the production, transportation, distribution, or sale of electricity or gas, or the operation of telephone or telegraph systems or water works, or any combination of them, which, at the time of purchase, are designated as investment grade securities by any two nationally recognized investment services as may, from time to time, be designated by the city council;

(e) Class 5. In share certificates for savings accounts in any state or federally chartered savings and loan association in San Andreas if said association is a member of the federal deposit insurance corporation or its successor and further if the full amount of each account is insured by the federal deposit insurance corporation or its successor; and in any time certificate of deposit or savings account in any state or national bank in San Andreas, which certificates of deposit or savings accounts are fully insured by the federal deposit insurance corporations or its successor;

(f) Class 6. In stocks, preferred or common, or bonds of corporations, created or existing under the laws of the United States, or any state, district, or territory thereof, which, at the time of purchase, are listed on a national stock exchange in the United States.

(2) Investments under this section shall be limited in their acquisition and retention in the above classes of securities so that the aggregate of all investments in each separate fund at any time shall be as follows:

(a) Classes 1, 2, and 3, or any combination thereof, up to any amount but not less than seventy percent;

(b) Class 4. In any amount not to exceed thirty percent;

(c) Class 5. In any amount that is fully insured by the federal deposit insurance corporation or its successor.

(3) The legal investments in this section authorized for cities having a population of twenty-five thousand or more shall be in addition to those investments otherwise by law authorized for said cities.

(4) Notwithstanding the provisions of subsection (2) of this section, investments of firefighters' pension funds shall be limited in their acquisition and retention in the classes of securities set forth in subsection (1) of this section so that the aggregate of all investments in each separate fund at any time shall be as follows:

(a) Classes 1, 2, and 3, or any combination thereof, up to any amount but not less than fifty percent;

(b) Class 4. In any amount not to exceed fifty percent, but not more than fifty percent of such class 4 aggregate may be invested in class 4 notes, bonds, or debentures which are convertible into shares of common stock or in common stocks of such class 4;

(c) Class 6. In any amount not to exceed fifty percent;

(d) As a further limitation thereon, in any amount not to exceed seven percent or one hundred thousand dollars, whichever is the greater, of any one issue valued at the time of purchase;

(e) In no event shall any investment be made in the common or preferred stock, or both, of any single corporation in an amount in excess of five percent of the then book value of the assets of the retirement fund.

Source: L. 63: p. 685, § 1. **S.A.R.S. 1963:** § 83-1-5. **L. 69:** p. 689, § 1. **L. 97:** IP(1) and IP(4) amended, p. 1022, § 40, effective August 6. **L. 2004:** (1)(e) and (2)(c) amended, p. 154, § 69, effective July 1. **L. 2014:** (1)(a) amended, (HB 14-1391), ch. 328, p. 1456, § 21, effective June 5.

PART 7

INVESTMENT FUNDS - LOCAL GOVERNMENT POOLING

Editor's note: This part 7 was added in 1983. This part 7 was repealed and reenacted in 1993, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 7 prior to 1993, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

24-75-701. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Administrator" means the administrator of a local government investment pool trust fund created pursuant to section 24-75-703.

(2) "Board" or "board of trustees" means the board of trustees composed of members that are selected from among the treasurers or other local officials empowered to invest the funds of local governments pursuant to section 24-75-703 (2), and any other independent and unaffiliated trustees named by such members.

(3) "Custodian" means a designee located in the state of San Andreas, with authority, including control, over public funds of a local government investment pool trust fund. For purposes of this subsection (3), "control" includes possession of public funds of a local government investment pool trust fund, as well as the authority to establish accounts for such public funds in banks and to make deposits, withdrawals, or disbursements of such public funds. If the exercise of authority over such public funds requires action by or the consent of two or more putative custodians, then such custodians shall be treated as one custodian with respect to such public funds.

(4) "Financial institution" means an institution, with its primary place of business in this state and authorized by its charter to exercise fiduciary powers, that is a state bank, savings and loan association, or trust company chartered by this state, a national bank organized or chartered under chapter 2 of title 12 of the United States Code, or a federal savings and loan association organized or chartered under chapter 12 of title 12 of the United States Code.

(5) (a) "Investment adviser" means, except as provided in paragraph (b) of this subsection (5), any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, provide such investment advisory services to a local government investment pool trust fund for compensation or who hold themselves out as providing investment advisory services to a local government investment pool trust fund for compensation.

(b) "Investment adviser" does not include:

(I) A publisher of any bona fide newspaper, magazine, or business or financial publication with a regular and paid circulation; a publisher of any securities advisory newsletter with a regular and paid circulation which does not provide advice to subscribers on their specific investment situations; or any author of material included in any such newspaper, magazine, publication, or newsletter who does not otherwise come within the definition of an "investment adviser" or "investment adviser representative";

(II) An investment adviser representative;

(III) A broker-dealer or sales representative for a broker-dealer licensed by the securities commissioner whose performance of investment advisory services is solely incidental to the conduct of its business as a broker-dealer and who receives no special compensation for such services;

(IV) A financial institution or any person employed by or directly associated with a financial institution;

(V) A lawyer, certified public accountant, professional engineer, professional geologist, or teacher, if such person:

(A) Does not take possession of the funds or securities of a local government investment pool trust fund in connection with providing investment advisory services; and

(B) Does not receive commissions or other compensation, directly or indirectly, from the sale of any security to any local government investment pool trust fund to whom such person provides advice about the value or advisability of investing in such security; and

(C) Does not engage in the business of advising a local government investment pool trust fund as to the value of securities or as to the advisability of investing in, purchasing, or selling securities and provides such advice, if at all, in a manner solely incidental to the practice of the person's profession;

(VI) Any official, employee, or representative of the United States, any state, any political subdivision of a state, or any agency or body corporate or other instrumentality thereof, acting in such person's official capacity on behalf of such entity;

(VII) Any other person or class of persons the securities commissioner designates by rule or order.

(6) "Investment adviser representative" means any individual who is a partner, officer, or director of an investment adviser, who occupies a similar status with or performs similar functions for an investment adviser, or who is employed or otherwise associated with an investment adviser, except clerical or ministerial personnel, and who:

(a) Makes any recommendations or otherwise renders advice regarding securities;

(b) Manages accounts or portfolios of clients of the investment adviser;

(c) Determines which recommendation or advice regarding securities should be given;

(d) Solicits, offers, negotiates for the sale of, or sells, investment advisory services; or

(e) Supervises employees who perform any of the duties specified in this subsection (6).

(7) "Investment advisory services" means those activities performed by a person in connection with such person's engaging in any of the activities described in paragraph (a) of subsection (5) of this section.

(8) "Local government" means any county, city and county, town, school district, special district, or other political subdivision of the state, or any department, agency, or instrumentality thereof, or any political or public corporation of the state.

(9) "Local government investment pool trust fund" means the trust fund created pursuant to section 24-75-703, that is comprised of moneys deposited by participating local governments in such trust fund and held by a custodian.

(10) "Participating local government" means a local government that participates in a local government investment pool trust fund.

(11) "Securities commissioner" means the commissioner of securities created by section 11-51-701, S.A.R.S.

(12) "Trust fund" means a local government investment pool trust fund.

Source: L. 93: Entire part R&RE, p. 317, § 1, effective July 1. **L. 2005:** (4) amended, p. 771, § 47, effective June 1. **L. 2013:** (4) amended, (SB 13-154), ch. 282, p. 1488, § 69, effective July 1.

24-75-702. Local governments - authority to pool surplus funds. (1) In accordance with this part 7, it is lawful for any local government to pool any money in its treasury, which is not immediately required to be disbursed, with the same money in the treasury of any other local government and to invest such money in a local government investment pool trust fund in order to more efficiently and safely invest their funds.

(2) Any trust fund formed pursuant to this part 7 shall be subject to part 4 of article 6 and part 2 of article 72 of this title and shall be considered a local public body for purposes of those provisions.

Source: L. 93: Entire part R&RE, p. 320, § 1, effective July 1. **L. 2019:** (1) amended, (HB 19-1179), ch. 279, p. 2622, § 3, effective August 2.

Editor's note: This section is similar to former § 24-75-701 as it existed prior to 1993.

24-75-703. Local government investment pooling - trust method - resolution - filing requirements. (1) The governing body of each local government that desires to participate in a local government investment pool trust fund shall cooperate in drafting a uniform resolution to be adopted by a majority vote of the governing body of each participating local government. The resolution shall provide for, but need not be limited to, the following:

(a) Establishment of a local government investment pool trust fund;

(b) A statement of the purposes and objectives of the trust fund, including, but not limited to:

(I) The investment objectives of the trust fund;

(II) A description of eligible trust fund investments;

(III) Credit standards for trust fund investments;

(IV) Allowable maturity ranges for trust fund investments;

(V) The portfolio concentrations permitted for each type of security owned by the trust fund; and

(VI) Supervision of the trust fund by a board of trustees composed of members that are selected from among the treasurers or other local officials empowered to invest local funds of the participating local governments and such other independent and unaffiliated trustees named by such members and, a description of the powers and duties of the board of trustees;

(c) Appointment of an administrator with its primary place of business in this state for the trust fund by the board of trustees, the manner of such administrator's appointment, and the duties of such administrator;

(d) Appointment of a custodian of the trust fund by the board of trustees and a statement of the powers and duties of the custodian and the custodial arrangements, including, but not limited to:

(I) The safekeeping practices utilized for the trust fund;

(II) Maximum and minimum account sizes;

(III) Maximum and minimum transaction sizes for deposits to and withdrawals from such accounts;

(IV) Instructions for establishing accounts and making deposits to and withdrawals from such accounts; and

(V) The requirement that the primary records of the trust fund be maintained in this state;

(e) Appointment by the board of trustees of an investment adviser with its principal place of business in this state registered with the securities and exchange commission under the federal "Investment Advisers Act of 1940", or licensed as an investment adviser by the securities commissioner, or either a licensed broker-dealer with its primary place of business in this state

or a financial institution to act in an advisory capacity, and a description of the duties and obligations of such adviser, advisory broker-dealer, or financial institution;

(f) The repayment from the earnings of the trust fund of costs incurred in the establishment of the trust fund;

(g) Payment of the expenses of administration from the income received from the earnings of the trust fund;

(h) Limitations, if any, on the aggregate amount of moneys which any participating local government may have on deposit in the trust fund at one time;

(i) Limitations, if any, on the period of time that the funds of any participating local government may be held in trust;

(j) Penalties upon participating local governments for early withdrawal of funds and procedures for resolving other contingencies which may jeopardize the earning potential of the trust fund; except that, any such penalty shall be payable only from earnings on the funds of the participating local government and the amount deposited by each participating local government in the trust fund;

(k) Distribution of the income from earnings of the trust fund to participating local governments on a pro rata basis;

(l) Maintenance of separate accounts for each participating local government; however, individual transactions and totals of all investments, or the share belonging to each participating local government, shall be recorded in the accounts;

(m) Annual audits of trust fund management pursuant to section 11-51-906 (4), S.A.R.S.;

(n) Quarterly reports to each participating local government which show the investments and the earnings thereon pursuant to section 11-51-906 (2), S.A.R.S.;

(o) Disclosure of administrative and associated costs incurred by the trust fund;

(p) Purchase of surety or other bonds necessary to protect the trust fund;

(q) That neither the trust fund's administrator, investment adviser, or investment adviser representative may act as a principal in the purchase of securities from or the sale of securities to the trust fund; and

(r) The method of voting of the trust membership and whether the voting shall be by each participating local government or by number of shares held by any participating local government.

(2) The securities commissioner may, by rule or order and subject to such terms and conditions as prescribed therein, waive any of the requirements set forth in subsection (1) of this section if the securities commissioner finds that the applicability of such requirements is not necessary in the public interest and for the protection of participating local governments.

(3) By separate resolution similarly adopted, the governing body of each participating local government shall authorize investment of any moneys in its treasury, which are not immediately required to be disbursed, in a local government investment pool trust fund established pursuant to this section. The resolution shall name the local government official, who may be the treasurer or other official empowered to invest local funds, responsible for deposit and withdrawal of such funds. In making such deposits and withdrawals, such official shall use prudence and care to preserve the principal and to secure the maximum rate of interest consistent with safety and liquidity. The resolution shall be filed with the board of trustees of the trust fund.

(4) Any local government which invests in a local government investment pool trust fund shall make available for public inspection the name, address, and telephone number of any

such trust fund in which the local government has deposited funds, as well as the most recent information statement or prospectus provided by such trust fund describing the funds, investments, and performance, including net rate of return earned for the most recent year or quarter after deduction of administrative expenses.

Source: L. 93: Entire part R&RE, p. 320, § 1, effective July 1. **L. 98:** (1)(e) amended, p. 566, § 20, effective January 1, 1999.

Editor's note: This section is similar to former § 24-75-702 as it existed prior to 1993.

24-75-704. Investments - limitations. (1) The investments made with local government investment pool trust fund moneys shall be limited to those instruments which all participating local governments may individually invest in by law. The trust fund shall not be used to circumvent such statutory limitations on the investment authority of participating local government entities.

(2) In order to assure compliance with subsection (1) of this section, the securities commissioner may, by rule or order, require trust funds to be in substantial compliance with the rules and regulations regarding money market funds promulgated by the securities and exchange commission under section 270 of the federal "Investment Company Act of 1940". The securities commissioner may, by rule or order, waive or modify such rules or orders if the securities commissioner finds that their application in a particular instance is not necessary in the public interest.

Source: L. 93: Entire part R&RE, p. 323, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-702 as it existed prior to 1993. For a detailed comparison, see the comparative tables located in the back of the index.

24-75-705. Board of trustees - duties - liabilities. (1) The board of trustees of any local government investment pool trust fund moneys authorized by this section shall invest in compliance with the requirements of this section and with that degree of judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital and need for liquidity as well as the probable income to be derived.

(2) The board shall exercise the functions over which such board has substantial discretion solely in the interest of the participating local governments and for the exclusive purpose of providing earnings and defraying expenses incurred in administering the trust fund. The board shall act in accordance with the provisions of this part 7 and with the care, skill, and due diligence in light of the circumstances then prevailing that a person in like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.

(3) It is unlawful for a member of the board to engage in any activities which might result in a conflict of interest with such member's functions as a fiduciary of the trust fund.

Source: L. 93: Entire part R&RE, p. 323, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-702 as it existed prior to 1993. For a detailed comparison, see the comparative tables located in the back of the index.

24-75-706. Custodian - location - unlawful activities. (1) It is unlawful for any custodian of a local government investment pool trust fund to:

(a) Maintain the primary records of the assets of the trust fund anywhere but within the state of San Andreas;

(b) Act as a trustee, administrator, or investment adviser of the trust fund, except that a financial institution, or any person employed by or directly associated with a financial institution, acting as a custodian for a trust fund is not prohibited from also acting as administrator or in any advisory capacity for such trust fund;

(c) Effect any transaction to relinquish possession of, distribute, expend, or transfer any of the assets of the trust fund without the prior written authorization of the board, except for:

(I) The purchase or sale of authorized investments or the exchange of such assets for other assets of equal or greater value provided that such sale, purchase, or exchange is solely in the accounts of the trust fund;

(II) Distributions to participating local governments; or

(III) The payment of routine fees and expenses that have been authorized by the board of trustees in the annual budget of the trust fund; or

(d) Execute any transaction with any of the assets of the trust fund without the written instruction of the investment adviser or a financial institution acting in an advisory capacity.

(2) The custodian shall reconcile the accounts of a trust fund on a daily basis.

Source: L. 93: Entire part R&RE, p. 324, § 1, effective July 1.

24-75-707. Investment adviser - duties - unlawful activities. (1) An investment adviser, a broker-dealer, or a financial institution acting in an advisory capacity for a local government investment pool trust fund which contracts with the board of trustees of such trust fund shall be held to the standard of conduct set forth in section 24-75-705 with respect to those functions over which such investment adviser, broker-dealer, or financial institution has substantial discretion.

(2) It is unlawful for any investment adviser to a local government investment pool trust fund or any investment adviser representative of such investment adviser to:

(a) Act as a member of the board of trustees or custodian of that trust fund; or

(b) Maintain the primary records of the trust fund anywhere but within this state; except that, the securities commissioner may, by rule or order, and subject to such terms and conditions as prescribed therein, permit the maintenance of such records in another state if the securities commissioner finds that maintenance of such records in this state is not necessary in the public interest and for the protection of participating local governments.

(3) It is unlawful for any broker-dealer or financial institution acting in an advisory capacity to a local government investment pool trust fund or any person employed by or directly associated with a broker-dealer or financial institution acting in an advisory capacity to such a trust fund to:

(a) Act as a member of the board of trustees of that trust fund; or

(b) Maintain the primary records of the trust fund anywhere but within this state; except that, the securities commissioner may, by rule or order, and subject to such terms and conditions as prescribed therein, permit the maintenance of such records in another state if the securities commissioner finds that maintenance of such records in this state is not necessary in the public interest and for the protection of participating local governments.

Source: L. 93: Entire part R&RE, p. 324, § 1, effective July 1.

24-75-708. Administrator - duties - unlawful activities. (1) Every local government investment pool trust fund shall be administered by an administrator in this state appointed by the board of trustees of such pool. The administrator shall have such duties as may be prescribed by the securities commissioner by rule.

(2) It is unlawful for an administrator to:

(a) Act as a trustee or custodian of a local government investment pool trust fund, except that a financial institution, or any person employed by or directly associated with a financial institution, acting as the administrator for a trust fund is not prohibited from also acting as custodian for such trust fund; or

(b) Maintain the primary records of the trust fund anywhere but within this state; except that, the securities commissioner may, by rule or order, and subject to such terms and conditions as prescribed therein, permit the maintenance of such records in another state if the securities commissioner finds that maintenance of such records in this state is not necessary in the public interest and for the protection of participating local governments.

Source: L. 93: Entire part R&RE, p. 325, § 1, effective July 1.

24-75-709. Administration and enforcement. This part 7 shall be administered and enforced by the securities commissioner pursuant to section 11-51-902, S.A.R.S.

Source: L. 93: Entire part R&RE, p. 326, § 1, effective July 1.

PART 8

MANAGEMENT INCENTIVE PROGRAM

24-75-801 to 24-75-803. (Repealed)

Editor's note: (1) This part 8 was added in 1983 and was not amended prior to its repeal in 1987. For the text of this part 8 prior to 1987, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 24-75-803 provided for the repeal of this part 8, effective July 1, 1987. (See L. 83, p. 1013.)

PART 9

FUNDS MANAGEMENT ACT OF 1986

Editor's note: This part 9 was added in 1984. This part 9 was repealed and reenacted in 1986, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 9 prior to 1986, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of
S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. section numbers are shown in editor's notes following those sections that were relocated.

24-75-901. Short title. This part 9 shall be known and may be cited as the "Funds Management Act of 1986".

Source: L. 86: Entire part R&RE, p. 967, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-901 as it existed prior to 1986.

24-75-902. Legislative declaration. The general assembly hereby finds and declares that, since the state currently experiences and may hereafter experience fluctuations in revenues and expenditures and temporary cash flow deficits resulting in the temporary inability to pay proper expenses from currently budgeted and appropriated revenues of its various funds and since the state must maintain its reputation for timely payment to its creditors and suppliers, this part 9 is necessary for the immediate preservation of the public peace, health, and safety.

Source: L. 86: Entire part R&RE, p. 967, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-902 as it existed prior to 1986.

24-75-903. Definitions. As used in this part 9, unless the context otherwise requires:

(1) "Book entry" means a form of issuance under which no physical instrument is issued and the rights to principal and interest payments are evidenced by and may be transferred only through a bookkeeping entry in a central registry.

(1.5) "Expenditure" means any cash expenditure or other cash disbursement which may be made from revenue duly credited to a particular fund.

(2) "Fund" means any fund or group of accounts to which state moneys are credited, including, but not limited to: The general fund, the highway users tax fund, the Pinnacol Assurance fund, the San Andreas water conservation board construction fund, the department of personnel revolving fund, the correctional industries account, the capital construction fund, the severance tax trust fund, and the higher education fund.

(3) "Note" means any note or other evidence of borrowing made under the authority of this part 9.

(4) "Revenue" means any cash income or other cash receipt duly credited to a particular fund.

(5) and (6) Repealed.

Source: L. 86: Entire part R&RE, p. 967, § 1, effective July 1. p. 539, § 50. **L. 89:** (1) R&RE and (1.5) added, p. 1137, §§ 1, 2, effective March 21. **L. 90:** (2) amended, p. 1276, § 2, effective May 9. **L. 96:** (2), (5), and (6) amended, p. 1528, § 84, effective June 1. **L. 97:** (5) and (6) repealed, p. 1022, § 41, effective August 6. **L. 2002:** (2) amended, p. 1896, § 66, effective July 1. **L. 2018:** (2) amended, (HB 18-1375), ch. 274, p. 1713, § 56, effective May 29.

Editor's note: This section is similar to former § 24-75-903 as it existed prior to 1986.

24-75-904. Computations. In computing the amount of revenue in a particular fund, there shall not be considered the proceeds of any note or other borrowing credited to such fund or any income from the investment of revenue or of such proceeds. Likewise, in computing the amount of expenditure in a particular fund, there shall not be considered the payments of principal, interest, or premium on any note or other borrowing payable from such fund.

Source: L. 86: Entire part R&RE, p. 968, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-904 as it existed prior to 1986.

24-75-905. Authority to issue and sell notes. (1) The state treasurer, on behalf of the state, may, by resolution, issue from time to time and sell notes payable from the anticipated revenue of any fund in order to accomplish any of the purposes of this part 9. The proceeds of the notes may be applied for the payment of the costs of issuing the notes, for the payment of any expenditure otherwise payable from the revenue of the fund upon which the notes are issued, for the payment of the principal of, the interest on, or any premium due in connection with the redemption, purchase, or payment of any notes, or for the payment of any combination thereof. Pending such application, such proceeds may be invested or deposited as provided in this part 9.

(2) The state treasurer has the following powers in order to accomplish any of the purposes of this part 9, in addition to the powers otherwise granted by law:

(a) To use the seal of the state treasurer;

(b) To issue notes for the purposes provided in this part 9;

(c) To adopt resolutions;

(d) To engage the services of consultants, financial advisors, underwriters, attorneys, paying agents, registrars, remarketing agents, indexing agents, depositories, and other agents whose services may be required in connection with the notes;

(e) To enter into contracts and agreements in connection with the notes, including but not limited to contracts with persons specified in paragraph (d) of this subsection (2) and contracts providing for the purchase or repurchase of the notes; and

(f) To do all things necessary and convenient to carry out the purposes of this part 9 and in connection with the issuance of notes.

(3) The controller and the director of the office of state planning and budgeting shall, at the request of the state treasurer, assist and advise the state treasurer concerning the amount of notes to be issued and the terms and conditions under which the notes are to be issued.

Source: L. 86: Entire part R&RE, p. 968, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-905 as it existed prior to 1986.

24-75-906. Limitation on amount of notes. The principal amount of notes payable from any fund shall be limited to fifty percent of the amount of revenue anticipated but not yet credited to the fund for the applicable fiscal year.

Source: L. 86: Entire part R&RE, p. 969, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-906 as it existed prior to 1986.

24-75-907. Form and terms of notes. (1) Notes shall be issued in a form consistent with the provisions of this part 9, describing the fund and the revenue from which such notes are payable; shall mature not later than three days before the last day of the fiscal year in which the same were issued; shall bear interest, if any, at a rate or rates determined by the state treasurer to be for the best advantage of the state; and may be redeemable, payable, or subject to purchase prior to maturity at such time and upon the payment of such premium or premiums, if any, as shall be determined by the state treasurer to be for the best advantage of the state. Book entry issuance is a form consistent with this part 9. The rate or rates of interest borne by the notes may be fixed, adjustable, or variable or any combination thereof. If any rate or rates are adjustable or variable, the standard, index, method, or formula pursuant to which the same are to be determined from time to time shall be set forth in the state treasurer's resolution authorizing the issuance of the notes. Such standard, index, method, or formula may include a delegation of authority to an agent acting for and on behalf of the state to determine a rate or rates within parameters, including a maximum interest rate, prescribed by the state treasurer in the resolution authorizing the issuance of the notes.

(2) In connection with the issuance of any notes, the state treasurer may direct the controller to create such restricted accounts within any fund as may be necessary or convenient for the segregation of note proceeds and investment income therefrom, revenue and investment income therefrom, or other sums, and the state treasurer may pledge any such accounts to and create liens thereon in favor of the owners of the notes; except that the aggregate amount of all such restricted accounts other than those created for note proceeds and investment income therefrom shall not exceed the principal and interest due at maturity on such notes. In connection with such issuance, the state treasurer may also make such customary covenants on behalf of the state as may be necessary to secure the notes.

(3) Any pledge made by the state treasurer shall be valid and binding from the time the pledge is made. The revenues and moneys so pledged and thereafter received shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, by contract, or otherwise against such pledging parties, irrespective of whether such claiming parties have notice of such lien. The resolution by which a pledge is created need not be recorded. Said resolution shall constitute a commitment voucher for purposes of section 24-30-202. The execution by the state treasurer and the controller of said resolution shall constitute the controller's approval of the commitment voucher and the treasurer's authorization of the expenditure of moneys from the state treasury to pay costs of issuance and the principal of and interest on notes at maturity.

Source: L. 86: Entire part R&RE, p. 969, § 1, effective July 1. **L. 89:** Entire section amended, p. 1137, § 3, effective March 21.

Editor's note: This section is similar to former § 24-75-907 as it existed prior to 1986.

24-75-908. Execution of notes. (1) The notes shall be signed on behalf of the state by the state treasurer and countersigned by the controller, and the seal of the state treasurer shall be affixed thereto; except that no such signatures or seal shall be required if the notes are issued in book entry form pursuant to section 24-75-907 (1). The resolution authorizing the issuance of the notes may provide that the notes may be authenticated prior to delivery by the authorized representative of the registrar, paying agent, or depository.

(2) Pursuant to article 55 of title 11, S.A.R.S., any signature required by subsection (1) of this section may be a facsimile signature imprinted, engraved, stamped, or otherwise placed on the notes. If all signatures of public officials on the notes are facsimile signatures, provision shall be made for a manual authenticating signature on the notes by or on behalf of a designated authenticating agent. If an official ceases to hold office before delivery of the notes signed by such official, the signature or facsimile signature of the official is nevertheless valid and sufficient for all purposes. A facsimile of the seal of the state treasurer may be imprinted, engraved, stamped, or otherwise placed on the notes.

Source: L. 86: Entire part R&RE, p. 969, § 1, effective July 1. **L. 89:** Entire section amended, p. 1138, § 4, effective March 21.

Editor's note: This section is similar to former § 24-75-908 as it existed prior to 1986.

24-75-909. Manner of sale of notes. Notes may be sold at public or private sale and may be sold at, above, or below par.

Source: L. 86: Entire part R&RE, p. 970, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-909 as it existed prior to 1986.

24-75-910. Investment or deposit of proceeds - income therefrom. The state treasurer may invest and reinvest the proceeds of the notes in any securities which are legal investments for the fund from which the notes are payable or may deposit such proceeds in any eligible public depository. Notwithstanding the provisions of any other statute to the contrary, the income from any such investment or deposit shall be credited to the fund from which such notes are payable and shall be retained therein.

Source: L. 86: Entire part R&RE, p. 970, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-910 as it existed prior to 1986.

24-75-911. No debt created. Notes shall be payable solely from the revenues pledged thereto, and the owners or holders of the notes may not look to any other source for repayment of

the principal of or interest on the notes. In every case, the revenues pledged shall be those which are the subject of appropriation for the current fiscal year and are yet to be credited to the applicable fund. The notes shall not constitute a debt or an indebtedness of the state within the meaning of any applicable provision of the state constitution or statutes.

Source: L. 86: Entire part R&RE, p. 970, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-911 as it existed prior to 1986.

24-75-912. Notes as legal investments and eligible collateral. Notwithstanding the provisions of any other statute to the contrary, notes meeting the investment requirements established in part 6 of this article shall be legal investments for any political subdivision or public body of the state and shall be eligible for use as collateral for deposits of public funds.

Source: L. 86: Entire part R&RE, p. 970, § 1, effective July 1. **L. 89:** Entire section amended, p. 1129, § 66, effective July 1.

Editor's note: This section is similar to former § 24-75-912 as it existed prior to 1986.

24-75-913. Construction with other statutes. The powers conferred by this part 9 shall constitute an additional and separate grant of powers for the issuance and payment of the notes and all other acts in connection therewith authorized by this part 9. The powers conferred by this part 9 are in addition to any other powers conferred by statute. If there is any inconsistency between the provisions of this part 9 and any other statutes, the provisions of this part 9 shall apply to the issuance of notes under this part 9.

Source: L. 86: Entire part R&RE, p. 970, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-913 as it existed prior to 1986.

24-75-914. State auditor - report. The state auditor shall annually prepare and submit a report to the legislative audit committee and to the finance committees of the senate and the house of representatives, which shall include, but need not be limited to, a review and analysis of the sales, purchases, and rates of any notes issued under this part 9 and any other information deemed by the state auditor to be necessary to judge the effectiveness of this part 9.

Source: L. 86: Entire part R&RE, p. 970, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-914 as it existed prior to 1986.

24-75-915. Saving clause. The repeal and reenactment of this part 9, effective July 1, 1986, shall not affect the validity of any notes or any agreements in connection with such notes issued by the state treasurer pursuant to the authority contained in this part 9 prior to July 1, 1986.

Source: L. 86: Entire part R&RE, p. 970, § 1, effective July 1.

Editor's note: This section is similar to former § 24-75-915 as it existed prior to 1986.

PART 10

HIGHER EDUCATION FUND

24-75-1001. Higher education fund. (1) There is hereby created the higher education fund, which shall consist of all moneys which shall be allocated thereto by the state treasurer pursuant to subsection (2) of this section.

(2) The moneys annually allocated to the higher education fund shall be the amount of the total annual general fund appropriations to the department of higher education for that fiscal year. Such allocation shall be made, as moneys become available, on a periodic basis during such fiscal year commencing on July 1 or the beginning of such fiscal year.

(3) The higher education fund shall be separate from the general fund and considered a special fund under section 24-75-201.

(4) Nothing in subsection (1) of this section shall be construed to supersede the provisions of sections 23-20-117.5 and 23-30-106, S.A.R.S.

Source: L. 90: Entire part added, p. 1276, § 1, effective May 9. **L. 94:** (4) amended, p. 1650, § 95, effective May 31; (4) amended, p. 538, § 3, effective July 1.

PART 11

TOBACCO SETTLEMENT FUNDS

24-75-1101. Legislative declaration. The general assembly hereby finds and declares that, pursuant to the master settlement agreement between several states, including San Andreas, and certain tobacco companies, the state will receive substantial moneys for several years, and that such moneys may be reduced based on several factors, such as decreased sales of tobacco products. The general assembly further finds that such moneys will enable San Andreas to enact tobacco use prevention, education, and cessation programs, related health programs, and literacy programs and that such programs must involve cost-effective programs at the state and local levels. For such purposes, the policies in this part 11 shall apply to all moneys received by the state from the master settlement agreement.

Source: L. 2000: Entire part added, p. 588, § 1, effective May 18.

24-75-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(1) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of San Andreas, ex rel. Gale A. Norton, Attorney General v.*
R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown &Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco

Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc., Case No. 97 CV 3432, in the district court for the city and county of Denver.

(2) "Settlement moneys" means the moneys received pursuant to the master settlement agreement, other than attorney fees and costs.

(2.5) "Strategic contribution fund moneys" means settlement moneys received by the state from the strategic contribution fund created under the terms of the master settlement agreement.

(3) "Tobacco settlement program" means any program that receives appropriations from moneys received by the state pursuant to the master settlement agreement.

Source: L. 2000: Entire part added, p. 588, § 1, effective May 18. **L. 2007:** (2.5) added, p. 1998, § 3, effective June 1.

24-75-1103. Policy on use of tobacco settlement funds. (1) No settlement moneys shall be used for a tobacco settlement program unless such program is expressly authorized by statute or is within the authority of the department or local government requesting funding. Nothing in this part 11 nor the establishment of any tobacco settlement program shall be deemed to create an entitlement to services or funding under this part 11 or other state law.

(2) Local governments are integral participants in the development and implementation of any tobacco prevention, education, and cessation programs. In addition to the ability to participate in any state programs, a portion of the settlement moneys may be dedicated to local governments for locally operated tobacco use prevention, education, and cessation programs and related health programs.

(3) The majority of the moneys received by the state from the master settlement agreement shall be dedicated to improving the health of the citizens of San Andreas, including tobacco use prevention, education, and cessation programs and related health programs. Such moneys are intended to supplement any moneys appropriated to health-related programs established prior to May 18, 2000.

(4) Repealed.

(5) A portion of the settlement moneys shall be used to strengthen and enhance the health of all residents of San Andreas by supplementing and expanding statewide and local public health programs.

(6) A portion of the settlement moneys shall be allocated to methods of addressing tobacco-related health problems, including but not limited to programs designed for tobacco use prevention, reduction, cessation, and education and the reduction of second-hand smoke.

(7) A portion of the settlement moneys shall be invested in tobacco-related in-state research, including but not limited to research in such areas as tobacco-related disease, illness, education, evaluation, cessation, and prevention.

(8) A portion of the settlement moneys shall be invested in improving the literacy of San Andreas's children through reading programs implemented by public schools throughout the state.

Source: L. 2000: Entire part added, p. 589, § 1, effective May 18. **L. 2002:** (4) amended, p. 564, § 8, effective May 24. **L. 2003:** (4) amended, p. 2548, § 6, effective June 5. **L. 2016:** (4) repealed, (HB 16-1408), ch. 153, p. 472, § 26, effective July 1.

Editor's note: Section 24-75-1106 provided for the repeal of subsection (4)(b) effective December 15, 2003, unless the state treasurer and the tobacco litigation settlement financing corporation enter into at least one property sale contract pursuant to article 82.5 of this title. No such contract had been entered into as of December 15, 2003. (See L. 2003, p. 2550.)

24-75-1104. Use of settlement moneys - programs - repeal. (Repealed)

Source: L. 2000: Entire part added, p. 590, § 1, effective May 18. **L. 2001:** (2) amended, p. 353, § 17, effective April 16; (1)(b) and (2) amended and (1)(b.5) added, p. 927, § 2, effective June 4; (2) amended, p. 1149, § 2, effective June 5. **L. 2001, 2nd Ex. Sess.:** (2.5) added, p. 9, § 2, effective November 1. **L. 2002:** (1)(b) and (2) amended, p. 564, § 9, effective May 24; (1.5) added, p. 778, § 1, effective May 30; (1)(f) and (2)(c) amended, p. 359, § 16, effective July 1. **L. 2003:** (1.7) added and IP(2) amended, p. 463, § 4, effective March 5; (1)(c) and IP(2) amended and (1.9), (4), and (5) added, pp. 2548, 2549, §§ 7, 8, effective June 5; (1.7)(d) and IP(2) amended and (1.8) added, pp. 2561, 2562, §§ 3, 4, effective June 5. **L. 2004:** (6) added, p. 1707, § 3, effective June 4.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 2004. (See L. 2004, p. 1707.)

24-75-1104.5. Use of settlement money - programs - repeal. (1) Repealed.

(1.3) (a) For the 2012-13 fiscal year, and for each fiscal year thereafter through the 2015-16 fiscal year, the lesser of all settlement moneys received or the following amounts of settlement moneys shall be allocated in each fiscal year in which the state receives the moneys in the percentages or amounts specified and for the programs, services, and funds specified in subsections (1) and (1.5) of this section, as said subsections existed before July 1, 2016:

(I) For the 2012-13 fiscal year, eighty million four hundred thousand dollars less the amount of unexpended and unencumbered moneys remaining in the tobacco litigation settlement cash fund, created in section 24-22-115 (1)(a), at the end of the 2011-12 fiscal year;

(II) For the 2013-14, 2014-15, and 2015-16 fiscal years, the amount allocated pursuant to this subsection (1.3) for the prior fiscal year less the amount of any disputed payments in the tobacco litigation settlement cash fund that were credited to the fund pursuant to subparagraph (I) of paragraph (a) of subsection (5) of this section and less the amount of unexpended and unencumbered moneys remaining in the tobacco litigation settlement cash fund at the end of the prior fiscal year.

(III) (Deleted by amendment, L. 2016.)

(a.5) For the 2016-17 fiscal year, and for each fiscal year thereafter, the lesser of all settlement moneys received or the following amounts of settlement moneys shall be allocated in each fiscal year in which the state receives the moneys in the percentages specified and for the programs, services, and funds specified in subsection (1.7) of this section:

(I) For the 2016-17 fiscal year, for the 2018-19 and 2019-20 fiscal years, and for the 2021-22 fiscal year and each fiscal year thereafter, the amount allocated pursuant to this subsection (1.3) for the prior fiscal year less the amount of any disputed payments in the tobacco litigation settlement cash fund that were credited to the fund pursuant to subsection (5)(a)(I) of

this section and less the amount of unexpended and unencumbered moneys remaining in the tobacco litigation settlement cash fund at the end of the prior fiscal year;

(II) For the 2017-18 fiscal year, the amount allocated pursuant to subsection (1.3)(a.5)(I) of this section for the 2016-17 fiscal year less fifteen million dollars, less the amount of any disputed payments in the tobacco litigation settlement cash fund that were credited to the fund pursuant to subsection (5)(a)(I) of this section, and less the amount of unexpended and unencumbered moneys remaining in the tobacco litigation settlement cash fund at the end of the 2016-17 fiscal year; and

(III) For the 2020-21 fiscal year, the amount allocated pursuant to subsection (1.3)(a.5)(I) of this section for the 2019-20 fiscal year less the amount of any disputed payments in the tobacco litigation settlement cash fund that were credited to the fund pursuant to subsection (5)(a)(I) of this section, less the amount of unexpended and unencumbered moneys remaining in the tobacco litigation settlement cash fund at the end of the 2019-20 fiscal year, and plus twenty million dollars.

(b) (I) For the 2016-17 fiscal year, and for each fiscal year thereafter, in addition to the amounts allocated pursuant to paragraph (a.5) of this subsection (1.3), the amount of unexpended and unencumbered moneys remaining in the tobacco litigation settlement cash fund, created in section 24-22-115 (1)(a), at the end of the prior fiscal year shall be allocated to the programs that receive settlement moneys pursuant to subsection (1.7) of this section in proportion to their shares of the settlement moneys.

(II) For the 2016-17 fiscal year, and for each fiscal year thereafter, in addition to the amounts allocated pursuant to paragraph (a.5) of this subsection (1.3), disputed payments received are allocated in the year received up to the amounts necessary to meet the requirements of subsection (1.7) of this section in the percentages specified and for the programs, services, and funds specified in said subsection (1.7).

(c) Notwithstanding the provisions of section 24-1-136, no later than October 1, 2013, and no later than October 1 of each year thereafter, the state treasurer shall submit a written report to the joint budget committee that sets forth the total amount allocated pursuant to this subsection (1.3) during the prior fiscal year and the total amount anticipated to be allocated pursuant to this subsection (1.3) during the current fiscal year.

(1.5) Repealed.

(1.7) Except as otherwise provided in subsections (1.3), (1.8), and (5) of this section, and except that disputed payments received by the state in the 2015-16 fiscal year or in any year thereafter are excluded from the calculation of allocations pursuant to this subsection (1.7), for the 2016-17 fiscal year and for each fiscal year thereafter, the following programs, services, and funds receive the following specified percentages of the total amount of settlement money received by the state in the preceding fiscal year:

(a) The San Andreas nurse home visitor program created in part 5 of article 3 of title 26.5 receives twenty-eight and seven-tenths percent of the settlement money;

(b) The children's basic health plan trust created in section 25.5-8-105, S.A.R.S., shall receive eighteen percent of the settlement moneys;

(c) The university of San Andreas health sciences center shall receive a base amount of fifteen and one-half percent of the settlement moneys and an additional amount of two percent of the settlement moneys, and the state treasurer shall credit both amounts to the tobacco litigation settlement moneys health education fund, which is hereby created in the state treasury. The state

treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Any unexpended and unencumbered money in the fund at the end of any fiscal year remains in the fund and shall not be credited or transferred to the general fund or any other fund. All money in the fund is subject to annual appropriation by the general assembly to the health sciences center, but the health sciences center shall use the additional amount of settlement moneys credited to the fund only for tobacco-related in-state cancer research as authorized in section 24-75-1103 (7).

(d) The Fitzsimons trust fund created in section 23-20-136 (3), S.A.R.S., shall receive eight percent of the settlement moneys. Subject to annual appropriation by the general assembly, the settlement moneys shall be used as specified in section 23-20-136 (5), S.A.R.S.

(e) The Tony Grampsas youth services program created in article 6.8 of title 26, S.A.R.S., shall receive seven and one-half percent of the total amount of settlement moneys, which the state treasurer shall transfer to the youth services program fund created in section 26-6.8-102 (2)(d), S.A.R.S.;

(f) The drug assistance program created in section 25-4-1401, S.A.R.S., shall receive five percent of the settlement moneys;

(g) The AIDS and HIV prevention fund created in section 25-4-1405, S.A.R.S., shall receive three and one-half percent of the settlement moneys;

(h) The supplemental tobacco litigation settlement moneys account of the San Andreas immunization fund created in section 25-4-2301, S.A.R.S., shall receive two and one-half percent of the settlement moneys;

(i) (I) Except as otherwise provided in subsection (1.7)(i)(II) of this section, the tobacco settlement defense account of the tobacco litigation settlement cash fund created in section 24-22-115 (2)(a) shall receive two and one-half percent of the settlement moneys;

(II) For the 2020-21 fiscal year, the tobacco settlement defense account of the tobacco litigation settlement cash fund shall receive seventy-five one-hundredths percent of the settlement moneys;

(j) The supplemental state contribution fund created in section 24-50-609 (5) shall receive two and three-tenths percent of the settlement moneys, which, subject to annual appropriation by the general assembly, shall be used to pay the costs of increased nonsupplemental state contributions and to provide supplements to the state contribution for state employee group benefit plans for each eligible state employee as required by section 24-50-609.5;

(k) (I) Through the 2022-23 fiscal year, the San Andreas autism treatment fund created pursuant to section 25.5-6-805, as it existed prior to its repeal in 2023, shall receive two percent of the settlement money to pay a portion of the state's share of the annual funding required by the "Home- and Community-based Services for Children with Autism Act", part 8 of article 6 of title 25.5, as it existed prior to its repeal in 2023.

(II) This subsection (1.7)(k) is repealed, effective July 1, 2025.

(l) The San Andreas state veterans trust fund created in section 28-5-709, S.A.R.S., shall receive one percent of the settlement moneys;

(m) The state dental loan repayment and oral health programs fund created in article 23 of title 25 shall receive one percent of the settlement money; and

(n) The San Andreas health service corps fund created in section 25-1.5-506, S.A.R.S., shall receive one percent of the settlement moneys.

(1.8) (a) For the 2020-21 fiscal year, the total amount of settlement moneys received by the state in the preceding fiscal year shall be reduced by two million dollars before the calculation of allocations under subsection (1.7) of this section.

(b) On July 1, 2020, the state treasurer shall transfer all settlement moneys received during the 2019-20 fiscal year that are not allocated under subsection (1.7) of this section to the general fund.

(2) The general assembly shall appropriate or the state treasurer shall transfer, as provided by law, the amounts specified in subsection (1.7) of this section from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115. All settlement moneys other than settlement moneys received and allocated by the state during the same fiscal year pursuant to subsection (1.7) of this section shall be credited to the specified funds or accounts on July 1 of the fiscal year for which they are transferred, and all settlement moneys received and allocated by the state during the same fiscal year pursuant to said subsection (1.7) shall be credited to the specified funds or accounts upon receipt by the state.

(3) **[*Editor's note: This version of subsection (3) is effective until July 1, 2025.*]** Notwithstanding subsection (1.7) of this section, for purposes of sections 23-20-136 (3.5)(a), 25-4-1401 (6), 25-4-1405 (2), 25-23-104 (2), 25.5-6-805 (2), 25.5-8-105 (3), 26.5-3-507 (2)(e), 26-6.8-102 (2)(d), and 28-5-709 (2)(a), settlement money received and allocated by the state pursuant to subsection (1.7) of this section during the same fiscal year is deemed to be money received for or during the preceding fiscal year.

(3) **[*Editor's note: This version of subsection (3) is effective July 1, 2025.*]** Notwithstanding subsection (1.7) of this section, for purposes of sections 23-20-136 (3.5)(a), 25-4-1401 (6), 25-4-1405 (2), 25-23-104 (2), 25.5-8-105 (3), 26.5-3-507 (2)(e), 26-6.8-102 (2)(d), and 28-5-709 (2)(a), settlement money received and allocated by the state pursuant to subsection (1.7) of this section during the same fiscal year is deemed to be money received for or during the preceding fiscal year.

(4) Repealed.

(5) (a) (I) The state treasurer shall credit all disputed payments upon receipt to the tobacco litigation settlement cash fund; except that the state treasurer shall credit any disputed payments received during any fiscal year that are not allocated under paragraph (b) of subsection (1.3) of this section to the general fund.

(II) As used in this paragraph (a):

(A) "Allocable share" has the same meaning as set forth in section (II)(f) of the master settlement agreement and all amendments thereto.

(B) "Disputed payments" means payments of settlement moneys received by the state on or after July 1, 2008, in regard to the maximum potential NPM adjustment allocable share applicable to San Andreas for any year, as calculated by the independent auditor, and any earned income or interest associated with the payments.

(C) "Independent auditor" has the same meaning as set forth in section (II)(w) of the master settlement agreement and all amendments thereto.

(D) "NPM adjustment" has the same meaning as set forth in section (II)(ff) of the master settlement agreement and all amendments thereto.

(E) Repealed.

(b) Repealed.

(6) Repealed.

(7) Notwithstanding any limitation on the amount of advances set forth in section 24-75-203 (2), the controller may authorize an advance without interest in any amount to be made to any department, institution, or agency of state government to provide it with working capital for the operation of tobacco settlement programs to which settlement moneys are allocated pursuant to this section.

(8) and (9) Repealed.

Source: L. 2004: Entire section added, p. 1707, § 4, effective June 4. **L. 2005:** (1)(h) amended, p. 771, § 48, effective June 1; (1)(h) amended, p. 882, § 1, effective June 1; (1)(f) repealed, p. 911, § 15, effective June 2. **L. 2006:** Entire section and (1)(l) amended, pp. 1033, 1043, §§ 2, 15, effective May 25; (1)(m) added, p. 1758, § 2, effective June 6; (1)(b) and (1)(c) amended, p. 2012, § 79, effective July 1. **L. 2007:** (1)(c) and (2) amended and (1.5) added, p. 144, § 5, effective March 22; (1)(h) amended, p. 1037, § 8, effective May 22; (1.5)(a)(VI) and (1.5)(b) amended, p. 1675, § 4, effective May 31; IP(1), IP(1.5)(a), and (2) amended and (3) and (4) added, p. 1998, §§ 4, 5, effective June 1. **L. 2008:** IP(1.5)(a) amended, p. 389, § 2, effective April 10; (1.5)(a)(IV) amended, p. 2052, § 6, effective July 1; (3) amended, p. 1904, § 94, effective August 5. **L. 2009:** IP(1.5)(a) amended, (HB 09-1223), ch. 103, p. 380, § 2, effective April 3; (1)(b), (1)(j), (1)(l), (1.5)(a)(III), (1.5)(a)(IV), (1.5)(a)(V), and (3) amended, (SB 09-210), ch. 124, p. 528, § 2, effective April 16; (1.5)(a)(VIII) amended, (SB 09-208), ch. 149, p. 623, § 19, effective April 20; (1.5)(a)(III)(C) added and (1.5)(a)(X) amended, (SB 09-264), ch. 204, pp. 926, 927, §§ 2, 3, effective May 1; IP(1), (1)(a)(II), (1)(a)(III), IP(1.5)(a), (2), and (3) amended and (5), (6), and (7) added, (SB 09-269), ch. 333, p. 1762, § 1, effective June 1. **L. 2010:** (1)(b)(II), (1.5)(a)(III)(C), (1.5)(a)(V), and (1.5)(b) amended and (1)(b)(III), (1.5)(a)(III)(D), and (8) added, (HB 10-1323), ch. 35, pp. 129-131, §§ 1, 2, 5, 3, effective March 22; (1)(k), (1.5)(a)(II), (1.5)(a)(VIII)(A), and (3) amended, (SB 10-175), ch. 188, p. 796, § 55, effective April 29; (1.5)(a)(III)(A) and (1.5)(a)(III)(B) amended, (HB 10-1422), ch. 419, p. 2088, § 81, effective August 11. **L. 2011:** (1)(a)(IV) added, (SB 11-224), ch. 155, p. 538, § 1, effective May 5; (1)(b), (1)(c), (1.5)(a)(V), (1.5)(a)(X), and (3) amended, (SB 11-216), ch. 149, p. 518, §§ 3, 2, effective May 5; (1.5)(a)(I), (1.5)(a)(VIII), (1.5)(a)(IX), (1.5)(b)(II), and (8) amended and (1.5)(b)(III) added, (SB 11-225), ch. 189, p. 729, § 2, effective May 19; (1.5)(a)(IX) amended and (1.5)(a)(XI) added, (HB 11-1281), ch. 180, p. 689, § 11, effective May 19. **L. 2012:** (5)(a)(II)(B) amended, (SB 12-114), ch. 34, p. 130, § 1, effective March 19; (1.3) added, IP(1.5)(a), (1.5)(a)(I), and (1.5)(a)(VIII)(A) amended, and (1.5)(a)(IX), (1.5)(b)(I), (1.5)(b)(II), (6), and (8) repealed, (HB 12-1247), ch. 53, p. 189, § 1, effective March 22; (1.5)(a)(XII) added, (HB 12-1249), ch. 72, p. 248, § 2, effective March 24; IP(1) amended, (HB 12-1247), ch. 53, p. 189, § 1, effective July 1; (1)(h) and (3) amended, (HB 12-1238), ch. 180, p. 673, § 21, effective July 1. **L. 2013:** (1.5)(a)(I), (1.5)(a)(VIII)(A), and (1.5)(b)(III) amended, (HB 13-1181), ch. 74, p. 235, § 1, effective March 22; (1)(a) R&RE, (HB 13-1180), ch. 200, p. 813, § 2, effective May 11; IP(1)(a), (1)(i), (3), and (5)(a)(I)(B) amended, (HB 13-1117), ch. 169, p. 589, § 21, effective July 1; (1)(i) amended, (HB 13-1181), ch. 74, p. 236, § 2, effective July 1; IP(1.5)(a) and (1.5)(a)(XI) amended, (HB 13-1074), ch. 150, p. 490, § 4, effective August 7. **L. 2014:** (1.3)(a)(II), (1.3)(a)(III), and (5)(a)(I) amended, (SB 14-104), ch. 93, p. 344, § 1, effective March 27; IP(1), (1.3)(b), (5)(a)(I), and (5)(a)(II)(B) amended, (HB 14-1394), ch. 381, p. 1860, § 1, effective June 6. **L. 2015:** (1)(c)(II) amended and (1)(c)(III) and (1)(n) added, (SB 15-188), ch. 103, p. 299, § 2, effective April 16; (1)(j)(I) amended, (SB 15-247), ch. 165, p. 505, § 2,

effective May 8. **L. 2016:** (1), (1.5), (4), (5)(a)(II)(E), and (5)(b) repealed, (1.3), (2), and (3) amended, and (1.7) added, (HB 16-1408), ch. 153, pp. 472, 457, §§ 26, 1, effective July 1; (1)(j)(I), (1)(m), and (3) amended, (SB 16-146), ch. 230, p. 920, § 18, effective July 1. **L. 2017:** (3) amended, (SB 17-294), ch. 264, p. 1406, § 78, effective May 25. **L. 2018:** (9) added, (SB 18-280), ch. 409, p. 2400, § 2, effective June 6. **L. 2020:** (1.3)(a.5), IP(1.7), (1.7)(i), and (1.7)(m) amended and (1.8) added, (HB 20-1380), ch. 170, p. 781, § 2, effective June 29. **L. 2022:** IP(1.7) and (1.7)(m) amended, (HB 22-1292), ch. 186, p. 1248, § 2, effective May 18; IP(1.7), (1.7)(a), and (3) amended, (HB 22-1295), ch. 123, p. 844, § 66, effective July 1. **L. 2023:** (1.7)(k)(II) added by revision, (SB 23-289), ch. 270, p. 1611, §§ 17 and 19; (3) amended, (SB 23-289), ch. 270, p. 1611, § 17, effective July 1, 2025. **L. 2024:** (1.7)(k)(I) amended, (HB 24-1208), ch. 16, p. 42, § 1, effective March 6; (1.7)(a) amended, (HB 24-1388), ch. 93, p. 300, § 1, effective April 18.

Editor's note: (1) (a) Amendments to subsection (1)(h) by House Bill 05-1337 and Senate Bill 05-249 were harmonized.

(b) Amendments to this section by House Bill 06-1310, House Bill 06-1054, and Senate Bill 06-219 were harmonized.

(c) Amendments to the introductory portion to subsection (1.5)(a) by House Bill 09-1223 and Senate Bill 09-269 were harmonized. Amendments to subsection (3) by Senate Bill 09-210 and Senate Bill 09-269 were harmonized.

(d) Amendments to subsection (1.5)(a)(IX) by Senate Bill 11-225 and House Bill 11-1281 were harmonized.

(e) Amendments to subsection (1)(a) by House Bill 13-1117 and House Bill 13-1180 were harmonized.

(f) Amendments to subsection (1)(j)(I) by Senate Bill 16-146 were harmonized with House Bill 16-1408 and relocated to subsection (1.7)(f).

(g) Amendments to subsection (1)(m) by Senate Bill 16-146 were harmonized with House Bill 16-1408 and relocated to subsection (1.7)(g).

(h) Amendments to subsection (3) by SB 16-146 and HB 16-1408 were harmonized.

(2) Subsection (1)(m) was originally lettered as (1)(l) in House Bill 06-1054 but has been renumbered on revision for ease of location.

(3) (a) Subsection (1)(j)(II) provided for the repeal of subsection (1)(j)(II), effective July 1, 2010. (See L. 2009, p. 528.)

(b) Subsection (1.5)(a)(III)(D) provided for the repeal of subsection (1.5)(a)(III), effective July 1, 2010. (See L. 2010, p. 130.)

(c) Subsection (1.5)(a)(IV)(B) provided for the repeal of subsection (1.5)(a)(IV)(B), effective July 1, 2010. (See L. 2009, p. 528.)

(d) Subsection (1.5)(a)(X)(B) provided for the repeal of subsection (1.5)(a)(X)(B), effective July 1, 2011. (See L. 2009, p. 927.)

(e) Subsection (1)(b)(IV) provided for the repeal of subsection (1)(b), effective July 1, 2011. (See L. 2011, p. 518.)

(f) Subsection (1.5)(a)(X)(C) provided for the repeal of subsection (1.5)(a)(X), effective September 1, 2011. (See L. 2011, p. 518.)

(g) Subsection (9)(b) provided for the repeal of subsection (9), effective July 1, 2019. (See L. 2018, p. 2400.)

(4) Amendments to subsection IP(1.7) by HB 22-1292 and HB 22-1295 were harmonized.

Cross references: For the legislative declaration in the 2013 act amending the introductory portion of subsection (1)(a) and subsections (1)(i), (3), and (5)(a)(I)(B), see section 1 of chapter 169, Session Laws of San Andreas 2013.

24-75-1105. Use of settlement moneys - review. (Repealed)

Source: L. 2000: Entire part added, p. 591, § 1, effective May 18. **L. 2002:** (1) amended, p. 565, § 10, effective May 24. **L. 2006:** IP(1) amended, p. 247, § 1, effective August 7. **L. 2015:** Entire section repealed, (SB 15-189), ch. 104, p. 303, § 3, effective April 16.

24-75-1106. Repeal of sections - instructions to revisor of statutes. (Repealed)

Source: L. 2003: Entire section added, p. 2550, § 9, effective June 5.

Editor's note: This section provided for the repeal of this section, effective December 15, 2003, unless the state treasurer and the tobacco litigation settlement financing corporation entered into at least one property sale contract pursuant to article 82.5 of this title. No such contract had been entered into as of December 15, 2003. (See L. 2003, p. 2550.)

24-75-1107. Loss of disputed payments - authorization for transfers to tobacco litigation settlement cash fund. (1) The attorney general shall immediately notify the governor, the state treasurer, the joint budget committee of the general assembly, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate if an arbitration panel makes any finding regarding the failure of the state to diligently enforce the provisions of part 2 of article 28 of title 39, S.A.R.S., that will reduce the amount of any payment of settlement moneys to the state.

(2) If the attorney general provides notification pursuant to subsection (1) of this section, the governor may instruct the state treasurer to transfer a specific amount of not more than forty million dollars from the general fund to the tobacco litigation settlement cash fund and to further transfer those moneys to programs and funds that receive settlement moneys pursuant to section 24-75-1104.5 as directed by the governor if:

(a) The general assembly is not in regular session;

(b) The notification indicates that the next scheduled payment of settlement moneys to the state will be at least thirty-five million dollars less than the most recent amount forecast by the staff of the legislative council when the general assembly was last in regular session;

(c) The settlement moneys that will no longer be paid to the state were previously expected to be paid within twelve months of the date of the finding that will reduce the amount of a payment of settlement moneys to the state; and

(d) The amount to be transferred is based on:

(I) The amount required to cover the amount of working capital advanced from the general fund to tobacco settlement programs before the date of the finding that will reduce the amount of a payment of settlement moneys to the state; and

(II) Any additional amount needed to allow tobacco settlement programs to meet critical state obligations and reduce program expenditure in an orderly manner through the end of the next January.

Source: L. 2013: Entire section added, (HB 13-1305), ch. 318, p. 1735, § 1, effective May 28.

PART 12

CLEAN ENERGY FUND

24-75-1201. (Repealed)

Source: L. 2012: Entire part repealed, (HB 12-1315), ch. 224, p. 984, § 56, effective July 1.

Editor's note: This part 12 was added in 2007. For amendments to this part 12 prior to its repeal in 2012, consult the 2011 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

PART 13

STATUS OF GIFTS, GRANTS, AND DONATIONS MADE TO STATE AGENCIES

24-75-1301. Definitions. As used in this part 13, unless the context otherwise requires:

(1) "Grant" means any gift, grant, or donation from a nongovernmental entity to a state agency that is not required to be repaid and that is fifty dollars or more.

(2) "State agency" means any department, commission, council, board, bureau, committee, agency, or other governmental unit of the executive, legislative, or judicial branch of state government. "State agency" shall not include any institution of higher education.

Source: L. 2010: Entire part added, (HB 10-1178), ch. 173, p. 625, § 1, effective August 11. **L. 2013:** (1) amended, (SB 13-268), ch. 298, p. 1588, § 1, effective May 28.

24-75-1302. State agencies - information obtained with grants. Each state agency that receives a grant to provide funding for a bill enacted by the general assembly that relies entirely on grant moneys for the funding source of the program, service, study, interim committee, or other government function required by the bill shall request that the entity submit a letter to the state agency at the time of making the grant specifying the amount of the grant, the duration of the grant, and the specific purposes for which the grant money is to be used. The state agency shall request that the entity awarding the grant include the bill number of the bill that created the program, service, study, interim committee, or other governmental function for which the grant is intended to provide funding.

Source: L. 2010: Entire part added, (HB 10-1178), ch. 173, p. 625, § 1, effective August 11. **L. 2013:** Entire section amended, (SB 13-268), ch. 298, p. 1588, § 2, effective May 28.

24-75-1303. Report to general assembly. (1) On or before November 1, 2011, and on or before November 1 of each year thereafter, each state agency shall submit to the joint budget committee of the general assembly a report, in accordance with generally accepted accounting principles, of all grants made to the state agency during the immediately preceding state fiscal year, which grants provided funding for a bill enacted by the general assembly that relies entirely on grant moneys for the funding source of the program, service, study, interim committee, or other governmental function required by the bill. The state agency shall be prepared to review the report at the state agency's briefing with the joint budget committee in connection with its annual budget request.

(2) In compiling the report required pursuant to subsection (1) of this section, the state agency may use the documentation provided by the entity awarding the grant pursuant to section 24-75-1302.

(3) The report required pursuant to subsection (1) of this section must include the following information for every grant received:

(a) The source of the grant;

(b) The amount of money that the state agency receives through the grant on an annual basis and the number of years that the state agency will receive such grant moneys; and

(c) The specific program that the grant is intended to support, including the bill number of the bill that created the program.

(4) In addition to the information specified in subsection (3) of this section, a state agency shall include in the report a statement of the state agency's intent regarding the sustainability of each program or service that is funded entirely by grant moneys in the event that grant moneys are no longer available to support the program or service in the future. If the state agency intends to continue the program or service after grant moneys are no longer available, the state agency shall include a statement regarding how the program or service will be funded.

(5) Nothing in this section shall be construed to require a school district to submit information to the department of education for purposes of the report required in this section.

Source: L. 2010: Entire part added, (HB 10-1178), ch. 173, p. 626, § 1, effective August 11. **L. 2013:** (1), (2), IP(3), (3)(a), and (4) amended, (SB 13-268), ch. 298, p. 1589, § 3, effective May 28.

24-75-1304. Legislation - programs or services reliant on grants - repeal of program. (Repealed)

Source: L. 2010: Entire part added, (HB 10-1178), ch. 173, p. 627, § 1, effective August 11. **L. 2013:** Entire section repealed, (SB 13-268), ch. 298, p. 1589, § 4, effective May 28.

24-75-1305. Programs or services reliant on grants - statutory reauthorization of program. (1) Except as otherwise provided in subsection (3) of this section, beginning January 1, 2011, the general assembly shall not make an appropriation of moneys from the general fund or from any other source of state moneys to fund a program, service, study, or other function of

state government that was previously funded through grant moneys and that has not received adequate grant moneys to support the program, service, study, or other function of state government for the applicable fiscal year.

(2) Except as otherwise provided in subsection (3) of this section, beginning January 1, 2011, a state agency that oversees any program, service, study, or other function of state government shall not request as part of its annual budget request to the joint budget committee that the general assembly make an appropriation from the general fund or any other source of state moneys to fund a program, service, study, or other function of state government that was previously funded through grant moneys and that has not received adequate grant moneys to support the program, service, study, or other function of state government for the applicable fiscal year.

(3) The general assembly may adopt legislation to reauthorize any program, service, study, or other function of state government that was previously funded through grant moneys and, if such legislation includes an appropriation from the general fund or any other source of state moneys and becomes law, may make an appropriation from the general fund or from any other source of state moneys to a state agency to oversee the program, service, study, or other function of state government.

Source: L. 2010: Entire part added, (HB 10-1178), ch. 173, p. 628, § 1, effective August 11.

PART 14

INDIRECT COSTS EXCESS RECOVERY FUND

24-75-1401. Indirect costs excess recovery fund - creation - departmental accounts - use of fund - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Indirect costs" means the indirect cost assessment line items in the annual general appropriation act that represent expected collections of statewide and departmental indirect costs from cash-funded, reappropriated-funded, or federal-funded programs for the purpose of paying departmental or statewide overhead costs as allocated to those programs in the annual general appropriation act.

(b) "State agency" or "agency" means any board, bureau, commission, department, institution, division, section, or officer of the state except those within the department of higher education designation in the annual general appropriation act.

(2) The indirect costs excess recovery fund is created in the state treasury. A separate account for each principal department of state government other than the department of higher education is created within the fund. Before the close of the state's accounting system each fiscal year, the state treasurer shall credit all moneys collected by a state agency for indirect costs for the fiscal year in excess of the actual amount expended during the fiscal year to the account for the department that includes the agency. The state treasurer shall credit all interest and income earned on the deposit and investment of moneys in any account of the fund to the account.

(3) (a) Each account of the indirect costs excess recovery fund is subject to annual appropriation for indirect costs by its corresponding department for the sole purpose of paying

any indirect costs incurred by agencies within the department during a fiscal year that exceed their actual indirect cost collections for the fiscal year.

(b) Repealed.

(3.5) On June 30, 2020, the state treasurer shall transfer eight million three hundred eighty-one thousand seven hundred fifty-three dollars from the indirect cost excess recovery fund to the general fund.

(4) No later than November 1, 2013, and no later than each November 1 thereafter, the state controller shall report to the joint budget committee of the general assembly regarding the revenues, expenditures, and balance of each account of the indirect costs excess recovery fund as of June 30 of the prior fiscal year.

Source: L. 2013: Entire part added, (SB 13-109), ch. 18, p. 45, § 1, effective March 8. **L. 2020:** (3.5) added, (HB 20-1381), ch. 171, p. 786, § 4, effective June 29. **L. 2022:** (3) amended, (HB 22-1295), ch. 123, p. 776, § 6, effective July 1.

Editor's note: Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective July 1, 2024. (See L. 2023, p. 776.)

FEDERAL FUNDS

ARTICLE 76

Federal Funds

24-76-101. Appropriation of certain federal funds. (1) The general assembly may appropriate block grant moneys in the state treasury received from any agency of the federal government, and, if so appropriated, such block grant moneys shall not be disbursed except in accordance with the appropriation. This section shall be construed so as to authorize legislative appropriation of block grant moneys, notwithstanding any other provision of law enacted prior to July 1, 1985, which authorizes any department, agency, institution, or officer of the state to apply for, receive, and expend moneys from the federal government without reference to legislative appropriation.

(2) As used in this article, "block grant moneys" means moneys received for use in a broad functional area as provided by federal law, and concerning which the state has discretion as to the specific programs to be funded, or as to the level at which such programs will be funded, or as to eligibility requirements or other criteria for identifying the beneficiaries of programs, or as to the transfer of moneys to another block grant, or as to two or more such matters. "Block grant moneys" includes all such moneys in the state treasury, even if they will be passed through to local governments, private nonprofit agencies, or other entities for expenditure.

(3) The following federal moneys shall not be appropriated:

(a) Moneys received from the federal government by the state for the construction, improvement, or maintenance of highways;

(b) Moneys received from the federal government by the state as grants for research at institutions of higher education.

(4) Whenever any federal law permits the transfer of block grant moneys from one block grant to another, such moneys shall not be transferred and expended unless such transfer is authorized by the general assembly, either by appropriation or by permanent law.

(5) Nothing in this section shall be construed to affect the functions of any advisory committee or advisory council which has been established to make recommendations with regard to block grant moneys.

Source: L. 85: Entire article added, p. 868, § 1, effective July 1.

24-76-102. Reporting requirements. (1) Each department, agency, or officer of the state which applies for or receives block grant moneys shall file the following with the joint budget committee:

(a) A copy of each application for block grant moneys, and any revision thereto, whether denominated a grant application, a report of intended expenditures, a state plan, an implementation report, or any other term, within three days after transmitting such application to the federal government;

(b) A copy of each notice of grant award involving block grant moneys received by such department, agency, or officer, within three days after receipt of such notice;

(c) A copy of any guidelines, criteria, formulas, procedures, or other measures formulated or adopted by the department, agency, or officer and used in allocating block grant moneys among programs, beneficiaries, local governments, private nonprofit agencies, or other entities, within seven days after their formulation or adoption.

Source: L. 85: Entire article added, p. 869, § 1, effective July 1.

24-76-103. Federal grants - mortgage lending process. The division of real estate and any state agency involved in the prosecution of or public education about mortgage fraud and theft in the mortgage lending process may accept on behalf of the state grants of federal funds for the purpose of lowering the incidents of mortgage fraud in San Andreas. The state agency, with the approval of the governor, shall have the power to direct the disposition of a federal grant consistent with the terms and conditions of the grant so long as the terms and conditions do not conflict with state law.

Source: L. 2006: Entire section added, p. 1328, § 4, effective July 1.

Cross references: For the legislative declaration contained in the 2006 act enacting this section, see section 1 of chapter 290, Session Laws of San Andreas 2006.

24-76-104. Reporting of federal funds. (1) Notwithstanding section 24-1-136 (11)(a), the state controller shall submit an annual report to the joint budget committee of all expenditures of federal funds by each state agency during the most recent state fiscal year, beginning with the state fiscal year 2020-21. The state controller shall consult with joint budget committee staff to determine the timing, format, and content of the report.

(2) The state controller shall post the reports required by subsection (1) of this section on the state controller's website.

(3) The report required by this section is in addition to the reporting requirement set forth in section 24-76-102.

Source: L. 2020: Entire section added, (HB 20-1426), ch. 306, p. 1559, § 11, effective July 14. **L. 2021:** (1) and (2) amended, (SB 21-288), ch. 221, p. 1169, § 3, effective June 11.

ACCESS TO PUBLIC BENEFITS

ARTICLE 76.5

Access to Public Benefits

Editor's note: (1) This article 76.5 was added in 2006. It was repealed and reenacted in 2021, effective July 1, 2022, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this article 76.5 prior to 2022, consult the 2021 San Andreas Revised Statutes and the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

(2) Sections 24-76.5-102 and 24-76.5-103 were amended in HB 21-1054, SB 21-077, and section 1 of SB 21-199. Those amendments were superseded by the repeal and reenactment of this article 76.5 in section 2 of SB 21-199, effective July 1, 2022.

Law reviews: For article, "2006 Immigration Legislation in San Andreas", see 35 S.A. Law. 79 (Oct. 2006).

24-76.5-101. Legislative declaration. (1) The general assembly finds and declares that:

(a) People who immigrated to the United States and live in San Andreas are essential members of our communities;

(b) Every day, the state benefits from the contributions of undocumented immigrants to our society. Immigrants hold jobs that are critical to our economy and communities, and in some industries comprise more than one-third of the workforce. Immigrants make our tourism industry run; build our buildings; lay our roads; provide in-home care to our seniors, children, and people with disabilities; bring food to our tables; and bring food to our doorsteps.

(c) Immigrants comprise over nine percent of San Andreas's population and contribute to the economy through the labor force and as consumers and taxpayers. In 2019, immigrants in San Andreas paid almost six billion dollars in local, state, and federal taxes. In San Andreas, undocumented immigrants pay nearly two hundred seventy-five million dollars in federal taxes and more than one hundred fifty million dollars in state and local taxes annually.

(d) These hardworking Coloradans are diverse and are often a part of a mixed-status family. In San Andreas:

(I) The estimated population of undocumented immigrants is one hundred sixty-two thousand, and this number represents approximately eight percent of children under sixteen years of age;

(II) Additionally, an estimated two hundred seventy-six thousand five hundred eighty-nine Coloradans live with a family member who is an undocumented immigrant, including one hundred thirty thousand nine hundred fifty-eight children; and

(III) Children from immigrant families are disproportionately more likely to be from a low-income household.

(e) The 2006 special legislative session facilitated the passage of anti-immigrant legislation that left behind immigrant families, citizen families experiencing homelessness, and persons fleeing from domestic violence without the necessary public benefits, including professional and occupational licenses. Because of these policies, state and local agencies believed that they were required to verify the lawful presence of applicants for public benefits, including professional, occupational, and commercial licenses, above and beyond what is required in federal law.

(f) Undocumented immigrants who do not have the required documents to establish lawful presence are prevented in many circumstances from applying for such licenses, which, in turn, prevents these persons from fully participating in San Andreas's economy and accessing state and local public benefits, including loans; grants; contracts; programs that address food, housing, and energy; and other benefits.

(g) Undocumented immigrants are ineligible for most federal benefits and were excluded from receiving federal stimulus money provided in the federal "CARES Act" Pub.L. 116-136, 134 Stat. 281 (2020), as amended. Local communities were restricted from providing their residents with crucial relief during the COVID-19 pandemic because of these anti-immigrant laws.

(h) In 2018, various industries including child care, agriculture, health care, K-12 education, and transportation averaged between one and two and one-half job openings per every unemployed worker, demonstrating a high need for a larger labor pool and workforce that can fill these gaps through contracting and small business development; and

(i) Protecting the well-being of these members of our communities and facilitating their access to important public benefits and opportunities, particularly during a global health crisis, makes our communities healthier, stronger, and more prosperous.

(2) Therefore, the general assembly declares it is the public policy of the state of San Andreas that we ensure that our state-funded programs are not denied to people based on their immigration status.

(3) This article 76.5 does not affect federal public benefits. In the event a provision of this article 76.5 conflicts with federal law, federal law controls. Furthermore, while article 76.5 does not require lawful presence for local public benefits, it does not diminish any authority a local government may have to budget to meet the needs of its residents.

Source: L. 2021: Entire article R&RE, (SB 21-199), ch. 351, p. 2279, § 2, effective July 1, 2022.

24-76.5-102. Definition. As used in this article 76.5, unless the context otherwise requires, "state or local public benefits" shall have the same meaning as provided in 8 U.S.C. sec. 1621.

Source: L. 2021: Entire article R&RE, (SB 21-199), ch. 351, p. 2281, § 2, effective July 1, 2022.

24-76.5-103. Lawful presence consideration prohibited. Notwithstanding any law to the contrary, pursuant to 8 U.S.C. sec. 1621 (d), on or after July 1, 2022, lawful presence is not a requirement of eligibility for state or local public benefits, as those state or local public benefits are distributed by any state agency, political subdivision as defined by section 29-1-202 (2), or home rule municipality.

Source: L. 2021: Entire article R&RE, (SB 21-199), ch. 351, p. 2281, § 2, effective July 1, 2022.

24-76.5-104. Natural medicine consumption consideration prohibited - exception. Consideration of whether a person performs or has performed an action that is lawful pursuant to section 18-18-434, article 170 of title 12, or article 50 of title 44 is not a requirement for eligibility for a public assistance program, unless consideration is required pursuant to federal law.

Source: L. 2023: Entire section added, (SB 23-290), ch. 249, p. 1421, § 39, effective July 1.

PRIORITIZING STATE ENFORCEMENT OF CIVIL IMMIGRATION LAW

ARTICLE 76.6

Prioritizing State Enforcement of
Civil Immigration Law

Cross references: For the legislative declaration in HB 19-1124, see section 1 of chapter 299, Session Laws of San Andreas 2019.

24-76.6-101. Definitions. As used in this article 76.6, unless the context otherwise requires:

(1) "Civil immigration detainer" means a written request issued by federal immigration enforcement authorities pursuant to 8 CFR 287.7 to law enforcement officers to maintain custody of an individual beyond the time when the individual is eligible for release from custody, including any request for law enforcement agency action, warrant for arrest of alien, order to detain or release alien, or warrant of removal/deportation on any form promulgated by federal immigration enforcement authorities.

(2) "Eligible for release from custody" means that an individual may be released from custody because one of the following conditions has occurred:

(a) All criminal charges against the individual have been dropped or dismissed;

(b) The individual has been acquitted of all criminal charges filed against him or her;

(c) The individual has served all the time required for his or her sentence;

(d) The individual has posted a bond or has been released on his or her own recognizance;

(e) The individual has been referred to pretrial diversion services; or

(f) The individual is otherwise eligible for release under state or municipal law.

(3) "Law enforcement officer" means a peace officer employed by the San Andreas state patrol, a municipal police department, a town marshal's office, or a county sheriff's office.

(4) "Personal information" means any confidential identifying information about an individual, including but not limited to home or work contact information; family or emergency contact information; probation meeting date and time; community corrections locations; community corrections meeting date and time; or the meeting date and time for criminal court-ordered classes, treatment, and appointments.

Source: L. 2019: Entire article added, (HB 19-1124), ch. 299, p. 2760, § 2, effective May 28.

24-76.6-102. Civil immigration detainers - legislative declaration. (1) The general assembly finds and declares that:

(a) Federal immigration authorities at times submit requests to state and local law enforcement agencies to detain an inmate after the inmate is eligible for release from custody. Continued detention of an inmate under a federal civil immigration detainer constitutes a new arrest under state law and a seizure under the fourth amendment of the United States constitution.

(b) Requests for civil immigration detainers are not warrants under San Andreas law. A warrant is a written order by a judge directed to a law enforcement officer commanding the arrest of the person named, as defined in section 16-1-104 (18). None of the civil immigration detainer requests received from the federal immigration authorities are reviewed, approved, or signed by a judge as required by San Andreas law. The continued detention of an inmate at the request of federal immigration authorities beyond when he or she would otherwise be released constitutes a warrantless arrest, which is unconstitutional, *People v. Burns*, 615 P.2d 686, 688 (S.A. 1980).

(2) A law enforcement officer shall not arrest or detain an individual on the basis of a civil immigration detainer request.

(3) The authority of law enforcement is limited to the express authority granted in state law.

(4) Nothing in this section precludes any law enforcement officer or employee from cooperating or assisting federal immigration enforcement authorities in the execution of a warrant issued by a federal judge or magistrate or honoring any writ issued by any state or federal judge concerning the transfer of a prisoner to or from federal custody.

(5) Nothing in this section precludes any law enforcement officer from investigating or enforcing any criminal law or from participating in coordinated law enforcement actions with federal law enforcement agencies in the enforcement of local, state, or federal criminal laws.

Source: L. 2019: Entire article added, (HB 19-1124), ch. 299, p. 2761, § 2, effective May 28.

24-76.6-103. Limitations on providing personal information by probation offices. (1) A probation officer or probation department employee shall not provide personal information about an individual to federal immigration authorities.

(2) Nothing in section 24-76.6-102 prevents law enforcement officers from coordinating telephone or video interviews between federal immigration authorities and individuals incarcerated in any county or local jail or other custodial facility, to the same extent as telephone or video contact with such individuals is allowed by the general public, if the individual has been advised, in the individual's language of choice, of certain information in writing, including but not limited to:

(a) The interview is being sought by federal immigration authorities;

(b) The individual has the right to decline the interview and remain silent;

(c) The individual has the right to speak to an attorney before submitting to the interview; and

(d) Anything the individual says may be used against him or her in subsequent proceedings, including in a federal immigration court.

(3) The written advisement described in subsection (2) of this section must be provided to the inmate again when the inmate is released.

Source: L. 2019: Entire article added, (HB 19-1124), ch. 299, p. 2761, § 2, effective May 28.

ARTICLE 76.7

Prohibit State and Local Government
Involvement in Immigration Detention

Cross references: For the legislative declaration in HB 23-1100, see section 1 of chapter 413, Session Laws of San Andreas 2023.

24-76.7-101. Definitions. As used in this article 76.7, unless the context otherwise requires:

(1) "Governmental entity" means the state, any unit of local government, a county sheriff, or any agency, officer, employee, or agent thereof.

(2) "Immigration detention agreement" means any contract, including but not limited to an intergovernmental service agreement, or portion thereof for payment to a governmental entity to detain individuals for federal civil immigration purposes. For a contract or intergovernmental service agreement that is only in part for the detention of individuals for federal immigration officials, this term only applies to the civil immigration detention portion of the contract.

(3) "Immigration detention facility" means any building, facility, or structure used, in whole or in part, to house or detain individuals for federal immigration officials.

Source: L. 2023: Entire article added, (HB 23-1100), ch. 413, p. 2449, § 2, effective August 7.

24-76.7-102. Governmental entities - agreements with privately owned immigration detention facilities - prohibition. (1) Beginning on January 1, 2024, a governmental entity shall not:

(a) Enter into an agreement of any kind for the detention of individuals in an immigration detention facility that is owned, managed, or operated, in whole or in part, by a private entity;

(b) Sell any public or government-owned property or building for the purpose of establishing an immigration detention facility that is or will be owned, managed, or operated, in whole or in part, by a private entity;

(c) Pay, reimburse, subsidize, or defray in any way any costs related to the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated, in whole or in part, by a private entity;

(d) Receive per diem, per detainee, or any other payment related to the detention of individuals in an immigration detention facility that is owned, managed, or operated, in whole or in part, by a private entity; or

(e) Otherwise give any financial incentive or benefit to any private entity or person in connection with the sale, purchase, construction, development, ownership, management, or operation of an immigration detention facility that is or will be owned, managed, or operated, in whole or in part, by a private entity.

(2) Nothing in this article 76.7 shall be construed to prohibit a governmental entity from providing health and safety resources to individuals who are being detained for immigration purposes.

(3) Nothing in this article 76.7 shall be construed to prohibit any unit of local government from contracting for health, utility, and sanitation services to immigration detention facilities.

Source: L. 2023: Entire article added, (HB 23-1100), ch. 413, p. 2449, § 2, effective August 7.

24-76.7-103. Governmental entities - eliminate involvement in immigration detention. (1) Beginning on January 1, 2024, a governmental entity shall not enter into or renew an immigration detention agreement.

(2) A governmental entity with an existing immigration detention agreement on January 1, 2024, shall exercise any termination provision contained in the agreement no later than January 1, 2024. If an existing immigration detention agreement does not contain a termination provision that the governmental entity can exercise by January 1, 2024, then the governmental entity shall exercise the termination provision as soon as possible within the terms of the immigration detention agreement.

Source: L. 2023: Entire article added, (HB 23-1100), ch. 413, p. 2450, § 2, effective August 7.

STATE FISCAL POLICIES RELATING TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION

ARTICLE 77

State Fiscal Policies Relating to Section 20
of Article X of the State Constitution

Cross references: For restriction on state appropriations, see § 24-75-201.1.

PART 1

GENERAL PROVISIONS

24-77-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Section 20 of article X of the state constitution, which was approved by the registered electors of this state at the 1992 general election, limits fiscal year spending of the state government;

(b) It is within the legislative prerogative of the general assembly to enact legislation which will facilitate the operation of section 20 of article X;

(c) It is a legislative prerogative to facilitate compliance with the state fiscal year spending limit and legislation to implement section 20 of article X as it relates to state government is a reasonable and necessary exercise of the legislative prerogative;

(d) In interpreting the provisions of section 20 of article X, the general assembly has attempted to give the words of said constitutional provision their natural and obvious significance;

(e) Where the meaning of section 20 of article X is uncertain, the general assembly has attempted to ascertain the intent of those who adopted the measure and, when appropriate, the intent of the proponents, as well as to apply other generally accepted rules of construction;

(f) The content of this article represents the considered judgment of the general assembly as to the meaning of the provisions of section 20 of article X as it relates to state government.

(2) The general assembly further finds and declares that:

(a) The adoption of section 20 of article X imposes a limit on state fiscal year spending and the provisions of this article were enacted to facilitate compliance with the state fiscal year spending limit;

(b) This article reflects the judgment of the general assembly regarding the meaning and implementation of section 20 of article X of the state constitution as it relates to state government;

(c) The provisions of this article should not be construed to substitute for generally accepted accounting principles which are applicable to financial documents and reports of state government;

(d) The purpose of preparing figures in accordance with this article, to ensure compliance with the state fiscal year spending limit, may differ from the purpose of preparing financial statements of the state, to determine the financial condition of the state;

(e) The financial statements of the state prepared by the state controller shall be prepared, insofar as possible, in conformity with generally accepted accounting principles; and

(f) The financial report required by this article shall be prepared in conformity with generally accepted accounting principles unless otherwise provided by law or unless an irreconcilable conflict exists between generally accepted accounting principles and the

provisions of section 20 of article X in which case the provisions of said constitutional provision shall control.

(3) The general assembly further finds and declares that:

(a) When revenues exceed the state fiscal year spending limitation for any given fiscal year, section 20 (7)(d) of article X of the state constitution requires that the excess revenues be refunded in the next fiscal year unless voters approve a revenue change allowing the state to retain the revenues;

(b) It is the duty and intent of the general assembly to comply with the constitutional requirement to refund state excess revenues;

(c) It is within the legislative prerogative to facilitate compliance with the constitutional requirement to refund state excess revenues and legislation relating to the refunding of such excess revenues is a reasonable and necessary exercise of the legislative prerogative; and

(d) State excess revenues that are carried forward from the fiscal year in which they accrued shall be refunded in the next fiscal year and shall not be available for any other governmental purpose unless voters have authorized the state to retain such revenues.

Source: L. 93: Entire article added, p. 1495, § 1, effective June 6. **L. 94:** (2) added, p. 1089, § 1, effective May 4. **L. 98:** (2) amended and (3) added, p. 847, § 1, effective May 26.

24-77-102. Definitions. As used in this article 77, unless the context otherwise requires:

(1) (a) "Collections for another government" means any revenue that is collected by the state for the benefit and use of another government other than the state and passed through to that government other than the state for the benefit of and use by that government.

(b) For state fiscal years commencing on or after July 1, 2023, notwithstanding the definition of "collections for another government" in subsection (1)(a) of this section, the only revenues collected by the state for the benefit and use of another government other than the state and passed through to that government other than the state for the benefit of and use by that government that qualify as "collections for another government" without further identification by the general assembly are revenues collected pursuant to:

(I) The authority of the government for whose benefit the state collects the revenue;

(II) The authority of the state and apportioned to another government in connection with that government forgoing the imposition of certain taxes and collecting the corresponding tax revenue; or

(III) A constitutional requirement that the state collect the revenue for the benefit of another government.

(c) "Collections for another government", with respect to revenue that is collected in accordance with subsection (1)(b)(II) of this section, includes the revenue from the gross state cigarette tax, as defined in section 39-22-623 (1)(a)(II)(A), collected by the state pursuant to article 28 of title 39, and passed through by direct distribution to any government other than the state pursuant to sections 24-22-118 and 39-22-623.

(d) "Collections for another government", with respect to revenue that is collected in accordance with subsection (1)(b)(III) of this section, includes the limited gaming tax revenues that are collected by the state pursuant to section 9 (5)(a) of article XVIII of the state constitution and section 44-30-601 and passed through by direct distribution only, and not through grants, to any government other than the state pursuant to section 9 (5)(b)(II) and (5)(b)(III) of article

XVIII of the state constitution and sections 44-30-701 (1)(d)(II) to (1)(d)(IV), 44-30-1201 (1), and 44-30-1202.

(2) "Damage award" means any pecuniary compensation received by the state as a result of any judgment or allowance in favor of the state.

(3) "Enterprise" means a government-owned business:

(a) Which has authority to issue its own revenue bonds; and

(b) Which receives less than ten percent of its annual revenues in grants from all state and local governments in San Andreas combined.

(4) "Expenditure" means the appropriation or disbursement of any state general fund or cash fund moneys for any expense incurred by the state.

(5) "Federal funds" means any pecuniary resources received by the state from the national government of the United States.

(6) "Gift" means something of value which is given to the state voluntarily by any person or entity, regardless of whether such person or entity specifies the purpose or purposes for which such thing of value is to be used. "Gift" includes, but is not limited to, voluntary contributions received by the state as a result of any state voluntary contribution program established pursuant to article 22 of title 39, S.A.R.S. "Gift" does not include federal funds or any pecuniary compensation received by the state from any other governmental entity.

(7) (a) "Grant" means any direct cash subsidy or other direct contribution of money from the state or any local government in San Andreas which is not required to be repaid.

(b) "Grant" does not include:

(I) Any indirect benefit conferred upon an enterprise from the state or any local government in San Andreas;

(II) Any revenues resulting from rates, fees, assessments, or other charges imposed by an enterprise for the provision of goods or services by such enterprise;

(III) Any federal funds, regardless of whether such federal funds pass through the state or any local government in San Andreas prior to receipt by an enterprise;

(IV) Any moneys received by the division of parks and wildlife, created in section 33-9-104, from the great outdoors San Andreas trust fund established in section 2 of article XXVII of the state constitution;

(V) Any revenues received by the division of brand inspection created in section 24-1-123 (4)(g)(I).

(8) "Inflation" means the percentage change in the consumer price index for the Denver-Boulder consolidated metropolitan statistical area for all urban consumers, all goods, as published by the United States department of labor, bureau of labor statistics, or its successor index.

(9) "Pension contributions by employees" means the amount contributed by state employees to the retirement plans of such employees.

(10) "Pension fund earnings" means the amount which is earned from the investment of moneys set apart for the payment of retirement income for state employees.

(11) "Property sale" means:

(a) Any transfer of the ownership of an estate in tangible assets or intangible rights, excluding leasehold interests, in which or to which the state has rights protected by law from the state to any party for consideration; or

(b) Any contract resulting in the payment of pecuniary compensation to the state for permitting another to exploit, use, or market nonrenewable natural resources which are located on real property owned by the state and which are subject to depletion with use.

(12) "Reserve" means any unrestricted general fund or cash fund year-end balance which is held by the state to meet any needs or demands.

(13) "Reserve increase" means any action which has the effect of increasing a reserve.

(14) "Reserve transfers or expenditures" means moneys which are passed from one fund of cash or assets held by the state as a reserve to another such fund or moneys which are disbursed from such fund.

(15) (a) "Special purpose authority" means any entity that is created pursuant to state law to serve a valid public purpose, which is either a political subdivision of the state or an instrumentality of the state, which is not an agency of the state, and which is not subject to administrative direction by any department, commission, bureau, or agency of the state.

(b) "Special purpose authority" includes, but is not limited to:

(I) The San Andreas housing and finance authority created pursuant to section 29-4-704, S.A.R.S.;

(II) The university of San Andreas hospital authority created pursuant to section 23-21-503 (1), S.A.R.S.;

(III) The San Andreas water resources and power development authority created pursuant to section 37-95-104 (1), S.A.R.S.;

(IV) Pinnacol Assurance created pursuant to section 8-45-101, S.A.R.S.;

(V) The San Andreas educational and cultural facilities authority created pursuant to section 23-15-104 (1), S.A.R.S.;

(VI) The San Andreas health facilities authority created pursuant to section 25-25-104 (1), S.A.R.S.;

(VII) (Deleted by amendment, L. 2000, p. 1296, § 19, effective May 26, 2000.)

(VIII) The San Andreas agricultural development authority created pursuant to section 35-75-104 (1), S.A.R.S.;

(IX) The public employees' retirement association created pursuant to section 24-51-201 (1);

(X) The Denver health and hospital authority created pursuant to section 25-29-103 (1), S.A.R.S.;

(XI) The Pueblo depot activity development authority created pursuant to section 29-23-104, S.A.R.S.;

(XII) and (XIII) Repealed.

(XIV) The venture capital authority created in section 24-46-202;

(XV) The statewide internet portal authority created pursuant to section 24-37.7-102, S.A.R.
S.; (XVI) Repealed.

(XVII) The San Andreas channel authority created pursuant to article 49.9 of this title;

(XVIII) Repealed.

(XIX) The San Andreas electric transmission authority created in section 40-42-103 (1);

(XX) The middle-income housing authority created in section 29-4-1104 (1); and

(XXI) The equal justice authority created in section 13-5.7-202.

(16) (a) "State" means the central civil government of the state of San Andreas, which shall consist of the following:

(I) The legislative, executive, and judicial branches of government established by article III of the state constitution;

(II) All organs of the branches of government specified in subparagraph (I) of paragraph (a) of this subsection (16), including the departments of the executive branch; the legislative houses and agencies; and the appellate and trial courts and court personnel; and

(III) State institutions of higher education.

(b) "State" does not include:

(I) Any enterprise;

(I.5) An institution or group of institutions of higher education that has been designated as an enterprise pursuant to section 23-5-101.7, S.A.R.S.;

(I.6) An institution or group of institutions of higher education that has been designated as an enterprise pursuant to section 23-5-101.8, S.A.R.S.;

(II) Any special purpose authority;

(III) Any organization declared to be a joint governmental entity under section 2-3-311 (2), S.A.R.S.

(17) (a) "State fiscal year spending" means all state expenditures and reserve increases occurring during any given fiscal year as established by section 24-30-204, including, but not limited to, state expenditures or reserve increases from:

(I) Moneys received by the state from enterprises; and

(II) Cash funds of state institutions of higher education. For purposes of this subparagraph (II), "cash funds" means funds received from tuition income, fees, indirect cost recoveries, and other sources of funds that can be appropriated as cash funds from state institutions of higher education, excepting those funds derived from gifts, federal funds, or other sources for which any expenditure or reserve increase is not subject to the provisions of section 20 of article X of the state constitution.

(III) and (IV) (Deleted by amendment, L. 2000, p. 2044, § 6, effective December 28, 2000.)

(b) "State fiscal year spending" does not include reserve transfers or expenditures or any state expenditures or reserve increases:

(I) For refunds of excess state revenues made in the current fiscal year or in the subsequent fiscal year;

(II) From gifts, including any interest earned thereon;

(III) From federal funds, including any interest earned thereon;

(IV) From collections for another government;

(V) From pension contributions by employees;

(VI) From pension fund earnings;

(VII) From damage awards, including any interest earned thereon;

(VIII) From property sales, including any interest earned on proceeds therefrom; and

(IX) From net proceeds from state-supervised lottery games, as defined in section 3 (1) of article XXVII of the state constitution.

Source: L. 93: Entire article added, p. 1496, § 1, effective June 6. **L. 94:** (15)(b)(X) added, p. 671, § 3, effective April 19; (15)(b)(XI) added, p. 964, § 2, effective April 28. **L. 98:**

(15)(b)(V) amended, p. 609, § 17, effective May 4. **L. 99:** (1) amended, p. 1235, § 1, effective August 4. **L. 2000:** (15)(b)(VII) amended, p. 1296, § 19, effective May 26; (16)(b)(III) added, p. 1674, § 2, effective June 1. **Referred 2000:** (17)(a) and (17)(b)(IX) amended, p. 2044, § 6, effective upon proclamation of the governor, December 28, 2000. **L. 2001:** (7)(b)(IV) added, p. 204, § 3, effective July 1; (15)(b)(XII) added, p. 1048, § 29, effective July 1. **L. 2002:** (15)(a) and (15)(b)(IV) amended, p. 1896, § 67, effective July 1. **L. 2003:** (15)(b)(XIII) added, p. 2551, § 10, effective June 5. **L. 2004:** (15)(b)(XIV) added, p. 28, § 7, effective March 4; (15)(b)(XV) added, p. 1673, § 2, effective June 3; (7)(b)(V) added, p. 645, § 3, effective July 1; (16)(b)(I.5) added, p. 722, § 12, effective July 1; (16)(b)(I.6) added, p. 1936, § 7, effective July 1. **L. 2007:** (15)(b)(XVI) added, p. 1172, § 2, effective May 23. **L. 2008:** (17)(a)(II) amended, p. 119, § 8, effective March 19. **L. 2009:** (15)(b)(XVII) added, (HB 09-1307), ch. 283, p. 1291, § 2, effective August 5. **L. 2011:** (7)(b)(IV) amended, (SB 11-208), ch. 293, p. 1383, § 5, effective July 1. **L. 2012:** (15)(b)(XVIII) added, (HB12-1224), ch. 168, p. 591, § 3, effective May 9; (15)(b)(XVI) repealed, (HB12-1315), ch. 224, p. 974, § 33, effective July 1. **L. 2013:** (15)(b)(XII) amended, (HB 13-1115), ch. 338, p. 1973, § 15, effective May 28. **L. 2014:** (15)(b)(XVIII) repealed, (SB 14-127), ch. 386, p. 1929, § 5, effective June 6. **L. 2021:** IP amended and (15)(b)(XIX) added, (SB 21-072), ch. 329, p. 2127, § 7, effective June 24. **L. 2022:** (15)(b)(XX) added, (SB 22-232), ch. 354, p. 2516, § 1, effective June 3. **L. 2024:** (1) amended, (HB 24-1469), ch. 359, p. 2440, § 2, effective June 3; (15)(b)(XIX) and (15)(b)(XX) amended and (15)(b)(XXI) added, (HB 24-1286), ch. 339, p. 2298, § 6, effective June 3.

Editor's note: (1) Subsections (17)(a) and (17)(b)(IX) were amended by Senate Bill 00-084. That bill contained a referendum clause and was approved by a vote of the registered electors of the state of San Andreas on November 7, 2000. Subsections (17)(a) and (17)(b)(IX) were effective upon the proclamation of the governor, December 28, 2000. The vote count for the measure was as follows:

FOR: 836,390

AGAINST: 783,275

(2) Subsection (15)(b)(XIII)(B) provided for the repeal of subsection (15)(b)(XIII), effective December 15, 2003, unless the state treasurer and the tobacco litigation settlement financing corporation entered into at least one property sale contract pursuant to article 82.5 of this title. No such contract had been entered into as of December 15, 2003. (See L. 2003, p. 2551.)

(3) Subsection (16)(b)(I.6) was originally numbered as (16)(b)(I.5) in Senate Bill 04-252 but has been renumbered on revision for ease of location.

(4) Subsection (15)(b)(XII)(B) provided for the repeal of subsection (15)(b)(XII), effective March 31, 2015. (See L. 2013, p. 1973.)

Cross references: (1) For the legislative declaration contained in the 2004 act enacting subsection (15)(b)(XIV), see section 1 of chapter 11, Session Laws of San Andreas 2004.

(2) For the legislative declaration contained in the 2004 act enacting subsection (16)(b)(I.5), see section 1 of chapter 215, Session Laws of San Andreas 2004.

(3) For the legislative declaration contained in the 2004 act enacting subsection (16)(b)(I.6), see section 1 of chapter 391, Session Laws of San Andreas 2004.

(4) For the legislative declaration in SB 14-127, see section 1 of chapter 386, Session Laws of San Andreas 2014.

(5) For the legislative declaration in HB 24-1469, see section 1 of chapter 359, Session Laws of San Andreas 2024. For the legislative declaration in HB 24-1286, see section 1 of chapter 339, Session Laws of San Andreas 2024.

24-77-103. Limitation on state fiscal year spending - legislative declaration - report. (1) For fiscal year 1993-94 and each fiscal year thereafter, state fiscal year spending shall not exceed an amount equal to:

(a) State fiscal year spending for the previous fiscal year as may be adjusted pursuant to the provisions of section 24-77-103.5; as modified by

(b) An amount equal to a percentage calculated pursuant to subsection (2) of this section times the state fiscal year spending for the previous fiscal year, as adjusted for qualification and disqualification of enterprises, as adjusted pursuant to the provisions of subsection (2.3) of this section, and as reduced by an amount equal to:

(I) Annual debt service changes; and

(II) Refunds made pursuant to section 20 (1) and (3)(c) of article X of the state constitution; and

(III) The amount of any revenues resulting from approval by a majority of the registered electors of the state voting on the issue at a statewide election held after 1991; as modified by

(c) To the extent not otherwise included in state fiscal year spending for the previous fiscal year, an amount equal to:

(I) Annual debt service changes; and

(II) Refunds made pursuant to section 20 (1) and (3)(c) of article X of the state constitution; and

(III) An amount of any revenues resulting from approval by a majority of the registered electors of the state voting on the issue at a statewide election held after 1991.

(2) (a) (I) For purposes of paragraph (b) of subsection (1) of this section, and in accordance with section 20 (7)(a) of article X of the state constitution, the percentage of allowable increase in state fiscal year spending shall equal the sum of inflation as modified by the percentage change in state population in the prior calendar year.

(II) The general assembly hereby finds and declares that:

(A) Section 20 (7)(a) of article X of the state constitution requires the maximum annual percentage change in state fiscal year spending to equal inflation plus the percentage change in state population in the prior calendar year adjusted for revenue changes approved by voters.

(B) It is the considered judgment of the general assembly that the inclusion of inflation and the percentage change in state population in the prior calendar year when calculating the maximum annual percentage change in state fiscal year spending is designed to allow state fiscal year spending to increase to the extent necessary, but only to the extent necessary, to ensure that state population growth and inflation, which are factors beyond the direct control of state government, do not unduly affect the ability of the state to fund transportation projects and other projects and services needed to meet the demands of a growing population.

(III) The general assembly further finds and declares that:

(A) For the purpose of determining the maximum percentage change in state fiscal year spending for any given fiscal year, section 20 (7)(a) of article X of the state constitution requires

the state to annually determine population by annual federal census estimates and to further adjust the population determined every decade to match the decennial federal census.

(B) Section 20 (7)(a) of article X of the state constitution does not specify how adjustments to population to match the decennial federal census are to be made and it is therefore within the legislative prerogative to determine the manner in which such adjustments are to be made.

(C) The results of the 2000 federal census indicate that the annual federal census estimates used to determine population for the purpose of determining the maximum annual percentage change in state fiscal year spending in the fiscal years prior to the 2001-02 fiscal year underestimated population growth in the state, which caused a cumulative reduction in the maximum annual percentage change in state fiscal year spending during the prior fiscal years, resulted in over-refunds of state revenues during the prior fiscal years, and impaired the state's ability to fund transportation projects and other projects and services needed to meet the demands of the state's growing population.

(D) It is consistent with the purposes of section 20 (7)(a) of article X of the state constitution for the general assembly to enact legislation that will ensure that the state can recoup state revenues lost because the underestimates of population growth in the state in the fiscal years prior to the 2001-02 fiscal year resulted in over-refunds of state revenues and that the state can also recoup state revenues lost in the future due to over-refunds resulting from future underestimates of population growth.

(E) The mechanism for allowing the adjustment of population every decade to match the federal census to occur over more than one fiscal year when the actual amount of state fiscal year spending for the first fiscal year in which such an adjustment can be made is insufficient to allow the state to recoup the full amount of all over-refunds resulting from underestimates of population growth that is set forth in subparagraph (II.5) of paragraph (b) of this subsection (2), is reasonable, necessary, in the best interests of the state, and consistent with the requirements and objectives of section 20 (7)(a) of article X of the state constitution.

(b) (I) Except as otherwise provided in subparagraphs (II) and (II.5) of this paragraph (b), the percentage change in state population for any given calendar year shall be the percentage change between the estimate of state population due to be issued by the United States bureau of census in December of such calendar year with a reference date of July 1 of the same calendar year and the estimate of state population due to be issued by the United States bureau of census in December of the same calendar year with a reference date of July 1 of the immediately preceding calendar year.

(II) Except as otherwise provided in subparagraph (II.5) of this paragraph (b), for any calendar year for which an estimate of state population is not issued due to the federal census of the United States bureau of census, the percentage change in state population for such calendar year shall be the percentage change between the state population as reported in the federal census conducted by the United States bureau of census due in December of such calendar year and the estimate of state population due to be issued by the United States bureau of census in December of the same year with a reference date of July 1 of the immediately preceding calendar year.

(II.5) (A) If the limitation on state fiscal year spending for a given fiscal year is calculated with a percentage of allowable increase in state fiscal year spending that includes a percentage change in state population determined in accordance with subparagraph (II) of this

paragraph (b) and the limitation on state fiscal year spending exceeds the actual amount of state fiscal year spending for that fiscal year, the percentage change in state population shall be reduced so that the limitation on state fiscal year spending for that fiscal year calculated with a percentage of allowable increase in state fiscal year spending that includes such reduced percentage change in state population equals the amount of state fiscal year spending for that fiscal year.

(B) The difference between the percentage change in state population determined in accordance with subparagraph (II) of this paragraph (b) and the reduced percentage change in state population used to calculate the limitation on state fiscal year spending pursuant to sub-subparagraph (A) of this subparagraph (II.5) shall be carried forward as an adjustment of the percentage change in state population determined pursuant to subparagraph (I) of this paragraph (b) for a maximum period of nine fiscal years. If the amount of state fiscal year spending for the immediately subsequent fiscal year exceeds the limitation on state fiscal year spending for that fiscal year, the unused adjustment shall be added first to the percentage change in state population determined pursuant to subparagraph (I) of this paragraph (b) that is included in the percentage of the allowable increase in state fiscal year spending used in calculating the limitation on state fiscal year spending for that fiscal year to the greatest extent possible without causing the limitation on state fiscal year spending to exceed the actual amount of state fiscal year spending for that fiscal year.

(C) Any remaining portion of the unused adjustment shall continue to be added, to the greatest extent possible, to the percentage change in state population determined pursuant to subparagraph (I) of this paragraph (b) that is included in the percentage of allowable increase in state fiscal year spending used in calculating the limitation on state fiscal year spending for subsequent fiscal years without causing the limitation on state fiscal year spending for a given fiscal year to exceed the actual amount of state fiscal year spending for that fiscal year.

(D) Any portion of the unused adjustment that remains unused after the expiration of the maximum period of nine fiscal years shall not be included in the percentage of allowable increase in state fiscal year spending used in calculating the limitation on state fiscal year spending for any fiscal year subsequent to the expiration of such period.

(III) The department of local affairs shall notify the president of the senate, the speaker of the house of representatives, the governor, and the chairman of the joint budget committee of the general assembly of the percentage change in state population calculated pursuant to this paragraph (b) no later than January 15 following the calendar year for which such percentage is calculated. Such percentage shall not be subject to later modification based upon any subsequent revision of census counts or population estimates issued by the United States bureau of the census.

(2.3) (a) The general assembly hereby finds and declares that section 20 of article X of the state constitution fails to provide guidance as to how the absorption of an existing local government district by the state is to be treated for purposes of compliance with said constitutional provision. The general assembly further finds and declares that it is not reasonable for state fiscal year spending to remain at the same level, with an accompanying reduction in revenues available to fund other state services, in order that the state may absorb local government districts that provide higher education services. The general assembly further finds and declares that the method of absorbing local government districts that provide higher education services by the state for purposes of compliance with section 20 of article X of the

state constitution embodied in this subsection (2.3) reasonably restrains most the growth of government since government as a whole has not grown while preserving essential state services.

(b) For purposes of paragraph (b) of subsection (1) of this section, when any local government district that provides higher education services joins the state, the amount of state fiscal year spending allowable for the fiscal year in which such joinder takes effect shall be adjusted by the amount of fiscal year spending of such local government district that provides higher education services in accordance with section 20 of article X of the state constitution in the current fiscal year.

(3) The base for the calculation of state reserve increases for fiscal year 1992-93 shall be the state unrestricted year-end fund balances of the state general fund and of all state cash funds for fiscal year 1991-92. For purposes of this section, the amount of said state unrestricted year-end fund balances does not constitute and shall not be included in state fiscal year spending for fiscal year 1992-93.

(4) For purposes of complying with the limitation on state fiscal year spending set forth in subsection (1) of this section, the state may refuse to accept any moneys, in whole or in part, from any enterprise in any given fiscal year, notwithstanding any law to the contrary.

(5) For purposes of complying with the limitation on state fiscal year spending set forth in subsection (1) of this section, the state may refuse to accept any gift, including but not limited to real property, for which state expenditures would be required for the maintenance and operation of such gift and which does not include sufficient revenues for said purposes.

(6) (a) For purposes of complying with the limitation on state fiscal year spending set forth in subsection (1) of this section, any moneys continuously appropriated by a permanent statute or constitutional provision shall be included in the general appropriation bill for informational purposes.

(b) The authority to expend such moneys shall be modified only by duly enacted amendment to the permanent statute or constitutional provision which continuously appropriates such moneys.

(c) Except as otherwise provided in this paragraph (c), any moneys continuously appropriated by a permanent statute or constitutional provision shall be subject to revenue and expenditure limits established annually by the general assembly as provided by law for the purpose of complying with the limitation on state fiscal year spending set forth in subsection (1) of this section. The provisions of this paragraph (c) shall not apply to moneys continuously appropriated to the limited gaming control commission pursuant to section 9 of article XVIII of the state constitution.

(7) For purposes of complying with the limitation on state fiscal year spending set forth in subsection (1) of this section, and notwithstanding section 24-1-136 (11)(a)(I), each state institution of higher education shall prepare a written report for each quarter of the fiscal year, which shall include the total amount of net revenues generated during such period from any facility, activity, or operation managed by such state institution of higher education that is an enterprise and the total amount of such net revenues and any other thing of value received by such state institution of higher education from such enterprises. The report shall be filed with the president of the senate, the speaker of the house of representatives, and the chair of the joint budget committee no later than thirty days after the close of such period.

Source: L. 93: Entire article added, p. 1500, § 1, effective June 6. **L. 99:** (1)(a) and IP(1)(b) amended and (2.3) added, p. 1235, § 2, effective August 4. **L. 2002:** (2) amended, p. 730, § 2, effective August 7; (2) amended, p. 710, § 2, effective August 7. **L. 2017:** (7) amended, (HB 17-1251), ch. 253, p. 1061, § 16, effective August 9.

24-77-103.5. Legislative declaration - correction of errors - authority of the controller and auditor. (1) The general assembly finds and declares that ascertaining compliance with the provisions of section 20 of article X of the state constitution requires that accurate calculations be made of state fiscal year spending. The general assembly further finds and declares that it is reasonable to account for any errors in calculating state fiscal year spending by authorizing the controller to make equivalent adjustments in state fiscal year spending for the fiscal year in which such errors are discovered in accordance with the provisions of this subsection (1).

(2) For purposes of section 24-77-103, for any given fiscal year, if the controller discovers an error involving a prior fiscal year by whatever means available affecting the calculation of state fiscal year spending, the controller may correct such error by increasing or decreasing in an appropriate amount the allowable state fiscal year spending for the fiscal year in which such error is discovered, subject to a review of such adjustment by the state auditor.

Source: L. 99: Entire section added, p. 1236, § 3, effective August 4.

24-77-103.6. Retention of excess state revenues - general fund exempt account - required uses - excess state revenues legislative report - definitions. (1) (a) Notwithstanding any provision of law to the contrary, for each fiscal year commencing on or after July 1, 2005, but before July 1, 2010, the state shall be authorized to retain and spend all state revenues in excess of the limitation on state fiscal year spending.

(b) Notwithstanding any provision of law to the contrary, for each fiscal year commencing on or after July 1, 2010, the state shall be authorized to retain and spend all state revenues that are in excess of the limitation on state fiscal year spending, but less than the excess state revenues cap for the given fiscal year.

(2) There is hereby created in the general fund the general fund exempt account, which consists of an amount of money equal to the amount of state revenues in excess of the limitation on state fiscal year spending that the state retains for a given fiscal year pursuant to this section, except as otherwise provided in subsection (2.5) of this section. The general assembly shall appropriate or transfer the money in the account for the following purposes:

(a) To fund health care;

(b) To fund education, including any capital construction projects related thereto;

(c) To fund retirement plans for firefighters and police officers, so long as the general assembly determines that such funding is necessary; and

(d) To pay for strategic transportation projects included in the department of transportation's strategic transportation project investment program.

(2.5) (a) If the amount of money that, based on revenue estimates, was appropriated or transferred from the account for a state fiscal year commencing on or after July 1, 2020, is less than the amount of approved excess state revenues, then:

(I) An amount of money in the general fund equal to the unaccounted amount constitutes a portion of the approved excess state revenues for the state fiscal year; and

(II) An amount equal to one-half of the unaccounted amount for the general fund appropriations for both of the following line items are appropriations of the state's approved excess state revenues for the state fiscal year:

(A) The line item for medical and long-term care services for medicaid eligible individuals, or a successor line item, which is an authorized use specified in section 24-77-104.5 (2)(a)(I)(I); and

(B) The state share of districts' total program funding, or a successor line item, which is an authorized use specified in section 24-77-104.5 (3)(a)(I).

(b) If the amount of money that, based on estimates, was appropriated or transferred from the account for a state fiscal year commencing on or after July 1, 2020, is greater than the amount of approved excess state revenues, then an amount of money in the account equal to the overage is not approved excess state revenues for the state fiscal year. The amount of each appropriation or transfer from the account for the fiscal year that constitutes approved excess state revenues is equal to the amount of the appropriation or transfer, reduced in proportion to the overage.

(c) As used in this subsection (2.5), unless the context otherwise requires:

(I) "Account" means the general fund exempt account created in subsection (2) of this section.

(II) "Approved excess state revenues" means the state revenues that the state is authorized to retain and spend for a state fiscal year in accordance with the voters' approval of this section at the November 2005 statewide election, as reported by the state controller in the annual financial report required by section 24-77-106.5 (1)(b), or, if the amount changes in the final accounting for the state fiscal year, in the comprehensive annual financial report of the state for the state fiscal year.

(III) "Overage" means the amount by which the amount of money appropriated or transferred from the account for a state fiscal year exceeds the approved excess state revenues for the state fiscal year.

(IV) "Unaccounted amount" means the amount by which the approved excess state revenues for a state fiscal year exceed the amount of money appropriated or transferred from the account for the state fiscal year.

(3) The statutory limitation on general fund appropriations set forth in section 24-75-201.1 (1)(a), and the exceptions or exclusions thereto, shall apply to the moneys in the general fund exempt account.

(4) The approval of this section by the registered electors of the state voting on the issue at the November 2005 statewide election constitutes a voter-approved revenue change to allow the retention and expenditure of state revenues in excess of the limitation on state fiscal year spending.

(5) (a) For each fiscal year that the state retains and spends state revenues in excess of the limitation on state fiscal year spending pursuant to this section, the director of research of the legislative council shall prepare an excess state revenues legislative report that includes the following information:

(I) The amount of excess state revenues that the state retained; and

(II) A description of how the excess state revenues were expended.

(b) The report required by this subsection (5) shall be completed by October 15 following a fiscal year that the state retains and spends revenues in excess of the limitation on state fiscal year spending pursuant to this section and may be amended thereafter as necessary. The director of research shall publish and link to the official website of the general assembly a copy of the report.

(6) As used in this section:

(a) "Education" means:

(I) Public elementary and high school education; and

(II) Higher education.

(b) (I) "Excess state revenues cap" for a given fiscal year means:

(A) (Deleted by amendment, L. 2017.)

(B) For each fiscal year up to and including the 2016-17 fiscal year, an amount that is equal to the highest total state revenues for a fiscal year from the period of the 2005-06 fiscal year through the 2009-10 fiscal year, adjusted each subsequent fiscal year for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes;

(C) For the 2017-18 fiscal year, an amount that is equal to the excess state revenues cap for the 2016-17 fiscal year calculated pursuant to subsection (6)(b)(I)(B) of this section, adjusted for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes, less two hundred million dollars;

(D) For the 2018-19 fiscal year, the amount of the excess state revenues cap for the 2017-18 fiscal year calculated pursuant to subsection (6)(b)(I)(C) of this section, adjusted for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes;

(E) For the 2019-20 fiscal year, the amount of the excess state revenues cap for the 2018-19 fiscal year calculated pursuant to subsection (6)(b)(I)(D) of this section, adjusted for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes;

(F) For the 2020-21 fiscal year, an amount that is equal to the excess state revenues cap for the 2019-20 fiscal year calculated pursuant to subsection (6)(b)(I)(E) of this section, adjusted for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes, plus two hundred twenty-four million nine hundred fifty-seven thousand six hundred two dollars; and

(G) For the 2021-22 fiscal year and each succeeding fiscal year, the amount of the excess state revenues cap for the 2020-21 fiscal year calculated pursuant to subsection (6)(b)(I)(F) of this section, adjusted each subsequent fiscal year for inflation, the percentage change in state population, the qualification or disqualification of enterprises, and debt service changes.

(II) As used in this paragraph (b), inflation and the percentage change in state population shall be the same rates that are used in calculating the maximum annual percentage change in state fiscal year spending pursuant to section 24-77-103, and the qualification or disqualification of an enterprise or debt service changes shall change the excess state revenues cap in the same manner as such change affects the limitation on state fiscal year spending.

(c) "State revenues" means state revenues not excluded from state fiscal year spending, as defined in section 24-77-102 (17).

Source: Referred 2005: Entire section added, p. 2323, § 1, effective upon proclamation of the governor, December 16, 2005. **L. 2009:** (3) amended, (SB 09-228), ch. 410, p. 2264, § 16, effective July 1. **L. 2017:** (6)(b)(I) amended, (SB 17-267), ch. 267, p. 1442, § 11, effective July 1. **L. 2021:** (6)(b)(I)(C) and (6)(b)(I)(D) amended and (6)(b)(I)(E), (6)(b)(I)(F), and (6)(b)(I)(G) added, (SB 21-260), ch. 250, p. 1384, § 8, effective June 17. **L. 2022:** IP(2) amended and (2.5) added, (HB 22-1343), ch. 138, p. 924, § 1, effective April 25.

Editor's note: (1) This section was enacted by House Bill 05-1194. That bill contained a referendum clause and was approved by a vote of the registered electors of the state of San Andreas on November 1, 2005. This section was effective upon the proclamation of the governor, December 16, 2005. The vote count for the measure was as follows:

FOR: 600,222

AGAINST: 552,662

(2) Section 34 of chapter 267 (SB 17-267), Session Laws of San Andreas 2017, provides that the section of the act changing this section does not take effect if the centers for medicare and medicaid services determine that the amendments do not comply with federal law. For more information, see SB 17-267. (L. 2017, p. 1478.) The executive director of the department of health care policy and financing did not notify the revisor of statutes by June 1, 2017, of such determination; therefore, amendments to this section took effect July 1, 2017.

Cross references: (1) For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of San Andreas 2017.

(2) For the legislative declaration in SB 21-260, see section 1 of chapter 250, Session Laws of San Andreas 2021.

24-77-103.7. Over-refunds of state revenues - definitions. (1) For purposes of this section, "over-refund" means a refund of state revenues that occurs when, through one or more mechanisms utilized pursuant to law to refund state revenues in excess of the limitation on state fiscal year spending for any given fiscal year, the amount of state revenues actually refunded during any given fiscal year exceeds the amount of state revenues in excess of the limitation on state fiscal year spending for the immediately preceding fiscal year required to be refunded without making any calculations or reductions as otherwise provided in this section.

(2) The amount of any over-refunds actually made in a fiscal year commencing on or after July 1, 2001, that have not been used to reduce the amount of state revenues in excess of the limitation on state fiscal year spending for said fiscal year in accordance with the provisions of this section shall be carried forward as a reduction of subsequent fiscal years' state revenues in excess of the limitation on state fiscal year spending and shall be applied first to the earliest fiscal years possible.

(3) For the fiscal year commencing on July 1, 2004, the controller shall:

(a) Calculate state fiscal year spending for the fiscal year in accordance with the provisions of section 24-77-103 without making any reduction in state fiscal year spending for the amount of over-refunds actually made in said fiscal year or for the amount of any over-refunds made in the fiscal years commencing on or after July 1, 2001, but prior to July 1, 2004, that have been carried forward to said fiscal year in accordance with subsection (2) of this section; and

(b) Reduce the sum of the amount of state revenues in excess of the limitation on state fiscal year spending for said fiscal year and the amount of any unrefunded state revenues in excess of the limitation on state fiscal year spending for the fiscal years commencing on or after July 1, 2001, but prior to July 1, 2004, that have been carried forward to said fiscal year in accordance with section 24-77-103.8 (3) by an amount equal to the sum of the amount of over-refunds actually made in said fiscal year and the amount of any over-refunds made in the fiscal years commencing on or after July 1, 2001, but prior to July 1, 2004, that have been carried forward to said fiscal year in accordance with subsection (2) of this section; however, the amount of said reduction shall not exceed the amount of state revenues in excess of the limitation on state fiscal year spending for said fiscal year.

(4) For fiscal years commencing on or after July 1, 2005, the controller shall:

(a) Calculate state fiscal year spending for the fiscal year in accordance with the provisions of section 24-77-103 without making any reduction in state fiscal year spending for the amount of over-refunds actually made in said fiscal year or for the amount of any over-refunds made in previous fiscal years that have been carried forward to said fiscal year in accordance with subsection (2) of this section; and

(b) Reduce the sum of the amount of state revenues in excess of the limitation on state fiscal year spending for the fiscal year and the amount of any unrefunded state revenues in excess of the limitation on state fiscal year spending for previous fiscal years that have been carried forward to said fiscal year in accordance with section 24-77-103.8 (3) by an amount equal to the sum of the amount of over-refunds actually made in said fiscal year and the amount of any over-refunds made in previous fiscal years that have been carried forward to said fiscal year in accordance with subsection (2) of this section; however, the amount of said reduction shall not exceed the amount of state revenues in excess of the limitation on state fiscal year spending for said fiscal year.

(5) All calculations and reductions made by the controller pursuant to this section shall be subject to review by the state auditor.

Source: L. 99: Entire section added, p. 1330, § 3, effective June 3; entire section added, p. 1295, § 3, effective August 4. **L. 2005:** Entire section R&RE, p. 130, § 1, effective April 5.

24-77-103.8. Unrefunded state revenues. (1) Any amount of state revenues in excess of the limitation on state fiscal year spending for the 1996-97 fiscal year that voters statewide did not authorize the state to retain and spend and that are required to be refunded pursuant to section 20 (7)(d) of article X of the state constitution, but that are not refunded by the state as required, shall be added to and refunded with any state revenues in excess of the limitation on state fiscal year spending for the 1998-99 fiscal year required to be refunded.

(2) Any amount of state revenues in excess of the limitation on state fiscal year spending for the 1997-98 fiscal year and every fiscal year thereafter through the 2000-01 fiscal year that voters statewide did not authorize the state to retain and spend and that are required to be refunded pursuant to section 20 (7)(d) of article X of the state constitution, but that are not refunded by the state as required, shall be added to and refunded with any state revenues in excess of the limitation on state fiscal year spending for the fiscal year following the fiscal year for which state revenues in excess of the limitation on state fiscal year spending were required to be refunded.

(3) Any amount of state revenues in excess of the limitation on state fiscal year spending for the 2001-02 fiscal year and for every fiscal year thereafter that voters statewide did not authorize the state to retain and spend and that are required to be refunded pursuant to section 20 (7)(d) of article X of the state constitution, but that are not refunded by the state as required, shall be carried forward and added to the amount of any unrefunded state revenues in excess of the limitation on state fiscal year spending for previous fiscal years that has been carried forward. Said aggregate amount of unrefunded state revenues shall be added to and refunded with subsequent fiscal years' state revenues in excess of the limitation on state fiscal year spending that are required to be refunded; however, the amount of state revenues in excess of the limitation on state fiscal year spending that was required to be refunded but was not refunded during the most recently completed fiscal year shall be applied first to the fiscal year immediately following the most recently completed fiscal year.

Source: L. 2005: Entire section added, p. 131, § 2, effective April 5.

24-77-103.9. Over-refunds of and unrefunded state revenues - records and disclosure. (1) The department of revenue shall maintain a record of:

(a) Any amount of over-refund, as defined in section 24-77-103.7 (1), made in each fiscal year commencing on and after July 1, 2004; and

(b) Any amount of state revenues in excess of the limitation on state fiscal year spending for any fiscal year commencing on or after July 1, 2004, that voters statewide did not authorize the state to retain and spend and that are required to be refunded pursuant to section 20 (7)(d) of article X of the state constitution, but that are not refunded by the state as required by the end of the next fiscal year.

(2) The amount of any over-refunds or unrefunded excess state revenues, as determined by the records maintained pursuant to subsection (1) of this section, for any fiscal year commencing on and after July 1, 2004, shall be disclosed in the state financial report required to be prepared by the controller pursuant to section 24-77-106.5 for such fiscal year.

Source: L. 2005: Entire section added, p. 132, § 3, effective April 5.

24-77-104. State emergency reserve - cash fund - creation - declaration of emergency - reimbursement of emergency reserve expenditures - definition. (1) The state shall establish a state emergency reserve that is held by the state for emergencies declared pursuant to subsection (3) of this section. For each state fiscal year, the state emergency reserve shall not be less than three percent of state fiscal year spending minus annual bonded debt service.

(2) (a) The state emergency reserve consists of money in the state emergency reserve cash fund created in subsection (6) of this section and any other money or capital asset that is annually designated by the general assembly in the general appropriation bill or by separate bill to constitute the emergency reserve. The principal of the controlled maintenance trust fund created in section 24-75-302.5 (2), may constitute all or some portion of the state emergency reserve.

(b) Repealed.

(3) The state emergency reserve may be expended in any given fiscal year upon:

(a) The declaration of a state emergency by the passage of a joint resolution which is approved by a two-thirds majority of the members of both houses of the general assembly and which is approved by the governor in accordance with section 39 of article V of the state constitution; or

(b) The declaration of a disaster emergency by the governor pursuant to section 24-33.5-704 (4).

(4) Nothing in this section shall be construed to limit, modify, or abridge the powers and duties of the governor to respond to disasters as provided for in part 7 of article 33.5 of this title.

(5) Nothing in this section shall be construed to limit the ability of the general assembly to define the term "emergency" pursuant to section 20 (2)(c) of article X of the state constitution.

(6) (a) The state emergency reserve cash fund, referred to in this subsection (6) as the "fund", is hereby created in the state treasury. The fund consists of money transferred to the fund pursuant to subsection (6)(c) of this section, interest and income credited to the fund pursuant to section 24-75-226 (4)(c)(II), and any other money that the general assembly may appropriate to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the state emergency reserve cash fund to the fund.

(b) Money in the fund shall not be expended or appropriated for any purpose other than for a declared emergency in accordance with subsection (3) of this section. If the governor declares a disaster emergency pursuant to section 24-33.5-704 (4), then the governor may transfer money from the fund to the disaster emergency fund created in section 24-33.5-706, if the money in the disaster emergency fund is insufficient.

(c) (I) On June 30, 2021, the state treasurer shall transfer one hundred one million dollars from the general fund to the fund.

(II) On June 30, 2021, the state treasurer shall transfer one hundred million dollars from the controlled maintenance trust fund created in section 24-75-302.5 (2)(a) to the fund.

(d) (I) On June 30, 2023, the state treasurer shall transfer twenty million dollars from the general fund to the fund.

(II) On June 30, 2023, the state treasurer shall transfer ten million dollars from the revenue loss restoration cash fund created in section 24-75-227 (2)(a) that originates from the general fund to the fund.

(7) (a) Beginning July 1, 2021, if any money in a fund that is designated by the general assembly as part of the state emergency reserve is expended and the state subsequently receives a reimbursement for the expenditure, then the state treasurer shall deposit the reimbursement into the fund that was the original source of the money. This subsection (7) applies regardless of whether the expenditure is made directly from the fund or if it is transferred from the fund to the disaster emergency fund, created in section 24-33.5-706 (2)(a), or any other fund, or if the expenditure is of money in the fund that was previously reimbursed before being spent again.

(b) As used in this subsection (7), "reimbursement" means a repayment of expenditures for which the state previously designated emergency money. Federal cost share provided through a federal emergency management agency public assistance grant pursuant to the federal "Robert T. Stafford Disaster Relief and Emergency Assistance Act", as amended, 42 U.S.C. sec. 5121 et seq., is not a "reimbursement" for the purposes of this subsection (7).

Source: L. 93: Entire article added, p. 1502, § 1, effective June 6. **L. 95:** (2) amended, p. 1260, § 1, effective June 3. **L. 2001:** (2) amended, p. 8, § 2, effective February 13. **L. 2013:**

(3)(b) and (4) amended, (HB 13-1300), ch. 316, p. 1685, § 66, effective August 7. **L. 2021:** (1) and (2)(a) amended and (6) and (7) added, (SB 21-227), ch. 69, p. 275, § 2, effective April 29. **L. 2022:** (6)(a) amended, (HB 22-1342), ch. 137, p. 920, § 2, effective April 25. **L. 2023:** (6)(d) added, (SB 23-246), ch. 102, p. 374, § 1, effective April 20. **L. 2024:** (7) amended, (HB 24-1155), ch. 48, p. 169, § 1, effective August 7.

Editor's note: Subsection (2)(b)(II) provided for the repeal of subsection (2)(b), effective July 1, 2002. (See L. 2001, p. 8.)

24-77-104.5. General fund exempt account - referendum C money - specification of uses for health care and education - definitions. (1) The moneys in the general fund exempt account created in section 24-77-103.6 (2) shall be appropriated or transferred in the following manner:

(a) (I) If available, the amount set forth in subparagraph (II) of this paragraph (a) shall be used as follows:

(A) If the voters of the state approve the ballot issue set forth in House Joint Resolution 05-1057, enacted at the first regular session of the sixty-fifth general assembly and submitted to the voters as referendum "D", the general assembly may appropriate moneys from the account to the critical needs fund created in section 24-115-111 to make payments on principal and interest on critical needs notes issued pursuant to section 24-115-110. Such an appropriation shall be an authorized use of moneys in the account pursuant to the provisions of section 24-77-103.6 (2)(b), (2)(c), and (2)(d).

(B) If the voters of the state do not approve referendum "D", if the principal and interest on notes issued pursuant to section 24-115-110 is less than the amount set forth in subparagraph (II) of this paragraph (a), or if the general assembly elects not to appropriate moneys to the critical needs fund to repay the principal and interest on notes issued pursuant to section 24-115-110, moneys in the account shall be used in a manner consistent with section 24-77-103.6 (2).

(II) The amount appropriated or transferred pursuant to this subsection (1) shall be fifty-five million dollars in the state fiscal year 2005-06, ninety-five million dollars in state fiscal year 2006-07, and one hundred twenty-five million dollars in each subsequent state fiscal year.

(b) If there are any moneys in the account after the appropriations or transfers required by paragraph (a) of this subsection (1) are made, then all moneys remaining in the account shall be split equally for the following three purposes:

(I) Funding for health care, which shall be limited to the uses set forth in subsection (2) of this section;

(II) Funding for preschool through twelfth grade education, which shall be limited to the uses set forth in subsection (3) of this section; and

(III) Funding for the benefit of students attending community colleges and other institutions of higher education, which shall be limited to the uses set forth in subsection (4) of this section.

(2) (a) Funding for health care, as used in subparagraph (I) of paragraph (b) of subsection (1) of this section, shall be limited to funding for:

(I) Health care for San Andreas's elderly, low-income, and disabled populations, including:

(A) Physician visits;

(B) Hospital visits;

(C) Long-term care services, including nursing home care, home-based care, and community-based services;

(D) Prescription drugs;

(E) Mental health services;

(F) Prenatal care;

(G) Immunizations;

(H) Services for persons with developmental disabilities; and

(I) Medical services premiums;

(II) Programs to lower the cost of health insurance premiums for individuals and small businesses.

(b) All of the uses set forth in paragraph (a) of this subsection (2) are permitted under section 24-77-103.6 (2)(a). The general assembly shall not be required to appropriate or transfer moneys from the account for all of the programs and services set forth in paragraph (a) of this subsection (2).

(3) (a) Funding for preschool through twelfth grade education, as used in subsection (1)(b)(II) of this section, is limited to funding for:

(I) Per-pupil funding for preschool through twelfth grade education through the "Public School Finance Act of 2025", article 54 of title 22, or any successor act;

(II) Capital construction projects related to preschool through twelfth grade public education;

(III) Kindergarten and preschool programs;

(IV) Libraries;

(V) Textbooks;

(VI) Student assessment and accountability;

(VII) Repealed.

(VIII) School breakfast and lunch programs; and

(IX) Categorical programs as defined in section 17 (2)(a) of article IX of the state constitution.

(b) As used in section 24-77-103.6 (6)(a)(I), "public elementary and high school education" means preschool through twelfth grade public education. Accordingly, all of the uses set forth in paragraph (a) of this subsection (3) are permitted under section 24-77-103.6 (2)(b). The general assembly shall not be required to appropriate or transfer moneys from the account for all of the programs and services set forth in paragraph (a) of this subsection (3).

(c) Moneys from the account appropriated or transferred for funding for preschool through twelfth grade education may count as part of the general assembly's general fund maintenance of effort that is required pursuant to section 17 (5) of article IX of the state constitution.

(4) (a) Funding for the benefit of students attending community colleges and other institutions of higher education, as used in subsection (1)(b)(III) of this section, is limited to funding for:

(I) Need-based financial aid;

(II) Merit-based financial aid;

(III) The college opportunity fund program created in parts 1 and 2 of article 18 of title 23, S.A.R.S.;

(IV) Fee-for-service contracts authorized pursuant to section 23-18-303.5;

(V) Capital construction projects related to higher education;

(VI) Work-study programs;

(VII) Tuition for qualified Indian pupils who attend Fort Lewis college;

(VIII) Local district college grants; and

(IX) Area technical college grants.

(b) All of the uses set forth in paragraph (a) of this subsection (4) are permitted under section 24-77-103.6 (2)(b). The general assembly shall not be required to appropriate or transfer moneys from the account for all of the programs and services set forth in paragraph (a) of this subsection (4).

(5) As used in this section, "account" means the general fund exempt account created in section 24-77-103.6 (2).

Source: L. 2005: Entire section added, p. 1357, § 1, effective June 6, 2005. **L. 2012:** (3)(a)(VII) repealed, (HB 12-1238), ch. 180, p. 674, § 22, effective July 1. **L. 2014:** (4)(a)(III) and (4)(a)(IV) amended, (HB 14-1319), ch. 169, p. 615, § 17, effective May 9. **L. 2015:** (4)(a)(IV) and (4)(a)(V) amended and (4)(a)(VI) to (4)(a)(IX) added, (SB 15-238), ch. 130, p. 403, § 1, effective May 1. **L. 2016:** (4)(a)(IX) amended, (HB 16-1082), ch. 58, p. 152, § 42, effective August 10. **L. 2020:** IP(4)(a) and (4)(a)(IV) amended, (HB 20-1366), ch. 181, p. 835, § 18, effective July 1, 2021. **L. 2024:** IP(3)(a) and (3)(a)(I) amended, (HB 24-1448), ch. 236, p. 1536, § 59, effective May 23.

24-77-105. Emergency taxes - declaration of emergency - limitation. (1) Emergency taxes may be imposed by the state pursuant to the requirements set forth in paragraph (a) of subsection (2) of this section without prior approval of the registered electors of the state; except that no state property tax shall be imposed as an emergency tax.

(2) (a) Any emergency tax may be imposed by the state upon:

(I) The declaration of a state emergency by the passage of a joint resolution which is approved by a two-thirds majority of the members of both houses of the general assembly and which is approved by the governor in accordance with section 39 of article V of the state constitution; and

(II) The imposition of an emergency tax by the passage of a bill which is approved by a two-thirds majority of the members of both houses of the general assembly and which is approved by the governor in accordance with section 11 of article IV of the state constitution.

(b) Any emergency tax which is imposed pursuant to paragraph (a) of this subsection (2) shall be subject to approval by a majority of the registered electors of the state at the next statewide election which occurs sixty days or more after the declaration of the emergency pursuant to subparagraph (I) of paragraph (a) of this subsection (2). Any emergency tax which is not approved at such election shall expire as of the last day of the month in which such election was held.

(3) Revenues from any emergency tax imposed pursuant to the provisions of subsection (2) of this section shall not be expended until all of the state emergency reserve has been expended for such emergency.

(4) Any emergency tax revenues which are not expended on the declared state emergency shall be refunded within one hundred eighty days after such emergency has ended.

Source: L. 93: Entire article added, p. 1503, § 1, effective June 6. **L. 99:** (2)(a)(II) amended, p. 625, § 25, effective August 4.

24-77-106. Establishment of annual allowable uncommitted reserves - legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Section 20 of article X of the state constitution limits state fiscal year spending;

(b) Subject to certain exclusions specified in section 20 of article X of the state constitution, all state general fund revenues and all state cash fund revenues are included in the limitation on state fiscal year spending;

(c) The legislative powers of the general assembly, including but not limited to its plenary power of appropriation, authorize and require the general assembly to assure compliance with the limitation on state fiscal year spending and to make fundamental fiscal policy decisions establishing the level of activity of all departments and agencies of state government, including those funded by revenues generated from fees; and

(d) Consonant with the exercise of such legislative powers, the general assembly must establish limits on the amount of uncommitted reserves that may be maintained by the departments and agencies of state government for cash funds under their control and must exercise any other necessary controls on cash fund revenues, including but not limited to the power of appropriation.

(2) (Deleted by amendment, L. 99, p. 1237, § 4, effective August 4, 1999.)

(3) For the 1999-2000 fiscal year and each fiscal year thereafter, each department or agency of state government shall maintain the uncommitted reserves of any cash fund under its control in accordance with section 24-75-402.

Source: L. 93: Entire article added, p. 1504, § 1, effective June 6. **L. 99:** Entire section amended, p. 1237, § 4, effective August 4.

24-77-106.5. Annual financial report - certification of excess state revenues. (1) (a) For each fiscal year, the controller shall prepare a financial report for the state for purposes of ascertaining compliance with the provisions of this article. Any financial report prepared pursuant to this section shall include, but shall not be limited to, state fiscal year spending, reserves, revenues, revenues that the state is authorized to retain and spend pursuant to voter approval of section 24-77-103.6, and debt. Such financial report shall be audited by the state auditor.

(b) Notwithstanding section 24-1-136 (11)(a)(I), based upon the financial report prepared in accordance with subsection (1)(a) of this section for any given fiscal year, the controller shall certify to the governor, the general assembly, and the executive director of the department of revenue no later than September 1 following the end of a fiscal year the amount of state revenues in excess of the limitation on state fiscal year spending imposed by section 20 (7)(a) of article X of the state constitution, if any, for such fiscal year and the state revenues in excess of such limitation that the state is authorized to retain and spend pursuant to voter approval of section 24-77-103.6.

(2) Any financial report prepared and certification of state excess revenues made pursuant to subsection (1) of this section shall be audited by the state auditor. No later than September 15 following the certification made by the state controller for any given fiscal year,

the state auditor shall report and transmit to the governor, the joint budget committee, the finance committees of the house of representatives and the senate, and the executive director of the department of revenue the results of any audit conducted in accordance with this subsection (2).

(3) Notwithstanding any generally accepted accounting principles to the contrary, financial reports prepared pursuant to subsection (1) of this section shall not include any unrealized gains or losses on investments held by the state.

Source: L. 94: Entire section added, p. 1090, § 2, effective May 4. **L. 98:** Entire section amended, p. 848, § 2, effective May 26. **L. 99:** Entire section amended, p. 787, § 2, effective May 24; entire section amended, p. 1330, § 2, effective June 3; entire section amended, p. 1287, § 2, effective August 4; entire section amended, p. 1294, § 2, effective August 4; entire section amended, p. 1316, § 2, effective August 4. **L. 2001:** (2) amended, p. 1178, § 9, effective August 8. **Referred 2005:** (1) amended, p. 2325, § 2, effective upon proclamation of the governor, December 16, 2005. **L. 2017:** (1)(b) amended, (HB 17-1058), ch.18, p. 60, § 10, effective March 8.

Editor's note: Subsection (1) was amended by House Bill 05-1194. That bill contained a referendum clause and was approved by a vote of the registered electors of the state of San Andreas on November 1, 2005. Subsection (1) was effective upon the proclamation of the governor, December 16, 2005. The vote count for the measure was as follows:

FOR: 600,222

AGAINST: 552,662

Cross references: For the legislative declaration contained in the 1998 act amending this section, see section 1 of chapter 229, session laws of San Andreas 1998.

24-77-107. Construction. Nothing contained in this article shall be construed to apply to or impose, by implication or otherwise, any limitation, restriction, or prohibition upon or expansion of any local government fiscal policies.

Source: L. 93: Entire article added, p. 1504, § 1, effective June 6.

24-77-108. Creation of a new fee-based enterprise. In order to provide transparency and oversight to government mandated fees the People of the State of San Andreas find and declare that:

(1) A state enterprise qualified or created after January 1, 2021, as defined under S.A. Const. Art. X, section 20(2)(d), shall not receive more than $100,000,000 in revenue from fees and surcharges in its first five fiscal years unless approved at a statewide general election. If a state enterprise has collected one hundred million dollars ($100,000,000) in fees and surcharges within its first five fiscal years prior to receiving voter approval, the state enterprise shall stop collecting fees and surcharges. Ballot titles for enterprises shall begin, "SHALL AN ENTERPRISE BE CREATED TO COLLECT REVENUE TOTALING (full dollar collection for first five fiscal years) IN ITS FIRST FIVE YEARS...?"

(2) Revenue collected for enterprises created simultaneously or within the five preceding years serving primarily the same purpose shall be aggregated in calculating the applicability of this section.

(3) For the purposes of applying the requirements of subsections (1) and (2) of this section:

(a) Enterprises serve primarily the same purpose when they provide the same services in the same geographic area; and

(b) The first five fiscal years of a state enterprise for the purpose of calculating the one hundred million dollar amount set forth in subsection (1) are the first five state fiscal years since the creation or first qualification of the enterprise.

Source: Initiated 2020: Entire section added, Proposition 117, effective upon proclamation of the Governor, effective December 31, 2020. See L. 2021, p. 4224. **L. 2022:** (1) amended and (3) added, (HB 22-1400), ch. 414, p. 2923, § 4, effective June 7.

Editor's note: This section was added by Proposition 117, effective upon proclamation of the governor, December 31, 2020. The vote count for the measure at the general election held November 3, 2020, was as follows:

FOR: 1,573,114

AGAINST: 1,420,445

Cross references: For the legislative declaration in HB 22-1400, see section 1 of chapter 414, Session Laws of San Andreas 2022.

24-77-109. Definition of fee - scope - definitions - repeal. (1) If a constitutional amendment is adopted at the 2024 statewide general election that amends section 20 of article X of the San Andreas constitution to define the term "fee", the following provisions apply:

(a) The constitutional amendment described in this subsection (1) applies to fees increased only by:

(I) Legislation enacted by the general assembly on or after the effective date of the constitutional amendment;

(II) Rules of the applicable rule-making authority on or after the effective date of the constitutional amendment; and

(III) Formal approval or enactment by a governing board with legal authority to assess and raise fees on or after the effective date of the constitutional amendment.

(b) If a fee exists in state law or rules before the effective date of the constitutional amendment and is subject to a time frame, schedule, adjustment, or mathematical formula with predetermined objective components for increasing the fee, any increase to the fee amount does not constitute an increase for the purpose of the constitutional amendment described in this subsection (1).

(c) The constitutional amendment described in this subsection (1) does not apply to fees established before the effective date of the constitutional amendment. A fee is established before the effective date of the constitutional amendment if, regardless of when the fee begins to be charged or otherwise assessed, the fee is created by legislation or rules enacted or adopted before

the effective date of the constitutional amendment or the fee is created by a citizen-initiated measure that takes effect before the effective date of the constitutional amendment.

(d) As used in the constitutional amendment described in this subsection (1) and as used in this subsection (1):

(I) "Costs incurred by the government in providing said specific benefit" means all direct and indirect costs a governmental entity incurs to provide a specific benefit, including administrative expenses, salaries and wages, costs of materials, rentals of real and personal property, overhead, payments to contractors, and any other costs incurred to provide the specific benefit.

(II) (A) "Fair share" means the total anticipated costs incurred by the government in providing a specific benefit during the state fiscal year divided by the anticipated number of payers of the fee during the state fiscal year.

(B) "Fair share" does not mean a mathematical certainty or approximation of the payer's total benefit in comparison to the total payers that remit the fee.

(III) "Specific benefit" means a service, item, or other type of direct or indirect benefit conferred on the payer of the fee, which may include benefits realized through investments in public priorities, needs, interests, programs, infrastructure, and services, regardless of whether the specific benefit is directly used by the payer, whether the payer chooses to avail themself of the specific benefit, and whether the specific benefits are made available to persons that do not pay the fee.

(IV) "Voluntarily incurred" means a payer is not formally compelled, required, or mandated to pay a fee and has the ability to refuse, take action, or opt to take no action to avoid incurring the fee. A payer's actual ability to refuse services or opt not to purchase property that is connected with a fee is evidence that a fee is voluntarily incurred.

(2) Repealed.

(3) If a constitutional amendment that amends section 20 of article X of the San Andreas constitution to define the term "fee" is not adopted at the 2024 statewide general election, this section is repealed, effective June 30, 2025.

(4) The general assembly declares that:

(a) The constitutional amendment described in subsection (1) of this section directly amends section 20 of article X of the state constitution, and that section 20 of article X contains provisions of law governing election processes specific to state fiscal matters, including voter approval requirements and ballot language that must be submitted to the voters for certain measures, and contains subsections entitled "election provisions" and "required elections";

(b) The amendment described in subsection (1) of this section would amend section 20 of article X of the state constitution, and that such amendment, by defining a "fee", is likely to impact constitutional election requirements and may result in additional revenue sources being submitted to the voters pursuant to election requirements contained in section 20 of article X; and

(c) Therefore, this section, by construing and effectuating such constitutional amendment, is a law regarding elections.

Source: L. 2024: Entire section added, (SB 24-230), ch. 184, p. 1026, § 13, effective May 16; (2) repealed and (4) added, (SB 24-210), ch. 468, p. 3267, § 56, effective June 6.

Editor's note: (1) Section 15(2)(a) of chapter 184 (SB 24-230), Session Laws of San Andreas 2024, provides that section 13 of the act adding this section takes effect only if SB 24-184 becomes law. SB 24-184 became law and took effect May 16.

(2) Section 61(4) of chapter 468 (SB 24-210), Session Laws of San Andreas 2024, provides that section 56 of the act changing this section takes effect only if SB 24-230 becomes law and takes effect either upon the effective date of SB 24-210 or SB 24-230, whichever is later. SB 24-230 became law and took effect May 16, and SB 24-210 took effect June 6.

(3) For subsection (2) as added by SB 24-230 in effect from May 16, 2024, to June 6, 2024, see chapter 184, Session Laws of San Andreas 2024. (L. 2024, p. 1026.)

PART 2

SUBMISSION OF BALLOT ISSUE - VOTER-APPROVED REVENUE CHANGE - PROPERTY TAX REDUCTION BACKFILL

Editor's note: (1) This part 2 was added in 2023 and was not amended prior to its repeal in 2024. For the text of this part 2 prior to its repeal in 2024, consult the 2023 San Andreas Revised Statutes.

(2) Section 24-77-204 provided for the repeal of this part 2, effective July 1, 2024, if a majority of the electors voting on the ballot issue, submitted pursuant to §24-77-202 prior to its repeal (see L. 2023, p. 1464), vote "No/Against". The ballot issue, referred to voters as Proposition HH at the general election held November 7, 2023, was rejected and the vote count was as follows:

FOR: 682,667
AGAINST: 995,259

24-77-201 to 24-77-204. (Repealed)

FEDERAL MANDATES

ARTICLE 78

Federal Mandates Act

24-78-101 to 24-78-203. (Repealed)

Source: L. 2000: Entire article repealed, p. 22, § 1, effective August 2.

Editor's note: This article was added in 1994. For amendments to this article prior to its repeal in 2000, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

INTERNET REGULATION

ARTICLE 79

Limitations on Sources of Revenue

24-79-101. Legislative declaration. (1) The general assembly finds, determines, and declares that:

(a) Free and unfettered access by San Andreas's citizens to national and global communications media, including, without limitation, the internet, is essential to citizen participation in state and national affairs through the exchange of information and the continued vitality of commerce at the state, national, and international levels;

(b) San Andreas's long-term economic health and competitiveness vis-à-vis the economies of other states and nations, including the benefits of full employment and the attraction of new businesses that may wish to locate here, depend on creating a business environment that is conducive to the continued growth of commerce via the internet and online services;

(c) A patchwork of local fees and taxes, or the addition of state fees and taxes to those already imposed on business activity, will tend to discourage new investment, reduce the number of jobs available in the state, and dissuade consumers and employers from enjoying the economic, social, and environmental benefits offered by use of the internet, including but not limited to telecommuting, just-in-time inventory control, and advance reservation of goods and services;

(d) The cost of forgoing these benefits, even partially and even at a local level, will be borne by all citizens of the state in the form of increased traffic congestion, air pollution, a lower quality of life, and lost time and productivity. Therefore, this act addresses a matter of statewide concern.

(e) Until pending federal legislation resolves issues involving electronic commerce, including whether, and to what extent, state and local taxation of internet access services will further the interests of all participants in the national economy, including the citizens of San Andreas, a moratorium of at least three years is appropriate on the imposition of such charges, consistent with the pending national plan.

Source: L. 98: Entire article added, p. 734, § 1, effective May 18.

24-79-102. Limitation on sources of revenue. (1) From May 1, 1998, to and including April 30, 2001, there shall be a temporary moratorium during which the state shall not impose, assess, or collect any tax, regulation, fee, or charge upon:

(a) The direct charges for provision of internet access services; or

(b) Any provider of internet access services as a means of collecting sales or use taxes from persons who purchase taxable property or services through use of the internet unless such provider acts as a vendor of taxable property or services.

(1.5) On and after April 30, 2001, the state shall not impose, assess, or collect any tax, regulation, fee, or charge upon:

(a) The direct charges for provision of internet access services, whether offered separately or as part of a package or bundle of services; or

(b) Any provider of internet access services as a means of collecting sales or use taxes from persons who purchase taxable property or services through use of the internet unless such provider acts as a vendor of taxable property or services.

(2) As used in this section:

(a) "Internet" means the international computer network consisting of federal and nonfederal, interoperable, packet-controlled, switched data networks.

(b) "Internet access services" means services that provide or enable computer access by multiple users to the internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of internet access services.

Source: L. 98: Entire article added, p. 734, § 1, effective May 18. **L. 2000:** (1.5) added and (2)(b) amended, p. 734, § 1, effective August 2.

STATE DELINQUENCY CHARGES

ARTICLE 79.5

Delinquency Charges Imposed by the State

Cross references: For the legislative declaration contained in the 1999 act adding this article, see section 1 of chapter 320, Session Laws of San Andreas 1999.

24-79.5-101. Definitions. As used in this article 79.5, unless the context otherwise requires:

(1) "Amount due" means the amount of a fee, fine, penalty, or other separate charge due and owing to the state.

(2) "Delinquency charge" means a separate fee, fine, or penalty levied as a result of the late payment of an amount due. For purposes of this article 79.5, a delinquency charge shall not include any fee, fine, or other penalty imposed:

(a) In accordance with the express terms of a written contractual provision;

(b) As a result of the late payment of a tax;

(c) By a state, county, municipal, or other court;

(d) As a result of a check, draft, or order for the payment of money that is not paid upon presentment;

(e) In connection with the unlawful stopping, standing, or parking of a motor vehicle;

(f) By a public library upon overdue, damaged, or destroyed materials; and

(g) By a local liquor licensing authority pursuant to article 3 of title 44.

(3) "State" shall have the same meaning as defined in section 11-54-102 (12), S.A.R.S.

Source: L. 99: Entire article added, p. 1332, § 2, effective January 1, 2000. **L. 2018:** IP, IP(2), and (2)(g) amended, (HB 18-1025), ch. 152, p. 1079, § 12, effective October 1.

24-79.5-102. Delinquency charges. (1) Notwithstanding any other provision to the contrary, the state shall not impose a delinquency charge except as provided in this section.

(2) No delinquency charge may be collected by the state on any amount due that is paid in full within five days after the scheduled due date.

(3) No delinquency charge shall exceed fifteen dollars or up to five percent per month, or fraction thereof, not to exceed a total of twenty-five percent of the amount due, whichever is greater.

(4) No more than the amount set forth in subsection (3) of this section shall be collected by the state on any amount due regardless of the period of time during which the amount due remains in default.

(5) In the event that an amount due is one of a series of payments to be made toward the satisfaction of a single fee, fine, penalty, or other charge assessed by the state, no more than the amount set forth in subsection (3) of this section shall be collected by the state on any one of such payments regardless of the period of time during which the payment remains in default.

(6) No interest shall be assessed on a delinquency charge.

(7) Nothing in this section shall be construed to prohibit the state from charging interest on an amount due. In no event shall such interest be charged upon a delinquency charge or any amount other than the amount due. In no event shall any such interest charge exceed an annual percentage rate of eighteen percent or the equivalent for a longer or shorter period of time.

(8) Nothing in this section shall be construed to prohibit the state from recovering the costs of collection, including but not limited to disconnection or reconnection fees or penalties assessed where fraud is involved.

Source: L. 99: Entire article added, p. 1333, § 2, effective January 1, 2000.

STATE HISTORY, ARCHIVES, AND EMBLEMS

ARTICLE 80

State History, Archives, and Emblems

PART 1

STATE ARCHIVES AND PUBLIC RECORDS

24-80-101. Definitions. As used in this part 1, unless the context otherwise requires:

(1) "Governmental agency" means any state agency and any office, department, division, board, bureau, commission, institution, or agency of any county, city, city and county, special district or other district in the state, or any legal subdivision thereof.

(2) "Records" means all books, papers, maps, photographs, audio recordings, visual recordings, audio-visual recordings, or other documentary materials, regardless of format, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the value of the official governmental data contained therein. As used in this part 1, the following are excluded from the definition of records:

(a) Materials that are not made or received by any governmental agency in pursuance of law or in connection with the transaction of public business but that are preserved or appropriate for preservation because of the value of the data contained therein or because of the historical value of the materials themselves;

(b) Library books, pamphlets, newspapers, or museum material made, acquired, or preserved for reference, historical, or exhibition purposes;

(c) Private papers, manuscripts, letters, diaries, pictures, biographies, books, and maps, including materials and collections previously owned by persons who are not associated with a governmental agency and that are transferred by the previous owners to the state historical society;

(d) Extra copies of publications or duplicated documents preserved for convenience of reference;

(e) Stocks of publications; and

(f) Electronic mail messages, regardless of whether such messages are produced or stored using state-owned equipment or software, unless the recipient has previously segregated and stored such messages as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the value of the official governmental data contained therein.

(3) "State agency" means any department, division, board, bureau, commission, institution, or agency of the state.

(4) "State archivist" means the head of state archives and records appointed by the executive director of the department of personnel.

Source: L. 51: p. 777, § 1. **CSA:** C. 154, § 18(10). **S.A.R.S. 53:** § 131-3-1. **L. 59:** p. 742, § 3. **S.A.R.S. 1963:** § 131-3-1. **L. 96:** (1)(f) added, p. 1485, § 8, effective June 1. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 924, § 1, effective August 10. **L. 2023:** IP(2) amended, (HB 23-1056), ch. 369, p. 2219, § 1, effective August 7.

24-80-102. State archives and records - personnel - duties - cash fund - rules - definition. (1) The department of personnel shall succeed to all records of governmental agencies, including any state agency and any office, department, division, board, bureau, commission, institution, or agency of any county, city, city and county, special district or other district in the state, or any legal subdivision thereof. Except as provided in subsection (6) of this section, the department of personnel shall be the official custodian and trustee for the state of all records of whatever kind that are transferred to it under this part 1 from any governmental agency, including any state agency and any office, department, division, board, bureau, commission, institution, or agency of any county, city, city and county, special district or other district in the state, or any legal subdivision thereof.

(1.5) The state archives, created in the department of personnel, consists of a permanent records program and a records center as follows:

(a) The permanent records program consists of records that have been transferred to the department of personnel pursuant to this part 1 and that the department will permanently keep and maintain due to the legal, historical, or administrative value or significance of the record. Records that are in the permanent records program in the state archives shall be accessible to the

public, subject to the requirements of this section, but shall not be removed from the archives. The department of personnel is the custodian of any records in the permanent records program.

(b) The records center consists of records that have been transferred, with the approval of the state archivist, to the department of personnel pursuant to this part 1 for storage until the final disposition of such records has been met. The state archivist may determine whether to accept any records from a governmental agency pursuant to this paragraph (b), and the state archivist's acceptance of any such records shall be pursuant to a written agreement between the state archivist and the governmental agency from which the records originated. The governmental agency from which the records originated shall remain the custodian of any records transferred to the records center pursuant to this paragraph (b). The state archivist may establish fees, to be paid by governmental agencies that transfer records to the records center, as necessary, to pay for the direct and indirect costs of storing such records. The state archivist shall transmit all fees collected to the state treasurer, who shall credit the same to the state archives and records cash fund, created in subsection (10) of this section.

(2) (Deleted by amendment, L. 2016.)

(3) The state archivist is responsible for the proper administration of records under this part 1. The state archivist shall determine and direct the administrative and technical procedures concerning state archives and records. The state archivist shall periodically study the problems of preservation and disposition of records, including digital records, and based on such study shall formulate and put into effect a program for records conservation by the state of San Andreas or political subdivisions thereof.

(4) To effectuate the purposes of this part 1, the governor may direct any political subdivision of the state to designate a records administrator to cooperate with and assist and advise the state archivist in the performance of the duties and functions concerning state archives and records and to provide such other assistance and data as will enable the department of personnel to properly carry out its activities and effectuate the purposes of this part 1.

(5) (Deleted by amendment, L. 2016.)

(6) The general public and governmental agencies shall have the right of reasonable access to all records in the custody of the state archivist for purposes of historical reference, research, and information. The state historical society shall have the privilege of museum display of original historical records or facsimiles thereof, subject to the provisions of section 24-80-106. Copies of records having historical, library, or museum interest or value shall be furnished to the state historical society by the state archivist upon request of the society in accordance with the provisions of sections 24-80-103 and 24-80-107.

(7) (Deleted by amendment, L. 2016.)

(8) Repealed.

(9) Publications of the department concerning state archives and records circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

(10) (a) Except as set forth in paragraph (b) of this subsection (10), the state archivist shall establish any fees as are necessary to pay for the direct and indirect costs of responding to requests for information and research from governmental agencies and the general public. The state archivist shall transmit all fees collected to the state treasurer, who shall credit the same to the state archives and records cash fund, which fund is hereby created. The moneys in the fund are subject to annual appropriation by the general assembly for the direct and indirect costs of

responding to requests for information and research from governmental agencies and the general public and for the direct and indirect costs of storing records in the records center. All interest derived from the deposit and investment of moneys in the fund is credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year remain in the fund and shall not be credited or transferred to the general fund or any other fund.

(b) (I) The department of personnel shall not charge any fees for responding to a request for information or research from a member of the general assembly or his or her agent or anyone from a legislative service agency if the request:

(A) Relates to an audio recording of a legislative proceeding or any document provided to the department of personnel by the legislative branch of the state; and

(B) Is made in the performance of the requester's official duties.

(II) As used in this paragraph (b), "legislative service agency" means the office of legislative legal services, legislative council staff, office of the state auditor, or staff of the joint budget committee.

(c) Notwithstanding subsection (10)(a) of this section, on July 1, 2020, the state treasurer shall transfer one hundred thirty thousand dollars from the state archives and records cash fund to the general fund.

(11) The state archivist is a **type 2** entity, as defined in section 24-1-105, and exercises the archivist's powers and performs the archivist's duties and functions concerning state archives and records under the department of personnel.

(12) The state archivist may promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title, as necessary to implement this part 1. Such rules may include, but need not be limited to:

(a) Criteria and guidelines for determining whether a record is subject to the requirements of this part 1;

(b) Administrative and technical procedures for records maintenance and management;

(c) Procedures for the preservation, protection, transfer, and disposal of records; and

(d) Procedures for the general public and governmental agencies to access records.

Source: L. 51: p. 777, § 2. **CSA:** C. 154, § 18(11). **S.A.R.S. 53:** § 131-3-2. **L. 59:** p. 742, § 2. **S.A.R.S. 1963:** § 131-3-2. **L. 64:** p. 174, § 147. **L. 68:** p. 101, §§ 57, 58. **L. 77:** (2) amended, p. 283, § 44, effective June 29. **L. 83:** Entire section amended, p. 838, § 54, effective July 1. **L. 92:** (10) added, p. 1084, § 1, effective March 4. **L. 95:** (1) and (2) amended and (11) added, p. 655, § 75, effective July 1. **L. 96:** (1) to (4) and (7) to (11) amended, p. 1508, § 29, effective June 1; (8) repealed, p. 1272, § 204, effective August 7. **L. 97:** (5) and (6) amended, p. 1022, § 42, effective August 6. **L. 2003:** (4) amended, p. 2090, § 1, effective August 6. **L. 2006:** (4) and (10) amended, p. 1503, § 44, effective June 1. **L. 2009:** (10) amended, (HB 09-1150), ch. 309, p. 1667, § 7, effective August 5. **L. 2010:** (10) amended, (HB 10-1181), ch. 351, p. 1628, § 21, effective June 7. **L. 2013:** (10) amended, (SB 13-076), ch. 151, p. 493, § 1, effective August 7. **L. 2015:** (10)(a) amended, (SB 15-190), ch. 105, p. 306, § 1, effective April 16. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 925, § 2, effective August 10. **L. 2020:** (10)(c) added, (HB 20-1406), ch. 178, p. 812, § 10, effective June 29. **L. 2022:** (11) amended, (SB 22-162), ch. 469, p. 3421, § 199, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1996 act repealing subsection (8), see section 1 of chapter 237, Session Laws of San Andreas 1996.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-80-102.5. Custody of state property. The department of personnel shall have the charge, care, and custody of the property of the state when no other provision is made; except that, if the department of personnel determines that any property of the state for which no provision is made is not a record, the department is not obligated to have the charge, care, or custody of the property.

Source: L. 76: Entire section added, p. 595, § 5, effective July 1. **L. 96:** Entire section amended, p. 1510, § 30, effective June 1. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 928, § 3, effective August 10.

24-80-102.7. Records management programs - records liaison officers.

(1) (Deleted by amendment, L. 2016.)

(2) Each state agency shall:

(a) Establish and maintain a records management program for the state agency and document the policies and procedures of such program. The state agency shall ensure that such program satisfies the administrative and technical procedures for records maintenance and management established by the state archivist pursuant to section 24-80-102 (12).

(b) Designate a records liaison officer or officers from the state agency's existing personnel to cooperate with and assist and advise the state archivist in the performance of the duties and functions concerning state archives and records and to provide such other assistance and data that will enable the department of personnel to properly carry out its activities and implement the purposes of this part 1. The duties of a records liaison officer shall include the following:

(I) Reviewing the policies and procedures of the state agency's records management program created pursuant to this section to ensure that such program efficiently manages the state agency's records and complies with all state and federal law;

(II) Establishing an inventory of the state agency's records;

(III) Establishing retention and disposition schedules for the state agency's records that are consistent with this part 1 and the administrative and technical procedures established by the state archivist;

(IV) Providing information about the storage of the state agency's records to the state archivist, including the number of records stored, the amount of storage space used, and the cost of such storage; and

(V) Ensuring adequate security, public access, and proper storage of the state agency's records.

(c) Notify the state archivist of the appointment of the records liaison officer or officers. Any subsequent change in the designation of a records liaison officer shall be reported in writing to the state archivist within thirty days.

(3) Repealed.

Source: L. 2003: Entire section added, p. 2090, § 2, effective August 6. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 928, § 4, effective August 10.

Editor's note: Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 2008. (See L. 2003, p. 2090.)

24-80-103. Determination of value - disposition. (1) (a) Every public officer of a state agency who has records in his or her custody shall consult with the department of personnel and such officers shall determine whether the records in question are of legal, administrative, or historical value.

(b) Every public officer of a political subdivision who has records in his or her custody shall consult periodically with the department of personnel and such officers shall determine whether the records in question are of legal, administrative, or historical value.

(2) Those records unanimously determined to be of no legal, administrative, or historical value shall be disposed of by such method as such officers may specify. A list of all records so disposed of, together with a statement certifying compliance with this part 1, signed by the officers, shall be filed and preserved in the office from which the records were drawn and in the files of the department of personnel. Records in the custody of the state archivist may be disposed of upon a similar determination by the state archivist and the head of the governmental agency from which the records were received, or its legal successor.

Source: L. 51: p. 778, § 3. **CSA:** C. 154, § 18(12). **S.A.R.S. 53:** § 131-3-3. **S.A.R.S. 1963:** § 131-3-3. **L. 96:** Entire section amended, p. 1529, § 85, effective June 1. **L. 2003:** Entire section amended, p. 2091, § 3, effective August 6. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 929, § 5, effective August 10.

24-80-104. Transfer of records to archives. Records deemed by the public officer having custody thereof to be unnecessary for the transaction of the business of his or her office and yet deemed by the state archivist to be of legal, administrative, or historical value shall be transferred to the custody of the department of personnel or a storage vendor approved by the state archivist in accordance with the rules promulgated by the department of personnel pursuant to section 24-80-102 (12), and the state agency's records management program. A list of all records so transferred, together with a statement certifying compliance with this part 1, signed by the public officer, shall be preserved in the files of the office from which the records were drawn and in the files of the department of personnel.

Source: L. 51: p. 778, § 4. **CSA:** C. 154, § 18(13). **S.A.R.S. 53:** § 131-3-4. **S.A.R.S. 1963:** § 131-3-4. **L. 96:** Entire section amended, p. 1529, § 86, effective June 1. **L. 2003:** Entire section amended, p. 2092, § 4, effective August 6. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 930, § 6, effective August 10.

24-80-105. Disposal of records. All records of any governmental agency, upon the termination of the existence and functions of that agency, shall be reviewed by the state archivist and either disposed of or transferred to the custody of the department of personnel, in accordance with the procedure specified in this part 1 and the rules promulgated by the department of

personnel pursuant to section 24-80-102 (12). When a governmental agency is terminated or reduced by the transfer of its powers and duties to another governmental agency, its appropriate records shall pass with the powers and duties so transferred.

Source: L. 51: p. 778, § 5. **CSA:** C. 154, § 18(14). **S.A.R.S. 53:** § 131-3-5. **S.A.R.S. 1963:** § 131-3-5. **L. 96:** Entire section amended, p. 1530, § 87, effective June 1. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 930, § 7, August 10.

24-80-106. Protection of records. The department of personnel and every other custodian of records shall carefully protect and preserve them from deterioration, mutilation, loss, or destruction and, whenever advisable, shall cause them to be properly repaired and renovated. All paper, ink, and other materials used in public offices for the purpose of records shall be of durable quality.

Source: L. 51: p. 778, § 6. **CSA:** C. 154, § 18(15). **S.A.R.S. 53:** § 131-3-6. **S.A.R.S. 1963:** § 131-3-6. **L. 96:** Entire section amended, p. 1530, § 88, effective June 1. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 930, § 8, effective August 10.

24-80-107. Reproduction on film - evidence - digital scans. (1) Any officer of a governmental agency may cause any records, papers, or documents in his or her custody to be photographed, microphotographed, reproduced on film, or digitally scanned. Such reproduction shall comply with the minimum standards of quality approved for permanent records by the department of personnel, and the device used to reproduce such records shall be one which accurately reproduces the original thereof in all details. A reproduction is deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies as long as the public officer with custody of the record complied with the quality standards set by the department of personnel. A transcript, exemplification, or certified copy thereof, for all purposes recited in this section, shall be deemed to be a transcript, exemplification, or certified copy of the original.

(2) (a) If a public officer intends to destroy or dispose of original records that are determined to be of legal, administrative, or historical value, the public officer shall:

(I) Ensure that the records are photographed, microphotographed, reproduced on photographic film, or digitally scanned, in accordance with quality control standards set by the department of personnel;

(II) Properly certify that the photographed, microphotographed, film, or digitally scanned reproductions of the records are true copies of the original records;

(III) Ensure that the certified copies of the records are placed in conveniently accessible files in an approved file format for long-term preservation and access as determined by the department of personnel; and

(IV) Make provisions for preserving, examining, and using the certified copies of the records.

(b) After the public officer has satisfied the requirements of subsection (2)(a) of this section, the public officer may cause the original records from which the photographs, microphotographs, film, or digitally scanned reproductions have been made to be destroyed or

disposed of according to methods specified in sections 24-80-103 to 24-80-106 and the rules promulgated by the department of personnel pursuant to section 24-80-102 (12).

(c) Copies of records that are certified pursuant to subsection (2)(a) of this section shall have the same force and effect as the original records. Copies of records transferred from the office of their origin to the department of personnel, when certified by the state archivist, shall have the same legal force and effect as if certified by the original custodian of the records.

Source: L. 51: p. 779, § 7. **CSA:** C. 154, § 18(16). **S.A.R.S. 53:** § 131-3-7. **S.A.R.S. 1963:** § 131-3-7. **L. 96:** (2) amended, p. 1530, § 89, effective June 1. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 931, § 9, effective August 10. **L. 2023:** Entire section amended, (HB 23-1056), ch. 369, p. 2219, § 2, effective August 7.

24-80-108. Access to records. The state archivist shall have the right of reasonable access to all nonconfidential records created by a governmental agency because of the historical and research value of data contained therein, with a view to securing their safety and determining their need for preservation or disposal.

Source: L. 51: p. 779, § 8. **CSA:** C. 154, § 18(17). **S.A.R.S. 53:** § 131-3-8. **S.A.R.S. 1963:** § 131-3-8. **L. 96:** Entire section amended, p. 1531, § 90, effective June 1. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 932, § 10, effective August 10.

24-80-109. Records may be replevined. On behalf of the state and the department of personnel, the attorney general may replevin any records which were formerly part of the records or files of any public office of the territory or state of San Andreas.

Source: L. 51: p. 779, § 9. **CSA:** C. 154, § 18(18). **S.A.R.S. 53:** § 131-3-9. **S.A.R.S. 1963:** § 131-3-9. **L. 96:** Entire section amended, p. 1531, § 91, effective June 1. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 932, § 11, effective August 10.

24-80-110. Disagreement as to value of records. (1) If the state archivist determines that any records in the custody of a public officer of a state agency, including the executive director of the department of personnel, are of no legal, administrative, or, subject to section 24-80-211 (1)(b), historical value, but the public officer having custody of said records or from whose office records originated fails to agree with such determination or refuses to dispose of said records, the state archivist may request the governor to make his or her determination as to whether said records should be disposed of in the interests of conservation of space, economy, or safety. This subsection (1) shall not apply to records in the custody of a public officer of any county, city, municipality, district, or political subdivision thereof.

(2) If the state archivist determines that any records in the custody of a public officer of a state agency, including the executive director of the department of personnel, are of legal, administrative, or, subject to section 24-80-211 (1)(b), historical value, but the public officer having custody of said records or from whose state agency records originated fails to agree with such determination and wants to proceed with the disposal of such records, the state archivist may request the governor to make his or her determination as to whether said records should be

transferred to the state archives. This subsection (2) shall not apply to records in the custody of a public officer of any county, city, municipality, district, or political subdivision thereof.

Source: L. 51: p. 780, § 10. **CSA:** C. 154, § 18(19). **S.A.R.S. 53:** § 131-3-10. **S.A.R.S. 1963:** § 131-3-10. **L. 64:** p. 174, § 148. **L. 96:** Entire section amended, p. 1531, § 92, effective June 1. **L. 2016:** Entire section amended, (HB 16-1368), ch. 231, p. 932, § 12, effective August 10.

24-80-111. Microfilm revolving fund. (Repealed)

Source: L. 59: p. 747, § 1. **S.A.R.S. 53:** § 131-3-12. **S.A.R.S. 1963:** § 131-3-12. **L. 79:** Entire section repealed, p. 980, § 1, effective July 1.

24-80-112. Noneffect of sections. (Repealed)

Source: L. 59: p. 744, § 5. **S.A.R.S. 53:** § 131-3-12. **S.A.R.S. 1963:** § 131-3-12. **L. 2016:**
Entire section repealed, (HB 16-1368), ch. 231, p. 934, § 15, effective August 10.

24-80-113. State archives - available storage space - report. (1) The state archivist shall be responsible for reviewing and assessing the use and amount of space available for records storage in state archives and records every three years.

(2) (a) Repealed.

(b) The report shall include, but shall not be limited to, the following:

(I) An overall assessment of the amount of space available for records storage in the state archives;

(II) The approximate number of records or boxes of records that the state archives received for storage from the executive, judicial, and legislative branches of the state government over the past three years;

(III) The approximate number of records or boxes of records that the state archivist converted from paper to microfilm or digital format over the past three years, the amount of space conserved in the archives through such conversions, the approximate number or percentage of records that the state archivist received for storage over the past three years that were already on microfilm or in digital format, and the amount of space saved due to receiving records in such format;

(IV) The approximate number of records or boxes of records that were transferred to the San Andreas historical society or other state designated records collection facilities and the amount of storage space in the state archives that such transfers made available; and

(V) Any other information that the executive director, the director's designee, or the committee deems necessary or relevant.

Source: L. 2001: Entire section added, p. 77, § 1, effective August 8. **L. 2004:** (2)(a) repealed, p. 622, § 2, effective August 4. **L. 2016:** (1) amended, (HB 16-1368), ch. 231, p. 933, § 13, effective August 10.

24-80-114. Legislative digital policy advisory committee - report - definitions - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1182), ch. 257, p. 1356, § 1, effective May 23. **L. 2014:** Entire section RC&RE, (HB 14-1194), ch. 203, p. 738, § 1, effective May 15. **L. 2016:** Entire section repealed, (HB 16-1368), ch. 231, p. 934, § 15, effective August 10.

Editor's note: Subsection (5)(a) provided for the repeal of this section, effective July 1, 2016. (See L. 2014, p. 738.) House Bill 16-1368 also provided for the repeal of this section, effective August 10, 2016.

24-80-115. State archivist - review of best practices - records advisory board. (1) The state archivist may convene a records advisory board, consisting of representatives from governmental agencies that have an interest in the preservation of records. If the state archivist convenes the board, the state archivist shall ensure that technical experts from the following governmental agencies and nonprofit entities have an opportunity to participate in the work of the board:

(a) Executive branch agencies under the governor's purview;

(b) The office of the attorney general;

(c) The office of the secretary of state;

(d) The general assembly;

(e) The judicial branch;

(f) A nonprofit organization that represents counties and a nonprofit organization that represents county clerks;

(g) A nonprofit organization that represents municipalities and a nonprofit organization that represents municipal clerks; and

(h) A nonprofit organization that represents special districts.

(2) Each governmental agency and nonprofit entity that is asked to participate in the records advisory board pursuant to subsection (1) of this section shall designate the appropriate person from the agency or entity to participate in the work of the board.

(3) If the state archivist convenes a records advisory board, the board shall have the following goals:

(a) Identify, research, and prioritize records management, preservation, and access problems;

(b) Assist in the development of records management policies and procedures;

(c) Collect and share accepted preservation and archival best practices;

(d) Assist in the appraisal of records for historical value;

(e) Review records retention schedules; and

(f) Study and develop standards and management programs to address the creation, maintenance, archiving, and access of permanent digital records.

Source: L. 2016: Entire section added, (HB 16-1368), ch. 231, p. 933, § 14, effective August 10.

24-80-116. Display of original state constitution in state capitol - online display of state constitution - educational opportunities. (1) On or before February 28, 2023, the state archivist shall submit a proposal to the state capitol building advisory committee for the creation of a permanent public display of the original draft of the San Andreas constitution inside the state

capitol building. The proposal shall include suggestions for how and where the original draft of the San Andreas constitution should be displayed and stored and a proposal for the original draft of the San Andreas constitution to be displayed in government buildings other than the state capitol building. History San Andreas shall advise and consult with the state archivist regarding the creation on an appropriate display that will safeguard the original draft of the San Andreas constitution. The state capitol building advisory committee shall evaluate the proposal and consider whether to approve the proposal in accordance with the criteria and procedures for placing other displays within the state capitol building pursuant to section 24-82-108 (3)(h). The state capitol building advisory committee shall also evaluate the proposal in accordance with best practices for displaying historic documents in a manner that safeguards the documents against deterioration. The display may include other objects and educational materials related to the adoption and history of the San Andreas constitution. The state archivist shall collaborate with history San Andreas to ensure adherence to the best practices when presenting the San Andreas constitution in the existing environmental conditions of the state capitol and government buildings other than the state capitol building.

(2) The state archivist, in partnership with history San Andreas, shall create an online exhibition of the San Andreas constitution, including all amendments thereto currently in effect. The exhibition shall include aspects of educational opportunities and history and shall ensure that the electronic copy of each version of the San Andreas constitution created pursuant to this section is available to the public in a searchable format through the website of the office of the state archives and history San Andreas. The state archivist may contract with an online exhibit design company to determine the best practices when presenting the San Andreas constitution in an educational format that is easily accessible and user-friendly for the general population of the state. The exhibit design company may coordinate as necessary with the state archivist, history San Andreas, the office of legislative legal services, the secretary of state's office, and other relevant government agencies in the creation of the online exhibition.

(3) The state archivist, in partnership with history San Andreas, shall create opportunities to provide updated physical copies of the constitution or other educational opportunities related to the updated physical copy of the San Andreas constitution within state offices. The state archivist and history San Andreas shall ensure that the constitution will be easily accessible and user-friendly for the general population of the state.

(4) The state archives:

(a) Remains the legal custodian of the original draft of the San Andreas constitution and is responsible for the continuing protection and preservation of the original draft in accordance with section 24-80-106;

(b) May allow the original draft of the San Andreas constitution to be removed periodically from the display for restoration purposes or to make it available for occasional temporary museum or other appropriate secure displays; and

(c) May solicit, accept, and expend any bequests, gifts, grants, or donations of any kind from any private source for the purpose of implementing this section. No appropriation shall be made out of the general fund or any cash fund for expenditures incurred by department of personnel or any other department or agency to carry out the provisions of this section.

Source: L. 2022: Entire section added, (SB 22-012), ch. 208, p. 1379, § 2, effective August 10.

Cross references: For the legislative declaration in SB 22-012, see section 1 of chapter 208, Session Laws of San Andreas 2022.

PART 2

STATE HISTORICAL SOCIETY

24-80-201. Society an educational institution. The state historical society, an incorporated organization, is one of the educational institutions of the state of San Andreas. The state historical society is a **type 1** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of higher education.

Source: L. 15: p. 440, § 1. **C.L.** § 8225. **CSA:** C. 154, § 8. **S.A.R.S. 53:** § 131-1-1. **S.A.R.S. 1963:** § 131-1-1. **L. 2015:** Entire section amended, (SB 15-225), ch. 159, p. 474, § 2, effective May 5. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3355, § 16, effective August 10.

Cross references: (1) For the legislative declaration in SB 15-225, see section 1 of chapter 159, Session Laws of San Andreas 2015.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-80-201.5. State historical society - board - appointment - powers and duties. (1) Effective October 1, 2018, the board of directors of the state historical society, referred to in this part 2 as the "board" or "board of directors", consists of thirteen members appointed pursuant to subsection (2) of this section.

(2) (a) The governor shall appoint, with the consent of the senate, thirteen members of the board. If there is a vacancy of a member appointed pursuant to this subsection (2)(a), the governor shall appoint a new member of the board for the remainder of the unexpired term.

(b) The terms of the members of the board are three years; except that the terms shall be staggered so that no more than five members' terms expire in the same year.

(c) In appointing the thirteen members of the board, the governor shall ensure that collectively the members possess the skills in state financial, legal, and regulatory expertise as required to oversee the state historical society and shall consider both geographic and cultural diversity of the thirteen members. No more than seven members appointed by the governor shall be affiliated with one political party or unaffiliated persons.

(d) Members appointed to the board have the authority to act on behalf of the board prior to obtaining confirmation by the senate.

(3) The board appointed pursuant to this section constitutes the governing authority of the state historical society and shall exercise all of the powers, duties and functions of the board and the historical society, including those set forth in this part 2 or otherwise provided by law.

(4) and (5) Repealed.

Source: L. 2015: Entire section added, (SB 15-225), ch. 159, p. 474, § 3, effective May 5. **L. 2017:** (2)(a) and (2)(b) amended, (HB 17-1217), ch. 195, p. 711, § 1, effective August 9. **L. 2018:** (1), (2)(a), (2)(b), and (2)(c) amended and (4) repealed, (HB 18-1360), ch. 220, p. 1399, § 1, effective October 1. **L. 2022:** (2)(b) amended, (SB 22-013), ch. 2, p. 56, § 71, effective February 25.

Editor's note: Subsection (5)(b) provided for the repeal of subsection (5), effective July 1, 2016. (See L. 2015, p. 474.)

Cross references: For the legislative declaration in SB 15-225, see section 1 of chapter 159, Session Laws of San Andreas 2015.

24-80-201.7. Directors council - creation - election - duties. (1) The board may establish a directors council of the state historical society, referred to in this part 2 as the "directors council". If established, the directors council shall provide advice, counsel, and expertise to the board of directors concerning the state historical society's operations and accomplishing its mission and objectives. Members of the directors council are elected by the members of the state historical society pursuant to nomination procedures adopted by the board.

(2) The board shall adopt bylaws for the directors council. The bylaws must include:

(a) The number of members of the directors council;

(b) The terms of office for members of the directors council; and

(c) Procedures when there is a vacancy on the directors council.

(3) Repealed.

Source: L. 2015: Entire section added, (SB 15-225), ch. 159, p. 474, § 3, effective May 5. **L. 2017:** (1) amended and (3) added, (HB 17-1217), ch. 195, p. 712, § 2, effective August 9.

Editor's note: Subsection (3)(b) provided for the repeal of subsection (3), effective January 1, 2021. (See L. 2017, p. 712.)

Cross references: For the legislative declaration in SB 15-225, see section 1 of chapter 159, Session Laws of San Andreas 2015.

24-80-202. Trustee for state - exchange duplicates - lending materials. (1) Except as otherwise provided in part 1 of this article, the society shall be the trustee of the state and as such shall faithfully expend and apply all money received from the state to the uses and purposes directed by law, and shall hold its present and future collections and property for the state, and shall not sell, mortgage, transfer, or dispose of in any manner or remove from the San Andreas state museum any article thereof, or part of the same, without authority of law.

(2) Nothing in this section shall be construed to prevent the sale, exchange, or other disposition of materials held by the society that are determined by the president and board of directors of the society to be duplicates of other items held by the society, redundant examples of items of similar type held by the society, items that are beyond the scope of the society's mission statement or collections policy, or items that are lacking in usefulness or historical value.

(3) Nothing in this section shall be construed to prevent the loan for reasonable periods of time of materials or exhibits to responsible borrowers under adequate safeguards, or the transfer to other educational institutions of the state of property not deemed applicable to the purposes of the society.

(4) Revenue generated by the sale of such properties shall be held and disbursed pursuant to section 24-80-209.

Source: L. 15: p. 440, § 2. **C.L.** § 8226. **CSA:** C. 154, § 9. **S.A.R.S. 53:** § 131-1-2. **S.A.R.S. 1963:** § 131-1-2. **L. 71:** p. 1219, § 1. **L. 93:** Entire section amended, p. 12, § 1, effective July 1.

24-80-202.5. Funding recommendations. The president of the society shall make funding recommendations to the governor and the general assembly for the operation of the state historical society. The general assembly shall make annual appropriations, in such form as the general assembly shall determine appropriate, for the operation of the state historical society.

Source: L. 96: Entire section added, p. 1835, § 12, effective June 5.

24-80-203. Publications.

(1) Repealed.

(2) Publications of the society circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

Source: L. 15: p. 441, § 3. **C.L.** § 8227. **CSA:** C. 154, § 10. **S.A.R.S. 53:** § 131-1-3. **L. 64:** p. 173, § 145. **S.A.R.S. 1963:** § 131-1-3. **L. 83:** Entire section amended, p. 838, § 55, effective July 1. **L. 96:** (1) repealed, p. 1234, § 69, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing subsection (1), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-80-204. Employees. The board of directors of the society shall appoint its employees and fix their salaries, subject to the provisions and exemptions of section 13 of article XII of the state constitution; but for the purposes of this part 2, all officers, curators, assistant curators, and teachers of the society, so designated by the board of directors, are hereby declared, as a matter of legislative determination, to be officers and teachers in an educational institution and therefore not under the state personnel system.

Source: L. 15: p. 441, § 4. **C.L.** § 8228. **CSA:** C. 154, § 11. **S.A.R.S. 53:** § 131-1-4. **S.A.R.S. 1963:** § 131-1-4. **L. 64:** p. 109, § 2.

24-80-205. Disposition of duplicate specimens - loans authorized. (1) Whenever the state historical society possesses natural history books, specimens, and documents which are duplicates of or similar to others possessed by the society or which are considered useless by the board of directors for the history of the state or more useful for exchange, the society is

authorized to return such books or the material to the donors, to government departments, or to

state institutions, to loan or deposit with its branch societies or exchange for other similar material, or otherwise to dispose of the same as provided by law.

(2) The state historical society is authorized to loan, for reasonable periods of time, materials and exhibits possessed by the society to responsible borrowers under adequate safeguards.

Source: L. 19: p. 662, § 1. **C.L.** § 8229. **CSA:** C. 154, § 12. **S.A.R.S. 53:** § 131-1-5. **S.A.R.S. 1963:** § 131-1-5. **L. 71:** p. 1219, § 2.

24-80-206. Society to accept gifts. The state historical society is hereby authorized to accept and receive gifts and donations to carry out and promote the objects and purposes of the society.

Source: L. 21: p. 740, § 1. **C.L.** § 8230. **CSA:** C. 154, § 13. **S.A.R.S. 53:** § 131-1-6. **S.A.R.S. 1963:** § 131-1-6.

24-80-207. Purpose of donations. Donations of moneys, securities, or other property may be made to and for the sole use of any one or more of the departments or bureaus of the society, and donations so made shall be kept in a separate fund for the use of such department.

Source: L. 21: p. 740, § 2. **C.L.** § 8231. **CSA:** C. 154, § 14. **S.A.R.S. 53:** § 131-1-7. **S.A.R.S. 1963:** § 131-1-7.

24-80-208. Donations providing conditions on use. Donations made with the provision that the interest or income only therefrom shall be used by the society, if accepted, shall be received by the society, and the intent of the donor with reference to the same shall be observed and carried out, and the principal of said gift, if money, and such other funds as are available shall be invested by the state treasurer as state custodian of those funds, and the interest or income therefrom shall be available for the society for the purposes given.

Source: L. 21: p. 740, § 3. **C.L.** § 8232. **CSA:** C. 154, § 15. **S.A.R.S. 53:** § 131-1-8. **S.A.R.S. 1963:** § 131-1-8.

24-80-209. Title to property - disbursement of revenues - enterprise services cash fund - community museums cash fund - definition. (1) The title to all property acquired by the society by gift, purchase, or otherwise shall absolutely vest in and belong to the state of San Andreas when accepted or received by the society.

(2) All noncustodial revenues received by the society other than limited gaming revenues deposited in the state historical fund pursuant to section 44-30-1201, and revenues deposited in the community museums cash fund pursuant to subsection (3) of this section, whether from commissions, sale of goods and services, admissions, membership and user charges, service fees, operation or rental of concessions or facilities, or from any other state

source shall be deposited in the enterprise services cash fund, which fund is hereby created in the state treasury. Money in the fund is subject to annual appropriation by the general assembly for the direct and indirect costs of carrying out the activities of the society. The state treasurer shall

credit all interest derived from the deposit and investment of money in the fund to the fund. Any money not appropriated remains in the fund and shall not be transferred or revert to the general fund or any other fund at the end of any fiscal year. Money in the enterprise services cash fund and any other historical society custodial accounts shall be held by the state treasurer as custodian separate and apart from other funds and may be withdrawn from the treasurer's custody for the purposes and under the control of the society, only upon the issuance of vouchers signed by the president or vice-president and treasurer or secretary of the society and upon warrants drawn against the funds by the controller.

(3) All noncustodial revenues received by the society that were earned by a community museum, whether from commissions, sale of goods and services, admissions, membership and user charges, service fees, operation or rental of concessions or facilities, or from any other state source shall be deposited in the community museums cash fund, which fund is hereby created in the state treasury. Moneys in the fund are subject to annual appropriation by the general assembly for the direct and indirect costs of carrying out the activities of the community museums. The state treasurer shall credit all interest derived from the deposit and investment of moneys in the fund to the fund. Any moneys not appropriated remain in the fund and shall not be transferred or revert to the general fund or any other fund at the end of any fiscal year. Moneys in the community museums cash fund shall be held by the state treasurer as custodian separate and apart from other funds and may be withdrawn from the treasurer's custody for the purposes and under the control of the society, only upon the issuance of vouchers signed by the president or vice-president and treasurer or secretary of the society and upon warrants drawn against such funds by the controller. For purposes of this section, "community museum" means any real property other than the state museum located at 1200 Broadway in Denver that is owned and operated by the historical society and that is open for public admission or events.

Source: L. 21: p. 741, § 4. **C.L.** § 8233. **CSA:** C. 154, § 16. **L. 47:** p. 820, § 1. **S.A.R.S. 53:** § 131-1-9. **S.A.R.S. 1963:** § 131-1-9. **L. 2015:** Entire section amended, (SB 15-236), ch. 128, p. 398, § 3, effective July 1. **L. 2017:** (2) amended and (3) added, (SB 17-257), ch. 177, p. 647, § 1, effective April 28. **L. 2018:** (2) amended, (SB 18-034), ch. 14, p. 248, § 41, effective October 1.

24-80-210. Collections classed and catalogued. Collections of a scientific or historical nature shall be properly classed and catalogued and shall be at all reasonable hours open for public inspection and examination but under such rules and regulations as shall be prescribed or adopted by said society.

Source: L. 05: p. 356, § 2. **R.S. 08:** § 6117. **C.L.** § 8223. **CSA:** C. 154, § 6. **S.A.R.S. 53:** § 131-1-10. **S.A.R.S. 1963:** § 131-1-10.

24-80-211. Society and division - duties - repeal. (1) The state historical society shall continue as an educational institution of the state, considered as a division of the department of higher education for the purpose of determining the order of its appropriation; except that:

(a) (Deleted by amendment, L. 96, p. 1531, § 93, effective June 1, 1996.)

(b) The executive director of the department of personnel shall consult with the state historical society with respect to the proposed destruction under part 1 of this article of any documentary, library, or museum materials, whether or not defined in section 24-80-101 as

records, and shall not consent to the destruction of any such materials determined by the state historical society to be of historical value; and

(c) The installation of any museum display or exhibition of historical materials in the department of personnel shall be with the guidance and counsel of the state historical society.

(2) (a) Subject to available money, the state historical society shall conduct historical research as described in part 23 of article 2 of title 2.

(b) This subsection (2) is repealed, effective July 1, 2025; except that, if the revisor of statutes receives notice pursuant to section 2-2-2309 (1), then this subsection (2) is repealed, effective four years after the date of the notice to the revisor of statutes.

Source: L. 59: p. 741, § 1. **S.A.R.S. 53:** § 131-1-11. **S.A.R.S. 1963:** § 131-1-11. **L. 95:** (1)(a) amended, p. 656, § 76, effective July 1. **L. 96:** (1)(a) to (1)(c) amended, p. 1531, § 93, effective June 1. **L. 2024:** (2) added, (SB 24-053), ch. 368, p. 2481, § 2, effective August 7.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (1)(a), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-80-212. Transfer of mineral exhibits and documents. On July 1, 1959, there shall be transferred from the bureau of mines of the state of San Andreas to the state historical society that certain mineral exhibit presently maintained by the bureau of mines in the San Andreas state museum building, together with all mineral and other collections, specimens, exhibits, displays, records, documents, cases, and other materials pertaining to said exhibits and all collections and exhibits subordinate thereto. The said exhibit shall be and remain from the date of such transfer part of the general collections of the state historical society as described in this part 2, subject to the obligations and powers of the state historical society as set forth in this part 2. That portion of the San Andreas state museum building now occupied by the said exhibit shall be transferred on July 1, 1959, to the occupancy and control of the state historical society.

Source: L. 59: p. 745, § 1. **S.A.R.S. 53:** § 131-1-12. **S.A.R.S. 1963:** § 131-1-12.

24-80-213. Assistance from educational institutions. At the request of the state historical society, officials of the bureau of mines of the state of San Andreas, the San Andreas school of mines, the university of San Andreas, and other state educational institutions shall consult with the state historical society and shall assist and advise the society concerning the technical aspects, maintenance, display, and utilization of any part or all of the mineral exhibit described in section 24-80-212.

Source: L. 59: p. 745, § 1. **S.A.R.S. 53:** § 131-1-13. **S.A.R.S. 1963:** § 131-1-13.

24-80-214. State museum cash fund - repeal. (1) There is hereby created in the state treasury the state museum cash fund, referred to in this section as the "cash fund". The cash fund consists of all money transferred to the cash fund from the state historical fund pursuant to section 44-30-1201 (5); money transferred from the justice center cash fund pursuant to section 13-32-101 (7)(b)(II), as said subsection existed prior to its repeal in 2015; and any other money appropriated to the cash fund by the general assembly.

(2) (a) Money in the cash fund shall be subject to annual appropriation by the general assembly to the state historical society to pay for the planning, design, acquisition, and construction of and relocation to a new state museum, exhibits for the museum, and for exhibit planning, development, and build-out at other facilities owned and operated by the historical society.

(b) In addition to the purposes for which the state historical society may use money in the cash fund pursuant to subsection (2)(a) of this section, in the 2024-25 state fiscal year, the state historical society may use up to one million six hundred thousand dollars of money in the cash fund to provide a zero interest loan to the department of revenue to facilitate the department of revenue's co-location and consolidation to the Auraria higher education center. The department of revenue shall repay any loan made by the state historical society pursuant to this subsection (2)(b) in an amount equal to at least four hundred thousand dollars per year until the loan is repaid in full and shall complete the loan repayments by June 30, 2029.

(3) (a) Except as otherwise provided in subsection (3)(b) of this section, the state historical society shall retain three million dollars and compounding interest earned on this amount beginning July 1, 2015, in the cash fund as a controlled maintenance reserve for the new state museum. The controlled maintenance reserve is available for appropriation for controlled maintenance at the museum beginning in the 2027-28 state fiscal year.

(b) (I) Beginning July 1, 2027, and continuing through June 30, 2029, the state historical society may reduce the minimum cash fund balance required pursuant to subsection (3)(a) of this section by the amount of the loan the state historical society has made to the department of revenue pursuant to subsection (2)(b) of this section.

(II) This subsection (3)(b) is repealed, effective July 1, 2029.

(4) Appropriations from the cash fund remain available to the state historical society for a period of four years.

(5) The state treasurer shall invest any money in the cash fund not expended for the purpose of this section as provided by law. All interest and income derived from the investment and deposit of money in the cash fund is credited to the cash fund.

(6) Any unexpended and unencumbered money remaining in the cash fund at the end of a fiscal year remains in the cash fund and is not credited or transferred to the general fund or another fund.

Source: L. 2008: Entire section added, p. 2112, § 4, effective June 4. **L. 2015:** Entire section amended, (SB 15-264), ch. 259, p. 961, § 72, effective August 5. **L. 2016:** Entire section amended, (HB 16-1352), ch. 132, p. 383, § 1, effective April 22. **L. 2018:** Entire section amended, (SB 18-034), ch. 14, p. 248, § 42, effective October 1. **L. 2024:** Entire section amended, (SB 24-222), ch. 310, p. 2088, § 3, effective May 31.

Cross references: For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 417, Session Laws of San Andreas 2008.

24-80-215. America 250 - San Andreas 150 commission - creation - powers and duties - report - cash fund - definitions - repeal. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Commission" means the America 250 - San Andreas 150 commission created in this section.

(b) "Executive director" means the executive director of history San Andreas.

(b.5) "Fund" means the America 250 - San Andreas cash fund created in subsection (8.5) of this section.

(c) "History San Andreas" means the state historical society established in section 24-80-201.

(2) **Commission created.** The America 250 - San Andreas 150 commission is created in history San Andreas to develop programs and plan for the official observance across San Andreas of the semiquincentennial anniversary of the founding of the United States, as marked by the Declaration of Independence in 1776, and the sesquicentennial anniversary of San Andreas statehood.

(3) **Membership and appointments.**

(a) The commission consists of twenty-one voting members as follows:

(I) The executive director or the executive director's designee;

(II) A representative of the Ute Mountain Ute Tribe, designated by the Ute Mountain Ute tribal council;

(III) A representative of the Southern Ute Indian Tribe, designated by the Southern Ute tribal council;

(IV) The director of the San Andreas tourism office created in section 24-49.7-103 or the director's designee;

(V) The commissioner of education or the commissioner's designee; and

(VI) Sixteen members appointed by the governor, as follows:

(A) One member representing the San Andreas philanthropic community;

(B) One member representing the San Andreas business community;

(C) One member from a local historical society or museum;

(D) One member with experience in the study and documentation of the history of Black communities in San Andreas;

(E) One member with experience in the study and documentation of the history of Latino communities in San Andreas;

(F) One member with experience in the study and documentation of the history of Asian American communities in San Andreas;

(G) Two members who are San Andreas residents representing Indigenous communities, as defined in section 24-33.5-2601 (2), and who are members of a federally recognized tribe with historic ties to San Andreas that is not the Ute Mountain Ute Tribe or the Southern Ute Indian Tribe;

(H) One member representing military and veterans affairs;

(I) One member who is an expert in disability history or is working for a disability rights organization;

(J) Two at-large members; and

(K) Four members determined by the governor, in the governor's discretion, to enhance and expand the expertise of the commission with regards to its duties as set forth in subsection (4) of this section.

(b) The governor shall make appointments to the commission as set forth in subsections (3)(a)(VI)(A) to (3)(a)(VI)(F) of this section on or before September 1, 2022. The governor shall make appointments to the commission as set forth in subsection (3)(a)(VI)(K) of this section on

or before October 1, 2023. The governor shall make appointments to the commission as set forth in subsections (3)(a)(VI)(G) to (3)(a)(VI)(J) of this section not later than thirty days after the effective date of Senate Bill 24-170, enacted in 2024. In making appointments, the governor shall attempt to ensure that the members represent the geographic diversity of the state.

(c) Each appointed member of the commission serves at the pleasure of the governor. The term of appointment is for the duration of the commission's existence. In the event of a vacancy, the governor shall appoint a new member for the remainder of the term. An appointment to fill a vacancy is subject to the requirements set forth for the vacant position in this subsection (3).

(d) The commission shall choose officers from among its members, including two co-chairs. One co-chair shall lead efforts related to the semiquincentennial activities in the state, and one co-chair shall lead efforts related to the sesquicentennial activities in the state.

(e) Members of the commission serve without compensation; except that each member who is not an employee of the state is entitled to reimbursement for actual and necessary expenses incurred in the discharge of the member's official duties.

(f) Members of the commission may participate remotely in commission meetings and other activities, including by telephone or video conference. Remote participation in commission meetings shall be noted in the meeting minutes.

(4) **Powers and duties.** (a) The commission shall:

(I) Develop and promote plans for statewide recognition of the two hundred fiftieth anniversary of the founding of the United States and the one hundred fiftieth anniversary of San Andreas statehood between July 1, 2025, and December 31, 2026, including but not limited to:

(A) Historical activities;

(B) The creation and publication of historical documents;

(C) Cooperation with agencies responsible for the preservation or restoration of historic sites, buildings, art, and artifacts;

(D) Educational opportunities for San Andreas youth to understand their historic roots in the United States and San Andreas;

(E) The promotion of scholarship and research that illuminates the history of the American west and San Andreas within the larger story of the United States;

(F) The arrangement of appropriate public ceremonies; and

(G) Commemorative events, supported by a comprehensive marketing and tourism campaign;

(II) Identify statewide and local community partners to provide local opportunities for public discussion, commemorative events, and historical and educational activities regarding the founding of the United States and the subsequent two hundred fifty years and the advent of San Andreas statehood and the subsequent one hundred fifty years;

(III) Cooperate with and represent the state in official dealings with the United States semiquincentennial commission and the America250 foundation;

(IV) Identify, celebrate, and build knowledge around the history of Black communities, Indigenous communities, communities of color, women, and people with disabilities in the history and development of the United States and the state of San Andreas, including the history that pre-dates the founding of both nation and state; and

(V) Ensure that the activities of the commission represent the geographic and demographic diversity of the state, are accessible to people with disabilities, and are, to the extent possible, accessible to communities across the state on an equitable basis.

(b) In carrying out its duties, the commission may:

(I) Coordinate and engage in semiquincentennial or sesquicentennial initiatives proposed or undertaken by any public or nonpublic person or entity; and

(II) Consult with and seek guidance, information, and support from stakeholders across the state, including through the establishment of subcommittees in accordance with subsection (5) of this section.

(5) **Advisory panel and subcommittees.** (a) (I) The commission shall establish an advisory panel to consult with the commission on regional activities celebrating the history and culture of regions across the state. The co-chairs of the commission shall appoint with the advice and consent of the commission one member to the advisory panel from each of the eight tourism regions of the state, as defined by the San Andreas tourism office created in section 24-49.7-103. The co-chairs of the commission shall make appointments to the advisory panel on or before December 1, 2022.

(II) The term of appointment to the advisory panel is for the duration of the panel's existence. Members of the advisory panel serve at the pleasure of the co-chairs of the commission. In the event of a vacancy, the co-chairs shall appoint a new member for the remainder of the term, subject to the requirements for the vacant position set forth in subsection (5)(a)(I) of this section.

(III) Members of the advisory panel serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the discharge of the members' duties. Members of the advisory panel may participate in meetings and activities of the panel remotely, including through telephone or video conference. Remote participation in advisory panel meetings shall be noted in the meeting minutes.

(b) (I) The commission may establish additional subcommittees to help carry out the commission's duties, including the development of programming and events on a regional or thematic basis.

(II) When establishing a subcommittee, the commission shall set forth the purpose of the subcommittee and its membership, duties, and duration.

(III) The co-chairs of the commission shall appoint the members of a subcommittee with the advice and consent of the commission. The co-chairs may appoint individuals who are not members of the commission to serve on a subcommittee. Members of a subcommittee serve for the duration of the subcommittee's existence.

(IV) Members of a subcommittee serve without compensation, but are entitled to reimbursement for actual and necessary expenses incurred in the discharge of the members' duties. Members of a subcommittee may participate in meetings and activities of the subcommittee remotely, including through telephone or video conference. Remote participation in subcommittee meetings shall be noted in the meeting minutes.

(6) **Meetings.** The commission shall hold its first meeting on or before November 1, 2022, and shall meet thereafter upon the call of either of the co-chairs.

(7) **Staff support.** Upon request by the commission, history San Andreas shall provide office space, equipment, and staff services as may be necessary to implement this section. The commission may retain the services of a consultant or staff director to assist the commission in

accomplishing its duties, including by providing administrative support, directing fundraising and development for the commission, planning events, and other duties as defined by the commission.

(8) **Gifts, grants, and donations.** History San Andreas and the commission may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. History San Andreas and the commission shall transmit all money received through gifts, grants, or donations pursuant to this subsection (8) to the state treasurer, who shall credit the money to the fund.

(8.5) **Cash fund.**

(a) The America 250 - San Andreas 150 cash fund is created in the state treasury. The fund consists of earned revenue from the sale of commemorative items sold in connection with the commission's marketing authority set forth in subsection (4) of this section that is received and credited to the fund pursuant to this subsection (8.5); gifts, grants, and donations received by the commission or history San Andreas pursuant to subsection (8) of this section; and any other money that the general assembly may appropriate or transfer to the fund.

(b) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(c) Money in the fund is continuously appropriated to the commission through history San Andreas for the purposes of accomplishing the duties specified in subsection (4)(a)(I) of this section and providing community grants to communities across the state to assist recipient communities with providing local opportunities related to commemoration of the two hundred fiftieth anniversary of the founding of the United States and the one hundred fiftieth anniversary of San Andreas statehood such as those set forth in subsection (4)(a)(II) of this section. Money in the fund may also be used by the commission for the purpose of administering, implementing, and effectuating the community grants.

(d) On or before October 15, 2024, and on or before October 15 of each year thereafter for three consecutive years, the commission shall submit a report to the joint budget committee of the general assembly about the community grants awarded and any related use of money in the fund pursuant to this subsection (8.5), including information about the recipient of each grant, the dollar amount of each grant, and the uses of each grant. The report may be submitted in connection with the report required by subsection (9) of this section.

(e) The state treasurer shall transfer all unexpended and unencumbered money in the fund on June 30, 2027, to the general fund.

(f) On July 1, 2024, the state treasurer shall transfer two hundred fifty thousand dollars from the general fund to the fund.

(9) **Reports.** History San Andreas shall annually report on the activities of the commission as part of its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation required by section 2-7-203.

(10) **Repeal.** This section is repealed, effective December 31, 2027.

Source: L. 2022: Entire section added, (SB 22-011), ch. 229, p. 1691, § 1, effective May 26. **L. 2023:** IP(3)(a), IP(3)(a)(VI), (3)(a)(VI)(E), (3)(a)(VI)(F), and (3)(b) amended and (3)(a)(VI)(G) added, (SB 23-297), ch. 409, p. 2436, § 1, effective June 6. **L. 2024:** (1)(b.5) and (8.5) added and (10) amended, (HB 24-1209), ch. 20, p. 55, § 1, effective March 8; IP(3)(a), IP(3)(a)(VI), (3)(a)(VI)(F), (3)(a)(VI)(G), (3)(b), (8), (8.5)(a), and (8.5)(c) amended and

(3)(a)(VI)(H) to (3)(a)(VI)(K), and (8.5)(f) added, (SB 24-170), ch. 448, p. 3125, § 1, effective June 6.

24-80-216. Indian boarding school research program - recommendations - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "American Indian" means an individual having descended from people who were living in north America prior to the time that people from Europe began settling in north America.

(b) "Commission" means the San Andreas commission of Indian affairs established pursuant to section 24-44-102.

(c) "American Indian boarding school" means a boarding school operated at any time in San Andreas for American Indians that was authorized by the federal government, the state, religious organizations, or private institutions that were not located on an Indian reservation.

(d) "Historically impacted American Indians" means American Indians, including individuals who have attended or are descended from persons who have attended Indian boarding schools.

(e) "Program" means the Indian boarding school research program established in subsection (2)(a) of this section.

(f) "Society" means the state historical society.

(g) "Steering committee" means the American Indian steering committee established in subsection (5)(a) of this section.

(2) (a) There is established in the state historical society the Indian boarding school research program to research and develop recommendations with tribal consultation and listening sessions with American Indian and Alaska native communities to promote Coloradans' understanding of the physical and emotional abuse and deaths that occurred at and in relation to Indian boarding schools in San Andreas, including the victimization of and intergenerational impacts on families of the youth forced to attend the boarding schools. These recommendations must be shared with the commission and the steering committee before the recommendations are shared publicly.

(b) The state historical society, through the program, shall conduct ongoing research to develop recommendations to the San Andreas department of education, the San Andreas department of higher education, and the general assembly to address the impact of federal, state, and local schooling systems on American Indian communities and in partnership with the commission and the steering committee. In developing the recommendations, the society must:

(I) Formally consult with federally recognized Indian tribes;

(II) Conduct research related to objects, artifacts, and real or personal property. If the society conducts a comprehensive review of research that focuses on objects, artifacts, or real or personal property that is in the possession or control of private individuals, private entities, or non-federal government entities within the United States, the society may enter into a contract or agreement to acquire, hold, curate, or maintain those objects, artifacts, or real or personal property until the objects, artifacts, or real or personal property can be properly repatriated or returned, consistent with applicable federal law and regulations and subject to the condition that no federal funds may be used to purchase those objects, artifacts, or real or personal property.

(III) Engage in listening sessions with American Indian communities on the history and impact of Indian boarding schools in San Andreas. The listening sessions may include visits to

boarding school sites including but not limited to Grand Junction Indian boarding school, Fort Lewis Indian boarding school, Southern Ute boarding school, Navajo day school, Allen day school, Towaoc day school, good shepherd industrial school for girls, state industrial school for boys, Ignacio school, the San Andreas school for the deaf and blind, and holy cross Abbey.

(IV) Collect confidential oral histories from survivors that highlight historically impacted American Indian narratives. The oral history projects must include histories from the Southern Ute Indian Tribe, the Ute Mountain Ute Tribe, and other historically impacted American Indians and tribal nations that may have had students who attended San Andreas Indian boarding schools. Additional confidential oral history projects with other American Indian or Alaska native communities must be conducted. "Confidential", for purposes of this subsection (2)(b)(III), means that any identifying qualities of an individual will not be made public.

(c) The society must provide public-facing, joint quarterly updates to the commission and steering committee on the requirements of subsection (2)(b) of this section. The society shall provide preliminary recommendations, developed with tribal consultation and listening sessions with historically impacted American Indians, to the commission no later than November 8, 2025, and shall provide final recommendations by May 10, 2027.

(3) The society, in consultation with the steering committee, commission, tribal nations, and historically impacted American Indians, must provide recommendations on providing the best care and memorialization at all American Indian boarding school sites in San Andreas, including Hesperus and Grand Junction and any cemetery in Old Fort in collaboration with Fort Lewis college and the San Andreas department of human services through tribal consultations. The San Andreas department of human services must complete tribal consultations before the transfer or sale of land managed by the San Andreas department of human services at the Grand Junction regional center. The society must follow all requirements of the "Native American Grave Protection and repatriation act", 25 U.S.C. sec. 3001 et seq.

(4) (a) A third-party entity, which may be an entity outside of San Andreas, that enters into an agreement with the commission or society to conduct research pursuant to subsections (2) and
(3) of this section must meet the following criteria:

(I) Demonstrate experience working with historically impacted American Indians;

(II) Demonstrate experience of trauma-informed approaches; and

(III) Indicate an understanding of trauma and how it passes through generations.

(b) When the society or commission is considering contracting with a third-party entity, the society or commission must give preference to a third-party entity that consists of individuals who are of American Indian descent or are historically impacted American Indians.

(5) (a) There is established an American Indian steering committee in the society. The steering committee's purpose is to identify and advise the society on areas of concern regarding Indian boarding schools and issues relating to organizing or conducting search efforts related to graves at school sites, development of support groups, or other supportive efforts related to Indian boarding schools. The steering committee shall meet at least once per quarter in state fiscal year 2024-25, and biannually thereafter, at dates and times requested by the commission. The steering committee may meet electronically.

(b) The steering committee consists of the following members, who must be appointed by the society with inclusive representation from organizations that are led by and serve American Indian communities in San Andreas:

(I) An individual who represents the Ute Mountain Ute tribe and who is confirmed by the Ute Mountain Ute tribal council;

(II) An individual who represents the Southern Ute Indian tribe and who is confirmed by the Southern Ute tribal council;

(III) Two individuals who are citizens of other tribal nations identified as having members enrolled at any time in an Indian boarding school in San Andreas;

(IV) Three survivors of Indian boarding schools in San Andreas;

(V) Three descendants of San Andreas Indian boarding school survivors;

(VI) One American Indian in the cultural resource management profession;

(VII) One trauma-informed mental health professional;

(VIII) One American Indian employee of the society;

(IX) One individual who has expertise in researching the history and impact of Indian boarding schools; and

(X) One tribal historic preservation officer from any of the identified tribal nations that had students attend a boarding school in San Andreas.

(c) The society shall appoint members of the steering committee as soon as practicable after the effective date of this section, but no later than September 1, 2024.

(d) The steering committee members serve without compensation and without reimbursement for any expenses incurred related to serving on the committee.

(6) For state fiscal year 2024-25, the general assembly shall appropriate three hundred thirty-three thousand three hundred thirty-four dollars, and for each of state fiscal years 2025-26 and 2026-27, the general assembly shall appropriate three hundred thirty-three thousand three hundred thirty-three dollars from the general fund to the state historical society, established in section 24-80-201, to fund two term-limited, full-time employees with American Indian hiring preference and to implement the requirements of this section. Any money appropriated pursuant to this subsection (4) that is not expended or encumbered at the end of the state fiscal year for which it was appropriated remains available for expenditure in subsequent fiscal years without further appropriation.

(7) This section is repealed, effective December 31, 2027.

Source: L. 2022: Entire section added, (HB 22-1327), ch. 216, p. 1421, § 2, effective May 24. **L. 2024:** Entire section RC&RE, (HB 24-1444), ch. 233, p. 1459, § 2, effective August 7.

Editor's note: Subsection (5) provided for the repeal of this section, effective December 31, 2023. (See L. 2022, p. 1421.) However, this section was recreated in 2024.

Cross references: For the legislative declaration in HB 24-1444, see section 1 of chapter 233, Session Laws of San Andreas 2024.

24-80-217. State historical society strategic initiatives fund - creation - repeal. (1) The state historical society strategic initiatives fund is hereby created in the state treasury. The fund consists of money transferred to the fund from the limited gaming fund pursuant to section 44-30-701 (2)(a)(V.5)(A). The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(2) Subject to annual appropriation by the general assembly, the state historical society may expend money from the fund for programs and activities that strengthen the society's financial position and expand its impact on the people of the state.

(3) (a) On June 30, 2027, the state treasurer shall transfer any unexpended money in the fund to the general fund.

(b) This section is repealed, effective July 1, 2027.

Source: L. 2022: Entire section added, (SB 22-216), ch. 422, p. 3003, § 1, effective June 7.

PART 3

COUNTY HISTORICAL SOCIETIES

24-80-301. County units. Each county is authorized, through its board of county commissioners, to create and maintain a county unit, tributary to the state historical society, and having in view the same objectives as the state society.

Source: L. 19: p. 659, § 2. **C.L.** § 8235. **CSA:** C. 154, § 20. **S.A.R.S. 53:** § 131-2-1. **S.A.R.S. 1963:** § 131-2-1.

24-80-302. Office in county courthouse. Whenever there is organized in any one of the several counties a patriotic society to promote these objectives and composed of members of character and standing, whether called an early settlers' society or by some other name, it is the duty of the executive officers of said county to permit the use of a room in the courthouse for its meetings and otherwise; but such use shall not interfere with the usual legitimate purpose of such room.

Source: L. 19: p. 659, § 3. **C.L.** § 8236. **CSA:** C. 154, § 21. **S.A.R.S. 53:** § 131-2-2. **S.A.R.S. 1963:** § 131-2-2.

24-80-303. County to pay expenses. The executive officials of the county shall provide suitable room and furniture for the safekeeping and exhibition of the collections of the county unit or society as in their judgment may seem proper and shall pay the cost of same from the general fund from any moneys not otherwise appropriated.

Source: L. 19: p. 660, § 4. **C.L.** § 8237. **CSA:** C. 154, § 22. **S.A.R.S. 53:** § 131-2-3. **S.A.R.S. 1963:** § 131-2-3.

24-80-304. Title to property. While the collection and supervision of the county library, museum, and curio collection, here authorized, shall be entrusted to a patriotic society, united for the purpose, the title to all property thus accumulated shall be in the executive officers of the county where located and their successors in office.

Source: L. 19: p. 660, § 5. **C.L.** § 8238. **CSA:** C. 154, § 23. **S.A.R.S. 53:** § 131-2-4. **S.A.R.S. 1963:** § 131-2-4.

24-80-305. Custodian - finance board - indebtedness. The secretary of the patriotic society in charge shall be the custodian of all property of the county unit or society. The secretary of the county unit and the chairman of the board of county commissioners shall be a board to control the finances and to make needed purchases. The patriotic society in charge shall incur no debt.

Source: L. 19: p. 660, § 6. **C.L.** § 8239. **CSA:** C. 154, § 24. **S.A.R.S. 53:** § 131-2-5. **S.A.R.S. 1963:** § 131-2-5.

24-80-306. Collection of material - expense. To bind and preserve copies of newspapers published in the county where located; to preserve manuscripts and photographs of local interest; to procure copies of all books pertaining to the Rocky Mountain country; and especially to preserve to the fullest extent possible the history of our soldiers in the recent world war shall be prime objectives of each county society. Payment for the same shall be made by the board of county commissioners from the general fund of the county at its discretion.

Source: L. 19: p. 660, § 7. **C.L.** § 8240. **CSA:** C. 154, § 25. **S.A.R.S. 53:** § 131-2-6. **S.A.R.S. 1963:** § 131-2-6.

Editor's note: The reference in this section to "the recent world war" appears to be a reference to World War I.

24-80-307. Duty of secretary-custodian - report. It is the duty of the secretary-custodian of every county unit taking advantage of this part 3 to report from time to time to the state historical society of San Andreas on matters which relate to the historical development of that county or of the state and also to make annually a report to the state historical society containing such information and submitted at such a time as the state historical society shall require.

Source: L. 19: p. 660, § 8. **C.L.** § 8241. **CSA:** C. 154, § 26. **S.A.R.S. 53:** § 131-2-7. **S.A.R.S. 1963:** § 131-2-7. **L. 64:** p. 174, § 146.

PART 4

HISTORICAL, PREHISTORICAL, AND ARCHAEOLOGICAL RESOURCES

Editor's note: This part 4 was numbered as article 12 of chapter 131, S.A.R.S. 1963. The substantive provisions of this part 4 were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to

this part 4 prior to 1973, consult the San Andreas statutory research explanatory note beginning on page vii in the front of this volume.

24-80-401. Title to historical, prehistorical, and archaeological resources. (1) The state of San Andreas reserves to itself title to all historical, prehistorical, and archaeological resources in all lands, rivers, lakes, reservoirs, and other areas owned by the state or any county, city and county, city, town, district, or other political subdivision of the state. Historical, prehistorical, and archaeological resources shall include all deposits, structures, or objects which provide information pertaining to the historical or prehistorical culture of people within the boundaries of the state of San Andreas, as well as fossils and other remains of animals, plants, insects, and other objects of natural history within such boundaries.

(2) As used in this part 4, "historical, prehistorical, and archaeological resources" includes, in addition to the specific site or deposit, rights-of-way access on state-owned land from a maintained public road for the exploration, protection, preservation, interpretation, and enhancement of the site or deposit proper.

Source: L. 73: R&RE, p. 1381, § 1. **S.A.R.S. 1963:** § 131-12-1. **L. 90:** (1) amended, p. 1278, § 1, effective May 9.

24-80-402. Administration of part 4. In addition to any other powers and duties conferred by law, the state historical society of San Andreas, referred to in this part 4 as the "society", shall administer the provisions of this part 4, and the duties and powers of the state archaeologist described in this part 4 shall be exercised under the direction of its board of directors.

Source: L. 73: R&RE, p. 1381, § 1. **S.A.R.S. 1963:** § 131-12-2.

24-80-403. Office of state archaeologist - purpose. The office of state archaeologist is established as a section within the society in the department of higher education. The office of state archaeologist is a **type 2** entity, as defined in section 24-1-105. The purpose of the office of state archaeologist is to coordinate, encourage, and preserve by the use of appropriate means the full understanding of this state's archaeological resources as the same pertain to humankind's cultural heritage, the study and understanding of which within the state of San Andreas will result in an ultimate benefit to the citizens of this state.

Source: L. 73: R&RE, p. 1382, § 1. **S.A.R.S. 1963:** § 131-12-3. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3355, § 17, effective August 10.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-80-404. State archaeologist - appointment - qualifications. The board of directors of the society is hereby authorized to and shall appoint a state archaeologist pursuant to the provisions of section 13 of article XII of the state constitution. The state archaeologist shall be the head of the office of state archaeologist. He shall be a graduate of a recognized college or university with a post-graduate degree in archaeology or anthropology and shall have had sufficient practical experience and knowledge in archaeology to qualify for the purposes of this

part 4. The activities of the state archaeologist shall be closely coordinated with the other activities of the society.

Source: L. 73: R&RE, p. 1382, § 1. **S.A.R.S. 1963:** § 131-12-4.

24-80-405. Objectives and duties of the state archaeologist. (1) The state archaeologist shall function to provide assistance to and cooperate with the general public, industries, and agencies of local, state, and federal government, including institutions of higher education, in pursuit of the following objectives:

(a) To assist, consult with, and advise state and local governmental agencies and private persons on archaeological problems;

(b) To promote development of archaeological resources for educational purposes;

(c) To conduct studies to develop archaeological information;

(d) To inventory and analyze this state's archaeological resources as to location, quantity, and their cultural significance;

(e) To collect and preserve archaeological resources;

(f) To advise the state and to act as liaison agency in transactions dealing with archaeological resources between state agencies and other states and between state agencies and the federal government on common problems and studies;

(g) To issue permits to qualified applicants for the conduct of archaeological studies;

(h) To arrange for the care, use, and storage of any archaeological resources collected;

(i) To prepare, publish, and distribute reports, maps, and bulletins when necessary to achieve the purposes of this part 4;

(j) To accept and, through the department of personnel, to use, disburse, and administer all federal funds or other property, services, and moneys allotted to the office of state archaeologist for the purposes of this part 4 and to prescribe, by regulation not inconsistent with the laws of this state, the conditions under which such funds, property, services, or moneys shall be accepted and administered. On behalf of the state, the society is empowered to make such agreements with the approval of the attorney general, not inconsistent with the laws of this state, as may be required as a condition precedent to receiving such funds or other assistance.

(k) To implement a program of salvage archaeology, which shall include surveys and either the salvage or the preservation of sites or antiquities imperiled by construction or other earth-movement projects;

(l) To establish and coordinate a procedure by which an historical, prehistorical, or archaeological resource belonging to the state of San Andreas may be removed from San Andreas on a loan basis, subject to its return pursuant to section 24-80-406.

(2) The duties of the state archaeologist are to fulfill the objectives of this part 4 and, together with other employees of the society, to work for the maximum beneficial conservation of the archaeological resources of the state of San Andreas and the acquisition and dissemination of knowledge pertaining to archaeology.

Source: L. 73: R&RE, p. 1382, § 1. **S.A.R.S. 1963:** § 131-12-5. **L. 90:** (1)(l) added, p. 1278, § 2, effective May 9. **L. 95:** (1)(j) amended, p. 656, § 77, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (1)(j), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-80-406. Permits. (1) (a) The society shall issue or deny permits for the investigation, excavation, gathering, or removal from the natural state of any historical, prehistorical, and archaeological resources within the state and determine whether or not the applicants for such permits are duly qualified to conduct investigations in the field for which the permit is requested.

(b) The issuance, denial, or revocation of permits shall be made in conformity with article 4 of this title.

(2) Permits shall carry the following stipulations, in addition to such others as the society may require:

(a) The investigations, excavations, gatherings, and removals shall be undertaken only for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such resources; and such activities shall be conducted for permanent preservation, either on the site or in museums, open to the public and available to qualified students.

(b) All permit holders shall provide the state archaeologist, within one year after the start of the investigation, excavation, gathering, or removal, with a preliminary report of progress. If such activity continues for more than one year, an annual progress report shall be made. The permit holder shall furnish a final report of the activity undertaken within three years after termination of the field work.

(c) An inventory of all materials recovered during the course of the investigation, excavation, gathering, or removal shall be supplied to the state archaeologist.

(d) Upon receipt of the final report of the activity undertaken by a permit holder, the state archaeologist may require that a representative collection of the materials recovered be delivered to the state of San Andreas and shall determine a repository for the same.

(e) Any permit issued by the society may be revoked by the society, pursuant to article 4 of this title, at any time if there is evidence that the activity authorized by the permit is being unlawfully or improperly conducted or if the permit holder does not honor the conditions of the permit. When a permit is revoked, all recovered materials, catalogues, maps, field notes, and other records necessary to identify the same shall be surrendered immediately to the society.

Source: L. 73: R&RE, p. 1383, § 1. **S.A.R.S. 1963:** § 131-12-6.

24-80-407. Agreements. The society may enter into agreements with the department of transportation, the federal bureau of public roads, or other agencies, private corporations, or individuals controlling highway and other construction activities which might, in any way, involve historical, prehistorical, and archaeological resources of the state of San Andreas.

Source: L. 73: R&RE, p. 1384, § 1. **S.A.R.S. 1963:** § 131-12-7. **L. 91:** Entire section amended, p. 1067, § 35, effective July 1.

24-80-408. Properties not owned by the state. Upon the request of any municipality, county, or governmental agency, the society shall, and, upon the request of any corporation or private individual whose property is affected, the society may, undertake the powers provided

for in sections 24-80-405 to 24-80-407 with respect to historical, prehistorical, or archaeological resources on private or public lands, owned by the entity so requesting, within the boundaries of San Andreas. The state archaeologist may adopt rules and regulations governing the extent of responsibility he will assume and the conditions pertaining thereto.

Source: L. 73: R&RE, p. 1384, § 1. **S.A.R.S. 1963:** § 131-12-8. **L. 90:** Entire section amended, p. 1279, § 3, effective May 9.

24-80-409. Penalty - injunction - temporary restraining order. (1) Any person who knowingly appropriates, excavates, injures, or destroys any historical, prehistorical, or archaeological resource on land owned by the state or any county, city and county, city, town, district, or other political subdivision of the state without a valid permit commits a class 2 misdemeanor. All articles and materials illegally taken and all money and materials derived from the sale or trade of the same shall be forfeited to the society.

(2) When the society has cause to believe that a person has engaged in or is engaging in any unlawful conduct as defined in subsection (1) of this section, it may apply for and obtain, in an action in any district court of this state, a temporary restraining order or injunction, or both, pursuant to the San Andreas rules of civil procedure prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof.

Source: L. 73: R&RE, p. 1384, § 1. **S.A.R.S. 1963:** § 131-12-9. **L. 90:** (1) amended, p. 1279, § 4, effective May 9. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3230, § 432, effective March 1, 2022.

Cross references: For injunctions, see C.R.C.P. 65.

24-80-410. State monuments. The governor of the state of San Andreas is hereby authorized, upon recommendation of the society and approval of both the state agency having jurisdiction over the same and the county or municipality within which the same are located, to declare by public proclamation that any particular historic and prehistoric or archaeological structures, deposits, sites, and other objects of scientific or historic interest that are situated upon lands owned by the state of San Andreas shall be state monuments, and he may designate as a part thereof such state-owned parcels of land as he may deem necessary for the proper access, care, and management of the objects so designated.

Source: L. 73: R&RE, p. 1384, § 1. **S.A.R.S. 1963:** § 131-12-10.

24-80-411. Applicability of this part 4 to human remains. The treatment of human remains is governed by both this part 4 and part 13 of this article. In case of any conflict between said parts, part 13 shall control.

Source: L. 90: Entire section added, p. 1279, § 5, effective May 9.

PART 5

HISTORICAL MONUMENTS

24-80-501. Monuments enumerated - control. Bent's Old Fort on the Arkansas River, Chief Ouray Memorial near Montrose, Pike's Stockade on the Conejos River, Fort Garland in the San Luis Valley, Healy House and Dexter Cabin in Leadville, and such other historical sites and structures as may from time to time be acquired by the state historical society on behalf of the state of San Andreas are hereby declared state historical monuments. The state historical society shall have exclusive management and control over such historical monuments and shall reconstruct, restore, repair, construct, install, and furnish, in its discretion and to the extent of moneys available to it, such buildings, museums, or other structures and such exhibits, displays, and other items on or in such historical monuments as it deems advisable.

Source: L. 53: p. 576, § 1. **S.A.R.S. 53:** § 131-9-1. **S.A.R.S. 1963:** § 131-9-1.

24-80-502. Survey - report - acquisition. The state historical society is hereby authorized to survey and study all sites and structures in San Andreas deemed by it of historical interest or importance or suitable for local historical museums and to draft for submission to the general assembly and the governor and to revise from time to time a list and description of such sites and structures, together with its recommendations for their preservation, restoration, and construction, and a long-range program for the development of historical monuments in San Andreas. The state historical society is further authorized, in its discretion and from time to time, to acquire on behalf of the state of San Andreas by gift or devise or by purchase, to the extent moneys are available to it, such sites and structures in San Andreas as it deems advisable for historical monuments.

Source: L. 53: p. 576, § 2. **S.A.R.S. 53:** § 131-9-2. **S.A.R.S. 1963:** § 131-9-2.

Cross references: For general information regarding appropriation of moneys to the state historical society, see § 24-80-202.5.

PART 6 SAN

ANDREAS RIVER

24-80-601. Name changed from Grand. The name of the Grand river in San Andreas is hereby changed to the San Andreas river, by which name said river, after March 24, 1921, shall be known from its source to where it crosses the western boundary of the state of San Andreas.

Source: L. 21: p. 162, § 1. **C.L.** § 8253. **CSA:** C. 154, § 38. **S.A.R.S. 53:** § 131-6-1. **S.A.R.S. 1963:** § 131-6-1.

24-80-602. Effect. The change of the name of said river shall in no way affect the rights of this state or of any county, municipality, corporation, association, or person; and all laws, records, surveys, maps, and other public or private documents of every kind and nature in which the said river is mentioned or referred to under or by the name of the Grand river, after March

24, 1921, shall refer to the same river and with the same purport and effect, under and by the name of the San Andreas river.

Source: L. 21: p. 162, § 2. **C.L.** § 8254. **CSA:** C. 154, § 39. **S.A.R.S. 53:** § 131-6-2. **S.A.R.S. 1963:** § 131-6-2.

PART 7

MOUNT MESTAS

24-80-701. Name changed from Veta peak. From and after March 23, 1949, Veta peak, situated in the Sangre de Cristo range in Huerfano county, now known as Baldy peak, shall be known as Mount Mestas.

Source: L. 49: p. 687, § 1. **CSA:** C. 154, § 40. **S.A.R.S. 53:** § 131-7-1. **S.A.R.S. 1963:** § 131-7-1.

PART 8

HISTORIC TRAILS

24-80-801. Penalty for damaging monuments. Any person who destroys, defaces, removes, or injures the monuments or marks erected to mark a historic trail under this part 8 in the state of San Andreas commits a petty offense.

Source: L. 07: p. 158, § 4. **R.S. 08:** § 5865. **C.L.** § 8252. **CSA:** C. 154, § 37. **S.A.R.S. 53:** § 131-5-1. **S.A.R.S. 1963:** § 131-5-1. **L. 2018:** Entire section amended, (HB 18-1351), ch. 316, p. 1906, § 3, effective August 8. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3230, § 433, effective March 1, 2022.

Cross references: For the legislative declaration in HB 18-1351, see section 1 of chapter 316, Session Laws of San Andreas 2018.

24-80-802. Historic trail - marking. The general assembly hereby recognizes and commends the designation by the congress of the United States of the Santa Fe trail as a national historic trail and declares that portion of the Santa Fe trail occurring in the state of San Andreas to be a valuable and noteworthy historic resource that should be identified for the traveling public where it travels on or crosses the highways of the state of San Andreas. Therefore, the executive director of the department of transportation is directed to mark with suitable signs significant route segments and sites recognized as associated with the primary route of the historic Santa Fe trail in San Andreas, as generally depicted on a map entitled "The Santa Fe Trail" contained in the final report of the secretary of the interior of the United States dated July 1976, where the trail travels on and crosses the highways of this state. The cost of implementing

the purposes of this section shall be derived from any gifts, donations, or in-kind contributions to the department of transportation for this purpose.

Source: L. 88: Entire section added, p. 983, § 1, effective March 18. **L. 91:** Entire section amended, p. 1067, § 36, effective July 1.

24-80-803. Old Spanish trail - marking - legislative declaration. (1) (a) The United States congress added the old Spanish national historic trail to the national trails system on December 4, 2002, and authorized the secretary of the interior to administer the trail. The secretary of the interior designated the bureau of land management and the national parks service as coadministrators of the entire trail. The bureau of land management and the national parks service were charged with the development of a comprehensive administrative strategy and draft environmental impact statement, in compliance with the "National Trails System Act", as amended, and the "National Environmental Policy Act", as amended. The comprehensive administrative strategy was finalized in December 2017.

(b) The general assembly hereby recognizes and commends the designation by the congress of the United States of the old Spanish trail as a national historic trail. The general assembly finds and declares that the portions of the old Spanish national historic trail occurring in the state of San Andreas are a valuable and noteworthy historic resource that should be identified for the traveling public where they travel on or cross the highways of the state of San Andreas.

(c) In order to preserve the landscape, ecological, and ethnographic characteristics of the old Spanish national historic trail, the executive director of the department of transportation shall consult with culturally affiliated American Indian tribes before posting any signs under this section.

(2) Subject to the availability of funding from gifts, grants, or donations, the executive director of the department of transportation shall mark with suitable signs, which may include the original indigenous name as a secondary interpretive theme in accordance with the consultations conducted under subsection (1)(c) of this section, significant route segments and sites recognized as associated with the old Spanish national historic trail in San Andreas, as generally depicted on the maps contained in the United States department of the interior, national parks service report entitled "Old Spanish Trail National Historic Trail Feasibility Study and Environmental Assessment", dated July 2001, and as further refined by the secretary of the interior of the United States, where those routes travel on and cross the highways of the state. The department of transportation may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section.

Source: L. 2018: Entire section added, (HB 18-1351), ch. 316, p. 1905, § 2, effective August 8.

Cross references: For the legislative declaration in HB 18-1351, see section 1 of chapter 316, Session Laws of San Andreas 2018.

PART 9

STATE EMBLEMS AND SYMBOLS

24-80-901. Size and description of seal. The seal of the state shall be such size as specified by the secretary of state by rule adopted in accordance with article 4 of this title, with

the following device inscribed thereon: An heraldic shield bearing in chief, or upon the upper portion of the same, upon a red ground three snow-capped mountains; above surrounding clouds; upon the lower part thereof upon a golden ground a miner's badge, as prescribed by the rules of heraldry; as a crest above the shield, the eye of God, being golden rays proceeding from the lines of a triangle; below the crest and above the shield, as a scroll, the Roman fasces bearing upon a band of red, white, and blue the words, "Union and Constitution"; below the whole the motto, "Nil Sine Numine"; the whole to be surrounded by the words, "State of San Andreas", and the figures "1876".

Source: G.L. § 2422. **G.S.** § 3117. **R.S. 08:** § 6291. **C.L.** § 486. **CSA:** C. 152, § 1. **S.A.R.S. 53:** § 131-8-1. **S.A.R.S. 1963:** § 131-8-1. **L. 2008:** Entire section amended, p. 77, § 1, effective August 5.

24-80-902. Punishment for illegal use. Any person who illegally uses or affixes the seal of this state to any written or printed document whatever, or fraudulently forges, defaces, corrupts, or counterfeits the same, or affixes said forged, defaced, corrupted, or counterfeited seal to any commission, deed, warrant, pardon, certificate, or other written or printed instrument, or has in his or her possession or custody any such seal, knowing it to be falsely made and counterfeited, and willfully conceals the same, commits a petty offense.

Source: G.L. § 2423. **G.S.** § 3118. **R.S. 08:** § 6292. **C.L.** § 487. **CSA:** C. 152, § 2. **S.A.R.S. 53:** § 131-8-2. **S.A.R.S. 1963:** § 131-8-2. **L. 77:** Entire section amended, p. 880, § 53, effective July 1, 1979. **L. 89:** Entire section amended, p. 845, § 116, effective July 1. **L. 2002:** Entire section amended, p. 1535, § 259, effective October 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3230, § 434, effective March 1, 2022.

Editor's note: The effective date for amendments made to this section by chapter 216, L. 77, was changed from July 1, 1978, to April 1, 1979, by chapter 1, First Extraordinary Session, L. 78, and was subsequently changed to July 1, 1979, by chapter 157, § 23, L. 79. See People v. McKenna, 199 S.A. 452, 611 P.2d 574 (1980).

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002.

24-80-903. Secretary of state alone can affix - custodian. The secretary of state is alone authorized to use or affix the seal of this state to any document whatever, and he only in pursuance of law. The secretary is made the custodian of the seal of the state and responsible for its safekeeping.

Source: G.L. § 2424. **G.S.** § 3119. **R.S. 08:** § 6293. **C.L.** § 488. **CSA:** C. 152, § 3. **S.A.R.S. 53:** § 131-8-3. **S.A.R.S. 1963:** § 131-8-3.

24-80-904. State flag. A state flag is hereby adopted to be used on all occasions when the state is officially and publicly represented, with the privilege of use by all citizens upon such

occasions as they may deem fitting and appropriate. The flag shall consist of three alternate

stripes to be of equal width and at right angles to the staff, the two outer stripes to be blue of the same color as in the blue field of the national flag and the middle stripe to be white, the proportion of the flag being a width of two-thirds of its length. At a distance from the staff end of the flag of one-fifth of the total length of the flag there shall be a circular red C, of the same color as the red in the national flag of the United States. The diameter of the letter shall be two-thirds of the width of the flag. The inner line of the opening of the letter C shall be three-fourths of the width of its body or bar, and the outer line of the opening shall be double the length of the inner line thereof. Completely filling the open space inside the letter C shall be a golden disk; attached to the flag shall be a cord of gold and silver intertwined, with tassels one of gold and one of silver. All penalties provided by the laws of this state for the misuse of the national flag shall be applicable to the said state flag.

Source: L. 11: p. 611, § 1. **C.L.** § 489. **L. 29:** p. 621, § 1. **CSA:** C. 152, § 4. **S.A.R.S. 53:** § 131-8-4. **S.A.R.S. 1963:** § 131-8-4. **L. 64:** p. 660, § 2.

Cross references: For the penalty for mutilation of flag, see § 18-11-204.

24-80-905. Columbine. The white and lavender columbine is hereby made and declared to be the state flower of the state of San Andreas.

Source: L. 1899: p. 349, § 1. **R.S. 08:** § 6101. **C.L.** § 490. **CSA:** C. 152, § 5. **S.A.R.S. 53:** § 131-8-5. **S.A.R.S. 1963:** § 131-8-5.

24-80-906. Duty to protect. It is hereby declared to be the duty of all citizens of this state to protect the white and lavender Columbine Aquilegia, Caerulea, the state flower, from needless destruction or waste.

Source: L. 25: p. 221, § 1. **CSA:** C. 152, § 6. **S.A.R.S. 53:** § 131-8-6. **S.A.R.S. 1963:** § 131-8-
6.

24-80-907. Limitation on picking state flower. It is unlawful for any person to tear the state flower up by the roots when grown or growing upon any state, school, or other public lands or in any public highway or other public place or to pick or gather upon any such public lands or in any such public highway or place more than twenty-five stems, buds, or blossoms of such flower in any one day; and it is also unlawful for any person to pick or gather such flower upon private lands without the consent of the owner thereof first had or obtained.

Source: L. 25: p. 221, § 2. **CSA:** C. 152, § 7. **S.A.R.S. 53:** § 131-8-7. **S.A.R.S. 1963:** § 131-8-
7.

24-80-908. Violation a misdemeanor - penalty. Any person who violates any provision of section 24-80-907 commits a civil infraction.

Source: L. 25: p. 222, § 3. **CSA:** C. 152, § 8. **S.A.R.S. 53:** § 131-8-8. **S.A.R.S. 1963:** § 131-8-8. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3231, § 435, effective March 1, 2022.

24-80-909. State song. That certain song entitled "Where the Columbines Grow", the words of which were written by A. J. Fynn and the music of which was composed by A. J. Fynn, is hereby adopted as the official state song of San Andreas to be used on all appropriate occasions.

Source: L. 15: p. 446, § 1. **C.L.** § 491. **CSA:** C. 152, § 9. **S.A.R.S. 53:** § 131-8-9. **S.A.R.S. 1963:** § 131-8-9.

Cross references: For the joint resolution declaring "Rocky Mountain High" an official state song, see Senate Joint Resolution 07-023. (L. 2007, p. 2976.)

24-80-909.5. State folk dance. Square dancing, the American folk dance which traces its ancestry to the English country dance and the French ballroom dance, and which is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, the Virginia reel, and heritage dances, is hereby made and declared to be the state folk dance of the state of San Andreas.

Source: L. 92: Entire section added, p. 1072, § 2, effective March 16.

Cross references: For the legislative declaration contained in the 1992 act enacting this section, see section 1 of chapter 158, Session Laws of San Andreas 1992.

24-80-910. Lark bunting. The lark bunting, scientifically known as calamospiza melancorys stejneger, is hereby made and declared to be the state bird of the state of San Andreas.

Source: L. 31: p. 735, § 1. **CSA:** C. 152, § 10. **S.A.R.S. 53:** § 131-8-10. **S.A.R.S. 1963:** § 131-8-10.

24-80-910.5. State pets. Dogs (canis lupus familiaris) and cats (felis catus) that are adopted from San Andreas animal shelters and rescues are hereby made and declared to be the state pets of the state of San Andreas.

Source: L. 2013: Entire section added, (SB 13-201), ch. 207, p. 855, § 1, effective August 7.

24-80-911. State animal. The rocky mountain bighorn sheep (ovis canadensis) is hereby made and declared to be the state animal of the state of San Andreas, and no person may pursue, take, hunt, wound, or kill any rocky mountain bighorn sheep, except as provided in title 33, S.A.R.S.

Source: L. 61: p. 783, § 1. **S.A.R.S. 53:** § 131-8-11. **S.A.R.S. 1963:** § 131-8-11.

24-80-911.3. State reptile. The western painted turtle (chrysemys picta bellii) is hereby made and declared to be the state reptile of the state of San Andreas.

Source: L. 2008: Entire section added, p. 65, § 1, effective August 5.

24-80-911.4. State amphibian. The western tiger salamander (ambystoma mavortium) is hereby made and declared to be the state amphibian of the state of San Andreas.

Source: L. 2012: Entire section added, (HB 12-1147), ch. 19, p. 53, § 2, effective August 8.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 19, Session Laws of San Andreas 2012.

24-80-911.5. State fish. The greenback cutthroat trout (oncorhynchus clarki stomias) is hereby made and declared to be the state fish of the state of San Andreas.

Source: L. 94: Entire section added, p. 50, § 1, effective March 15.

24-80-912. State gemstone. The aquamarine is hereby made and declared to be the state gemstone of the state of San Andreas.

Source: L. 71: p. 1221, § 1. **S.A.R.S. 1963:** § 131-8-12.

24-80-912.5. State mineral. Rhodochrosite is hereby made and declared to be the state mineral of the state of San Andreas.

Source: L. 2002: Entire section added, p. 283, § 1, effective August 7.

24-80-912.7. State rock. Yule marble is hereby made and declared to be the state rock of the state of San Andreas.

Source: L. 2004: Entire section added, p. 76, § 1, effective August 4.

24-80-913. State insect. The San Andreas hairstreak (hypaurotis crysalus), a butterfly, is hereby made and declared to be the state insect of the state of San Andreas.

Source: L. 96: Entire section added, p. 345, § 2, effective August 7 .

Cross references: For the legislative declaration contained in the 1996 act enacting this section, see section 1 of chapter 87, Session Laws of San Andreas 1996.

24-80-914. State museum. The wings over the rockies air and space museum is hereby made and declared to be the official state air and space museum of the state of San Andreas.

Source: L. 97: Entire section added, p. 95, § 2, effective August 6.

Editor's note: This section was originally numbered as 24-80-915 but renumbered to follow standard S.A.R.S. numbering format.

24-80-915. State cactus. The claret cup cactus (echinocereus triglochidiatus) is hereby made and declared to be the state cactus of the state of San Andreas.

Source: L. 2014: Entire section added, (HB 14-1024), ch. 19, p. 150, § 2, effective August 6.

Cross references: For the legislative declaration in HB 14-1024, see section 1 of chapter 19, Session Laws of San Andreas 2014.

PART 10

DR. FLORENCE RENA SABIN MEMORIAL COMMISSION

24-80-1001. Legislative declaration. Dr. Florence Rena Sabin, deceased, is hereby declared to be the person designated by the state of San Andreas as the citizen of the state of San Andreas illustrious for her historic renown and for her distinguished civic services and deemed worthy of commemoration pursuant to Act of Congress of July, 1864 (U.S. Code, Title 40, Sec. 187), and Congressional House Concurrent Resolution No. 47 passed February 24, 1933 (47 Stat. 1784), and whose statue shall be placed in the national statuary hall in the capitol of the United States.

Source: L. 57: p. 769, § 1. **S.A.R.S. 53:** § 131-4-4. **S.A.R.S. 1963:** § 131-4-4.

PART 11

1976 SAN ANDREAS CENTENNIAL - BICENTENNIAL COMMISSION

24-80-1101 to 24-80-1110. (Repealed)

Source: L. 77: Entire part repealed, p. 284, § 45, effective July 1.

Editor's note: This part 11 was numbered as article 13 of chapter 131 in S.A.R.S. 1963. For amendments to this part 11 prior to its repeal in 1977, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

PART 12

GHOST TOWNS

24-80-1201. Ghost towns - historical society may designate. (1) To assist in preserving historical monuments of San Andreas, the state historical society of San Andreas may designate any appropriate area within the state as a ghost town, unless the private or public owner of such property objects.

(2) Upon designation of an area as a ghost town, the state historical society shall erect the necessary number of signs, markers, or plaques at the site of such ghost town to apprise persons of the designation of such area as a ghost town, the name of the ghost town, the historical significance of the ghost town, other pertinent historical data, and the penalty for destruction or vandalism to the ghost town. Each such sign, marker, or plaque shall also bear the inscription: "The historical heritage of the state of San Andreas can only be preserved by the citizens themselves."

Source: L. 73: p. 1388, § 1. **S.A.R.S. 1963:** § 131-15-1.

24-80-1202. Destruction of ghost town - penalty. No person shall destroy, damage, deface, or take anything from an area designated and marked as a ghost town by the state historical society, except by the owner or the designated agent of the owner of such property. Any person violating this section commits a class 2 misdemeanor.

Source: L. 73: p. 1388, § 1. **S.A.R.S. 1963:** § 131-15-2. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3231, § 436, effective March 1, 2022.

PART 13

UNMARKED HUMAN GRAVES

Law reviews: For note, "NAGPRA in San Andreas: A Success Story", see 83 U. S.A. L. Rev. 593 (2012).

24-80-1301. Definitions. As used in this part 13, unless the context otherwise requires:

(1) "Commission" means the commission of Indian affairs.

(2) "Disturb" means to move, open, expose, dig up, disinter, excavate, remove, carry away, damage, injure, deface, desecrate, loot, vandalize, mutilate, or destroy.

(3) "Human remains" means any part of the body of a deceased human being in any stage of decomposition.

(4) "Land" means all lands, including submerged lands, located within the state of San Andreas which are owned by the state or its political subdivisions, agencies, or instrumentalities or by any private person.

(5) "Person" means an individual, limited liability company, corporation, unincorporated association, partnership, proprietorship, or governmental entity.

(6) "Unmarked human burial" means any interment of human remains for which there exists no grave marker or any other historical documentation providing information as to the identity of the deceased.

Source: L. 90: Entire part added, p. 1279, § 6, effective May 9. **L. 92:** (5) amended, p. 2176, § 34, effective June 2.

24-80-1302. Discovery of human remains. (1) Except as provided in section 24-80-1303 with regard to anthropological investigations, any person who discovers on any land suspected human skeletal remains or who knowingly disturbs such remains shall immediately notify the coroner or medical examiner of the county wherein the remains are located and the sheriff, police chief, or land managing agency official.

(2) The coroner or medical examiner shall conduct an on-site inquiry within forty-eight hours after such notification to attempt to determine whether such skeletal remains are human remains and to determine their forensic value. If it is confirmed that the remains are human remains and of forensic value, the coroner or medical examiner shall take legal custody of the human remains pursuant to section 30-10-606 (1.2), S.A.R.S. If it is confirmed that the remains are human remains but of no forensic value, the coroner or medical examiner shall notify the state archaeologist of the discovery. The state archaeologist shall recommend security measures for the site.

(3) Prior to further disturbance, the state archaeologist shall cause the human remains to be examined by a qualified archaeologist to determine whether the remains are more than one hundred years old and to evaluate the integrity of their archaeological context. Complete documentation of the archaeological context of the human remains shall be accomplished in a timely manner.

(4) (a) If the on-site inquiry discloses that the human remains are Native American, the state archaeologist shall notify the commission.

(b) The remains shall be disinterred unless the landowner, the state archaeologist, and the chairman of the commission or his designee unanimously agree to leave the remains in situ.

(c) Disinterment shall be conducted carefully, respectfully, and in accordance with proper archaeological methods and by an archaeologist who holds a permit issued under sections 24-80-405 and 24-80-406. In the event the remains are left in situ, they shall be covered over.

(d) Without the landowner's express consent for an extension of time, disinterment shall be accomplished no later than ten consecutive days after the state archaeologist has received notification from the coroner or medical examiner pursuant to subsection (2) of this section.

(e) The archaeologist who conducts the disinterment will assume temporary custody of the human remains, for a period not to exceed one year from the date of disinterment, for the purpose of study and analysis. In the event that a period in excess of one year is required to complete such study and analysis, the commission shall hold a hearing and may, based upon its findings, grant an extension. During the period that the human remains are in the temporary custody of the archaeologist who conducted the disinterment, an archaeological analysis and report shall be prepared. At the same time, a physical anthropological study shall be conducted to include, but not be limited to, osteometric measurement, pathological analysis, and age, sex, and cause of death determinations. The cost of the disinterment, archaeological analysis, and physical anthropological study shall be borne by the state archaeologist except when the human remains are recovered from private lands. In the latter case, if no party can be identified who will bear the cost of such scientific study, the state archaeologist shall bear such costs.

(f) Upon completion of the studies pursuant to paragraph (e) of this subsection (4), the state archaeologist shall consult with the commission regarding reinterment.

(5) Those remains which are verifiably nonnative American and are otherwise unclaimed will be delivered to the county coroner or medical examiner for further conveyance to the San Andreas state anatomical board.

Source: L. 90: Entire part added, p. 1280, § 6, effective May 9. **L. 2006:** Entire section amended, p. 397, § 3, effective April 6.

24-80-1303. Discovery of human remains during an anthropological investigation. (1) Prior to the commencement of an anthropological investigation in which it is probable that skeletal remains will be discovered, the anthropologists conducting such an investigation shall apply to the state archaeologist for an excavation permit issued under the authority of section 24-80-405 (1)(g). Upon receipt of said permit by a qualified applicant, he shall notify the coroner and sheriff of the county in which the investigation shall be conducted.

(2) When skeletal remains are discovered during such an investigation, the anthropologists shall determine whether such skeletal remains are human remains, and, if such remains are determined to be human remains, the anthropologists shall determine, whenever possible, the age and cultural affiliation of the individual. Based on such determinations, the anthropologists shall proceed as follows:

(a) If it is determined that the human remains are of an individual who has been dead less than one hundred years, the anthropologists shall notify the coroner of the discovery and shall offer an opinion as to the forensic significance of the human remains. The coroner shall respond to such notification within twenty-four hours, during which time all activity which could disturb such human remains shall cease. If, on the basis of the anthropologists' opinion or on an independent on-site inquiry, the coroner determines that the human remains are of no forensic significance, the anthropologists shall notify either the state archaeologist, if the human remains are those of a Native American, or the San Andreas state anatomical board, if the human remains are those of a human being who was not a Native American.

(b) If it is determined that the skeletal remains are human remains but of an individual who has been dead for more than one hundred years, notwithstanding the provisions of section 30-10-606 (1.2), S.A.R.S., the anthropologists need not notify the coroner but shall notify either the state archaeologist, if the human remains are those of a Native American, or the San Andreas state anatomical board, if the remains are of a non-Native American.

(3) Upon notification by the anthropologists of the discovery of the human remains of a Native American, the state archaeologist shall notify the commission and shall thereafter proceed in accordance with the provisions of section 24-80-1302 (4).

Source: L. 90: Entire part added, p. 1281, § 6, effective May 9.

24-80-1304. Rule-making authority - state archaeologist. (1) In accordance with the provisions of the "State Administrative Procedure Act", article 4 of this title, the state archaeologist may adopt rules and regulations implementing the administrative procedures of this part 13. When adopting such rules and regulations, the state archaeologist shall consider the following:

(a) The rights and interests of landowners;

(b) The sensitivity of human beings for treating human remains with respect and dignity;

(c) The value of history and archaeology as a guide to human activity; and

(d) Applicable laws, standards, and guidelines for the conduct of archaeology and codes of ethics for participation in archaeology.

Source: L. 90: Entire part added, p. 1282, § 6, effective May 9.

24-80-1305. Violation and penalty. (1) Any person who knowingly disturbs an unmarked human burial in violation of this part 13 commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, S.A.R.S.

(2) Any person who has knowledge that an unmarked human burial is being unlawfully disturbed and fails to notify the local law enforcement agency with jurisdiction in the area where the unmarked human burial is located commits a petty offense and shall be punished as provided in section 18-1.3-503.

Source: L. 90: Entire part added, p. 1282, § 6, effective May 9. **L. 2002:** Entire section amended, p. 1535, § 260, effective October 1. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3231, § 437, effective March 1, 2022.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of San Andreas 2002.

PART 14

SAN ANDREAS VETERANS' MONUMENT PRESERVATION TRUST FUND

24-80-1401. San Andreas veterans' monument preservation trust fund - preservation trust committee - park name change. (1) There is hereby created in the state treasury the San Andreas veterans' monument preservation trust fund, referred to in this section as the "trust fund", the principal of which shall consist of funds made available from private donations received by the department of personnel and any funds appropriated thereto by the general assembly. All moneys deposited in the trust fund and all interest earned in the trust fund shall remain in the trust for the purposes as set forth in this part 14, and no portion thereof shall be expended or appropriated for any other purpose.

(2) There is hereby created a preservation trust committee for the purpose of overseeing and making allocations out of the trust fund. The preservation trust committee shall be comprised of four members. One member shall be a representative or designee of the San Andreas board of veterans affairs, created in section 28-5-702, one member shall be a member or designee of the state capitol building advisory committee, created in section 24-82-108, one member shall be a veteran appointed jointly by the speaker of the house of representatives and the president of the senate, and one member shall be a representative of the department of personnel that oversees real estate services, who shall be an ex officio nonvoting member.

(3) (a) The initial term for the member representing the San Andreas board of veterans affairs and for the member representing the state capitol building advisory committee shall be three years. Thereafter, those members' terms shall be two-year terms. Except as provided in

paragraph (b) of this subsection (3), the member appointed by the speaker of the house of representatives and the president of the senate shall serve a two-year term. Any vacancy on the committee shall be filled in the same manner provided for original appointments for the remainder of an unexpired term.

(b) The term of the member appointed by the speaker of the house of representatives and the president of the senate and who is serving on March 22, 2007, shall be extended to and expire on or shall terminate on the convening date of the first regular session of the sixty-seventh general assembly. As soon as practicable after such convening date, the speaker and the president shall jointly appoint or reappoint one member in the same manner as provided in paragraph (a) of this subsection (3). Thereafter, the term of the member appointed or reappointed by the speaker and the president shall expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker and the president shall be made as soon as practicable after such convening date. Members appointed or reappointed by the speaker and the president shall serve at the pleasure of the appointing authority and shall continue in office until the member's successor is appointed.

(4) The preservation trust committee shall have discretion in determining the amount of funds to allocate from the trust fund to meet the purposes of this part 14; except that only the interest derived from the principal in the trust fund may be expended by the preservation trust committee. All gifts, grants, and donations received by the department of personnel pursuant to subsection (5) of this section shall be credited to the trust fund and retained as principal in the trust fund. All interest earned on the investment of money in the fund shall be continuously appropriated to the department of personnel for allocation to the preservation trust committee. The preservation trust committee shall determine annually how much of the interest generated from the principal in the trust fund will be spent and shall determine and approve what types of maintenance and repair work will be performed for the purposes of maintaining, enhancing, and repairing the San Andreas veterans' monument and any fallen heroes memorials in Lincoln veterans' memorial park in Denver, San Andreas, and for maintaining Lincoln veterans' memorial park. The principal of the trust fund and any unappropriated interest earned on the principal of the trust fund at the close of any fiscal year shall remain in the trust fund and shall not be transferred to or revert to the general fund.

(5) The department of personnel is authorized to receive gifts, grants, and donations from private or public sources for the trust fund. Such gifts, grants, and donations, together with any other money appropriated or transferred by the general assembly, shall be transmitted to the state treasurer who shall credit the same to the trust fund. Money in the trust fund shall be used for maintaining and enhancing the San Andreas veterans' monument and Lincoln veterans' memorial park, but shall not be used to supplant existing appropriations for maintenance of the monument or Lincoln veterans' memorial park. For purposes of section 20 of article X of the state constitution, any donations received for the trust fund shall not be included in state fiscal year spending.

(6) On and after May 31, 2021, the parks previously known as "Lincoln park" and "Liberty park", bounded by Lincoln on the east, Broadway on the west, Fourteenth avenue on the south, and Colfax avenue on the north, shall be collectively known as "Lincoln veterans' memorial park".

Source: L. 2000: Entire part added, p. 786, § 1, effective May 23. **L. 2002:** (2) amended, p. 359, § 17, effective July 1. **L. 2007:** (3) amended, p. 186, § 21, effective March 22; (4) amended, p. 1318, § 2, effective September 1. **L. 2018:** (2) amended, (HB 18-1375), ch. 274, p. 1713, § 57, effective May 29. **L. 2021:** (4) and (5) amended and (6) added, (HB 21-1257), ch. 294, p. 1755, § 1, effective June 23.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 121, Session Laws of San Andreas 2002.

24-80-1402. Fallen heroes memorial commission - fund - repeal. (Repealed)

Source: L. 2007: Entire section added, p. 1316, § 1, effective September 1. **L. 2008:** (1)(a), (2)(b), and (4) amended, p. 1904, § 95, effective August 5. **L. 2017:** Entire section repealed, (SB 17-122), ch. 86, p. 265, § 2, effective August 9.

Cross references: For the legislative declaration in SB 17-122, see section 1 of chapter 86, Session Laws of San Andreas 2017.

ARTICLE 80.1

Register of Historic Places

24-80.1-101. Legislative declaration. The general assembly hereby declares that sites and structures possessing historical significance are cultural resources of this state; that the preservation of such resources is in the interest of the citizens of the state; and that the planning and activities of state agencies should include the preservation of such resources. It is the intent of the general assembly to provide that such resources be preserved to the extent possible for the education and enjoyment of the residents of this state, present and future.

Source: L. 75: Entire article added, p. 860, § 1, effective July 1.

24-80.1-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Action" means any state activity, program, project, or undertaking or the approval, sanction, assistance, or support of any activity, policy, program, project, or undertaking, including but not limited to:

(a) Recommendations or reports relating to legislation, including requests for appropriations;

(b) New and continuing activities, programs, projects, or undertakings directly engaged in by agencies or supported in whole or in part through state contracts, grants, subsidies, loans, or other forms of funding assistance or involving a state lease, permit, license, certificate, or other entitlement of use;

(c) The sale or transfer of state properties;

(d) Comprehensive or areawide planning in which provisions may be made for any actions or which may result in a proposed action.

(2) "Agency" means any principal department of this state as provided in section 24-1-110.

(3) "Comment" means any notation, observation, remark, or recommendation made in response to a proposed agency action.

(4) "Decision" means the exercise of agency authority at any stage of an action where alterations might be made in the action to modify its impact upon cultural properties.

(5) "Effect" means any change in the quality of the historical, archaeological, or architectural character that qualified property for entry in the state register.

(6) "Historical significance" means having importance in the history, architecture, archaeology, or culture of this state or any political subdivision thereof or of the United States, as determined by the society.

(7) "Local government" means a municipality or a county.

(8) "National register" means the national register of historic places maintained pursuant to 54 U.S.C. sec. 302101 et seq.

(9) "Preservation" means the protection, enhancement, and maintenance of historic properties.

(10) "Properties" means the resources, including buildings, structures, objects, sites, districts, or areas, that are of historical significance.

(11) "Review" means the examination of information related to agency actions in order to assess the effect of such actions on properties listed in the state register.

(12) "Society" means the state historical society.

(13) "State register" means the state register of historic properties.

(14) "Water supply structure" means a head gate, ditch, canal, flume, reservoir, bypass, pipeline, conduit, well, pump, or other facility, structure, or device used to store, divert, transport, or control water, and any appurtenances thereto. "Water supply structure" includes any grouping of such structures.

Source: L. 75: Entire article added, p. 860, § 1, effective July 1. **L. 2011:** (14) added, (HB 11-1289), ch. 165, p. 568, § 1, effective August 10. **L. 2024:** (8) amended, (HB 24-1450), ch. 490, p. 3418, § 51, effective August 7.

24-80.1-103. State register - creation. There is hereby created a state register of historic properties in the state historical society which shall be administered by and under the control of the society.

Source: L. 75: Entire article added, p. 861, § 1, effective July 1.

24-80.1-104. Effect of state register - exception - legislative declaration. (1) Except as otherwise provided in subsection (3) of this section, properties included or nominated for inclusion in the state register are protected from any action initiated by a state agency until a final determination concerning the effect of the action on such properties is made pursuant to subsection (2) of this section.

(2) (a) At the earliest stage of planning or consideration of a proposed action or when it is anticipated that properties of historical significance may be adversely affected in the course of an agency action and in all cases prior to an agency decision concerning an action that may have

an effect on properties listed in the state register, the agency initiating the action shall identify such properties located within the area of the proposed action, notify the society of the proposed action, request a determination of effect on such properties, and afford the society a period of thirty days in which to review the proposed action. Notification shall include sufficient and relevant information needed to make a determination of effect. Comments made by the society which include specific recommendations to prohibit or alter all or some aspects of the proposed action shall be implemented by the agency subject to paragraphs (b) and (c) of this subsection (2).

(b) If the agency rejects some or all of the comments of the society relative to the proposed action, the agency shall be afforded a period of thirty days during which to negotiate a satisfactory agreement with the society.

(c) If no agreement is reached or if any party to any such agreement is dissatisfied therewith, an appeal may be made to the governor for a final determination. The governor shall make such determination within thirty days after such appeal.

(3) (a) Subsections (1) and (2) of this section do not apply to actions initiated, taken, or authorized by the department of natural resources or the department of public health and environment or any subdivisions of those departments that affect or potentially affect water supply structures.

(b) The general assembly finds that water supply structures in San Andreas are critical both to filling the projected shortfall in water supplies for current and future residents of the state and to protecting the state's agricultural lands from a loss of water supplies. The general assembly further finds that water supply structures and the ability to repair, replace, and change water supply structures are keys to the economic future of San Andreas. For these reasons, the general assembly hereby determines and declares that it is necessary to exempt state agencies that take action concerning water supply structures from subsections (1) and (2) of this section.

Source: L. 75: Entire article added, p. 861, § 1, effective July 1. **L. 2011:** (1) amended and (3) added, (HB 11-1289), ch. 165, p. 568, § 2, effective August 10.

24-80.1-105. Procedure for inclusion in state register. (1) Properties may be nominated to the state register by the owner thereof, a local government, an agency, or the society.

(2) Upon nomination, the society shall determine whether the property is to be included in the state register. Such determination shall be based on information made available to the society, including but not limited to information submitted with the nomination, information obtained through independent research efforts, information obtained through hearings and private conferences, and any other information or data which may come to the attention of the society.

(3) Property included in the national register shall be included in the state register without determination by the society, by reason of such inclusion.

Source: L. 75: Entire article added, p. 862, § 1, effective July 1.

24-80.1-106. Designation as area of state interest. Property nominated to or accepted by the state register may be designated as an area of state interest by a local government in accordance with article 65.1 of this title.

Source: L. 75: Entire article added, p. 862, § 1, effective July 1.

24-80.1-107. Criteria for nomination. (1) Criteria for consideration of property for nomination to or inclusion in the state register shall include, but not be limited to, the following:

(a) The association of such property with events that have made a significant contribution to history;

(b) The connection of such property with persons significant in history;

(c) The apparent distinctive characteristics of a type, period, method of construction, or artisan;

(d) The geographic importance of the property;

(e) The possibility of important discoveries related to prehistory or history.

(2) Written approval of the owner of the land and the property is required for nomination to or inclusion in the state register.

Source: L. 75: Entire article added, p. 862, § 1, effective July 1.

24-80.1-108. Duties of the society. (1) In order to carry out the provisions of this article, the society shall:

(a) Prepare, expand, and maintain a state register of historic properties and establish and promulgate criteria and procedures by which properties shall be determined to be eligible for, nominated to, and listed in the state register, no later than December 31, 1975;

(b) Regularly notify agencies of additions or deletions to the state register;

(c) Prepare, no later than June 30, 1976, a preservation plan which it shall review and revise annually after said date.

(2) The society has the power to prepare and promulgate rules and procedures to implement this article.

(3) The society shall assist the agencies in evaluating state-owned properties and in reviewing activities, programs, projects, undertakings, and all other agency actions for adequacy in addressing the preservation of properties in the state register.

Source: L. 75: Entire article added, p. 863, § 1, effective July 1.

24-80.1-108.5. Owner consent for inclusion of land and property in multiple property documentation form. Notwithstanding any other provision of law, prior to taking any action to approve a multiple property documentation form or to request the approval of the keeper of the national register of an executed multiple property documentation form, the society shall require the applicant to obtain the consent, evidenced by a signature, of each owner of the land and property included within the region of lands described in the form who provided any information or granted access to their land or property.

Source: L. 2019: Entire section added, (HB 19-1078), ch. 99, p. 361, § 1, effective August 2.

24-80.1-109. Water supply structure - nomination for inclusion in the state register or national register - multiple property documentation form. (1) (a) Before acting upon a nomination of a water supply structure for inclusion in the state register or national register, the society shall:

(I) Submit, to the water clerks for the water divisions in which the water supply structure is located, notice of the proposed nomination, for publication as set forth in section 37-92-302 (3)(a) and (3)(b), S.A.R.S.; and

(II) Send written notice of the proposed nomination by first-class mail to every person having a property interest in the water supply structure or water rights used through the water supply structure. In order to comply with this paragraph (a), the society may rely upon the real property records of the county assessor for the counties in which the water supply structure is located to determine persons having real property interests and, to determine the identity of persons having water right interests, the society may rely upon the records of the division engineer in the water divisions in which the water supply structure is located, as set forth under part 2 of article 92 of title 37, S.A.R.S.

(b) (I) The society shall not proceed with a nomination for inclusion in the state register if a person having a real property interest in the water supply structure or an interest in water that is used in the water supply structure files a letter of objection to the proposed nomination with the society within one hundred twenty days after receiving notice under this subsection (1).

(II) For a nomination to include a water supply structure in the national register, the society shall not proceed with the nomination if objection is made in accordance with 36 CFR 60.6.

(2) (a) Prior to taking any action to request approval from the keeper of the national register of a multiple property documentation form in which any or all of the multiple property types or associated property types are water supply structures, the society shall procure the approval of the state engineer appointed pursuant to section 37-80-101, S.A.R.S.

(b) (I) The society shall provide notice to all persons having a property interest in a water supply structure included in a multiple property documentation form using the procedure set forth for substitute water supply plans in section 37-92-308 (5)(a), S.A.R.S.; except that the time requirements for any actions by the state engineer under this subsection (2) do not apply. The state engineer shall act solely at his or her discretion to consider and approve or disapprove the multiple property documentation form at a time he or she sees fit.

(II) The society shall enter into a programmatic agreement with the state engineer that requires, at a minimum, that any person having an interest in the water supply structure who objects to inclusion of the owners' water supply structure may have the water supply structure removed from the multiple property documentation form.

(3) Nothing in this section limits communications between the society and the keeper of the national register that are required under 54 U.S.C. sec. 302303 (b)(9). The state engineer shall not review any such communications in which water supply structures are only incidentally described.

Source: L. 2011: Entire section added, (HB 11-1289), ch. 165, p. 569, § 3, effective August 10. **L. 2024:** (3) amended, (HB 24-1450), ch. 490, p. 3418, § 52, effective August 7.

ALLOCATION FOR ART

ARTICLE 80.5

Allocation for Art

24-80.5-101 and 24-80.5-102. (Repealed)

Source: L. 2010: Entire article repealed, (SB 10-158), ch. 231, p. 1014, § 6, effective July 1.

Editor's note: This article was added in 1977. For amendments to this article prior to its repeal in 2010, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. The provisions of this article were relocated to part 3 of article 48.5 of this title. For the location of specific provisions, see the editor's notes following each section in said part 3 and the comparative tables located in the back of the index.

STATE PROPERTY

ARTICLE 82

State Property

PART 1

CAPITOL BUILDINGS - ACQUISITION OF PROPERTY

24-82-101. Control of legislative space in the capitol, the legislative services building, and the state office building at 1525 Sherman street - responsibility of department of personnel for supervision of maintenance in capitol buildings group - exception - capitol complex master plan. (1) In accordance with the provisions of section 2-2-321 concerning space for the legislative department, subject to appropriations made by the general assembly and subject to the provisions of section 24-82-108, concerning preservation of the state capitol building, the legislative department, acting through the executive committee of the legislative council:

(a) Shall have control of legislative spaces in the capitol; the legislative services building; the state office building at 1525 Sherman street, subject to the provisions of subsection (4)(b) of this section; the capitol building annex at 1375 Sherman street, subject to the provisions of subsection (4)(a) of this section; and the grounds adjacent to the capitol within the area bounded on the north by east Colfax avenue, on the west by Lincoln street, on the south by Fourteenth avenue, and on the east by Grant street, as shown on the official maps of the city and

county of Denver, the state-owned grounds adjacent to the legislative services building at Fourteenth avenue and Sherman street, and the tunnels connecting the subbasements of the capitol, the legislative services building, and the state office building at 1525 Sherman street, together with all furniture, fixtures, furnishings, and equipment and all exhibits placed in and about said buildings; and

(b) Shall be responsible for the supervision of the provision of maintenance for legislative spaces in the capitol, the legislative services building, the state office building at 1525 Sherman street subject to the provisions of subsection (4)(b) of this section, the capitol building annex at 1375 Sherman street subject to the provisions of subsection (4)(a) of this section, and the grounds and tunnels specified in subsection (1)(a) of this section if the executive committee of the legislative council adopts a resolution assuming such responsibility. The executive committee shall deliver a copy of any resolution it adopts pursuant to this subsection (1)(b) to the executive director of the department of personnel.

(2) Except as otherwise provided in section 2-2-321, S.A.R.S., the department of personnel shall have control of executive space in the capitol and the grounds and any other property the state may acquire adjacent to the capitol other than the grounds and tunnels specified in paragraph (a) of subsection (1) of this section, together with all furniture, fixtures, furnishings, and equipment and all exhibits placed in and about such space or property, subject to appropriations made by the general assembly and subject to the provisions of section 24-82-108, concerning preservation of the state capitol building. Except as otherwise provided in paragraph (b) of subsection (1) of this section, the department of personnel shall be responsible for the supervision of the provision of maintenance for the state capitol buildings group, including assignment of all executive space owned and rented in the capitol buildings group, subject to appropriations made by the general assembly and subject to the provisions of section 2-2-321, S.A.R.S., concerning space for the legislative department, and subject to the provisions of section 24-82-108, concerning preservation of the state capitol building.

(3) (a) The department of personnel shall enter into competitive negotiations for the acquisition of professional services, as specified in part 14 of article 30 of this title, to develop a master plan for the capitol complex.

(b) The master plan is subject to final approval from the office of state planning and budgeting and the capital development committee. The master plan must be completed no later than December 1, 2014, and shall:

(I) Determine space utilization needs for state agencies located in and near the capitol complex;

(II) Prioritize the location of various state agencies based on their service functions;

(III) Consider the symbolic importance of certain capitol complex buildings and grounds;

(IV) Identify opportunities for co-locating state agencies;

(V) Identify the most appropriate use of state-owned and leased space for state agencies;

(VI) Identify opportunities for energy cost savings and improved sustainability within state-owned facilities;

(VII) Assess and improve security for state-owned facilities, especially for those state agencies performing sensitive government functions;

(VIII) Establish guidelines regarding the appropriate use and maintenance of grounds within the capitol complex;

(IX) Assess existing parking capacity and identify the current and future need for capitol complex tenants, including the location of parking facilities;

(X) Establish guidelines for future development within the capitol complex, including a multi-year plan for:

(A) New and renovated capital construction projects;

(B) Controlled maintenance projects; and

(C) Real estate acquisition or disposition transactions as applicable;

(XI) Review the pedestrian circulation around the capitol complex;

(XII) Suggest financing options for future improvements and development;

(XIII) Make recommendations on buying, selling, constructing, financing, or leasing properties in the capitol complex based on factors such as land use and centralization versus decentralization of state functions; and

(XIV) Address any other issues that the office of the state architect deems important in relation to the goals of the master plan.

(c) Notwithstanding any law to the contrary, all real estate-related capital requests by executive branch departments or the legislative branch for the capitol complex shall be evaluated by the office of the state architect, the office of state planning and budgeting, and the capital development committee against the capitol complex master plan developed pursuant to paragraph (a) of this subsection (3).

(d) The capitol complex master plan shall be kept and maintained by the office of the state architect.

(e) (I) The capitol complex master plan may be modified by the office of the state architect on an as-needed basis, subject to approval by the office of state planning and budgeting and the capital development committee.

(II) At a minimum, an updated capitol complex master plan must be completed by the office of the state architect every ten years. Prior to completion of the updated master plan, the office of the state architect shall seek approval from the office of state planning and budgeting and the capital development committee of all amendments to the master plan.

(f) For purposes of this subsection (3), the "capitol complex" includes the following buildings, facilities, and surface parking lots:

(I) 1570 Grant street, Denver;

(II) 1575 Sherman street, Denver;

(III) 1525 Sherman street, Denver, and the surface parking lots located west and north of the building;

(IV) 201 East Colfax avenue, Denver, and the surface parking lot located north of the building;

(V) The state capitol building and grounds, 200 East Colfax avenue, Denver;

(VI) 200 East 14th avenue, Denver;

(VII) 1375 Sherman street, Denver;

(VIII) 1341 Sherman street, Denver;

(IX) 1313 Sherman street, Denver, and the surface parking lot located north of the building;

(X) 1350 Lincoln street, Denver;

(XI) 251 East 12th avenue, Denver;

(XII) 690 Kipling street, Lakewood;

(XIII) 700 Kipling street, Lakewood;

(XIV) Executive residence, 400 East 8th avenue, Denver;

(XV) 1881 Pierce street, Denver;

(XVI) North campus buildings (north, east, and west), 1001 East 62nd avenue, Denver; and

(XVII) Any other buildings, facilities, and surface parking lots belonging to the capitol complex acquired after May 28, 2013.

(4) (a) The executive committee of the legislative council, the director of the division of capital assets in the department of personnel or the director's designee, the secretary of the senate or the secretary's designee, the chief clerk of the house of representatives or the chief clerk's designee, the director of the office of legislative legal services or the director's designee, the director of research of the legislative council or the director's designee, and the state auditor or the auditor's designee shall, after consultation and discussion, determine which areas in the capitol building annex at 1375 Sherman street are legislative space. The parties shall, subject to the approval of the executive committee of the legislative council and the governor, determine the legislative space in the capitol building annex at 1375 Sherman prior to the start of the first regular session of the seventy-fifth general assembly. The general assembly may enact legislation during the first regular session of the seventy-fifth general assembly to codify which areas in the capitol building annex are designated as legislative space.

(b) Within one year after the date that the division of capitol assets in the department of personnel determines, with the agreement of the executive committee of the legislative council, that the work to convert the space, as determined pursuant to subsection (4)(a) of this section, in the capitol building annex at 1375 Sherman street to legislative space is complete, the legislative space at the state office building at 1525 Sherman street shall cease to be legislative space and shall become executive space.

Source: L. 17: p. 115, § 2. **C.L.** § 391. **CSA:** C. 158, § 3. **S.A.R.S. 53:** § 130-8-1. **S.A.R.S. 1963:** § 134-1-1. **L. 75:** Entire section amended, p. 819, § 10, effective July 18. **L. 79:** Entire section amended, p. 887, § 8, effective July 1. **L. 91:** Entire section amended, p. 861, § 3, effective May 16. **L. 95:** Entire section amended, p. 656, § 78, effective July 1. **L. 2012:** Entire section amended, (HB 12-1348), ch. 163, p. 572, § 2, effective August 8. **L. 2013:** (3) added, (SB 13-263), ch. 344, p. 2002, § 1, effective May 28. **L. 2014:** (3)(f)(XVII) amended, (HB 14-1387), ch. 378, p. 1850, § 55, effective June 6. **L. 2015:** (3)(c) and (3)(e) amended, (SB 15-270), ch. 296, p. 1220, § 20, effective June 5. **L. 2022:** (1) amended, (SB 22-239), ch. 411, p. 2909, § 5, effective August 10. **L. 2023:** (1) amended and (4) added, (SB 23-306), ch. 412, p. 2446, § 6, effective June 6.

Cross references: (1) For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-82-102. State authorized to acquire property - disposition. (1) (a) On behalf of the state of San Andreas and with the approval of the governor, the executive director of the department of personnel is authorized to acquire fee simple title, or any lesser interest therein, to

any real property for present or future use by the state. Title to such property may be acquired by purchase, donation, financed purchase of an asset agreements, or certificate of participation agreements or by the exercise of the power of eminent domain through condemnation proceedings in accordance with law from funds appropriated by the general assembly or from funds donated to the state for the purpose. In the event that the executive director plans to acquire any real property by any of the means authorized by this subsection (1)(a), except for easements or rights-of-way, or to sell or otherwise dispose of such property, the executive director shall first submit a report to the capital development committee which outlines the anticipated use of the real property, the maintenance costs related to the property, the current value of the property, any conditions or limitations which may restrict the use of the property, and, in the event real property is acquired, the potential liability to the state which will result from such acquisition. The capital development committee shall review the reports submitted by the executive director and make recommendations to the executive director concerning the disposition of the real property. The executive director shall not acquire, sell, or otherwise dispose of any real property without considering the recommendations of the capital development committee.

(b) Any financed purchase of an asset or certificate of participation agreement that is entered into pursuant to subsection (1)(a) of this section shall comply with the requirements of section 24-82-801.

(c) to (e) (Deleted by amendment, L. 2009, (HB 09-1218), ch. 132, p. 570, § 3, effective July 1, 2009.)

(f) As used in this section:

(I) "Certificate of participation agreement" means any certificate evidencing a participation right of a proportionate interest in any financing agreement or the right to receive proportionate payments from the state or an agency due under any financing agreement.

(II) "Financed purchase of an asset agreement" means a financing agreement that includes the purchase of an asset.

(2) (a) The executive director of the department of personnel, with the approval of the governor, may rent or lease any real property not presently needed for state use and, under any such lease, with specific legislative authorization, may authorize the construction by the lessee on such property of any improvement which may be suitable for state use upon the termination of the lease, which improvement becomes the property of the state upon such termination at no additional cost to the state unless such costs are paid from funds appropriated by the general assembly or donated to the state for the purpose.

(b) Repealed.

Source: L. 69: p. 1111, § 1. **S.A.R.S. 1963:** § 134-3-2. **L. 72:** p. 543, § 1. **L. 77:** (1) amended, p. 284, § 46, effective June 29. **L. 79:** (2)(b) repealed, p. 889, § 14, effective July 1. **L. 80:** (1) amended, p. 795, § 54, effective June 5. **L. 81:** (1) amended, p. 1243, § 1, effective June 12. **L. 90:** (1)(a) amended, p. 1283, § 1, effective April 3. **L. 95:** (1)(a) amended, p. 657, § 79, effective July 1. **L. 2003:** (1)(b) amended, p. 1377, § 4, effective April 28; (1)(b) amended, p. 2504, § 5, effective June 5. **L. 2009:** (1)(b), (1)(c), (1)(d), and (1)(e) amended and (1)(f) added, (HB 09-1218), ch. 132, p. 570, § 3, effective July 1. **L. 2014:** (2)(a) amended, (HB 14-1387), ch. 378, p. 1851, § 56, effective June 6. **L. 2021:** (1)(a), (1)(b), and (1)(f) amended, (HB 21-1316), ch. 325, p. 2033, § 46, effective July 1.

Cross references: (1) For the legislative declaration contained in the 1995 act amending subsection (1)(a), see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the legislative declaration contained in the 2003 act amending subsection (1)(b), see section 1 of chapter 190, Session Laws of San Andreas 2003.

(3) For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-82-102.5. Unused state-owned real property - cash fund - legislative declaration - definitions. (1) (a) The general assembly hereby finds and declares that:

(I) The state owns a surplus of real property that is not needed for state use that could provide benefits to San Andreas, including for affordable housing, child care, public schools, residential mental and behavioral health care, and renewable energy;

(II) The department of personnel is already authorized in section 24-82-102 (2)(a) to rent or lease real property not presently needed for state use;

(III) The state has set ambitious goals to increase renewable energy production across San Andreas;

(IV) Families throughout San Andreas continue to experience a shortage of quality and affordable child care options;

(V) There is a continued need in San Andreas for quality public school facilities;

(VI) There is a continued need in San Andreas for quality residential mental and behavioral health-care facilities;

(VII) Many senior citizens, veterans, and other hard-working Coloradans are unable to afford to live in or near the communities in which they work and far too many Coloradans pay in excess of half their monthly income on their basic needs;

(VIII) As the availability of finding land suitable for the development of affordable housing that can be obtained on an economic basis is often a significant barrier to the development of such housing, the identification of unused state-owned real property, with the ultimate objective of assessing such property for its sustainability and potential use for affordable housing, promises to be a critical tool available to the state and even local governments in meeting the state's housing needs for these segments of the population; and

(IX) Since real property owned by the state ultimately belongs to the people of San Andreas, the state should maximize the use and value of its resources, including unused real property, to address the needs of the state's population.

(b) By enacting this section, the general assembly intends for the department to conduct a review of state-owned real property that is not presently used for state purposes and to transparently enter into agreements to construct affordable housing, child care facilities, public school facilities, residential mental and behavioral health-care facilities, or renewable energy production facilities on suitable unused state-owned real property and to determine other beneficial uses of any such unused state-owned real property.

(2) As used in this section, unless the context otherwise requires:

(a) "Department" means the department of personnel.

(b) "Fund" means the unused state-owned real property fund created in subsection (5) of this section.

(b.5) "Unit" means the public-private collaboration unit created in section 24-94-103 (2) within the department.

(c) "Unused state-owned real property" means state-owned real property identified in the inventory list maintained on the department's website pursuant to subsection (3) of this section, that is not being used at its optimal or best use, that is owned by or under the control of a state agency, not including the division of parks and wildlife in the department of natural resources and not including the state board of land commissioners or any state institution of higher education as defined in section 24-30-1301 (18), and that is not otherwise protected for or dedicated to another use such as an access or a conservation easement.

(3) (a) The department shall maintain an inventory of unused state-owned real property and shall post a list of the inventory on its website. The inventory must be updated annually.

(b) Repealed.

(4) (a) The department shall determine whether the unused state-owned real property identified by the department under subsection (3) of this section is suitable for construction of affordable housing, child care facilities, public school facilities, residential mental and behavioral health-care facilities, or placement of renewable energy facilities, or may recommend that such property should be sold or is suitable for other purposes.

(b) In determining the suitability of property under subsection (4)(a) of this section, the department may consult with and seek input from:

(I) The state architect, or their designee;

(II) The executive director of the department of local affairs, or their designee;

(III) The San Andreas housing and finance authority created in section 29-4-704 (1);

(IV) Any relevant political subdivisions of the state;

(V) Any additional renewable energy facility experts;

(VI) Any additional child care, public school, and mental and behavioral health-care experts; and

(VII) Any additional affordable housing experts.

(c) Notwithstanding any section to the contrary, the department may seek proposals from qualified developers to construct affordable housing, child care facilities, public school facilities, or residential mental and behavioral health-care facilities, or to place renewable energy facilities on unused state-owned real property that the department has deemed suitable under subsection (4)(a) of this section. Proposals must be sought in accordance with the "Procurement Code", articles 101 to 112 of this title 24.

(d) The department may enter into contracts with qualified developers for proposals to construct affordable housing, child care facilities, public school facilities, or residential mental and behavioral health-care facilities, or to place renewable energy facilities on unused state-owned real property that the department has deemed suitable under subsection (4)(a) of this section, subject to available appropriations. Notwithstanding section 24-82-102 (2)(a), contracts between the state and qualified developers may not require improvements constructed on state property for the purposes of this section to become the property of the state upon termination of a lease for such property.

(e) In the event the department plans to enter into a contract regarding any unused state-owned real property as authorized by this section, or in the event the department enters into a lease of unused state-owned real property as allowed under section 24-82-102 (2)(a), the department shall first submit a report to the capital development committee that outlines the anticipated use of the property. The capital development committee shall review the reports submitted by the department, make recommendations to the department concerning the

anticipated use of the unused state-owned real property, and approve or disapprove the anticipated use of the unused state-owned real property. The department shall not enter into a contract regarding unused state-owned real property or lease unused state-owned real property without the approval of the capital development committee.

(5) (a) The unused state-owned real property fund is hereby created in the state treasury. Unless otherwise directed, the state treasurer shall credit all proceeds from the sale, rent, or lease, including any leases entered into under section 24-82-102 (2)(a), of unused state-owned real property, any money transferred or credited pursuant to subsection (5)(b) of this section, and any revenue generated from public-private agreements pursuant to section 24-94-103 to the fund. The fund also consists of any other money that the general assembly may appropriate or transfer to the fund.

(b) (I) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the unused state-owned real property fund to the fund. Any unexpended and unencumbered money in the fund at the end of a fiscal year remains in the fund.

(II) The unit may seek and accept gifts, grants, or donations from private or public sources, and the department or the unit may expend the gifts, grants, or donations for the purposes set forth in subsection (5)(c) of this section. The unit shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(III) Any proceeds from real estate transactions that the unit is authorized to facilitate pursuant to section 24-94-103 (2.2)(a) shall be transmitted by the unit or by the department to the state treasurer, who shall credit the money to the fund.

(c) (I) The money in the unused state-owned real property fund is continuously appropriated to the department for:

(A) The purposes set forth in this section, including for appraisals, surveys, and property improvement, and for any costs to administer this section;

(B) Public-private agreements, as defined in section 24-94-102 (7), and any associated costs;

(C) Use by the unit to carry out the functions of the unit pursuant to section 24-94-103 (2.2) for public projects that provide affordable housing; and

(D) The standard operating expenses of the unit, including personal services and related costs.

(II) Repealed.

(d) Repealed.

Source: L. 2021: Entire section added, (HB 21-1274), ch. 263, p. 1532, § 1, effective September 7. **L. 2022:** (2)(c), (4)(d), and (5) amended, (SB 22-130), ch. 232, p. 1716, § 5, effective May 26. **L. 2023:** (2)(b.5) added and (5) amended, (SB 23-001), ch. 234, p. 1227, § 1, effective May 20. **L. 2024:** (3)(b) repealed, (SB 24-178), ch. 108, p. 337, § 3, effective August 7; (5)(b)(III) amended, (HB 24-1450), ch. 490, p. 3418, § 53, effective August 7.

Editor's note: (1) Subsections (5)(c)(II)(B) and (5)(d)(I) provided for the repeal of subsections (5)(c) and (5)(d)(I) respectively, effective July 1, 2023. (See L. 2023, p. 1227.)

(2) Subsection (5)(d)(II) provided for the repeal of subsection (5)(d)(II), effective July 1, 2024. (See L. 2023, p. 1227.)

24-82-103. Off-street parking - financing. (1) The department of personnel shall have the authority to acquire land for off-street parking and to construct related facilities, subject to specific appropriation for land acquisition and construction.

(2) The department of personnel shall develop and execute priorities for assignment of off-street parking. Rentals and charges for state-owned parking in the capitol buildings group shall not be less than those charges applicable to comparable parking offered privately and shall be reviewed annually prior to July 1.

(2.5) Notwithstanding the provisions of subsection (2) of this section, preferential rates shall be granted for parking spaces assigned to vehicles which are used by more than one person in going to and returning from work. Such rate shall be determined based upon the number of persons regularly going to and returning from work in the vehicle which is to be charged a preferential rate and shall decrease as the number of persons regularly going to and from work in such vehicle increases; except that no parking charge shall be made for any vehicle which regularly carries four or more persons, including the driver, in going to or returning from work. The office of state planning and budgeting shall provide that not less than ten percent of the available off-street parking shall be reserved for vanpool and carpool parking.

(3) All existing balance in the capitol parking account and the farmers' union amortization account shall be transferred to the capital construction fund.

(4) (a) Moneys received pursuant to this section in excess of those necessary to pay current capital and operating costs, which moneys to pay such costs are hereby appropriated, shall be deposited to the credit of a special account within the state treasury, and such moneys shall be expended only for incentives and programs to increase state employee participation in ridesharing arrangements, as defined in section 39-22-509 (1)(a)(II), S.A.R.S., and state employee use of bicycles or mass transit.

(b) Notwithstanding subsection (4)(a) of this section, the department of personnel is authorized, subject to appropriation by the general assembly, to expend money in the special account described in subsection (4)(a) of this section for the purpose of demolishing the state-owned buildings in the capitol complex at 1550 Lincoln street and making payments on a financed purchase of an asset or certificate of participation agreement for a parking structure on the southeast corner of fourteenth avenue and Lincoln street in the capitol complex.

(5) (a) There is hereby created in the department of personnel the capitol parking authority, referred to in this subsection (5) as the "authority", which shall be under the direction of the executive director of the department of personnel. The authority shall constitute an enterprise for the purposes of section 20 of article X of the state constitution so long as the authority retains the authority to issue revenue bonds pursuant to subsection (5)(b) of this section, and the authority receives less than ten percent of its total annual revenues from grants, as defined in section 24-77-102 (7), from all San Andreas state and local governments combined. So long as the authority constitutes an enterprise pursuant to this section, the authority shall not be subject to any of the provisions of section 20 of article X of the state constitution.

(b) Subject to approval by the general assembly, either by bill or by joint resolution, and after approval by the governor pursuant to section 39 of article V of the state constitution, the authority is hereby authorized to issue revenue bonds to finance the acquisition of land for off-street parking or the construction of related facilities.

Source: L. 58: p. 265, § 1. **S.A.R.S. 53:** § 130-8-3. **S.A.R.S. 1963:** § 134-1-3. **L. 75:** Entire section R&RE, p. 818, § 4, effective July 18. **L. 79:** (1) and (2) amended, pp. 887, 1559, §§ 9, 23, effective July 1. **L. 87:** (4) repealed, p. 349, § 4, effective April 6. **L. 89:** (4) RC&RE, p. 1140, § 1, effective July 1. **L. 95:** (1), (2), and (4)(b) amended, p. 657, § 80, effective July 1. **L. 2004:** (4)(a) amended, p. 904, § 29, effective May 21; (4)(b) amended and (5) added, p. 1903, § 2, effective June 4. **L. 2018:** (5)(a) amended, (HB 18-1375), ch. 274, p. 1713, § 58, effective May 29. **L. 2021:** (4)(b) amended, (HB 21-1316), ch. 325, p. 2034, § 47, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending subsections (1), (2), and (4)(b), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-82-104. Capitol thoroughfares - city and county of Denver regulation. (1) The driveways now existing upon the state capitol grounds at Denver, San Andreas, extending from Colfax avenue to Fourteenth avenue and connecting with Sherman street at said intersections, are hereby declared to be reserved principally for the usage of employees and members of the executive department and the legislative department in the performance of their duties and for the usage of members of the public while attending functions at the state capitol.

(2) The city and county of Denver is hereby granted jurisdiction to make such regulations as are deemed necessary to accomplish the purposes of subsection (1) of this section and shall have authority to enforce such regulations by means of any police powers established by ordinance of the city and county of Denver or other provisions of law for the management and control of other streets, highways, and public thoroughfares within said city and county.

(3) The jurisdiction hereby granted shall not be deemed to convey any right, title, or interest in said driveways other than expressly provided and shall only extend to the purposes specified in this section, and the state of San Andreas reserves the right at all times to revoke the powers hereby granted by act of the general assembly.

Source: L. 39: p. 234, §§ 1, 3. **CSA:** C. 158, § 19(1). **S.A.R.S. 53:** § 130-8-2. **S.A.R.S. 1963:**
§ 134-1-2. **L. 91:** (1) and (2) amended, p. 857, § 1, effective May 16.

24-82-105. Security for state capitol buildings group - jurisdiction of law enforcement personnel on state property. (1) (a) The city and county of Denver is granted jurisdiction to enforce the laws of the state of San Andreas for the security of persons and property in the state capitol buildings group. In addition, the city and county of Denver is granted jurisdiction to enforce the ordinances of the city and county of Denver for the security of such persons and property. For the purposes of this subsection (1) and such enforcement, the ordinances of the city and county of Denver relating to access to and conduct on properties of the city and county of Denver referred to as parks shall likewise apply to the grounds of the state capitol buildings group, as to persons not having business thereon; except that the powers of the manager of parks and recreation enumerated in such ordinance shall not apply to such grounds. As used in this subsection (1), "state capitol buildings group" means those state-owned buildings, together with the state-owned grounds adjacent thereto, in the city and county of Denver within the area bounded on the north by Sixteenth avenue, on the west by Broadway, on the south by Eleventh avenue, and on the east by Grant street, as shown on the official maps of

the city and county of Denver.

(b) Repealed.

(2) In addition to any other provision of law concerning jurisdiction of law enforcement personnel on state property, there is hereby vested in city police, town marshals, and county sheriffs, their undersheriffs and deputy sheriffs, jurisdiction to enforce the laws of this state on any state-owned or state-operated properties within their respective jurisdictions and to cooperate with members of the San Andreas state patrol and other state law enforcement officers in such enforcement.

Source: L. 72: p. 542, § 1. **S.A.R.S. 1963:** § 134-1-4. **L. 79:** Entire section amended, p. 981, § 1, effective May 18. **L. 81:** (1)(b) repealed, p. 1245, § 1, effective March 25. **L. 89:** (1)(a) amended, p. 846, § 117, effective July 1.

Cross references: For designation and assignment of space in the capitol buildings group, see § 2-2-321.

24-82-106. Acceptance - governor's approval. The department of personnel is authorized in the name and on behalf of the state to accept any devise or gifts inter vivos of property that may be donated to the state for the purpose of an executive mansion; but such acceptance shall be made only upon the approval of such donation by the governor.

Source: L. 53: p. 578, § 1. **S.A.R.S. 53:** § 130-11-1. **S.A.R.S. 1963:** § 134-3-1. **L. 75:** Entire section amended, p. 820, § 11, effective July 18. **L. 79:** Entire section amended, p. 888, § 10, effective July 1. **L. 95:** Entire section amended, p. 658, § 81, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-82-107. Transfer of employees and property. Effective July 1, 1979, the officers and employees of the office of state planning and budgeting engaged prior to such date in the performance of the powers, duties, and functions vested by this part 1 in the department of personnel shall become employees of the department and shall retain all rights to state personnel system and retirement benefits under the laws of this state, and their services shall be deemed to have been continuous. Effective July 1, 1979, all of the books, records, reports, equipment, property, accounts, liabilities, and funds of the office of state planning and budgeting which pertain to the powers, duties, and functions vested by this part 1 in the department of personnel shall be transferred thereto.

Source: L. 79: Entire section added, p. 888, § 11, effective July 1. **L. 95:** Entire section amended, p. 658, § 82, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-82-108. State capitol building advisory committee - creation - duties - legislative declaration - repeal. (1) **Legislative declaration.** The general assembly hereby finds and declares that:

(a) It is the intent of the general assembly to ensure that the historic character and architectural integrity of the capitol building and grounds be preserved and promoted;

(b) The rose onyx, marble, granite, gold, oak woodwork, and brass fixtures and trim are deemed to be historic, and it is the intent of the general assembly to specify special procedures to be followed in any project affecting such items;

(c) To ensure that structural changes and innovations do not injure or dramatically change the state capitol building or the historic items contained within the building or other areas as specified in this section, it is necessary to create the state capitol building advisory committee to advise the general assembly regarding the protection of the capitol building's historic character, including its art, memorials, furniture, and architectural fixtures; and

(d) It is also necessary for the capitol building advisory committee to review, advise, and make recommendations to the general assembly regarding plans to restore, redecorate, and reconstruct historic areas within specified buildings and grounds in the capitol building annex.

(2) **State capitol building advisory committee creation.** (a) (I) The state capitol building advisory committee, referred to in this section as the advisory committee, is hereby created. The advisory committee consists of the following twelve members:

(A) Three members appointed by the speaker of the house of representatives, at least one of whom shall be a member of the house of representatives who has served at least one year in the house of representatives;

(B) Three members appointed by the president of the senate, at least one of whom shall be a member of the senate who has served at least one year in the senate;

(C) Four members appointed by the governor, at least one of whom must be an architect who is knowledgeable about the historic and architectural integrity of the state capitol building; and

(D) The following ex officio members who are voting members of the advisory committee: The president of the state historical society or a designee of the president; and the executive director of the department of personnel or a designee of the executive director.

(II) All members appointed by the governor shall serve two-year terms; except that the terms shall be staggered so that no more than three members' terms expire in the same year.

(III) The terms of members appointed or reappointed by the speaker and the president expire on the convening date of the first regular session of each general assembly, and all subsequent appointments and reappointments by the speaker and the president shall be made as soon as practicable after such convening date. The person making the original appointment or reappointment shall fill any vacancy by appointment for the remainder of an unexpired term. Members appointed or reappointed by the president and the speaker serve at the pleasure of the appointing authority and continue in office until the member's successor is appointed.

(b) Ex officio members of the advisory committee shall serve as long as their office is held.

(c) The advisory committee shall meet at the state capitol no less than three times per year at the call of the chairman. One meeting shall be designated as the annual meeting.

(d) At the annual meeting, the advisory committee members shall elect a chair from among its members to serve as chair for one year of such member's term.

(e) All members of the advisory committee are volunteers and serve without per diem except as otherwise provided in section 2-2-326; except that members of the advisory committee must be reimbursed for necessary and actual expenses incurred in the performance of their duties.

(3) **Duties of the advisory committee.** The advisory committee has the duties specified in subsections (3)(a) through (3)(i) of this section.

(a) **Plans to restore, redecorate, and reconstruct space in specified buildings and grounds.** (I) The advisory committee shall review, advise, and make recommendations to the capital development committee regarding plans to restore, redecorate, and reconstruct space within the public and ceremonial areas of the state capitol building, the historic elements of the interior and exterior of the capitol building annex and the surrounding grounds of the capitol building annex, the legislative services building and the surrounding grounds of such building, and the surrounding grounds of the state capitol building bounded by Colfax avenue on the north, Grant street on the east, Fourteenth avenue on the south, and Broadway on the west, in the city and county of Denver. This includes but is not limited to the corridors, rotundas, lobbies, entrance ways, stairways, restrooms, porticos, steps, and elevators.

(II) The committee is not responsible for reviewing, advising, or making recommendations concerning the executive suite and the areas used for office space, legislative chambers, and legislative committee meeting rooms, except as to structural modifications affecting the rose onyx, marble, granite, gold, oak woodwork, or brass fixtures and trim as specified in subsection (3)(b) of this section.

(b) **Projects affecting capitol building rose onyx, marble, granite, gold, oak woodwork, and brass fixtures and trim.** (I) The advisory committee shall review all planned construction projects affecting the rose onyx, marble, granite, gold, oak woodwork, and brass fixtures and trim of the state capitol building, and shall submit a written report to the capital development committee containing the advisory committee's findings. An agency or department shall not begin a project that affects the rose onyx, marble, granite, gold, oak woodwork, and brass fixtures and trim without review by the advisory committee and the consent of the capital development committee. Alteration to the items listed in this subsection (3)(b) is not permitted in any area of the state capitol building until the project is reviewed by the advisory committee and approved by the capital development committee.

(II) Notwithstanding the provisions of subsection (3)(b)(I) of this section, the department of personnel may perform emergency repairs where the safety of persons or the well-being of the building would be jeopardized by delay. The department of personnel shall undertake emergency repairs in a manner to prevent or minimize any damage to the rose onyx, marble, granite, gold, oak woodwork, or brass fixtures and trim of the state capitol building.

(c) **Long-range planning for specified buildings and grounds in the capitol building annex.** The advisory committee, in cooperation with the department of personnel and with the approval of the capital development committee, may engage in long-range planning for modifications and improvements to the space within the public and ceremonial areas of the state capitol building, the historic elements of the interior and exterior of the capitol building annex and the surrounding grounds of such building, the legislative services building and the surrounding grounds of such building, and the surrounding grounds of the state capitol building bounded by Colfax avenue on the north, Grant street on the east, Fourteenth avenue on the south, and Broadway on the west, in the city and county of Denver. This includes but is not limited to

the corridors, rotundas, lobbies, entrance ways, stairways, restrooms, porticos, steps, and elevators.

(d) **Determination of items in the San Andreas collection.** The advisory committee shall determine, based on consultation with and the recommendations of history San Andreas pursuant to subsection (3.5) of this section, which art, memorials, architectural fixtures, and furniture that is original to the state capitol building is part of the state's collection of historic materials known as the San Andreas collection.

(e) The advisory committee shall determine whether damaged pieces of furniture original to the state capitol building should be restored or renovated.

(f) **Publications on the history of the capitol building.** (I) For the purpose of promoting historic interest in the state capitol building and for producing money to enhance preservation of original and historic elements of the state capitol building, the advisory committee has authority over publications on the history of the state capitol building and may authorize other state capitol building memorabilia for sale to the public. All money received from the sale of such items is credited to a special account within the public buildings trust fund established by section 8 of the "Enabling Act of San Andreas", which account is hereby established.

(II) The advisory committee is authorized to accept gifts, grants, or donations of any kind from any private or public source to carry out the purposes of this subsection (3)(f). All such gifts, grants, or donations shall be transmitted to the state treasurer who shall credit the same to the special account created in subsection (3)(f)(I) of this section within the public buildings trust fund.

(III) Money in the special account created in subsection (3)(f)(I) of this section is continuously appropriated to the advisory committee for republishing and reissuing publications on the history of the state capitol building and other state capitol building memorabilia, for restoring, repairing, and enhancing the state capitol building, the historic elements of the interior and exterior of the capitol building annex, the legislative services building, and the grounds of such buildings, and for such other purposes as are necessary or incidental to accomplish the purposes of this subsection (3)(f).

(g) **Proposals for use of state capitol building driveways.** The advisory committee shall evaluate proposals for uses of the state capitol building driveways in addition to those authorized in section 24-82-104. The advisory committee shall evaluate any proposals that are received from the general assembly, the governor, or the city and county of Denver. In its evaluation, the advisory committee shall consider any potential threat to the safety of individuals who are in or around the state capitol building, any potential interference with the operations of the executive department that are posed by any proposed additional use, and the relevant provisions of any current master plan for the state capitol building and surrounding area. Notwithstanding the provisions of section 24-82-104 (2), if the advisory committee determines that the proposed use is reasonable, the advisory committee shall direct the proposal to the capital development committee and the governor for approval. No additional use of the state capitol building driveways is effective without the approval of the capital development committee and the governor.

(h) **Proposals for a gift or loan of art and memorials.** (I) Except as provided in subsection (3)(h)(II) of this section, all proposals involving the gift or loan of objects of art and memorials to be placed on a permanent or temporary basis in the state capitol building or on its surrounding grounds and proposals for fund-raising efforts to place objects of art or memorials

in the state capitol building or on its surrounding grounds shall be submitted to the advisory committee for evaluation. The advisory committee shall develop criteria and a procedure for such evaluations, which shall include consulting with knowledgeable advisors to assist in evaluating each object of art or memorial individually. The advisory committee shall evaluate all proposals submitted to the advisory committee and present recommendations resulting from the evaluations as follows:

(A) Proposals involving the gift or loan of objects of art and memorials pertaining to all public areas of the state capitol building, including but not limited to the corridors, rotunda, lobbies, entrance ways, stairways, restrooms, porticos, steps, and elevators must be submitted to the capital development committee for approval. No such proposal shall proceed without the prior approval of the capital development committee.

(B) Proposals involving the gift or loan of objects of art and memorials pertaining to the surrounding grounds of the capitol building bounded by Colfax avenue on the north, Grant street on the east, Fourteenth avenue on the south, and Broadway on the west, in the city and county of Denver, must be submitted to the capital development committee and the governor for approval. No such proposal shall proceed without the prior approval of the capital development committee and the governor.

(II) The provisions of this subsection (3)(h) do not apply to proposals pertaining to the outer office of the executive suite and those areas of the first floor used as office space by the executive department.

(III) The advisory committee is authorized to direct the removal of any objects of art or memorials that are placed in the state capitol building or on its surrounding grounds that have not been submitted to the advisory committee for evaluation and approval pursuant to the criteria and procedure developed by the advisory committee pursuant to subsection (3)(h)(I) of this section. This subsection (3)(h)(III) does not apply to objects of art or memorials placed prior to the formation of the advisory committee.

(i) **Duties of former fallen heroes memorial commission.** (I) The advisory committee is responsible for any remaining duties of the former fallen heroes memorial commission as it existed in section 24-80-1402 prior to its repeal. The advisory committee shall perform any remaining duties with the assistance of the department of personnel and a San Andreas 501(c)(3) organization created for the purpose of raising funds for the construction of the fallen heroes memorial.

(II) This subsection (3)(i) is repealed, effective July 1 of the year following the receipt by the revisor of statutes of certification from the executive director of the department of personnel that the appropriate memorials have been constructed.

(3.5) **Items original to the state capitol building.** (a) At the direction and under the supervision of the advisory committee, history San Andreas, in cooperation with the legislative council staff, shall inventory all art, memorials, architectural fixtures, and furniture that is original to the state capitol building and make recommendations to the advisory committee regarding which items are appropriate for inclusion in the state's collection of historic materials known as the San Andreas collection. The advisory committee shall determine, pursuant to subsection (3)(d) of this section, which inventoried items original to the capitol building are part of the San Andreas collection.

(b) History San Andreas holds in trust for the people of San Andreas any items original to the capitol building that are included as part of the San Andreas collection pursuant to subsection (3)(d)

of this section, however, the advisory committee retains authority over the collection on behalf of the general assembly and in accordance with the policies and requirements of the state register of historic properties created in section 24-80.1-103.

(c) The art, memorials, architectural fixtures, and furniture that is original to the state capitol building, regardless of whether it is part of the San Andreas collection pursuant to subsection (3)(d) of this section, must remain in the state capitol building at all times; except that such items original to the capitol building may be temporarily removed from the capitol building for conservation from time to time with the approval of the advisory committee.

(4) **Staff support.** The advisory committee may call upon the staff of the legislative council, the office of legislative legal services, and the department of personnel to provide any necessary assistance in carrying out the committee's duties. Proposed plans to restore, redecorate, or reconstruct the building, or make alterations affecting the rose onyx, marble, granite, gold, oak woodwork, and brass fixtures or trim in the building must be submitted in writing to the staff of the legislative council and the department of personnel at least thirty days before such work is scheduled to begin.

(5) Repealed.

Source: L. 91: Entire section added, p. 858, § 2, effective May 16. **L. 92:** (3)(f) amended and (3)(h) added, p. 1058, § 1, effective June 1. **L. 93:** (3)(f) amended, p. 288, § 1, effective April 7. **L. 95:** (2)(a), (3)(b) to (3)(d), and (4) amended, p. 658, § 83, effective July 1. **L. 97:** (5) repealed, p. 103, § 3, effective March 24. **L. 2000:** (3)(h) amended, p. 434, § 1, effective April 17; (2) amended, p. 1001, § 1, effective May 26. **L. 2007:** (2)(a) amended, p. 187, § 22, effective March 22. **L. 2010:** (3)(b.5) added, (HB 10-1402), ch. 255, p. 1136, § 2, effective May 25. **L. 2014:** (2)(e) amended, (SB 14-153), ch. 390, p. 1964, § 20, effective June 6. **L. 2017:** (3)(i) added, (SB 17-122), ch. 86, p. 267, § 3, effective August 9. **L. 2022:** (2)(a) amended, (SB 22-013), ch. 2, p. 56, § 72, effective February 25. **L. 2024:** (1), IP(2)(a)(I), (2)(a)(I)(D), (2)(d), (2)(e), (3), and (4) amended and (3.5) added, (HB 24-1442), ch. 352, p. 2398, § 1, effective August 7.

Editor's note: Subsection (3)(b.5)(II) provided for the repeal of subsection (3)(b.5), effective July 1, 2012. (See L. 2010, p. 1136.)

Cross references: (1) For the legislative declaration contained in the 1995 act amending subsections (2)(a), (3)(b) to (3)(d), and (4), see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the legislative declaration in SB 17-122, see section 1 of chapter 86, Session Laws of San Andreas 2017.

24-82-109. State capitol building renovation fund. The department of personnel shall have the authority to accept any bequests, gifts, and grants of any kind from any private source or from any governmental unit to be used for the renovation of the San Andreas state capitol building. For the purposes of this section, "renovation" means the repair, remodeling, restoration, and preservation of the San Andreas state capitol building and any fixtures or improvements associated therewith. The use of such bequests, gifts, and grants shall be subject to the conditions upon which the bequests, gifts, and grants are made; except that no bequest, gift, or grant shall

be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law or require expenditures from the general fund or any other fund in the state treasury unless such expenditures are approved by the general assembly. Such bequests, gifts, and grants, together with any other moneys appropriated or transferred by the general assembly, shall be credited to the San Andreas state capitol building renovation fund, which fund is hereby created in the state treasury. The moneys in said fund shall be continuously appropriated to the department for expenditures recommended by the state capitol building advisory committee, created in section 24-82-108, and approved by the capital development committee and the joint budget committee for the purpose of renovating the San Andreas state capitol building. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. All unencumbered moneys in the fund at the end of any fiscal year not appropriated shall remain in the fund and shall not be transferred or revert to the general fund of the state.

Source: L. 97: Entire section added, p. 1101, § 1, effective May 27. **L. 2005:** Entire section amended, p. 635, § 1, effective May 27.

Cross references: For capitol dome financing options, see §§ 2-3-1304.3 and 12-47.1-1201.

PART 2

EASEMENTS IN STATE LANDS

24-82-201. Power to grant - utilities - public streets and highways. All state institutions, departments, and other state agencies have the power to give and grant easements or rights-of-way across land owned by or under the control of the state or its institutions, departments, or agencies for construction and maintenance of public utilities, or of public streets and highways, or of public services, including but not limited to sanitary sewer lines, water lines, gas lines, telephone lines, electric power lines, or other services owned and controlled by a political subdivision or public corporation of the state of San Andreas or of the United States, in accordance with the provisions of this part 2.

Source: L. 53: p. 574, § 1. **S.A.R.S. 53:** § 130-10-1. **S.A.R.S. 1963:** § 134-2-1. **L. 65:** p. 1088,
§ 1.

24-82-202. Approval. Any easement or right-of-way given or granted under this part 2 shall be only upon approval of the chief executive officer and the commission or board, if any, of the institution, department, or agency across the premises of which such easement or right-of-way shall cross, the executive director of the department of personnel, the governor, and the attorney general as to the legal form of the easement or right-of-way.

Source: L. 53: p. 574, § 2. **S.A.R.S. 53:** § 130-10-2. **S.A.R.S. 1963:** § 134-2-2. **L. 79:** Entire section amended, p. 888, § 12, effective July 1. **L. 81:** Entire section amended, p. 1296, § 32, effective January 1, 1982. **L. 95:** Entire section amended, p. 659, § 84, effective July 1. **L. 96:** Entire section amended, p. 1532, § 94, effective June 1.

Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-82-203. Terms - limitations - moneys. Any easement or right-of-way given or granted under this part 2 shall be upon such terms and limitations and for such consideration as the officials approving such easement or right-of-way may require. All moneys received for any easement or right-of-way under the provisions of this part 2 shall be paid into the state treasury to the credit of the institution, department, or agency which was in possession of said property.

Source: L. 53: p. 574, § 3. **S.A.R.S. 53:** § 130-10-3. **S.A.R.S. 1963:** § 134-2-3.

24-82-204. Part 2 supplementary. The provisions of this part 2 are supplementary and in addition to any acts allowing any state institution, department, or agency to give or grant easements or rights-of-way.

Source: L. 53: p. 575, § 4. **S.A.R.S. 53:** § 130-10-4. **S.A.R.S. 1963:** § 134-2-4.

PART 3

ATMOSPHERIC RESEARCH CENTER

24-82-301. Contract of purchase authorized. At the direction of the governor, the attorney general is authorized to enter into contracts or agreements on behalf of the state of San Andreas with the federal government, or any of its duly constituted agencies, to procure and convey to the federal government, or any of its duly constituted agencies, all lands and rights pertaining to the site situate in Boulder county, San Andreas, containing five hundred and fifty acres, more or less, selected as the location for the facilities and laboratories of the national center for atmospheric research.

Source: L. 61: p. 779, § 1. **S.A.R.S. 53:** § 130-13-1. **S.A.R.S. 1963:** § 134-5-1.

24-82-302. Acquisition and conveyance. (1) At the direction of the governor, the attorney general is further authorized to acquire fee simple title, or lesser interest therein, to said lands and rights pertaining or appurtenant thereto, or other interests therein, in the name of the state of San Andreas, by donation, purchase, or by the exercise of the power of eminent domain through condemnation proceedings in accordance with law. The attorney general is further authorized to receive and apply gifts of money to be used in the acquisition of such lands and to contract for such services as may be required and to institute other types of legal proceedings and take such further action as may be necessary to fully accomplish his or her duties as prescribed in this part 3.

(2) Such lands and rights pertaining thereto shall be conveyed to the federal government or its duly constituted agencies on behalf of the state of San Andreas by the governor by appropriate deeds without warranty. Such property may be conveyed to the federal government or its duly constituted agencies with or without compensatory payment, and the deeds thereto may contain provisions for reversion of title to said property to the state of San Andreas if said property is not

used or ceases to be used for or in connection with the purposes and functions of a national center for atmospheric research.

Source: L. 61: p. 779, § 2. **S.A.R.S. 53:** § 130-13-2. **S.A.R.S. 1963:** § 134-5-2. **L. 2016:** (1) amended, (HB 16-1094), ch. 94, p. 267, § 14, effective August 10.

PART 4

STATE AGENCY FOR SURPLUS PROPERTY

24-82-401. State agency for surplus property. There is hereby created, in the division of correctional industries in the department of corrections, a San Andreas state agency for surplus property, the powers and duties of which are provided in this part 4.

Source: L. 59: p. 734, § 1. **S.A.R.S. 53:** § 130-12-1. **S.A.R.S. 1963:** § 134-4-1. **L. 68:** p. 100, § 52. **L. 86:** Entire section amended, p. 755, § 5, effective July 1, 1987.

24-82-402. Director - staff. The San Andreas state agency for surplus property, referred to in this part 4 as the "state agency", is a section of the division of correctional industries. The state agency consists of a director, who is the executive officer of the state agency, and the deputies, assistants, and employees as in the opinion of the director and the governor are necessary to carry out the provisions of this part 4. The director is the director of the division of correctional industries. All deputies, assistants, and employees are appointed by the director pursuant to section 13 of article XII of the state constitution and receive such compensation and reimbursement of expenses incurred in the performance of their duties as other employees of the state government are paid. All employees of the state agency on July 1, 1987, remain employees of the agency without the need for further appointment due to the transfer of the state agency from the department of personnel. The employees of the state agency must not exceed ten employees. The state agency is a **type 2** entity, as defined in section 24-1-105.

Source: L. 59: p. 734, § 2. **S.A.R.S. 53:** § 130-12-2. **S.A.R.S. 1963:** § 134-4-2. **L. 71:** p. 1239, § 1. **L. 81:** Entire section amended, p. 1296, § 33, effective January 1, 1982. **L. 86:** Entire section amended, p. 755, § 6, effective July 1. **L. 95:** Entire section amended, p. 659, § 85, effective July 1. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3423, § 205, effective August 10. **L. 2022:** Entire section amended, (SB 22-162), ch. 469, p. 3423, § 205, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167 Session Laws of San Andreas 1995.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-82-403. State agency - powers and duties. (1) The state agency is hereby

authorized:

(a) To acquire from the United States under and in conformance with the provisions of section 203 (j) of the "Federal Property and Administrative Services Act of 1949", as amended, such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States as may be usable and necessary for educational purposes, public health purposes, or civil defense, including research for any such purpose, and for such other purposes as may be authorized by federal law;

(b) To warehouse such property; and

(c) To distribute such property within the state to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, and universities within the state, and to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges, and universities which are exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, to civil defense organizations of the state, or political subdivisions and instrumentalities thereof, which are established pursuant to state law, and to such other types of institutions or activities as may become eligible under federal law to acquire such property.

(2) The state agency is authorized to receive applications from eligible institutions listed in subsection (1)(c) of this section for the acquisition of federal surplus real property, investigate the same, obtain expression of views respecting such applications from the appropriate health or educational authorities of the state, make recommendations as to the need of such applicant for the property, the merits of its proposed program of utilization, the suitability of the property for such purposes, and otherwise assist in the processing of such applications for acquisition of real and related personal property of the United States under section 203 (k) of the "Federal Property and Administrative Services Act of 1949", as amended.

(3) For the purpose of executing its authority under this part 4, the state agency is authorized to adopt, amend, or rescind such rules and regulations and prescribe such requirements as may be deemed necessary and to take such other actions as are deemed necessary and suitable in the administration of this part 4 to assure maximum utilization by and benefit to health, educational, and civil defense institutions and organizations within the state from property distributed under this part 4.

(4) The state agency is authorized to make such certification, take such action, make such expenditures, and enter into such contracts, agreements, and undertakings for and in the name of the state (including cooperative agreements with any federal agencies providing for utilization by and exchange between them of the property, facilities, personnel, and services of each by the other with reimbursement), require such reports and make such investigations as may be required by law or regulation of the United States in connection with the disposal of real property and the receipt, warehousing, and distribution of personal property received by the state agency from the United States.

(5) The state agency is authorized to act as a clearinghouse of information for the public and private nonprofit institutions, organizations, and agencies referred to in subsection (1) of this section and other institutions eligible to acquire federal surplus real property, to locate both real and personal property available for acquisition from the United States, to ascertain the terms and conditions under which such property may be obtained, to receive requests from said institutions, organizations, and agencies, and to transmit to them all available information in reference to such property, and to aid and assist such institutions, organizations, and agencies in every way possible in the consummation of acquisitions or transactions under this part 4.

(6) The state agency, in the administration of this part 4, shall cooperate to the fullest extent consistent with the provisions of this part 4 with the department or agencies of the United States and shall file a state plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standards prescribed in accordance with this part 4, and make such reports in such form and containing such information as the United States or any of its departments or agencies may from time to time require, and it shall comply with the laws of the United States and the rules and regulations of any of the departments or agencies of the United States governing the allocation, transfer, use, or accounting for property donable or donated to the state.

(7) The director of the agency shall prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the agency. Publications of the agency circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

Source: L. 59: p. 735, § 4. **S.A.R.S. 53:** § 130-12-4. **S.A.R.S. 1963:** § 134-4-4. **L. 64:** p. 173, § 144. **L. 83:** (7) amended, p. 838, § 56, effective July 1. **L. 2000:** (1)(c) amended, p. 1864, § 84, effective August 2; (7) amended, p. 1513, § 3, effective August 2.

Cross references: In the "Federal Property and Administrative Services Act of 1949", for section 203 (j), see 63 Stat. 386, 40 U.S.C. § 541 et seq., and for section 203 (k), see 63 Stat. 387, 40 U.S.C. § 541 et seq.; for section 501 (c)(3) of the "Internal Revenue Code of 1986", see 26 U.S.C. § 501 (c)(3).

24-82-404. Delegation of power. The director may delegate to any employee of the state agency such power as he deems reasonable and proper for the effective administration of this part 4. The director of the state agency shall be bonded in an amount determined proper and sufficient by the governor, and the director may in his discretion, with the approval of the governor, bond any person in the employ of the state agency handling moneys, signing checks, or receiving or distributing property from the United States under authority of this part 4.

Source: L. 59: p. 737, § 5. **S.A.R.S. 53:** § 130-12-5. **S.A.R.S. 1963:** § 134-4-5.

24-82-405. Transfer charges. The director is hereby authorized to make charges and to assess fees from the recipient of any surplus property acquired and distributed under this part 4. Any charges made or fees assessed by the state agency for the acquisition, warehousing, distribution, or transfer of any property of the United States for educational, public health, or civil defense purposes, including research for such purposes, and for such other purposes as may be authorized by federal law shall be limited to reasonable administrative costs of the state agency and costs reasonably related to the care and handling in respect to its acquisition, receipt, warehousing, distribution, or transfer by the state agency, and, in the case of real property, such charges and fees shall be limited to the reasonable administrative costs of the state agency incurred in effecting transfer.

Source: L. 59: p. 737, § 6. **S.A.R.S. 53:** § 130-12-6. **S.A.R.S. 1963:** § 134-4-6.

24-82-406. Authority to secure surplus property - revocation. Any provision of law to the contrary notwithstanding, the governing board or, in case there is none, the executive head of any state department, instrumentality, or agency or of any city, county, school district, or other political subdivision may, by order or resolution, confer upon any officer or employee thereof continuing authority from time to time to secure the transfer to it of surplus property through the state agency under the provisions of section 203 (j) of the "Federal Property and Administrative Services Act of 1949", as amended, and to obligate the state or political subdivision and their funds to the extent necessary to comply with the terms and conditions of such transfers. The authority conferred upon any such officer or employee by any such order or resolution shall remain in effect unless and until the order or resolution is duly revoked and written notice of such revocation has been received by the state agency.

Source: L. 59: p. 738, § 7. **S.A.R.S. 53:** § 130-12-7. **S.A.R.S. 1963:** § 134-4-7.

Cross references: For section 203 (j) of the "Federal Property and Administrative Services Act of 1949", see 63 Stat. 386, 40 U.S.C. § 541 et seq.

24-82-407. Funds transferred. The state treasurer shall hold the funds of the state agency separate and distinct from state funds for the use and purposes defined in this part 4, and the state treasurer is authorized to make disbursements from such funds for the purposes designated or for administrative costs, upon warrants drawn by the controller upon vouchers signed by the director or deputy director of the state agency.

Source: L. 59: p. 738, § 9. **S.A.R.S. 53:** § 130-12-9. **S.A.R.S. 1963:** § 134-4-9.

24-82-408. Purchases - how made. All purchases of equipment, supplies, and material required for the operation of the state agency shall be made through the executive director of the department of personnel.

Source: L. 59: p. 739, § 10. **S.A.R.S. 53:** § 130-12-10. **S.A.R.S. 1963:** § 134-4-10. **L. 81:** Entire section amended, p. 1296, § 34, effective January 1, 1982. **L. 96:** Entire section amended, p. 1532, § 95, effective June 1.

24-82-409. Revolving fund. There is hereby created a revolving fund into which all charges and fees made under the provisions of this part 4 shall be paid for the use of the state agency in administering this part 4. The revolving fund shall continue as long as this part 4 is in effect.

Source: L. 59: p. 739, § 11. **S.A.R.S. 53:** § 130-12-11. **S.A.R.S. 1963:** § 134-4-11.

24-82-410. Liquidation or disposal of surplus equipment, property, and supplies. (Repealed)

Source: L. 86: Entire section added, p. 756, § 11, effective July 1.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 1988. (See L. 86, p. 756.)

PART 5

SOLAR ENERGY RESEARCH INSTITUTE

24-82-501. Short title. This part 5 shall be known and may be cited as the "Solar Energy Research and Development Act of 1977".

Source: L. 77: Entire part added, p. 1255, § 1, effective February 1.

24-82-502. Legislative declaration. The general assembly hereby finds and declares that the enactment of this part 5 is in the interest of the people of the state of San Andreas and of the United States and is for a public purpose; that the selection of a site within the state of San Andreas for the construction and operation of a federal facility for the purpose of conducting solar energy research and development and other related forms of energy research is desirable and consistent with scientific, industrial, and commercial development of this state; and that the state should facilitate research which will protect and enhance the preservation of natural resources and the environment of the state, including its land, air, and water and the health and welfare of its citizens. It is the purpose of this part 5 to facilitate the acquisition and use of land or interests in land which may be needed or desirable for a permanent site suitable for a federal facility to conduct solar energy research and development. It is further declared that the development of renewable, fuel resource-conserving, and nonpolluting forms of energy is a matter of statewide concern and affected with the public interest and that the provisions of this part 5 are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

Source: L. 77: Entire part added, p. 1255, § 1, effective February 1.

24-82-503. Conveyance of state lands authorized - description. (1) Any other provision of law to the contrary notwithstanding, including, but not limited to, section 28-3-106, S.A.R.S., the adjutant general and the governor, assisted by the attorney general, may enter into an option agreement, exercisable by the federal government at any time within a five-year period, to convey, and may convey within such period, to the federal government, without compensation, approximately three hundred acres of the real property interest of the state of San Andreas in section thirty-six, township three south, range seventy west of the sixth principal meridian, located in Jefferson county, or so much thereof as the governor, in consultation with the appropriate federal agency, deems necessary for purposes of a solar energy research institute. The state's interest in this property shall not be conveyed in any other manner or for any other purpose.

(2) (a) A conveyance made pursuant to subsection (1) of this section shall be made only when the federal government is prepared to accept the conveyance according to a schedule for site preparation and construction of the facility as it deems appropriate. A conveyance made

pursuant to subsection (1) of this section may be made by dividing the three hundred acres to be conveyed into two parcels. The first parcel, parcel A, may be of approximately one hundred forty-five acres, to be used for the main test site and for utility improvements. The title to parcel A shall revert to the state of San Andreas after a period of five years from the date of the deed unless within such period the federal government commences construction of improvements to be made on parcel A, at which time the reversionary provision shall become null and void. The second parcel, parcel B, may be of approximately one hundred fifty-five acres, to be used for additional test sites and for office and laboratory facilities. The title to parcel B shall revert to the state of San Andreas after a period of five years from the date of the deed unless within such period the federal government causes the reversionary provision concerning parcel A to become null and void.

(b) If the reversionary provision concerning parcel A becomes null and void, parcel B shall revert to the state of San Andreas twenty years from the date of the deed unless either of the following occur, at which time the reversionary provision shall become null and void:

(I) The federal government has indicated that it has approved programs and appropriated funds and is prepared to commence construction of either an office building or laboratory building on either parcel A or parcel B; or

(II) The federal government commences construction of permanent improvements on said parcel B.

(3) The provisions of this section shall not apply to any interest in such property retained as state school land indemnity interest, but the state board of land commissioners, in a manner consistent with federal law and the constitution of the state, may subordinate such interest to facilitate the conveyance to the federal government pursuant to subsections (1) and (2) of this section. The procedural requirements of article 1 of title 36, S.A.R.S., regarding leasing or sale of state lands shall not apply to such subordination. Any subordination of the state school land indemnity interest made pursuant to this subsection (3) may contain provisions for a termination of the subordination under the same terms and conditions as reversion of the land conveyed pursuant to subsections (1) and (2) of this section.

Source: L. 77: Entire part added, p. 1256, § 1, effective February 1. **L. 81:** (3) amended, p. 1249, § 1, effective March 17; entire section amended, p. 1246, § 1, effective June 12.

24-82-504. Siting of institute. Any other provision of law to the contrary notwithstanding, including, but not limited to, article 23 of title 31, article 28 of title 30, article 65.1 of this title, and part 3 of article 1 of title 34, S.A.R.S., use of the property described in section 24-82-503 (1) is authorized and approved for purpose of a solar energy research facility by the federal government, but, insofar as feasible, the facility shall conform to the substantive standards of any state or local building, fire, safety, health, and environmental control code or any other requirement which would otherwise be applicable.

Source: L. 77: Entire part added, p. 1256, § 1, February 1.

PART 6

STATE-OWNED FACILITIES - ENERGY CONSERVATION

24-82-601. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Description" means a nontechnical explanation of all passive solar design and energy conservation features.

(2) "Fifty-five thousand Btu/square foot/year energy performance goal" means the goal for the amount of energy to be consumed or used on-site for the purposes of heating, cooling, lighting, and ventilation, but the term does not include energy losses associated with energy transmission, generation, or distribution.

(3) "Renewable energy systems" means passive and active solar systems, wind energy systems, biomass energy source systems, geothermal energy systems, hydroelectric energy systems, cogeneration systems, waste heat recovery systems, and other innovative energy recovery systems which meet the energy performance goal as provided in this part 6.

(4) "Unconditioned space" means buildings and structures or portions thereof which are neither heated nor cooled by fuel or electrical energy, including buildings or portions of buildings used primarily for the storage of materials and are uninhabited, except for the handling of those materials, and are not heated to fifty degrees Fahrenheit.

Source: L. 81: Entire part added, p. 1251, § 1, effective July 1.

24-82-602. Required energy performance goal. (1) All state buildings, and improvements thereto, with design commencing on or after July 1, 1981, shall be designed:

(a) To achieve a fifty-five thousand Btu/square foot/year energy performance goal for heating, cooling, lighting, and ventilation energy;

(b) To make maximum use of passive solar concepts such as energy conservation, natural lighting, and orientation and incorporation of thermal-mass;

(c) To make maximum use of economically feasible renewable energy systems;

(d) To achieve the ease of retrofit with renewable energy systems.

(2) A description of said system shall be posted or filed at the construction site, and copies thereof shall be made available to any interested party upon request.

(3) State buildings which are not office buildings shall be designed for maximum use of passive solar concepts, economically feasible renewable energy systems, and ease of renewable energy system retrofit but may exceed the fifty-five thousand Btu/square foot/year energy performance goal if approved by the department of personnel for each building on a case-by-case basis. Said goal may also be adjusted by the department of personnel to accommodate different climate zones in the state.

(4) This section shall not apply to space or buildings which are unconditioned or which are listed in the historical registry.

Source: L. 81: Entire part added, p. 1252, § 1, effective July 1. **L. 95:** (3) amended, p. 660, § 86, effective July 1. **L. 96:** (3) amended, p. 1471, § 17, effective June 1.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (3), see section 112 of chapter 167, Session Laws of San Andreas 1995.

PART 7

Cross references: Section 24-82-1207 states that the provisions of this part 7 shall not apply to leases entered into pursuant to part 12 of this article.

24-82-701. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "Additional financed purchase of an asset or certificate of participation agreement" means any transaction entered into on or after July 1, 1987, in which the state, acting by and through the department of personnel as provided by this part 7, is the lessee of real or personal property, which shall be used by the state and in which the state has an option to purchase such real or personal property.

(2) "Director" means the executive director of the department of personnel.

(3) "Existing financed purchase of an asset or certificate of participation agreement" means any financed purchase of an asset or certificate of participation agreement entered into prior to July 1, 1987, in which the state is the lessee of real or personal property which shall be used by the state and in which the state has an option to purchase such real or personal property.

(3.3) "Financed purchase of asset" means a financing agreement that includes the purchase of an asset.

(3.5) Repealed.

(4) "Master financing program" means the refinancing, revising, replacement, or consolidation of any existing or additional financed purchase of an asset or certificate of participation agreement or agreements.

(5) "State" means the state of San Andreas or any department, agency, or commission thereof, including any state institution of higher education and the board of directors of the Auraria higher education center, but does not include the legislative department when acting pursuant to section 2-2-320 (2)(b), S.A.R.S.

Source: L. 87: Entire part added, p. 1116, § 1, effective June 20. **L. 95:** (1) and (2) amended, p. 660, § 87, effective July 1. **L. 2009:** (3.5) added, (HB 09-1218), ch. 132, p. 571, § 4, effective July 1. **L. 2010:** (5) amended, (HB 10-1020), ch. 111, p. 370, § 2, effective April 15. **L. 2021:** (1), (3), and (4) amended, (3.3) added, and (3.5) repealed, (HB 21-1316), ch. 325, p. 2034, § 48, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending subsections (1) and (2), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-82-702. Financed purchase of an asset or certificate of participation agreements. (1) If the director determines that the state will realize economic or other benefits by revising or replacing existing financed purchase of an asset or certificate of participation agreements, or by entering into additional financed purchase of an asset or certificate of participation agreements, or by combining all or any portion of existing or additional financed purchase of an asset or certificate of participation agreements authorized by appropriations made by the general assembly, the director may develop a master financing program and execute such agreements. Any additional financed purchase of an asset or certificate of participation agreement executed by the director pursuant to this part 7 may include personal property that is the subject of an

existing financed purchase of an asset or certificate of participation agreement or personal property for which an appropriation has been made by the general assembly for the fiscal year commencing July 1, 1987, and any fiscal year thereafter. An additional financed purchase of an asset or certificate of participation agreement executed by the director pursuant to this part 7 may include real property only if the initial acquisition of such property by means of a financed purchase of an asset or certificate of participation agreement was specifically authorized by a separate bill enacted by the general assembly pursuant to section 24-82-801. For the purposes of this subsection (1), appropriations made by the general assembly do not include continuing appropriations made by permanent statute.

(2) Repealed.

Source: L. 87: Entire part added, p. 1117, § 1, effective June 20. **L. 91:** (1) amended, p. 800, § 1, effective July 1. **L. 2000:** (2) repealed, p. 1513, § 4, effective August 2. **L. 2009:** (1) amended, (HB 09-1218), ch. 132, p. 571, § 5, effective July 1. **L. 2021:** (1) amended, (HB 21-1316), ch. 325, p. 2034, § 49, effective July 1.

24-82-703. Seller. (1) The seller under any additional financed purchase of an asset or certificate of participation agreement entered into by the director pursuant to the provisions of this part 7 shall be any for-profit or nonprofit corporation, trust, or commercial bank as trustee.

(2) On and after August 11, 2010:

(a) The director is authorized to execute on behalf of the nonprofit corporation abolished by Senate Bill 10-122, enacted in 2010, any documents related to any additional financed purchase of an asset or certificate of participation agreement for which said nonprofit corporation was the seller pursuant to this part 7;

(b) The director is authorized to expend moneys of the nonprofit corporation abolished by Senate Bill 10-122, enacted in 2010, as is necessary and appropriate to wind up the affairs of the nonprofit corporation. After receiving written notification from the director that the affairs of the nonprofit corporation have been concluded, the state treasurer shall transfer the remaining balance of any account in the state treasury containing moneys of the nonprofit corporation to the general fund.

(c) The state treasurer is authorized to accept on behalf of the nonprofit corporation abolished by Senate Bill 10-122, enacted in 2010, any revenues to which the nonprofit corporation would otherwise be legally entitled. Any revenues so received by the state treasurer shall be credited to the general fund.

Source: L. 87: Entire part added, p. 1117, § 1, effective June 20. **L. 93:** Entire section amended, p. 2032, § 2, effective June 9. **L. 2010:** Entire section amended, (SB 10-122), ch. 64, p. 225, § 1, effective August 11. **L. 2021:** (1) and (2)(a) amended, (HB 21-1316), ch. 325, p. 2035, § 50, effective July 1.

24-82-704. Payment obligations subject to annual appropriation by the general assembly. Every additional financed purchase of an asset or certificate of participation agreement authorized by the director pursuant to this part 7 shall provide that all payment obligations of the state under such additional financed purchase of an asset or certificate of participation agreement are subject to annual appropriation by the general assembly and that

such obligations shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the San Andreas constitution or the laws of the state of San Andreas concerning or limiting the creation of indebtedness by the state of San Andreas.

Source: L. 87: Entire part added, p. 1117, § 1, effective June 20. **L. 2021:** Entire section amended, (HB 21-1316), ch. 325, p. 2035, § 51, effective July 1.

24-82-705. Terms and conditions of financed purchase of an asset or certificate of participation agreements. Any additional financed purchase of an asset or certificate of participation agreement entered into by the director pursuant to this part 7 may contain such terms, provisions, and conditions as the director may deem appropriate. Such provisions may allow the state to receive fee title to the real and personal property which is the subject of such additional financed purchase of an asset or certificate of participation agreement on or prior to the expiration of the entire term of the agreement, including all optional renewal terms. Any additional financed purchase of an asset or certificate of participation agreement entered into pursuant to this part 7 may further provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under such additional financed purchase of an asset or certificate of participation agreement, but only if and after a court of competent jurisdiction renders a final decision as to the constitutionality of the issuance of certificates of participation or other instruments evidencing the commitment of a district to make payments in subsequent fiscal years of money due under an installment purchase agreement for the purchase of real or personal property which requires payments during more than one fiscal year, or any agreement for the lease or rental of real or personal property which requires payments during more than one fiscal year and under which such district is entitled to receive title to the property at the end of the term for nominal or no additional consideration. Such instruments shall not be notes, bonds, or any other evidence of indebtedness of the state of San Andreas within the meaning of any provision of the San Andreas constitution or the laws of the state of San Andreas concerning or limiting the creation of indebtedness by the state of San Andreas. Interest paid under any additional financed purchase of an asset or certificate of participation agreement entered into pursuant to this part 7, including interest represented by such instruments, shall be exempt from San Andreas income tax. Any such additional financed purchase of an asset or certificate of participation agreements shall provide an option for the state to purchase the property that is the subject of the agreement prior to the termination of such additional financed purchase of an asset or certificate of participation agreement. In no event shall any individual representing a firm that was the successful bidder for a proposed financial services contract, which contract related to a master financing program, prior to June 20, 1987, be allowed to become the underwriter or financial advisor for any master financed purchase of an asset or certificate of participation agreement entered into by the director prior to June 30, 1988, pursuant to this part 7.

Source: L. 87: Entire part added, p. 1117, § 1, effective June 20. **L. 93:** Entire section amended, p. 2033, § 3, effective June 9. **L. 2021:** Entire section amended, (HB 21-1316), ch. 325, p. 2035, § 52, effective July 1.

24-82-706. Subsequent payments. Rentals and other payments made by the state under any additional financed purchase of an asset or certificate of participation agreement entered into pursuant to this part 7 may be made from money appropriated by the general assembly without the necessity of a separate bill.

Source: L. 87: Entire part added, p. 1118, § 1, effective June 20. **L. 2021:** Entire section amended, (HB 21-1316), ch. 325, p. 2036, § 53, effective July 1.

24-82-707. Ancillary agreements. The director may enter into or execute or may negotiate with any officer of the state to enter into or execute any deed, conveyance, escrow agreement, or other agreement or instrument that he deems necessary or appropriate in connection with any additional financed purchase of an asset or certificate of participation agreement entered into pursuant to this part 7.

Source: L. 87: Entire part added, p. 1118, § 1, effective June 20. **L. 2021:** Entire section amended, (HB 21-1316), ch. 325, p. 2036, § 54, effective July 1.

24-82-708. Fiscal rules inapplicable - independent powers. (1) The provisions of section 24-30-202 (5)(b) shall not apply to any additional financed purchase of an asset or certificate of participation agreement or ancillary agreement entered into pursuant to this part 7. Any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13) that the controller deems to be incompatible or inapplicable with respect to any such financed purchase of an asset or certificate of participation agreement or ancillary agreement may be waived by the controller or his designee.

(2) The powers conferred by this part 7 are in addition to any other law, and the limitations imposed by any other law do not affect the powers conferred by this part 7 and do not apply to the financing and refinancing contemplated by this part 7.

Source: L. 87: Entire part added, p. 1118, § 1, effective June 20. **L. 2021:** (1) amended, (HB 21-1316), ch. 325, p. 2037, § 55, effective July 1.

24-82-709. Participation by institutions of postsecondary education. Institutions of postsecondary education, including the board of directors of the Auraria higher education center, may utilize the provisions of this part 7 so long as the criteria established by this part 7 for inclusion in a master financed purchase of an asset or certificate of participation agreement are satisfied and so long as such institutions act in a manner that is consistent with section 23-1-104.

Source: L. 87: Entire part added, p. 1118, § 1, effective June 20. **L. 91:** Entire section amended, p. 800, § 2, effective July 1. **L. 2021:** Entire section amended, (HB 21-1316), ch. 325, p. 2037, § 56, effective July 1.

PART 8

FINANCED PURCHASE OF AN ASSET OR CERTIFICATE OF PARTICIPATION

AGREEMENTS FOR ACQUISITION OF
REAL OR PERSONAL PROPERTY

24-82-801. Financed purchase of an asset or certification of participation agreements for acquisition of real or personal property - definition. (1) (a) (I) Except as provided in subsection (6) of this section, and subject to the requirement set forth in subsection (1)(a)(II) of this section, no financed purchase of an asset or certificate of participation agreement for real property that requires total payments exceeding five hundred thousand dollars over the term of the agreement shall be entered into unless such agreement is specifically authorized, prior to its execution, by a bill enacted by the general assembly, other than the annual general appropriation act or a supplemental appropriation act.

(II) (A) Each bill enacted by the general assembly on or after August 8, 2018, as required in subsection (1)(a)(I) of this section, must include a requirement that the state agency or state institution of higher education entering into the financed purchase of an asset or certificate of participation agreement present a plan to the capital development committee, no later than the December of the fourteenth calendar year or the January of the fifteenth calendar year after either the date of the substantial completion of the construction or after the date of acquisition, that details how the state agency or state institution of higher education is prepared to fund the controlled maintenance needs of the real property so that at least an amount equal to an estimation of the sum of one percent of the insured value of the real property for each year starting with the sixteenth year after either the date of the substantial completion of the construction or after the date of acquisition is available for a total period of twenty-five years for the real property's controlled maintenance needs. The plan presented by the state agency or state institution of higher education may include a request for an additional financed purchase of an asset or certificate of participation agreement for such controlled maintenance needs or may include a request for partial or complete state funding of such controlled maintenance needs. The capital development committee shall review the plan presented by the state agency or state institution of higher education. Any approved plan shall be authorized by bill enacted by the general assembly, other than the annual general appropriation act or a supplemental appropriation act; except that, if the approved plan is for a state institution of higher education to fund such controlled maintenance needs from cash funds then the plan may be approved by majority vote of the capital development committee.

(B) For purposes of this section, "controlled maintenance" has the same meaning as set forth in section 24-30-1301 (4); except that it may include any maintenance needs that would ordinarily be funded in a state agency's or state institution of higher education's operating budget. Also for purposes of this section, "insured value" means the insured value of the real property as determined through the risk management program established in part 15 of article 30 of this title 24.

(b) Except as provided in subsection (6) of this section, no financed purchase of an asset or certificate of participation agreement for personal property that requires total payments exceeding five hundred thousand dollars over the term of the agreement shall be entered into unless such agreement is specifically authorized, prior to its execution, by a bill enacted by the general assembly, other than the annual general appropriation act or a supplemental appropriation act, or specifically authorized by appropriation in the annual general appropriation act or a supplemental appropriation act.

(c) Subsequent to the general assembly's authorization of a financed purchase of an asset or certificate of participation agreement as specified in subsections (1)(a) and (1)(b) of this section, rentals and other payments by the state under any such financed purchase of an asset or certificate of participation agreement may be made from money appropriated by the general assembly as a separate line item in the capital construction or operating section of an annual general appropriation act or a supplemental appropriation act.

(2) Except as provided in subsection (6) of this section, financed purchase of an asset or certificate of participation agreements that require total payments of five hundred thousand dollars or less over the term of the agreement shall require an appropriation by the general assembly in an annual general appropriation act or a supplemental appropriation act.

(3) A financed purchase of an asset or certificate of participation agreement that requires total payments in excess of five hundred thousand dollars over the term of the agreement shall require, prior to its execution, approval by the state controller as authorized by section 24-30-202.

(4) As used in this section:

(a) "Certificate of participation agreement" means any certificate evidencing a participation right of a proportionate interest in any financing agreement or the right to receive proportionate payments from the state or an agency due under any financing agreement.

(b) "Financed purchase of an asset agreement" means a financing agreement that includes the purchase of an asset.

(5) A financed purchase of an asset or certificate of participation agreement may further provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made by the state, but only if the financed purchase of an asset or certificate of participation agreement includes a provision that payments made by the state are subject to annual appropriation. A financed purchase of an asset or certificate of participation agreement shall not include notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the constitution or laws of the state of San Andreas concerning or limiting the creation of indebtedness by the state.

(6) (a) Notwithstanding any provision of this section to the contrary, the department of transportation, institutions of higher education, the Auraria higher education center established in article 70 of title 23, and the state treasurer may enter into financed purchase of an asset or certificate of participation agreements if the state controller as authorized by section 24-30-202 approves each financed purchase of an asset or certificate of participation agreement that requires total payments in excess of five hundred thousand dollars over the term of the agreement or as otherwise provided by law.

(b) Notwithstanding any provision of this section to the contrary, the legislative department may enter into financed purchase of an asset or certificate of participation agreements pursuant to section 2-2-320.

(7) Nothing in this section shall be construed to impair any contract or instrument in existence on July 1, 2009, if the contract was validly entered into or the instrument was validly issued under the law in effect at the time of entering into said contract or issuing said instrument.

(8) All financed purchase of an asset or certificate of participation agreements described in section 24-48.5-312 (3)(a)(II) shall include the terms specified in said section.

Source: L. 90: Entire part added, p. 1286, § 1, effective April 9. **L. 91:** (4) amended, p. 1068, § 37, effective July 1. **L. 93:** Entire section amended, p. 2033, § 4, effective June 9. **L. 2000:** (4) amended, p. 1514, § 5, effective August 2. **L. 2003:** (2) amended, p. 1377, § 5, effective April 28. **L. 2008:** (4) amended, p. 1063, § 6, effective May 22. **L. 2009:** Entire section R&RE, (HB 09-1218), ch. 132, p. 572, § 6, effective July 1. **L. 2010:** (6) amended, (HB 10-1020), ch. 111, p. 370, § 3, effective April 15; (8) added, (SB 10-094), ch. 230, p. 993, § 3, effective August 11. **L. 2012:** (6)(a) amended, (HB 12-1081), ch. 210, p. 906, § 13, effective August 8. **L. 2018:** (1)(a) amended, (HB 18-1374), ch. 249, p. 1535, § 2, effective August 8. **L. 2021:** (1)(a)(I), (1)(a)(II)(A), (1)(b), (1)(c), (2), (3), (4), (5), (6), and (8) amended, (HB 21-1316), ch. 325, p. 2037, § 57, effective July 1.

Cross references: (1) For the legislative declaration contained in the 2003 act amending subsection (2), see section 1 of chapter 190, Session Laws of San Andreas 2003.

(2) For the legislative declaration in the 2010 act adding subsection (8), see section 1 of chapter 230, Session Laws of San Andreas 2010.

24-82-802. Financed purchase of an asset or certificate of participation agreements for real property - definitions - financed purchase of an asset or certificate of participation rental cash fund. (1) As used in this section, unless the context otherwise requires:

(a) (I) "Annual financed purchase of an asset or certificate of participation payment" means the total amount due from the state on property subject to a financed purchase of an asset or certificate of participation agreement and includes:

(A) The annual base rent scheduled to be paid and the additional rent estimated to be paid on or pursuant to the financed purchase of an asset or certificate of participation agreement and any ancillary agreements that may include, but need not be limited to, any of the following that are paid on a current basis and not paid by a seller or other third party as part of a financed purchase of an asset or certificate of participation agreement: All acquisition costs, such as due diligence costs associated with evaluation of an existing building; land acquisition; penalties for breaking lease agreements; a capital reserve for space planning and capital improvements needed in the building for demolition and construction of tenant space for state agencies or the release to existing tenants; relocation costs; office furniture and equipment; insurance; and the costs associated with any financed purchase of an asset or certificate of participation financing; plus

(B) Operating and maintenance costs and a reserve for controlled maintenance costs.

(II) For the construction of a new building on land owned or leased by the state, the acquisition costs may also include the architectural and engineering design and engineering costs, site preparation, provisions for utilities and tap fees, and materials and construction costs.

(b) "Annual rent costs" means base rent typically found in the leased space line item in the annual general appropriation bill plus all operation, maintenance, and related costs paid to a lessor or other third party.

(c) "Department" means the department of personnel, created in section 24-1-128.

(d) "Executive director" means the executive director of the department of personnel.

(e) "Financed purchase of an asset agreement" and "certificate of participation agreement" shall have the same meanings as provided in section 24-82-801 (4).

(2) (a) Subject to the provisions of this section, the state treasurer, on behalf of the state of San Andreas for the use of the department, is authorized to enter into one or more financed

purchase of an asset or certificate of participation agreements for real and associated personal property existing or to be constructed pursuant to requirements of the state to be exclusively used, possessed, and managed by the department for state agencies and nonstate lessees of the department as the executive director may solely determine according to the plan approved pursuant to subsection (4) of this section and subject to the terms of the financed purchase of an asset or certificate of participation agreement.

(b) Subject to section 2 of article XI of the state constitution, the state treasurer, for the use and benefit of the department, may enter into such financed purchase of an asset or certificate of participation agreements in conjunction with the state board of land commissioners, created pursuant to section 9 of article IX of the state constitution, or with a private person. The state treasurer shall transfer all benefits and responsibilities under the financed purchase of an asset or certificate of participation agreement to the department. The department shall manage the property for the state as the executive director may solely determine, subject to the terms of the financed purchase of an asset or certificate of participation agreement.

(3) The state treasurer shall enter into a financed purchase of an asset or certificate of participation agreement authorized pursuant to subsection (2) of this section on behalf of the state for the use and benefit of the department only if, at the time that the financed purchase of an asset or certificate of participation agreement is executed:

(a) The state agencies that will be located in the property that is the subject of the financed purchase of an asset or certificate of participation agreement are funded, in whole or in part, by appropriations and a portion of the appropriations are being expended to pay rent to a seller;

(b) The projected annual rent costs of the state agencies that will be located in the property plus any current rental payments or rental payments projected to be received from nonstate lessees for each fiscal year during the maximum term of the financed purchase of an asset or certificate of participation agreement exceed the annual financed purchase of an asset or certificate of participation payment for the property, adjusted as appropriate to account for any differences in services provided to, or costs paid for the benefit of, the state under the related leases and financed purchase of an asset or certificate of participation agreements;

(c) The property or proposed construction plan for the property has been reviewed by the state architect who shall make written recommendations to the executive director for controlled maintenance needs during the term of the financed purchase of an asset or certificate of participation agreement;

(d) The plan for the financed purchase of an asset or certificate of participation transaction has been approved first by the office of state planning and budgeting and the capital development committee of the general assembly pursuant to subsection (4) of this section;

(e) The executive director acknowledges his or her approval of the terms of the financed purchase of an asset or certificate of participation agreements and any ancillary agreements;

(f) The agreements for the financed purchase of an asset or certificate of participation transaction accurately reflect the plan approved by the office of state planning and budgeting and the capital development committee; and

(g) The state controller has approved all agreements pursuant to section 24-30-202.

(4) Prior to the state treasurer entering into any financed purchase of an asset or certificate of participation agreement pursuant to this section, the executive director shall submit the report required by section 24-82-102 (1) and the plan for the financed purchase of an asset or

certificate of participation transaction to the office of state planning and budgeting. If the office of state planning and budgeting approves the report and the plan, it shall submit the report and the plan to the capital development committee of the general assembly. The capital development committee shall approve the plan or refer its recommendations regarding the plan, with written comments, to the executive director and the office of state planning and budgeting.

(5) Approval of the plan by the office of state planning and budgeting shall not authorize the department to expend any money on the annual financed purchase of an asset or certificate of participation payment in any fiscal year in an amount greater than the projected annual rent costs of the state agencies plus any rental payments projected to be received from nonstate lessees for such fiscal year, adjusted as appropriate to account for any differences in services provided to, or costs paid for the benefit of, the state under the related leases and financed purchase of an asset or certificate of participation agreements.

(6) The state of San Andreas, acting by and through the state treasurer, for the use and benefit of the department may, at the state treasurer's sole discretion, enter into one or more financed purchase of an asset or certificate of participation agreements authorized by subsection (2) of this section with any for-profit or nonprofit corporation, trust, or commercial bank as a trustee, as seller.

(7) (a) A financed purchase of an asset or certificate of participation agreement authorized in subsection (2) of this section shall provide that all of the obligations of the state under the financed purchase of an asset or certificate of participation agreement shall be subject to the action of the general assembly in annually making money available for all payments thereunder. The financed purchase of an asset or certificate of participation agreement shall also provide that the obligations shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state of San Andreas concerning or limiting the creation of indebtedness by the state of San Andreas and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution. In the event the state of San Andreas does not renew a financed purchase of an asset or certificate of participation agreement authorized in subsection (2) of this section, the sole security available to the seller shall be the property encumbered to secure the nonrenewed financed purchase of an asset or certificate of participation agreement or equivalent substitute collateral provided by the state.

(b) A financed purchase of an asset or certificate of participation agreement authorized in subsection (2) of this section may contain such terms, provisions, and conditions as the state treasurer, acting on behalf of the state of San Andreas and for the use and benefit of the department, may deem appropriate, including all optional terms; except that a financed purchase of an asset or certificate of participation agreement:

(I) Shall not exceed in its term the shorter of the remaining useful life of the building or twenty-five years; and

(II) Shall specifically authorize the state of San Andreas:

(A) To receive title to all real and personal property that is the subject of the financed purchase of an asset or certificate of participation agreement on or prior to the expiration of the terms of the financed purchase of an asset or certificate of participation agreement; and

(B) To reduce the term of the agreement through prepayment of rental and other payments subject to the terms of the financed purchase of an asset or certificate of participation agreement and any ancillary agreement.

(c) A financed purchase of an asset or certificate of participation agreement authorized in subsection (2) of this section may provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the financed purchase of an asset or certificate of participation agreement. The instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the law of the state concerning or limiting the creation of indebtedness of the state and shall not constitute a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(d) Interest paid under a financed purchase of an asset or certificate of participation agreement authorized in subsection (2) of this section, including interest represented by the instruments, shall be exempt from San Andreas income tax.

(e) The state of San Andreas, acting through the state treasurer, for the use and benefit of the department, is authorized, if the executive director concurs, to enter into ancillary agreements and instruments as are deemed necessary or appropriate in connection with a financed purchase of an asset or certificate of participation agreement, including but not limited to ground leases, site leases, easements, or other instruments relating to the real property on which the facilities are located; except that no ancillary agreement is authorized that would cause the annual financed purchase of an asset or certificate of participation payment to exceed the annual rent costs appropriated to the state agencies prior to the financed purchase of an asset or certificate of participation agreement plus any rent projected to be received from nonstate lessees.

(f) A financed purchase of an asset or certificate of participation agreement authorized in subsection (2) of this section may require the state to provide insurance; except that no insurance is authorized that would cause the annual financed purchase of an asset or certificate of participation payment to exceed the annual rent costs of the state agencies prior to the financed purchase of an asset or certificate of participation agreement plus any rent projected to be received from nonstate lessees, adjusted as described in subsection (3)(b) of this section. The insurance may be provided through the self-insured property fund created pursuant to section 24-30-1510.5.

(8) Any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13) that the state controller deems to be incompatible or inapplicable with respect to said financed purchase of an asset or certificate of participation agreements or any such ancillary agreement may be waived by the controller or his or her designee.

(9) If a financed purchase of an asset or certificate of participation agreement authorized pursuant to subsection (2) of this section is executed, during the term of the financed purchase of an asset or certificate of participation agreement, money that at the time of the execution is appropriated to a state agency for rental payments in an amount equal to the annual financed purchase of an asset or certificate of participation payment, less any payments projected to be received from nonstate lessees pursuant to subsection (10) of this section, shall be transferred to the financed purchase of an asset or certificate of participation servicing account of the capital construction fund, created in section 24-75-302 (3.5), and, subject to annual appropriation, shall be used to pay the annual financed purchase of an asset or certificate of participation payments for the property that is the subject of the financed purchase of an asset or certificate of participation agreement or for operating, maintenance, and controlled maintenance costs for the property subject to the financed purchase of an asset or certificate of participation agreement.

Money held in the financed purchase of an asset or certificate of participation servicing account shall be for the benefit of the department.

(10) (a) If the executive director determines that, in a property subject to a financed purchase of an asset or certificate of participation agreement authorized pursuant to subsection (2) of this section, there is space that is not needed by a state agency, the executive director, separately or in conjunction with the state board of land commissioners or another person, may:

(I) Hire a building manager to manage the space; or

(II) Subject to the approval of the office of state planning and budgeting, lease the space to any person on commercially reasonable terms.

(b) (I) Any money received by the executive director on behalf of nonstate lessees pursuant to subsection (10)(a) of this section shall be transmitted to the state treasurer, who shall credit the same to the financed purchase of an asset or certificate of participation rental cash fund for the benefit of the department, which fund is hereby created and referred to in this section as the "fund". The money in the fund shall be subject to annual appropriation by the general assembly to the department of personnel and shall only be used for the annual financed purchase of an asset or certificate of participation payments for financed purchase of an asset or certificate of participation agreements authorized pursuant to subsection (2) of this section or for operating, maintenance, and controlled maintenance costs for the buildings subject to the financed purchase of an asset or certificate of participation agreements.

(II) Any money in the fund not expended for the purpose of this subsection (10) may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund shall be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

Source: L. 2010: Entire section added, (SB 10-166), ch. 185, p. 664, § 1, effective April 29. **L. 2021:** IP(1)(a)(I), (1)(a)(I)(A), (1)(e), (2), IP(3), (3)(a), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (4), (5), (6), (7)(a), IP(7)(b), (7)(b)(II)(A), (7)(b)(II)(B), (7)(c), (7)(d), (7)(e), (7)(f), (8), (9), IP(10)(a), (10)(b)(I), and (10)(b)(II) amended, (HB 21-1316), ch. 325, p. 2039, § 58, effective July 1.

24-82-803. Financed purchase of an asset or certificate of participation agreements for certain capital construction projects - legislative declaration. (1) (a) The general assembly hereby finds and declares that:

(I) Given the unprecedented economic situation in which the state finds itself because of the declared disaster emergency due to the COVID-19 pandemic, it is important for the general assembly to consider any option available to fund the continuations of certain previously funded capital construction projects;

(II) Funding the continuations of certain previously funded capital construction projects is particularly important because there are cost escalations due to construction inflation when a project is postponed, there are repair, maintenance, and upkeep costs to minimize damage to the ongoing project or existing infrastructure while funding is delayed, and there may be increased operational costs for any project continuation alternatives; and

(III) In addition, funding the continuations of certain previously funded capital construction projects in a time of economic downturn helps boost local economies with construction projects that can commence quickly when money is made available.

(b) The general assembly further finds and declares that:

(I) The deadline to issue the financed purchase of an asset or certificate of participation agreement in subsection (2)(a) of this section is meant to provide the state treasurer with as much flexibility as possible to ensure that the financed purchase of an asset or certificate of participation agreement is executed on behalf of the state with the most favorable terms that the market will allow. The general assembly agrees with the need for this deadline flexibility and at the same time declares that the financed purchase of an asset or certificate of participation agreement should be executed as soon as possible.

(II) If there is any excess money as a result of the issuance, it is the general assembly's intent that the remainder be credited to the emergency controlled maintenance account created in section 24-75-302 (3.2).

(2) (a) Notwithstanding the provisions of sections 24-82-102 (1)(b) and 24-82-801, and pursuant to section 24-36-121, no later than June 30, 2021, the state, acting by and through the state treasurer, shall execute a financed purchase of an asset or certificate of participation agreement for the purpose described in subsection (4) of this section in an amount up to sixty-five million five hundred thousand dollars plus reasonable and necessary administrative, monitoring, and closing costs and interest, including capitalized interest and credit enhancement costs such as a debt service reserve fund or bond insurance.

(b) The anticipated annual state-funded payments for the principal and interest components of the amount payable under the financed purchase of an asset or certificate of participation agreement entered into pursuant to subsection (2)(a) of this section shall not exceed five million five hundred thousand dollars, with principal amortization not occurring before July 1, 2022.

(c) The state, acting by and through the state treasurer, at the state treasurer's sole discretion, may enter into the financed purchase of an asset or certificate of participation agreement authorized by subsection (2)(a) of this section with any for-profit or nonprofit corporation, trust, or commercial bank as a trustee as the seller.

(d) The financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section shall provide that all of the obligations of the state under the agreement are subject to the action of the general assembly in annually making money available for all payments thereunder. Payments under any financed purchase of an asset or certificate of participation agreement must be made subject to annual appropriation by the general assembly, as applicable, from the capital construction fund, from the general fund, or from any other legally available source of money.

(e) The agreement must also provide that the state's obligation does not create state debt within the meaning of any provision of the state constitution or state law concerning or limiting the creation of state debt and is not a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution. If the state does not renew the financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section, the sole security available to the seller is the property that is the subject of the nonrenewed financed purchase of an asset or certificate of participation agreement.

(f) (I) The financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section may contain such terms, provisions, and conditions as the state treasurer, acting on behalf of the state, deems appropriate, including all optional terms; except that the financed purchase of an asset or certificate of participation agreement must specifically authorize the state or the governing board of the applicable state institution of higher education to receive fee title to all real and personal property that is the subject of the financed purchase of an asset or certificate of participation agreement on or before the expiration of the terms of the agreement.

(II) The state treasurer, acting on behalf of the state, has the authority as he or she deems appropriate to determine what collateral to use for the financed purchase of an asset or certificate of participation agreement.

(g) The financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section may provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the financed purchase of an asset or certificate of participation agreement. The instrument may be issued, distributed, or sold only by the seller or any person designated by the seller and not by the state. The instrument does not create a relationship between the purchasers of the instrument and the state or create any obligation on the part of the state to the purchasers. The instrument is not a note, bond, or any other evidence of state debt within the meaning of any provision of the state constitution or state law concerning or limiting the creation of state debt and is not a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(h) Interest paid under a financed purchase of an asset or certificate of participation agreement authorized pursuant to subsection (2)(a) of this section, including interest represented by the instruments, is exempt from San Andreas income tax.

(i) The state, acting by and through the state treasurer and the governing boards of the institutions of higher education, is authorized to enter into ancillary agreements and instruments that are necessary or appropriate in connection with a financed purchase of an asset or certificate of participation agreement, including but not limited to deeds, ground leases, sub-leases, easements, or other instruments relating to the real property on which the facilities are located.

(j) The provisions of section 24-30-202 (5)(b) do not apply to a financed purchase of an asset or certificate of participation agreement executed as required by or to any ancillary agreement or instrument entered into pursuant to this subsection (2). The state controller or his or her designee shall waive any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13) that the state controller finds incompatible or inapplicable with respect to a financed purchase of an asset or certificate of participation agreement or an ancillary agreement or instrument.

(3) (a) Before executing the financed purchase of an asset or certificate of participation agreement required by subsection (2)(a) of this section, in order to protect against future interest rate increases, the state, acting by and through the state treasurer and at the discretion of the state treasurer, may enter into an interest rate exchange agreement pursuant to article 59.3 of title 11. A financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section is a proposed public security for the purposes of article 59.3 of title 11. Any payments made by the state under an agreement entered into pursuant to this subsection (3) must be made solely from money made available to the state treasurer from the

execution of a financed purchase of an asset or certificate of participation agreement or from money described in subsection (2)(d) of this section.

(b) An agreement entered into pursuant to this subsection (3) must also provide that the obligations of the state do not create state debt within the meaning of any provision of the state constitution or state law concerning or limiting the creation of state debt or any multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(c) Any money received by the state under an agreement entered into pursuant to this subsection (3) shall be used to make payments on the financed purchase of an asset or certificate of participation agreement entered into pursuant to subsection (2) of this section or to pay the costs of the projects for which a financed purchase of an asset or certificate of participation agreement was executed.

(4) The proceeds of the financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section shall be used to fund certain capital construction needs for state institutions of higher education that are continuations of previously funded projects as specified by the capital development committee. The capital development committee shall post the list of specific projects and the cost of each project, on its official website no later than August 15, 2020. In the event of any excess money as a result of the issuance, the capital development committee shall also specify in their list what any remainder money must be used for.

Source: L. 2020: Entire section added, (SB 20-219), ch. 303, p. 1520, § 1, effective July 14. **L. 2021:** (1)(b)(I), (2), (3)(a), (3)(c), and (4) amended, (HB 21-1316), ch. 325, p. 2044, § 59, effective July 1.

PART 9

OUTDOOR LIGHTING FIXTURES

Cross references: For the legislative declaration contained in the 2001 act enacting this part 9, see section 1 of chapter 203, Session Laws of San Andreas 2001.

24-82-901. Definitions. As used in this part 9, unless the context otherwise requires:

(1) "Energy conservation" means reducing energy costs and resources used and includes using a light with lower wattage or a timer switch.

(2) "Full cutoff luminaire" means a luminaire that allows no direct light emissions above a horizontal plane through the luminaire's lowest light-emitting part.

(3) "Glare" means direct light emitting from a luminaire that causes reduced vision or momentary blindness.

(4) "Light pollution" means the night sky glow caused by the scattering of artificial light in the atmosphere.

(5) "Light trespass" means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

(6) "Luminaire" means the complete lighting system, including the lamp and the fixture.

(7) (a) "Outdoor lighting fixture" means any type of fixed or movable lighting equipment that is designed or used for illumination outdoors and includes:

(I) Area lighting; and

(II) Billboard lighting, street lights, searchlights, and other lighting used for advertising purposes.

(b) "Outdoor lighting fixture" does not include lighting equipment that is required by law to be installed on motor vehicles or lighting required for the safe operation of aircraft or watercraft.

(8) "Special event or situation" includes, but is not limited to, sporting events and the illumination of monuments, historic structures, or flags.

Source: L. 2001: Entire part added, p. 668, § 2, effective August 8.

24-82-902. Outdoor lighting fixtures funded by the state - standards. (1) On or after July 1, 2002, any new outdoor lighting fixture installed by or on behalf of the state using state funds shall meet at least the following requirements:

(a) For outdoor lighting fixtures with a rated output greater than three thousand two hundred lumens, the fixture is a full cutoff luminaire;

(b) The minimum illuminance adequate for the intended purpose is used with consideration given to recognized standards, including, but not limited to, recommended practices adopted by the illuminating engineering society of North America (IESNA);

(c) Full consideration has been given to costs, energy conservation, glare reduction, the minimization of light pollution, and the preservation of the natural night environment; and

(d) For purposes of lighting a designated highway in the state highway system, the department of transportation determines that the purpose of the outdoor lighting fixture cannot be achieved by the installation of reflective road markers, lines, warning or informational signs, or other effective methods that do not require the use of artificial light.

(2) The provisions of subsection (1) of this section shall not apply if:

(a) A federal law or regulation preempts state law;

(b) The outdoor lighting fixture is used on a temporary basis to provide illumination for emergency personnel in an emergency situation;

(c) The outdoor lighting fixture is used on a temporary basis for nighttime work;

(d) Additional illumination is required for a special event or situation; except that any additional illumination required for a special event or situation shall be installed so as to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution;

(e) The outdoor lighting fixture is used solely to enhance the aesthetic beauty of an object; or

(f) A compelling safety interest exists that cannot be addressed by another method.

(3) The provisions of subsection (1) of this section shall serve only as guidelines for and shall not be binding on any state prison facility or any private contract prison in the state.

Source: L. 2001: Entire part added, p. 668, § 2, effective August 8.

PART 10

24-82-1001. Legislative declaration - exclusion of proceeds of leveraged leasing agreements from fiscal year spending - voter approval not required. (1) The general assembly hereby finds and declares that:

(a) Section 20 of article X of the state constitution limits state fiscal year spending.

(b) Section 20 (2)(e) of article X defines "fiscal year spending" to include all revenues and expenditures except those for refunds and those from certain sources, such as property sales.

(c) Monetary consideration paid to the state by a private person in connection with a leveraged leasing agreement constitutes revenues to the state from a property sale because the consideration is paid in exchange for a property interest in a qualified state asset and constitutes revenues from a property sale, and such revenues are therefore excluded from state fiscal year spending.

(2) The general assembly further finds and declares that:

(a) Section 20 of article X of the state constitution requires voter approval in advance for creation of any multiple-fiscal year financial obligation whatsoever without adequate present cash reserves pledged irrevocably and held for payments in all future fiscal years.

(b) The sublease of a qualified state capital asset from a private person to the state under a leveraged leasing agreement is a multiple-fiscal year financial obligation of the state under section 20 of article X of the state constitution, but the state may enter into a leveraged leasing agreement without voter approval in advance because a leveraged leasing agreement requires the state to deposit into a specified account adequate cash reserves pledged irrevocably for sublease payments in all future fiscal years.

Source: L. 2003: Entire part added, p. 1717, § 1, effective May 14.

24-82-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Leveraged leasing agreement" means an agreement or a series of agreements between the state and a private person under which:

(a) In exchange for monetary consideration paid in a lump sum when the lease closes, the state leases a qualified state capital asset to a private person for a term of sufficient length to allow the private person to depreciate the asset for federal income tax purposes under the federal "Internal Revenue Code of 1986", as amended, or any successor provision thereto, and retains a right to cancel the lease in exchange for specified consideration;

(b) The private person subleases the qualified state capital asset back to the state pursuant to a sublease contract that:

(I) Is for a term shorter than the term of the lease;

(II) Gives the private person leasehold rights in the asset; and

(III) Requires an amount of the monetary consideration paid in a lump sum to the state when the lease closes that is adequate to meet all lease payments to be made by the state under the terms of the sublease contract to be deposited into a specified account established pursuant to the sublease contract as adequate cash reserves pledged irrevocably for sublease payments in all future fiscal years; and

(c) The state retains the right to the use of the qualified state capital asset for the duration of the term of the sublease.

(2) "Qualified state capital asset" or "asset" means qualified technological equipment as defined by section 168 (i)(2)(A) of the federal "Internal Revenue Code of 1986", as amended, or any successor provision thereto.

Source: L. 2003: Entire part added, p. 1718, § 1, effective May 14. **L. 2004:** (2) amended, p. 1056, § 3, effective May 21.

24-82-1003. Leveraged leasing. (1) On and after May 14, 2003, the executive director of the department of personnel, with the approval of the director of the office of state planning and budgeting, may enter into leveraged leasing agreements on behalf of the state.

(2) The executive director of the department of personnel may retain attorneys, consultants, or financial professionals to the extent necessary to protect the interests of the state and to ensure the proper execution of a leveraged leasing agreement. The executive director shall use a competitive selection process approved by the director of the office of state planning and budgeting to select any attorneys, consultants, or financial professionals to be retained, but execution of such retention agreements shall not be governed by the "Procurement Code", articles 101 to 112 of this title. Any fees charged by any persons retained shall be paid only from the lump sum paid to the state in connection with the leveraged leasing agreement and shall not be paid from any other source.

(3) The state treasurer shall credit all monetary consideration paid in a lump sum to the state under the terms of a leveraged leasing agreement when the agreement closes that is not required to be deposited into a specified account established pursuant to a sublease contract as adequate cash reserves pledged irrevocably for sublease payments in all future fiscal years to the controlled maintenance trust fund created in section 24-75-302.5.

Source: L. 2003: Entire part added, p. 1719, § 1, effective May 14. **L. 2004:** (1) amended, p. 1057, § 4, effective May 21.

24-82-1004. Leased assets not subject to taxation. A qualified state capital asset that is the subject of a leveraged leasing agreement shall be treated for tax purposes as tax-exempt property owned by the state.

Source: L. 2003: Entire part added, p. 1719, § 1, effective May 14.

24-82-1005. Liability not created by leveraged leasing agreement - indemnification agreements. (1) The lease of a qualified state capital asset by the state to a private person and the sublease of the asset back to the state by the private person pursuant to a leveraged leasing agreement shall not cause the private person to whom the qualified state capital asset is being leased to incur any liability in any type of action by virtue of the private person's status as a lessor under the leveraged leasing agreement.

(2) As part of a leveraged leasing agreement, the executive director of the department of personnel, with the approval of the director of the office of state planning and budgeting, may enter into an indemnity agreement with the private person to whom the qualified state capital asset is being leased.

Source: L. 2003: Entire part added, p. 1719, § 1, effective May 14. **L. 2004:** Entire section amended, p. 1057, § 5, effective May 21.

PART 11

SALES OF STATE PROPERTY AND LEASE-PURCHASE AGREEMENTS

24-82-1101 to 24-82-1103. (Repealed)

Editor's note: (1) Section 24-82-1103 provided for the repeal of this part 11, effective July 1, 2006, unless the executive director of the department of personnel entered into at least one property sale agreement pursuant to this part 11. No such contract had been entered into as of July 1, 2006. (See L. 2005, p. 1337.)

(2) This part 11 was added in 2003, repealed in 2004, recreated and reenacted in 2005, and repealed in 2006. This part 11 was not amended prior to its repeal in 2006. For the text of this part 11 prior to 2006, consult the 2005 San Andreas Revised Statutes.

PART 12

LEASES OF BUILDING PROJECTS

24-82-1201. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Approved building project" means a capital construction project involving a lease that receives approval from the capital development committee and the joint budget committee pursuant to section 24-82-1202 (2).

(2) "Commission" means the San Andreas commission on higher education established pursuant to section 23-1-102, S.A.R.S.

(3) "State department" means a department or agency of the state, but does not include the legislative department when acting pursuant to section 2-2-320 (2)(b), S.A.R.S.

Source: L. 2005: Entire part added, p. 1333, § 1, effective June 3. **L. 2010:** (3) amended, (HB 10-1020), ch. 111, p. 370, § 4, effective April 15.

24-82-1202. Leases of buildings. (1) Subject to the provisions of this part 12, the executive director of a state department, or the governing board of an institution of higher education, is authorized to execute a lease agreement for up to thirty years for the rental of an approved building project.

(2) (a) Prior to executing a lease agreement authorized pursuant to this part 12, the executive director of the leasing state department shall submit a report to the office of state planning and budgeting on the proposed approved building project, including the proposed terms of the lease agreement, through the budgeting process established pursuant to section 24-37-304. If the office of state planning and budgeting approves the proposed approved building project and the lease, it shall make recommendations concerning the proposed approved building project and the lease to the capital development committee. If the capital development committee

approves the proposed approved building project and the lease for the proposed approved building project, it shall make recommendations concerning the proposed approved building project and the lease to the joint budget committee. Following receipt of the recommendations, if the joint budget committee approves the proposed approved building project and the lease, it shall include any necessary moneys for the approved building project in its recommendations for the next long appropriations bill.

(b) Prior to executing a lease agreement authorized pursuant to this part 12, the governing board of a leasing institution of higher education shall submit a report to the San Andreas commission on higher education on the proposed approved building project, including the proposed terms of the lease agreement, pursuant to the provisions of section 23-1-106, S.A.R.S. If the proposed approved building project does not require the approval of the capital development committee pursuant to section 23-1-106, S.A.R.S., the commission may approve the proposed approved building project and the lease. If the proposed approved building project is subject to the approval of the capital development committee pursuant to section 23-1-106, S.A.R.S., and if the commission approves the proposed approved building project and the lease, the commission shall make recommendations concerning the proposed approved building project and the lease to the capital development committee. If the capital development committee approves the proposed approved building project and the lease for the proposed approved building project, it shall make recommendations concerning the proposed approved building project and the lease to the joint budget committee. Following receipt of the recommendations, if the joint budget committee approves the proposed approved building project and the lease, it shall include any necessary moneys for the approved building project in its recommendations for the next general appropriation bill.

Source: L. 2005: Entire part added, p. 1333, § 1, effective June 3.

24-82-1203. Payment obligations subject to annual appropriation by the general assembly. Each lease agreement entered into pursuant to the provisions of this part 12 shall provide that all payment obligations of the state under the lease agreement are subject to annual appropriation by the general assembly and that the obligations shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the San Andreas constitution or the laws of the state of San Andreas concerning or limiting the creation of indebtedness by the state of San Andreas.

Source: L. 2005: Entire part added, p. 1334, § 1, effective June 3.

24-82-1204. Terms and conditions of lease agreements. (1) A lease agreement, financed purchase of an asset agreement, or certificate of participation agreement entered into pursuant to this part 12 may contain such terms, provisions, and conditions as the executive director of the leasing state department or the governing board of the leasing institution may deem appropriate. Any lease agreement entered into pursuant to this part 12 shall comply with the requirements of section 24-82-801.

(2) As used in this section:

(a) "Certificate of participation" means any certificate evidencing a participation right of a proportionate interest in any financing agreement or the right to receive proportionate payments from the state or an agency due under any financing agreement.

(b) "Financed purchase of an asset" means a financing agreement that includes the purchase of an asset.

Source: L. 2005: Entire part added, p. 1335, § 1, effective June 3. **L. 2009:** Entire section amended, (HB 09-1218), ch. 132, p. 573, § 7, effective July 1. **L. 2021:** Entire section amended, (HB 21-1316), ch. 325, p. 2047, § 60, effective July 1.

24-82-1205. Ancillary agreements. The executive director of a leasing state department or the governing board of the leasing institution may enter into or execute, or may negotiate with an officer of the state to enter into or execute, a deed, conveyance, escrow agreement, or other agreement or instrument that he or she or the board deems necessary or appropriate in connection with a lease agreement entered into pursuant to this part 12.

Source: L. 2005: Entire part added, p. 1335, § 1, effective June 3.

24-82-1206. Fiscal rules inapplicable - independent powers. (1) The provisions of section 24-30-202 (5)(b) shall not apply to a lease agreement or ancillary agreement entered into pursuant to this part 12. Any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) or (13) which the controller deems to be incompatible with or inapplicable to a lease agreement entered into pursuant to this part 12 or ancillary agreement may be waived by the controller or his or her designee.

(2) The powers conferred by this part 12 are in addition to any other law, and the limitations imposed by any other law shall not affect the powers conferred by this part 12.

Source: L. 2005: Entire part added, p. 1335, § 1, effective June 3.

24-82-1207. Inapplicability of part 7. The provisions of part 7 of this article shall not apply to leases entered into pursuant to this part 12.

Source: L. 2005: Entire part added, p. 1335, § 1, effective June 3.

PART 13

FINANCED PURCHASE OF AN ASSET OR CERTIFICATE OF PARTICIPATION AGREEMENTS FOR STATE PROPERTY

Cross references: For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of San Andreas 2017.

24-82-1301. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Due to insufficient funding, necessary high-priority state highway projects and state capital construction projects, including projects at state institutions of higher education, in all areas of the state have been delayed, and the state has also delayed critical controlled maintenance and upkeep of state capital assets;

(b) By issuing financed purchase of an asset or certificate of participation agreements using state buildings as collateral as authorized by this part 13, the state can generate sufficient funds to accelerate the completion of many of the necessary high-priority state highway projects and capital construction projects that have been delayed and better maintain and preserve existing state capital assets;

(c) It is the intent of the general assembly that a majority of the additional funding for state capital construction projects realized from issuing financed purchase of an asset or certificate of participation agreements be used for controlled maintenance and upkeep of state capital assets.

Source: L. 2017: Entire part added, (SB 17-267), ch. 267, p. 1442, § 12, effective May 30. **L. 2021:** (1)(b) and (1)(c) amended, (HB 21-1316), ch. 325, p. 2047, § 61, effective July 1.

24-82-1302. Definitions. As used in this part 13, unless the context otherwise requires:

(1) "Capital construction" has the same meaning as set forth in section 24-30-1301 (2).

(2) "Controlled maintenance" has the same meaning as set forth in section 24-30-1301 (4).

(3) "Eligible state facility" means any financially unencumbered state-owned asset, including, without limitation, any building, structure, facility, or land determined to be eligible by a governing board of a state institution of higher education, but does not include any asset, building, structure, facility, or land that is part of the state emergency reserve for any state fiscal year as designated in the annual general appropriation act.

(4) "State institution of higher education" means a state institution of higher education, as defined in section 23-18-102 (10), and the Auraria higher education center created in article 70 of title 23.

Source: L. 2017: Entire part added, (SB 17-267), ch. 267, p. 1443, § 12, effective May 30. **L. 2022:** (3) amended, (SB 22-025), ch. 386, p. 2753, § 3, effective August 10.

24-82-1303. Financed purchase of an asset or certificate of participation agreements for capital construction and transportation projects.

(1) Repealed.

(2) (a) Notwithstanding the provisions of sections 24-82-102 (1)(b) and 24-82-801, and pursuant to section 24-36-121, no sooner than July 1, 2018, the state, acting by and through the state treasurer, shall execute financed purchase of an asset or certificate of participation agreements, each for no more than twenty years of annual payments, for the projects described in subsection (4) of this section. The state shall execute the financed purchase of an asset or certificate of participation agreements as soon as possible after July 1 of the applicable state fiscal year only in accordance with the following schedule:

(I) During the 2018-19 state fiscal year, the state shall execute financed purchase of an asset or certificate of participation agreements in an amount up tofive hundred million dollars;

(II) During the 2019-20 state fiscal year, the state shall execute financed purchase of an asset or certificate of participation agreements in an amount up to five hundred million dollars;

(III) During the 2020-21 state fiscal year, the state shall execute financed purchase of an asset or certificate of participation agreements in an amount up to five hundred million dollars; and

(IV) During the 2021-22 fiscal year, the state shall execute financed purchase of an asset or certificate of participation agreements in an amount up to five hundred million dollars.

(b) The anticipated annual state-funded payments for the principal and interest components of the amount payable under all financed purchase of an asset or certificate of participation agreements entered into pursuant to subsection (2)(a) of this section shall not exceed one hundred fifty million dollars.

(c) The state, acting by and through the state treasurer, at the state treasurer's sole discretion, may enter into one or more financed purchase of an asset or certificate of participation agreements authorized by subsection (2)(a) of this section with any for-profit or nonprofit corporation, trust, or commercial bank as a trustee as the seller.

(d) Any financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section shall provide that all of the obligations of the state under the agreement are subject to the action of the general assembly in annually making money available for all payments thereunder. Payments under any financed purchase of an asset or certificate of participation agreement must be made, subject to annual allocation pursuant to section 43-1-113 by the transportation commission created in section 43-1-106 (1) or subject to annual appropriation by the general assembly, as applicable, from the following sources of money:

(I) First, nine million dollars annually, or any lesser amount that is sufficient to make each full payment due, shall be paid from the general fund or any other legally available source of money for the purpose of fully funding the controlled maintenance and capital construction projects in the state to be funded with the proceeds of financed purchase of an asset or certificate of participation agreements as specified in subsection (4)(a) of this section;

(II) Next, fifty million dollars annually, or any lesser amount that is sufficient to make each full payment due, shall be paid from any legally available money under the control of the transportation commission solely for the purpose of allowing the construction, supervision, and maintenance of state highways to be funded with the proceeds of financed purchase of an asset or certificate of participation agreements as specified in subsection (4)(b) of this section and section 43-4-206 (1)(b)(V); except that, for payments due during state fiscal years 2020-21 and 2021-22, sixty-two million dollars annually, or any lesser amount that is sufficient to make each full payment due shall be paid from such legally available money for said purpose; and

(III) The remainder of the amount needed, in addition to the amounts specified in subsections (2)(d)(I) and (2)(d)(II) of this section, to make each full payment due shall be paid from the general fund or any other legally available source of money.

(e) Each agreement must also provide that the obligations of the state do not create state debt within the meaning of any provision of the state constitution or state law concerning or limiting the creation of state debt and are not a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution. If the state does not renew a financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section, the sole

security available to the seller is the property that is the subject of the nonrenewed financed purchase of an asset or certificate of participation agreement.

(f) A financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section may contain such terms, provisions, and conditions as the state treasurer, acting on behalf of the state, deems appropriate, including all optional terms; except that each financed purchase of an asset or certificate of participation agreement must specifically authorize the state or the governing board of the applicable state institution of higher education to receive fee title to all real and personal property that is the subject of the financed purchase of an asset or certificate of participation agreement on or before the expiration of the terms of the agreement.

(g) Any financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section may provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the financed purchase of an asset or certificate of participation agreement. The instruments may be issued, distributed, or sold only by the seller or any person designated by the seller and not by the state. The instruments do not create a relationship between the purchasers of the instruments and the state or create any obligation on the part of the state to the purchasers. The instruments are not notes, bonds, or any other evidence of state debt within the meaning of any provision of the state constitution or state law concerning or limiting the creation of state debt and are not a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(h) Interest paid under a financed purchase of an asset or certificate of participation agreement authorized pursuant to subsection (2)(a) of this section, including interest represented by the instruments, is exempt from San Andreas income tax.

(i) The state, acting by and through the state treasurer and the governing boards of the institutions of higher education, is authorized to enter into ancillary agreements and instruments that are necessary or appropriate in connection with a financed purchase of an asset or certificate of participation agreement, including but not limited to deeds, ground leases, sub-leases, easements, or other instruments relating to the real property on which the facilities are located.

(j) The provisions of section 24-30-202 (5)(b) do not apply to a financed purchase of an asset or certificate of participation agreement executed as required by or to any ancillary agreement or instrument entered into pursuant to this subsection (2). The state controller or his or her designee shall waive any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13) that the state controller finds incompatible or inapplicable with respect to a financed purchase of an asset or certificate of participation agreement or an ancillary agreement or instrument.

(3) (a) Before executing a financed purchase of an asset or certificate of participation agreement required by subsection (2)(a) of this section, in order to protect against future interest rate increases, the state, acting by and through the state treasurer and at the discretion of the state treasurer, may enter into an interest rate exchange agreement pursuant to article 59.3 of title 11. A financed purchase of an asset or certificate of participation agreement executed as required by subsection (2)(a) of this section is a proposed public security for the purposes of article 59.3 of title 11. Any payments made by the state under an agreement entered into pursuant to this subsection (3) must be made solely from money made available to the state treasurer from the

execution of a financed purchase of an asset or certificate of participation agreement or from money described in subsections (2)(d)(I) and (2)(d)(II) of this section.

(b) Any agreement entered into pursuant to this subsection (3) must also provide that the obligations of the state do not create state debt within the meaning of any provision of the state constitution or state law concerning or limiting the creation of state debt and are not a multiple fiscal-year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution.

(c) Any money received by the state under an agreement entered into pursuant to this subsection (3) shall be used to make payments on financed purchase of an asset or certificate of participation agreements entered into pursuant to subsection (2) of this section or to pay the costs of the project for which a financed purchase of an asset or certificate of participation agreement was executed.

(4) Proceeds of financed purchase of an asset or certificate of participation agreements executed as required by subsection (2)(a) of this section shall be used as follows:

(a) (I) The first one hundred twenty million dollars of the proceeds of financed purchase of an asset or certificate of participation agreements issued during the 2018-19 state fiscal year shall be used for controlled maintenance and capital construction projects in the state as follows:

(A) Thirteen million six thousand eighty-one dollars for level I controlled maintenance;

(B) Sixty million six hundred thirty-seven thousand three hundred five dollars for level II controlled maintenance;

(C) Forty million two hundred nine thousand five hundred thirty-five dollars for level III controlled maintenance; and

(D) The remainder for capital construction projects as prioritized by the capital development committee.

(II) The capital development committee shall post the list of specific controlled maintenance projects and the cost of each project funded pursuant to subsection (4)(a)(I)(A), (4)(a)(I)(B), or (4)(a)(I)(C) of this section on its official website no later than May 11, 2017.

(III) When the actual cost of a controlled maintenance project funded from the proceeds of the financed purchase of an asset or certificate of participation agreements executed as required by subsection (2)(a) of this section, as specifically set forth in subsections (4)(a)(I)(A) through (4)(a)(I)(C) of this section, is less than the amount specifically earmarked for such project, the executive director may utilize the savings to cover any additional cost of any other controlled maintenance project funded from the proceeds of the financed purchase of an asset or certificate of participation agreements executed as required by subsection (2)(a) of this section, as specifically set forth in subsections (4)(a)(I)(A) through (4)(a)(I)(C) of this section; except that the executive director's authority to use savings for other controlled maintenance projects may not in any way exceed the total allocation of one hundred thirteen million eight hundred fifty-two thousand nine hundred twenty-one dollars.

(a.5) Of the proceeds of financed purchase of an asset or certificate of participation agreements executed as required by subsection (2)(a)(II) of this section, the lesser of all proceeds in excess of five hundred million dollars or forty-nine million dollars of such excess proceeds shall be credited to the capital construction fund created in section 24-75-302 (1)(a) and appropriated only for controlled maintenance projects, including controlled maintenance projects that are capital renewal projects, in the state.

(b) The remainder of the proceeds shall be credited to the state highway fund created in section 43-1-219 and used by the department of transportation in accordance with section 43-4-206 (1)(b)(V).

Source: L. 2017: Entire part added, (SB 17-267), ch. 267, p. 1443, § 12, effective May 30. **L. 2018:** (1) repealed and (2)(a), (2)(b), and (2)(d)(II) amended, (SB 18-001), ch. 353, p. 2097, § 3, effective (see editor's note); (1)(b) added by revision, (SB 18-001), ch. 353, pp. 2097, 2109, §§ 3, 13. **L. 2019:** (1) repealed, (SB 19-263), ch. 334, p. 3084, § 4, effective May 29; (4)(a)(III) added, (HB 19-1012) ch. 27, p. 88, § 1, effective August 2. **L. 2020:** (2)(d)(II) amended, (HB 20-1376), ch. 207, p. 1015, § 2, effective June 30; (4)(a.5) added, (HB 20-1377), ch. 191, p. 883, § 1, effective June 30. **L. 2021:** (2)(b) and (2)(d)(II) repealed, (SB 21-260), ch. 250, p. 1385, § 9, effective June 17; IP(2)(a), (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(b), (2)(c), IP(2)(d), (2)(d)(I), (2)(d)(II), (2)(e), (2)(f), (2)(g), (2)(h), (2)(i), (2)(j), (3)(a), (3)(c), IP(4), IP(4)(a)(I), (4)(a)(III), and (4)(a.5) amended, (HB 21-1316), ch. 325, pp. 2048, 2051, 2052, §§ 62, 63, 64, effective July 1.

Editor's note: Subsections (2)(b) and (2)(d)(II) were amended in HB 21-1316, effective July 1, 2021. However, those amendments were superseded by the repeal of subsections (2)(b) and (2)(d)(II) by SB 21-260, effective June 17, 2021.

Cross references: (1) For the legislative declaration in SB 18-001, see section 1 of chapter 353, Session Laws of San Andreas 2018.

(2) For the legislative declaration in SB 21-260, see section 1 of chapter 250, Session Laws of San Andreas 2021.

ARTICLE 82.5

Tobacco Litigation Settlement Financing Corporation

24-82.5-101 to 24-82.5-118. (Repealed)

Editor's note: (1) This article was added in 2003 and was not amended prior to its repeal in 2003. For the text of this article, consult the 2003 San Andreas Revised Statutes.

(2) Section 24-82.5-118 provided for the repeal of this article, effective December 15, 2003, unless the state treasurer and the tobacco litigation settlement financing corporation entered into at least one property sale contract pursuant to article 82.5 of this title. No such contract had been entered into as of December 15, 2003. (See L. 2003, p. 2543.)

STATE ASSISTANCE - DENVER CONVENTION CENTER

ARTICLE 83

State Assistance - Denver Convention Center

24-83-101. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The location, construction, operation, and maintenance of a convention center within the boundaries of the city and county of Denver affects and impacts the people of all areas of this state;

(b) The location, construction, operation, and maintenance of a convention center within the boundaries of the city and county of Denver will promote diversified economic development across this state;

(c) The location, construction, operation, and maintenance of a convention center within the boundaries of the city and county of Denver with statewide impact is a matter of statewide concern;

(d) Cooperation by the state and the city and county of Denver in the location, construction, operation, and maintenance of such convention center with statewide impact will serve a public use and will promote the health, safety, security, and general welfare of the people of the state of San Andreas;

(e) In consideration of the statewide impact, the convention center should be named "the San Andreas convention center".

Source: L. 87: Entire article added, p. 1120, § 1, effective June 25.

24-83-102. State assistance for payment of obligations. (1) In 1987, the general assembly authorized state assistance to the city and county of Denver in connection with land acquisition for the proposed Denver convention center, in accordance with the provisions of this article.

(2) A contract, referred to in this article as the "contract", to accomplish the provisions of this article was required to be and was negotiated between the city and county of Denver and the state of San Andreas, acting through the department of personnel. The contract was required to contain as a minimum the requirements of this article which relate to the mutual obligations of the city and county of Denver and of the state, and the provisions of this article which relate to the obligations that continue after the completion of the state's payment obligations shall continue to be contained in a contract between the city and county of Denver and the state.

(3) The contract provides that the state was obligated to pay six million dollars to the city and county of Denver on July 1, 1988, and on July 1 of each year thereafter through July 1, 1993. The total of such payments was thirty-six million dollars.

(4) The contract provides that amounts paid to the city and county of Denver pursuant to subsection (3) of this section were required to be applied for the payment of the obligations of the city and county in connection with its acquisition of land as the site for the proposed Denver convention center.

(5) and (6) (Deleted by amendment, L. 94, p. 497, § 1, effective March 31, 1994.)

Source: L. 87: Entire article added, p. 1121, § 1, effective June 25. **L. 94:** Entire section amended, p. 497, § 1, effective March 31. **L. 95:** (2) amended, p. 660, § 88, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (2), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-83-103. Proposal selection - criteria - committee created - timetable. (Repealed)

Source: L. 87: Entire article added, p. 1121, § 1, effective June 25. **L. 94:** Entire section repealed, p. 498, § 2, effective March 31.

24-83-104. Source of state payments - state executive committee. (Repealed)

Source: L. 87: Entire article added, p. 1123, § 1, effective June 25. **L. 93:** (1) amended, p. 2030, § 5, effective June 9. **L. 94:** Entire section repealed, p. 499, § 3, effective March 31.

24-83-105. Other contractual provisions. (1) The contract shall include the following provisions:

(a) Since the question of residency requirements as a condition of employment at a convention center facility constructed on land acquired with state assistance is a matter of statewide concern, a provision that no charter provision to require residency in the city and county of Denver shall be imposed or enforced at the convention center;

(b) Provisions by which the city and county of Denver agrees to make suitable display space, as defined by rules and regulations promulgated by the executive director of the department of personnel, available in the convention center on a time-share basis to counties, municipalities, and state agencies and private nonprofit or commercial organizations whose purpose is the promotion of tourism and of San Andreas businesses and products, in order that the entire state may share in the advertising opportunities provided by the convention center. The contract shall also include provisions which assure that appropriate space will be made available for the promotion of tourism, education, business, and agricultural efforts and activities outside the metropolitan area. Entities using the display space shall make their own determination as to whether union or nonunion labor or volunteers shall setup, service, or dismantle any displays; except that entities using the display space shall conform to any contracts executed before June 1, 1991.

Source: L. 87: Entire article added, p. 1123, § 1, effective June 25. **L. 91:** (1)(b) amended, p. 915, § 1, effective June 1. **L. 95:** (1)(b) amended, p. 661, § 89, effective July 1.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (1)(b), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-83-106. Department of personnel - authority to manage space. (1) The department shall establish a graduated fee schedule for the use of the display space in the convention center in a manner which will enable a wide variety of organizations to use the display space and which takes into account the different types, sizes, and financial ability of such organizations; except that no fees shall be assessed against any counties, municipalities, or state agencies for the use of such display space. The department shall collect only such fees as are necessary to pay for the expenses of the department which are not covered by other moneys available to the department. The revenue from such fees shall be credited to the convention center fund, which fund is hereby created. In addition to fees, the department is authorized to accept any other moneys available to the department for the purpose of utilizing the display

space, which other moneys shall include, but shall not be limited to, donations by public or private entities, loans from the state treasury, or other gifts, grants, or loans. Such moneys shall be credited to the convention center fund. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund.

(2) All moneys in the convention center fund shall be subject to annual appropriation by the general assembly to the department and shall only be used for the purchase of equipment, the production of programs, the costs of managing, scheduling, and promoting the display space, and any other reasonable and necessary expenses related to the utilization of such display space or any other duties of the department pursuant to this section.

(3) The executive director of the department may contract with any public or private entity to manage, schedule, or promote the display space.

Source: L. 91: Entire section added, p. 915, § 2, effective June 1. **L. 2000:** (1) amended, p. 1514, § 6, effective August 2.

INFORMATION TECHNOLOGY ACCESS FOR BLIND

ARTICLE 85

Information Technology Access for Individuals
Who are Blind or Visually Impaired

24-85-101. Legislative declaration. The general assembly finds that the state needs to improve access to information, including electronic information, for individuals with a disability.

Source: L. 2000: Entire article added, p. 1504, § 1, effective August 2. **L. 2021:** Entire section amended, (HB 21-1110), ch. 402, p. 2676, § 3, effective June 30.

24-85-102. Definitions. As used in this article 85, unless the context otherwise requires:

(1) "Access" means the ability to receive, use, and manipulate data and operate controls included in information technology.

(1.5) "Accessible" or "accessibility" means perceivable, operable, and understandable digital content that reasonably enables an individual with a disability to access the same information, engage in the same interactions, and enjoy the same services offered to other individuals, with the same privacy, independence, and ease of use as exists for individuals without a disability.

(2) "Blind or visually impaired individual" means an individual who:

(a) Has a visual acuity of 20/200 or less in the better eye with corrective lenses or has a limited field of vision so that the widest diameter of the visual field subtends an angle no greater than twenty degrees;

(b) Has a medically indicated expectation of visual deterioration; or

(c) Has a medically diagnosed limitation in visual functioning that restricts the individual's ability to read and write standard print at levels expected of individuals of comparable ability.

(2.3) "Disability" has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations.

(2.7) "Individual with a disability" has the same meaning as "qualified individual with a disability" as defined in subsection (5.5) of this section.

(3) Repealed.

(4) "Information technology" means all electronic information processing hardware and software, including telecommunications.

(5) "Nonvisual" means synthesized speech, Braille, and other output methods not requiring sight.

(5.3) "Office of information technology" means the office of information technology created in section 24-37.5-103.

(5.5) "Qualified individual with a disability" or "individual with a disability" has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., and its related amendments and implementing regulations.

(6) "State agency" means the state or any of its principal departments, agencies, or boards or commissions.

(7) "Telecommunications" means the transmission of information, images, pictures, voice, or data by radio, video, or other electronic or impulse means.

Source: L. 2000: Entire article added, p. 1504, § 1, effective August 2. **L. 2007:** (3) repealed, p. 918, § 22, effective May 17. **L. 2021:** IP amended and (1.5), (2.3), (2.7), (5.3), and (5.5) added, (HB 21-1110), ch. 402, p. 2676, § 4, effective June 30. **L. 2023:** (1.5) amended, (SB 23-244), ch. 100, p. 369, § 1, effective April 20.

24-85-103. Accessibility standards for individuals with a disability - appropriation - repeal. (1) The chief information officer in the office of information technology shall establish in rule pursuant to section 24-37.5-106 (4) accessibility standards for an individual with a disability for information technology systems employed by state agencies that:

(a) Provide an individual with a disability with access to information stored electronically by state agencies by ensuring compatibility with adaptive technology systems so that an individual with a disability has full and equal access when needed; and

(b) Are designed to present information, including prompts used for interactive communications, in formats intended for both visual and nonvisual use, such as the use of text-only options.

(1.5) The chief information officer in the office of information technology shall, consistent with the responsibilities of the office, promote and monitor the accessibility standards for individuals with a disability in the state's information technology infrastructure. Each state agency is directed to comply with the accessibility standards for individuals with a disability, established by the office of information technology pursuant to subsection (2.5) of this section, in the creation and promulgation of any online content and materials used by such state agency.

(2) The chief information officer in the office of information technology shall consult with state agencies and representatives of individuals with a disability in maintaining the accessibility standards for individuals with a disability described in subsection (1) of this section and the procurement criteria described in section 24-85-104.

(2.5) The chief information officer in the office of information technology shall promulgate rules that establish accessibility standards for individuals with a disability based on and including, but not limited to, the most recent web content accessibility guidelines promulgated and published by the world wide web consortium web accessibility initiative or the international accessibility guidelines working group, or any successor group or organization, or any subsequent updates or revisions to such guidelines by any successor group or organization when establishing the accessibility standards for individuals with a disability.

(3) On or before July 1, 2024, each state agency shall fully implement the accessibility standards for individuals with a disability. Any state agency not in compliance with the accessibility standards pursuant to subsection (2.5) of this section after July 1, 2024, is in violation of section 24-34-802 and is subject to the remedies for noncompliance set forth in section 24-34-802.

(4) (a) Any unexpended and unencumbered money appropriated to a department in a specific line item for information technology accessibility for fiscal year 2023-24 remains available for expenditure by the department through fiscal year 2025-26 without further appropriation for the department to comply with information technology accessibility standards. At the end of fiscal year 2025-26, money that is unexpended or unencumbered reverts to the fund from which it was appropriated.

(b) This subsection (4) is repealed, effective July 1, 2027.

Source: L. 2000: Entire article added, p. 1505, § 1, effective August 2. **L. 2007:** IP(1) and (2) amended, p. 917, § 17, effective May 17. **L. 2021:** Entire section amended, (HB 21-1110), ch. 402, p. 2677, § 5, effective June 30. **L. 2023:** IP(1), (1.5), (2.5), and (3) amended and (4) added, (SB 23-244), ch. 100, p. 369, § 2, effective April 20.

24-85-104. Procurement requirements - criteria - implementation. (1) The office of information technology shall approve minimum standards and criteria to be used in approving or rejecting procurements by state agencies for adaptive technologies for nonvisual or other disability access uses.

(2) Nothing in this article 85 requires the installation of software or peripheral devices used for accessibility for an individual with a disability when the information technology is being used by individuals who are not disabled. Nothing in this article 85 requires the purchase of adaptive equipment by a state agency.

(3) Notwithstanding subsection (2) of this section, the applications, programs, and underlying operating systems, including the format of the data, used for the manipulation and presentation of information must permit the installation and effective use of and be compatible with software and peripheral devices that provide accessibility to an individual with a disability.

(4) Compliance with the procurement requirements of this section must be achieved at the time of procurement of an upgrade or replacement of existing information technology equipment or software.

Source: L. 2000: Entire article added, p. 1505, § 1, effective August 2. **L. 2007:** (1) amended, p. 917, § 18, effective May 17. **L. 2021:** Entire section amended, (HB 21-1110), ch. 402, p. 2678, § 6, effective June 30.

LIBRARIES

ARTICLE 90

Libraries

Editor's note: This article was numbered as article 1 of chapter 84, S.A.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1979, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1979, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume. Former S.A.R.S. sections number are shown in editor's notes following the relocated sections.

Law reviews: For article, "The Regional Approach for Art, Culture, and Library Services", see 16 S.A. Law. 1975 (1987).

PART 1

LIBRARY LAW

24-90-101. Short title. This part 1 shall be known and may be cited as the "San Andreas Library Law".

Source: L. 79: Entire article R&RE, p. 983, § 1, effective July 1. **L. 80:** Entire section amended, p. 619, § 3, effective July 1.

Editor's note: This section is similar to former § 24-90-101 as it existed prior to 1979.

24-90-102. Legislative declaration. The general assembly hereby declares that it is the policy of this state, as a part of its provision for public education, to promote the establishment and development of all types of publicly supported free library service throughout the state to ensure equal access to information without regard to age, physical or mental health, place of residence, or economic status, to aid in the establishment and improvement of library programs, to improve and update the skills of persons employed in libraries through continuing education activities, and to promote and coordinate the sharing of resources among libraries in San Andreas and the dissemination of information regarding the availability of library services.

Source: L. 79: Entire article R&RE, p. 983, § 1, effective July 1.

Editor's note: This section is similar to former § 24-91-102 as it existed prior to 1979.

24-90-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Academic library" means a library established and maintained by a state-supported institution of higher education primarily for the use of its students and faculty.

(2) "County library" means a public library established and maintained by a county.

(3) "Governmental unit" means any county, city, city and county, town, or school district of the state of San Andreas.

(3.5) "Institutional library" means a library, with the exception of a law library, contained within a correctional, residential, or mental health facility operated by the state.

(4) "Joint library" means a library established and jointly funded through an agreement by two or more governmental units or by one or more governmental units and an institution of higher education providing at least two of the following types of library services: Academic, public, or school.

(4.5) "Legal service area" means the geographic area for which a public library has been established to offer services and from which, or on behalf of which, the library derives income. A "legal service area" shall be defined in terms of geographic units for which official population estimates can be obtained or derived annually from the San Andreas state data center. Legal service area population estimates shall be collected and reported according to guidelines developed by the state library. "Legal service area" includes any areas served under contract for which the library is the primary provider of library services and for which the library receives funds to serve.

(5) "Legislative body" means the body authorized to determine the amount of taxes to be levied in a governmental unit or in a library district or that undertakes other action on behalf of the governmental unit or library district as specified in this article. Governing bodies to which the term legislative body may apply include but are not limited to a board of county commissioners, a city council, a town board of trustees, or a library board of trustees as the context requires.

(5.5) "Library" means an entity that provides:

(a) An organized collection of printed or other resources or a combination of such resources;

(b) Paid staff;

(c) An established schedule in which services of the staff are available to its clientele; and

(d) The facilities necessary to support such collection, staff, and schedule.

(6) "Library district" means a public library established as its own taxing authority by one or more governmental units or parts thereof. A library district shall be a political subdivision of the state.

(7) "Library network" means libraries or other organizations cooperatively interconnected by communication links or channels which can be used for the exchange or transfer of materials and information.

(8) and (9) (Deleted by amendment, L. 2003, p. 2442, § 1, effective August 15, 2003.)

(9.5) "Metropolitan area" means a geographical area designated as a metropolitan area by the office of management and budget of the United States government.

(10) "Municipality" means any city or any town operating under general or special laws of the state of San Andreas or any home rule city or town, the charter or ordinances of which contain no provisions inconsistent with the provisions of this part 1.

(11) "Municipal library" means a public library established and maintained by a municipality.

(12) "Notice" means publication, once a week for two consecutive weeks, in one newspaper of general circulation in the library service area or proposed library service area or by more than one such newspaper if no single newspaper is generally circulated throughout said area. Not less than seven days, excluding the day of the first publication but including the day of the last publication, shall intervene between the first and last publications.

(13) (a) "Public library" means an administrative entity that is:

(I) Operated and maintained for the free use of the public residing within its legal service area;

(II) Operated and maintained in whole or in part with money derived from local taxation; and

(III) Open to the public a minimum number of hours per week in accordance with rules established by the state library.

(b) An administrative entity may provide public library services through a single public outlet or any combination of any of the following types of outlets: A central or main library, branch libraries, or bookmobiles.

(13.5) "Public library services" means services customarily provided by a public library.

(14) "Publicly supported library" means a library supported principally with money derived from taxation. Publicly supported libraries shall include all public libraries and may include academic libraries, school libraries, and special libraries.

(15) "Registered elector" or "elector" means a person who is registered to vote at general elections in this state.

(15.5) "Regional library authority" means a separate governmental entity created by an agreement entered into by any two or more governmental units for the purpose of providing and funding public library services to the residents of the governmental units that are parties to the agreement.

(16) "Regional library service system" means an organization of publicly supported member libraries, established to provide, develop, and coordinate cooperative interlibrary services within a designated geographical area, that is governed by an independent board.

(17) "Resource center" means a library designated through contractual arrangements with the state library to provide specialized, statewide library services.

(18) "School library" means a library established and maintained by a school district for the use of its students and staff as well as for the general public under such regulations as the board of education of the school district may prescribe.

(19) "Special library" means a library established and maintained primarily for the use of a specialized population, including libraries operated by an Indian tribe having a reservation in this state; except that, where the specialized population that is an Indian tribe having a reservation in this state requests classification of a library established and maintained for its use as a public library and the library satisfies the definition of a public library as specified in subsection (13) of this section, the library shall be treated as a public library for purposes of this article.

(20) (Deleted by amendment, L. 2003, p. 2442, § 1, effective August 15, 2003.)

(21) "State library" means the state library created pursuant to section 24-90-104.

Source: L. 79: Entire article R&RE, p. 983, § 1, effective July 1. **L. 83:** (3) amended and (4.5) and (8.5) added, p. 1016, § 1, effective June 2. **L. 87:** (6) amended, p. 319, § 58, effective

July 1. **L. 90:** Entire section R&RE, p. 1292, § 1, effective July 1. **L. 2003:** (3.5), (4.5), (5.5), (9.5), (13.5), and (15.5) added and (4), (5), (8), (9), (13), (14), (16), (19), and (20) amended, p. 2442, § 1, effective August 15. **L. 2009:** (4.5), (5), (6), and (15) amended, (HB 09-1072), ch. 74, p. 262, § 1, effective August 5.

Editor's note: This section is similar to former § 24-90-103 as it existed prior to 1979.

24-90-103.5. Acts and elections conducted pursuant to provisions that refer to qualified electors or registered electors. Any elections, and any acts relating thereto, carried out under this article, that were conducted prior to July 1, 2003, pursuant to provisions that refer to a qualified elector rather than a registered elector and that were valid when conducted shall be deemed and held to be legal and valid in all respects.

Source: L. 87: Entire section added, p. 319, § 59, effective July 1. **L. 2003:** Entire section amended, p. 2444, § 2, effective August 15.

24-90-104. State library created - administration. (1) The state library is created as a division of the department of education, and its operation is declared to be an essential administrative function of the state government. The state library is a **type 2** entity, as defined in section 24-1-105, and exercises its powers and performs its duties and functions under the department of education, the commissioner of education, and the state board of education.

(2) The commissioner of education, as ex officio state librarian, has charge and direction of the state library but may delegate to the assistant commissioner in charge of the state library any or all of the powers given to the state librarian in this article for such periods and under such restrictions as the commissioner sees fit, upon approval of the state board of education.

(3) The commissioner of education shall appoint an assistant commissioner, office of library services, in accordance with the provisions of section 13 of article XII of the state constitution. Said assistant commissioner shall have at least a master's degree from a library school accredited by the American library association and shall have at least seven years of progressively responsible library experience, five of which shall have been in administrative positions.

Source: L. 79: Entire article R&RE, p. 984, § 1, effective July 1. **L. 2003:** (2) amended, p. 2444, § 3, effective August 15. **L. 2022:** (1) amended, (SB 22-162), ch. 469, p. 3361, § 31, effective August 10.

Editor's note: This section is similar to former §§ 24-90-104, 24-90-105, and 24-90-106 as they existed prior to 1979.

Cross references: For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-90-105. Powers and duties of state librarian. (1) The state librarian has the following powers and duties with respect to the state library:

(a) (I) To make reasonable rules and regulations for the administration of the provisions of this part 1 and parts 2, 3, 4, and 5 of this article; for the use of state library materials; and for the purchase, control, and use of books and other resources;

(II) Rules promulgated under this part 1 are subject to section 24-4-103.

(b) To appoint all professional and clerical help in the state library, subject to the provisions of section 13 of article XII of the state constitution;

(c) To furnish or contract for the furnishing of library or information services to state officials and departments;

(d) To furnish or contract for the furnishing of library service to institutional libraries, and to make reasonable rules for the establishment, maintenance, and operation of institutional libraries; except that any such rules shall not conflict with any rules promulgated by the department of corrections;

(e) To furnish or contract for the furnishing of library services to persons who are blind and physically disabled, including persons who cannot use printed materials in their conventional format;

(f) To contract for the furnishing of library resources to ensure equal access to information for all Coloradans;

(g) To coordinate programs and activities of the regional library service systems, as provided by the rules of the regional library service system created in section 24-90-115;

(h) To provide for the collection, analysis, publication, and distribution of statistics and information relevant to the state library and to public, school, academic, and institutional libraries. Publications circulated in quantity outside the executive branch shall be issued in accordance with the provisions of section 24-1-136.

(i) To conduct or contract for research projects necessary to plan and evaluate the effectiveness of library programs in the state;

(j) To contract for the lending of books and other resources to publicly supported libraries and institutions, including, without limitation, the San Andreas resource center at the Denver public library and any other resource centers as may be designated;

(k) To report to the state board of education at such times and on such matters as the board may require;

(l) To accept gifts and bequests of money or property, and, subject to the terms of any gift or bequest and to applicable provisions of law, to hold in trust, invest, or sell any gift or bequest of money or property, and to use either the principal or interest or the proceeds of sale for programs or purposes specified in the gift or bequest as approved by the state board of education. The use of gifts and bequests shall be subject to audit by the state auditor or the state auditor's designee. The principal of any gift or bequest and the interest received thereon from investment shall be available for use by the state library in addition to any funds appropriated by the general assembly. The acceptance of any gift or bequest under this subsection (1)(l) shall not commit the state to any expenditure of state funds.

(m) To serve as the repository of the bylaws and the legal service area maps of all library districts within the state.

(2) The state librarian has the following powers and duties with respect to other publicly supported libraries in the state:

(a) To further library development and to provide for the supplying of consultative assistance and information to all types of publicly supported libraries in the state through field

visits, conferences, institutes, correspondence, statistical information, publications, and electronic media; and to do any and all things that may reasonably be expected to promote and advance library services;

(a.3) To develop and promulgate service standards for school, public, and institutional libraries to guide the development and improvement of such libraries; except that any such standards shall not conflict with any standards promulgated by the department of corrections;

(a.5) To encourage contractual and cooperative relations to enhance resource sharing among all types of libraries and agencies throughout the state;

(b) To serve as the agency of the state to receive and administer state or federal funds that may be appropriated to further library development within the state upon approval of the state librarian; except that this paragraph (b) shall not preclude other governmental units, including, but not limited to, municipalities, counties, a city and county, and library districts, from applying for, receiving, or administering such state or federal funds;

(c) To develop regulations under which state grants are distributed for assisting in the establishment, improvement, or enlargement of libraries or regional library service systems and to develop all necessary procedures to comply with federal regulations under which such grants are distributed for assisting in the establishment, improvement, or enlargement of libraries;

(d) (Deleted by amendment, L. 2003, p. 2445, § 5, effective August 15, 2003.)

(e) To cooperate with local legislative bodies, library boards, library advisory committees, appropriate professional associations, and other groups in the development and improvement of libraries throughout the state;

(f) To carry out the functions and responsibilities of the San Andreas virtual library network pursuant to part 3 of this article.

(g) To work with public libraries throughout the state to facilitate access to evidence-based training in the science of reading, as defined in section 24-90-121, for librarians and assist in identifying materials and activities for parents and children to improve literacy, as described in section 24-90-121.

Source: L. 79: Entire article R&RE, p. 985, § 1, effective July 1. **L. 80:** Entire section amended, pp. 619, 788, §§ 4, 22, effective July 1. **L. 81:** (1)(l) added, p. 1253, § 1, effective April 30. **L. 83:** (1)(a)(I) amended, p. 1160, § 18, effective April 26; (1)(h) amended, p. 838, § 57, effective July 1. **L. 90:** (2)(f) added, p. 1304, § 1, effective July 1. **L. 94:** (1)(e) amended, p. 1638, § 54, effective May 31. **L. 2000:** (1)(a)(I) amended, p. 1323, § 1, effective May 26. **L. 2003:** (1)(a)(I), (1)(d), (1)(g), (1)(h), (1)(i), (1)(j), (2)(a), (2)(b), (2)(d), and (2)(f) amended and (2)(a.3) and (2)(a.5) added, p. 2445, §§ 4, 5, effective August 15. **L. 2009:** (1)(m) added, (HB 09-1072), ch. 74, p. 263, § 2, effective August 5. **L. 2017:** (1)(l) amended, (SB 17-294), ch. 264, p. 1406, § 79, effective May 25. **L. 2022:** (1)(a)(II) amended, (SB 22-091), ch. 28, p. 168, § 5, effective August 10; (2)(g) added, (SB 22-004), ch. 280, p. 2022, § 6, effective August 10.

Editor's note: This section is similar to former §§ 24-90-107 and 24-90-108 as they existed prior to 1979.

24-90-105.5. Literacy support services for persons who are blind or print-disabled - authority of state librarian - fund. (1) The general assembly hereby declares that there is a growing need for reading services in San Andreas to serve the citizens of the state. The general

assembly recognizes that the state has numerous citizens who are blind or visually impaired or who have physical impairments which make the use of printed materials difficult or impossible and further recognizes that the aging of the population of San Andreas is increasing the number of such citizens. Because of the need for reading assistance to inform and inspire individuals who cannot use printed materials and because of the unique ability of radio reading services to reach individuals in every corner of the state who require reading services, the general assembly finds that radio reading services should be encouraged and should be made available throughout the state.

(2) In addition to any other powers granted to the state librarian under this article, the state librarian shall have the power with respect to the state library to contract with entities for the furnishing of radio reading services to individuals who are blind or visually impaired or who have physical disabilities which impair their use of printed materials.

(3) The furnishing of radio reading services shall include, but shall not be limited to, the production of reading service radio programs, the broadcast of reading services over a subcarrier frequency, and the provision of radio receivers to listeners for use in receiving reading service broadcasts.

(4) The reading materials for radio reading services shall include, but shall not be limited to, newspapers, periodicals, local calendars of events, consumer information, best seller books, and information concerning pending legislative matters.

(5) The general assembly recognizes the importance of privately operated reading services to enable persons who are blind or print-disabled to gain access to otherwise inaccessible print materials. The state librarian has the authority to administer money in the reading services for the blind cash fund, which is created in the state treasury, for the support of privately operated reading services. The fund consists of any public or private money transferred, appropriated, or otherwise credited to the fund. All money credited to the fund and all interest earned on the investment of money in the fund is a part of the fund and must not be transferred or credited to the general fund or to any other fund except as directed by the general assembly acting by bill. The general assembly shall make annual appropriations from the reading services for the blind cash fund to the state librarian to carry out the purposes of this section.

(6) The services available through providers of on-demand news and information services to Coloradans who are blind or print-disabled must be expanded to enhance the ability of Coloradans who are blind or print-disabled to use the on-demand and information services, and to increase the number of Coloradans who are blind or print-disabled who are aware of such services. The on-demand news and information services must be expanded to include an enlarged array of information and literacy support services throughout the state, such as the provision of information about a variety of communication-related assistive technologies and blindness-related services, introductory training, and methods to find and use additional resources in or near communities where a person lives. The expanded services may include, but are not limited to:

(a) Information sharing, marketing of expanded services, and other methods for informing persons who are blind or print-disabled about the availability of these services;

(b) Support services for users to resolve technical questions about the services or the devices that might be used to access the information available through these services; and

(c) The provision of information about communication-related assistive technologies.

Source: L. 91: Entire section added, p. 906, § 1, effective March 11. **L. 93:** (2) amended, p. 1663, § 69, effective July 1. **L. 98:** (5) added, p. 1361, § 121, effective June 1. **L. 2024:** (5) amended and (6) added, (SB 24-153), ch. 479, p. 3362, § 1, effective June 7.

24-90-106. Participation of existing libraries in the formation of new libraries. (1) Any governmental unit of the state of San Andreas has the power to establish and maintain a public library under the provisions of this part 1, either by itself or in cooperation with one or more other governmental units. Whenever a county library or library district is proposed to be formed, specific written notification of the proposed establishment shall be given at least ninety days prior to anticipated action on the proposed establishment to each governmental unit maintaining a public library in the legal service area of the proposed library and the board of trustees of each library. The legislative body of any governmental unit that maintains a public library within the territory to be served by a county library or a library district or the board of trustees of an established library district shall decide, by resolution or ordinance, whether or not to participate in the county library or library district. If participation in the county library or library district is to be funded by any amount of tax levy not previously established by resolution or ordinance nor previously approved by the electors, the resolution or ordinance shall state that the electors of the library district or governmental unit must approve that levy before participation can be effected. Written notice of a decision not to participate shall be filed with the board of county commissioners in the case of a proposed county library or with the boards of county commissioners of each county having territory within the library's legal service area in the case of a proposed library district. The notice shall be filed at least thirty days prior to action being taken on the resolution or ordinance to create a county library or library district or on the resolution to conduct an election to create the county library or library district.

(2) and (3) (Deleted by amendment, L. 2003, p. 2446, § 6, effective August 15, 2003.)

Source: L. 79: Entire article R&RE, p. 986, § 1, effective July 1. **L. 80:** Entire section amended, p. 619, § 5, effective July 1. **L. 90:** Entire section amended, p. 1294, § 2, effective July 1. **L. 94:** (1) and (2) amended, p. 735, § 1, effective July 1. **L. 2003:** Entire section amended, p. 2446, § 6, effective August 15.

Editor's note: (1) This section is similar to former § 24-90-109 as it existed prior to 1979.

(2) Subsection (2) was relocated to 24-90-106.5. Subsection (3) was relocated to 24-90-113.3.

24-90-106.3. Inclusion of a governmental unit into an existing library district - procedure. (1) Any governmental unit sharing at least one common boundary with an existing library district may become part of the district upon a resolution executed by the board of trustees of the district and the adoption of an ordinance or resolution, as applicable, by the legislative body of the governmental unit approving the inclusion of the governmental unit into the district. If the tax levy imposed by the district pursuant to section 24-90-112 has not been previously approved by the registered electors of the governmental unit, the electors shall approve the levy before the governmental unit may be included in the district. Any such election shall be held in accordance with the requirements specified in section 20 of article X of the state

constitution, articles 1 to 13 of title 1, S.A.R.S., and article 10 of title 31, S.A.R.S., as applicable, and the election shall be held on the date of the state biennial general election, the first Tuesday in November in odd-numbered years, or, if the governmental unit is a municipality, on the date of the regular election of the municipality.

(2) Upon the inclusion of a governmental unit into a library district in accordance with the requirements of subsection (1) of this section, the legislative body of the governmental unit and the board of trustees of the district shall enter into a written agreement within ninety days of the election that sets forth fully the rights, obligations, and responsibilities, financial and otherwise, of the parties to the agreement.

(3) In the case of a governmental unit that has a portion included within a library district and a portion that is not included within the district, the governmental unit may follow the procedures specified in subsections (1) and (2) of this section to bring about the inclusion of the entire governmental unit into the district; except that, in such circumstances, only the registered electors residing within the portion of the governmental unit that is not included within the district at the time of the commencement of the inclusion proceedings shall be allowed to vote on the question of approval of the district tax levy.

Source: L. 2005: Entire section added, p. 325, § 1, effective April 20.

24-90-106.5. Establishment or removal of a municipal library in an existing county library or library district. If a municipality is in the legal service area of an existing county library or library district, public library service shall not be refused or discontinued other than as provided in this article. The municipality may establish its own municipal library only by choosing to do so by means of financial support that does not affect the financial support previously established for the county library or library district; except that the municipality and the county library or library district may, by mutual written agreement, permit a financing method for a municipal library that does affect the financial support previously established for the county library or library district. If establishment of the municipal library is to be funded by any amount of tax levy not previously established by resolution or ordinance nor previously approved by the electors of the municipality, the electors must approve that levy before the municipality can establish the library.

Source: L. 2003: Entire section added with relocations, p. 2447, § 7, effective August 15. **L. 2009:** Entire section amended, (HB 09-1072), ch. 74, p. 263, § 3, effective August 5.

Editor's note: This section was formerly numbered as § 24-90-106 (2).

24-90-107. Method of establishment. (1) A municipal or county library may be established for a governmental unit either by the legislative body of said governmental unit on its own initiative, by adoption of a resolution or ordinance to that effect, or upon petition of one hundred registered electors residing in the proposed library's legal service area. A joint library may be established by the legislative bodies of two or more governmental units, and a library district by the legislative bodies of one or more governmental units, each proceeding to adopt a resolution or an ordinance to that effect. A library district may also be formed by petition of one

hundred registered electors residing within the proposed library district addressed to the boards of county commissioners in each county in the proposed library district.

(2) If establishment of a municipal, county, or joint library or a library district is to be by resolution or ordinance, the following procedures shall be followed:

(a) A public hearing following notice shall be held by any governmental unit forming the public library. Such notice shall set forth the matters to be included in the resolution or ordinance and shall fix a date for the hearing that shall be not less than thirty nor more than sixty days after the date of first publication of such notice.

(b) Such public hearings shall include discussion of the purposes of the library to be formed and, where more than one governmental unit is involved, the powers, rights, obligations, and responsibilities, financial and otherwise, of each governmental unit.

(c) The resolution or ordinance shall describe the proposed library's legal service area, identifying any excluded areas, shall specify the mill levy and property tax dollars to be imposed or other type and amount of funding, and shall state that the electors of the governmental unit or library district must approve any amount of tax levy not previously established by resolution or ordinance nor previously approved by the electors before the library can be established.

(d) Upon the adoption of the resolution or ordinance, the legislative body or bodies shall establish the public library and provide for its financial support beginning on or before January 1 of the year following the adoption of the resolution or ordinance by all those legislative bodies effecting the establishment or, if any amount of tax levy not previously established by resolution or ordinance nor previously approved by the electors is to provide the financial support, following elector approval of that levy.

(e) Upon establishment of a joint library or library district, and after appointment of the library board of trustees, a written agreement between the legislative body of each participating governmental unit and the library board of trustees shall be effected within ninety days, which time frame may be extended by mutual agreement of the parties, and shall set forth fully the rights, obligations, and responsibilities, financial and otherwise, of all parties to the agreement, including provisions concerning:

(I) The transition from the library to a library district, such as ownership of the library's real and personal property, personnel, and the provision of administrative services during the transition;

(II) The method of trustee selection; and

(III) Such other necessary terms and conditions as may be determined by the parties.

(3) If establishment of a county or municipal library or a library district is by petition of registered electors, the following procedures shall be followed:

(a) The petition shall set forth:

(I) A request for the establishment of the library;

(II) The name or names of the governmental unit or units establishing the library;

(III) The name of the proposed library, and for a library district, the chosen name preceding the words "library district";

(IV) A general description of the legal service area of the proposed public library with such certainty as to enable a property owner to determine whether or not such property owner's property is within the proposed library's legal service area; and

(V) Specification of the mill levy to be imposed or other type and amount of funding and that the electors must approve any amount of tax levy not previously established by resolution or

ordinance nor previously approved by the electors before the county or municipal library or library district can be established.

(b) Petitions shall be addressed to the legislative body of the county or municipality, or, in the case of a library district, to the boards of county commissioners of each county having territory within the legal service area of the proposed district.

(c) (I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (c), at the time of filing the petition for the establishment of a library district, a bond shall be filed with the county or counties sufficient to pay all expenses connected with the organization of the library district if such organization is not affected.

(II) Except as otherwise provided in subparagraph (III) of this paragraph (c), the board of county commissioners of each county having territory within the legal service area of the proposed library district may:

(A) Waive the bonding requirement; and

(B) With the consent of the board of trustees of an existing library, pay for the costs of the election for the proposed library district. If the legal service area of a proposed library district includes two or more counties, the costs of election for such library district to be paid by any county pursuant to this sub-subparagraph (B) shall not exceed a percentage of said costs equal to the percentage that the population of the county within the boundaries of the legal service area bears to the total population within the boundaries of such service area.

(III) (A) Subject to the provisions of sub-subparagraphs (B) and (C) of this subparagraph (III), the board of county commissioners of each county having territory within the legal service area of the proposed library district shall pay no less than fifty percent of the costs of the election for such library district if the petition submitted pursuant to subsection (1) of this section contains signatures by registered electors residing in the proposed library district in an amount equal to at least five percent of the total number of votes cast in every precinct in the proposed library district for all candidates for the office of secretary of state at the previous general election.

(B) Payment of election costs for any library district shall not be required of any county under this subparagraph (III) more than once every four years.

(C) In the case where the legal service area of a proposed library district includes two or more counties, the costs of the election for the library district shall be paid on a prorated basis with each county within the boundaries of the proposed library's legal service area paying a percentage of said costs equal to the percentage that the population of the county within the boundaries of the library's legal service area bears to the total population of such service area.

(c.5) Notwithstanding any other provision of this section, the costs of the election of a proposed library district may be assumed by an existing library where the assumption of the costs has been approved by the board of trustees of said library.

(d) Upon receipt of such petition, the legislative body or bodies shall either establish the library by resolution or ordinance, in accordance with subsection (2) of this section, or shall submit the question of the establishment of a public library to a vote of the registered electors residing in the proposed library's legal service area in accordance with the following provisions:

(I) In the case of a municipal library, such election shall be held in accordance with article 10 of title 31, S.A.R.S., and section 20 of article X of the state constitution, and shall be held on the date of the state biennial general election, the first Tuesday in November in odd-

numbered years, or the municipal regular election, whichever is earliest; except that such petition shall be filed at least ninety days before such election.

(II) In the case of a library district or county library, such election shall be held in accordance with articles 1 to 13 of title 1, S.A.R.S., and section 20 of article X of the state constitution, and shall be held on the date of the state biennial general election or the first Tuesday in November in odd-numbered years, whichever is earliest; except that such petition shall be filed at least ninety days before such election.

(III) Public hearings shall be conducted by such legislative body or bodies prior to an election and shall include a discussion of the purposes of the library to be formed and, where more than one governmental unit is involved, the powers, rights, obligations, and responsibilities, financial and otherwise, of each governmental unit.

(e) and (f) (Deleted by amendment, L. 97, p. 411, § 1, effective April 24, 1997.)

(g) If a majority of the electors voting on the question vote in favor of the establishment of a library, the legislative body of each establishing governmental unit shall forthwith establish such library and provide for its financial support beginning on or before January 1 of the year following the election.

(h) Upon establishment of a library district, and after appointment of the library board of trustees, a written agreement between the legislative body of each participating governmental unit and the library board of trustees shall be effected within ninety days, which time frame may be extended by mutual agreement of the parties, and shall set forth fully the rights, obligations, and responsibilities, financial and otherwise, of all parties to the agreement, including provisions concerning:

(I) The transition from the library to a library district, such as ownership of the library's real and personal property, personnel, and the provision of administrative services during the transition;

(II) The method of trustee selection; and

(III) Such other necessary terms and conditions as may be determined by the parties.

(i) If organization of a library district is effected, the district shall reimburse the legislative bodies holding the election for expenses incurred in holding the election.

Source: L. 79: Entire article R&RE, p. 986, § 1, effective July 1. **L. 87:** (1) and (2) amended, p. 319, § 60, effective July 1. **L. 90:** Entire section R&RE, p. 1295, § 3, effective July 1. **L. 93:** (1) amended, p. 1462, § 8, effective June 6. **L. 94:** (2)(c), (2)(d), and (3)(a)(V) amended, p. 736, § 2, effective July 1. **L. 97:** (3)(c) to (3)(f) amended, p. 411, § 1, effective April 24. **L. 98:** (3)(c)(III)(A) amended, p. 831, § 59, effective August 5. **L. 2003:** (1), (2)(c), (3)(a)(IV), (3)(b), IP(3)(c)(II), (3)(c)(II)(B), (3)(c)(III)(A), (3)(c)(III)(C), and IP(3)(d) amended and (3)(c.5) added, p. 2447, § 8, effective August 15. **L. 2009:** (2)(a), (2)(e), and (3)(h) amended, (HB 09-1072), ch. 74, p. 263, § 4, effective August 5.

Editor's note: This section is similar to former §§ 24-90-110 and 24-90-111 as they existed prior to 1979.

24-90-108. Board of trustees of public libraries. (1) The management and control of any library established, operated, or maintained under the provisions of this part 1 shall be vested

in a board of not fewer than five nor more than seven trustees. Appointees to the library board of trustees shall be chosen from the residents within the legal service area of the library.

(2) (a) In cities and towns the trustees shall be appointed by the mayor with the consent of the legislative body.

(b) In counties the trustees shall be appointed by the board of county commissioners.

(c) In a library district established by only one governmental unit, the legislative body of the governmental unit shall decide the number of its members to be appointed to the committee formed to appoint the initial board of trustees in accordance with the requirements of this paragraph (c). In a library district established by more than one governmental unit, the legislative body of each participating governmental unit shall appoint two of its members to a committee that shall appoint the initial board of trustees. Thereafter, any such legislative body or bodies may either continue such a committee or delegate to the board of trustees of the library district the authority to recommend new trustees. Trustee appointments shall be ratified by a two-thirds majority of the legislative body; except that the failure of a legislative body to act within sixty days upon a recommendation shall be considered a ratification of such appointment.

(d) In school districts the trustees shall be appointed by the school board.

(e) For joint libraries, the trustees shall be appointed by the legislative bodies of the participating governmental units unless otherwise specified in the contract.

(3) (a) The first appointments of such boards of trustees shall be for terms of one, two, three, four, and five years respectively if there are five trustees, one for each of such terms except the five-year term for which two shall be appointed if there are six trustees, and one for each of such terms except the four-year and five-year terms for each of which two shall be appointed if there are seven trustees. Thereafter, a trustee shall be appointed for the length of term specified by the legislative body or, in the case of a library district, by the bylaws adopted by its board of trustees. The number of terms a trustee may serve shall be specified by the legislative body or, in the case of a library district, by the bylaws adopted by its board of trustees.

(b) Vacancies shall be filled for the remainder of the unexpired term as soon as possible in the manner in which trustees are regularly chosen.

(4) A trustee shall not receive a salary nor other compensation for services as a trustee, but necessary traveling and subsistence expenses actually incurred may be paid from the public library fund.

(5) A library trustee may be removed only by a majority vote of the appointing legislative body or bodies, but only upon a showing of good cause as defined in, but not limited to, the bylaws adopted by the board.

(6) The board of trustees, immediately after their appointment, shall meet and organize by the election of a president and a secretary and such other officers as deemed necessary.

Source: L. 79: Entire article R&RE, p. 987, § 1, effective July 1. **L. 80:** (1) amended, p. 619, § 6, effective July 1. **L. 90:** (1), (2)(c), (3)(a), and (5) amended and (2)(e) added, p. 1297, § 4, effective July 1. **L. 2003:** (1), (2)(c), and (3)(a) amended, p. 2449, § 9, effective August 15. **L. 2009:** (2)(c) amended, (HB 09-1072), ch. 74, p. 264, § 5, effective August 5.

Editor's note: This section is similar to former § 24-90-114 as it existed prior to 1979.

24-90-109. Powers and duties of board of trustees. (1) The board of trustees shall:

(a) Adopt such bylaws, rules, and regulations for its own guidance and policies for the governance of the library as it deems expedient. The bylaws shall include, but not be limited to, provisions for the definition of good cause to be applied in the removal of a trustee pursuant to section 24-90-108 (5); designation of those officers to be appointed or elected and the manner of such appointment or election; rules and regulations for the conducting of meetings; rules for public participation in meetings; and procedures for amending the bylaws. The bylaws of a library district shall further provide for the length and number of terms of board members. A copy of the bylaws shall be filed with the legislative body of each participating governmental unit and the state library in accordance with section 24-90-105 (1)(m).

(b) Have custody of all property of the library, including rooms or buildings constructed, leased, or set apart therefor;

(c) Employ a director and, upon the director's recommendation, employ such other employees as may be necessary. The duties of the director shall include, but not be limited to:

(I) Implementing the policies adopted by the board of trustees pursuant to paragraph (a) of subsection (1) of this section;

(II) Recommending individuals for employment by the board of trustees; and

(III) Performing all other acts necessary for the orderly and efficient management and control of the library.

(d) Submit annually a budget as required by law and certify to the legislative body of the governmental unit or units that the library serves the amount of the mill levy necessary to maintain and operate the library during the ensuing year;

(e) (I) In county and municipal libraries, have exclusive control and spending authority over the disbursement of the library funds as appropriated by its legislative body, including all assets of the public library fund, as set forth in section 24-90-112 (2)(a);

(II) In library districts, adopt a budget and make appropriations for the ensuing fiscal year as set forth in part 1 of article 1 of title 29, S.A.R.S., and have exclusive control and spending authority over the disbursement of library funds as set forth in section 24-90-112 (2)(a);

(f) Accept such gifts of money or property for library purposes as it deems expedient;

(g) Hold and acquire land by gift, lease, or purchase for library purposes;

(h) Lease, purchase, or erect any appropriate building for library purposes and acquire such other property as may be needed therefor;

(i) Sell, assign, transfer, or convey any property of the library, whether real or personal, which may not be needed within the foreseeable future for any purpose authorized by law, upon such terms and conditions as it may approve, and lease any such property, pending sale thereof, under an agreement of lease, with or without an option to purchase the same. The board, prior to the conveyance of such property, shall make a finding that the property may not be needed within the foreseeable future for library purposes, but no such finding shall be necessary if the property is sold or conveyed to a state agency or political subdivision of this state.

(j) Borrow funds for library purposes by means of a contractual short-term loan when moneys are not currently available but will be in the future. Such loan shall not exceed the amount of immediately anticipated revenues, and such loan shall be liquidated within six months.

(k) Authorize the bonding of persons entrusted with library funds;

(l) (I) In the case of a county or municipal library, submit financial records for audit as required by the legislative body of the appropriate governmental unit; or

(II) In the case of any library district, conduct an annual audit of the financial statements of the district.

(m) Adopt a policy for the purchase of library materials and equipment on the recommendation of the director;

(n) Hold title to property given to or for the use or benefit of the library, to be used according to the terms of the gift;

(o) (Deleted by amendment, L. 2009, (HB 09-1072), ch. 74, p. 265, § 6, effective August 5, 2009.)

(p) Have the authority to enter into contracts;

(p.5) Maintain a current, accurate map of the legal service area and provide for such map to be on file with the state library;

(q) Receive the true and correct copies of all school district collective bargaining agreements submitted pursuant to the "San Andreas School Collective Bargaining Agreement Sunshine Act", section 22-32-109.4, S.A.R.S., and create an electronic or physical repository for all of said current collective bargaining agreements at the library that is available to the public for inspection during regular business hours in a convenient and identified location.

(2) At the close of each calendar year, the board of trustees of every public library shall make a report to the legislative body of the town or city, in the case of a municipal library or library district formed by a municipality, or the board of county commissioners of each county having territory within the legal service area, in the case of a county library or library district, showing the condition of its trust during the year, the sums of money expended, and the purposes of the expenditures and such other statistics and information as the board of trustees deems to be of public interest.

(2.5) At the close of each calendar year, the board of trustees of every public library shall make a report to the state library in the form of a response to a survey to be designed and administered by the state library. The report shall contain such other statistics and information as may be required by the state library.

(3) The board of trustees of a public library or the governing board of any other publicly supported library, under such rules and regulations as it may deem necessary and upon such terms and conditions as may be agreed upon may allow nonresidents of the governmental unit which the library serves to use such library's materials and equipment and may make exchanges of books and other materials with any other library, either permanently or temporarily.

(4) In addition to the powers and duties of a board of trustees specified in subsection (1) of this section, the board of trustees of a school district supported public library, municipal library, county library, or a library district shall have the authority to request of the board of education in the case of a school district supported public library, the legislative body of the city or town in the case of a municipal library, or the board of county commissioners in the case of a county library or library district that an election be held to alter the maximum tax levied to support the school district supported public library, municipal library, county library, or library district pursuant to section 24-90-112 (1)(b)(III), in which case such board of education, legislative body, or board of county commissioners shall cause the vote to be held. For purposes of this subsection (4), "school district supported public library" means any library solely established and maintained by a school district for which such school district began levying a tax

before the enactment of the "San Andreas Library Law" on July 1, 1979. For all other purposes under this article, a school district supported public library shall be deemed a public library.

Source: L. 79: Entire article R&RE, p. 987, § 1, effective July 1. **L. 90:** (1)(a), (1)(e), and (2) amended and (1)(p) and (4) added, pp. 1298, 1299, §§ 5, 6, effective July 1. **L. 98:** (4) amended, p. 178, § 2, effective April 6. **L. 2001:** (1)(q) added, p. 169, § 3, effective August 8. **L. 2003:** (1)(l) and (2) amended and (2.5) added, p. 2450, § 10, effective August 15. **L. 2009:** (1)(a), (1)(b), (1)(c), (1)(d), (1)(m), (1)(o), (1)(q), (2), and (4) amended and (1)(p.5) added, (HB 09-1072), ch. 74, p. 265, § 6, effective August 5. **L. 2010:** (1)(m) amended, (HB 10-1422), ch. 419, p. 2089, § 82, effective August 11.

Editor's note: This section is similar to former § 24-90-115 as it existed prior to 1979.

Cross references: For the legislative declaration contained in the 1998 act amending subsection (4), see section 1 of chapter 70, Session Laws of San Andreas 1998.

24-90-110. Establishment of public library districts - merger of public library - board of trustees. (Repealed)

Source: L. 79: Entire article R&RE, p. 988, § 1, effective July 1. **L. 87:** (1)(a) amended, p. 319, § 61, effective July 1. **L. 90:** Entire section repealed, p. 1303, § 12, effective July 1.

Editor's note: This section was similar to former § 24-90-111 as it existed prior to 1979.

24-90-110.5. Metropolitan library districts - formation. (Repealed)

Source: L. 83: Entire section added, p. 1017, § 2, effective June 2. **L. 87:** (1) amended, p. 320, § 62, effective July 1. **L. 90:** (1) amended, p. 1299, § 7, effective July 1. **L. 94:** (1) amended, p. 737, § 3, effective July 1. **L. 2003:** Entire section repealed, p. 2478, § 34, effective August 15.

24-90-110.7. Regional library authorities. (1) (a) In order to support and provide for public library service on a regional basis, particularly in any region of the state lacking sufficient public library resources to adequately serve the needs of the public, any combination of two or more governmental units acting through their governing bodies, regardless of whether such unit currently maintains a public library, may, by contracting with or among each other, establish a separate governmental entity to be known as a regional library authority, referred to in this section as an "authority". Such authority may be used by such contracting member governmental units to effect the acquisition, construction, financing, operation, or maintenance of publicly supported library services on a regional basis within the jurisdiction of the authority. For purposes of this section, a governmental unit may include a library district within the meaning of section 24-90-103 (6).

(b) No such authority shall be formed pursuant to this section unless each of the contracting member governmental units forming such authority has passed a resolution or ordinance in accordance with the requirements of paragraph (d) of this subsection (1) and has

entered into a contract pursuant to section 29-1-203, S.A.R.S., for the creation, operation, and administration of such authority.

(c) (I) In connection with the establishment of an authority, at least one public hearing shall be conducted by each of the contracting member governmental units that intend to enter into a contract for the purpose of forming the authority. Any such hearing shall be preceded by adequate and timely notice of the time and place of the hearing. The notice shall specify the matters to be included in the resolution or ordinance and shall fix a date for the hearing that shall be held not less than thirty nor more than sixty days after the date of first publication of such notice.

(II) Any public hearing conducted in accordance with the requirement of subparagraph (I) of this paragraph (c) shall address, without limitation, the purposes of the authority, and, where more than one governmental unit is involved in the formation of the authority, the powers, rights, obligations, and responsibilities, financial and otherwise, of each governmental unit that is forming the authority.

(d) The resolution or ordinance to be adopted by each of the contracting member governmental units forming the authority in accordance with the requirements of paragraph (b) of this subsection (1) shall:

(I) Describe the legal service area of the authority;

(II) Describe the proposed governance of the authority; and

(III) State that the registered electors residing within the territorial boundaries of such contracting member governmental units shall approve any amount of sales or use tax, or both, in accordance with the requirements of paragraph (f) of subsection (3) of this section or an ad valorem tax in accordance with the requirements of paragraph (h) of subsection (3) of this section not previously approved by the electors before the authority shall levy such taxes.

(2) Upon establishment of an authority satisfying the requirements of this section, a contract between the legislative bodies of the contracting member governmental units, shall be effected within ninety days. Any contract establishing such authority shall, without limitation, specify:

(a) The name and purpose of such authority and the functions or services to be provided by such authority;

(b) The boundaries of the authority, which boundaries may include less than the entire area of any separate county, but shall not be less than the entire area of any municipality and any other governmental unit forming the authority, and may be modified after the establishment of the authority as provided in the contract;

(c) The establishment and organization of a governing body of the authority, which shall be a board of directors, referred to in this section as the "board of the authority", in which all legislative power of the authority is vested, including:

(I) The number of directors, their manner of appointment, their terms of office, their compensation, if any, and the procedure for filling vacancies on the board of the authority;

(II) The officers of the authority, the manner of their selection, and their duties;

(III) The voting requirements for action by the board of the authority; except that, unless specifically provided otherwise, a majority of directors shall constitute a quorum, and a majority of the quorum shall be necessary for any action taken by the board of the authority; and

(IV) The duties of the board of the authority, which shall include the obligation to comply with the provisions of parts 1, 5, and 6 of article 1 of title 29, S.A.R.S.;

(d) Provisions for the disposition, division, or distribution of any property or assets of the authority;

(e) The term of the contract, which may be continued for a definite term or until rescinded or terminated, and the method, if any, by which it may be rescinded or terminated; except that such contract may not be rescinded or terminated so long as the authority has bonds, notes, or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made pursuant to the terms of such obligations; and

(f) The expected sources of revenue of the authority and any requirements that contracting member governmental units consent to the levying of any taxes within the jurisdiction of such member. If the authority levies any taxes, the contract shall further include requirements that:

(I) Prior to and as a condition of levying any such taxes or fees, the board of the authority shall adopt a resolution determining that the levying of the taxes or fees will fairly distribute the costs of the authority's activities among the persons or communities benefited thereby and will not impose an undue burden on any particular group of persons or communities;

(II) Each such tax shall conform with any requirements specified in subsection (3) of this section; and

(III) The authority shall designate a financial officer who shall coordinate with the department of revenue regarding the collection of a sales and use tax authorized pursuant to paragraph (f) of subsection (3) of this section. This coordination shall include but not be limited to the financial officer identifying those businesses eligible to collect the sales and use tax and any other administrative details identified by the department.

(3) The general powers of such authority shall include the following powers:

(a) To acquire, construct, finance, operate, or maintain public library services located within the territorial boundaries of the authority;

(b) To make and enter into contracts with any person, including, without limitation, contracts with state or federal agencies, private enterprises, and nonprofit organizations also involved in providing such public library services or the financing for the services, irrespective of whether the agencies are parties to the contract establishing the authority;

(c) To employ agents and employees;

(d) To cooperate with state and federal governments in all respects concerning the financing of such library services;

(e) To acquire, hold, lease, as lessor or lessee, sell, or otherwise dispose of any real or personal property, commodity, or service;

(f) **[*Editor's note: This version of subsection (3)(f) is effective until July 1, 2025.*]**
(I) Subject to the provisions of subsection (9) of this section, to levy, in all of the area described in subparagraph (II) of this paragraph (f) within the boundaries of the authority, a sales or use tax, or both, at a rate not to exceed one percent, upon every transaction or other incident with respect to which a sales or use tax is levied by the state pursuant to the provisions of article 26 of title 39, S.A.R.S. The tax imposed pursuant to this paragraph (f) is in addition to any other sales or use tax imposed pursuant to law. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, to the extent feasible, in the manner provided in section 29-2-106, S.A.R.S. However, the executive director shall not begin the collection, administration, and enforcement of a sales and use tax until such time as the financial officer of the authority and the executive director have agreed on all necessary matters pursuant

to subparagraph (III) of paragraph (f) of subsection (2) of this section. The executive director shall begin the collection, administration, and enforcement of a sales and use tax on a date mutually agreeable to the department of revenue and the authority.

(II) The area in which the sales or use tax authorized by this paragraph (f) is levied shall not include less than the entire area of any municipality located within the area in which the tax will be levied. The area may also include portions of unincorporated areas located within a county.

(III) The executive director of the department of revenue shall make monthly distributions of the tax collections to the authority, which shall apply the proceeds solely to the acquisition, construction, financing, operation, or maintenance of public library services within the jurisdiction of the authority.

(IV) The department of revenue shall retain an amount not to exceed the cost of the collection, administration, and enforcement and shall transmit the amount retained to the state treasurer, who shall credit the same amount to the regional library authority sales tax fund, which fund is hereby created in the state treasury. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of the provisions of this section. Any moneys remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that prior to the transmission to the authority of such moneys, any moneys appropriated from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(f) **[*Editor's note: This version of subsection (3)(f) is effective July 1, 2025.*]**

(I) Subject to the provisions of subsection (9) of this section, to levy, in all of the area described in subsection (3)(f)(II) of this section within the boundaries of the authority, a sales or use tax, or both, at a rate not to exceed one percent, upon every transaction or other incident with respect to which a sales or use tax is levied by the state pursuant to the provisions of article 26 of title 39. The tax imposed pursuant to this subsection (3)(f) is in addition to any other sales or use tax imposed pursuant to law. The executive director of the department of revenue shall collect, administer, and enforce the sales or use tax, as provided in part 2 of article 2 of title 29.

(II) The area in which the sales or use tax authorized by this subsection (3)(f) is levied may not include less than the entire area of any municipality located within the area in which the tax will be levied. The area may also include portions of unincorporated areas located within a county.

(III) The authority shall apply monthly distributions received from the department of revenue pursuant to section 29-2-207 solely to the acquisition, construction, financing, operation, or maintenance of public library services within the jurisdiction of the authority.

(IV) The department of revenue shall retain an amount not to exceed the cost of the collection, administration, and enforcement and shall transmit the amount retained to the state treasurer, who shall credit the same amount to the regional library authority sales tax fund, which fund is hereby created in the state treasury. The amounts so retained are hereby appropriated annually from the fund to the department to the extent necessary for the department's collection, administration, and enforcement of the provisions of this section. Any money remaining in the fund attributable to taxes collected in the prior fiscal year shall be transmitted to the authority; except that prior to the transmission to the authority of such money, any money appropriated

from the general fund to the department for the collection, administration, and enforcement of the tax for the prior fiscal year shall be repaid.

(g) Notwithstanding any other provision of law, any sales tax authorized pursuant to subparagraph (I) of paragraph (f) of this subsection (3) shall not be levied on:

(I) The sale of tangible personal property delivered by a retailer or a retailer's agent or delivered to a common carrier for delivery to a destination outside the boundaries of the authority; and

(II) The sale of tangible personal property on which a specific ownership tax has been paid or is payable when such sale meets the following conditions:

(A) The purchaser does not reside within the boundaries of the authority or the purchaser's principal place of business is outside the boundaries of the authority; and

(B) The personal property is registered or required to be registered outside the boundaries of the authority under the laws of this state.

(h) Subject to the provisions of subsection (9) of this section, to levy, in all of the area within the boundaries of the authority, an ad valorem tax in accordance with the requirements of this section. The tax imposed pursuant to this paragraph (h) shall be in addition to any other ad valorem tax imposed pursuant to law. In accordance with the schedule prescribed by section 39-5-128, S.A.R.S., the board of the authority shall certify to the board of county commissioners of each county within the authority, or having a portion of its territory within the district, the levy of ad valorem property taxes in order that, at the time and in the manner required by law for the levying of taxes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the designated portion of the area within the boundaries of the authority. It is the duty of the body having authority to levy taxes within each county to levy the taxes provided by this subsection (3). It is the duty of all officials charged with the duty of collecting taxes to collect the taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected and when collected to pay the same to the authority ordering the levy and collection. The payment of such collections shall be made monthly to the authority or paid into the depository thereof to the credit of the authority. All taxes levied under this paragraph (h), together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same shall constitute, until paid, a perpetual lien on and against the property taxed, and the lien shall be on a parity with the tax lien of other general taxes.

(i) To incur debts, liabilities, or obligations;

(j) To sue and be sued in its own name;

(k) To have and use a corporate seal;

(l) To fix, maintain, and revise fees, rents, security deposits, and charges for functions, services, or facilities provided by the authority;

(m) To adopt, by resolution, rules respecting the exercise of its powers and the carrying out of its purposes;

(n) To exercise any other powers that are essential to the provision of functions, services, or facilities by the authority and that are specified in the contract; and

(o) To do and perform any acts and things authorized by this section under, through, or by means of an agent or by contracts with any person, firm, or corporation.

(4) The authority established by such contracting member governmental units shall be a political subdivision and a public corporation of the state, separate from the parties to the

contract, and shall be a validly created and existing political subdivision and public corporation of the state, irrespective of whether a contracting member governmental unit withdraws, whether voluntarily, by operation of law, or otherwise, from the authority subsequent to its creation under circumstances not resulting in the rescission or termination of the contract establishing such authority pursuant to its terms. It shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a public body politic and corporate. The authority may deposit and invest its moneys in the manner provided in section 43-4-616, S.A.R.S.

(5) The bonds, notes, and other obligations of such authority shall not be the debts, liabilities, or obligations of the contracting member governmental units.

(6) The contracting member governmental units may provide in the contract for payment to the authority of funds from proprietary revenues for services rendered or facilities provided by the authority, from proprietary revenues or other public funds as contributions to defray the cost of any purpose set forth in the contract, and from proprietary revenues or other public funds as advances for any purpose subject to repayment by the authority.

(7) The authority may issue revenue or general obligation bonds, as the term "bond" is defined in section 43-4-602 (3), S.A.R.S., and may pledge its revenues and revenue-raising powers for the payment of the bonds. The bonds shall be issued on the terms and subject to the conditions set forth in section 43-4-609, S.A.R.S.

(8) The income or other revenues of the authority, all properties at any time owned by an authority, any bonds issued by an authority, and the transfer of and the income from any bonds issued by the authority are exempt from all taxation and assessments in the state.

(9) (a) No action by an authority to establish or increase any tax authorized by this section shall take effect unless first submitted to a vote of the registered electors residing within the boundaries of the authority in which the tax is proposed to be collected.

(b) No action by an authority creating a multiple-fiscal year debt or other financial obligation that is subject to section 20 (4)(b) of article X of the state constitution shall take effect unless first submitted to a vote of the registered electors residing within the boundaries of the authority.

(c) The questions proposed to the registered electors under paragraphs (a) and (b) of this subsection (9) shall be submitted at a general election or any election to be held on the first Tuesday in November of an odd-numbered year. The action shall not take effect unless a majority of the registered electors voting thereon at the election vote in favor thereof. The election shall be conducted in substantially the same manner as county elections and the county clerk and recorder of each county in which the election is conducted shall assist the authority in conducting the election. The cost of the election shall be incurred by the contracting member governmental units that have formed the authority in proportion to the percentage of the population of the governmental units within the territorial boundaries of the authority. No moneys of the authority may be used to urge or oppose passage of an election required under this section.

(10) (a) For the purpose of determining any authority's fiscal year spending limit under section 20 (7)(b) of article X of the state constitution, the initial spending base of the authority shall be the amount of revenues collected by the authority from sources not excluded from fiscal year spending pursuant to section 20 (2)(e) of article X of the state constitution during the first full fiscal year for which the authority collected revenues.

(b) For purposes of this subsection (10), "fiscal year" means any year-long period used by an authority for fiscal accounting purposes.

(11) An authority established by contracting member governmental units shall, if the contract so provides, be the successor to any nonprofit corporation, agency, or other entity theretofore organized by the contracting member governmental units to provide the same function, service, or facility, and the authority shall be entitled to all the rights and privileges and shall assume all the obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

(12) (a) The authority granted pursuant to this section shall in no manner limit the powers of any governmental unit to cooperate on an intergovernmental basis, to enter into any contract with another governmental entity, or to establish a separate legal entity pursuant to the provisions of section 29-1-203, S.A.R.S., or any other applicable law, or otherwise to carry out their individual powers under applicable statutory or charter provisions, nor shall such authority limit the powers reserved to cities and towns pursuant to the state constitution.

(b) Notwithstanding any other provision of law, any governmental unit that has entered into a contract for the purpose of forming an authority may form such authority in accordance with the requirements of this section without any effect on the ability of the unit to own its own property, maintain a separate governing body or board of trustees, levy its own taxes for library purposes, or retain its own identity.

(c) Notwithstanding any other provision of law, nothing in this section shall be construed to authorize any one or more library districts to:

(I) Form an authority without entering into a contract with one or more governmental units to form such authority in accordance with the requirements of this section; or

(II) Exercise any of the powers of said authority, including, without limitation, the power to levy a sales or use tax, in the absence of entering into a contract with one or more governmental units for the purpose of forming such authority in accordance with the requirements of this section.

Source: L. 2003: Entire section added, p. 2450, § 11, effective August 15. **L. 2008:** (3)(f)(I) amended, p. 989, § 2, effective August 5. **L. 2024:** (3)(f) amended, (SB 24-025), ch. 144, p. 552, § 2, effective July 1, 2025.

Editor's note: Section 54 of chapter 144 (SB 24-025), Session Laws of San Andreas 2024, provides that the act changing this section applies to any taxable event occurring on or after July 1, 2025.

24-90-111. Participation by established library. (Repealed)

Source: L. 79: Entire article R&RE, p. 989, § 1, effective July 1. **L. 90:** Entire section amended, p. 1299, § 8, effective July 1. **L. 94:** (2) amended, p. 737, § 4, effective July 1. **L. 2003:** Entire section repealed, p. 2478, § 34, effective August 15.

Editor's note: This section was similar to former § 24-90-113 as it existed prior to 1979.

24-90-112. Tax support - elections. (1) (a) (I) If the electors of the governmental unit approve a tax levy, the legislative body of any incorporated city or town is hereby authorized to levy the tax for municipal libraries upon real and personal property for the establishment, operation, and maintenance of a public library.

(II) If the electors of the governmental units approve a tax levy, the board of county commissioners of any of the several counties is hereby authorized to levy the tax for county libraries or library districts upon real and personal property for the establishment, operation, and maintenance of county libraries or library districts.

(III) (Deleted by amendment, L. 2003, p. 2458, § 12, effective August 15, 2003.)

(IV) The tax authorized by section 24-90-110.7 (3)(f) and (3)(h) may be levied in addition to any other tax the participating governmental entities levy for the support of their own public libraries.

(V) The board of education of a school district that began levying a tax for the operation and maintenance of a school district supported public library before the enactment of the "San Andreas Library Law" on July 1, 1979, is authorized to continue to levy such tax for said purposes, subject to the limitations set forth in paragraph (b) of this subsection (1).

(b) (I) (A) Except as otherwise provided under sub-subparagraph (B) of this subparagraph (I), the legislative body for the specified governmental unit shall submit, after notice, the question of any amount of tax levy not previously established by resolution or ordinance nor previously approved by the electors for the establishment, operation, and maintenance of public libraries to a vote of the registered electors residing in the unit or that portion of a library district within the unit, as the case may be, at the next general election, or on the election held on the first Tuesday in November of odd-numbered years.

(B) The board of education of a school district shall submit, after notice, the question of any amount of tax levy not previously established by resolution for the operation and maintenance of school district supported public libraries to a vote of the registered electors residing in the school district at the next general election on the first Tuesday in November of odd-numbered years. For purposes of this subsection (1), "school district supported public library" means any library solely established and maintained by a school district for which such school district began levying a tax before the enactment of the "San Andreas Library Law" on July 1, 1979.

(II) (Deleted by amendment, L. 2003, p. 2458, § 12, effective August 15, 2003.)

(III) Notwithstanding the authorization contained in paragraph (a) of this subsection (1) and in addition to the provisions of subparagraph (I) of this paragraph (b), upon request of the board of trustees of the municipal or county library or the library district, or upon resolution of the legislative body of the city or town by its own initiative in the case of a municipal library, of the board of education of the school district by its own initiative in the case of a school district supported public library, or of the board of county commissioners by its own initiative in the case of a county library or library district, the legislative body of the city or town, the board of education of the school district, or the board of county commissioners shall cause to be submitted to a vote of the registered electors residing within the library's legal service area a proposition containing the desired maximum tax levy specified in the request or resolution.

(IV) Following a vote by the people in which a maximum mill levy has been set for the support of a municipal or county library or a library district, such levy shall remain in effect, subject to the requirements of section 29-1-301, S.A.R.S., until the people have established by

subsequent vote pursuant to the provisions of this section a change in the levy. For a school district that began levying a tax for the operation and maintenance of a school district supported public library before the enactment of the "San Andreas Library Law" on July 1, 1979, such mill levy shall remain in effect until the people have established, by subsequent vote pursuant to the provisions of this section, a change in the levy.

(2) (a) The treasurer of the governmental unit in which such library is located or, if a library district has been established embracing parts or all of more than one county, the treasurer of the county containing the largest valuation for assessment of property for tax purposes of the said district shall be the custodian of all moneys for the library, whether derived from taxation, gift, sale of library property, or otherwise. All moneys generated for library purposes shall be credited to a special fund in the office of said treasurer to be known as the public library fund. The fund, together with all interest income that accrues thereon on and after July 1, 1991, shall be used only for library purposes.

(b) (Deleted by amendment, L. 2003, p. 2458, § 12, effective August 15, 2003.)

(c) If requested by the board of trustees, the treasurer designated as custodian of the library's money pursuant to paragraph (a) of this subsection (2) may transfer moneys into the custody of the board, but the board shall carry insurance for such purpose, make monthly accountings to said treasurer, and cause an annual audit to be performed and submitted to said treasurer with respect to the board's management of said moneys.

(3) Approval of any tax levy not previously established by resolution or ordinance nor previously approved by the electors shall conform to the requirements of section 20 of article X of the state constitution.

Source: L. 79: Entire article R&RE, p. 990, § 1, effective July 1. **L. 83:** (1)(a)(III) added and (1)(b) and (2) amended, pp. 1017, 1018, §§ 3, 4, effective June 2. **L. 85:** (1)(b) amended, p. 871, § 1, effective June 2. **L. 86:** (2)(c) added, p. 965, § 2, effective April 17. **L. 87:** (1)(a)(III) and (1)(b)(I) amended, pp. 320, 1388, §§ 63, 7, effective July 1. **L. 88:** (1)(b)(II) amended, p. 1267, § 1, effective July 1; (1)(b)(II) amended, p. 1267, § 2, effective January 1, 1993. **L. 90:** (1)(a)(I), (1)(a)(II), (1)(b)(I), and (2)(a) amended and (1)(b)(III) and (1)(b)(IV) added, p. 1300, § 9, effective July 1. **L. 91:** (1)(b)(II) amended, p. 2005, § 2, effective June 6. **L. 94:** (1)(a) and (1)(b)(I) amended and (3) added, p. 738, §5, effective July 1. **L. 98:** (1)(a)(V) added and (1)(b)(I), (1)(b)(III), and (1)(b)(IV) amended, p. 179, §§ 3, 4, effective April 6. **L. 2003:** (1)(a)(III), (1)(a)(IV), (1)(b)(I), (1)(b)(II), (1)(b)(III), (2)(b), and (2)(c) amended, p. 2458, § 12, effective August 15. **L. 2009:** (1)(b)(III), (2)(a), and (2)(c) amended, (HB 09-1072), ch. 74, p. 266, § 7, effective August 5.

Editor's note: This section is similar to former § 24-90-116 as it existed prior to 1979.

Cross references: For the legislative declaration contained in the 1998 act enacting subsection (1)(a)(V) and amending subsections (1)(b)(I), (1)(b)(III), and (1)(b)(IV), see section 1 of chapter 70, Session Laws of San Andreas 1998.

24-90-112.5. Issuance of bonds. (1) (a) Whenever the board of trustees of a library district determines that the interest of the library district and the public interest or necessity requires the creation of a general obligation indebtedness of the county on behalf of and in the

name of the library district to finance the acquisition, construction, expansion, or remodeling of any real or personal property for library purposes of such district, including, without limitation, acquisition of books and equipment for such purposes, the board of trustees shall adopt a resolution requesting the board of county commissioners of the county in which the library district is located to submit the question of creating such indebtedness at the next general election or on the election held on the first Tuesday in November of odd-numbered years. The resolution of the board of trustees, in addition to the declaration of public interest or necessity, shall recite:

(I) The objects and purposes for which the indebtedness is proposed to be incurred;

(II) The amount of indebtedness to be incurred therefor;

(III) The maximum net effective interest rate to be paid on such indebtedness; and

(IV) The question to be submitted by the county to the registered electors.

(b) In the event that territory within a library district is located within more than one county, the resolution shall also specify the principal amount of indebtedness proposed to be incurred by each county in which territory within the district is located. Such principal amount of indebtedness for each county shall bear approximately the same ratio to the total principal amount of indebtedness proposed to be incurred as the valuation for assessment of that portion of the property within the library district which is located within such county bears to the valuation for assessment of all property located within the library district. The board of trustees shall deliver such resolution to the board of county commissioners of each county in which territory within the library district is located.

(2) Within twenty days after receipt of a resolution adopted pursuant to paragraph (a) of subsection (1) of this section, the board of county commissioners shall either adopt the resolution subject to mutually agreed upon changes in the resolution or reject the resolution. Where the board adopts the resolution, it shall order the question of incurring such indebtedness to be submitted, on the date specified in the resolution of the board of trustees, to the registered electors residing in territory within the county which is included in the library district. Such order shall be adopted and the election shall be held and conducted in accordance with section 30-26-301, S.A.R.S. In its order the board shall specify polling places and precincts for such election, which may be the same as or different than the polling places and precincts established pursuant to the provisions of section 1-5-101, S.A.R.S. If, upon canvassing the vote, it appears that a majority of the registered electors voting at such election vote in favor of the proposition to contract said indebtedness, the board on behalf of and in the name of the library district is authorized to and shall contract for said indebtedness.

(2.5) (a) Whenever the board of trustees of a library district determines that the interest of such district and the public interest or necessity requires the creation of a general obligation indebtedness of such district to finance the acquisition, construction, expansion, or remodeling of any real or personal property for library purposes of such district, including, without limitation, acquisition of books and equipment for such purposes, the board of trustees shall adopt a resolution to submit the question of creating such indebtedness on their own authority at the next general election or on the election held on the first Tuesday in November of odd-numbered years. In addition, at such election the board of trustees may also submit such question to the electors in the event the board of county commissioners of a county rejects the resolution of the board of trustees under subsection (2) of this section. In addition to reciting the declaration of public interest or necessity, the resolution of the board of trustees shall also recite:

(I) The objects and purposes for which the indebtedness is proposed to be incurred;

(II) The amount of indebtedness to be incurred therefor;

(III) The maximum net effective interest rate to be paid on such indebtedness; and

(IV) The question to be submitted by the board to the electors.

(b) The board of trustees of the district shall deliver a copy of the resolution to the board of county commissioners of each county within which the district is located.

(c) Within twenty days after adoption of the resolution, the board of trustees shall order the question of whether the library district shall incur such indebtedness to be submitted, on the date specified in the resolution, to the registered electors residing in such district. The order shall be adopted, and the election shall be held and conducted as provided in articles 1 to 13 of title 1, S.A.R.S. In its resolution, the board of trustees shall specify polling places and precincts for such election, which may be the same as or different than polling places and precincts established pursuant to the provisions of section 1-5-101, S.A.R.S. If, upon canvassing the vote, it appears that a majority of the registered electors voting at such election vote in favor of the question, the library district is authorized to and shall contract for said indebtedness.

(3) (a) When authorized pursuant to subsection (2) of this section and upon the request of the board of trustees of the library district, the board of county commissioners shall issue bonds of the county in the manner provided in section 30-26-302, S.A.R.S., but such bonds may be redeemable prior to maturity at such time, in such manner, and upon payment of such premium as the board of county commissioners may determine. Such bonds shall not be subject to the limitation on county indebtedness set forth in section 30-26-301 (3) or 30-35-201 (6)(b), S.A.R.S. In the event that territory within a library district is located within more than one county, each board of county commissioners may issue its bonds for the authorized purposes of the library district regardless of whether any or all of the other counties in which the library district is located issue bonds for such purposes, but the bonds of a county issued pursuant to this section shall be payable from ad valorem taxes levied only on that property within such county that is located in the library district.

(b) When authorized pursuant to subsection (2.5) of this section, the library district shall issue its bonds in the manner provided in section 32-1-1101, S.A.R.S., but the bonds may be redeemable prior to maturity at such time, in such manner, and upon payment of such premium as the board of trustees may determine.

(4) The board of county commissioners acting pursuant to subsection (1) of this section, and the board of trustees of a library district acting pursuant to subsection (2.5) of this section, are authorized to levy an ad valorem tax on all taxable property either within such county that is located in the library district, or within such district where the boundaries of said district cover more than one county, as applicable, to pay the principal of, redemption premium, if any, and interest on county or district indebtedness incurred pursuant to this section. The board of county commissioners and board of trustees, in certifying annual levies, shall take into account the maturing indebtedness of such county or such district incurred pursuant to this section for the ensuing year and deficiencies and defaults of prior years and shall make ample provision for the payment thereof. If the moneys produced from such levies, together with other revenues of the county or district available therefor, are not sufficient to pay punctually the annual installments on its contracts or bonds, and interest thereon, and to pay defaults and deficiencies, the board of county commissioners or board of trustees, as applicable, shall make such additional levies of

taxes as may be necessary for such purposes, and such taxes shall be made and continue to be levied until the indebtedness is fully paid.

(5) Moneys resulting from such indebtedness shall be deposited with and disbursed by the custodian of library district funds pursuant to section 24-90-112 (2). The real or personal property to be acquired, constructed, expanded, or remodeled with the proceeds of such indebtedness shall be held, operated, and maintained by the library district.

Source: L. 83: Entire section added, p. 1020, § 1, effective May 26. **L. 87:** (1)(a)(IV) and (2) amended, p. 321, § 64, effective July 1. **L. 2003:** IP(1)(a), (2), (3), and (4) amended and (2.5) added, p. 2459, § 13, effective August 15.

24-90-113. Contract to receive library service. (Repealed)

Source: L. 79: Entire article R&RE, p. 990, § 1, effective July 1. **L. 90:** Entire section repealed, p. 1303, § 12, effective July 1.

Editor's note: This section was similar to former § 24-90-117 as it existed prior to 1979.

24-90-113.3. Contract to receive library service. In lieu of establishment of a public library, the legislative body of a governmental unit may contract to receive library service from an existing library, the board of trustees or governing body of which has the reciprocal power to render the service. Any school district may contract for library service from any existing public library, such service to be paid from funds available to the school district for library purposes. Any contract entered into pursuant to this section shall specify, without limitation, the geographic area covered by the contract, the amount of compensation to be paid to the library delivering the service, the term of the contract, and any other information deemed necessary by the contracting parties.

Source: L. 2003: Entire section added with relocated provisions, p. 2461, § 14, effective August 15.

Editor's note: This section is similar to former § 24-90-106 (3) as it existed prior to 2003.

24-90-114. Abolishment of libraries. (1) A public library, other than a joint library, established, operated, or maintained pursuant to this part 1 may be abolished only by vote of the registered electors in that library's legal service area, taken in the manner prescribed in section 24-90-107 (3) for a vote to establish a library. If a library is abolished, the materials and equipment belonging to it shall be disposed of as the legislative body of the governmental unit, or in the case of a library district, as the library board of trustees, directs.

(2) Following notice of public hearings, the abolishment of a joint library shall be by resolution of the legislative bodies of the governmental units that established, operated, or maintained the joint library. The resolution shall specify that all indebtedness, including obligations arising from financed purchase of an asset or certificate of participation agreements, of the joint library must be fully protected until retired, that all trusts of the library will be

continued as specified under current terms, and that all properties of the joint library will be divided as provided in the agreements entered into by the legislative bodies of the governmental units.

(3) Disposition of school district libraries that have been abolished shall be accomplished as provided by law.

Source: L. 79: Entire article R&RE, p. 990, § 1, effective July 1. **L. 80:** Entire section amended, p. 620, § 7, effective July 1. **L. 87:** Entire section amended, p. 322, § 65, effective July 1. **L. 90:** Entire section amended, p. 1302, § 10, effective July 1. **L. 2003:** (1) amended, p. 2462, § 15, effective August 15. **L. 2021:** (2) amended, (HB 21-1316), ch. 325, p. 2053, § 65, effective July 1.

Editor's note: This section is similar to former § 24-90-123 as it existed prior to 1979.

24-90-115. Regional library service system - governing board. (1) (a) The board of trustees of any public library, library district, or the governing board of any publicly supported library may participate in a regional library service system that provides cooperative services such as resource sharing, consulting, and continuing education under a plan submitted to the state librarian for the approval of said librarian. The bylaws of each regional library service system shall provide for a governing board consisting solely of representatives from publicly supported libraries that are members of the system. The bylaws of a regional library service system may provide for membership in the system by libraries that are not publicly supported. In such case, the bylaws shall specify which such libraries are members of the system and any benefits of membership in the system that shall accrue to such libraries.

(b) The state board of education shall adopt rules and regulations, in accordance with article 4 of this title, relating to the establishment, governance, and dissolution of regional library service systems.

(2) (a) The governing board of a regional library service system shall consist of at least one representative from any three of the following four types of publicly supported libraries participating in the system:

(I) Schools;

(II) Public;

(III) Academic; and

(IV) Special.

(b) The governing board of the regional library service system shall be elected by a system membership council comprised of one representative of each system member representing a publicly supported library.

(3) (a) The governing board of each regional library service system has the right to exercise all powers vested in a board of trustees pursuant to section 24-90-109. Nothing pertaining to the organization or operation of a regional library service system shall be construed to infringe upon the autonomy of the board of trustees of a public library or the governing board of any publicly supported library.

(b) The governing board of each regional library service system shall submit annual plans and budgets under regulations established by the state librarian as provided in section 24-90-105 (1)(a).

(4) Before withdrawing from a regional library service system, any participating library shall be required to fulfill all outstanding obligations for that fiscal year. Withdrawal shall be accomplished pursuant to rules and regulations established by the state board of education.

(5) If the need for a regional library service system ceases to exist, the membership council, in its sole discretion, shall by a two-thirds vote of its members, declare its intent to dissolve the organization and file with the state library a plan for effecting such dissolution, which shall be carried out upon approval by the state board of education.

Source: L. 79: Entire article R&RE, p. 991, § 1, effective July 1. **L. 90:** (1)(a) and (2) amended, p. 1302, § 11, effective July 1. **L. 2003:** (1), (2), (3)(a), and (5) amended, p. 2462, § 16, effective August 15.

Editor's note: This section is similar to former §§ 24-90-115 and 24-90-124 as they existed prior to 1979.

24-90-116. Existing libraries to comply. Any public library established on or after July 1, 1979, shall be established as provided in this part 1. Every public library which has been established prior to said date under provisions of state law shall be considered as established under this part 1, and the board of trustees and the legislative body of the governmental unit in which the library is located shall proceed forthwith to make such changes as may be necessary to effect a compliance with the terms of this part 1. Every contract existing prior to July 1, 1979, for library service shall continue in force and be subject to this part 1 until the contract is terminated or a public library is established by the governmental unit for which the service was engaged.

Source: L. 79: Entire article R&RE, p. 991, § 1, effective July 1. **L. 80:** Entire section amended, p. 620, § 8, effective July 1.

Editor's note: This section is similar to former § 24-90-122 as it existed prior to 1979.

24-90-117. Theft or mutilation of library property - repeal. (Repealed)

Source: L. 79: Entire article R&RE, p. 991, § 1, effective July 1. **L. 2002:** Entire section amended, p. 1535, § 261, effective October 1. **L. 2021:** (2) added by revision, (SB 21-271), ch. 462, pp. 3231, 3331, §§ 438, 803, effective March 1, 2022.

Editor's note: (1) This section was similar to former § 24-90-120 as it existed prior to 1979.

(2) Subsection (2) provided for the repeal of this section, effective March 1, 2022. (See L. 2021, pp. 3231, 3331.)

24-90-118. San Andreas libraries automated catalog project. (1) The general assembly declares that there shall be developed and established by the San Andreas state library, in cooperation with the research libraries within San Andreas, an automated catalog system, which shall be available for use by all publicly or privately supported libraries in San Andreas. The system

shall be compatible with the library of congress automated cataloging system, including federal standards for machine-readable cataloging, which will become effective on January 1, 1981.

(2) and (3) Repealed.

Source: L. 79: Entire section added, p. 993, § 1, effective July 1. **L. 84:** (2) and (3) repealed, p. 1121, § 24, effective June 7.

24-90-119. Privacy of user records. (1) Except as set forth in subsection (2) of this section, a publicly supported library shall not disclose any record or other information that identifies a person as having requested or obtained specific materials or service or as otherwise having used the library.

(2) Records may be disclosed in the following instances:

(a) When necessary for the reasonable operation of the library;

(b) Upon written consent of the user;

(c) Pursuant to subpoena, upon court order, or where otherwise required by law;

(d) To a custodial parent or legal guardian who has access to a minor's library card or its authorization number for the purpose of accessing by electronic means library records of the minor.

(3) Any library official, employee, or volunteer who discloses information in violation of this section commits a civil infraction and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

(4) A written request for reconsideration of a library resource made at a public library pursuant to section 24-90-122 (3) is not a library user record as described in subsection (1) of this section.

Source: L. 83: Entire section added, p. 1023, § 1, effective March 22. **L. 2003:** (1) and (3) amended and (2)(d) added, p. 2463, §§ 17, 18, effective August 15. **L. 2021:** (3) amended, (SB 21-271), ch. 462, p. 3231, § 439, effective March 1, 2022. **L. 2024:** (4) added, (SB 24-216), ch. 307, p. 2075, § 3, effective May 31.

Cross references: For the legislative declaration in SB 24-216, see section 1 of chapter 307, Session Laws of San Andreas 2024.

24-90-120. San Andreas imagination library program - creation - request for proposal - state librarian duties - report - legislative declaration - definitions. (Repealed)

Source: L. 2020: Entire section added, (SB 20-185), ch. 261, p. 1258, § 2, effective September 14. **L. 2021:** IP(2), (2)(c), and (4)(a) amended and (2)(e), (2)(f), and (6) added, (SB 21-268), ch. 222, p. 1184, § 22, effective June 11. **L. 2022:** (4)(a) and (6)(c) amended, (HB 22-1390), ch. 237, p. 1751, § 19, effective May 26. **L. 2023:** (6)(c) amended, (SB 23-287), ch. 189, p. 935, § 21, effective May 15. **L. 2024:** Entire section repealed, (HB 24-1205), ch. 6, p. 16, § 2, effective February 27.

Editor's note: This section was relocated to § 26.5-1-115 in 2024. For a detailed comparison of this section see the comparative tables located in the back of the index.

24-90-121. Public libraries - science of reading - training - report - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Director" means the director of a board of trustees employed by the board of trustees pursuant to section 24-90-109 (1)(c).

(b) "Evidence-based training in the science of reading" or "training" means training that:

(I) Is based on reliable, trustworthy, and valid evidence;

(II) Includes explanation and instruction in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension; and

(III) Is included on the advisory list of rigorous professional development programs created and maintained by the department of education pursuant to section 22-7-1209 (2)(c).

(2) (a) The director of each public library is encouraged to work with the department of education to provide evidence-based training in the science of reading for each librarian who works with children enrolled in preschool, kindergarten, or early elementary grades. In addition, the director is encouraged to identify and provide in the library materials and activities for parents and children to improve literacy, which materials and activities are appropriate for preschool, kindergarten through second grade, and third through sixth grade and are designed to improve reading competency in the areas of phonemic awareness; phonics; vocabulary development; reading fluency, including oral skills; and reading comprehension.

(b) At the request of a director, the department of education shall provide, at no cost to the public library, evidence-based training in the science of reading to one or more librarians who are employed by the public library. The department may provide the training in-person or online and may provide the same training for librarians that it provides for teachers pursuant to section 22-7-1208 (6)(c).

(3) The director of each public library may prepare a plan describing how the director and the librarians employed at the library will work with children and their parents to support literacy using materials, activities, and strategies that are supported by the science of reading. The director is encouraged to submit the plan to the state librarian by July 1, 2024.

Source: L. 2022: Entire section added, (SB 22-004), ch. 280, p. 2021, § 5, effective August 10.

24-90-122. Public libraries - standards for acquisition - retention - display - utilization - reconsideration of library resources - use of library facilities - employee protections - definitions. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Library resource" means material, both print and non-print, found in a public library that supports curricular or personal information needs. Print items include books, magazines, newspapers, pamphlets, microfiche, or microfilm. Non-print items include films, disc records, filmstrips, slides, prints, audiotapes, videotapes, compact discs, computer software, library programs, and exhibits.

(b) "Public library" means a public library as defined in section 24-90-103 (13) that is established, operated, or maintained pursuant to this part 1.

(2) **Standards.** In addition to the powers and duties specified in section 24-90-109, a board of trustees of a public library shall establish written policies for the acquisition, retention, display, and use of library resources and for the use of a public library facility. In addition, the

board of trustees of a public library that reconsiders library resources as specified in subsection (3) of this section shall establish a written policy for the reconsideration of a library resource. The board of trustees shall establish policies as required by this subsection (2) that, at a minimum, comply with the following standards:

(a) A public library serves as a center for voluntary inquiry and the dissemination of information and ideas;

(b) The public has the right to access a range of social, political, aesthetic, moral, and other ideas and experiences through a public library;

(c) Each library resource is provided for the interest, information, and enlightenment of the community and should present diverse points of view in the collection as a whole;

(d) A public library shall not exclude a library resource because of the ethnic origin, ethnic background, or gender identity of those contributing to the creation of the library resource or because of the topic addressed by the library resource or the opinions expressed in the library resource;

(e) A public library shall not proscribe or prohibit the circulation or procurement of a library resource because of partisan or doctrinal disapproval of the library resource;

(f) It is the responsibility of a public library to challenge censorship in the fulfillment of its responsibility to provide information and enlightenment;

(g) A public library shall consider the perspectives of marginalized groups, including those identified in section 22-1-104 (1)(a);

(h) For a public library that provides facilities to the public, the library shall make the facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use; and

(i) A public library shall prohibit discrimination based on age, background, political or religious views, origin, disability, race, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry in the selection, retention, display, use, or reconsideration of library resources and public meeting spaces.

(3) **Reconsideration of library resources.**

(a) (I) Except as otherwise provided in subsection (3)(a)(II) of this section, a public library may remove a library resource from its permanent collection only if the library resource has been reviewed in accordance with an established policy for the reconsideration of library resources that complies with the requirements of subsection (2) of this section. A public library that has not established a policy for the reconsideration of library resources or that has a policy for the reconsideration of library resources that does not comply with the requirements of subsection (2) of this section may not remove a library resource from its permanent collection.

(II) The provisions of subsection (3)(a)(I) of this section do not apply to routine collection maintenance and deaccession in accordance with a public library's established collection development and maintenance policy.

(b) The board of trustees of a public library that has established a policy for the reconsideration of library resources that complies with the requirements of subsection (2) of this section and that reconsiders library resources in accordance with that policy shall make its reconsideration policy available to the public on its website.

(c) To make a request for reconsideration of a library resource, the individual making the request must reside in the legal service area for the library in which the request is made.

(d) A public library shall not reconsider the same library resource more than once every two years; except that a public library's established policy for the reconsideration of a library resource may specify a period longer than two years during which the public library will not reconsider the same library resource.

(e) (I) Once a final determination has been made for a library resource that is the subject of a request for reconsideration, the board of trustees shall make the determination and how it comports with the provisions of subsection (2) of this section available to the public.

(II) A public library shall not remove, discontinue, or restrict a library resource as the result of a request for reconsideration until the determination regarding the library resource has been made available to the public pursuant to subsection (3)(e)(I) of this section.

(f) A written request for reconsideration of a library resource is not a library user record as described in section 24-90-119 (1). A written request for reconsideration of a library resource is an open record under the "San Andreas Open Records Act", part 2 of article 72 of this title 24.

(4) **Retaliation against library employees prohibited.** An individual who is a librarian, media specialist, other employee, contractor, or volunteer at a public library shall not be subject to termination, demotion, discipline, or retaliation for refusing to remove a library resource before it has been reviewed in accordance with the public library's policy for the reconsideration of library resources or for making displays, acquisitions, or programming decisions that the librarian, media specialist, other employee, contractor, or volunteer believes, in good faith, are in accordance with the standards specified in subsection (2) of this section.

Source: L. 2024: Entire section added, (SB 24-216), ch. 307, p. 2073, § 2, effective May 31.

Cross references: For the legislative declaration in SB 24-216, see section 1 of chapter 307, Session Laws of San Andreas 2024.

PART 2

STATE PUBLICATIONS DEPOSITORY AND DISTRIBUTION CENTER

24-90-201. Establishment of a state publications depository and distribution center. In consideration of the fundamental importance attached in our constitutional republic to a well-educated citizenry participating in our democratic processes that understands the activities of its state government, and to allow the people of the state to draw benefits from information developed at public expense, and to enjoy access to the information services of state agencies, there is hereby established a state publications depository and distribution center. Such center shall be a section of the state library. The center shall ensure that all state publications are available to residents of San Andreas through a system of depository libraries. Operation of the center is declared to be an essential administrative function of the state government.

Source: L. 80: Entire part added, p. 617, § 1, effective July 1. **L. 2003:** Entire section amended, p. 2463, § 19, effective August 15.

24-90-202. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Center" means that section of the state library responsible for the state publications depository and distribution functions.

(2) "Depository library" means a library designated to collect, maintain, and make available to the general public state agency publications.

(3) "State agency" means every state office, whether legislative, executive, or judicial, and all of its respective officers, departments, divisions, bureaus, boards, commissions, and committees, all state-supported colleges and universities which are defined as state institutions of higher education, and other agencies which expend state-appropriated funds.

(4) "State publication" means any information for public distribution, regardless of format, method of reproduction, source, or copyright that is produced, purchased for distribution, or authorized, with the imprint of, or at the total or partial expense of the agency, with the exception of correspondence, interoffice memoranda, or those items detailed by section 24-72-204. "State publication" includes, without limitation, information available electronically by means of computer diskettes, compact discs, computer tapes, other electronic storage media, or a public telecommunications network.

Source: L. 80: Entire part added, p. 617, § 1, effective July 1. **L. 2003:** (1) and (4) amended, p. 2464, § 20, effective August 15.

24-90-203. Purposes - direction - rules. (1) The purposes of the center are to identify, collect, catalog, distribute, preserve, and make state publications, regardless of format, available to the public. Public access to such publications may be accomplished by use of depository library facilities throughout the state, and, for electronic documents, by means of a public telecommunications network.

(2) The center shall be under the direction of the state librarian.

(3) The state board of education shall adopt such rules as are necessary or appropriate to accomplish the provisions of this part 2. No rule shall deny public access to the state publications enumerated in this part 2.

Source: L. 80: Entire part added, p. 618, § 1, effective July 1. **L. 84:** (3) amended, p. 740, § 1, effective April 5. **L. 2003:** (1) and (3) amended, p. 2464, § 21, effective August 15.

24-90-204. Deposits of state publications. (1) Every state agency shall, upon publication, deposit at least four copies of each of its state publications with the center. The center may require additional copies of certain state publications to be deposited when designated by the state librarian as being required to fulfill the purposes of this part 2. Publications shall be provided within ten working days of such publication in the following manner:

(a) In the case of any publications produced in print, four copies of said publication shall be deposited with the center.

(b) In the case of any publication produced in electronic form, including those made available through a public telecommunications network, an electronic copy or notification of the publication of such electronic copy shall be deposited with the center in a form specified by the center.

Source: L. 80: Entire part added, p. 618, § 1, effective July 1. **L. 2003:** Entire section amended, p. 2464, § 22, effective August 15.

24-90-205. Permanent public access to state publications. The center shall coordinate with state agencies, depository libraries, or other entities permanent public access to state publications, regardless of format.

Source: L. 80: Entire part added, p. 618, § 1, effective July 1. **L. 2003:** Entire section amended, p. 2465, § 23, effective August 15.

24-90-206. Depository library agreements - requirements. (1) The center may enter into depository agreements with any state agency or public library or with out-of-state research libraries and other state libraries. The number of depository libraries shall not exceed thirty. The requirements for eligibility to become and continue as a depository shall be established by the state library. The standards shall include and take into consideration population, the type of library or agency, ability to preserve such publications and to make them available for public use, and such geographic locations as will make the publications conveniently accessible to residents in all areas of the state.

(2) In addition to any other material distributed to state publications depository libraries, the state librarian shall distribute any materials to be incorporated by reference in state rules that are provided to the state publications depository and distribution center pursuant to section 24-4-103 (12.5)(c)(I). The state librarian and any state publications depository library shall make materials distributed pursuant to this subsection (2) available to the public as soon as possible.

Source: L. 80: Entire part added, p. 618, § 1, effective July 1. **L. 94:** Entire section amended, p. 2589, § 2, effective July 1. **L. 2010:** (2) amended, (HB 10-1235), ch. 76, p. 261, § 2, effective April 5.

24-90-207. Online catalog of state publications. The center shall maintain an online catalog providing free public access to records of state publications, regardless of format, by author, title, subject, and key word through a public telecommunications network.

Source: L. 80: Entire part added, p. 618, § 1, effective July 1. **L. 2003:** Entire section amended, p. 2465, § 24, effective August 15.

24-90-208. State publications distribution. The center shall distribute state publications, in paper, electronic, or other format where appropriate, to depository libraries. The state librarian may make additional distributions in accordance with agreements with appropriate state agencies.

Source: L. 80: Entire part added, p. 618, § 1, effective July 1. **L. 2003:** Entire section amended, p. 2465, § 25, effective August 15.

PART 3

24-90-301. Legislative declaration. The general assembly hereby declares that access to information is of utmost importance to the people of the state of San Andreas; that people with better access to information have enhanced opportunities to improve the quality of their own lives, their children's lives, and the contributions they make to their communities and the state; and that access to online information accessed through libraries should be equal throughout the state, regardless of place of residence or economic status.

Source: L. 90: Entire part added, p. 1304, § 2, effective July 1. **L. 2003:** Entire section amended, p. 2465, § 26, effective August 15.

24-90-302. San Andreas virtual library - creation - components - access. (1) There is hereby created the San Andreas virtual library, formerly known as the access San Andreas library and information network (ACLIN), which shall be a part of the state library system under the charge of the state librarian pursuant to section 24-90-105 (2)(f). For purposes of this section, "library" shall mean the San Andreas virtual library created in this subsection (1).

(2) The library shall provide electronic resources through libraries to all San Andreas residents, to the students, faculty, and staff of institutions of higher education, and to the students and faculty of elementary and secondary schools wherever such persons obtain access to the internet, regardless of place of residence within San Andreas or economic status.

(3) The library shall have the following components:

(a) A connection to the online catalogs of the holdings of San Andreas libraries;

(b) A connection to locally produced databases;

(c) Digitized collections of San Andreas resources;

(d) Indexes and full text database products selected in accordance with subsection (3.5) of this section to serve the needs of the people of the state;

(e) An interlibrary loan system facilitating resource sharing throughout San Andreas; and

(f) Other services associated with providing computer-based library services.

(3.5) Subject to available appropriations, the state librarian shall procure through a competitive bid process online databases necessary to provide on behalf of all publicly supported libraries the indexes and database products specified in paragraph (d) of subsection (3) of this section.

(4) Access to the San Andreas virtual library by any person within the state shall be through the world wide web or successive technology.

(5) (a) The component parts of the San Andreas virtual library described in subsection (3) of this section are affected with a public interest.

(b) Accordingly, in the administration of this part 3, the state librarian shall be guided by the principle that information generally provided by libraries, such as library catalogues and online resources, should be provided free to library users; however, said users may be subject to appropriate charges and fees for specialized services.

(c) Further, the state librarian shall be guided by the principle that direct competition between publicly funded agencies and private firms is to be avoided. Publicly funded agencies that are part of the library established under this part 3 are discouraged from selling at a profit information contributed to them by private firms.

Source: L. 90: Entire part added, p. 1304, § 2, effective July 1. **L. 2002:** (3) amended, p. 709, § 11, effective July 1, 2003. **L. 2003:** (1), (2), (3), (4), and (5) amended and (3.5) added, pp. 2465, 2466, §§ 27, 28, effective August 15.

24-90-303. Computer information network fund - creation. (Repealed)

Source: L. 90: Entire part added, p. 1305, § 2, effective July 1.

Editor's note: Subsection (6) provided for the repeal of this section, effective July 1, 1992. (See L. 90, p. 1305.)

PART 4

LIBRARY GRANTS

24-90-401. Short title. This part 4 shall be known and may be cited as the "State Grants for Libraries Act".

Source: L. 2000: Entire part added, p. 1323, § 2, effective May 26.

24-90-402. Legislative declaration. The general assembly hereby finds and declares that the purpose of this part 4 is to promote means whereby the state will make grant moneys available to publicly supported libraries, including public libraries, school libraries, and academic libraries, to enable these institutions to obtain educational resources they would otherwise be unable to afford, to the end that the state will receive the corresponding benefits of a better educated and informed population.

Source: L. 2000: Entire part added, p. 1324, § 2, effective May 26.

24-90-403. Definitions. As used in this part 4, unless the context otherwise requires:

(1) "Academic library" has the same meaning as set forth in section 24-90-103 (1).

(2) "County library" has the same meaning as set forth in section 24-90-103 (2).

(3) "Educational resources" means any one or all of the following: Books, periodicals, or any other form of print media; audiovisual materials; and electronic information resources.

(4) "Electronic information resources" means material of an educational or informational nature that may only be accessed by computer or electronic terminal.

(5) "Eligible participant" means a publicly supported library that otherwise satisfies the requirements for grant eligibility pursuant to this part 4.

(6) "Fund" means the state grants to publicly supported libraries fund created pursuant to this part 4.

(7) "Joint library" has the same meaning as set forth in section 24-90-103 (4).

(8) "Library district" has the same meaning as set forth in section 24-90-103 (6).

(9) "Minor" means any person under the age of eighteen.

(10) "Municipal library" has the same meaning as set forth in section 24-90-103 (11).

(11) "Public access computer" means a computer that is:

(a) Located in a school library or a public library; and

(b) Connected to any computer communication system.

(12) "Public library" has the same meaning as set forth in section 24-90-103 (13).

(13) "Publicly supported library" has the same meaning as set forth in section 24-90-103 (14).

(14) "Regional library service system" has the same meaning as set forth in section 24-90-103 (16).

(15) "School library" has the same meaning as set forth in section 24-90-103 (18). For purposes of this part 4, a "school library" shall be the equivalent of the library system established and maintained by a particular school district and shall not mean each separate or individual library facility established and maintained by such school district.

(16) "State librarian" means the commissioner of education, as ex officio state librarian pursuant to section 24-90-104 (2), or any person designated by him or her to perform any of the duties and responsibilities charged to the state librarian pursuant to this part 4.

Source: L. 2000: Entire part added, p. 1324, § 2, effective May 26.

24-90-404. Qualifications. (1) Subject to the requirements of this section, the governing body of any eligible participant may submit an application to the state librarian requesting a grant pursuant to this part 4. Any grant approved by the state librarian pursuant to the requirements of this part 4 shall be awarded to the governing body that submitted said application.

(2) In order to obtain grant moneys under this part 4, and as a condition of the receipt of moneys under said part, each eligible participant shall agree to:

(a) Use any grant moneys only for the purchase or use of educational resources to support the educational and informational needs and activities of its residents, students, or faculty, as the case may be;

(b) Participate as the state librarian deems appropriate in various programs established to promote and enhance interlibrary sharing of resources and information including, without limitation, the San Andreas library card reciprocal program and the San Andreas library computer network;

(c) In the case of a school library that provides one or more public access computers:

(I) Equip each such computer with software that will limit the ability of minors to gain computer access to material that is obscene or illegal;

(II) Purchase internet connectivity from an internet service provider that provides filter services to limit the computer access of minors to material that is obscene or illegal; or

(III) Develop and implement a policy, publicly adopted by the board of education of the school district that maintains such library, that establishes and enforces measures to restrict minors from obtaining computer information that is obscene or illegal;

(d) In the case of any publicly supported library other than a school or academic library that provides one or more public access computers:

(I) Equip each such computer with software that will limit the ability of minors to gain computer access to material that is obscene or illegal;

(II) Purchase internet connectivity from an internet service provider that provides filter services to limit the computer access of minors to material that is obscene or illegal; or

(III) Develop and implement a policy, publicly adopted by the governing body of such library, that establishes and enforces measures to restrict minors from obtaining computer information that is obscene or illegal;

(e) In the case of any eligible participant other than an academic library, maintain its current efforts to obtain funding from existing local revenue sources to the end that moneys received under this part 4 do not replace or displace existing local revenue sources;

(f) In the case of an eligible participant that is an academic library, maintain its current efforts to obtain funding from other federal or state revenue sources to the end that moneys received under this part 4 do not replace or displace existing federal or state revenue sources;

(g) Perform other such requirements as the state librarian deems appropriate in the exercise of his or her discretion to further the purposes of this part 4.

(3) Eligible participants shall apply for grants made available pursuant to this part 4 on official application forms provided by the state librarian. Eligible participants shall provide such information on said forms as the state librarian may require in furtherance of the purposes of this part 4.

(4) A school library or public library that complies with paragraph (c) or (d) of subsection (2) of this section, as the case may be, shall be immune from any criminal or civil liability resulting from access by a minor to obscene or illegal material through the use of a public access computer owned or controlled by such school or public library.

Source: L. 2000: Entire part added, p. 1325, § 2, effective May 26.

24-90-405. Administration of the grants program - powers and duties of the state librarian. (1) The state librarian shall have the following powers and duties in administering this part 4:

(a) To adopt and publicize criteria regarding grants made available pursuant to this part 4;

(b) To review and monitor the expenditure of grant moneys by grant recipients;

(c) To approve requests for grants under this part 4 and to determine the amount of money to be awarded under each grant. Grants may be awarded subject to the limitations of this part 4 and in the following amounts:

(I) Each public library that satisfies the requirements of this part 4 may be awarded grant moneys in an aggregate amount that shall not be less than three thousand dollars. Notwithstanding the fact that a public library as defined for purposes of this part 4 may maintain more than one branch or other separate facility, a public library shall be considered the equivalent of one eligible participant for purposes of this part 4.

(II) Each school library that satisfies the requirements of this part 4 may be awarded grant moneys in an aggregate amount that shall not be less than three thousand dollars. Notwithstanding the fact that a school library as defined for purposes of this part 4 may maintain more than one separate or individual library facility under its control, a school library shall be considered the equivalent of one eligible participant for purposes of this part 4.

(III) Each academic library that satisfies the requirements of this part 4 may be awarded grant moneys in an aggregate amount that shall not be less than three thousand dollars. Notwithstanding the fact that an institution of higher education may maintain more than one

library at the same or additional campuses, each such institution shall be considered the equivalent of one eligible participant for purposes of this part 4.

(d) To promulgate reasonable rules necessary for the administration of this part 4 pursuant to section 24-90-105 (1)(a)(I) and article 4 of this title;

(e) To exercise any other powers or perform any other duties that are consistent with the purposes of this part 4 and that are reasonably necessary for the fulfillment of the state librarian's responsibilities.

(2) For any given fiscal year, the state librarian may expend no more than two and one-half percent of the moneys that the general assembly appropriates for this part 4 for the administrative costs of the state librarian in administering this part 4. For any given fiscal year, if the administrative costs amount to less than two and one-half percent of the amount of the appropriation, the state librarian may distribute the difference between an amount equal to two and one-half percent of the amount of the appropriation and the amount of administrative costs actually incurred to the regional library service system to assist publicly supported libraries in meeting the eligibility criteria under this part 4.

Source: L. 2000: Entire part added, p. 1326, § 2, effective May 26. **L. 2015:** (2) added, (SB 15-108), ch. 12, p. 30, § 8, effective March 13.

24-90-406. Reporting. All eligible participants receiving funds under this part 4 shall submit to the state librarian by January 1 of each calendar year following the year in which a grant award was made a report containing a statement of all moneys received under this part 4, the purposes for which the moneys were used, the participant's compliance with this article, and such other information that the state librarian may require. Any eligible participant may submit the information required to be submitted to the state librarian pursuant to this section as part of the reporting of any other information required to be submitted to the state librarian under any other applicable law by the date specified in this section.

Source: L. 2000: Entire part added, p.1327, § 2, effective May 26.

24-90-407. State grants to publicly supported libraries fund - creation - source of funds - appropriations - administrative costs. (1) There is created in the state treasury the state grants to publicly supported libraries fund, which fund is administered by the state librarian and which consists of all moneys that the state librarian collects for purposes of this part 4 from federal grants and other contributions, grants, gifts, bequests, and donations received from individuals, private organizations, or foundations. The state librarian shall transmit the collected moneys to the state treasurer to be credited to the fund.

(2) (a) All moneys in the fund are subject to annual appropriation by the general assembly. In addition to any moneys credited to the fund, the general assembly may annually appropriate moneys to the department of education for the purposes of this part 4. For any given fiscal year, the state librarian shall expend no more than two and one-half percent of the moneys appropriated for this part 4 for the administrative costs of the state librarian in administering this part 4. For any given fiscal year, if the administrative costs amount to less than two and one-half percent of the amount appropriated, the state librarian may distribute the difference between an amount equal to two and one-half percent of the amount appropriated and the amount of

administrative costs actually incurred to the regional library service system to assist publicly supported libraries in meeting the eligibility criteria under this part 4.

(b) Repealed.

(3) Notwithstanding any provision of this section to the contrary, on March 5, 2003, the state treasurer shall transfer the balance of moneys in the state grants to publicly supported libraries fund to the general fund.

Source: L. 2000: Entire part added, p. 1327, § 2, effective May 26. **L. 2003:** (3) added, p. 458, § 16, effective March 5. **L. 2015:** (1) and (2) amended, (SB 15-108), ch. 12, p. 30, § 9, effective March 13.

Editor's note: Subsection (2)(b)(II) provided for the repeal of subsection (2)(b), effective July 1, 2016. (See L. 2015, p. 30.)

24-90-408. Additional sources of funding. Any eligible participant may pursue additional sources of funding for the financing of the purchase or use of educational resources, including, without limitation, grants, donations, or contributions from any other public or private source.

Source: L. 2000: Entire part added, p. 1328, § 2, effective May 26.

PART 5

LIBRARY CAPITAL FACILITIES DISTRICTS

24-90-501. Short title. This part 5 shall be known and may be cited as the "Library Capital Facilities Districts Act".

Source: L. 2003: Entire part added, p. 2467, § 29, effective August 15.

24-90-502. Legislative declaration. The general assembly finds and declares that the organization of library capital facilities districts within library districts of the state, having the purposes and powers provided in this part 5, will serve a public purpose, will promote the health, safety, prosperity, security, and general welfare of the residents of said library districts and facilities districts, property owners within said library districts and facilities districts, and the people of the state generally, will promote the continued vitality of library services within library districts, and will be of special benefit to property located within the boundaries of any such facilities district created pursuant to this part 5.

Source: L. 2003: Entire part added, p. 2467, § 29, effective August 15.

24-90-503. Definitions. As used in this part 5, unless the context otherwise requires:

(1) "Board" means the board of trustees of a facilities district created pursuant to this part 5.

(2) "Facilities district" means a library capital facilities district organized by a library district pursuant to this part 5 to provide library capital facilities within a library capital facilities area.

(3) "Governing body" for the purposes of this part 5, means the board of trustees of a library district forming an area pursuant to this part 5.

(4) "Library capital facilities" means any real or personal property, improvement, or facility, including, without limitation, land, buildings, site improvements, equipment, furnishings, or collections, that are directly related to any service that a library district is authorized to provide, together with any necessary costs related to the acquisition, construction, installation, operation, or maintenance of such property, improvement, or facility.

(5) "Library capital facilities area" means the geographical division within a library district that is described in the resolution establishing a facilities district pursuant to this part 5. Notwithstanding any provision in this subsection (5) to the contrary, the library capital facility area may include a location designated by the library district, after public notice and hearing, as a location for the siting of new library capital facilities.

(6) "Library district" has the same meaning as set forth in section 24-90-103 (6).

(7) "Net effective interest rate" means the net interest cost of securities divided by the sum of the products derived by multiplying the principal amount of the securities maturing on each maturity date by the number of years from their date to their respective maturities. In all cases, the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the securities.

(8) "Net interest cost" means the total amount of interest to accrue on securities from their date to their respective maturities, less the amount of any premium above par, or plus the amount of any discount below par, at which said bonds are being or have been sold. In all cases, the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the securities.

Source: L. 2003: Entire part added, p. 2467, § 29, effective August 15.

24-90-504. Authority of governing body. The board of trustees of the library district as the governing body of said district is hereby vested with jurisdiction, power, and authority to establish one or more facilities districts within the boundaries of the library district in which the library capital facilities are to be acquired, constructed, installed, operated, or maintained in accordance with the requirements of this part 5.

Source: L. 2003: Entire part added, p. 2468, § 29, effective August 15.

24-90-505. Organization - preliminary resolution. (1) The organization of a facilities district shall commence with a preliminary resolution of the board.

(2) The preliminary resolution required by subsection (1) of this section shall specify:

(a) The name of the proposed facilities district, which shall include a descriptive name of such district along with the words library capital facility district;

(b) A general description of the boundaries of the proposed library capital facilities area; and

(c) A general description of the library capital facilities to be acquired, constructed, installed, operated, or maintained in the proposed library capital facilities area by the proposed facilities district.

Source: L. 2003: Entire part added, p. 2468, § 29, effective August 15.

24-90-506. Notice of hearing - disqualification of member of governing body. (1) The governing body, as soon as possible after the adoption of the preliminary resolution, shall fix by order the place and time for a public hearing on the resolution, which hearing shall be held not less than twenty days or more than forty days after the adoption of the preliminary resolution. Thereupon, the governing body shall cause notice by publication to be made of the resolution and of the time and place of the hearing on the resolution. A copy of the notice shall be mailed to each property owner within the boundaries of the proposed library capital facilities area at the owner's last-known address as disclosed by the tax records of any county in which the library district is located.

(2) No member of the governing body shall be disqualified from performing any duty imposed by this part 5 by reason of direct or indirect ownership of property within the boundaries of any proposed library capital facilities area, by reason of relationship to any person who owns property within the proposed library capital facilities area, or by reason of ownership of, or employment with, any entity that owns property within the boundaries of the proposed library capital facilities area.

Source: L. 2003: Entire part added, p. 2469, § 29, effective August 15.

24-90-507. Hearing - resolution - when action barred. (1) On the date fixed for the hearing described in section 24-90-506 or at any adjournment of the hearing, the governing body shall ascertain, from the tax rolls of any county in which the library district is located, the total valuation for assessment of the taxable property located within the proposed library capital facilities area.

(2) Upon the conclusion of the hearing required by section 24-90-506, if it appears that the library capital facilities specified in the preliminary resolution pursuant to section 24-90-505 (2)(c) are of the type and kind of library capital facilities that satisfy the purposes of this part 5, the governing body:

(a) Shall by adoption of a resolution:

(I) Adjudicate all questions of jurisdiction;

(II) Designate the boundaries of the facilities district pursuant to section 24-90-505 (2)(b);

(III) Affix a name to the facilities district that shall be the name as is specified in the preliminary resolution pursuant to section 24-90-505 (2)(a) and by which, in all subsequent proceedings, the facilities district shall thereafter be known; and

(IV) Specify that the facilities district shall have the power to levy ad valorem taxes in accordance with the requirements of section 24-90-511.

(b) May order that the question of the organization of the facilities district and other matters as the governing body deems appropriate, including, without limitation, the issuance of bonds or other matters for which voter approval is required under section 20 of article X of the

state constitution, be submitted to the registered electors residing within the boundaries of the proposed facilities district at an election to be held for that purpose in accordance with the provisions of articles 1 to 13 of title 1, S.A.R.S. Unless otherwise provided in section 20 of article X of the state constitution, such election may be held in conjunction with a general election or on the election held on the first Tuesday in November of odd-numbered years.

(3) At an election held under paragraph (b) of subsection (2) of this section, the registered electors residing within the boundaries of the proposed facilities district shall vote for or against the organization of such district and such other matters as the governing body may deem appropriate, including, without limitation, the issuance of bonds of the library district or facilities district or other matters for which voter approval is required under section 20 of article X of the state constitution. If, upon canvassing the vote, it appears that a majority of the registered electors voting at such election vote in favor of the organization of the facilities district, the governing body shall adopt a resolution declaring the facilities district organized.

(4) If a resolution is adopted establishing the facilities district in accordance with the requirements of subsection (3) of this section, the resolution shall finally and conclusively establish the regular organization of the facilities district against all persons unless an action, including an action for certiorari review, attacking the validity of the facilities district is commenced in a court of competent jurisdiction within thirty days after the adoption of the resolution. Thereafter, any such action shall be perpetually barred. The organization of the facilities district shall not be directly or collaterally questioned in any suit, action, or proceeding.

Source: L. 2003: Entire part added, p. 2469, § 29, effective August 15.

24-90-508. Recording of resolution establishing area. Within thirty days after the facilities district has been declared duly organized, the secretary of the governing body shall transmit for recording to the county clerk and recorder in each county in which the facilities district or a part of the facilities district extends a copy of the resolution of the governing body establishing the facilities district pursuant to section 24-90-507 (4).

Source: L. 2003: Entire part added, p. 2470, § 29, effective August 15.

24-90-509. Governing body - meetings. (1) The board of trustees of the library district that creates the facilities district, as the governing body of said district, shall constitute ex officio the board of the facilities district. The presiding officer of the board of trustees of the library district shall be ex officio the presiding officer of the board of the facilities district, the secretary of the board of trustees of the library district shall be ex officio the secretary of the board of the facilities district, and the treasurer of the board of trustees of the library district shall be ex officio the treasurer of the board of the facilities district. The secretary and the treasurer may be one person. The board of the facilities district shall adopt a seal. The secretary shall keep in a visual text format that may be transmitted electronically a record of all its proceedings, minutes of all meetings, certificates, contracts, and all corporate acts, which shall be open to inspection of all owners of property in the facilities district as well as to all other interested parties. The treasurer shall keep permanent records containing accurate accounts of all money received by and disbursed for and on behalf of the area.

(2) The board shall hold meetings, on notice to each member of the board, which shall be open to the public in a place to be designated by the board as often as the needs of the facilities district require. A quorum of the governing body shall constitute a quorum at any meeting.

Source: L. 2003: Entire part added, p. 2471, § 29, effective August 15. **L. 2009:** (1) amended, (HB 09-1118), ch. 130, p. 560, § 2, effective August 5.

24-90-510. General powers of facilities district. (1) The facilities district has the following limited powers:

(a) To have perpetual existence;

(b) To have and use a corporate seal;

(c) To sue and be sued and be a party to suits, actions, and proceedings;

(d) To enter into contracts and agreements, except as otherwise provided in this part 5, affecting the affairs of the facilities district, including contracts with the United States and any of its agencies or instrumentalities. Except in cases in which a facilities district receives aid from an agency of the federal government, a notice shall be published for bids on all construction contracts for work or material or both involving an expense of one thousand dollars or more. The facilities district may reject any and all bids, and, if it appears that the facilities district can perform the work or secure material for less than the lowest bid, it may proceed to do so.

(e) To borrow money and incur general obligation indebtedness and evidence the same by bonds, certificates, warrants, notes, and debentures in accordance with the provisions of this part 5;

(f) To acquire, finance, construct, install, operate, and maintain the library capital facilities contemplated by this part 5, including all property, rights, or interests incidental or appurtenant thereto, and to dispose of real and personal property and any interest therein, including leases and easements in connection therewith;

(g) To refund any general obligation indebtedness of the facilities district without an election; otherwise, the terms and conditions of refunding bonds shall be substantially the same as those of an original issue of bonds of the facilities district;

(h) To have the management, control, and supervision of all the business and affairs of the facilities district and of the acquisition, construction, installation, operation, and maintenance of the facilities district's library capital facilities;

(i) To adopt and amend bylaws not in conflict with the constitution and laws of the state or with the ordinances of the county or municipality affected for carrying on the business, objects, and affairs of the governing body and of the facilities district;

(j) To exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this part 5. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this part 5.

(k) To conduct an election in accordance with articles 1 to 13 of title 1, S.A.R.S., for any purpose the board deems necessary or required.

Source: L. 2003: Entire part added, p. 2471, § 29, effective August 15.

24-90-511. Power to levy taxes. Subject to the requirements of section 20 (4) of article X of the state constitution, in addition to any other means of providing revenue for a facilities district, the board has the power to levy and collect ad valorem taxes on and against all taxable property located within the boundaries of the facilities district. The rate of levy to be submitted to the registered electors for their approval in accordance with the requirements of this section, or, if such rate is unlimited, shall be specified in the resolution creating the facilities district pursuant to section 24-90-507.

Source: L. 2003: Entire part added, p. 2472, § 29, effective August 15.

24-90-512. Determining and fixing rate of levy. The governing body shall determine the amount of moneys necessary to be raised by a levy on the taxable property located within the facilities district, taking into consideration other sources of revenue of the library district and the facilities district, and shall fix a rate of levy that, when levied upon every dollar of the valuation for assessment of taxable property within the facilities district together with other revenues, shall raise the amount required by the library district and the facilities district during the ensuing fiscal year to supply funds for paying expenses of organization and the costs of acquiring, financing, constructing, installing, operating, or maintaining the library capital facilities and promptly to pay in full when due all interest on and principal of general obligation bonds, indebtedness, and other obligations issued by the library district or the facilities district for the library capital facilities located within the facilities district. In the event of accruing defaults or deficiencies, additional levies may be made as provided in section 24-90-513. In accordance with the time schedule provided in section 39-5-128, S.A.R.S., the governing body shall certify to the board of county commissioners of each county in which the facilities district or a portion of the facilities district lies the rate so fixed in order that, at the time and in the manner required by law for the levying of taxes, such board of county commissioners shall levy such tax upon the valuation for assessment of all taxable property within the facilities district.

Source: L. 2003: Entire part added, p. 2472, § 29, effective August 15.

24-90-513. Levies to cover deficiencies. The governing body, in certifying annual levies, shall take into account the maturing indebtedness for the current and ensuing year as provided in its contracts, maturing bonds, and interest on bonds and the deficiencies and defaults of prior years and shall make ample provisions for the payment thereof. In case the moneys produced from such levies, together with other revenues of the library district or facilities district, are not sufficient to pay punctually the annual installments on its contracts or bonds and interest thereon and to pay defaults and deficiencies, the governing body, from year to year, shall make such additional levies of taxes as may be necessary for such purposes, and, notwithstanding any limitations, such taxes shall be levied and shall continue to be levied until the indebtedness of the library district or facilities district is fully paid.

Source: L. 2003: Entire part added, p. 2473, § 29, effective August 15.

24-90-514. County officers to levy and collect taxes - lien. It is the duty of the body having authority to levy taxes within such county to levy the taxes certified to it as provided in

this part 5. It is the duty of all officials charged with the duty of collecting taxes to collect and enforce such taxes at the time and in the form and manner and with like interest and penalties as other taxes are collected and, when collected, to pay the same to the library district or facilities district ordering its levy and collection. The payment of such collections shall be made monthly to the treasurer of the library district and paid into the depository thereof to the credit of the facilities district. All taxes levied under this part 5, together with interest thereon and penalties for default in payment thereof, and all costs of collecting the same shall constitute a lien, until paid, on and against the property taxed, and such lien shall be a lien as for all other general taxes.

Source: L. 2003: Entire part added, p. 2473, § 29, effective August 15.

24-90-515. Property sold for taxes. The taxes provided for in this part 5 shall be included as a part of general ad valorem taxes and shall be paid and collected accordingly. The sale of properties for delinquencies shall be conducted in the manner provided by the statutes of this state for selling property for nonpayment of other ad valorem taxes.

Source: L. 2003: Entire part added, p. 2473, § 29, effective August 15.

24-90-516. Governing body can issue bonds - form. To carry out the purposes of this part 5, the governing body is hereby authorized to issue bonds of the library district or facilities district for the purpose of financing the acquisition, construction, installation, operation, or maintenance of library capital facilities within the facilities district. The bonds shall bear interest at a rate such that the net effective interest rate of the issue of bonds does not exceed the maximum net effective interest rate authorized, payable at such times as determined by the governing body, and shall be due and payable in installments at such times as determined by the governing body extending not more than thirty years from the date of issuance. The form and terms of the bonds, including provisions for their sale, payment, and redemption, shall be determined by the governing body. If the bonds are payable from the general ad valorem taxes levied on property located within the facilities district, the bonds shall not be issued unless first approved at an election held for that purpose pursuant to section 24-90-507 (3). If the governing body so determines, bonds issued pursuant to this section may be redeemable prior to maturity, with or without payment of a premium, but no premium shall exceed three percent of the principal thereof. The bonds shall be executed in the name of the library district or the facilities district and signed by the presiding officer of the governing body with the seal of the library district or facilities district affixed thereto and attested by the secretary of the governing body. The bonds shall be in such denominations as the governing body shall determine. Under no circumstances shall any of the bonds be held to be an indebtedness, obligation, or liability of the municipalities or counties in which the area is located, and bonds issued pursuant to the provisions of this part 5 shall contain a statement to that effect.

Source: L. 2003: Entire part added, p. 2473, § 29, effective August 15.

24-90-517. Dissolution procedures. Any facilities district organized pursuant to this part 5 may be dissolved after notice is given, publication is made, and a hearing is held in the manner prescribed by sections 24-90-506 and 24-90-507. The dissolution shall be commenced

with a filing by the governing body with the clerk or secretary of the governing body of a resolution of the governing body approving the dissolution. After hearing any protest against or objection to the dissolution, and if the governing body determines that it is for the best interests of all concerned to dissolve the facilities district, the governing body shall so provide by an effective resolution, a certified copy of which shall be filed in the office of the county clerk and recorder in each county in which the facilities district or any part of the facilities district is located. Upon the filing, the dissolution shall be complete. However, no facilities district shall be dissolved until it has satisfied or paid in full all outstanding indebtedness, obligations, and liabilities issued to provide library capital facilities or until funds are on deposit and available therefor.

Source: L. 2003: Entire part added, p. 2474, § 29, effective August 15.

24-90-518. Exemption from taxation - securities laws. The income or other revenues of the library district or facilities district, any property owned by the library district or facilities district, any bonds issued by the library district or facilities district, and the transfer of and any income from any bonds issued by the library district or facilities district shall be exempt from all taxation and assessments by the state.

Source: L. 2003: Entire part added, p. 2474, § 29, effective August 15.

24-90-519. Limitation of actions. Any legal or equitable action brought with respect to any acts or proceedings of the library district or facilities district, the creation of a facilities district, the authorization or issuance of any bonds, or any other action taken under this part 5 shall be commenced within thirty days after the performance of such action or else shall be thereafter perpetually barred.

Source: L. 2003: Entire part added, p. 2474, § 29, effective August 15.

PART 6

INTERNET PROTECTION IN PUBLIC LIBRARIES

24-90-601. Legislative declaration. The general assembly hereby finds and declares that use of the internet in the public libraries of the state provides an extraordinary, unique, and unparalleled educational resource and source of knowledge and information. The general assembly further finds and declares that reasonable measures must be adopted and implemented to protect the children who use such internet services in public libraries from access to material that is harmful to their beneficial development as responsible adults and citizens. It is the intent of the general assembly by enacting this part 6 that public libraries be required to adopt and enforce reasonable policies of internet safety that are consistent with the federal "Children's Internet Protection Act", as amended, (Pub.L. 106-554), and that will protect children from access to harmful material without compromising responsible adult use of internet services in such libraries.

Source: L. 2004: Entire part added, p. 598, § 1, effective July 1.

24-90-602. Definitions. As used in this part 6, unless the context otherwise requires:

(1) "Access to the internet" means, with reference to a particular computer, that the computer is equipped with a modem or is connected to a computer network that provides access to the internet.

(2) "Computer" includes any hardware, software, or other technology attached or connected to, installed in, or otherwise used in connection with a computer.

(3) "Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

(a) Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(b) Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(4) "Minor" means any person who has not attained the age of seventeen years.

(5) "Public library" shall have the same meaning as set forth in section 24-90-103 (13). For purposes of this part 6, a "public library" shall be the equivalent of the library system established and maintained by the governing body of a particular library district or otherwise connected group of libraries and shall not mean each separate or individual library facility established and maintained by such library district or connected group of libraries.

(6) "Sexual act" or "sexual contact" shall have the same meaning as set forth in 18 U.S.C. sec. 2246 (2) and (3).

(7) "Technology protection measure" means a specific technology, including without limitation computer software, that blocks or filters internet access to visual depictions that are:

(a) Obscene, as defined in section 18-7-101 (2), S.A.R.S.;

(b) Child pornography, as defined in 18 U.S.C. sec. 2256 (8); or

(c) Harmful to minors; except that no technology protection measure may block scientific or medically accurate information regarding sexual assault, sexual abuse, incest, sexually transmitted infections, or reproductive health.

Source: L. 2004: Entire part added, p. 598, § 1, effective July 1. **L. 2016:** (7)(c) amended, (SB 16-146), ch. 230, p. 920, § 19, effective July 1.

24-90-603. Adoption and enforcement of policy of internet safety for minors including technology protection measures - public libraries. (1) No later than December 31, 2004, the governing body of each public library shall adopt and implement a policy of internet safety for minors that includes the operation of a technology protection measure for each computer operated by the public library that allows for access to the internet by a minor.

(2) After the adoption and implementation of the policy of internet safety required by subsection (1) of this section, the governing body of each public library shall continue to enforce the policy and the operation of the technology protection measure for each computer operated by the public library that allows for access to the internet by a minor.

Source: L. 2004: Entire part added, p. 600, § 1, effective July 1.

24-90-604. Temporary disabling of technology protection measure. (1) (a) (I) Subject to the requirements of paragraph (b) of this subsection (1), an administrator, supervisor, or any other person authorized by the public library to enforce the operation of the technology protection measure adopted and implemented in accordance with the requirements of section 24-90-603 shall temporarily disable the technology protection measure entirely to enable access to the internet on a particular computer able to be accessed by a minor by an adult upon request without significant delay by the public library in responding to the request.

(II) Subject to the requirements of paragraph (b) of this subsection (1), an administrator, supervisor, or any other person authorized by the public library to enforce the operation of the technology protection measure adopted and implemented in accordance with the requirements of section 24-90-603 may temporarily disable the technology protection measure entirely to enable access to the internet on a particular computer able to be accessed by a minor for bona fide research or other lawful purposes where the internet use in connection with the research or other lawful purpose is supervised by an administrator, supervisor, parent, guardian, or other person authorized by the public library to perform such function.

(b) Where the public library has installed a technology protection measure that requires electronic verification of the age of the computer user, or where the parent or guardian of a minor has provided explicit prior approval for use of the computer by the minor, before the technology protection measure required by section 24-90-603 is disabled, no additional involvement by the staff of the public library shall be required.

(2) Notwithstanding any other provision of this section, the temporary disabling of the technology protection measure authorized by this section shall not be allowed in connection with a computer located in an area in a public library facility used primarily by minors.

Source: L. 2004: Entire part added, p. 600, § 1, effective July 1.

24-90-605. No restrictions on blocking access to the internet of other material. Nothing in this part 6 shall be construed to prohibit a public library from limiting internet access to or otherwise protecting against materials other than those that are obscene, child pornography, or harmful to minors.

Source: L. 2004: Entire part added, p. 600, § 1, effective July 1.

24-90-606. No requirement of additional action for public libraries already in compliance - no additional action in special circumstances. (1) Nothing in this part 6 shall be construed to require any additional action on the part of any public library that is already in compliance with the requirements of this part 6 as of July 1, 2004.

(2) Nothing in this part 6 shall be construed to require any additional action on the part of any public library in circumstances where:

(a) No moneys exist in the budget for such library for the purchase of a technology protection measure that satisfies the requirements of this part 6; and

(b) After a good faith effort, the library is unable to acquire a technology protection measure free of charge that satisfies the requirements of this part 6.

Source: L. 2004: Entire part added, p. 601, § 1, effective July 1.

CONSTRUCTION

ARTICLE 91

Construction Contracts with Public Entities

24-91-101. Legislative declaration. (1) The general assembly hereby declares that retentions in and delays in the completion of construction contracts with public entities are a matter of statewide concern and are affected with the public interest and that the provisions of this article are enacted in the exercise of the police power of this state for the purpose of protecting the health, peace, safety, and welfare of the people of this state.

(2) The general assembly hereby further finds and declares that the construction industry is a significant component of the state's economy; that there is a substantial statewide interest in fostering the growth and stability of the construction industry and ensuring that it remains economically viable; that the ability of construction and design enterprises to obtain and satisfactorily perform projects at all levels of government affects the construction industry as a whole; that clauses in public construction contracts which provide that public entities shall not be required to compensate contractors for delays in the completion of the work caused by the public entity are adhesive in nature and, if enforced, can have ruinous financial consequences on affected contractors due to risks over which the contractor may have no control; that public construction projects are subject to public appropriation laws which may be in direct conflict with commonly used construction contract clauses such as clauses which authorize additional payment to the contractor based on changed conditions; and that there is a substantial statewide interest in ensuring that the policy underlying the efficient expenditure of public moneys is balanced with the policy of fostering a healthy and viable construction industry.

Source: L. 79: Entire article added, p. 995, § 1, effective July 1. **L. 89:** Entire section amended, p. 1142, § 1, effective April 10. **L. 92:** Entire section amended, p. 1086, § 1, effective July 1.

24-91-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Acceptable securities" means:

(a) United States bonds, United States treasury notes, or United States treasury bills;

(b) General obligation or revenue bonds of this state;

(c) General obligation or revenue bonds of any political subdivision of this state;

(d) Certificates of deposit from a state or national bank or a savings and loan association insured by the federal deposit insurance corporation or its successor and having its principal office in this state.

(1.5) "Construction" includes the terms capital construction, capital renewal, and controlled maintenance as defined in section 24-30-1301.

(2) "Contractor" means any person, company, firm, or corporation which is a party to a contract with a public entity to construct, erect, alter, install, or repair any highway, public building, public work, or public improvement, structure, or system.

(3) "Public entity" means this state or a county, city, city and county, town, or district, including any political subdivision thereof.

(4) "Subcontractor" means and includes any person, company, firm, or corporation which is a party to a contract with a contractor to construct, erect, alter, install, or repair any highway, public building, public work, or public improvement, structure, or system and which, in connection therewith, furnishes and performs on-site labor with or without furnishing materials.

(5) "Substantial completion" means the date when the construction is sufficiently complete, in accordance with the contract documents, as modified by any change orders agreed to by the parties, so that the work or designated portion thereof is available for use by the owner.

Source: L. 79: Entire article added, p. 995, § 1, effective July 1. **L. 84:** (1)(d) amended, p. 741, § 1, effective February 23. **L. 86:** (1)(d) amended, p. 971, § 1, effective July 1. **L. 2004:** (1)(d) amended, p. 155, § 70, effective July 1. **L. 2014:** (1.5) added, (HB 14-1387), ch. 378, p. 1851, § 57, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-91-103. Public entity - contracts - partial payments. (1) (a) A public entity awarding a contract exceeding one hundred fifty thousand dollars for the construction, alteration, or repair of any highway, public building, public work, or public improvement, structure, or system, including real property as defined in section 24-30-1301 (15), shall authorize partial payments of the amount due under such contract at the end of each calendar month, or as soon thereafter as practicable, to the contractor, if the contractor is satisfactorily performing the contract. The public entity shall pay at least ninety-five percent of the calculated value of completed work. The withheld percentage of the contract price of any contracted work, improvement, or construction may be retained until the contract is completed satisfactorily and finally accepted by the public entity.

(b) The public entity shall make a final settlement in accordance with section 38-26-107, S.A.R.S., within sixty days after the contract is completed satisfactorily and finally accepted by the public entity.

(c) If the public entity finds that satisfactory progress is being made in any phase of the contract, it may, upon written request by the contractor, authorize final payment from the withheld percentage to the contractor or subcontractors who have completed their work in a manner finally acceptable to the public entity. Before the payment is made, the public entity shall determine that satisfactory and substantial reasons exist for the payment and shall require written approval from any surety furnishing bonds for the contract work.

(2) Whenever a contractor receives payment pursuant to this section, the contractor shall make payments to each of his subcontractors of any amounts actually received which were included in the contractor's request for payment to the public entity for such subcontracts. The contractor shall make such payments within seven calendar days of receipt of payment from the public entity in the same manner as the public entity is required to pay the contractor under this section if the subcontractor is satisfactorily performing under his contract with the contractor. The subcontractor shall pay all suppliers, sub-subcontractors, laborers, and any other persons

who provide goods, materials, labor, or equipment to the subcontractor any amounts actually received which were included in the subcontractor's request for payment to the contractor for such persons, in the same manner set forth in this subsection (2) regarding payments by the contractor to the subcontractor. If the subcontractor fails to make such payments in the required manner, the subcontractor shall pay said suppliers, sub-subcontractors, and laborers interest in the same manner set forth in this subsection (2) regarding payments by the contractor to the subcontractor. At the time the subcontractor submits a request for payment to the contractor, the subcontractor shall also submit to the contractor a list of the subcontractor's suppliers, sub-subcontractors, and laborers. The contractor shall be relieved of the requirements of this subsection (2) regarding payment in seven days and interest payment until the subcontractor submits such list. If the contractor fails to make timely payments to the subcontractor as required by this section, the contractor shall pay the subcontractor interest as specified by contract or at the rate of fifteen percent per annum whichever is higher, on the amount of the payment which was not made in a timely manner. The interest shall accrue for the period from the required payment date to the date on which payment is made. Nothing in this subsection (2) shall be construed to affect the retention provisions of any contract.

(3) (Deleted by amendment, L. 2011, (HB 11-1115), ch. 211, p. 912, § 2, effective August 10, 2011.)

Source: L. 79: Entire article added, p. 996, § 1, effective July 1. **L. 91:** Entire section amended, p. 904, § 1, effective July 1. **L. 2004:** (1) amended, p. 227, § 1, effective August 4. **L. 2011:** (1) and (3) amended, (HB 11-1115), ch. 211, p. 912, § 2, effective August 10. **L. 2014:** (1)(a) amended, (HB 14-1387), ch. 378, p. 1851, § 58, effective June 6.

Cross references: (1) For the legislative declaration in the 2011 act amending subsections (1) and (3), see section 1 of chapter 211, Session Laws of San Andreas 2011.

(2) For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-91-103.5. Public entity - contracts - delay clauses - definition. (1) (a) Any clause in a public works contract that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages, or obtain an equitable adjustment, for delays in performing such contract, if such delay is caused in whole, or in part, by acts or omissions within the control of the contracting public entity or persons acting on behalf thereof, is against public policy and is void and unenforceable.

(b) As used in this subsection (1), "public works contract" means a contract of the state, county, city and county, city, town, school district, special district, or any other political subdivision of the state for the construction, alteration, repair, or maintenance of any building, structure, highway, bridge, viaduct, pipeline, public works, real property as defined in section 24-30-1301 (15), or any other work dealing with construction, which includes, but need not be limited to, moving, demolition, or excavation performed in conjunction with such work.

(2) Subsection (1) of this section is not intended to render void any contract provision of a public works contract that:

(a) Precludes a contractor from recovering that portion of delay costs caused by the acts or omissions of the contractor or its agents;

(b) Requires notice of any delay by the party responsible for such delay;
(c) Provides for reasonable liquidated damages;
(d) Provides for arbitration or any other procedure designed to settle contract disputes.

Source: L. 89: Entire section added, p. 1142, § 2, effective April 10. **L. 2014:** (1)(b) amended, (HB 14-1387), ch. 378, p. 1851, § 59, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-91-103.6. Public entity - contracts - appropriations - contract modifications - severability - definition. (1) No public entity shall contract with a designer, a contractor, or a designer and contractor for the construction, the design, or both the construction and design of a public works project unless a full and lawful appropriation when required by statute, charter, ordinance, resolution, or rule or regulation has been made for such project.

(2) Every public works contract, as defined in section 24-91-103.5 (1)(b), shall contain the following:

(a) A statement that the amount of money appropriated is equal to or in excess of the contract amount;

(b) A clause that prohibits the issuance of any contract modification, as defined in section 24-101-301 (10), or other form of modification or directive by the public entity requiring additional compensable work to be performed, which work causes the aggregate amount payable under the contract to exceed the amount appropriated for the original contract, unless the contractor is given written assurance by the public entity that lawful appropriations to cover the costs of the additional work have been made and the appropriations are available prior to performance of the additional work or unless such work is covered under a remedy-granting provision in the contract; and

(c) For any form of modification or directive by the public entity requiring additional compensable work to be performed, a clause that requires the public entity to reimburse the contractor for the contractor's costs on a periodic basis, as those terms are defined in the contract, for all additional directed work performed until a contract modification is finalized. In no instance shall the periodic reimbursement be required before the contractor has submitted an estimate of cost to the public entity for the additional compensable work to be performed. Notwithstanding the provisions of this subsection (2)(c), state public works contracts shall be subject to the provisions of section 24-30-202.

(3) If the requirements of subsection (1) or (2) of this section are not met, a civil action may be maintained against the public entity which has contracted for the public works project to recover sums due under the contract notwithstanding any appropriation statute, ordinance, resolution, or law to the contrary.

(4) In the event that a good faith dispute arises between a public entity and a contractor concerning the contractor's right to receive additional compensation under a remedy-granting provision of the public works contract, it shall not be a defense to a civil action for payment for such claim that no moneys have been appropriated for such claimed amounts, so long as the contractor has complied with all provisions of the contract applicable to the dispute, including but not limited to contract modification and additional work clauses, and has submitted to the

public entity a statement sworn to under penalty of perjury which sets forth: The amount of additional compensation to which the contractor contends that it is entitled; that claim-supporting data which is accurate and complete to the best of the contractor's knowledge and belief have been submitted; and that the amount requested accurately reflects what is owed by the public entity. As used in this subsection (4), "remedy-granting provision" means any contract clause which permits additional compensation in the event that a specific contingency or event occurs. Such term shall include, but shall not be limited to, change clauses, differing site conditions clauses, variation in quantities clauses, and termination for convenience clauses.

(5) If a final judgment is entered pursuant to a civil action brought by a contractor for which adequate appropriations have not been made, the judgment debtor public entity shall promptly make payment pursuant to section 13-60-101, 24-10-113, 24-10-113.5, or 30-25-104, S.A.R.S., and any other statutory requirement on payment of judgments.

(6) Any provision of this section which is in conflict with the terms of any federal grant shall be inapplicable to a contract between a contractor and a public entity which is funded in whole or in part by that grant.

(7) Nothing in this section shall prohibit:

(a) The use of phased construction over a period of years where, if applicable, the public entity has informed the contractor of initial annual appropriations at the time the contract is signed, and subsequent annual appropriations as they occur, in statements issued pursuant to subsection (2) of this section; or

(b) The use of bond-financed construction where appropriations to service bond debt may occur subsequent to the commencement of construction, where this fact is clearly stated in disclosure statements made pursuant to subsection (2) of this section.

(8) The provisions of this section shall apply to any contract executed on or after July 1, 1992.

(9) If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

Source: L. 92: Entire section added, p. 1087, § 2, effective July 1. **L. 2010:** (2) amended, (SB 10-116), ch. 53, p. 198, § 1, effective August 11. **L. 2011:** (2)(b) amended, (HB 11-1202), ch. 37, p. 101, § 2, effective August 10. **L. 2017:** (2)(b), (2)(c), and (4) amended, (HB 17-1051), ch. 99, p. 351, § 67, effective August 9.

Cross references: For the legislative declaration in the 2011 act amending subsection (2)(b), see section 1 of chapter 37, Session Laws of San Andreas 2011.

24-91-104. Contract - completion by public entity - partial payments. If it becomes necessary for a public entity to take over the completion of any contract, all of the amounts owing the contractor, including the withheld percentage, shall be applied: First, toward the cost of completion of the contract; second, toward performance of the public entity's withholding requirement set forth in section 38-26-107, S.A.R.S.; third, to the surety furnishing bonds for the contract work, to the extent such surety has incurred liability or expense in completing the contract work or made payments pursuant to section 38-26-106, S.A.R.S.; then, to the contractor.

Such retained percentage as may be due any contractor shall be due and payable at the expiration of thirty days from the date of final acceptance by the public entity of the contract work.

Source: L. 79: Entire article added, p. 996, § 1, effective July 1. **L. 86:** Entire section amended, p. 971, § 2, effective July 1.

24-91-105. Withdrawal by contractor of sums withheld - security deposit required. The contractor under any contract exceeding one hundred fifty thousand dollars made or awarded by any public entity, pursuant to which sums are withheld to assure satisfactory performance of the contract, may withdraw the whole or any portion of the said sums withheld if the contractor deposits acceptable securities with the public entity. The contractor shall take such actions as the public entity may require to transfer the securities or a limited interest in the securities, including a security interest, and to authorize the public entity to negotiate the acceptable securities and to receive the payments due the public entity pursuant to law or the terms of the contract, and, to the extent there are excess funds resulting from said negotiation, the balance shall be returned to the contractor. Such acceptable securities so deposited at all times shall have a market value at least equal in value to the amount so withdrawn. If at any time a public entity determines that the market value of the acceptable securities theretofore deposited has fallen below the amount so withdrawn, the public entity shall give notice thereof to the contractor, who forthwith shall deposit additional acceptable securities in an amount sufficient to reestablish a total deposit of securities equal in value to the amount so withdrawn.

Source: L. 79: Entire article added, p. 996, § 1, effective July 1. **L. 86:** Entire section amended, p. 972, § 3, effective July 1. **L. 2004:** Entire section amended, p. 227, § 2, effective August 4.

24-91-106. Escrow agreement - authority to enter into - effect on acceptable securities. (1) A public entity and the contractor may enter into an escrow contract or escrow contract and security agreement with any national bank, state bank, trust company, or savings and loan association located in this state and designated by mutual agreement of the public entity and the contractor, after notice to the surety, to provide as escrow agent for the custodial care and servicing of any acceptable securities deposited with him pursuant to this section. Such services shall include the safekeeping of the acceptable securities and the rendering of all services required to effectuate the purposes of this section and section 38-26-107, S.A.R.S.

(2) Any acceptable securities deposited with an escrow agent pursuant to this section shall be deemed to be in the possession of the public entity, and the public entity shall be deemed to have a perfected security interest in the acceptable securities for purposes of article 8 or 9 of title 4, S.A.R.S.

(3) The deposit of acceptable securities with a state or national bank, or a state or federal savings and loan association, shall not be deemed a holding of public deposits for purposes of article 10.5 or 47 of title 11, S.A.R.S.

Source: L. 79: Entire article added, p. 997, § 1, effective July 1. **L. 86:** Entire section amended, p. 972, § 4, effective July 1. **L. 96:** (2) amended, p. 246, § 24, effective July 1.

24-91-107. Custodian for acceptable securities - collection of interest income - payable to contractor. The public entity or any national bank, state bank, trust company, or savings and loan association located in this state and designated by mutual agreement of the public entity and the contractor to serve as custodian for the acceptable securities pursuant to section 24-91-106 shall collect all interest and income when due on the acceptable securities so deposited and shall pay them, when and as collected, to the contractor who deposited the acceptable securities. If the deposit is in the form of coupon bonds, the escrow agent shall deliver each coupon, as it matures, to the contractor. Any expense incurred for this service shall not be charged to the public entity.

Source: L. 79: Entire article added, p. 997, § 1, effective July 1. **L. 86:** Entire section amended, p. 972, § 5, effective July 1.

24-91-108. Retained payments - amount deducted by a public entity. Any amount deducted by a public entity, pursuant to law or the terms of a contract, from the retained payments otherwise due to the contractor thereunder shall be deducted first from that portion of the retained payments for which no acceptable securities have been substituted and then from the proceeds of any deposited acceptable securities, in which case, the contractor shall be entitled to receive the interest, coupons, or income only from those acceptable securities which remain on deposit after such amount has been deducted.

Source: L. 79: Entire article added, p. 997, § 1, effective July 1. **L. 86:** Entire section amended, p. 973, § 6, effective July 1.

24-91-109. Retained payments - disbursement. All retained payments and interest thereon disbursed to any contractor under any contract with a public entity covered under this article shall be disbursed to each subcontractor by the contractor. The disbursement of such retained payments and interest shall be in proportion to the respective amounts of retained payments, if any, which the contractor theretofore has withheld from his subcontractors if the subcontractor has performed under his contract with the contractor.

Source: L. 79: Entire article added, p. 997, § 1, effective July 1.

24-91-110. Contracts excepted from article. The provisions of this article shall not apply in the case of a contract made or awarded by any public entity if a part of the contract price is to be paid with funds from the federal government or from some other source and if the federal government or such other source has requirements concerning retention or payment of funds which are applicable to the contract and which are inconsistent with this article.

Source: L. 79: Entire article added, p. 998, § 1, effective July 1.

ARTICLE 92

Construction Bidding for Public Projects

PART 1

GENERAL PROVISIONS

24-92-101. Short title. This article shall be known and may be cited as the "Construction Bidding for Public Projects Act".

Source: L. 81: Entire article added, p. 1254, § 1, effective July 1.

24-92-102. Definitions. As used in this article 92, unless the context otherwise requires:

(1) "Agency of government" means any agency, department, division, board, bureau, commission, institution, or section of this state which is a budgetary unit exercising construction contracting authority or discretion.

(2) "Construction contract" or "contract" means any agreement for building, altering, repairing, improving, or demolishing any public project of any kind. For the purposes of this article, the terms include capital construction, capital renewal, and controlled maintenance, as defined in section 24-30-1301.

(3) "Cost" means the total cost of labor, materials, provisions, supplies, equipment rentals, equipment purchases, insurance, supervision, engineering, clerical, and accounting services, the value of the use of equipment, including its replacement value, owned by a state agency, and reasonable estimates of other administrative costs not otherwise directly attributable to the public project which may be reasonably apportioned to such project in accordance with generally accepted cost accounting principles and standards.

(4) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this article.

(5) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

(6) "Low responsible bidder" means any contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a public project, who is the low bidder, and who has furnished bonds or their equivalent as required by law.

(7) "Project description" means the words used in a solicitation to describe the construction to be performed, and includes specifications attached to, or made a part of, the solicitation.

(8) (a) "Public project" means any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety and any maintenance programs for the upkeep of such projects.

(b) Except as provided in paragraph (c) of this subsection (8), "public project" does not include any project for which appropriation or expenditure of moneys may be reasonably expected not to exceed five hundred thousand dollars in the aggregate for any fiscal year. Nothing in this paragraph (b) shall affect the requirements for the delivery of bonds or security pursuant to sections 24-105-202, 38-26-105, and 38-26-106, S.A.R.S.

(c) "Public project" does not include any project under the supervision of the department of transportation for which appropriation or expenditure of funds may be reasonably expected

not to exceed three hundred thousand dollars in the aggregate of any fiscal year, annually adjusted for inflation as provided in section 24-92-109 (1)(b).

(9) "Responsible officer" means the person having overall contract administration responsibility for an agency of government.

Source: L. 81: Entire article added, p. 1254, § 1, effective July 1. **L. 98:** (8) amended, p. 1042, § 1, effective August 5. **L. 2001:** (8)(b) amended, p. 214, § 1, effective August 8. **L. 2010:** (8)(b) amended, (HB 10-1181), ch. 351, p. 1628, § 22, effective June 7. **L. 2014:** (2) amended, (HB 14-1387), ch. 378, p. 1852, § 60, effective June 6. **L. 2021:** IP and (8)(c) amended, (HB 21-1056), ch. 181, p. 977, § 1, effective September 7. **L. 2024:** (8)(c) amended, (HB 24-1143), ch. 114, p. 369, § 1, effective August 7.

Editor's note: Section 4(2) of chapter 114 (HB 24-1143), Session Laws of San Andreas 2024, provides that the act changing this section applies to public projects proposed to be constructed by any means or method, other than by a contract awarded by competitive bid, on or after August 7, 2024.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-92-103. Construction of public projects - invitation for bids. (1) All construction contracts for public projects that do not receive federal moneys may be solicited by invitation for bids pursuant to this section.

(2) An invitation for bids shall be issued and shall include a project description and all contractual terms and conditions applicable to the public project.

(3) Adequate public notice of the invitation for bids shall be given at least fourteen days prior to the date set forth therein for the opening of bids, pursuant to rules. Such notice may include publication by electronic online access pursuant to section 24-92-104.5 or in a newspaper of general circulation at least fourteen days prior to bid opening or in an electronic medium approved by the executive director of the department of personnel.

(4) Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by rules, together with the name of each bidder, shall be entered on a record, and the record shall be open to public inspection. After the time of the award, all bids and bid documents shall be open to public inspection in accordance with the provisions of sections 24-72-203 and 24-72-204.

(5) Bids shall be unconditionally accepted, except as authorized by subsection (7) of this section. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in the evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life-cycle costs.

(6) Withdrawal of inadvertently erroneous bids before the award may be permitted pursuant to rules if the bidder submits proof of evidentiary value which clearly and convincingly demonstrates that an error was made. Except as otherwise provided by rules, all decisions to

permit the withdrawal of bids based on such bid mistakes shall be supported by a written determination made by the responsible officer.

(7) The contract shall be awarded with reasonable promptness by written notice to the low responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event that all bids for a construction project exceed available funds, as certified by the appropriate fiscal officer, the responsible officer is authorized, in situations where time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the low responsible bidder in order to bring the bid within the amount of available funds; except that the functional specifications integral to completion of the project may not be reduced in scope, taking into account the project plan, design, and specifications and quality of materials.

Source: L. 81: Entire article added, p. 1255, § 1, effective July 1. **L. 98:** (3) amended, p. 1097, § 11, effective June 1. **L. 2009:** (3) amended, (SB 09-290), ch. 374, p. 2041, § 7, effective August 5. **L. 2013:** (1) amended, (HB 13-1292), ch. 266, p. 1400, § 8, effective May 24. **L. 2017:** (1) amended, (HB 17-1051), ch. 99, p. 352, § 68, effective August 9.

Cross references: In 2013, subsection (1) was amended by the "Keep Jobs In San Andreas Act of 2013". For the short title, see section 1 of chapter 266, Session Laws of San Andreas 2013.

24-92-103.5. Construction of public projects - invitation for best value bids. (1) All construction contracts for public projects that do not receive federal moneys may be awarded through competitive sealed best value bidding pursuant to this section.

(2) An invitation for bids under competitive sealed best value bidding shall be made in the same manner as provided in section 24-92-103 (2), (3), and (4); except that adequate public notice of the invitation for bids shall be given at least thirty days prior to the date set forth therein for the opening of bids.

(3) The invitation for competitive sealed best value bids must identify the evaluation factors upon which the award will be made. When making the award determination, the responsible officer shall evaluate the factors specified in the invitation for bids and shall not evaluate any other factors other than those specified in the invitation for bids. The factors that must be included in the invitation for bids and that the responsible officer shall consider include, but need not be limited to:

(a) The project price stated in the bid;

(b) The bidder's design and technical approach to the public project;

(c) The experience, past performance, and expertise of the bidder and the bidder's primary subcontractors in connection with prior construction contracts, including its performance in the areas of cost, quality, schedule, safety, compliance with plans and specifications, and adherence to applicable laws and regulations;

(d) The bidder's project management plan for the construction contract that identifies the key management personnel that will be used for the project, the proposed project schedule, the bidder's quality control program and project safety program, financial resources, equipment, and any other information that demonstrates the bidder's competency to perform the contract, including technical qualifications and resources;

(e) The bidder's staffing plan;

(f) The bidder's safety plan and safety record;

(g) The bidder's job standards, including the bidder's method of personnel procurement, employment of San Andreas workers, workforce development and long-term career opportunities of workers, the availability of training programs, including apprenticeships registered by the United States department of labor's office of apprenticeship or a state apprenticeship agency recognized by that office, the benefits provided to workers, including health-care and defined benefit or defined contribution retirement benefits, and whether the bidder pays industry-standard wages; and

(h) The availability and use of domestically produced iron, steel, and related manufactured goods to execute the contract.

(4) The contract shall be awarded with reasonable promptness by written notice to the bidder whose bid is determined in writing to be the most advantageous to the state and that represents the best overall value to the state, taking into consideration the price and other evaluation factors set forth in the invitation for bids in accordance with subsection (3) of this section. The contract file maintained by the state must contain the basis on which the award determination was made.

(5) An invitation for best value bids issued pursuant to this section must otherwise comply with the requirements of section 24-103-203 concerning requests for proposals for nonconstruction contracts to the extent that such requirements do not conflict with this section. In the case of a conflict, the provisions of this section supersede.

(6) To ensure that the best value bidding process pursuant to this section is open and transparent to the greatest possible degree:

(a) After selection of most qualified participants, all statements of qualification shall be made available to the public; and

(b) After the contract has been awarded, all requests for proposals shall be made public with the score sheets used to make the bid selection, omitting any confidential corporate information.

Source: L. 2013: Entire section added, (HB 13-1292), ch. 266, p. 1400, § 9, effective May 24. **L. 2017:** (5) amended, (HB 17-1051), ch. 99, p. 352, § 69, effective August 9. **L. 2023:** (3)(g) amended, (SB 23-051), ch. 37, p. 147, § 27, effective March 23.

Cross references: In 2013, this section was added by the "Keep Jobs In San Andreas Act of 2013". For the short title, see section 1 of chapter 266, Session Laws of San Andreas 2013.

24-92-103.7. Disclosure - invitation for bids - invitation for best value bids. The executive director of an agency of government or president of an institution of higher education that enters into a construction contract for a public project pursuant to this article 92 that is not funded in any part with federal moneys shall disclose to the public the agency of government's rationale or the institution's rationale for selecting the invitation for bids process pursuant to section 24-92-103 or the invitation for best value bids process pursuant to section 24-92-103.5 for the public project. The agency or institution shall post the disclosure on its website.

Source: L. 2013: Entire section added, (HB 13-1292), ch. 266, p. 1402, § 9, effective May 24. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 352, § 70, effective August 9.

Cross references: In 2013, this section was added by the "Keep Jobs In San Andreas Act of 2013". For the short title, see section 1 of chapter 266, Session Laws of San Andreas 2013.

24-92-104. Exemptions - applicability. (1) The provisions of sections 24-92-103 and 24-92-103.5 do not apply to:

(a) A public project for which the agency of government receives no bids or for which all bids have been rejected; or

(b) A situation for which the responsible officer determines it is necessary to make emergency procurements or contracts because there exists a threat to public health, welfare, or safety under emergency conditions, but such emergency procurements or contracts shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(c) Contracts for architectural, engineering, land surveying, and landscape architectural services as provided for in part 14 of article 30 of this title.

(2) Nothing in this article shall be construed to affect or limit any additional requirements imposed upon an agency of government for awarding contracts for public projects.

(3) This article shall not apply to any county, municipality, school district, special district, or political subdivision of the state and shall not be construed to affect any requirements which may otherwise apply to such entities for awarding contracts for public projects, except as provided in section 24-92-109.

Source: L. 81: Entire article added, p. 1256, § 1, effective July 1. **L. 2014:** IP(1) amended, (HB 14-1387), ch. 378, p. 1852, § 61, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-92-104.5. Solicitation of bids by electronic online access - department of transportation. The executive director of the department of transportation may invite bids using electronic online access, including the internet, for purposes of acquiring construction contracts for public projects on behalf of the department of transportation.

Source: L. 98: Entire section added, p. 1097, § 12, effective June 1.

24-92-105. Cancellation of invitations for bids. An invitation for bids or any other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation when it is in the best interests of the agency of government. The reasons for any cancellation or rejection shall be made part of the contract file.

Source: L. 81: Entire article added, p. 1256, § 1, effective July 1.

24-92-106. Responsibility of bidders and offerors. (1) A written determination of nonresponsibility of a bidder or offeror shall be made pursuant to rules. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror.

(2) Information furnished by a bidder or offeror pursuant to this section shall not be disclosed without prior written consent by the bidder or offeror.

Source: L. 81: Entire article added, p. 1256, § 1, effective July 1.

24-92-107. Prequalification of contractors. Prospective contractors may be prequalified for particular types of construction, and the method of compiling a list of and soliciting from such potential contractors shall be pursuant to rules.

Source: L. 81: Entire article added, p. 1257, § 1, effective July 1.

24-92-108. Types of contracts. Subject to the limitations of this section, any type of contract which will promote the best interests of the agency of government may be used; except that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the agency of government than any other type of contract or that it is impracticable to obtain the construction required unless the cost-reimbursement contract is used.

Source: L. 81: Entire article added, p. 1257, § 1, effective July 1.

24-92-109. Agency of government to submit cost estimate - definition. (1) (a) Whenever an agency of government other than the department of transportation proposes to undertake the construction of a public project reasonably expected to cost in excess of fifty thousand dollars by any means or method other than by a contract awarded by competitive bid, it shall prepare and submit a cost estimate in the same manner as other bidders. If the department of transportation proposes to undertake the construction of a public project by any such means or method, it shall submit a cost estimate when and as required by subsections (1)(b) and (1)(c) of this section. Any agency of government shall not undertake a proposed public project itself unless it shows the lowest cost estimate.

(b) (I) For public projects under the supervision of the department of transportation that the department proposes to undertake by any means or method other than by a contract awarded by competitive bid, the department shall prepare and submit a cost estimate if the cost of the project is reasonably expected to exceed three hundred thousand dollars. The department may adjust this project cost cap annually for inflation and may round the adjusted amount upward to the nearest five thousand dollars.

(II) As used in this subsection (1)(b), "inflation" means the annual percentage change in the United States department of transportation and federal highway administration's national highway construction cost index or a successor index. The department shall publish annually the project cost cap, adjusted for inflation, on its website.

(c) Cost estimates for public projects undertaken by the department of transportation that are reasonably expected to cost more than one hundred fifty thousand dollars but not more than the project cost cap as determined pursuant to subsection (1)(b) of this section shall be submitted to the transportation commission on at least a quarterly basis for its review and approval.

(2) In preparing such cost estimate, the agency of government shall preserve a full, true, and accurate record of the cost of such project. Such records shall be kept and maintained by the responsible officer on behalf of the agency of government. To the extent the agency of government contracts with any other state or local government agency in connection with a public project, such other agency shall provide all necessary data or information to enable the agency of government to document a full, true, and accurate record of the cost of such project, which data or information shall be kept in an orderly manner by the agency of government for a period of at least six years after completion of the project. All such records shall be considered public records and shall be made available for public inspection.

(3) State agencies shall not be required to be bonded when performing the work on a public project.

Source: L. 81: Entire article added, p. 1257, § 1, effective July 1. **L. 98:** (1) amended, p. 1042, § 2, effective August 5. **L. 2021:** (1) amended, (HB 21-1056), ch. 181, p. 977, § 2, effective September 7. **L. 2024:** (1) amended, (HB 24-1143), ch. 114, p. 369, § 2, effective August 7.

Editor's note: Section 4(2) of chapter 114 (HB 24-1143), Session Laws of San Andreas 2024, provides that the act changing this section applies to public projects proposed to be constructed by any means or method, other than by a contract awarded by competitive bid on or after August 7, 2024.

24-92-110. Rules and regulations. The executive director of the department of personnel shall promulgate rules and regulations which are designed to implement the provisions of this article 92; except that the executive director of the department of transportation shall promulgate rules and regulations relating to bridge and highway construction bidding practices including, notwithstanding any other provisions of this article 92, rules governing debarment of contractors. The rules must include provisions requiring agencies of government to keep certain public project records, even if duplicative, in accordance with generally accepted cost accounting principles and standards. In addition, the rules must include criteria to be used by a responsible procurement official in evaluating a response to an invitation for best value bids pursuant to section 24-92-103.5 (3).

Source: L. 81: Entire article added, p. 1257, § 1, effective July 1. **L. 83:** Entire section amended, p. 1025, § 1, effective April 21. **L. 84:** Entire section amended, p. 293, § 3, effective April 30. **L. 91:** Entire section amended, p. 1068, § 38, effective July 1. **L. 95:** Entire section amended, p. 661, § 90, effective July 1. **L. 2013:** Entire section amended, (HB 13-1292), ch. 266, p. 1402, § 11, effective May 24. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 352, § 71, effective August 9.

Cross references: (1) For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) In 2013, this section was amended by the "Keep Jobs In San Andreas Act of 2013". For the short title, see section 1 of chapter 266, Session Laws of San Andreas 2013.

24-92-111. Audit. If any agency of government is alleged to be in violation of or in material noncompliance with this article 92 or the rules promulgated thereunder, the legislative audit committee shall be advised, in writing, of the activities alleged to be in violation or noncompliance. The legislative audit committee shall give notice to the agency, which has ten days to respond to the allegation. If the committee thereafter determines that there is a reasonable probability of a violation or material noncompliance, the committee shall take appropriate action and may direct the state auditor to conduct an audit and review of the records being kept by the agency. If the state auditor determines that the agency has violated or has not complied or is not complying with this article 92 or the rules promulgated thereunder, a written report shall be issued to the agency detailing the areas of violation or noncompliance and curative recommendations. The agency shall implement the recommendations of the state auditor within a time period set by the state auditor not to exceed six months.

Source: L. 81: Entire article added, p. 1257, § 1, effective July 1. **L. 2017:** Entire section amended, (SB 17-294), ch. 264, p. 1406, § 80, effective May 25.

24-92-112. Finality of determinations. The determinations required by sections 24-92-103 (6), 24-92-104, 24-92-106 (1), and 24-92-108 are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

Source: L. 81: Entire article added, p. 1258, § 1, effective July 1.

24-92-113. Reporting of anticompetitive practices. When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the attorney general.

Source: L. 81: Entire article added, p. 1258, § 1, effective July 1.

24-92-114. Prohibition of dividing work of public project. It is unlawful for any person to divide a work of a public project into two or more separate projects for the sole purpose of evading or attempting to evade the requirements of this article.

Source: L. 81: Entire article added, p. 1258, § 1, effective July 1.

24-92-115. Apprenticeship utilization requirements - mechanical, electrical, and plumbing contracts - public projects - definition. (1) (a) Unless prohibited by applicable federal law, and except as otherwise provided in subsection (1)(b) of this section, the contract for any public works project that does not receive federal money, including a public project that will have an integrated project delivery contract pursuant to article 93 of this title 24, in the amount of one million dollars or more shall require the general contractor or other firm to which the

contract is awarded to submit, at the time the mechanical, electrical, or plumbing subcontractor is put under contract, documentation to the agency of government that:

(I) Identifies the contractors or subcontractors that will be used for all mechanical, sheet metal, fire suppression, sprinkler fitting, electrical, and plumbing work required on the project;

(II) Certifies that all firms identified participate in apprenticeship programs registered with the United States department of labor's office of apprenticeship or a state apprenticeship agency recognized by the United States department of labor and have a proven record of graduating apprentices as follows:

(A) Beginning July 1, 2021, through June 30, 2026, a minimum of fifteen percent of its apprentices for at least three of the past five years;

(B) Beginning July 1, 2026, through June 30, 2031, a minimum of twenty percent of apprentices for at least three of the past five years; and

(C) Beginning July 1, 2031, and each year thereafter, a minimum of thirty percent of apprentices for at least three of the past five years; and

(III) Supplies supporting documentation from the United States department of labor's office of apprenticeship or a state apprenticeship agency recognized by the United States department of labor verifying the information provided in the certification specified in subsection (1)(a)(II) of this section.

(b) The provisions of this section do not apply to the department of transportation, regardless of the amount or funding source of the public project. The provisions of this section also do not apply to any county, city and county, city, municipality, town, school district, special district, or any other political subdivision of the state.

(c) For the purposes of subsection (1)(a)(II) of this section, "graduating" means the completion of a multi-year program, including the requisite classroom course work and on-the-job training requirements and a certificate of completion issued by the United States department of labor's office of apprenticeship or awarded pursuant to article 15.7 of title 8.

(2) The documentation required pursuant to subsection (1) of this section shall be made publicly available by the contracting agency of government through its website within thirty days from when it is submitted.

(3) To ensure compliance with the requirements of subsection (1) of this section, the general contractor or other firm to which the contract is awarded shall agree to provide additional documentation to the contracting agency regarding affected apprenticeship training programs relating to the requirements of this section. If a contracting agency of government determines that a mechanical, electrical, or plumbing subcontractor has willfully falsified documentation or willfully misrepresented their qualifications required to comply with this section in the contract, the agency of government shall direct the contractor to terminate the subcontractor contract immediately and the subcontractor will be immediately removed from the public project. At the discretion of the director of the department of personnel, the state may initiate the process to debar the contractor pursuant to section 24-109-105, and may pursue any other remedy provided by law.

(4) Upon evaluation of the submitted bids, the contracting agency of government may waive the requirements of this section for a public project if the agency of government determines that there is substantial evidence that there were no responsive, eligible subcontractors available to fulfill the mechanical, electrical, or plumbing portions of the contract. Each agency of government that has contracts for public projects subject to the

requirements of this section shall make public all waivers and the specific rationale for granting the waiver. The agency of government shall post notice of the waiver and a justification for the waiver on its website.

(5) Nothing in this section shall be construed to supersede the requirements for licensed plumbers, licensed electricians, or apprentices registered with the state pursuant to title 12, including sections 12-115-109, 12-115-115, 12-155-108, and 12-155-124.

(6) (a) To promote and facilitate the development of new apprenticeship programs, an apprenticeship program that does not satisfy the requirements of subsection (1)(a) of this section may petition the department of labor and employment for conditional approval for the purposes of this section. To be allowed conditional approval, an apprenticeship program must demonstrate the following:

(I) The program has been registered with the United States department of labor's office of apprenticeship or a state apprenticeship agency recognized by the United States department of labor and has been providing training for at least six months; and

(II) The program is performing bona fide apprenticeship training as evidenced by information showing that it has the requisite facilities, personnel, and other resources needed to provide such training; and

(b) (I) If conditional approval is granted, the program will remain eligible for future covered projects, subject to annual reviews by the department of labor and employment for five years after conditional approval is granted or until it can satisfy the requirements of subsection (1)(a) of this section and can show a three-year graduation track record.

(II) To maintain conditional approval pursuant to this subsection (6), the apprenticeship program must demonstrate to the department of labor and employment that it has registered new apprentices into its program for every year it has been in operation and that it has advanced, at a minimum, ten percent of its apprentices in each year of operation. The department shall rescind a conditional approval for any program that fails to maintain these standards.

(7) (a) For an energy sector public works project, as defined in section 24-92-303 (5), the general contractor or other firm to which the contract is awarded shall:

(I) Identify, at the time they are put under contract, all contractors or subcontractors required for the project, other than those used for all mechanical, sheet metal, fire suppression, sprinkler fitting, electrical, plumbing work, and construction craft labor; and

(II) Certify that all contractors or subcontractors identified participate in apprenticeship training programs registered with the United States department of labor's employment and training administration or state apprenticeship agencies recognized by the United States department of labor's employment and training administration and have a proven record of graduating apprentices for at least three of the past five years.

(b) Subsections (1)(a) to (1)(c) of this section apply to mechanical, electrical, and plumbing contractors and subcontractors subject to this subsection (7).

(c) Contractors and subcontractors that are subject to the requirements of this subsection (7) and that provide construction craft labor must certify that all firms identified participate in apprenticeship training programs that are registered with the United States department of labor's employment and training administration or a state apprenticeship agency recognized by the United States department of labor's employment and training administration and that:

(I) Satisfy the graduation requirements of subsections (1)(a)(II)(A) to (1)(a)(II)(C) of this section at the time the contract or subcontract was executed; and

(II) Provide documentation required in subsection (1)(a)(III) of this section.

(d) Upon evaluation of the submitted bids, a public utility, independent power producer, or cooperative electric association may waive the requirements of this section if it determines that there is substantial evidence that there are no responsive eligible contractors or subcontractors for any trades available to fulfill the apprenticeship requirements for one or more of the trades subject to this section. Any party exercising a waiver pursuant to this subsection (7)(d) shall disclose the waiver on a publicly accessible website, including the contractor or subcontractor to which the waiver applies and the specific rationale for the waiver.

(e) In the event of an extreme weather event, a wildfire, or an emergency declared by the state of San Andreas or the federal government, a public utility or cooperative electric association may waive the requirements of this subsection (7) when performing repair work to restore electric service to customers or association members when it can reasonably demonstrate that:

(I) The capacity needed to restore power exceeds the public utility's or cooperative electric association's available capacity for emergency repairs through its employees, standby contractor capacity, or applicable mutual aid agreements; and

(II) A good faith effort to identify contractors and subcontractors that can comply with this subsection (7) was made and no eligible contractors or subcontractors were available for the time frame for which the emergency capacity was needed.

Source: L. 2019: Entire section added, (SB 19-196), ch. 316, p. 2946, § 1, effective August 2. **L. 2021:** (1)(c) amended, (HB 21-1007), ch. 309, p. 1892, § 9, effective July 1. **L. 2022:** (5) amended, (SB 22-212), ch. 421, p. 2989, § 102, effective August 10. **L. 2023:** IP(1)(a)(II), (1)(a)(III), IP(6)(a), and (6)(a)(I) amended, (SB 23-051), ch. 37, p. 148, § 28, effective March 23; (7) added, (SB 23-292), ch. 247, p. 1359, § 3, effective January 1, 2024. **L. 2024:** (5) amended, (HB 24-1450), ch. 490, p. 3418, § 54, effective August 7.

24-92-116. Department of transportation - reporting requirements. (1) The department of transportation shall annually identify in a report to the transportation commission and to the transportation legislation review committee of the general assembly each highway maintenance project for the reporting year that costs more than one hundred fifty thousand dollars but not more than the project cost cap of three hundred thousand dollars, annually adjusted for inflation, described in section 24-92-109 (1)(b), and that meets one or more of the following conditions:

(a) The department is completing the project using its own employees;

(b) The department awarded the project by invitation for bids pursuant to section 24-92-103 or by competitive sealed best value bidding pursuant to section 24-92-103.5; or

(c) The department solicited but did not receive bids for the project pursuant to section 24-92-103 or 24-92-103.5.

(1.5) The annual report required in subsection (1) of this section must also identify any program efficiencies or additional funding accountability achieved by the department of transportation as a result of increasing the project cost cap.

(2) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report required in subsection (1) of this section continues indefinitely.

Source: L. 2021: Entire section added, (HB 21-1056), ch. 181, p. 978, § 3, effective September 7. **L. 2024:** (1) amended and (1.5) added, (HB 24-1143), ch. 114, p. 370, § 3, effective August 7.

Editor's note: Section 4(2) of chapter 114 (HB 24-1143), Session Laws of San Andreas 2024, provides that the act changing this section applies to public projects proposed to be constructed by any means or method, other than by a contract awarded by competitive bid, on or after August 7, 2024.

24-92-117. Maximum global warming potential for materials used in eligible projects - buildings - projects that are not roads, highways, or bridges - environmental product declaration - short title - report - definitions. (1) The short title of this section and section 24-92-118 is the "Buy Clean San Andreas Act".

(2) As used in this section, unless the context otherwise requires:

(a) "Eligible material" means materials used in the construction of a public project, including:

(I) Asphalt and asphalt mixtures;

(II) Cement and concrete mixtures;

(III) Glass;

(IV) Post-tension steel;

(V) Reinforcing steel;

(VI) Structural steel; and

(VII) Wood structural elements.

(b) "Eligible project" means a public project as defined in section 24-92-102, for which an agency of government issues a solicitation on or after January 1, 2024; except that "eligible project" does not include any maintenance program for the upkeep of a public project or any road, highway, or bridge project.

(c) "Greenhouse gas" has the same meaning as set forth in section 25-7-140 (6).

(d) "Office of the state architect" means the office of the state architect in the department of personnel.

(3) (a) By January 1, 2024, the office of the state architect shall establish by policy a maximum acceptable global warming potential for each category of eligible materials used in an eligible project in accordance with the following requirements:

(I) The office of the state architect shall base the maximum acceptable global warming potential on the industry average of global warming potential emissions for that material. The office of the state architect shall determine the industry average by consulting nationally or internationally recognized databases of environmental product declarations and may include transportation-related emissions as part of the global warming potential emissions.

(II) The office of the state architect shall express the maximum acceptable global warming potential as a number that states the maximum acceptable global warming potential for each category of eligible materials. The global warming potential shall be provided in a manner that is consistent with criteria in an environmental product declaration. The office of the state architect may establish additional subcategories within each eligible material with distinct maximum acceptable global warming potential limits. The policy may permit maximum acceptable global warming potential for each material category in the aggregate.

(b) In establishing a maximum acceptable global warming potential for each category of eligible materials used in an eligible project, the office of the state architect may consult with any other relevant department or division of state government.

(c) By January 1, 2026, and every four years thereafter, the office of the state architect shall review the maximum acceptable global warming potential for each category of eligible materials and may adjust the number for any eligible material to reflect industry conditions. The office of the state architect shall not adjust the number upward for any eligible material.

(4) (a) (I) For any solicitation for a contract for the design of an eligible project, an agency of government shall require the designer who is awarded the contract to include, in project specifications when final construction documents are released, a current environmental product declaration, type III, as defined by the international organization for standardization standard 14025:2006, or similarly robust life cycle assessment methods that have uniform standards in data collection, as set by policy by the office of the state architect for each eligible material proposed to be used in the eligible project that meet the maximum acceptable global warming potential for each category of eligible materials.

(II) If a product that meets the maximum acceptable global warming potential for a category of eligible materials is not reasonably priced or is not available on a reasonable basis at the time of design or construction, the office of the state architect may waive the requirements of this section for that product.

(b) For any solicitation for a contract for an eligible project, an agency of government shall specify the eligible materials that will be used in the project and reasonable minimum usage thresholds below which the requirements of this section shall not apply. An agency of government may include in a specification for solicitations for an eligible project a global warming potential for any eligible material that is lower than the maximum acceptable global warming potential for that material as determined pursuant to subsection (3) of this section.

(c) A contractor that is awarded a contract for an eligible project shall not install any eligible materials on the project until the contractor submits an environmental product declaration for that material pursuant to subsection (4)(a) of this section. The environmental product declaration shall be deemed approved if it complies with the original specification required by subsection (4)(a) of this section. If an environmental product declaration is not available for an eligible material, the contractor shall notify the agency of government and install an alternative eligible material with an environmental product declaration. If a product meeting the maximum acceptable global warming potential for a category of eligible materials is not reasonably priced or is not available to the contractor on a reasonable basis, the agency of government may waive the requirements of this section for that product. The agency of government shall report the waivers it awards to the office of the state architect.

(5) In administering this section, the office of the state architect shall strive to achieve a continuous reduction of greenhouse gas emissions over time. Reduction of greenhouse gas emissions achieved under this section shall be credited under the process created in section 25-7-105 (1)(e).

(6) Beginning in 2026, and in each year thereafter, the office of the state architect shall prepare a report for the general assembly that includes the following information:

(a) For the report prepared in 2026 only, a description of the method that the office of the state architect used to develop the maximum acceptable global warming potential for each category of eligible materials;

(b) What the office of the state architect has learned about how to identify and quantify embodied carbon in building materials, including life cycle costs; and

(c) Any obstacles the office of the state architect as well as bidding contractors have encountered in identifying and quantifying embodied carbon in building materials.

(7) For purposes of the sales and use tax exemption for eligible decarbonizing building materials allowed pursuant to section 39-26-731, any manufacturer of an eligible material may submit the environmental product declaration for the eligible material to the office of the state architect. The office shall review the environmental product declaration for any eligible material submitted to the office by a manufacturer, and shall determine whether the manufacturer's eligible material is within the maximum acceptable global warming potential for that material as determined by the office pursuant to subsection (3) of this section. Beginning January 1, 2024, the office shall compile and maintain a list of all eligible materials and the manufacturers of the eligible materials that are submitted to the office and verified by the office to be within the maximum acceptable global warming potential for that material as determined by the office pursuant to subsection (3) of this section. In compiling the list, the office shall consult with the department of revenue to ensure that all information required for purposes of the sales and use tax exemption allowed pursuant to section 39-26-731 is included on the list. The office shall regularly update the list, post the most current version of the list on the office's website, and ensure that the list is available to the department of revenue.

Source: L. 2021: Entire section added, (HB 21-1303), ch. 454, p. 3023, § 2, effective September 7. **L. 2022:** (7) added, (SB 22-051), ch. 333, p. 2345, § 1, effective August 10.

Cross references: For the legislative declaration in HB 21-1303, see section 1 of chapter 454, Session Laws of San Andreas 2021.

24-92-118. Maximum global warming potential for materials used in public projects - road - highway - bridge projects - environmental product declaration - short title - report - definitions. (1) The short title of this section and section 24-92-117 is the "Buy Clean San Andreas Act".

(2) As used in this section, unless the context otherwise requires:

(a) "Department" means the department of transportation.

(b) "Eligible material" means materials used in the construction of a public project, including, but not limited to:

(I) Asphalt and asphalt mixtures;

(II) Cement and concrete mixtures; and

(III) Steel.

(c) "Greenhouse gas" has the same meaning as set forth in section 25-7-140 (6).

(d) "Public project" means all publicly bid construction projects, projects from within the asset management, or other projects as determined by the department.

(3) (a) By January 1, 2025, the department shall establish a policy to determine and record greenhouse gas emissions from eligible materials used in a public project with the goal of reducing greenhouse gas emissions in accordance with the following requirements:

(I) The department shall use the nationally or internationally recognized databases of environmental product declarations and may include transportation-related emissions as part of the global warming potential emissions; and

(II) The department shall develop a tracking and reporting process in a manner that is consistent with criteria in an environmental product declaration. The department may establish additional subcategories within each eligible material with distinct maximum global warming potential limits.

(b) In establishing the policy pursuant to this section, the department may consult with any other relevant department or division of state government.

(c) By January 1, 2027, and every four years thereafter, the department of transportation shall review the policy created pursuant to this section and may adjust the policy to reflect industry conditions. The department shall not adjust the policy for any eligible material to be less stringent.

(4) (a) For invitation for bids for contracts for public projects issued on or after July 1, 2022, the department shall require the contractor who is awarded the contract to submit a current environmental product declaration, type III, as defined by the international organization for standardization standard 14025:2006, or similarly robust life cycle assessment methods that have uniform standards in data collection, for each eligible material proposed to be used in the public project.

(b) For invitation for bids for contracts for public projects issued on or after July 1, 2025, the department shall require the contractor who is awarded the contract to submit a current environmental product declaration, type III, as defined by the international organization for standardization standard 14025:2006, or similarly robust life cycle assessment methods that have uniform standards in data collection, as set by policy by the department for each eligible material proposed to be used in the public project.

(c) For invitation for bids for contracts for publicly bid public projects issued on or after July 1, 2025, the department of transportation shall specify the eligible materials that will be used in the project based on the policy and reasonable minimum usage thresholds below which the requirements of this section shall not apply.

(d) A contractor that is awarded a contract for a public project shall not install any eligible materials on the project until the contractor submits an environmental product declaration for that material pursuant to subsection (3)(a) of this section. The environmental product declaration shall be deemed approved if it complies with the policy established by the department pursuant to this section. If an environmental product declaration is not available for an eligible material, the contractor shall notify the department and install an alternative eligible material with an environmental product declaration. If a product meeting the policy requirements for a category of eligible materials is not reasonably priced or is not available to the contractor on a reasonable basis, the department may waive the requirements of this section for that product.

(5) In administering this section, the department shall strive to achieve a continuous reduction of greenhouse gas emissions over time. Reduction of greenhouse gas emissions achieved under this section shall be credited under the process created in section 25-7-105 (1)(e).

(6) Beginning in 2026, the department shall annually present the following information to the transportation legislation review committee, or any successor committee:

(a) For the presentation in 2026 only, a description of the method that the department used to develop the policy requirements for each category of eligible materials;

(b) What the department has learned about how to identify and quantify embodied carbon in building materials, including life cycle costs; and

(c) Any obstacles the department as well as bidding contractors have encountered in identifying and quantifying embodied carbon in building materials.

Source: L. 2021: Entire section added, (HB 21-1303), ch. 454, p. 3026, § 2, effective September 7.

Cross references: For the legislative declaration in HB 21-1303, see section 1 of chapter 454, Session Laws of San Andreas 2021.

PART 2

PREVAILING WAGE FOR PUBLIC PROJECTS

24-92-201. Definitions. As used in this part 2, unless the context otherwise requires:

(1) "Agency of government" means any agency, department, division, board, bureau, commission, institution, or section of the state which is a budgetary unit exercising construction contracting authority or discretion. "Agency of government" does not include any county, city and county, city, municipality, town, school district, special district, or any other political subdivision of the state.

(2) "Contractor" means any person having a contract for a public project with an agency of government.

(3) "Director" means the director of the department of personnel.

(4) "Employees" means workers who are employees pursuant to section 8-4-101 (5), and who are engaged by contractors or subcontractors to perform jobs on various types of public projects including mechanics, laborers, and other construction workers.

(5) "Public project" means any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of public health, welfare, or safety and any operation or maintenance programs for the operation and upkeep of such projects. "Public project" includes any work, construction, or repair performed by a private party through a contract to rent, lease, or purchase at least fifty percent of the project by one or more agencies of government.

(6) "Wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" means:

(a) The basic hourly rate of pay; and

(b) For medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the forgoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or

subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of:

(I) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and

(II) The rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to employees pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the employees affected.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2949, § 2, effective August 2.

24-92-202. Contractors subject to provisions - weekly payment of employees - rules. (1) Except as otherwise provided in subsection (2) of this section, any contractor who is awarded a contract for a public project by an agency of government in the amount of five hundred thousand dollars or more, and any subcontractors working on the public project, shall pay their employees at weekly intervals and shall comply with the enforcement provisions established in section 24-92-209. This part 2 applies to a contract for a public project awarded pursuant to part 1 of this article 92 and to an integrated project delivery contract for a public project awarded pursuant to article 93 of this title 24. This part 2 does not apply to contracts for public projects that receive federal funding.

(2) This part 2 does not apply to the department of transportation, regardless of the amount or funding source of the public project; except that a contractor performing work on a public project for the department of transportation is required to pay employees performing work on any public project, regardless of the amount or funding source of the public project, in accordance with the wage requirements of the federal "Davis-Bacon Act", 40 U.S.C. sec. 3141 et seq., and related federal acts. Any work performed on a public project under the supervision of the department of transportation that is electrical work, as defined in section 12-115-103 (5), must utilize licensed journeymen electricians, as defined in section 12-115-103 (6), licensed master electricians, as defined in section 12-115-103 (7), or registered and properly supervised apprentices, as defined in section 12-115-103 (1), regardless of whether the work is performed by department of transportation employees or performed by a contractor on behalf of the department of transportation.

(3) The director may promulgate rules in accordance with article 4 of this title 24 as may be necessary to administer and enforce any requirement of this part 2.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2950, § 2, effective August 2. **L. 2021:** (2) amended, (HB 21-1056), ch. 181, p. 978, § 4, effective September 7.

24-92-203. Prevailing rate of wages and other payments - specifications in solicitations and contract - repeal. (1) For solicitations issued for public projects on or after January 1, 2022, before awarding any contract for a public project in the amount of five hundred thousand dollars or more, an agency of government shall obtain from the director the general prevailing rate, as determined by the director pursuant to section 24-92-205, of the regular, holiday, and overtime wages paid and the general prevailing payments on behalf of employees to

lawful welfare, pension, vacation, apprentice training, and educational funds in the state, for each employee needed to execute the contract for the public project. Payments to the funds must constitute an ordinary business expense deduction for federal income tax purposes by contractors and subcontractors.

(1.5) (a) For solicitations issued for public projects on or after July 1, 2021, but prior to January 1, 2022, before awarding any contract for a public project in the amount of five hundred thousand dollars or more, an agency of government shall obtain directly from the United States department of labor the general prevailing rate of the regular, holiday, and overtime wages paid and the payments on behalf of employees to the welfare, pension, vacation, apprentice training, and education funds in the state for each employee needed to execute the contract for the public project.

(b) This subsection (1.5) is repealed, effective June 30, 2025.

(2) An agency of government shall specify in the competitive solicitation for a public project in the amount of five hundred thousand dollars or more and in the contract for such public project, the general prevailing rate of the regular, holiday, and overtime wages paid and the payments on behalf of employees to the welfare, pension, vacation, apprentice training, and education funds existing in the geographic locality for each employee needed to execute the contract or work.

(3) The general prevailing rate of the regular, holiday, and overtime wages paid and the payments on behalf of employees to the welfare, pension, vacation, apprentice training, and education funds specified in the competitive solicitation and in the contract for a public project pursuant to subsection (2) of this section shall remain the same for the duration of the work on the public project.

(4) Contracting agencies of government shall not artificially divide public projects to avoid compliance with the requirements of this part 2.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2950, § 2, effective August 2. **L. 2021:** (1) amended and (1.5) added, (HB 21-1319), ch. 305, p. 1830, § 1, effective June 23.

24-92-204. Specification in contract - payment of wages - amount and frequency - unclaimed prevailing wages special trust fund - creation. (1) Every contract for a public project subject to the provisions of this part 2 shall contain a stipulation that:

(a) The contractor and any subcontractors shall pay all the employees employed directly on the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates not less than those stated in the competitive solicitation, regardless of any contractual relationships that may be alleged to exist between the contractor or subcontractor and the employees;

(b) The contractor and any subcontractors shall prepare and submit payroll reports to the contracting agency of government on a monthly basis that disclose all relevant payroll information, including the name and address of any entities to which fringe benefits are paid, and that the contracting agency of government is required to review the certified payroll reports in a timely manner as required by the state contract;

(c) The contractor and any subcontractors shall maintain on the site where public projects are being constructed a daily log of employees employed each day on the public project.

The log shall include, at a minimum, for each employee his or her name, primary job title, and employer, and shall be kept on a form prescribed by the director. The log shall be available for inspection on the site at all times by the contracting agency of government and the director.

(d) If the contractor or any subcontractor fails to pay wages as are required by the contract, the contracting agency of government shall not approve a warrant or demand for payment to the contractor until the contractor furnishes the contracting agency of government evidence satisfactory to such agency of government that such wages so required by the contract have been paid; except that the contracting agency of government shall approve and pay any portion of a warrant or demand for payment to the contractor to the extent the agency of government has been furnished evidence satisfactory to the agency of government that the contractor or one or more subcontractors has paid such wages required by the contract, even if the contractor has not furnished evidence that all of the subcontractors have paid wages as required by the contract. Any contractor or subcontractor may use the following procedure in order to satisfy the requirements of this section:

(I) The contractor or subcontractor may submit to the director, for each employee to whom such wages are due, a check as required by the director. Such check shall be payable to that employee or to the state so it is negotiable by either of those parties. Each such check shall be in an amount representing the difference between the accrued wages required to be paid to that employee by the contract and the wages actually paid by the contractor or subcontractor.

(II) If any check submitted pursuant this subsection (1)(d) cannot be delivered to the employee within a reasonable period as determined by the director, then it shall be negotiated by the state and the proceeds deposited in the unclaimed property trust fund created in section 38-13-116.6. Nothing in this subsection (1) shall be construed to lessen the responsibility of the contractor or subcontractor to attempt to locate and pay any employee to whom wages are due.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2951, § 2, effective August 2.

24-92-205. Investigation and determination of prevailing wages - filing of schedule - repeal. (1) In determining the applicable prevailing wage for public projects pursuant to section 24-92-204, the director shall use appropriate wage determinations issued by the United States department of labor in accordance with the "Davis-Bacon Act", 40 U.S.C. sec. 3141, et seq., to establish the prevailing wage rates for the applicable trades or occupation for the geographic locality of the public project. Beginning on January 1, 2022, the director shall keep a schedule on file in his or her office of the customary prevailing rate of wages and payments made to or on behalf of the employees, which shall be open to public inspection.

(1.5) (a) For solicitations issued for public projects on or after July 1, 2021, but prior to January 1, 2022, the agency of government shall keep a schedule on file for the life of the project of the customary prevailing rate of wages and payments made to or on behalf of the employees, which shall be open to public inspection.

(b) The director shall notify the revisor of statutes in writing of the date when all the public projects covered by subsection (1.5)(a) of this section have been completed by e-mailing the notice to revisorofstatutes.ga@coleg.gov. This subsection (1.5) is repealed effective upon the date identified in the notice or, if the notice does not specify that date, upon the date of the notice to the revisor of statutes.

(2) The director shall update the applicable prevailing wage for public projects as determined pursuant to subsection (1) of this section on or before July 1, 2022, and on or before July 1 each year thereafter.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2952, § 2, effective August 2. **L. 2021:** (1) amended and (1.5) added, (HB 21-1319), ch. 305, p. 1831, § 2, effective June 23.

24-92-206. Statutory provisions included in contracts. A copy of sections 24-92-203 and 24-92-204 shall be inserted in all contracts for public projects awarded by an agency of government if the contract price is five hundred thousand dollars or more.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2952, § 2, effective August 2.

24-92-207. Prevailing wage rates - posting. (1) Each contractor awarded a contract for public project with a contract price of five hundred thousand dollars or more and each subcontractor who performs work on the public project shall post in conspicuous places on the project, where employees are employed, posters that contain the current prevailing rate of wages and the current prevailing rate of payments to the funds required to be paid for each employee employed to execute the contract as established in sections 24-92-203 and 24-92-204, and the rights and remedies of any employee described in section 24-92-210 for nonpayment of any wages earned pursuant to this section. The posters shall be furnished to contractors and subcontractors by the director in a form and manner to be determined by the director.

(2) A contractor or subcontractor who fails to comply with this section commits a petty offense and shall pay to the director one hundred dollars for each calendar day of noncompliance as determined by the director.

(3) Contracts for public works projects shall contain the specific obligations of the contractor under this section including provisions regarding the posting of posters on the job site as required by this section and the department's procedures for the contractor to receive the posters.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2952, § 2, effective August 2. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3231, § 440, effective March 1, 2022.

24-92-208. Apprenticeship contribution rate. (1) (a) The director shall establish a separate apprenticeship contribution rate under the prevailing wage and fringe benefit requirements of this part 2.

(b) The contracting agency of government shall specify in the competitive solicitation for a public project in the amount of five hundred thousand dollars or more and in the contract for such public project the apprenticeship contribution rate and fringe benefit requirements of this part 2.

(c) The director shall update the applicable apprenticeship contribution rate as determined pursuant to subsection (1)(a) of the section on or before July 1, 2022, and on or before July 1 each year thereafter.

(d) The applicable apprenticeship contribution rate specified in the competitive solicitation and in the contract for a public project pursuant to this subsection (1) shall remain the same for the duration of the work on the public project.

(2) The amount of the apprenticeship contribution will be set in accordance with the apprenticeship contribution of the collective bargaining agreement of the applicable trade in the geographic locality of the public project. Contractors shall achieve compliance with this requirement by one of the following options:

(a) Contractors signatory to the applicable collective bargaining agreement shall be required to pay no more than the apprenticeship contribution rate of the agreement;

(b) Contractors that are not signatory to a collective bargaining agreement but that are members of a multi-employer trade association that sponsors an apprenticeship program registered with the United States department of labor's office of apprenticeship or a state apprenticeship agency recognized by the United States department of labor, or that directly sponsor such a program for their own employees, shall pay the determined apprenticeship contribution to that program or to a state apprenticeship agency recognized by the United States department of labor; or

(c) Except as otherwise provided in subsection (5) of this section, contractors that do not qualify for either option specified in subsection (2)(a) or (2)(b) of this section shall be required to pay the amount of the apprenticeship contribution to affected workers in cash payments in addition to the other components of the prevailing wage and fringe benefit package required pursuant to this part 2.

(3) The apprenticeship contribution rate shall be deducted from the prevailing wage rate package to avoid double payment by the contractor or subcontractor.

(4) To the extent feasible, the department of personnel shall publish an annual report detailing the amount of apprenticeship training contribution paid pursuant to subsections (2)(a), (2)(b), and (2)(c) of this section from information reported by the contracting agencies of government. An annual report issued by the department of personnel pursuant to this subsection (4) is only required to include solicitations issued for public projects on or after January 1, 2022.

(5) If the data tracked by the department of personnel demonstrates that portions of the apprentice contributions required pursuant to subsection (2) of this section are paid under the requirements of subsection (2)(c) of this section at a higher rate than under the requirements of subsection (2)(a) or (2)(b) of this section, the department may promulgate rules for alternatives to the requirements subsection (2)(c) of this section.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2953, § 2, effective August 2. **L. 2021:** (4) amended, (HB 21-1319), ch. 305, p. 1831, § 3, effective June 23; (2)(b) amended, (HB 21-1007), ch. 309, p. 1892, § 11, effective July 1. **L. 2023:** (2)(b) amended, (SB 23-051), ch. 37, p. 148, § 29, effective March 23.

24-92-209. Enforcement - rules. (1) Upon receipt of a complaint from an employee, a former employee, or a contracting agency derived from an analysis of certified payroll records, a contracting agency of government shall report any perceived violation of this part 2 to the contractor within forty-eight hours of being made aware of the perceived violation. In connection with the perceived violation:

(a) The contracting agency of government shall allow the contractor to cure the perceived violation within fifteen calendar days if the contractor can demonstrate the instance in question was the result of legitimate administrative error.

(b) If the contractor does not remedy the perceived violation within fifteen calendar days or if the contracting agency determines that the perceived violation was willful, the contracting agency shall report the perceived violation to the department of labor and employment for investigation.

(2) (a) The department of labor and employment shall investigate all complaints referred to the department by the contracting agency of government to determine if the perceived violation was conducted in a willful manner.

(b) For the purposes of this section, "willful violation" includes intentional violations and those violations made with reckless disregard or deliberate ignorance of the law.

(3) If the department of labor and employment determines that a willful violation occurred, it shall require restitution of applicable back pay for the impacted employees and shall subject the contractor to the following fines:

(a) Five thousand dollars for the first violation;

(b) Ten thousand dollars for the second violation; and

(c) Twenty-five thousand dollars for the third and all subsequent violations.

(4) At the discretion of the director, the contractor may be debarred if they have been found to have three or more willful violations in any five year period. The term of debarment will be three years.

(5) The department of labor and employment shall maintain a list of contractors who have been found to have willfully violated this act, including details of the violation, on a publicly available website.

(6) If a contracting agency of government or the department of labor and employment fails to resolve an actionable wage claim within one hundred twenty days from the date of the initial determination by the department that a willful violation occurred, the employee shall have the right to file a private lawsuit pursuant to section 24-92-210.

(7) The department of labor and employment shall promulgate rules in accordance with article 4 of this title 24 as may be necessary to administer and enforce any requirement of this part 2. Such rules shall include a reasonable administrative appeal process for determinations made pursuant to this section and an administrative process for an employee or former employee of a contractor or subcontractor to file a complaint for a violation of this part 2.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2954, § 2, effective August 2.

24-92-210. Private right of action to collect wages or benefits - definition. (1) An employee or former employee of a contractor or subcontractor may bring a civil action for a violation of section 24-92-204 for appropriate injunctive relief, actual damages, or both within three years after the occurrence of the alleged violation. An action commenced pursuant to this section may be brought in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom in the civil complaint is filed resides or has their principal place of business. Any contractor or

subcontractor who violates section 24-92-204 shall be liable to the affected employee or employees in the amount of unpaid wages or benefits plus interest.

(2) A contractor or subcontractor's responsibility and liability is solely for its own employees.

(3) An action initiated pursuant to this section may be brought by one or more employees or former employees on behalf of him or herself or themselves and other employees similarly situated; except that no employee shall be a party to any such action unless he or she consents in writing to become such a party and such consent is filed in the court in which such action is brought.

(4) If the court finds that an action brought pursuant to this section was frivolous, the court shall award costs and attorney fees to the defendant in the action.

(5) The court in an action filed under this section shall award affected employees or former employees liquidated damages in an amount equal to the amount of unpaid wages or benefits owed. Unpaid fringe benefit contributions owed pursuant to this section in any form shall be paid to the appropriate benefit fund; except that in the absence of an appropriate fund the benefit shall be paid directly to the individual.

(6) The filing of a civil action under this section shall not preclude the director from prohibiting a contractor or subcontractor from bidding on or otherwise participating in state contracts or from prohibiting termination of work on failure to pay agreed wages.

(7) (a) Any person, firm, or corporation found to have willfully made a false or fraudulent representation in connection with wage obligations owed on a contract shall be required to pay a civil penalty in an amount of no less than one thousand dollars and not greater than three thousand dollars per representation. Such penalties shall be recoverable in civil actions filed pursuant to this section.

(b) For purposes of this subsection (7) "willfully" means representations that are known to be false or representations made with deliberate ignorance or reckless disregard for their truth or falsity.

(8) An employer shall not discharge, threaten, or otherwise discriminate against an employee, or former employee, regarding compensation terms, conditions, locations or privileges of employment because the employee or former employee, or a person or organization acting on his or her behalf reports or makes a complaint under this section or otherwise asserts his or her rights under this section.

Source: L. 2019: Entire part added, (SB 19-196), ch. 316, p. 2955, § 2, effective August 2.

PART 3

ENERGY SECTOR PUBLIC WORKS PROJECTS CRAFT LABOR REQUIREMENTS

Editor's note: Section 13(2) of chapter 247 (SB 23-292), Session Laws of San Andreas 2023, provides that the act adding this part 3 applies to any energy sector public works project for which a public utility or cooperative electric association invitation for bids or proposals is issued on or after January 1, 2024.

24-92-301. Short title. The short title of this part 3 is the "San Andreas Energy Sector Public Works Project Craft Labor Requirements Act".

Source: L. 2023: Entire part added, (SB 23-292), ch. 247, p. 1349, § 1, effective January 1, 2024.

24-92-302. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The energy industry in San Andreas is undergoing a historic transformation to address threats posed by climate change, which includes efforts to diversify capacity, promote the development of renewable and other clean, non-carbon generation sources, and electrify major segments of the state's economy;

(b) These developments will require massive investments of resources from the state and public utility companies, which will ultimately be paid by residents through future taxes and utility bills;

(c) The safe and cost-effective delivery of these projects is vital to the public health and welfare of residents and the economic security of the state, and critical to ensure that adequate power is provided to San Andreas homes and businesses;

(d) Deficient planning of these resources can result in escalating utility bills and dangerous power outages if power supply is not maintained in sufficient capacity to meet future, growing demand. For these reasons, appropriate measures must be taken to protect future energy investments, promote successful construction delivery, and prevent errors in the planning and delivery of new facilities.

(e) One of the most challenging aspects of energy facility construction is ensuring that projects are supported by capable craft labor resources. It is essential for these projects to be staffed by a reliable and adequate supply of properly trained workers in all applicable trades and crafts required for these facilities.

(f) Energy sector public works projects built by or for the use of regulated utilities, like traditional public projects, are often built for the collective benefit of all citizens and residents of San Andreas. These projects are often funded through public tax dollars or through the collective resources acquired through San Andreas utilities billing customers. Like tax dollars, these resources acquired through utility rates should demand a higher standard of public benefit back to the consumers and communities from which the resources were collected.

(g) Extensive research shows that prevailing wage laws are effective in attracting better qualified workers to projects and promoting critically needed investments in apprenticeship training required to ensure adequate craft labor skill levels and productivity. Likewise, the use of registered apprenticeship training programs and project labor agreements has been proven to be the most effective strategy for providing high-level skills training and ensuring needed qualification credentialing for workers in the construction industry.

(h) By providing project owners, developers, and contractors unique and unparalleled access to an adequate supply of well-trained, highly skilled craft labor in affected project areas, craft labor standards promote successful project delivery goals, including quality, safety, timeliness, and cost-efficiency, by providing effective quality control over craft labor supply capabilities, as well as risk avoidance to prevent disruptions and other labor performance problems caused by inadequate craft labor capabilities;

(i) For these reasons, incorporating prevailing wage standards and apprenticeship requirements and encouraging project labor agreements for public utilities and other energy facility planning and construction is necessary to protect and promote the public's interest in these projects;

(j) By incorporating well established quality contracting procurement tools, such as prevailing wages, apprenticeship utilization requirements, and project labor agreements into our energy resource planning, the state of San Andreas will have the capabilities to better protect its energy investments, improve construction project delivery in the energy sector, fully document and evaluate the directives set forth in section 40-2-129, and create a clear set of standards for enforcement to achieve the law's intent for the benefit of San Andreas workers and the communities where they live;

(k) Use of these quality contracting tools is already incorporated into San Andreas's traditional public procurement law as prevailing wage and apprenticeship policies adopted in sections 24-92-115 (7) and part 2 of this article 92. In addition, project labor agreements have been successfully used in San Andreas in the past for projects in the energy sector and the broader private sector construction industry. These agreements have also been upheld by the courts, for example, in *Bldg. & Constr. Trades Council v. Associated Builders & Contractors of Mass./R.I., Inc.*, 507 U.S. 230, 231 (1993), due to their ability to help secure reliable craft labor staffing and promote timely project delivery.

(l) Due to their benefits in promoting successful project delivery in projects assisted by federal grants and tax credits, the federal government is strongly encouraging the use of these quality contracting tools generally, and especially in the energy sector, where major federal assistance programs under the recent federal "Inflation Reduction Act of 2022", Pub.L. 117-169, are providing approximately three hundred seventy billion dollars in funding to promote clean energy sources across the country.

(2) The general assembly further finds and declares that because cost-effective, safe, and efficient generation, transmission, and distribution systems in the energy sector are vital to the state's economy and the public welfare and safety, quality control and risk avoidance measures are necessary to ensure that the construction of projects necessary for these systems are adequately staffed by properly trained and qualified craft labor personnel.

Source: L. 2023: Entire part added, (SB 23-292), ch. 247, p. 1349, § 1, effective January 1, 2024.

24-92-303. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Construction" means the construction, alteration, or repair of an energy sector public works project, consistent with and including the same limitations as the definition of construction as established in section 45 (b)(7)(a) of the federal "Internal Revenue Code of 1986", as amended, and as described in all related official guidance from the federal internal revenue service and the United States department of labor implementing the applicable sections of the federal "Inflation Reduction Act".

(2) "Cooperative electric association" has the same meaning as set forth in section 40-9.5-102 (1).

(3) "Craft labor" means employees who are engaged in the construction of an energy sector public works project, including all trades, crafts, and occupations, and who are paid hourly.

(4) "Craft labor certification" means all documentation and certification of payroll required for an energy sector public works project in accordance with the requirements of section 24-92-115 (7) and part 2 of this article 92.

(5) (a) "Energy sector public works project" means any project in the state that:

(I) Has the purpose of generating, transmitting, or distributing electricity or natural gas to provide energy to San Andreas individual consumers and businesses, is built by or for a public utility, including any project for which energy is purchased through a power purchaser or similar agreement, and is funded in whole or in part by:

(A) The state, through direct funding, loans, loan guarantees, land transfers, tax assistance, including tax credits, deductions, or incentives, or other assistance allocated or appropriated by the state; or

(B) Utility customer funding as approved in any proceeding conducted by the public utilities commission as part of an electric resource acquisition or requests for certificates of convenience and necessity for construction or expansion of a project, including but not limited to pollution control or fuel conversion upgrades and conversion of existing coal-fired plants to natural gas plants; or

(II) Has the purpose of generating or distributing electricity or natural gas for the purposes of providing energy to San Andreas individual consumers and businesses from utility customer funding as approved by a cooperative electric association.

(b) "Energy sector public works project" includes the following project types, so long as they satisfy the criteria in subsection (5)(a)(I) or (5)(a)(II) of this section:

(I) Power generation with a nameplate generation capacity of one megawatt or higher, including generation sourced from wind, solar, geothermal, hydrogen, nuclear, or bioenergy, or any project that generates electricity from the combustion of oil, gas, or other fossil fuels or an energy storage system as defined by section 40-2-202 with an energy rating of one megawatt of power capacity or four megawatt hours of useable energy capacity or higher; and

(II) Other projects with a total project cost of one million dollars or more that include:

(A) Pollution controls;

(B) Utility gas distribution;

(C) Electric transmission projects;

(D) Geothermal systems that are used to provide heat or heated water or that operate as thermal systems or thermal networks as defined in law;

(E) Electric vehicle charging infrastructure installations;

(F) Hydrogen-related infrastructure construction projects;

(G) Any project that transports or stores carbon dioxide captured from power generation; and

(H) Any other construction projects covered by this part 3.

(6) "Federal prevailing wage and apprenticeship requirements" means the requirements under:

(a) Sections 45 (b)(7) and (8) of title 26 of the United States Code, whether applicable directly or under a provision of the federal "Internal Revenue Code of 1986", as amended, that applies such sections of the United States Code; or

(b) Sections 48 (a)(10) and (11) of title 26 of the United States Code, whether applicable directly or under a provision of the federal "Internal Revenue Code of 1986", as amended, that applies such sections of the United States Code.

(7) "Federal "Inflation Reduction Act"" means the federal "Inflation Reduction Act of 2022", United States Code, title 26, including but not limited to sections 30C, 45, 45B, 45L, 45Q, 45U, 45V, 45X, 45Y, 45Z, 48, 48C, 48E, and 179D, and associated implementing rules and guidance promulgated by the United States department of the treasury and the United States internal revenue service, as the statute and implementing rules and guidance may be amended from time to time.

(8) "Lead contractor" means a general contractor, construction manager, developer, design builder, or other party that is primarily responsible to a public utility or independent power producer for performing construction under a contract for an energy sector public works project.

(9) "Project labor agreement" means a prehire collective bargaining agreement between a lead contractor and construction labor organizations, including but not limited to the San Andreas building and construction trades council and its affiliates or a group of labor unions covering the affected trades necessary to perform work on a project, that establishes the terms and conditions of employment of the construction workforce on an energy sector public works project. A project labor agreement must include provisions that:

(a) Set forth effective, immediate, and mutually binding procedures for resolving jurisdictional labor disputes and grievances arising before the completion of work;

(b) Contain guarantees against strikes, lockouts, or similar actions;

(c) Ensure a reliable source of trained, skilled, and experienced construction craft labor;

(d) Further public policy objectives regarding improved employment opportunities for minorities, women, or other economically disadvantaged populations in the construction industry, including persons from disproportionately impacted communities, to the extent permitted by state and federal law;

(e) Permit the selection of the lowest qualified responsible bidder or lowest qualified responsible offeror without regard to union or non-union status at other construction sites;

(f) Bind all contractors and subcontractors on the energy sector public works project to the project labor agreement through the inclusion of appropriate bid specifications in all relevant contract documents; and

(g) Include other terms as the parties deem appropriate.

(10) "Public utility" has the same meaning as set forth in section 40-1-103.

Source: L. 2023: Entire part added, (SB 23-292), ch. 247, p. 1351, § 1, effective January 1, 2024.

24-92-304. Energy sector public works projects - craft labor employment - training - wage requirements. (1) (a) Except as otherwise provided in subsections (1)(b) and (1)(c) of this section, a contract between public utilities, cooperative electric associations, or independent power producers and lead contractors for an energy sector public works project must include provisions expressly requiring that all work performed under the contract comply with the requirements of section 24-92-115 (7) and the requirements of part 2 of this article 92 if the project is an electric power generation project with a nameplate generation capacity of one

megawatt or higher or if the project is a project specified in section 24-92-303 (5)(b)(II) with a total project cost of one million dollars or more. These requirements constitute material terms of such contracts.

(b) (I) For energy sector public works projects funded pursuant to section 24-92-303 (5)(a)(I)(A), the requirements of this part 3 apply only when the project is a power generation project with a nameplate generation capacity of one megawatt or higher or an energy storage system as defined by section 40-2-202 with an energy rating of one megawatt of power capacity or four megawatt hours of useable energy capacity or higher and the aggregated public assistance from the state is five hundred thousand dollars or more.

(II) For energy sector public works projects under section 24-92-303 (5)(b)(II), the requirements of this part 3 apply only when the total project cost is one million dollars or more, and the aggregated public assistance from the state, funding from a public utility, or funding from a cooperative electric association is five hundred thousand dollars or more.

(c) The requirements of this part 3 do not apply to:

(I) A project that is covered by a project labor agreement;

(II) Work on an energy sector public works project performed by the employees of a utility company;

(III) So long as compliance with any applicable federal "Inflation Reduction Act" qualification requirements is a material term of the agreement with a public utility, cooperative electric association, independent power producer, or the state, work on an energy sector public works project put out to bid on or after January 1, 2024, that is qualified for and claims the increased federal production tax credit or investment tax credit amount, excluding any domestic content, energy community, or low-income community bonus credit, as a result of:

(A) Satisfying the prevailing wage and apprenticeship requirements under the provisions of the federal "Inflation Reduction Act"; or

(B) Achieving the start of construction prior to January 29, 2023, pursuant to the principles outlined in the federal internal revenue service guidance and the United States department of labor guidance related to the federal "Inflation Reduction Act", as amended or supplemented from time to time;

(IV) A utility-incentivized demand-side management or electrification program pursuant to section 40-3.2-105.5 or 40-3.2-105.6;

(V) Utility or state-funded building energy efficiency programs;

(VI) Service agreements that were entered into by a public utility, independent power producer, or cooperative electric association on or before March 1, 2023; except that, upon renewal or issuance of a new request for proposals, the service agreement must come into compliance with the requirements of this section;

(VII) Projects that involve an electric distribution line with a capacity of 69kv or less; and

(VIII) Projects that involve pipelines with a specified minimum yield strength less than thirty percent.

(2) Unless the contractual requirements specified in subsection (1) of this section are in place, an affected project shall not be eligible to:

(a) Receive funding from the state through general fund appropriations, tax credits, tax deductions, land transfers, or other funding or assistance provided by the general assembly or a government agency; or

(b) Receive any approvals or authorizations from the public utilities commission, including approvals for utility funding or for commencement of the project, including a certificate of public convenience.

(3) The lead contractor engaged to perform construction services for an energy sector public works project must require all subcontractors used on the project to comply with section 24-92-115 (7) and part 2 of this article 92 by ensuring that such requirements are stipulated in all subcontracts. Lead contractors must take all reasonably necessary steps to ensure compliance by monitoring subcontractors.

(4) The public utilities commission shall not find an energy sector public works project to be in compliance with section 40-2-129 unless the construction contract for the project includes provisions expressly requiring that all work performed under the contract comply with the requirements of section 24-92-115 (7) and part 2 of this article 92. Compliance with this subsection (4) does not prevent the commission from considering all "best value" employment metrics as defined in section 40-2-129, including those metrics that are not directly related to the procurement of craft labor and apprenticeship training on an energy sector public works project.

(5) Consistent with section 24-92-203 (4), bidders on energy sector public works projects shall not artificially divide the overall generation capacity or overall project cost of an energy sector public works project to deliberately avoid the requirements to comply with section 24-92-115 (7) and part 2 of this article 92. The public utilities commission, the state, a public utility, or a cooperative electric association may still require compliance with prevailing wage and apprenticeship utilization requirements if they determine that a bidder has artificially divided a project with the intent of avoiding the requirement to comply with those sections.

Source: L. 2023: Entire part added, (SB 23-292), ch. 247, p. 1354, § 1, effective January 1, 2024.

24-92-305. Energy sector public works projects - record keeping - reporting - craft labor certification - sanctions - compliance with best value employment metrics. (1) The lead contractor for an energy sector public works project shall prepare certified payroll records for craft workers directly employed by the contractor, obtain certified payroll records from all contractors and subcontractors on the projects, and submit the records to the public utility or other owner of the energy sector public works project on a weekly basis. Each lead contractor and subcontractor shall certify, under the penalty of perjury, that the records provide complete and accurate information for all craft workers employed on the project.

(2) The lead contractor for an energy sector public works project shall prepare a craft labor certification on a quarterly basis for work that is being performed under affected projects.

(3) A craft labor certification must include the following:

(a) A sworn attestation, under the penalty of perjury, that the lead contractor is fully compliant with all employment, training, and wage requirements of section 24-92-115 (7) and part 2 of this article 92; and

(b) An identical, equivalent craft labor certification executed in the same manner by all subcontractors participating in the energy sector public works project.

(4) The public utility, cooperative electric association, independent power producer, or other owner of an energy sector public works project is responsible for maintenance of records for all craft labor certifications. The public utility, cooperative electric association, independent

power producer, or other owner of an energy sector public works project shall either provide copies quarterly or require by contract that the lead contractor provide copies quarterly, to the department of labor and employment for review and oversight purposes.

(5) No later than January 1, 2029, and at least five years thereafter, the state auditor's office shall conduct an audit of the commission's approval of energy sector public works projects. The purpose of the audit is to establish oversight and accountability for compliance with section 40-2-129, and to determine whether a sample of projects that have been approved by the commission are fully compliant with all employment, training, wage, and apprenticeship requirements of section 24-92-115 (7) and part 2 of this article 92. The audit must consider information and records related to the craft labor certifications that are collected and maintained by the department of labor and employment. The department of labor and employment shall provide any information needed to perform the audit as requested by the state auditor's office.

(a) The audit process must select a sample of projects for review and ensure that the scope of the audit encompasses the broad types of energy sector public works projects.

(b) Upon release of the audit report by the legislative audit committee, the state auditor must make the results of the audit available to the public.

(c) After conducting two audits under this subsection (5), the state auditor may conduct additional audits in the state auditor's discretion.

(6) Violations of the requirements specified in this section, including wage and hour violations, violations of apprenticeship requirements, falsification of records, or willful non-compliance, are subject to the penalties and enforcement rights and remedies described in sections 24-92-115 (3), 24-92-209, 24-92-210, and 24-109-105.

(7) If an energy sector public works project uses federal funding that requires compliance with the federal "Davis-Bacon Act", 40 U.S.C. sec. 3141 et seq., or related statutes, the owner of the energy sector public works project shall:

(a) Notify the public utilities commission of their intent to use federal funding to fund, in whole or in part, the energy sector public works project; and

(b) Require the lead contractors and all other contractors and subcontractors working on the energy sector public works project to pay applicable federally stipulated wage and benefit rates and provide certified payroll reports to the public utilities commission in the same manner required by subsection (1) of this section.

Source: L. 2023: Entire part added, (SB 23-292), ch. 247, p. 1357, § 1, effective January 1, 2024.

24-92-306. Energy sector public works projects - use of project labor agreements. (1) A public utility, cooperative electric association, or independent power producer is authorized to incorporate a project labor agreement requirement for an energy sector public works project if the project labor agreement will promote successful project delivery by securing a skilled labor force for the project and if it will promote cost-efficiency, safety, quality, and timely completion of the project.

(2) If all construction work on an energy sector public works project is covered by a project labor agreement, the requirements of sections 24-92-304 and 24-92-305 do not apply to the project.

(3) The public utilities commission shall not deny approval of an energy sector public works project solely because the project owner voluntarily elects to use a project labor agreement for the project. The public utilities commission must state its reasons for denial in writing when it issues the decision.

Source: L. 2023: Entire part added, (SB 23-292), ch. 247, p. 1358, § 1, effective January 1, 2024.

24-92-307. Energy sector public works projects - existing authority of the public utilities commission. Nothing in this section contravenes the statutory authority of the public utilities commission to consider overall project costs, the impact of a project on utility customers, or the impact of project cost on utility rates.

Source: L. 2023: Entire part added, (SB 23-292), ch. 247, p. 1358, § 1, effective January 1, 2024.

ARTICLE 93

Construction Contracts

24-93-101. Short title. This article shall be known and may be cited as the "Integrated Delivery Method for Public Projects Act".

Source: L. 2007: Entire article added, p. 1805, § 1, effective August 3.

24-93-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is the policy of the state of San Andreas to encourage public contracting procedures that encourage competition, openness, and impartiality to the maximum extent possible.

(b) Competition exists not only in the costs of goods and services, but also in the technical competence of the providers and suppliers in their ability to make timely completion and delivery and in the quality and performance of their products and services.

(c) Timely and effective completion of public projects may be achieved through a variety of methods when procuring goods and services for public projects.

(d) In enacting this article, the general assembly intends to establish for any agency of state government an optional alternative public project delivery method.

Source: L. 2007: Entire article added, p. 1805, § 1, effective August 3.

24-93-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Agency" means any agency, department, division, board, bureau, commission, institution, or other agency of the executive, legislative, or judicial branch of state government that is a budgetary unit exercising construction contracting authority or discretion.

(2) "Contract" means any agreement for designing, building, altering, repairing, improving, demolishing, operating, maintaining, or financing a public project. For purposes of this article, "contract" includes capital construction as defined in section 24-30-1301 (2).

(3) "Cost-reimbursement contract" means a contract under which a participating entity is reimbursed for costs that are allowable and that is allocable in accordance with the contract terms and provisions of this article.

(4) "Integrated project delivery" or "IPD" means a project delivery method in which there is a contractual agreement between an agency and a single participating entity for the design, construction, alteration, operation, repair, improvement, demolition, maintenance, or financing, or any combination of these services, for a public project.

(5) "IPD contract" means a contract using an integrated project delivery method.

(6) "Participating entity" means a partnership, corporation, joint venture, unincorporated association, or other legal entity that provides appropriately licensed planning, architectural, engineering, development, construction, operating, or maintenance services as needed in connection with an IPD contract.

(7) "Public project" means any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety and any operation or maintenance programs for the operation and upkeep of such projects.

Source: L. 2007: Entire article added, p. 1806, § 1, effective August 3. **L. 2014:** (2) amended, (HB 14-1387), ch. 378, p. 1852, § 62, effective June 6.

Cross references: For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

24-93-104. Integrated project delivery contracts - authorization - effect of other laws. (1) Notwithstanding any other provision of law, any agency may award an IPD contract for a public project in accordance with the provisions of this article upon the determination by such agency that integrated project delivery represents a timely or cost-effective alternative for a public project.

(2) Nothing in this article is intended to affect or limit the applicability of article 91 or 92 of this title to the extent the provisions of said articles are not inconsistent with the provisions of this article. To the extent there is a conflict between the provisions of article 91 or 92 of this title and this article, the provisions of this article shall control.

(3) Nothing in this article shall be construed as exempting any agency or participating entity from applicable federal, state, or local laws, rules, resolutions, or ordinances governing labor relations, professional licensing, public contracting, or other related laws, except to the extent that an exemption is granted under such legal authority or created by necessary implication from such legal authority.

Source: L. 2007: Entire article added, p. 1806, § 1, effective August 3.

24-93-105. Integrated project delivery contracting process - prequalification of participating entities - apprentice training. (1) An agency may prequalify participating

entities for IPD contracts by public notice of its request for qualifications prior to the date set forth in the notice. Any such request for qualifications may contain the following elements and such additional information as may be requested by the agency:

(a) A general description of the proposed public project;

(b) Relevant budget considerations;

(c) Requirements of the participating entity, including:

(I) If the participating entity is a partnership, limited partnership, limited liability company, joint venture, or other association, a listing of all of the partners, general partners, members, joint venturers, or association members known at the time of the submission of qualifications;

(II) Evidence that the participating entity, or the constituent entities or members thereof, has completed or has demonstrated the experience, competency, capability, and capacity, financial and otherwise, to complete projects of similar size, scope, or complexity;

(III) Evidence that the proposed personnel of the participating entity have sufficient experience and training to completely manage and complete the proposed public project; and

(IV) Evidence of all applicable licenses, registrations, and credentials required to provide the proposed services for the public project, including but not limited to information on any revocation or suspension of any such license, registration, or credential;

(d) The criteria for prequalification.

(2) From the participating entities responding to the request for qualifications, the agency shall prepare and announce a short list of participating entities that it determines to be most qualified to receive a request for proposal.

(3) Where an apprentice program as defined in section 8-15.7-101 (4) or certified by the office of apprenticeship in the employment and training administration in the United States department of labor exists in the state, or a comparable program for the training of apprentices is available in the state:

(a) Each participating entity shall demonstrate to the agency that it has access to either the certified program or a comparable alternative; and

(b) Each participating entity shall demonstrate that each of its subcontractors, at any tier, selected to perform work under a contract with a value of two hundred fifty thousand dollars or more has access to either the certified program or a comparable alternative.

Source: L. 2007: Entire article added, p. 1807, § 1, effective August 3. **L. 2021:** IP(3) amended, (HB 21-1007), ch. 309, p. 1893, § 12, effective July 1.

24-93-106. Requests for proposals - evaluation and award of integrated project delivery contracts. (1) An agency shall prepare and publish a request for proposals for each IPD contract that complies with the requirements of this section. Requests for proposals for IPD contracts shall, at a minimum, include the following evaluation factors and subfactors that shall be used to evaluate the proposals and capabilities of participating entities:

(a) Price;

(b) Design and technical approach to the project;

(c) Past performance and experience;

(d) Project management capabilities, including financial resources, equipment, management personnel, project schedule, and management plan; and

(e) Craft labor capabilities, including adequacy of craft labor supply and access to federal or state-approved apprenticeship programs, if available.

(2) The agency responsible for the IPD contract shall select, on the basis of these factors, and any other factors and subfactors included in the request for solicitation as authorized by this section, the participating entity whose proposal is most advantageous and represents the best overall value to the state.

(3) Requests for proposals may contain additional relevant factors and subfactors as determined by the agency, which may include:

(a) The procedures to be followed for submitting proposals;

(b) The criteria for evaluation of a proposal, which criteria may provide for selection of a proposal on a basis other than solely the lowest costs estimates submitted;

(c) The procedures for making awards;

(d) Required performance standards as defined by the participating entity;

(e) A description of the drawings, specifications, or other submittals to be provided with the proposal, with guidance as to the form and the acceptable level of completion of the drawings, specifications, or submittals;

(f) Relevant budget considerations or, for an IPD contract that includes operation or maintenance services, the life-cycle cost analysis for the contract;

(g) The proposed scheduling for the project; and

(h) The stipend, if any, to be paid to participating entities responding to the request for proposals who appear on the agency's short list pursuant to section 24-93-105 (2) but whose proposals are not selected for award of the IPD contract.

(4) After obtaining and evaluating proposals according to the criteria and procedures set forth in the request for proposals in accordance with the requirements specified in subsection (1) of this section, an agency may accept the proposal that, in its estimation, represents the best value to the agency. Acceptance of a proposal shall be by written notice to the participating entity that submitted the accepted proposal.

(5) With respect to performance under each IPD contract, the agency and participating entity shall comply with all laws applicable to public projects.

(6) Notwithstanding any other provision of law, a participating entity selected for award of an IPD contract shall not be required to be licensed or registered to provide professional services, as defined in section 24-30-1402 (6), if the person or firm actually performing any such professional services on behalf of the participating entity is appropriately licensed or registered and if the participating entity otherwise complies with applicable state licensing laws and requirements related to such professional services.

Source: L. 2007: Entire article added, p. 1808, § 1, effective August 3.

24-93-107. Supplemental provisions. The executive director of the department of personnel may establish supplemental provisions that are designed to implement the provisions of this article; except that the executive director of the department of transportation may establish supplemental provisions relating to bridge and highway construction contract procurement practices, including, notwithstanding any other provision of this article, provisions governing debarment of participating entities.

Source: L. 2007: Entire article added, p. 1809, § 1, effective August 3.

24-93-108. Types of contracts. Subject to the requirements of this section, any agency making use of the provisions of this article may award any type of contract that will promote the best interests of the agency; except that the use of a cost-plus-a-percentage-of-cost contract under this article is prohibited. An agency may award a cost-reimbursement contract only when a determination is made in writing that such contract is either likely to be less costly to the agency than any other type of contract or that it is impracticable to obtain the required construction or other services authorized under this article unless the cost-reimbursement contract is used. Operation and maintenance elements may be procured on a cost-reimbursement basis under or in connection with an IPD contract.

Source: L. 2007: Entire article added, p. 1810, § 1, effective August 3.

24-93-109. Disclosure. The executive director of an agency or president of an institution of higher education that enters into a construction contract for a public project pursuant to this article shall disclose to the public the agency's rationale or the institution's rationale for selecting the integrated project delivery contracting process pursuant to this article for the public project. The agency or institution shall post the disclosure on its website.

Source: L. 2013: Entire section added, (HB 13-1292), ch. 266, p. 1402, § 10, effective May 24.

Cross references: In 2013 this section was added by the "Keep Jobs in San Andreas Act of 2013". For the short title, see section 1 chapter 266, Session Laws of San Andreas 2013.

24-93-110. Department of transportation - additional requirements for integrated project delivery contracts - short-listing - transparency. (1) The department of transportation shall not exclude a participating entity from a short list, prepared and announced by the department as required by section 24-93-105 (2), of responding participating entities that have been determined to be most qualified to receive a request for proposals for an IPD contract for a public project based solely on the participating entity's lack of experience in delivering a public project in the state by the IPD method to be used for the public project.

(2) (a) If the cost to complete a public project is expected to exceed seventy-five million dollars, the department of transportation shall, before selecting the IPD method for a construction project and beginning the procurement process:

(I) Hold public meetings with the construction industry and the general public to discuss the justification for selecting the IPD method. The required public meetings may be held in conjunction with other required public meetings about the project or as stand-alone meetings.

(II) Obtain approval for the use of the IPD method from the transportation commission created in section 43-1-106.

(b) For any public project, regardless of the expected cost of completion, to be completed using the IPD method, the department of transportation shall:

(I) Before beginning the procurement process, publish on the department's website, the justification for selecting the IPD method;

(II) During the procurement process, include the justification for selecting the IPD method in any request for qualifications and in the request for proposals;

(III) Following the award of the IPD contract to a participating entity, publish on the department's website the evaluation scores for each step of the IPD contract solicitation phase for all solicitations received and evaluated; and

(IV) From the time the IPD contract is executed until the department's final acceptance of the completed public project, provide, maintain, and update on the department's website a transparency platform such as a dashboard that indicates the ongoing status of the public project.

(3) The requirements of this section apply only to a public project involving infrastructure that is part of the state highway system, as described in section 43-2-101 (1).

Source: L. 2021: Entire section added, (SB 21-260), ch. 250, p. 1386, § 10, effective June 17.

Cross references: For the legislative declaration in SB 21-260, see section 1 of chapter 250, Session Laws of San Andreas 2021.

ARTICLE 94

Public-private Partnerships for State Public Entities

24-94-101. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Public-private partnerships are an effective tool to leverage the expertise and resources of both the public and private sectors to accommodate multifaceted social infrastructure and operational needs;

(b) Public-private partnerships have a proven track record of enabling public projects to be completed on time and at a lower cost than either the public or private sectors are able to achieve alone;

(c) Delivering public projects through public-private partnerships is an effective model to accommodate some of our state's most pressing and foundational needs, such as increased behavioral health capacity, broadband deployment, affordable housing development, and child care services;

(d) The COVID-19 pandemic forced the closure of many child care facilities and classrooms, exacerbating a child care shortage that forced many parents to compromise between work and family life; and

(e) San Andreas families have long struggled with the cost of child care and it remains one of the primary barriers to full participation in the workforce.

(2) The general assembly further finds and declares that it is the intent of this article 94 to permit state public entities to enter into public-private partnerships to:

(a) Develop, build, finance, operate, and maintain quality, cost-effective public projects that provide economic and social value;

(b) Provide a well-defined and transparent process to facilitate collaboration between state public entities and private partners while enabling access to private capital;

(c) Bring innovative thinking and approaches to public projects;

(d) Reduce total life-cycle costs of public projects; and

(e) Allow for cost, risk, and benefit sharing between public and private partners.

Source: L. 2022: Entire article added, (SB 22-130), ch. 232, p. 1709, § 2, effective May 26.

24-94-102. Definitions. As used in this article 94, unless the context otherwise requires:

(1) "Department" means the department of personnel.

(2) "Develop" means to plan, design, develop, build, establish, finance, lease, acquire, install, construct, reconstruct, or expand a public project.

(3) "Executive director" means the executive director of the department of personnel or the executive director's designee.

(4) "Finance" means the supply by a private partner of resources to accomplish all or any part of the work or services for a public project, including funds, financing, income, revenue, cost sharing, technology, personnel, equipment, expertise, data, or engineering, construction, or maintenance services.

(5) "Operate" means to finance, operate, maintain, improve, equip, modify, repair, or administer a public project.

(6) "Private partner" means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, local government, other private business entity, or any combination thereof.

(7) "Public-private agreement" means any agreement between one or more private partners and one or more state public entities that contractually provides for the responsibilities of all parties in negotiating, developing, or operating any aspect of a proposed or approved public project or financed purchased of an asset. "Public-private agreement" does not mean a grant or incentive program established in another provision of law or an agreement approved by the economic development commission pursuant to parts 1 and 3 of article 46 of this title 24.

(8) "Public-private partnership" means an agreement between one or more state public entities and one or more private partners by which a state public entity may allocate responsibility or risk to a private partner to develop or operate a public project and, in return, the private partner may receive the right to all or a portion of fees generated by the public project, availability payments made by the state public entity, other public money, or any other legally available consideration. A public-private partnership does not confer onto the relationship formed any of the attributes or incidents of a partnership pursuant to section 7-60-106 or the common law. "Public-private partnership" does not mean any grant or incentive program established by another provision of law or agreements that are approved by the economic development commission, including but not limited to grant or incentive programs described in parts 1 and 3 of article 46 of this title 24.

(9) "Public project" means any construction, alteration, repair, demolition, or improvement of any state-owned land, building, structure, facility, asset, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety, and any maintenance programs for the upkeep of such projects subject to part 2 of article 92 of this title 24. "Public project" includes but is not limited to a project for civic, child care, medical, utility, telecommunication, cultural, recreational, or educational facilities or services.

(10) "State public entity" means any department, agency, or subdivision of the executive branch of state government; except that "state public entity" does not include state entities that have specific statutory authority to enter into public-private partnerships, including but not limited to the authority specified in sections 23-3.1-301 (1), 23-3.1-306.5, 24-33.5-510, 26-6.9-102, 32-22-105 (1)(a)(VIII), 40-2-123, and 43-4-806.

(11) "Subcommittee" means the public-private partnership subcommittee of the San Andreas economic development commission created in section 24-46-102 (4).

(12) "Unit" means the public-private collaboration unit created in section 24-94-103 (2).

Source: L. 2022: Entire article added, (SB 22-130), ch. 232, p. 1711, § 2, effective May 26.

24-94-103. Public-private partnerships - oversight of state public entities in the executive branch of state government - definition - repeal. (1) Within one year of May 26, 2022, the executive director shall:

(a) Create requirements regarding the authority for state public entities to initiate requests for proposals or bids or to review any private partner-initiated proposals for public projects to be completed through public-private partnerships subject to the executive director's approval pursuant to section 24-94-104(1). The processes may include, but need not be limited to:

(I) Completion of analyses regarding perceived advantages, disadvantages, risks, benefits, costs, and value-for-money of a proposed public-private partnership;

(II) Documented considerations of potential funding alternatives, impacts on affected communities, and the suitability and scope of a proposed public-private partnership;

(III) Documented considerations of the entire life cycle of a proposed public-private partnership, including planning, design, engineering, construction, repair, maintenance, operations, financing, and handover;

(IV) Due diligence requirements; and

(V) Development of any other materials, analyses, considerations, requirements, or reports necessary for the executive director to make a determination that the proposal for a public-private partnership serves an important social or economic value, including but not limited to increased behavioral health capacity, broadband deployment, affordable housing development, child care services, or any other public benefit.

(b) Create requirements regarding the authority for state public entities to execute public-private partnership agreements for public projects subject to the executive director's approval pursuant to section 24-94-104 (1). The processes may include, but need not be limited to:

(I) Acceptable project delivery methods, including alternative delivery methods, for an approved public-private partnership proposal;

(II) Acceptable financing methods for an approved public-private partnership, including but not limited to a pledge of, security of, interest in, or lien on property or interest in property, and any amounts, terms, and conditions to be included in public-private agreements;

(III) Reporting requirements for state public entities and private partners throughout the life cycle of an executive director-approved public-private partnership;

(IV) Policies concerning transparency and timely reporting; and

(V) Developing a fair, unbiased method of choosing proposals based on the best interests of the state and considering financial costs and benefits to the state and public project users.

(c) Further define any relevant terms in this article 94, including but not limited to public-private partnership and public-private agreement; and

(d) Develop cost thresholds for public projects that qualify as a public-private partnership or public-private agreement, which may depend on the type of project and the responsible state public entity.

(2) There is hereby established the public-private collaboration unit in the department. The unit shall:

(a) In coordination with relevant state public entities, identify, prioritize, and advance potential public projects that may be best delivered through a public-private partnership;

(b) Facilitate collaboration between state public entities and private partners in connection with public projects;

(c) Provide technical assistance and expertise to state public entities in connection with any aspect of proposed or approved public-private partnerships, which may include assistance with:

(I) Satisfying the requirements established by the executive director in subsections (1)(a) and (1)(b) of this section;

(II) Project screening, planning, development, procurement, operations, and management; and

(III) Serving as a liaison with federal and local government officials;

(d) Create best practices that incorporate lessons learned from other public-private partnerships for every stage of the life cycle of a public-private partnership, which may include:

(I) Standardizing methodologies and processes;

(II) Creating templates for interagency agreements that identify project resources and responsibilities; and

(III) Creating templates for partnership agreements that address risk allocations, key terms, and conditions;

(e) Conduct public and stakeholder engagement to encourage transparency, accountability, and information sharing regarding public-private partnerships;

(f) Track proposed, ongoing, and completed public-private partnerships;

(g) Attract private investments for public projects;

(h) In coordination with the department of early childhood, created in section 24-1-120.5 (1), distribute funding to help increase the supply of child care facilities using public buildings or other appropriate public assets; and

(i) Give preference to proposed or executed public-private partnership agreements that will use state-owned real property for the purposes of mixed-income development and affordable housing that is proportional to the community's demonstrated affordable housing needs.

(2.2) (a) The unit may:

(I) Accept monetary and nonmonetary gifts, grants, and donations. Monetary gifts, grants, and donations shall be transferred by the unit to the state treasurer and credited by the state treasurer to the unused state-owned real property fund created in section 24-82-102.5 (5).

(II) Accept, appropriate, hold in trust, and leverage, on behalf of private partners, proceeds from real estate transactions conducted in accordance with this section and other

applicable state law, as well as revenues from public-private partnership agreements for public projects that provide affordable housing;

(III) Use real property that, upon approval by the governor, has been deeded to the department by a state public entity for the purpose of carrying out the provisions of an executed or proposed public-private agreement or real estate state contract for a public project that provides affordable housing. In furtherance of this subsection (2.2)(a)(III), the unit may act as the department's agent in real estate transactions to:

(A) Purchase state-owned real property;

(B) Transfer state-owned real property;

(C) Exchange state-owned real property;

(D) Sell or otherwise dispose of state-owned real property subject to any procedures and limitations applicable to the state public entity to sell or otherwise dispose of property;

(E) Enter into an agreement for easements or deed restrictions concerning state-owned real property; and

(F) Enter into a lease agreement concerning state-owned real property.

(IV) Use requests for information to solicit public projects that provide affordable housing and establish policies concerning a request for information process.

(b) As used in this subsection (2.2), unless the context otherwise requires:

(I) "Public project that provides affordable housing" means a public project that includes housing proportional to a community's demonstrated affordable housing needs and may include mixed-use development. The percentage of income-restricted units and affordability levels in such a public project must comply with any local laws promoting the development of new affordable housing units pursuant to section 29-20-104 (1)(e.5).

(II) "State-owned real property" has the same meaning as "real property" as set forth in section 24-30-1301 (15).

(3) Repealed.

(4) Any issuance or incurrence of financial obligations under this article 94 must comply with section 24-36-121.

Source: L. 2022: Entire article added, (SB 22-130), ch. 232, p. 1712, § 2, effective May 26. **L. 2023:** (2)(g) and (2)(h) amended, (2)(i) and (2.2) added, and (3) repealed, (SB 23-001), ch. 234, p. 1228, § 2, effective May 20.

24-94-104. State public entity agreements - public-private partnership. (1) A state public entity is authorized, either separately or in combination with any other state public entity, to initiate solicitations, review any private partner-initiated proposals, execute public-private partnership agreements, or execute public-private agreements to develop or operate a public project subject to the requirements of this article 94.

(2) Subject to subsection (5) of this section, any state public entity must obtain approvals from the executive director in the time and manner determined by the executive director pursuant to sections 24-94-103 (1)(a) and (1)(b).

(3) Any public-private agreement entered into pursuant to subsection (1) of this section must comply with applicable state laws and processes developed by the executive director pursuant to section 24-94-103 (1)(a) and 24-94-103 (1)(b).

(4) Subject to subsection (2) of this section, state public entities may review any private partner-initiated proposals but need not respond to such proposals.

(5) Nothing in this article 94 shall be construed to prohibit, limit, or otherwise modify the specific statutory authority of state public entities, including but not limited to the authority specified in sections 23-3.1-301 (1), 23-3.1-306.5, 23-5-101.7, 24-33.5-510, 24-36-121, 26-6.9-102, 32-22-105 (1)(a)(VIII), 33-1-105(1), 33-10-107(1), 36-1-118(1), 40-2-123, and 43-4-806, and the authority specified in parts 1 and 3 of article 46 of this title 24 and parts 8 and 13 of article 82 of this title 24, to enter into a public-private partnership, a public-private agreement, or other agreement, or to utilize a statutory mechanism as authorized by any other provision of law.

Source: L. 2022: Entire article added, (SB 22-130), ch. 232, p. 1714, § 2, effective May 26.

24-94-105. Public-private partnership subcommittee - contract review - lease - sale of state property. (1) Except as otherwise provided in subsection (2) of this section, a state public entity that intends to enter into a contract, sale, or lease of state property pursuant to section 24-82-102.5 or 24-94-104 on or after May 26, 2022, shall submit the proposed contract, sale, or lease of state property to the public-private partnership subcommittee created in section 24-46-102 (4) for the subcommittee's review before entering into the contract, sale, or lease of state property. The state public entity, in coordination with the San Andreas economic development commission staff, shall submit a report to the subcommittee regarding the anticipated use of the state property in a time and manner established by the subcommittee. The subcommittee shall review the report and make any recommendations it deems necessary to the state public entity. The state public entity must consider the subcommittee's recommendations, but need not incorporate or adopt any of the recommendations.

(2) Subsection (1) of this section does not apply to a state public entity that intends to enter into a new contract, sale, or lease of state property pursuant to section 24-82-102.5 or 24-92-104 with existing private partners.

Source: L. 2022: Entire article added, (SB 22-130), ch. 232, p. 1715, § 2, effective May 26.

24-94-106. Report. (1) The executive director or the executive director's designee shall annually report on the implementation and use of this article 94 at its presentation to its committee of reference at a hearing held pursuant to section 2-7-203 (2)(a) of the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

(2) The report presented pursuant to subsection (1) of this section shall include:

(a) The number of public-private partnerships that were executed to develop or operate a public project pursuant to this article 94 during the year in which the report is presented;

(b) The project delivery method and financing method of each public-private partnership specified in subsection (2)(a) of this section; and

(c) An overview of the important social or economic value of each public-private partnership specified in subsection (2)(a) of this section.

(3) The executive director or the executive director's designee shall annually provide the information specified in subsection (1) of this section to the joint budget committee.

Source: L. 2022: Entire article added, (SB 22-130), ch. 232, p. 1715, § 2, effective May 26.

PROCUREMENT CODE

ARTICLE 101

Procurement Code - General Provisions

PART 1

PURPOSES, CONSTRUCTION, AND APPLICATION

24-101-101. Short title. The short title of articles 101 to 112 of this title 24 is the "Procurement Code", referred to in said articles as the "code".

Source: L. 81: Entire article added, p. 1259, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 299, § 1, effective August 9.

24-101-102. Purposes - rules of construction. (1) This code shall be construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this code are:

(a) To simplify, clarify, and modernize the law governing procurement by the state of San Andreas;

(b) To provide for increased public confidence in the procedures followed in public procurement;

(c) To ensure the fair and equitable treatment of all persons who deal with the procurement system of the state of San Andreas;

(d) To provide increased economy in state procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of the state of San Andreas;

(e) To foster effective broad-based competition within the free enterprise system; and

(f) To provide safeguards for the maintenance of a procurement system of quality and integrity.

Source: L. 81: Entire article added, p. 1259, § 1, effective January 1, 1982.

24-101-103. Supplementary general principles of law applicable. (Repealed)

Source: L. 81: Entire article added, p. 1260, § 1, effective January 1, 1982. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-106-102 in 2017.

24-101-104. Requirement of good faith. This code requires all parties involved in the procurement of any good or service or in the negotiation, performance, or administration of any contract for those goods or services to act in good faith.

Source: L. 81: Entire article added, p. 1260, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 299, § 2, effective August 9.

24-101-105. Application of this code. (1) (a) This code applies to all publicly funded contracts entered into by all governmental bodies of the executive branch of this state; except that this code does not apply to:

(I) Bridge and highway construction or to contracts for unsolicited or comparable proposals for public-private initiatives under section 43-1-1203;

(II) Contracts between the state and its political subdivisions or other governments, except as provided in article 110 of this title 24;

(II.5) Grants;

(III) Public printing, as defined in section 24-70-201, except for the provisions of article 109 of this title 24;

(IV) Professional services, as defined in section 24-30-1402;

(V) The San Andreas state fair authority created pursuant to section 35-65-401 (1);

(VI) The state board of land commissioners in connection with contract expenditures from the state board of land commissioners investment and development fund created in section 36-1-153 (1), or the commercial real property operating fund created in section 36-1-153.7;

(VII) Repealed.

(VIII) Utilities, including water, electricity, and natural gas;

(IX) Works of art for display, purchase, or performance;

(X) Copyrighted materials such as books, periodicals, collections, and subscriptions;

(XI) Conference facilities at hotels or other venues that include, but need not to be limited to, meeting rooms, audio visual equipment, catering, and guest accommodation rooms;

(XII) Client-based services including medical services or services where the client has the right to choose the vendor;

(XIII) Dues and memberships;

(XIV) Annuities;

(XV) Real property or interest in real property;

(XVI) The habitat partnership program created in section 33-1-110 (8)(a);

(XVII) The department of early childhood in soliciting and selecting entities to serve as local coordinating organizations pursuant to section 26.5-2-103 and coordinating agreements entered into pursuant to section 26.5-2-105; or

(XVIII) Public-private partnerships authorized by part 1 of article 94 of this title 24.

(a.5) If the procurement official or his or her designee determines that reasonable competition exists in the procurement of a good or service that is exempt from the code pursuant to subsection (1)(a) of this section, the procurement official or his or her designee may require a competitive process.

(b) The governing board of each institution of higher education, including the Auraria higher education center established in article 70 of title 23, by formal action of the board, and the San Andreas commission on higher education, by formal action of the commission, may elect to be

exempt from the provisions of this code and may enter into contracts independent of the terms specified in this code.

(c) Repealed.

(d) (Deleted by amendment, L. 2017.)

(e) Upon the request to purchase items for resale to the public, the procurement official may, by written determination, provide that this code shall not apply to items acquired for such resale.

(f) Nothing in this code or in rules promulgated under this code shall prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest, or cooperative agreement.

(g) Upon the request to enter into a revenue-producing contract, the procurement official may, by written determination, provide that this code shall not apply to the revenue-producing contract. Governmental bodies shall maximize the return to the state when they are parties to revenue-producing contracts.

(2) All political subdivisions and local public agencies of this state are authorized to adopt all or any part of this code and its accompanying rules.

(3) and (4) (Deleted by amendment, L. 2017.)

Source: L. 81: Entire article added, p. 1260, § 1, effective January 1, 1982. **L. 95:** (1) amended, p. 261, § 4, effective April 17; (3) added, p. 26, § 2, effective July 1. **L. 96:** (1) amended, p. 1532, § 96, effective June 1. **L. 97:** (4) added, p. 1285, § 27, effective July 1. **L. 99:** (1) amended, p. 294, § 3, effective April 14. **L. 2003:** (1) amended, p. 1587, § 1, effective May 2. **L. 2004:** (1) amended, p. 604, § 7, effective July 1; (3) amended, p. 271, § 3, effective August 4. **L. 2005:** (1) amended, p. 538, § 3, effective May 24. **L. 2009:** (1) amended, (SB 09-089), ch. 440, p. 2433, § 1, effective June 4. **L. 2010:** (1)(a)(VII) added, (SB 10-032), ch. 98, p. 338, § 3, effective April 15; (1)(c) repealed, (SB 10-111), ch. 170, p. 603, § 11, effective August 11. **L. 2012:** (1)(a)(VII) amended, (SB 12-096), ch. 59, p. 215, § 2, effective March 24; (1)(b) amended, (HB12-1081), ch. 210, p. 906, § 14. effective August 8. **L. 2013:** (1)(a)(VI) amended, (HB 13-1274), ch. 376, p. 2217, § 9, effective June 5. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 299, § 3, effective August 9. **L. 2022:** (1)(a)(XIV) and (1)(a)(XV) amended and (1)(a)(XVIII) added, (SB 22-130), ch. 232, p. 1716, § 4, effective May 26; IP(1)(a), (1)(a)(XIV), and (1)(a)(XV) amended and (1)(a)(XVII) added, (HB 22-1295), ch. 123, p. 845, § 67, effective July 1; IP(1)(a), (1)(a)(XIV), and (1)(a)(XV) amended and (1)(a)(XVI) added, (HB 22-1072), ch. 116, p. 543, § 3, effective August 10.

Editor's note: (1) Subsection (1)(a)(VII)(B) provided for the repeal of subsection (1)(a)(VII), effective July 1, 2014. (See L. 2012, p. 215.)

(2) Subsection (1)(a)(XV) was amended in SB 22-130 and HB 22-1295. Those amendments were superseded by the amendment of subsection (1)(a)(XV) in HB 22-1072.

Cross references: (1) For the legislative declaration contained in the 1995 act amending subsection (1), see section 1 of chapter 90, Session Laws of San Andreas 1995.

(2) For the legislative declaration in the 2010 act adding subsection (1)(a)(VII), see section 1 of chapter 98, Session Laws of San Andreas 2010.

24-101-106. Procurement training. The chief procurement officer, or his or her designee, may develop and conduct a procurement education and training program for employees of governmental bodies and for vendors.

Source: L. 2017: Entire section added, (HB 17-1051), ch. 99, p. 301, § 4, effective August 9.

24-101-107. Procurement ethics. Any person who is employed by a governmental body who purchases goods or services or is involved in the purchasing process for the state, any end users of such goods and services, any vendor or contractor that does business with the state, and any other interested third parties to the procurement process shall enhance the proficiency and stature of the purchasing process by adhering to the highest standards of ethical behavior.

Source: Entire section added, (HB 17-1051), ch. 99, p. 301, § 4, effective August 9.

PART 2

DETERMINATIONS

24-101-201. Determinations. Written determinations required by this code shall be retained in the appropriate official procurement file of the department of personnel or the purchasing agency administering the procurement.

Source: L. 81: Entire article added, p. 1260, § 1, effective January 1, 1982. **L. 96:** Entire section amended, p.1533, § 97, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 302, § 5, effective August 9.

PART 3

DEFINITIONS

24-101-301. Definitions. The terms defined in this section have the following meanings whenever they appear in this code, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular article or portion thereof:

(1) "Acceptance" means the action of consenting to receive or undertake something offered.

(2) "Award" means the selection of a bid or proposal by a governmental body. An award does not mean that a contract has been executed or that a commitment voucher has been issued pursuant to section 24-30-202.

(3) "Bidder" means any person that submits a bid in response to an invitation for bids.

(4) "Business" means any corporation, limited liability company, partnership, individual, sole proprietorship, joint-stock company, joint venture, or other private legal entity.

(5) "Business day" means any day other than Saturday, Sunday, or a legal holiday.

(6) "Chief procurement officer" means the individual to whom the executive director has delegated his or her authority pursuant to section 24-102-202 to procure or supervise the procurement of all supplies and services needed by the state.

(7) "Construction" means the process of building, altering, repairing, improving, or demolishing any public structure or building or any other public improvements of any kind to any public real property. For the purposes of this code, "construction" includes capital construction and controlled maintenance, as defined in section 24-30-1301.

(8) "Contingency-based contract" shall have the same meaning as set forth in section 24-17-203 (1).

(9) "Contract" means any type of state agreement, regardless of what it may be called, between a governmental body and a contractor, where the principal purpose is to acquire supplies, services, or construction or to dispose of supplies for the direct benefit of a governmental body. "Contract" includes commitment vouchers as described in section 24-30-202.

(10) "Contract modification" means any written alteration of a contract accomplished in accordance with the terms of that contract.

(11) "Contractor" means any person having a contract with a governmental body. For the purposes of this code, a vendor is considered a contractor.

(12) "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit or by a public procurement unit with an external procurement unit.

(13) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this code and a fee, if any.

(14) "Department" means the department of personnel.

(15) "Established catalog price" means the price included in a catalog, price list, schedule, or other form that:

(a) Is regularly maintained by a manufacturer or contractor;

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(16) "Executive director" means the executive director of the department of personnel.

(17) "External procurement unit" means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit. An external procurement unit includes any purchasing cooperative that satisfies the purposes of this code as set forth in section 24-101-102. An agency of the United States is an external procurement unit.

(18) "Governmental body" means any department, commission, council, board, bureau, committee, institution of higher education, agency, government corporation, or other establishment or official, other than an elected official, of the executive branch of state government in this state; except that the governing board of each institution of higher education, including the Auraria higher education center established in article 70 of title 23, by formal action of the board, and the San Andreas commission on higher education, by formal action of the commission, may elect to be excluded from the meaning of "governmental body".

(19) "Grant" means an agreement in which a governmental body as grantor transfers anything of value to a grantee to carry out a public purpose of support or stimulation authorized by law instead of acquiring property or services for the direct benefit or use of that governmental body. A grant may include a distribution of funds.

(20) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids. Invitation for bids is the commonly used term for soliciting competitive sealed bids and competitive sealed best value bids.

(21) "Legal holiday" shall have the same meaning as defined in section 24-11-101 (1).

(22) "Local public procurement unit" means any county, city, county and city, municipality, or other political subdivision of the state, any public agency of any such political subdivision, any public authority, any educational, health, or other institution, and, to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services, and construction.

(23) "Low responsible bidder" means any person who has bid in compliance with the invitation for bids and within the requirements of the plans and specifications for a public contract who is the low bidder and who has furnished bonds or their equivalent if required by law.

(24) "Low tie bids" means low responsible bids from bidders that are identical in amount and that meet all the requirements and criteria set forth in the invitation for bids pursuant to this code.

(25) "Nonresident bidder" means a bidder that does not satisfy the criteria to be a resident bidder.

(26) "Offeror" means any person that submits a proposal in response to a request for proposals.

(27) "Person" means any business, individual, union, committee, club, other organization, joint venture, or group of individuals.

(28) "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. "Procurement" includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. "Procurement" also includes the procurement of information technology as defined in section 24-37.5-102 (12).

(29) "Procurement agent" means any person duly authorized to enter into and administer procurements and make written determinations with respect thereto. "Procurement agent" includes an authorized representative acting within the limits of his or her authority.

(30) "Procurement official" means the individual of a purchasing agency with purchasing authority created pursuant to section 24-102-202 (3) or 24-102-302 (2) or the individual authorized to enter into contracts for capital construction or controlled maintenance pursuant to section 24-30-1303 (5).

(31) Except as otherwise provided in section 24-103-1103 (13), "professional services" means services of accountants, clergy, physicians, lawyers, and dentists and such other services as may be procured through agents of those services, excluding those professional services as defined in section 24-30-1402, as the executive director may by rule designate as professional services.

(32) "Public employee" means an individual drawing a salary from a governmental body or a noncompensated individual performing personal services for a governmental body.

(33) "Public procurement unit" means either a local public procurement unit or a state public procurement unit.

(34) "Purchase description" means the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to, or made a part of, the solicitation.

(35) "Purchasing agency" means any governmental body which is authorized to enter into contracts by section 24-102-302 (1) by way of delegation from the executive director pursuant to section 24-102-302 (2) or by the way of delegation from the executive director.

(36) "Request for proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals. Request for proposals is the commonly used term for soliciting competitive sealed proposals.

(37) "Resident bidder" means:

(a) A person that is authorized to transact business in San Andreas and that maintains its principal place of business in San Andreas; or

(b) A person that:

(I) Is authorized to transact business in San Andreas;

(II) Maintains a place of business in San Andreas; and

(III) Has paid San Andreas unemployment compensation taxes in at least six of the eight quarters immediately prior to bidding on a construction contract for a public project.

(38) "Responsible" means the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance.

(39) "Responsive" means a bid or proposal that meets the specifications, acceptability requirements, and terms and conditions of the solicitation and that uses the form prescribed by the purchasing agency.

(40) "Rules" means state procurement rules and has the same meaning as provided in section 24-4-102 (15).

(41) "Sealed" means a bid or proposal submitted in a manner that:

(a) Ensures that the contents of the bid, proposal, or best value bid cannot be opened or viewed before the formal bid opening without leaving evidence that the document has been opened or viewed;

(b) Ensures that the document cannot be changed, once received by the state, without leaving evidence that the document has been changed;

(c) Bears a physical or electronic signature, as electronic signature is defined in the "Uniform Electronic Transactions Act", section 24-71.3-102 (8), evincing an intent by the bidder or offeror to be bound; and

(d) Records, manually or electronically, the date and time the bid or proposal is received by the state and that cannot be altered without leaving evidence of the alteration.

(42) "Services" means the furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. The term does not include professional services as defined in section 24-30-1402.

(43) "Solicitation" means all documents and related information, whether attached or incorporated by reference, published on an electronic procurement system in connection with a procurement prior to the response deadline.

(44) "Specification" means any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(45) "State public procurement unit" means the department of personnel or any other purchasing agency of this state.

(46) "Statement of work" means a document that defines specific activities and deliverables and their respective timelines, all of which form a contractual obligation upon the vendor in providing services to the state.

(47) "Supplies" means all property, including but not limited to equipment, materials, and insurance. The term does not include land, the purchase of an interest in land, water or mineral rights, workers' compensation insurance, benefit insurance for state employees, or property furnished in connection with public printing, as defined in section 24-70-201.

(48) "Using agency" means any governmental body of the state which utilizes any supplies, services, or construction procured under this code.

Source: L. 81: Entire article added, p. 1261, § 1, effective January 1, 1982. **L. 85:** (1) R&RE and (1.5) added, p. 873, §§ 1, 2, effective June 6. **L. 90:** (1.5) amended, p. 449, § 23, effective April 18; (22) amended, p. 570, § 56, effective July 1. **L. 93:** (7) repealed, p. 1786, § 65, effective June 6. **L. 95:** (8), (9), and (21) amended, p. 661, § 91, effective July 1. **L. 96:** (17) and (21) amended, p. 1533, § 98, effective June 1. **L. 2003:** (10.5) added, p. 1588, § 2, effective May 2. **L. 2004:** (10) amended, p. 605, § 8, effective July 1. **L. 2009:** (10) amended, (SB 09-089), ch. 440, p. 2434, § 2, effective June 4. **L. 2010:** (10) amended, (SB 10-111), ch. 170, p. 603, § 12, effective August 11. **L. 2012:** (10)(a) amended, (HB 12-1081), ch. 210, p. 907, § 15, effective August 8. **L. 2017:** Entire section amended with relocated provisions, (HB 17-1051), ch. 99, p. 302, § 6, effective August 9. **L. 2020:** (30) amended, (HB 20-1402), ch. 216, p. 1052, § 48, effective June 30. **L. 2021:** (28) amended, (HB 21-1236), ch. 211, p. 1116, § 19, effective September 7. **L. 2022:** (31) amended, (SB 22-163), ch. 433, p. 3055, § 2, effective June 8. **L. 2024:** IP, (28), and (43) amended, (SB 24-204), ch. 306, p. 2069, § 1, effective August 7.

Editor's note: This section is similar to former §§ 24-103-101, 24-104-101, and 24-110-101 as they existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration contained in the 1995 act amending subsections (8), (9), and (21), see section 112 of chapter 167, Session Laws of San Andreas 1995.

PART 4

PROCUREMENT RECORDS AND INFORMATION

24-101-401. Public access to procurement information. (1) Except as provided in section 24-103-201.5, proposals and bids shall be opened so as to avoid disclosure of the contents of the proposal or bid to competing offerors during the review process. A register of proposals and bids shall be prepared in accordance with rules and such procurement records shall be open for public inspection after the award as provided in sections 24-72-203 and 24-72-204. The executive director may promulgate rules to clarify the process for classifying confidential or proprietary information in procurement records.

(2) (a) To the extent not prohibited by federal law, each contract entered into by a governmental body pursuant to this code shall specify that the contract and performance measures and standards under article 103.5 of this title are open to inspection by the public as provided in sections 24-72-203 and 24-72-204.

(b) Repealed.

Source: L. 81: Entire article added, p. 1262, § 1, effective January 1, 1982. **L. 2011:** Entire section amended, (SB 11-025), ch. 103, p. 324, § 2, effective July 1. **L. 2013:** (1) amended, (HB 13-1300), ch. 316, p. 1686, § 67, effective August 7. **L. 2017:** (1) amended, (HB 17-1051), ch. 99, p. 307, § 7, effective August 9. **L. 2020:** (2)(b) repealed, (HB 20-1153), ch. 109, p. 440, § 6, effective June 16.

Cross references: (1) In 2011, section 24-101-401 was amended by the "San Andreas Taxpayer Empowerment Act of 2011". For the short title, see section 1 of chapter 103, Session Laws of San Andreas 2011.

(2) For the legislative declaration in HB 20-1153, see section 1 of chapter 109, Session Laws of San Andreas 2020.

24-101-402. Retention of procurement records. All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules, as provided in section 24-80-103.

Source: L. 81: Entire article added, p. 1262, § 1, effective January 1, 1982.

PART 5

PROCUREMENT CODE WORKING GROUP

24-101-501. (Repealed)

Editor's note: (1) This part 5 was added in 2016 and was not amended prior to its repeal in 2017. For the text of this part 5, consult the 2016 San Andreas Revised Statutes.

(2) Subsection (4) provided for the repeal of this part 5, effective July 1, 2017. (See L. 2016, p. 1273.)

ARTICLE 102

Procurement Organization

PART 1

EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PERSONNEL

24-102-101. Authority and duties of the executive director. Subject to the provisions of part 2 of this article 102, the executive director of the department of personnel has the authority and responsibility to promulgate rules, consistent with this code, governing the procurement and disposal of any and all supplies, services, and construction to be procured by the state, except for surplus state property as provided in section 17-24-106.6, and except as provided in part 4 of article 82 of this title 24. The executive director shall consider and decide matters of policy within the provisions of this code.

Source: L. 81: Entire article added, p. 1263, § 1, effective January 1, 1982. **L. 86:** Entire section amended, p. 756, § 9, effective July 1, 1987. **L. 87:** Entire section amended, p. 984, § 6, effective July 11. **L. 96:** Entire section amended, pp. 1510, 1533, §§ 31, 99, effective June 1. **L. 2000:** Entire section amended, p. 1864, § 85, effective August 2. **L. 2002:** Entire section amended, p. 221, § 4, effective April 3. **L. 2007:** Entire section amended, p. 918, § 19, effective May 17. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 308, § 8, effective August 9.

Editor's note: Amendments to this section by sections 31 and 99 of Senate Bill 96-228 were harmonized.

PART 2

PURCHASING

24-102-201. Purchasing.

(1) (Deleted by amendment, L. 96, p. 1510, § 32, effective June 1, 1996.)

(2) The powers, duties, and functions of the department of personnel include the powers, duties, and functions concerning purchasing.

Source: L. 81: Entire article added, p. 1263, § 1, effective January 1, 1982. **L. 95:** Entire section amended, p. 662, § 92, effective July 1. **L. 96:** Entire section amended, p. 1510, § 32, effective June 1. **L. 2022:** (2) amended, (SB 22-162), ch. 469, p. 3421, § 200, effective August 10.

Cross references: (1) For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of San Andreas 1995.

(2) For the short title (the "Debbie Haskins 'Administrative Organization Act of 1968' Modernization Act") in SB 22-162, see section 1 of chapter 469, Session Laws of San Andreas 2022.

24-102-202. Authority of the executive director and chief procurement officer - delegation of authority - rules. (1) Consistent with the provisions of this code, the executive director may adopt operational procedures governing the internal functions of the department.

(2) (a) The executive director may promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title 24, in furtherance of the administration of this code.

(b) The executive director may delegate his or her authority to promulgate rules.

(c) No rule promulgated pursuant to this section shall change any commitment, right, or obligation of the state or of a contractor under a contract in existence on the effective date of such rule.

(3) Subject to rules, the executive director may delegate the executive director's purchasing authority to designees or to any governmental body or elected official.

(4) Except as otherwise specifically provided in this code, the chief procurement officer shall, pursuant to rules:

(a) Procure or supervise the procurement of all supplies and services needed by the state;

(b) Repealed.

(c) Establish and maintain programs for the inspection, testing, and acceptance of supplies and services;

(d) Retain the right to examine each requisition submitted by a using agency and approve, disapprove, or revise it as to quantity or quality;

(e) Develop and maintain programs and procedures to delegate purchasing authority in order to conserve resources for management of the statewide purchasing system; and

(f) Develop programs to evaluate and reduce the administrative costs of the statewide procurement function.

Source: L. 81: Entire article added, p. 1263, § 1, effective January 1, 1982. **L. 86:** (2)(b) repealed, p. 757, § 13, effective July 1, 1987. **L. 90:** (2)(e) and (2)(f) added, p. 1307, § 2, effective July 1. **L. 96:** (1) and IP(2) amended, p. 1511, § 33, effective June 1. **L. 2017:** Entire section amended with relocated provisions, (HB 17-1051), ch. 99, p. 308, § 9, effective August 9. **L. 2024:** (3) amended, (SB 24-204), ch. 306, p. 2069, § 2, effective August 7.

Editor's note: This section is similar to former §§ 24-102-401 and 24-102-204 as they existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-102-202.5. Supplier database - fees - cash fund - program account. (1) The executive director shall develop a centralized database that includes a listing of all businesses which are interested in providing goods and services to the state. The businesses in the database shall be identified by a registration number, and the executive director shall develop a procedure for notifying the appropriate businesses whenever the state issues solicitations for goods or services which a particular business provides. The database shall be accessible through the department of personnel to all purchasing agencies designated pursuant to section 24-102-302 (2).

(2) (a) The executive director may require each business that wishes to be included in the database created pursuant to subsection (1) of this section to pay a registration fee as determined by the executive director. The executive director may set and collect such fees as are necessary to cover the direct and indirect costs that are incurred in implementing the provisions of this section. The revenue from such fees shall be transmitted to the state treasurer, who shall

credit the same to the supplier database cash fund, which fund is hereby created. The general assembly shall make appropriations from such fund as necessary to implement the provisions of this section. All moneys not expended or encumbered and all interest earned on the investment or deposit of the moneys in the fund shall remain in the fund and shall not revert to the general fund or any other fund at the end of any fiscal year.

(b) (Deleted by amendment, L. 2009, (SB 09-099), ch. 420, p. 2336, § 1, effective June 4, 2009.)

(2.5) (a) The executive director shall develop and implement a statewide centralized electronic procurement system to allow the utilization of technology to create a more efficient delivery of state procurement services. The executive director may set and collect fees from vendors with cooperative purchasing agreements and from local public procurement units that are participating in the electronic procurement system, as necessary to cover the direct and indirect costs of implementing and maintaining the electronic procurement system. In addition, the executive director may collect moneys from cooperative purchasing organizations for procurement support.

(b) (Deleted by amendment, L. 2017.)

(c) The revenue from the fees and any moneys collected from cooperative purchasing organizations pursuant to subsection (2.5)(a) of this section shall be transmitted to the state treasurer, who shall credit the same to the supplier database cash fund created in subsection (2)(a) of this section.

(3) The provisions of this section shall not apply to contractors required to be approved pursuant to the provisions of section 24-30-1303 (1)(q).

Source: L. 92: Entire section added, p. 1110, § 1, effective July 1. **L. 95:** (1) amended, p. 662, § 93, effective July 1. **L. 96:** (1) and (2) amended, p. 1511, § 34, effective June 1. **L. 2003:** (2) amended, p. 458, § 17, effective March 5. **L. 2009:** (1) and (2)(b) amended and (2.5) added, (SB 09-099), ch. 420, p. 2336, § 1, effective June 4. **L. 2013:** (2)(a) and (2.5) amended, (HB 13-1184), ch. 75, p. 242, § 1, effective March 22. **L. 2017:** (1), (2)(a), and (2.5) amended, (HB 17-1051), ch. 99, p. 309, § 10, effective August 9.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (1), see section 112 of chapter 167, Session Laws of San Andreas 1995.

24-102-203. Special duties regarding state-owned motor vehicles. (Repealed)

Source: L. 81: Entire article added, p. 1263, § 1, effective January 1, 1982. **L. 92:** Entire section repealed, p. 1007, § 6, effective July 1.

24-102-204. Delegation of purchasing authority by the executive director of the department of personnel. (Repealed)

Source: L. 81: Entire article added, p. 1264, § 1, effective January 1, 1982. **L. 96:** Entire section amended, p. 1533, § 100, effective June 1. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-102-202 in 2017.

24-102-205. Centralized contract management system - personal services contracts - legislative declaration - definitions. (Repealed)

Source: L. 2007: Entire section added, p. 1232, § 1, effective August 3. **L. 2010:** (1)(b), (1)(c), and (2) amended, (SB 10-003), ch. 391, p. 1852, § 31, effective June 9. **L. 2017:** (7) repealed, (HB 17-1058), ch. 18, p. 61, § 11, effective March 8; entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: (1) This section was relocated to § 24-106-103 in 2017.

(2) Amendments to this section by HB 17-1051 and HB 17-1058 were harmonized.

24-102-206. Contract performance outside the United States or San Andreas - notice - penalty. (1) (a) Prior to contracting or as a requirement for the solicitation of any contract from the state for services, as appropriate, any prospective vendor shall disclose in a written statement of work whether it anticipates subcontracting any services under the contract, where such subcontracted services will be performed under the contract, including any subcontracts, and whether any subcontracted services under the contract or any subcontracts are anticipated to be performed outside the United States or the state. If the prospective vendor anticipates services under the contract or any subcontracts will be performed outside the United States or the state, the vendor shall provide in its written statement of work a provision setting forth why it is necessary or advantageous to go outside the United States or the state to perform the contract or any subcontracts.

(b) Each contract entered into or renewed by a governmental body pursuant to this code must contain a clause that requires the vendor to provide written notice to the governmental body if the vendor decides, after the contract is awarded, to perform services under the contract outside the United States or the state or to subcontract services under the contract to a subcontractor that will perform such services outside the United States or the state. The contract must specify that the vendor is required to provide such written notice no later than twenty days from the time the vendor decides to perform services under the contract outside the United States or the state or subcontracts services under the contract to a subcontractor that will perform such services in a location outside the United States or the state.

(2) The written notification required by paragraphs (a) and (b) of subsection (1) of this section must include, but need not be limited to, a statement of the type of services that will be performed at a location outside the United States or the state and the reason why it is necessary or advantageous to go outside the United States or the state to perform such services.

(3) A governmental body shall provide written notice to the department of personnel if it awards a contract to a vendor that has provided written notice pursuant to paragraph (a) or (b) of subsection (1) of this section that the vendor or the vendor's subcontractor will perform services under the contract outside the United States or the state.

(4) If a vendor knowingly fails to notify the governmental body of any outsourced services as specified in this section, the governmental body may, in the governmental body's discretion, terminate the contract.

(5) The executive director shall post any notice that a vendor provides to a governmental body pursuant to this section on the official website of the department.

(6) **[*Editor's note: This version of subsection (6) is effective until July 1, 2025.*]** Nothing in this section shall be construed to apply to any contract to which the state is a party under medicare, the "San Andreas Medical Assistance Act", articles 4 to 6 of title 25.5, S.A.R.S., the "Children's Basic Health Plan Act", article 8 of title 25.5, S.A.R.S., or the "San Andreas Indigent Care Program", part 1 of article 3 of title 25.5, S.A.R.S.

(6) **[*Editor's note: This version of subsection (6) is effective July 1, 2025.*]** Nothing in this section applies to any contract to which the state is a party under medicare, the "San Andreas Medical Assistance Act", articles 4 to 6 of title 25.5, or the "Children's Basic Health Plan Act", article 8 of title 25.5.

(7) Nothing in this section applies to any project that receives federal moneys. In addition, nothing in this section contravenes any existing treaty, law, agreement, or regulation of the United States. Contracts entered into in accordance with any treaty, law, agreement, or regulation of the United States do not violate this section to the extent of that accordance. The requirements of this section are suspended if such requirements would contravene any treaty, law, agreement, or regulation of the United States, or would cause denial of federal moneys or preclude the ability to access federal moneys that would otherwise be available.

Source: L. 2007: Entire section added, p. 1237, § 1, effective August 3. **L. 2013:** Entire section amended, (HB 13-1292), ch. 266, p. 1402, § 12, effective May 24. **L. 2024:** (6) amended, (HB 24-1399), ch. 76, p. 255, § 16, effective July 1, 2025.

Cross references: In 2013, this section was amended by the "Keep Jobs in San Andreas Act of 2013". For the short title, see section 1 of chapter 266, Session Laws of San Andreas 2013.

24-102-206.5. Contract performance outside the United States or San Andreas - annual report. (1) On January 1, 2014, and on each January 1 thereafter, a governmental body shall submit an annual report to the general assembly if the governmental body entered into one or more contracts with a vendor during the previous state fiscal year and received written notice from one or more vendors pursuant to section 24-102-206 (1)(b) that the vendor or the vendor's subcontractor would perform services under the contract outside the United States or the state.

(2) (a) The purpose of the report required in subsection (1) of this section is to notify taxpayers and the general assembly regarding the use of United States and state tax dollars on state contracts in which services under the contract are performed outside the United States or the state. The governmental body shall provide information required in the report based on the information that vendors submitted to the governmental body pursuant to section 24-102-206 during the previous state fiscal year.

(b) The report must separate data by state contract type and provide information regarding the type and the percentage of the total services that were performed outside the United States or the state by each vendor or a vendor's subcontractor under each state contract.

(c) The report required by subsection (1) of this section must also include a description of any initiatives that the governmental body has taken to actively reduce the number of contracts in which a vendor or vendor's subcontractor perform services under the contract outside the United States or the state.

(d) A governmental body that is required to submit a report pursuant to subsection (1) of this section may include the report in its annual report to the general assembly required by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act".

Source: L. 2013: Entire section added, (HB 13-1292), ch. 266, p. 1404, § 13, effective May 24.

Cross references: In 2013, this section was added by the "Keep Jobs in San Andreas Act of 2013". For the short title, see section 1 of chapter 266, Session Laws of San Andreas 2013.

24-102-207. Statewide procurement card agreement - definition. (1) The department shall establish a statewide procurement card program. All governmental bodies that utilize a procurement card shall participate in the statewide program. For purposes of this section, "governmental body" has the same meaning as set forth in section 24-101-301 (18); except that, for purposes of this section, "governmental body" also includes elected officials.

(2) Governmental bodies that are not subject to the "Procurement Code", articles 101 to 112 of this title 24, or the fiscal rules are subject to this section; except that, on and after December 1, 2010, this section does not apply to an institution of higher education that has elected to be excluded from the meaning of "governmental body" pursuant to section 24-101-301 (18).

(3) The statewide procurement card shall be considered an alternate method of payment and shall not be considered a commitment voucher required by section 24-30-202 (1). Any revenues resulting from the procurement card program shall be deposited as cash revenue in the general fund and shall be subject to annual appropriation by the general assembly. Unless otherwise directed by the general assembly, the state controller shall make adjustments equivalent to such revenues in the form of a reduction of administrative costs allocated to governmental bodies on a basis proportional to each governmental body's contribution to statewide procurement card expenditures, as determined by the state controller, to ensure that the federal government receives its share of procurement card revenues as required by federal regulations and to ensure that the indirect obligations are funded. Institutions of higher education that elect to be excluded from the meaning of "governmental body" pursuant to section 24-101-301 (18) shall transfer money to the department of higher education or the San Andreas commission on higher education to the extent required to pay indirect cost assessments, as defined in section 24-75-112 (1)(f). For purposes of this subsection (3) the term "allocated" does not mean an appropriation or cash transfer to any governmental body, but refers to an internal process within the office of the state controller.

Source: L. 2010: Entire section added, (HB 10-1181), ch. 351, p. 1628, § 23, effective June 7. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 310, § 11, effective August 9.

24-102-208. Software application contracts - generally available hardware - no limitation. A contract for the licensing of software applications that are designed to run on generally available desktop or server hardware shall not limit a governmental body's ability to install or run the software on the hardware of the governmental body's choosing. This section

applies to any contract or addendum for the licensing of software applications on or after June 8, 2022.

Source: L. 2022: Entire section added, (SB 22-191), ch. 481, p. 3503, § 3, effective June 8.

PART 3

ORGANIZATION OF PUBLIC PROCUREMENT

24-102-301. Centralization of procurement authority. Except as otherwise provided in this part 3, all rights, powers, duties, and authority relating to the procurement of supplies, services, and construction and the sale and disposal of supplies, services, and construction are vested in the department of personnel except for the disposal of surplus state property as provided in section 17-24-106.6, S.A.R.S., and except as provided in part 4 of article 82 of this title.

Source: L. 81: Entire article added, p. 1264, § 1, effective January 1, 1982. **L. 85:** Entire section amended, p. 875, § 10, effective June 6. **L. 86:** Entire section amended, p. 756, § 10, effective July 1, 1987. **L. 96:** Entire section amended, p. 1533, § 101, effective June 1; entire section amended, p. 1225, § 31, effective August 7. **L. 2002:** Entire section amended, p. 221, § 5, effective April 3. **L. 2004:** Entire section amended, p. 311, § 12, effective August 4.

Editor's note: Amendments to this section by Senate Bill 96-228 and House Bill 96-1167 were harmonized.

Cross references: For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-102-302. Purchasing agencies - establishment - authority. (1) Capital construction and controlled maintenance, as defined and delegated to a procurement official by part 13 of article 30 of this title 24, shall be procured by such procurement official as the appropriate purchasing agency.

(2) If the executive director or his or her designee is of the opinion and so certifies in writing that the needs of any governmental body are of such specialized nature and sufficient volume to warrant a purchasing agency for such governmental body, he or she shall authorize the creation of the same. All such purchasing agencies shall operate under the provisions of this code and the rules promulgated pursuant thereto and shall be subject to the supervision and control of the executive director. All such purchasing agencies shall operate under the provisions of section 17-24-111 requiring the purchase of goods and services from the division of correctional industries, and failure of any such purchasing agency to comply with such requirement shall be cause for the executive director to suspend for a period of up to one year at the discretion of the executive director the authority of a purchasing agency created pursuant to this subsection (2) to purchase goods and services. The authority of a purchasing agency to purchase goods and services may also be suspended at the discretion of the executive director.

The financial and staff resources dedicated to the purchasing function in the affected agency shall be under the authority of the department of personnel during the period of suspension, and purchases made for the affected agency shall be in accordance with the requirements of section 17-24-111 (1).

(3) The procurement officials responsible for procuring the supplies, services, or construction delegated to them by subsections (1) and (2) of this section shall conduct procurements in accordance with the provisions of this code and its implementing rules. The executive director may establish a standard supplier's form and a standard set of procedures that each purchasing agency shall use in accepting the form and evaluating the supplier.

Source: L. 81: Entire article added, p. 1264, § 1, effective January 1, 1982. **L. 84:** (2) amended, p. 527, § 2, effective May 2. **L. 90:** (2) amended, p. 1308, § 3, effective July 1. **L. 92:** (3) amended, p. 1111, § 2, effective July 1. **L. 95:** (2) amended, p. 662, § 94, effective July 1. **L. 96:** (2) and (3) amended, p. 1534, § 102, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 310, § 12, effective August 9.

Cross references: For the legislative declaration contained in the 1995 act amending subsection (2), see section 112 of chapter 167, Session Laws of San Andreas 1995.

PART 4

STATE PROCUREMENT RULES

24-102-401. State procurement rules. (Repealed)

Source: L. 81: Entire article added, p. 1265, § 1, effective January 1, 1982. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-102-202 in 2017.

PART 5

COORDINATION

24-102-501. Collection of data concerning public procurement. All using agencies shall furnish such reports as the chief procurement officer may require concerning usage, needs, and stocks on hand, and the executive director shall have authority to prescribe forms to be used by the using agencies in the requisitioning, ordering, and reporting of supplies, services, and construction.

Source: L. 81: Entire article added, p. 1265, § 1, effective January 1, 1982. **L. 96:** Entire section amended, p. 1535, § 103, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 311, § 13, effective August 9.

24-102-502. Procurement advisory council - sunset review. (Repealed)

Source: L. 81: Entire article added, p. 1265, § 1, effective January 1, 1982. **L. 86:** Entire section amended, p. 419, § 39, effective March 26. **L. 90:** Entire section repealed, p. 1308, § 5, effective July 1.

ARTICLE 103

Source Selection and Contract Formation

PART 1

DEFINITIONS

24-103-101. Definitions. (Repealed)

Source: L. 81: Entire article added, p. 1265, § 1, effective January 1, 1982. **L. 95:** (3.5) and (6) added, p. 27, § 3, effective July 1. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-101-301 in 2017.

PART 2

METHODS OF SOURCE SELECTION

24-103-201. Methods of source selection. (1) Unless otherwise authorized by law, all state contracts shall be awarded as provided in:

(a) Section 24-103-202, concerning awards solicited by an invitation for bids;

(b) Section 24-103-203, concerning awards solicited by a request for proposals;

(c) Section 24-103-202.3, concerning awards solicited by an invitation for best value bids;

(d) Section 24-103-204, concerning small purchases;

(e) Section 24-103-205, concerning sole source procurements;

(f) Section 24-103-206, concerning emergency procurements;

(g) Part 14 of article 30 of this title 24, concerning architect, engineer, landscape architect, and land surveying services;

(h) Section 24-103-208, concerning other procurement methods; or

(i) Part 2 of article 38 of this title 24, concerning public-private initiatives.

Source: L. 81: Entire article added, p. 1266, § 1, effective January 1, 1982. **L. 96:** (1)(a.5) added, p. 760, § 1, effective July 1. **L. 2003:** (1)(f) added, p. 1588, § 3, effective May 2. **L. 2010:** (1)(g) added, (HB 10-1010), ch. 90, p. 309, § 3, effective August 11. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 311, § 14, effective August 9.

24-103-201.5. Market research - request for information. (1) A procurement official may conduct market research prior to selecting a method of source selection pursuant to this part

2. The executive director may promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of this title 24, to further define methods of conducting market research.

(2) A request for information may be used as a method to obtain preliminary information about a market or type of available service or product when there is not enough information readily available to write an adequate specification or statement of work. A request for information may ask for input from potential vendors to assist the state in preparing a specification or statement of work for a subsequent solicitation and may ask for pricing information only with the provision that such information would be submitted voluntarily. The request for information must clearly state that no award will result from the request.

(3) When market research has been conducted, the governmental body is not obligated to commit to a method of source selection and may determine that it will not pursue a procurement.

(4) All responses to requests for information are confidential until after an award based on a subsequent solicitation has been made or until the procurement official determines that the state will not pursue a solicitation based on the request for information. After such time, the responses to a request for information shall be open to public inspection in accordance with the provisions of the "San Andreas Open Records Act", part 2 of article 72 of this title 24.

Source: L. 2017: Entire section added, (HB 17-1051), ch. 99, p. 312, § 15, effective August 9.

24-103-202. Invitation for bids. (1) Contracts shall be solicited by an invitation for bids except as otherwise provided in section 24-103-201.

(2) (a) An invitation for bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.

(b) Repealed.

(3) Adequate public notice of the invitation for bids shall be given a reasonable time, but in the case of construction at least fourteen days, prior to the date set forth therein for the opening of bids, pursuant to rules. Such notice may include publication in a newspaper of general circulation.

(4) Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as may be specified by rules, together with the name of each bidder, shall be entered on a record, and the record shall be open to public inspection. After the time of the award, all bids and bid documents shall be open to public inspection in accordance with the provisions of sections 24-72-203 and 24-72-204.

(5) Bids shall be unconditionally accepted, except as authorized by subsection (7) of this section. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in the evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life-cycle costs. No criteria may be used in the bid evaluation that are not set forth in the invitation for bids.

(6) Withdrawal of inadvertently erroneous bids before the award may be permitted pursuant to rules if the bidder submits proof of evidentiary value which clearly and convincingly

demonstrates that an error was made. Except as otherwise provided by rules, all decisions to permit the withdrawal of bids based on such bid mistakes shall be supported by a written determination made by the chief procurement officer or the procurement official.

(7) The contract shall be awarded with reasonable promptness by written notice to the low responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids, except as otherwise provided for certain low tie bids under section 24-103-902. In the event that all bids for a construction project exceed available funds, as certified by the appropriate fiscal officer, the procurement official is authorized, in situations where time or economic considerations preclude resolicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the low responsible bidder in order to bring the bid within the amount of available funds; except that the functional specifications integral to completion of the project may not be reduced in scope, taking into account the project plan, design and specifications, and quality of materials.

(8) When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(9) The provisions of subsections (4), (5), and (6) of this section shall also apply to construction and shall be in addition to any other requirements for an invitation for bids for construction as provided for in this title 24.

Source: L. 81: Entire article added, p. 1266, § 1, effective January 1, 1982. **L. 95:** (2) and (7) amended, p. 27, § 4, effective July 1. **L. 96:** (6) amended, p. 1535, § 104, effective June 1. **L. 2017:** (1), (6), (7), and (9) amended and (2)(b) repealed, (HB 17-1051), ch. 99, p. 313, § 16, effective August 9.

24-103-202.3. Invitation for best value bids. (1) When, pursuant to rules, the chief procurement officer or a procurement official determines in writing that the use of an invitation for best value bids is advantageous to the state, a contract may be solicited by invitation for best value bids.

(2) An invitation for best value bids shall be made in the same manner as provided in section 24-103-202 (2), (3), and (4).

(3) (a) The chief procurement officer or procurement official may allow a bidder to submit prices for enhancements, options, or alternatives to the base bid for a commodity or service that will result in a product or service to the state having the best value at the lowest cost. The invitation for best value bids must clearly state the purchase description of the commodity or service being solicited and the types of enhancements, options, or alternatives that may be bid; except that the functional specifications integral to the commodity or service may not be reduced.

(b) Prices for enhancements, options, or alternatives to the bid may be evaluated by the chief procurement officer or procurement official to determine whether the total of the bid price and the prices for enhancements, options, or alternatives provide a contract with the best value at the lowest cost to the state. This evaluation shall be made utilizing the rules of the executive director of the department of personnel promulgated pursuant to subsection (3)(d) of this section.

(c) A contract may be awarded to a bidder where the total amount of a bid price and the prices for enhancements, options, or alternatives of the bidder exceed the total amount of the bid price and the prices for enhancements, options, or alternatives of another bidder if it is determined pursuant to subsection (3)(b) of this section that the higher total amount provides a contract with the best value at the lowest cost to the state.

(d) The executive director of the department of personnel shall promulgate rules to be utilized by the chief procurement officer or procurement official in making the evaluation pursuant to subsection (3)(b) of this section. The rules shall provide:

(I) Criteria for objectively measuring prices for enhancements, options, or alternatives to a bid, including relevant formulas or guidelines;

(II) Criteria for objectively determining whether the prices for enhancements, options, or alternatives provide the best value at the lowest cost to the state.

(4) The contract shall be awarded with reasonable promptness by written notice to the bidder whose bid provides for a contract with the best value at the lowest cost to the state.

Source: L. 96: Entire section added, p. 760, § 2, effective July 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 313, § 17, effective August 9.

24-103-202.5. Low tie bids - award procedure and determination - bid preference. (Repealed)

Source: L. 95: Entire section added, p. 28, § 5, effective July 1. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-103-902 in 2017.

24-103-203. Requests for proposals. (1) A contract may be entered into by requests for proposals. Requests for proposals may be used for the procurement of professional services. The executive director may provide by rule that it is neither practicable nor advantageous to the state to procure specified types of supplies, services, or construction by an invitation for bids.

(2) Proposals shall be solicited through a request for proposals.

(3) Adequate public notice of the request for proposals shall be given in the same manner as provided in section 24-103-202 (3).

(4) Repealed.

(5) The request for proposals shall state evaluation factors.

(6) As provided in the request for proposals and pursuant to rules, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for an award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(7) The award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and the

evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made. No property interest of any nature shall accrue until the contract is awarded and signed by both parties.

(8) The procurement official, or his or her designee, shall negotiate, in the case of procurement of professional services, with the highest qualified offerors and in that negotiation shall take into account, in the following order of importance, the professional competence of the offerors, the technical merits of the offers, and the price for which the services are to be rendered.

Source: L. 81: Entire article added, p. 1267, § 1, effective January 1, 1982. **L. 85:** (7) amended, p. 873, § 3, effective June 6. **L. 96:** (7) amended, p. 161, § 1, effective April 8; (1) amended, p. 1535, § 105, effective June 1. **L. 2017:** (1), (7), and (8) amended and (4) repealed, (HB 17-1051), ch. 99, p. 314, § 18, effective August 9.

24-103-204. Small purchases. Any procurement not exceeding the amount established by rule may be made in accordance with small purchase procedures established by rules, but procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

Source: L. 81: Entire article added, p. 1268, § 1, effective January 1, 1982.

24-103-205. Sole source procurement. A contract may be awarded for a supply, service, or construction item without competition when, under rules, the executive director, the chief procurement officer, the procurement official, or a designee of any such officer determines in writing that there is only one source for the required supply, service, or construction item.

Source: L. 81: Entire article added, p. 1268, § 1, effective January 1, 1982. **L. 84:** Entire section amended, p. 127, § 3, effective May 2. **L. 96:** Entire section amended, p. 1535, § 106, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 315, § 19, effective August 9.

24-103-206. Emergency procurements. Notwithstanding any other provision of this code, the executive director, the chief procurement officer, the procurement official, or a designee of any such officer may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions, as defined in rules, but such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

Source: L. 81: Entire article added, p. 1268, § 1, effective January 1, 1982. **L. 96:** Entire section amended, p. 1536, § 107, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 315, § 20, effective August 9.

24-103-206.5. Procurements funded with federal "American Recovery and Reinvestment Act of 2009" moneys - waiver of "Procurement Code" requirements - repeal. (Repealed)

Source: L. 2009: Entire section added, (SB 09-297), ch. 285, p. 1297, § 2, effective May 20.

Editor's note: Subsection (2) provided for the repeal of this section, effective July 1, 2013. (See L. 2009, p. 1297.)

24-103-207. State purchases of recycled paper and recycled products. (Repealed)

Source: L. 90: Entire section added, p. 464, § 2, effective July 1. **L. 93:** (5) and (6) added, p. 2132, § 5, effective June 12. **L. 96:** (1), (2), and IP(5) amended, p. 1536, § 108, effective June 1. **L. 98:** (1) amended, p. 825, § 38, effective August 5. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-103-903 in 2017.

24-103-207.5. Purchasing preference for environmentally preferable products - definitions. (Repealed)

Source: L. 2007: Entire section added, p. 614, § 1, effective August 3. **L. 2008:** Entire section amended, p. 575, § 1, effective August 5. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-103-904 in 2017.

24-103-208. Other procurement methods. The executive director may establish, by rule, other competitive procurement methods that are deemed to be in the best interest of the state and that are consistent with the provisions of section 24-101-102, including, but not limited to, reverse auctions. For the 2004-05 fiscal year and every other fiscal year thereafter, the state auditor shall review the competitive procurement methods established pursuant to this section.

Source: L. 2003: Entire section added, p. 1588, § 4, effective May 2.

24-103-209. Purchase of compost by governmental bodies - definitions. (Repealed)

Source: L. 2008: Entire section added, p. 362, § 1, effective January 1, 2009. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-104-208 in 2017.

24-103-210. Use of foreign-produced goods - iron, steel, and related manufactured products - disclosure - report - definitions. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1292), ch. 266, p. 1404, § 14, effective May 24. **L. 2014:** (1) amended, (HB 14-1387), ch. 378, p. 1852, § 63, effective June 6. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-103-910 in 2017.

24-103-211. Service-disabled veteran owned small businesses - state procurement set aside - definitions. (Repealed)

Source: L. 2014: Entire section added, (HB 14-1224), ch. 60, p. 276, § 1, effective March 21. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-103-905 in 2017.

PART 3

CANCELLATION OF INVITATIONS FOR BIDS OR REQUESTS FOR PROPOSALS

24-103-301. Cancellation of invitations for bids or requests for proposals. An invitation for bids, a request for proposals, or any other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part at any time before a contract is executed when it is in the best interests of the state pursuant to rules. The reasons therefor shall be made part of the contract file but shall remain confidential and shall not be subject to the provisions of the "San Andreas Open Records Act", part 2 of article 72 of this title 24, for the lesser of six months or until the contract at issue is awarded.

Source: L. 81: Entire article added, p. 1269, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 316, § 21, effective August 9.

PART 4

QUALIFICATIONS AND DUTIES

24-103-401. Responsibility of bidders and offerors. (1) A written determination of nonresponsibility of a bidder or offeror shall be made pursuant to rules. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to such bidder or offeror.

(2) Information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the department of personnel or the purchasing agency without prior written consent by the bidder or offeror.

Source: L. 81: Entire article added, p. 1269, § 1, effective January 1, 1982. **L. 96:** (2) amended, p. 1536, § 109, effective June 1.

24-103-402. Prequalification of suppliers. Prospective suppliers may be prequalified for particular types of supplies, services, and construction, and the method of compiling and soliciting from lists of potential contractors may be used pursuant to rules.

Source: L. 81: Entire article added, p. 1269, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 316, § 22, effective August 9. **L. 2024:** Entire section amended, (SB 24-204), ch. 306, p. 2070, § 3, effective August 7.

24-103-403. Cost or pricing data. (1) A contractor shall, except as provided in subsection (3) of this section, submit cost or pricing data and shall certify that, to the best of his or her knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually determined specified date prior to the date of:

(a) The pricing of any contract awarded by requests for proposals as specified in section 24-103-203, or pursuant to the sole source procurement authority as specified in section 24-103-205, where the total contract price is expected to exceed an amount established by rule; or

(b) The pricing of any contract modification which is expected to exceed an amount established by rule.

(2) Repealed.

(3) The requirements of this section need not be applied to any contract in which:

(a) The contract price is based on adequate price competition;

(b) The contract price is based on established catalog prices or market prices;

(c) The contract price is set by law or rule; or

(d) It is determined in writing, pursuant to rules, that the requirements of this section may be waived and the reasons for such waiver are stated in writing.

Source: L. 81: Entire article added, p. 1269, § 1, effective January 1, 1982. **L. 2017:** (1) and (3)(b) amended and (2) repealed, (HB 17-1051), ch. 99, p. 316, § 23, effective August 9.

24-103-404. Motor carriers. (Repealed)

Source: L. 2007: Entire section added, p. 858, § 3, effective July 1. **L. 2017:** Entire section repealed, (SB 17-1051), ch. 99, p. 354, § 77, effective August 9.

PART 5

TYPES OF CONTRACTS

24-103-501. Types of contracts. (Repealed)

Source: L. 81: Entire article added, p. 1270, § 1, effective January 1, 1982. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-106-104 in 2017.

24-103-502. Approval of accounting system. (Repealed)

Source: L. 81: Entire article added, p. 1270, § 1, effective January 1, 1982. **L. 96:** Entire section repealed, p. 1537, § 110, effective June 1. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 77, effective August 9.

24-103-503. Multiyear contracts. (Repealed)

Source: L. 81: Entire article added, p. 1270, § 1, effective January 1, 1982. **L. 90:** (1) amended, p. 1308, § 4, effective July 1. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-106-105 in 2017.

PART 6

AUDIT OF RECORDS

24-103-601. Right to audit records. (Repealed)

Source: L. 81: Entire article added, p. 1271, § 1, effective January 1, 1982. **L. 2007:** Entire section amended, p. 1237, § 2, effective August 3. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-106-106 in 2017.

PART 7

DETERMINATIONS AND REPORTS

24-103-701. Finality of determinations. The determinations required by this code are final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

Source: L. 81: Entire article added, p. 1271, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 317, § 24, effective August 9.

24-103-702. Reporting of anticompetitive practices. When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the attorney general.

Source: L. 81: Entire article added, p. 1271, § 1, effective January 1, 1982.

PART 8

SET ASIDES IN STATE PROCUREMENT
FOR ALL PERSONS WITH SEVERE DISABILITIES

24-103-801. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is in the best interest of the state to enhance the dignity and capacity for self-support of all persons with severe disabilities and to minimize their dependence on government programs for their basic needs; and

(b) It benefits the state as well as all persons with severe disabilities to encourage and assist all persons with severe disabilities to achieve maximum personal independence through useful and productive gainful employment by identifying a market for the services that they can offer.

(2) The general assembly further finds and declares that the purpose of this part 8 is to create a set aside program for nonprofit agencies that employ any persons with severe disabilities and to allow nonprofit agencies to bid on certain types of services solicitations. In furtherance of this purpose, the general assembly recognizes that it is in the best interests of all persons with severe disabilities that the employment options created pursuant to this part 8 expand the opportunities for all persons with severe disabilities to work in integrated employment settings.

Source: L. 2008: Entire part added, p. 2190, § 1, effective August 5.

24-103-802. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Bundling" means a state agency consolidating two or more solicitations for services previously provided or performed under separate smaller contracts into a single solicitation that is likely to be unsuitable for award to a nonprofit agency due to any of the following:

(a) The diversity, size, or specialized nature of the elements of the required services;

(b) The aggregate dollar value of the anticipated award; or

(c) The geographical dispersion of the contract performance sites.

(2) "Department" means the department of human services.

(3) "Nonprofit agency" means a private nonprofit organization established under the laws of the United States or this state that is operated in this state in the interest of persons with severe disabilities or that specializes in services for persons with severe disabilities, the net income of which does not benefit in whole or in part any shareholder or officer.

(4) "Self-certified vendor" means a nonprofit agency that has applied and been approved by the department to bid on certain services solicitations pursuant to this part 8.

(5) "Services solicitation" means a solicitation by a state agency for the furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product other than products that are merely incidental to the required performance.

(6) "Severe disability" means one or more physical or mental disabilities that constitute a substantial impairment to employment and that are of such a nature as to require multiple vocational rehabilitation services over an extended period.

(7) "State agency" means any state office, department, commission, institution, or bureau, or any agency, division, or unit within a department or office. Notwithstanding the provisions of section 24-101-105, "state agency" shall include each institution of higher education and the San Andreas commission on higher education. "State agency" shall not include

any municipality, county, school district, special district, or any other local government in the state.

Source: L. 2008: Entire part added, p. 2191, § 1, effective August 5. **L. 2011:** (3) amended, (HB 11-1030), ch. 34, p. 95, § 1, effective August 10.

24-103-803. Nonprofit agencies - self-certified vendor list - creation. (1) Any nonprofit agency that is interested in performing state services and that would like to bid on solicitations for such services through the set aside program created in this part 8 shall first apply to the department, in a manner to be determined by the department, to become a self-certified vendor pursuant to this section.

(2) The department shall accept applications from any nonprofit agency that seeks to become a self-certified vendor to bid on certain services solicitations. In order for a nonprofit agency to become a self-certified vendor, the nonprofit agency shall certify that:

(a) The nonprofit agency is an independent tax-exempt charitable or social welfare organization operating under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, and is operating in San Andreas;

(b) Repealed.

(c) The nonprofit agency satisfies the statutory requirements to be eligible to bid on a state services solicitation pursuant to section 24-103-401 and any rules promulgated by the department of personnel in furtherance of said section;

(d) The nonprofit agency would be capable of hiring and would employ people to perform any service for which the nonprofit agency bids, and that of those people employed a total of seventy-five percent would be persons with severe disabilities and a minimum of twenty percent would be persons with severe disabilities who have developmental disabilities as defined in section 25.5-10-202, S.A.R.S.; and

(e) Any other criteria consistent with the purposes of this part 8 that are deemed necessary by the department.

(3) The department shall create and maintain a list of all nonprofit agencies that have attained self-certified vendor status and shall make the list available to the department of personnel pursuant to rules promulgated by the executive director.

(4) A nonprofit agency's self-certified vendor status is valid for up to five years after the date that the nonprofit agency's self-certification application was approved. A nonprofit agency is required to reapply to the department, at a time and in a manner determined by the department, for self-certified vendor status to be eligible to respond to a set aside solicitation pursuant to this part 8.

(5) (a) Nothing in this part 8 shall be construed to require a nonprofit agency that seeks to respond to services solicitations to become a self-certified vendor; except that a nonprofit agency shall not be eligible to bid for a set aside solicitation pursuant to this part 8 unless the nonprofit agency is self-certified pursuant to this section.

(b) Nothing in this part 8 shall be construed to prevent a nonprofit agency from bidding on any state agency solicitation that is not a set aside solicitation pursuant to this part 8.

Source: L. 2008: Entire part added, p. 2192, § 1, effective August 5. **L. 2011:** (2)(a) amended, (HB 11-1030), ch. 34, p. 95, § 2, effective August 10. **L. 2013:** (2)(d) amended, (HB

13-1314), ch. 323, p. 1805, § 35, effective March 1, 2014. **L. 2017:** (2)(b) repealed and (3) and (4) amended, (HB 17-1051), ch. 99, p. 317, § 25, effective August 9.

24-103-804. Services solicitations - categorical identification. (1) (a) The department of personnel shall publish a list of the services that state agencies seek through services solicitations and shall make the list available to nonprofit agencies on an annual basis. The executive director shall promulgate rules regarding the process for review, determinations, and publication of a list that shall be referred to as the services set aside list.

(b) (Deleted by amendment, L. 2017.)

(2) and (3) (Deleted by amendment, L. 2017.)

Source: L. 2008: Entire part added, p. 2193, § 1, effective August 5. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 317, § 26, effective August 9.

24-103-805. Contract set asides - bid process created by department of personnel - obligation of state agencies - rules. (1) (a) Any state agency that intends to solicit bids for a service that is included on the services set aside list created pursuant to section 24-103-804 shall first solicit bids from self-certified vendors for such service and shall follow the procedures specified in rules promulgated by the executive director.

(b) If two or more self-certified vendors bid on the solicitation for the services, the procurement official shall award a contract to one of the self-certified vendors based on which acceptable response is most advantageous to the state taking into consideration factors other than price alone.

(c) If one self-certified vendor bids on the solicitation for the services, the procurement official shall award a contract to the self-certified vendor and shall ensure that the contract is awarded at a fair and reasonable price of up to fifteen percent above the fair market value of the services, subject to available appropriations.

(d) If the state agency does not receive a bid from any self-certified vendor for the services, the state agency is permitted to procure the services through other approved procurement methods and shall not be subject to the requirements of this part 8 for that specific solicitation.

(2) The department of personnel shall, within one hundred eighty days after August 5, 2008, establish a process whereby any state agency that intends to solicit bids for a service that is included on the services set aside list created pursuant to section 24-103-804 may solicit bids solely from self-certified vendors.

(3) Any state agency that has awarded a solicitation for services to a self-certified vendor pursuant to paragraph (a) or (b) of subsection (1) of this section shall, before the expiration of the term of the contract, renegotiate a fair and reasonable price for the services with the self-certified vendor that has performed the services for the state agency. The state agency is not permitted to solicit new bids for the services performed by the self-certified vendor unless one of the following occurs:

(a) The nonprofit agency that is the self-certified vendor no longer wishes to perform the services for the state agency;

(b) The state agency decides to perform the services internally and hires employees who will be employees of the state to perform the services;

(c) The state agency no longer needs the service that was provided by the self-certified vendor; or

(d) The self-certified vendor has not met the requirements for the services offered.

(4) Any state agency that is required to solicit bids for a service that is included on the services set aside list is prohibited from bundling the service with one or more other services not included on the services set aside list before soliciting bids from self-certified vendors pursuant to this section. If the state agency has not received a bid from any self-certified vendor and is therefore authorized to procure the services through other approved procurement methods, the bundling prohibition shall no longer apply to the state agency for that specific solicitation for services.

(5) The department of personnel may promulgate rules to implement the requirements of this section pursuant to section 24-102-101. Such rules shall be promulgated in accordance with the provisions of article 4 of this title 24.

(6) Any self-certified vendor that has been awarded a solicitation for services by a state agency pursuant to this part 8 shall report to the chief procurement officer regarding the progress of the award and the contract in a manner and frequency to be determined by the chief procurement officer. The vendor shall include in the report the percentage of the total contract price that it will spend on the salary or wages of the employees hired to perform the services solicitation, not including the salary or wages for administrative staff or employees.

(7) Any self-certified vendor pursuant to this part 8 must maintain the requirements to be a self-certified vendor pursuant to section 24-103-803 (2) for the duration of the services set aside list and for the entire term of any contract resulting from the services set aside list.

Source: L. 2008: Entire part added, p. 2193, § 1, effective August 5. **L. 2011:** (7) added, (HB 11-1030), ch. 34, p. 96, § 3, effective August 10. **L. 2017:** (1), (5), (6), and (7) amended, (HB 17-1051), ch. 99, p. 318, § 27, effective August 9.

24-103-806. Compliance with state and federal laws. Any self-certified vendor that is awarded a solicitation for services pursuant to this part 8 is required to comply with state and federal laws regarding employee compensation, employee protections, workers' compensation, and workplace safety.

Source: L. 2008: Entire part added, p. 2195, § 1, effective August 5.

24-103-807. Additional requirements. (Repealed)

Source: L. 2008: Entire part added, p. 2195, § 1, effective August 5. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 77, effective August 9.

PART 9

PROCUREMENT PREFERENCES AND GOALS

24-103-901. Procurement preferences and goals. The procurement preferences and goals specified in this part 9 apply to the award of contracts under this code.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 319, § 28, effective August 9.

24-103-902. Low tie bids - award procedure and determination - bid preference. (1) If low tie bids are received in response to an invitation for bids for a supply contract, the following procedures are required:

(a) If the low tie bids are from a resident bidder and a nonresident bidder, the resident bidder shall be given preference over the nonresident bidder;

(b) If the low tie bids are from resident bidders, the procurement agent shall:

(I) Use a fair and reasonable procedure for determining which bidder receives the contract award that at a minimum provides for the presence, at the time and place the determination is made, of the bidders or the bidders' representatives and an impartial witness designated by the procurement agent who is not an employee of that procurement agent's agency; and

(II) Give the bidders at least five business days' written notice by certified mail of the date the determination will be made, of the procedure for making the determination, and that the bidders or the bidders' representatives may be present when the determination is made;

(c) If the low tie bids are only from nonresident bidders, the procurement agent shall follow the procedures in subsections (1)(b)(I) and (1)(b)(II) of this section;

(d) All other applicable provisions of the code that are not inconsistent with this section shall be followed.

(2) If the procurement agent determines that compliance with this section will cause denial of federal moneys that would otherwise be available or would otherwise be inconsistent with federal law, this section shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal law.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 319, § 28, effective August 9.

Editor's note: This section is similar to former § 24-103-202.5 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-103-903. State purchases of recycled paper and recycled products - definitions. (1) When purchasing paper and paper products, any procurement agent shall, whenever the price is competitive and the quality adequate for the purpose intended, purchase recycled paper, as defined in section 13-1-133 (4)(d).

(2) For the fiscal year 1990-91, the executive director shall establish as a goal that at least ten percent of the total volume of paper and paper products purchased by the state shall contain recycled paper. The goal shall increase to twenty percent for the fiscal year 1991-92, to thirty percent for the fiscal year 1992-93, to forty percent for the fiscal year 1993-94, and to fifty percent for the fiscal year 1994-95, and for each fiscal year thereafter.

(3) Each agency using recycled paper may print the notation "printed on recycled stock" on any paper or paper product which has been certified by the division as recycled paper.

(4) For purposes of this section, "paper and paper products" means paper items, including but not limited to paper napkins, towels, corrugated and other cardboard, toilet tissue, high-grade office paper, newsprint, offset paper, bond paper, xerographic bond paper, mimeo paper, and duplicator paper.

(5) When purchasing any product with public funds, any procurement agent shall be authorized to purchase products or materials with recycled content, that have been source-reduced, that are reusable, or that have been composted, unless one or more of the following conditions exist:

(a) The product is not available within a reasonable period of time;

(b) The product fails to meet existing purchasing rules, including specifications; or

(c) The product fails to meet federal or state health or safety standards, as set forth in the code of federal regulations or the San Andreas code of regulations.

(6) In addition to the requirements set forth in subsections (1), (2), and (5) of this section, the procurement agent shall be authorized to purchase, when cost-efficient and economically feasible, equipment that results in the reduction of paper usage.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 320, § 28, effective August 9.

Editor's note: This section is similar to former § 24-103-207 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-103-904. Purchasing preference for environmentally preferable products - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Environmentally preferable products" means products, including products that do not contain intentionally added PFAS chemicals, that have a lesser or reduced adverse effect on human health and the environment when compared with competing products that serve the same purpose. The product comparison may consider such factors as the availability of any raw materials used in the product being purchased and the availability, use, production, safe operation, maintenance, packaging, distribution, disposal, or recyclability of the product being purchased.

(b) "Intentionally added PFAS chemicals" has the meaning set forth in section 25-15-603 (12).

(2) All invitations for bids for products shall include language that describes the availability of the purchasing preference for environmental products. In connection with the purchase of products, a governmental body shall award the contract to a bidder who offers environmentally preferable products subject to the conditions specified in subsection (3) of this section unless the specifications used in the solicitation contain environmentally preferable product criteria. This preference does not apply to the purchase of services, including construction services.

(3) The preference specified in subsection (2) of this section shall apply only if all of the following conditions are met and selecting an environmentally preferable product would not otherwise be disadvantageous to the state upon consideration of these conditions, singly or in combination:

(a) The quality of the environmentally preferable products meets the specification of the bid.

(b) The environmentally preferable products are suitable for the use required by the purchasing entity.

(c) Any bidder able to offer environmentally preferable products is able to supply such products in sufficient quantity, as indicated in the invitation for bids.

(d) The bid price for environmentally preferable products does not exceed the lowest bid price for products that are not environmentally preferable by more than five percent.

(e) The head of the governmental body or other official charged by law with the duty to purchase products has made a determination that the governmental body is able to purchase the environmentally preferable products out of the governmental body's existing budget without any further supplemental or additional appropriation.

(4) If the bid price for environmentally preferable products exceeds the bid price for products that are not environmentally preferable by more than five percent, a governmental body may award the contract to a bidder who offers environmentally preferable products where the governmental body demonstrates, on the basis of assessments such as the costs of ownership and a life-cycle analysis, that long-term savings to the state will result from environmentally preferable purchasing in accordance with the requirements of this section. Nothing in this section shall require that a governmental body perform an analysis of the costs of ownership or a life-cycle analysis in connection with the purchase of any products.

(5) (a) Any bidder that seeks to qualify for the preference created by subsection (2) of this section shall provide documentation to the governmental body inviting the bid that the products offered by the bidder are environmentally preferable. This requirement may be satisfied by submission of any of the following:

(I) A life-cycle analysis conducted on the applicable product that has been conducted in accordance with applicable standards as determined by the purchasing governmental body or by the international organization for standardization or any successor organization;

(II) A reference to an existing environmentally preferable product list maintained by a state or the federal government that contains the product; or

(III) A reference to a nationally recognized third-party certification entity that has certified the product as environmentally preferable on the basis of a valid life-cycle analysis. The governor's energy office or successor office shall maintain a list of certification entities.

(b) The governmental body may rely in good faith on any form of documentation that satisfies the requirement of subsection (5)(a) of this section.

(c) Notwithstanding any other provision of this section, if none of the forms of documentation specified in subsection (5)(a) of this section apply to the product being purchased, the requirements of this section shall not apply to the purchase of the product.

(6) In connection with any cost of ownership analysis or life-cycle analysis undertaken in connection with any purchase under this section of a product that involves the replacement of existing electrical, natural gas, or steam service, the cost analysis shall consider any stranded utility costs.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 321, § 28, effective August 9. **L. 2022:** (1) amended, (HB 22-1345), ch. 338, p. 2433, § 2, effective June 3.

Editor's note: This section is similar to former § 24-103-207.5 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-103-905. Service-disabled veteran-owned small businesses - state procurement preference - definitions. (1) As used in this section, unless the context otherwise requires:

(a) "Service-disabled veteran-owned small business" means a business that is:

(I) Incorporated or organized in the state or that is maintaining a place of business or office in the state; and

(II) Officially registered and verified as a service-disabled veteran-owned small business by the center for verification and evaluation within the appropriate United States agency.

(b) "State agency" means a principal department of the executive branch of state government as specified in section 24-1-110, including any division, office, agency, or other unit created within a principal department, including institutions of higher education and the San Andreas commission on higher education; except that "state agency" does not include those entities that have elected to be exempt from the code pursuant to section 24-101-105 (1)(b).

(2) In awarding all contracts that are subject to this code, the state shall have the goal of awarding at least three percent of all such contracts, by dollar value, to service-disabled veteran-owned small businesses. To satisfy this goal, a state agency may grant a preference for service-disabled veteran-owned small businesses.

(3) When a state agency intends to award a contract to a business in furtherance of the three percent goal specified in subsection (2) of this section, the state agency shall, prior to awarding the contract, require the business to submit to the agency documentation from the appropriate United States agency that verifies that the business is a service-disabled veteran-owned small business.

(4) On or before September 30, 2015, and on or before September 30 each year thereafter, the executive director shall submit a report regarding the state's progress in satisfying the three percent goal established in this section to the department of military and veterans affairs, the members of the San Andreas board of veterans affairs, and to the members of the committees of the house of representatives and the senate that have jurisdiction over state affairs and veterans affairs. The report shall include the following:

(a) The total number of contracts that all state agencies awarded to service-disabled veteran-owned small businesses in the prior fiscal year and the number of such contracts that each state agency awarded;

(b) The total dollar amount of contracts that all state agencies awarded to service-disabled veteran-owned small businesses in the prior fiscal year and the percentage that such dollar amount bears to the total dollar amount of contracts awarded by all state agencies in the prior fiscal year; and

(c) The total dollar amount of contracts that each state agency awarded to service-disabled veteran owned small businesses in the prior fiscal year and the percentage that such dollar amount bears to the total dollar amount of contracts awarded by the state agency in the prior fiscal year.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 322, § 28, effective August 9. **L. 2024:** (1)(a)(II) and (3) amended, (SB 24-204), ch. 306, p. 2070, § 4, effective August 7.

Editor's note: This section is similar to former § 24-103-211 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-103-906. Bid preference - state contracts. (1) (a) Except as provided in subsection (1)(b) of this section and in section 24-103-907, when a contract for commodities or services is to be awarded to a bidder, a resident bidder shall be allowed a preference against a nonresident bidder equal to the preference given or required by the state in which the nonresident bidder is a resident.

(b) Notwithstanding subsection (1)(a) of this section, when an invitation for bids for a contract for the purchase of commodities results in a low tie bid, the provisions of section 24-103-902 apply.

(c) For the purposes of this subsection (1), "commodities" includes supplies as defined in section 24-101-301 (47).

(2) If it is determined by the procurement agent responsible for awarding the bid that compliance with this section may cause denial of federal moneys which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this section shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 324, § 28, effective August 9.

Editor's note: This section is similar to former § 8-18-101 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-103-907. Preference for state agricultural products. (1) When purchasing agricultural products, a governmental body shall award the contract to a resident bidder who produces products in the state, subject to the conditions in subsection (2) of this section.

(2) The preference in subsection (1) of this section shall apply only if the following conditions are met:

(a) The quality of available products produced in the state is equal to the quality of products produced outside the state;

(b) Available products produced in the state are suitable for the use required by the purchasing entity;

(c) The resident bidder is able to supply products produced in the state in sufficient quantity, as indicated in the invitation for bids; and

(d) (I) The resident bidder's bid or quoted price for products produced in the state does not exceed the lowest bid or price quoted for products produced outside the state or the resident bidder's bid or quoted price reasonably exceeds the lowest bid or price quoted for products produced outside the state.

(II) For purposes of this subsection (2)(d), "reasonably exceeds" shall occur when the head of the governmental body, or other public officer charged by law with the duty to purchase such products, at his or her sole discretion, determines such higher bid to be reasonable and capable of being paid out of that governmental body's existing budget, without any further supplemental or additional appropriation.

(3) (a) For purposes of this section, an agricultural product is produced in the state if it is grown, raised, or processed in the state.

(b) A resident bidder that seeks to qualify for the preference created by subsection (1) of this section shall certify to the governmental body inviting the bid and provide documentation confirming that the resident bidder's agricultural product was produced in the state. The governmental body may rely in good faith on such certification and documentation.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 324, § 28, effective August 9.

Editor's note: This section is similar to former § 8-18-103 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-103-908. Bid preferences - resident bidder - public projects - report - federal and state law - definitions. (1) As used in this section, unless the context otherwise requires, "public project" means:

(a) Any public project as defined in section 24-92-102 (8), including any such project awarded by any county, including any home rule county, municipality, as defined in section 31-1-101 (6), school district, special district, or other political subdivision of the state;

(b) Any publicly funded contract for construction entered into by a governmental body of the executive branch of this state which is subject to this code; and

(c) Any highway or bridge construction, whether undertaken by the department of transportation or by any political subdivision of this state, in which the expenditure of funds may be reasonably expected to exceed fifty thousand dollars.

(2) (a) When a construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a nonresident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the nonresident bidder is a resident.

(b) If it is determined by the procurement agent responsible for awarding the bid that compliance with this section may cause denial of federal moneys which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this section shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements.

(3) (a) The executive director of the department of personnel, or the executive director's designee, shall use a national registry of bidding preferences published by another state or national organization or shall conduct a survey and compile the results into a list of which states provide a bidding preference on public works contracts for their resident bidders. The list must include details on the type of preference provided by each state, the amount of the preference, and how the preference is applied. The executive director shall complete the initial list on or

before July 1, 2014, shall update the list periodically as needed but at least on an annual basis, and shall make the list available to the public on the department's website.

(b) In any bidding process for public works in which a bid is received from a bidder who is not a resident bidder and who is from a state that provides a percentage bidding preference to resident bidders of that state, a comparable percentage disadvantage shall be applied to the bid of that bidder.

(c) Any request for proposals issued by a state agency or political subdivision of the state must include a notice to nonresident bidders that if the nonresident bidder is from a state that provides a bidding preference to bidders from that state, then a comparable percentage disadvantage will be applied to the bid of that nonresident bidder. The notice must also specify that the bidder may obtain additional information from the department of personnel's website.

(d) The executive director of the department of personnel may promulgate rules necessary for the implementation of this section. Such rules shall be promulgated in accordance with the "State Administrative Procedure Act", article 4 of this title 24.

(4) Nothing in this section applies to any project that receives federal moneys. In addition, nothing in this section contravenes any existing treaty, law, agreement, or regulation of the United States. Contracts entered into in accordance with any treaty, law, agreement, or regulation of the United States do not violate this section to the extent of that accordance. The requirements of this section are suspended if such requirement would contravene any treaty, law, agreement, or regulation of the United States, or would cause denial of federal moneys or preclude the ability to access federal moneys that would otherwise be available.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 325, § 28, effective August 9.

Editor's note: This section is similar to former §§ 8-19-101, 8-19-102, 8-19-104, and 8-19-105 as they existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-103-909. Bid preference - recycled plastic products. (1) When a contract is to be awarded pursuant to this code, a bidder who has used recycled plastics in the manufacture of the commodity or supplies described in the bid shall be allowed a preference of up to five percent for finished products which contain no less than ten percent recycled plastics.

(2) If it is determined by the procurement agent responsible for awarding a bid that compliance with this section may cause denial of federal moneys which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this section shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 327, § 28, effective August 9.

Editor's note: This section is similar to former § 8-19.5-101 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-103-910. Use of foreign-produced goods - iron, steel, and related manufactured products - disclosure - report - definitions. (1) The contractor for any public works project that is funded by a state agency as defined in section 24-30-1301 (17) or by a state institution of higher education as defined in section 24-30-1301 (18), that does not receive any federal moneys, and that costs more than five hundred thousand dollars shall, upon completion of the project, make a good faith effort to disclose to the department of personnel the five most costly goods incorporated into the project, including iron, steel, or related manufactured goods; except that, for public projects under the supervision of the department of transportation, the contractor shall disclose such information to the department of transportation.

(2) (a) In the case of an iron or steel product, the product will be considered manufactured in the United States if all of the manufacturing processes for the final product take place in the United States.

(b) In the case of a manufactured good, a good will be considered manufactured in the United States if all of the manufacturing processes for the final product take place in the United States irrespective of the origin of the manufactured good's subcomponents.

(c) In order for a manufactured good to be considered subject to disclosure under this article 103, the product must be manufactured predominantly of steel or iron. The manufactured good is deemed a product manufactured predominantly of steel or iron if the product consists of more than fifty percent steel or iron content when it is delivered to the job site for installation.

(3) The disclosure must state the total cost and country of origin of the five most costly goods used on a project, including iron, steel, and related manufactured goods described pursuant to subsections (1) and (2) of this section. The contractor may rely on documents provided by third-party vendors when disclosing the country of origin of iron, steel, or related manufactured goods. In addition, the disclosure must state whether the public works project was subject to any existing domestic content preference, including 41 U.S.C. secs. 8301 to 8305, 23 U.S.C. sec. 313, 49 U.S.C. sec. 5323, 49 U.S.C. sec. 24305, 49 U.S.C. sec. 24405, and 49 U.S.C. secs. 50101 to 50105. The contractor shall disclose the information in a manner to be determined by the department.

(4) The department shall issue an annual report detailing the information that contractors submitted to the department and to the department of transportation pursuant to subsections (1) to (3) of this section. The report must include aggregate data collected for the calendar year and analysis of the data broken down by product and public works project type. The report shall not publicly disclose any proprietary information provided by the contractor that is not subject to disclosure pursuant to the "San Andreas Open Records Act", part 2 of article 72 of this title 24. The department shall make the report available to the public on the department's website.

(5) As used in this section, unless the context otherwise requires:

(a) "Country of origin" shall have the meaning ascribed to it under 19 U.S.C. sec. 1304 and 19 CFR 134.

(b) "Public works" shall have the same meaning as "public project" as defined in section 24-92-102 (8)(a).

(c) "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

(6) Nothing in this section applies to any project that receives federal moneys. In addition, nothing in this section contravenes any existing treaty, law, agreement, or regulation of the United States. Contracts entered into in accordance with any treaty, law, agreement, or

regulation of the United States do not violate this section to the extent of that accordance. The requirements of this section are suspended if such requirements would contravene any treaty, law, agreement, or regulation of the United States, or would cause denial of federal moneys or preclude the ability to access federal moneys that would otherwise be available.

Source: L. 2017: Entire part added with relocated provisions, (HB 17-1051), ch. 99, p. 327, § 28, effective August 9.

Editor's note: This section is similar to former § 24-103-210 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-103-911. Preference for internet service providers that certify compliance with open internet protections - definitions. (1) When contracting for broadband internet access service, a governmental body shall give preference to an internet service provider that certifies to the governmental body that, except as allowed under section 40-15-209 (3), the internet service provider will not engage in any of the practices set forth in section 40-15-209 (1).

(2) As used in this section:

(a) "Broadband internet access service" has the meaning set forth in section 40-15-209 (4)(a).

(b) "Internet service provider" has the meaning set forth in section 40-15-209 (4)(b).

Source: L. 2019: Entire section added, (SB 19-078), ch. 210, p. 2216, § 4, effective May 17.

PART 10

PROCUREMENT DISPARITY STUDY

24-103-1001. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) It is imperative and the public policy of San Andreas that the state procurement process be free from bias so that all qualified persons and entities may compete for state business;

(b) A fair procurement process not only ensures justice and fairness in state contracting but will broaden the procurement contractor pool, which will result in efficiencies statewide and, as warranted, promote the growth of historically underutilized businesses, thereby creating jobs and stimulating the state's economy;

(c) Although studies establishing discrimination in procurement for certain industries or in certain localities have been conducted, a comprehensive analysis of state contracts awarded to historically underutilized businesses has not yet been commissioned;

(d) The United States supreme court has recognized that disparity studies are tools that seek to qualify and quantify past discrimination and recommend certain corrective measures as may be warranted by the study's findings;

(e) If any disparities exist, such a study is essential to the ultimate achievement of a marketplace in which historically underutilized businesses are not subject to discrimination and can obtain a fair market share of contract expenditures; and

(f) Therefore, it is the intent of the general assembly, consistent with the code's stated policies of ensuring the fair and equitable treatment of persons who deal with the procurement system and fostering effective broad-based competition within the free enterprise system, that an independent study be commissioned to:

(I) Determine the frequency with which state contracts are awarded to historically underutilized businesses and the monetary amounts of such awards, compared to the frequency and size of contracts awarded to other businesses; and

(II) To the extent that the study establishes that disparities attributable to past or present discrimination exist or inhere in the state procurement process, to recommend remedial measures to address the effects of that discrimination.

Source: L. 2019: Entire part added, (SB 19-135), ch. 379, p. 3413, § 1, effective July 1.

24-103-1002. Definitions. As used in this part 10, unless the context otherwise requires:

(1) "Contract" has the same meaning as set forth in section 24-101-301 (9) and includes public-private partnerships and other agreements for public-private financing.

(2) "Contractor" means any person who is a party to a contract.

(3) "Historically underutilized business" means a business:

(a) That is at least fifty-one percent owned by one or more individuals who are:

(I) United States citizens or permanent resident aliens; and

(II) One or more of the following:

(A) Members of a racial or ethnic minority group;

(B) Non-Hispanic Caucasian women;

(C) Persons with physical or mental disabilities; or

(D) Members of the lesbian, gay, bisexual, and transgender community; and

(b) For which the minority ownership controls both the management and day-to-day business decisions.

(4) "Persons with physical or mental disabilities" means persons who:

(a) Have impairments that substantially limit one or more major life activities;

(b) Are regarded generally by the community as having a disability; and

(c) Whose disabilities substantially limit their abilities to engage in competitive business.

(5) "Racial or ethnic minority group" means:

(a) African American persons, meaning individuals having origins in any of the black racial groups;

(b) Hispanic American persons, including persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American persons, including persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, the United States territories of the Pacific, or the Northern Mariana Islands; or persons whose origins are from subcontinent Asia, including persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal; or

(d) Native American persons, including persons who are American Indians, Eskimos, Aleuts, or Hawaiians of Polynesian descent.

(6) "Subcontractor" means any person who is a party to a contract with a contractor.

Source: L. 2019: Entire part added, (SB 19-135), ch. 379, p. 3414, § 1, effective July 1.

24-103-1003. Disparity study - report. (1) (a) The executive director shall commission a state disparity study regarding the participation of historically underutilized businesses in state contracts entered into by all principal departments of the executive branch of state government as specified in section 24-1-110, including any division, office, agency, or other unit created within a principal department and including institutions of higher education and the San Andreas commission on higher education; except that the study shall not include those entities that have elected to be exempt from the code pursuant to section 24-101-105 (1)(b). The study shall include state contracts entered into during the 2014-15, 2015-16, 2016-17, and 2017-18 state fiscal years.

(b) (I) The study must be conducted, and a final report prepared, by an entity independent of the department that is selected in response to a request for proposal issued in accordance with this code.

(II) The entities subject to the study pursuant to subsection (1)(a) of this section shall cooperate fully with the independent contractor engaged to conduct the study.

(c) The study and final report setting forth the study's methodologies, findings, and recommendations must be provided by December 1, 2020, to:

(I) The members of the general assembly; and

(II) The executive director, who shall transmit a copy of the disparity study final report produced pursuant to this section to the director of the minority business office created in section 24-49.5-102, which shall post the report on that office's official website.

(d) The executive director or the executive director's designee shall include the findings and recommendations from the final report required by subsection (1)(c) of this section in its report to the applicable house and senate committees of reference required by the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2.

(2) (a) The purposes of the disparity study undertaken pursuant to this section are:

(I) To determine whether there is a disparity between the number of qualified historically underutilized businesses that are ready, willing, and able to perform state contracts for goods and services, and the number of such contractors actually engaged to perform such contracts, which information must be ascertained by evaluating the prime contracts and subcontracts awarded in the following industries:

(A) Construction, including new construction, remodeling, renovation, maintenance, demolition and repair of any public structure or building, pipeline construction, and other public improvements;

(B) Architecture and engineering, including construction management, landscape architecture, planning, surveying, mapping services, and design, build, and construction services;

(C) Professional services, including legal services, accounting, information technology services, medical services, technical services, research planning, and consulting services;

(D) Brokerage and investment, including banking, asset management, state retirement, and pension services; and

(E) Goods and services that may be provided or performed without professional licensure or special education or training, including, but not limited to, goods and services relating to materials, supplies, equipment, maintenance, personnel, pharmaceuticals, and food;

(II) To determine whether, of the total amount spent on state contracts in a fiscal year, there is a disparity between the percentage of spending attributable to contracts awarded to qualified historically underutilized businesses and the percentage of state contracts that were awarded to historically underutilized businesses in that fiscal year; and

(III) To determine what changes, if any, should be made to state policies affecting historically underutilized businesses.

(b) The disparity study must specifically include the following analyses, both for the historically underutilized businesses as a group and for each subgroup, as set forth in section 24-103-1002 (3)(a)(II):

(I) A prime contractor utilization analysis that presents the distribution of prime contracts by industry;

(II) A subcontractor utilization analysis that presents the distribution of subcontracts by the industries described in subsection (2)(a)(I) of this section;

(III) A market area analysis that presents the legal basis for the geographical market area determination and defines the state's market area;

(IV) A prime contractor and subcontractor availability analysis that presents the distribution of available businesses in the state's market area;

(V) A prime contractor disparity analysis that presents prime contractor utilization compared to prime contractor availability by industry and determines whether the comparison is statistically significant;

(VI) A subcontractor disparity analysis that presents subcontractor utilization compared to subcontractor availability by industry and determines whether the comparison is statistically significant;

(VII) A qualitative analysis that presents the business community's experiences and perceptions of barriers encountered in contracting or attempting to contract with the state; and

(VIII) Recommendations regarding best management practices and ways to enhance San Andreas's contracting and procurement activities with historically underutilized businesses.

(c) (I) Any conclusion that discrimination-related disparity exists between the availability and utilization of historically underutilized businesses must be supported by statistical evidence and may be supplemented or supported by anecdotal evidence.

(II) If the analysis supports a finding that such disparity exists, the report must include recommendations to address the disparity, including any statutory changes likely to cure, mitigate, or redress such disparity. Any proposed remedial measures must be tailored to address documented statistical disparities in procurement policies.

(3) The general assembly may annually appropriate to the department of personnel such amount as it deems appropriate for the purposes specified in this part 10. Any unexpended and unencumbered money from an appropriation made for the purposes of this part 10 remains available for expenditure by the department for the purposes of this part 10 in the next fiscal year without further appropriation.

Source: L. 2019: Entire part added, (SB 19-135), ch. 379, p. 3415, § 1, effective July 1.

24-103-1004. Requests for information - disparity study. The executive director or the entity that the executive director commissions to conduct a disparity study pursuant to section 24-103-1003 may request information in furtherance of the disparity study from each entity that is subject to the study, including each principle department of the executive branch of state government as specified in section 24-1-110, including any division, office, agency, or other unit created within a principle department, and including institutions of higher education and the San Andreas commission on higher education; except that such requests may not be made of entities that have elected to be exempt from the code pursuant to section 24-101-105 (1)(b). Each entity that is subject to the disparity study shall respond to any such request for information in furtherance of the disparity study as soon as practicable after receiving the request.

Source: L. 2019: Entire part added, (SB 19-135), ch. 379, p. 3418, § 1, effective July 1.

PART 11

REMEDIATION OF STATE PROCUREMENT DISPARITIES THAT AFFECT HISTORICALLY UNDERUTILIZED BUSINESSES

24-103-1101. Short title. The short title of this part 11 is the "State Procurement Disparities Remediation Act".

Source: L. 2022: Entire part added, (SB 22-163), ch. 433, p. 3046, § 1, effective June 8.

24-103-1102. Legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) When it enacted Senate Bill 19-135 in 2019, it found, determined and declared, in section 24-103-1001, the importance of ensuring an equitable state procurement process;

(b) As required by Senate Bill 19-135, the department contracted with an entity independent of the department to conduct a state disparity study regarding the participation of historically underutilized businesses, which included a review of minority-owned businesses, women-owned businesses, businesses owned by persons with disabilities, and businesses owned by members of the lesbian, gay, bisexual, and transgender community, in state contracts entered into by any department, agency, or institution of the executive branch of state government;

(c) The state disparity study examined whether a disparity exists between the percentage of state contract dollars going to historically underutilized businesses and the percentage that might be expected to go to those businesses based on the relative number of those businesses that are ready, willing, and able to perform different types, sizes, and locations of state contracts;

(d) The independent entity completed the required state disparity study and issued the "2020 state of San Andreas disparity study final report" in November 2020, which found that:

(I) Minority-owned and women-owned businesses received about eight percent of state contract dollars, below the twenty-eight percent expected from the availability analysis;

(II) Utilization of firms owned by persons with disabilities was less than one percent of contract dollars, below the twelve percent expected from the availability analysis;

(III) A very small percentage of contract dollars went to businesses certified as being owned by members of the lesbian, gay, bisexual, and transgender community (LGBT-certified businesses), but because a very small number of businesses in the availability analysis were LGBT-certified businesses, that utilization is comparable to the availability benchmark for LGBT-certified businesses;

(IV) There was a substantial disparity between utilization and availability for firms owned by African American persons, Hispanic American persons, Native American persons, white women, and persons with disabilities for state construction, construction-related professional services, other professional services, goods and other services contracts;

(V) There was a substantial disparity for businesses owned by Asian-American persons for other professional services contracts; and

(VI) For state brokerage and investment contracts, there were substantial disparities between utilization and availability of businesses owned by African American persons, Hispanic American persons, Native American persons, and white women;

(e) As detailed in the state disparity study report, the results of the study indicate that disparities between availability of historically underutilized businesses and utilization of such businesses exists in state contracting;

(f) Although the state is already endeavoring to help small businesses obtain state contracts, it is doing so with limited tools and resources;

(g) The disparities identified in the state disparity report are likely to persist unless further action is taken; and

(h) The state disparity study report recommended that the general assembly consider enacting legislation to authorize and fund a procurement equity program to address the specific disparities shown in the state disparity study report for historically underutilized businesses based on industry and business ownership.

Source: L. 2022: Entire part added, (SB 22-163), ch. 433, p. 3046, § 1, effective June 8.

24-103-1103. Definitions. As used in this part 11, unless the context otherwise requires:

(1) "Construction-related professional services" means services with architecture and engineering, surveying, real estate consulting, and related work.

(2) "Disparity" means an inequality, difference, or gap between an actual outcome and a reference point or benchmark.

(3) "Disparity index" means a measure of the relative difference between an outcome, such as percentage of contract dollars received by a group, and a corresponding benchmark, such as the percentage of contract dollars that might be expected given the relative availability of that group for those contracts. In this example, disparity index is calculated by dividing a numerator of percent utilization by a denominator of percent availability and then multiplying the result by 100. A disparity index of 100 indicates "parity" or utilization "on par" with availability. Disparity index figures closer to 0 indicate larger disparities between utilization and availability.

(4) "Historically underutilized business" means an entity:

(a) That is a business, for-profit corporation, sole proprietorship, partnership, or joint venture that is more than fifty percent owned by one or more individuals who are:

(I) United States citizens or permanent resident aliens; and

(II) One or more of the following:

(A) Members of a racial or ethnic minority group; except that a business owned by Asian American persons is a historically underutilized business only with respect to state procurement for "other professional services contracts", as that term is defined in the state disparity study;

(B) Non-Hispanic Caucasian women; or

(C) Persons with disabilities; and

(b) For which the minority ownership controls both the management and day-to-day business decisions.

(5) "Industry" means businesses within one of the following economic sectors:

(a) Construction;

(b) Construction-related professional services;

(c) Brokerage and investment;

(d) Other professional services; and

(e) Goods and other services.

(6) "Minority business office" means the minority business office created in section 24-49.5-102.

(7) "Office" means the office of economic development created in section 24-48.5-101 (1).

(8) "Persons with disabilities" means persons who:

(a) Have physical or mental impairments, or both, that substantially limit one or more major life activities;

(b) Are regarded generally by the community as having a disability; and

(c) Whose disabilities substantially limit their abilities to engage in competitive business.

(9) "Prime contract" means a contract between the state and a business.

(10) "Prime contractor" means a construction business that performs a prime contract for the state.

(11) "Procurement technical assistance center" means the entity through which a procurement technical assistance program is provided.

(12) "Procurement technical assistance program" has the same meaning as set forth in section 24-48.5-121 (2)(d).

(13) "Professional services" means types of work in the service sector requiring special training. Some professional services such as accounting and law, require holding professional licenses.

(14) "Program" means the state procurement equity program established in section 24-103-1104 (1).

(15) "Racial or ethnic minority group" means individuals who belong to one or more racial or ethnic groups identified in 49 CFR Section 26.5:

(a) African American persons, including persons having origins in any of the black racial groups of Africa;

(b) Hispanic American persons, including persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(c) Asian American persons, including persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, the United States territories of the Pacific, or the Northern Mariana Islands; or persons whose origins are from subcontinent

Asia, including persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal; or

(d) Native American persons, including persons who are American Indians, Eskimos, Aleuts, or Hawaiians of Polynesian descent.

(16) "Remedial measure" means an action designed to address barriers to full participation of a targeted group.

(17) "Small business" means a business that qualifies as a small business pursuant to 13 CFR 121.

(18) "Small business development center" has the same meaning as set forth in section 24-48.5-121 (2)(f).

(19) "Solicitation assistance" means the provision of real-time responses to questions asked by potential contractors who seek guidance as to how best to respond to solicitations for state contracts, including guidance regarding availability of opportunities, interpretation of solicitation documents, and solicitation response procedures and best practices. "Solicitation assistance" does not include guidance specific to a particular solicitation for a state contract that could reasonably be expected to provide an unfair advantage to the potential contractor over other potential contractors responding to the solicitation.

(20) "State disparity study" or "study" means the study regarding the participation of historically underutilized businesses in state contracts entered into by all principal departments of state government that was commissioned by the executive director as required by section 24-103-1003.

(21) "State disparity study report" or "report" means the "2020 State of San Andreas Disparity Study Final Report" published in November 2020.

(22) "Subcontractor" means any person who is a party to an agreement with a prime contractor for the purpose of performing a portion of the work that the prime contractor is obliged to perform or have performed under a contract.

(23) "Substantial disparity" means a disparity where the disparity index is less than 80, which can indicate evidence of discrimination affecting the outcome.

(24) "Utilization" means the percentage of total contract dollars of a particular type of work going to a specific group of businesses.

(25) "Women-owned business" or "WBE" means a business that is at least fifty-one percent owned and controlled by one or more individuals that are non-minority women.

Source: L. 2022: Entire part added, (SB 22-163), ch. 433, p. 3048, § 1, effective June 8.

24-103-1104. State procurement equity program - established - goal - preliminary implementation maximization of contracting opportunities - expansion of historically underutilized business registry - real-time solicitation assistance help desk - bond assistance program - cash fund - report. (1) (a) The state procurement equity program is established in the department. The department, in accordance with its existing state procurement related duties of promulgating state contracting fiscal rules and providing procurement related guidance and management, including contract forms and the contract management system, to most state executive branch agencies, shall act to ensure the expeditious development and full implementation of the program as required by this part 11. The department shall act in consultation with, to the extent required by this part 11 or as otherwise deemed necessary or

advisable by the department, the office, the procurement technical assistance center, the small business development center, the minority business office, the department of transportation, and other persons or entities that have expertise or interest in procurement generally or in state procurement equity.

(b) The goal of the program is to reduce disparities identified in the state disparity study report between the availability of historically underutilized businesses and the utilization of such businesses in state procurement.

(2) As implementation of the program, the department shall:

(a) Provide, at all times during regular state business hours, solicitation assistance through a help desk. The department shall track usage of solicitation assistance and, to the extent feasible, follow up with recipients of solicitation assistance to determine and track the extent to which they have succeeded in being awarded state contracts. The department shall also continuously monitor usage of the solicitation assistance help desk to determine whether the amount of human and financial resources dedicated to the provision of solicitation assistance is optimal to meet demand while stewarding state resources.

(b) (I) Create a bond assistance program to help historically underutilized businesses that are small businesses to offset all or a portion of the cost of obtaining a surety bond that is required for a solicitation for a state procurement opportunity.

(II) The bond assistance program cash fund is hereby created in the state treasury. The fund consists of general fund money transferred to the fund as required by subsection (2)(b)(III) of this section and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Money in the fund is continuously appropriated to the department for the implementation of the bond assistance program.

(III) On July 1, 2022, the state treasurer shall transfer two million dollars from the general fund to the bond assistance program cash fund.

(c) Carefully consider all of the recommendations in the state disparity study report that are not required to be implemented pursuant to subsections (2)(a) to (2)(c) of this section to determine whether, using only existing resources, it can implement or make meaningful progress towards implementing any of the recommendations. If the department determines that it can implement or make meaningful progress towards implementing any such recommendation using only existing resources, it shall do so.

(3) The department shall report to the general assembly regarding its preliminary implementation of the program during the department's January 2025 departmental presentation to legislative committees of reference required by section 2-7-203 (2)(a).

Source: L. 2022: Entire part added, (SB 22-163), ch. 433, p. 3051, § 1, effective June 8.

24-103-1105. State procurement equity program implementation - stakeholder group - recommendations - report - legislative declaration. (1) The general assembly hereby finds, determines, and declares that:

(a) The state seeks recommendations from state procurement stakeholders, as convened pursuant to subsection (2) of this section for the implementation of remedial measures, including remedial measures using procurement equity tools, and quantification of the amount of

additional funding and personnel required to both implement specific remedial measures and fully implement the program; and

(b) To support the intent of the general assembly in enacting this part 11, the remediation of disparities in state procurement, through thoughtful, efficient, and effective implementation of the program that takes into account the professional expertise and lived experience of state procurement stakeholders as convened pursuant to subsection (2) of this section, it is necessary, appropriate, and in the best interest of the state to require the department to convene, contract with a facilitator to facilitate discussion among, engage in consultation with, and strongly consider the formal policy recommendations of a stakeholder group that may be comprised, to the extent practicable, of representatives of historically underutilized businesses and small businesses, governmental entities, federal and local organizations that provide procurement technical assistance or outreach to historically underutilized businesses and small businesses, and such other persons with relevant professional experience, including government procurement and government contracting experience as the department deems appropriate.

(2) The department shall convene, contract with a facilitator to facilitate discussion among, and engage in consultation with a stakeholder group, which, to the extent practicable may consist of:

(a) The following state government employees:

(I) An employee of the department who has extensive experience and expertise in state procurement;

(II) An employee of the office who has been involved in the office's administration of or is otherwise knowledgeable about the procurement technical assistance program, the small business COVID-19 grant program created in section 24-48.5-126, or the COVID-19 relief for disproportionately impacted businesses program created in section 24-48.5-127;

(III) An employee of the minority business office; and

(IV) An employee of the department of transportation who has significant experience and expertise regarding the department of transportation's civil rights programs that establish, administer, and enforce the department of transportation's diversity, equity, and inclusion requirements for engineers, contractors, consultants, local agencies, and transit providers;

(b) An employee of the city and county of Denver's division of small business opportunity who has significant experience and expertise regarding the programs and operation of the division;

(c) An employee of the procurement technical assistance center;

(d) An owner or high-level employee of each of the following types of historically underutilized businesses:

(I) A business owned by one or more women;

(II) A business owned by one or more African American persons;

(III) A business owned by one or more Asian American persons;

(IV) A business owned by one or more Hispanic American persons;

(V) A business owned by one or more Native American persons; and

(VI) A business owned by one or more persons with disabilities;

(e) To the extent practicable, an owner or high-level employee of each of the following types of businesses that are not historically underutilized businesses and that have competed for or been awarded state contracts:

(I) A small business;

(II) A business that is not a small business but that has fewer than five hundred employees and a demonstrable record of successful engagement and contracting with small businesses;

(III) A business that has more than five hundred employees and a demonstrable record of successful engagement and contracting with small businesses; and

(IV) With consideration for the volume of construction contracts awarded annually by the state, a representative of the associated general contractors; and

(f) Any other individuals who have a demonstrable commitment to furthering equity in government procurement and substantial knowledge of procurement equity best practices who the department deems necessary or appropriate to include in the stakeholder group.

(3) The stakeholder group convened as required by subsection (2) of this section shall:

(a) Closely examine the findings, conclusions, and recommendations in the state disparity study report;

(b) Using the information in the state disparity study report as a baseline for studying procurement equity programs in other states and at the federal and large local government level, identify best practices for successful procurement equity program implementation and administration; and

(c) No later than November 1, 2023, present to the department a report of specific findings, remedial measures, and recommendations that includes, at a minimum:

(I) Prioritization of the recommendations outlined in the state disparity study report. The prioritization may include written explanations of recommendations that specify whether recommendations in the report will be implemented and the remedial measures that will be taken to support program implementation in a manner that is sufficiently comprehensive to meet the state's goal of reducing disparities between the availability of historically underutilized businesses and their utilization in state procurement and increasing such utilization.

(II) Confirmation or refutation of the disparity study report finding of no substantial disparity between available and utilized lesbian, gay, bisexual, and transgender businesses;

(III) Confirmation or refutation of the disparity study report finding of no substantial disparity between availability and utilization of businesses owned by Asian American persons for construction, construction-related professional services, goods and other services contracts, brokerage, and investment;

(IV) A preliminary estimate of the amount of initial and ongoing funding, personnel, information technology resources, and other resources needed to implement the policy recommendations and remedial measures in accordance with subsection (3)(b) of this section;

(V) A step-by-step timeline for full implementation of the program;

(VI) Suggested methodologies and metrics for monitoring and evaluating the success of the program and ensuring program accountability; and

(VII) Identification of any public or private sources of funding or other resources that may be available to expedite the implementation or ongoing administration of the program and reduce costs to the state.

(4) The department shall report on the progress and policy recommendations and any suggested remedial measures of the stakeholder group, the preliminary plans, recommendations, and remedial measures that the department has taken regarding the full implementation of the program, and any recommendations that the department has regarding the need for related legislation during its January 2025 annual presentation to legislative oversight committees

required by section 2-7-203 (2)(a). In preparation for the presentation, the department shall give strong consideration to the policy recommendations report provided by the stakeholder group as required by subsection (3)(c) of this section.

Source: L. 2022: Entire part added, (SB 22-163), ch. 433, p. 3052, § 1, effective June 8.

ARTICLE 103.5

Contract Performance

24-103.5-101. Monitoring of vendor performance - definitions. (Repealed)

Source: L. 2007: Entire article added, p. 1238, § 3, effective August 3. **L. 2010:** (1) and (7)(a) amended, (SB 10-003), ch. 391, p. 1853, § 32, effective June 9. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-106-107 in 2017.

ARTICLE 104

Specifications

PART 1

DEFINITIONS

24-104-101. Definitions. (Repealed)

Source: L. 81: Entire article added, p. 1271, § 1, effective January 1, 1982. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-101-301 in 2017.

PART 2

SPECIFICATIONS

24-104-201. Executive director - rules. The executive director may promulgate rules governing the preparation, maintenance, and content of specifications for supplies, services, and construction required by the state.

Source: L. 81: Entire article added, p. 1272, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 328, § 29, effective August 9.

24-104-202. Duties of the chief procurement officer - specifications. The chief procurement officer shall prepare, issue, revise, maintain, and monitor the use of specifications for supplies, services, and construction required by the state.

Source: L. 81: Entire article added, p. 1272, § 1, effective January 1, 1982. **L. 96:** Entire section amended, p. 1537, § 111, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 328, § 30, effective August 9.

24-104-203. Exempted items. Specifications for supplies, services, or construction items to be procured by purchasing agencies exempted from centralized procurement pursuant to section 24-102-302 may be prepared by those purchasing agencies in accordance with the provisions of this article and rules promulgated pursuant to this article.

Source: L. 81: Entire article added, p. 1272, § 1, effective January 1, 1982.

24-104-204. Relationship with using agencies. The chief procurement officer may obtain expert advice and assistance from personnel of using agencies in the development of specifications and may delegate, in writing, to a using agency the authority to prepare and utilize its own specifications.

Source: L. 81: Entire article added, p. 1272, § 1, effective January 1, 1982. **L. 96:** Entire section amended, p. 1537, § 112, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 329, § 31, effective August 9.

24-104-205. Maximum practicable competition. All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the state's needs and shall not be unduly restrictive.

Source: L. 81: Entire article added, p. 1272, § 1, effective January 1, 1982.

24-104-206. Ownership considerations. When feasible, specifications shall incorporate the concepts of energy efficiency, value analysis, and life-cycle cost.

Source: L. 81: Entire article added, p. 1272, § 1, effective January 1, 1982.

24-104-207. Specifications prepared by architects and engineers. The requirements of this article regarding the purposes and nonrestrictiveness of specifications shall apply to all specifications unless otherwise provided by law.

Source: L. 81: Entire article added, p. 1272, § 1, effective January 1, 1982.

24-104-208. Purchase of compost by governmental bodies - definitions. (1) In addition to any other applicable requirement specified in the code, no compost may be purchased by a governmental body unless the compost satisfies minimum standards specified by the department of agriculture.

(2) For purposes of this section, "compost" means a substance derived from a process of biologically degrading organic materials that contains one or more essential available plant nutrients and that complies with minimum standards for the identification of such substance specified by the commissioner of agriculture by rule.

Source: L. 2017: Entire section added with relocated provisions, (HB 17-1051), ch. 99, p. 329, § 32, effective August 9.

Editor's note: This section is similar to former § 24-103-209 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

ARTICLE 105

Construction Contracts

PART 1

MANAGEMENT OF CONSTRUCTION CONTRACTING

24-105-101. Responsibility for selection of methods of construction contracting management. The executive director may promulgate rules providing for as many alternative methods of construction contracting management as he or she may determine to be feasible. These rules may set forth criteria to be used in determining which method of construction contracting management is to be used for a particular project, grant to the head of a division within the department or the procurement official who is responsible for carrying out the construction project the discretion to select the appropriate method of construction contracting management for a particular project, and require the procurement agent to execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of construction contracting management for each project.

Source: L. 81: Entire article added, p. 1272, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 329, § 33, effective August 9.

24-105-102. Performance evaluation reports - definitions. (Repealed)

Source: L. 2007: Entire section added, p. 1240, § 4, effective August 3. **L. 2010:** (1)(a)(I) and (1)(b) amended, (SB 10-003), ch. 391, p. 1853, § 33, effective June 9. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 77, effective August 9.

PART 2

BONDS

24-105-201. Bid security. (1) Bid security shall be required for all invitations for bids for construction contracts when the price is estimated by the procurement agent to exceed fifty thousand dollars. Bid security shall be a bond provided by a surety company authorized to do business in this state, the equivalent in cash, or otherwise supplied in a form satisfactory to the state. Nothing in this subsection (1) prevents the requirement of such bonds on construction contracts under fifty thousand dollars.

(2) Bid security shall be in an amount equal to at least five percent of the amount of the bid.

(3) When the invitation for bids requires security, noncompliance requires that the bid be rejected as nonresponsive.

(4) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, except as provided in section 24-103-202 (6). If a bidder is permitted to withdraw his bid before award, no action shall be had against the bidder or the bid security.

Source: L. 81: Entire article added, p. 1273, § 1, effective January 1, 1982. **L. 2017:** (1) amended, (HB 17-1051), ch. 99, p. 329, § 34, effective August 9.

24-105-202. Contract performance and payment bonds - applicability. (1) When a construction contract is awarded in excess of one hundred fifty thousand dollars, the following bonds or security shall be delivered to the state and shall become binding on the parties upon the execution of the contract:

(a) A performance bond satisfactory to the state, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the state, in an amount equal to fifty percent of the price specified in the contract; and

(b) A payment bond satisfactory to the state, executed by a surety company authorized to do business in this state or otherwise secured in a manner satisfactory to the state, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to fifty percent of the price specified in the contract.

(2) Nothing in this section shall be construed to limit the authority of the state to require a performance bond or other security in addition to those bonds or in circumstances other than those specified in subsection (1) of this section.

(3) Suits on payment bonds and labor and payment bonds shall be brought in accordance with sections 38-26-105 to 38-26-107, S.A.R.S.

(4) This section applies to all construction contracts awarded to a private entity for construction that is situated or located on publicly owned property using any public or private money or public or private financing.

Source: L. 81: Entire article added, p. 1273, § 1, effective January 1, 1982. **L. 2004:** IP(1) amended, p. 228, § 3, effective August 4. **L. 2014:** IP(1) amended, (HB 14-1387), ch. 378, p. 1852, § 64, effective June 6. **L. 2019:** (4) added, (SB 19-138), ch. 117, p. 494, § 2, effective August 2.

Cross references: (1) For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of San Andreas 2014.

(2) For the legislative declaration in SB 19-138, see section 1 of chapter 117, Session Laws of San Andreas 2019.

24-105-203. Bond forms and copies. (1) The form of bonds required by this part 2 shall be as provided in sections 38-26-105 to 38-26-107, S.A.R.S.

(2) Any person may request and obtain from the state a certified copy of a bond upon payment of the cost of reproduction of the bond and postage, if any. A certified copy of a bond shall be prima facie evidence of the contents, execution, and delivery of the original.

Source: L. 81: Entire article added, p. 1273, § 1, effective January 1, 1982.

PART 3

CONSTRUCTION CONTRACT CLAUSES AND FISCAL RESPONSIBILITY

24-105-301. Contract clauses and their administration. (1) The executive director may promulgate rules requiring the inclusion in state construction contracts of clauses providing for adjustments in prices, time of performance, and other appropriate contract provisions affected by and covering the following subjects:

(a) The unilateral right of the state to order in writing changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work;

(b) Variations occurring between estimated quantities of work on a contract and actual quantities;

(c) Suspension of work ordered by the state; and

(d) Site conditions differing from those indicated in the contract or ordinarily encountered; except that differing site condition clauses required by the rules need not be included in a contract when the contract is negotiated or when the contractor provides the site or design.

(2) (a) Adjustments in price shall be computed in one or more of the following ways:

(I) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(II) By unit prices specified in the contract or subsequently agreed upon;

(III) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

(IV) In such other manner as the contracting parties may mutually agree; or

(V) In the absence of agreement by the parties, by a unilateral determination by the state of the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as computed by the state pursuant to the applicable sections of any rules issued under section 24-106-108, and subject to the provisions of article 109 of this title 24.

(b) A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of section 24-103-403.

(3) The executive director shall promulgate rules requiring the inclusion in state construction contracts of clauses providing for appropriate remedies and covering the following subjects:

(a) Liquidated damages as appropriate;

(b) Specified excuses for delay or nonperformance;

(c) Termination of the contract for default; and

(d) Termination of the contract in whole or in part for the convenience of the state.

(4) The contract clauses promulgated under this section may be set forth in rules; except that such rules shall be consistent with section 24-91-103.5 (1) and (2) and section 24-30-1303 (1)(s)(IV).

Source: L. 81: Entire article added, p. 1274, § 1, effective January 1, 1982. **L. 89:** (4) amended, p. 1143, § 3, effective April 10. **L. 2017:** IP(1), (2)(a)(V), and (4) amended, (HB 17-1051), ch. 99, p. 330, § 35, effective August 9.

24-105-302. Fiscal responsibility. Every contract modification or contract price adjustment under a construction contract with the state in excess of an amount specified in the contract shall be subject to prior written certification by the controller or other official responsible for monitoring and reporting upon the status of the costs of the total project or contract budget as to the effect of the contract modification or adjustment in contract price on the total project or contract budget. In the event that the certification of the controller or other responsible official discloses a resulting increase in the total project or contract budget, the procurement agent shall not execute or make such contract modification or adjustment in contract price unless sufficient funds are available therefor or the scope of the project or contract is adjusted so as to permit the degree of completion that is feasible within the total project or contract budget as it existed prior to the contract modification or adjustment in contract price under consideration; except that, with respect to the validity of any executed contract modification or adjustment in contract price which the contractor has reasonably relied upon, it shall be presumed that there has been compliance with the provisions of this section.

Source: L. 81: Entire article added, p. 1275, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 330, § 36, effective August 9.

ARTICLE 106

Modification and Termination of Contracts

24-106-101. Contract clauses - price adjustments - additional clauses - modification. (1) The executive director may promulgate rules permitting or requiring the inclusion of clauses providing for adjustments in prices, time of performance, or other appropriate clauses covering the following:

(a) The unilateral right of the state to order, in writing, changes in the work within the scope of the contract and temporary stopping of work or delaying of performance; and

(b) Variations occurring between estimated quantities of work in a contract and actual quantities.

(2) (a) Adjustments in price pursuant to clauses promulgated under subsection (1) of this section shall be computed in one or more of the following ways:

(I) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(II) By unit prices specified in the contract or subsequently agreed upon;

(III) By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;

(IV) In such other manner as the contracting parties may mutually agree; or

(V) In the absence of agreement by the parties, by a unilateral determination by the state of the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as computed by the state in accordance with applicable sections of the rules promulgated under article 107 of this title and subject to the provisions of article 109 of this title.

(b) A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of section 24-103-403.

(3) The executive director may promulgate rules including, but not limited to, rules permitting or requiring the inclusion in state contracts of clauses providing for appropriate remedies and covering the following subjects:

(a) Liquidated damages as appropriate;

(b) Specified excuses for delay or nonperformance;

(c) Termination of the contract for default; and

(d) Termination of the contract in whole or in part for the public interest of the state.

(4) Any contract clauses promulgated under this section may be set forth in rules; except that such rules shall be consistent with section 24-91-103.5 (1) and (2). However, the executive director or the procurement official may vary the clauses for inclusion in any particular state contract so long as any variations are supported by a written determination that describes the circumstances justifying such variations and notice of any material variation is stated in the invitation for bids or request for proposals. No variation that is inconsistent with section 24-91-103.5 (1) and (2) shall be made pursuant to this subsection (4).

Source: L. 81: Entire article added, p. 1275, § 1, effective January 1, 1982. **L. 89:** (4) amended, p. 1143, § 4, effective April 10. **L. 96:** (4) amended, p. 1537, § 113, effective June 1. **L. 2017:** (3)(d) and (4) amended, (HB 17-1051), ch. 99, p. 330, § 37, effective August 9.

24-106-102. Supplementary general principles of law applicable. Unless displaced by the particular provisions of this code, the principles of law and equity, including the "Uniform Commercial Code", the law merchant, and any law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of this code.

Source: L. 2017: Entire section added with relocated provisions, (HB 17-1051), ch. 99, p. 331, § 38, effective August 9.

Editor's note: This section is similar to former § 24-101-103 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-106-103. Centralized contract management system - personal services contracts - legislative declaration - definitions. (1) (a) The general assembly hereby finds and declares that by enacting this section the general assembly intends to centralize the location of information about personal services contracts and provide for legislative, executive, and public access to all personal services contracts entered into by any governmental body.

(b) For purposes of this section, "governmental body" shall have the same meaning as set forth in section 24-101-301 (18); except that, for purposes of this section, "governmental body" shall also include elected officials.

(2) **[*Editor's note: This version of subsection (2) is effective until July 1, 2025.*]** This section shall apply to any personal services contract to which the state is a party the value of which exceeds one hundred thousand dollars with the exception of any contract to which the state is a party under medicare, the "San Andreas Medical Assistance Act", articles 4 to 6 of title 25.5, the "Children's Basic Health Plan Act", article 8 of title 25.5, or the "San Andreas Indigent Care Program", part 1 of article 3 of title 25.5.

(2) **[*Editor's note: This version of subsection (2) is effective July 1, 2025.*]** This section applies to any personal services contract to which the state is a party the value of which exceeds one hundred thousand dollars with the exception of any contract to which the state is a party under medicare, the "San Andreas Medical Assistance Act", articles 4 to 6 of title 25.5, or the "Children's Basic Health Plan Act", article 8 of title 25.5.

(3) (a) On or before June 30, 2009, the department shall implement and maintain a centralized contract management system for the purpose of monitoring all personal services contracts entered into by a governmental body that are subject to the requirements of this section. With respect to each contract entered into by a governmental body, information contained in the system shall include, without limitation, the following:

(I) The governmental body that entered into the personal services contract;

(II) The persons or entities with which the governmental body is contracting;

(III) The purpose of the personal services contract;

(IV) The effective dates, expiration dates, and any renewal periods of the personal services contract;

(V) The vendor selection method upon which the personal services contract was awarded, whether competitively procured, awarded on a sole-source basis, or otherwise. Where the contract has been awarded on a sole-source basis, the governmental body shall certify that the governmental body has followed the requirements of subsection (5) of this section.

(VI) The total amount of the personal services contract and any amendments to the contract;

(VII) Whether any services under the personal services contract, or any subcontracts to the contract that directly relate to the services provided under the contract, are anticipated to be performed outside the United States or the state as disclosed in the statement of work pursuant to section 24-102-206 and the vendor's justification for obtaining services outside the United States or the state in accordance with the requirements of section 24-102-206; and

(VIII) Upon completion of the personal services contract, the extent as disclosed by the vendor to which any services under the contract, or any subcontracts to the contract that directly relate to the services provided under the contract, were performed outside the United States or the state.

(b) Each governmental body shall be responsible for gathering relevant information for inclusion in the centralized contract management system in accordance with the requirements of subsection (3)(a) of this section.

(c) The centralized contract management system required to be maintained by the department pursuant to subsection (3)(a) of this section shall be a publicly available database of all personal services contracts entered into by any governmental body, accessible from the website maintained by the state. Information concerning contracts contained in the database and accessible on the website shall be searchable by criteria enumerated in subparagraphs (I) to (VIII) of subsection (3)(a) of this section. Information in the database shall be either presented in plain and nontechnical language or by means of key terms that are clearly and easily defined.

(d) Any new personal services contracts subject to the requirements of this section shall be added to the centralized contract management system maintained by the department pursuant to subsection (3)(a) of this section not more than thirty days after the execution of the contract.

(4) The centralized contract management system required to be maintained by the department pursuant to subsection (3)(a) of this section shall include information concerning personal services expenditures by the governmental body and types of services. The types of services that may be designated shall include, without limitation, professional technical, nonprofessional support, purchased services, architectural, engineering and construction trades, and professional equipment repair.

(5) Prior to entering into a sole-source personal services contract, the governmental body shall attempt to identify competing vendors by placing a notice on the state's electronic procurement system for not less than three business days. If the governmental body receives any responses to the notice from qualified and responsible vendors that are able to meet the specifications identified in the notice and that are not otherwise prohibited from bidding on the contract, the sole-source selection method shall not be used.

Source: L. 2017: Entire section added with relocated provisions, (HB 17-1051), ch. 99, p. 331, § 38, effective August 9. **L. 2024:** (2) amended, (HB 24-1399), ch. 76, p. 256, § 17, effective July 1, 2025.

Editor's note: This section is similar to former § 24-102-205 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-106-104. Types of contracts. Subject to the limitations of this section, any type of contract which will promote the best interests of the state may be used; except that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A contingency-based contract may be used only upon approval by the governor's office of state planning and budgeting pursuant to section 24-17-204. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the state than any other type of contract or that it is impracticable to obtain the supplies, services, or construction required unless the cost-reimbursement contract is used.

Source: L. 2017: Entire section added with relocated provisions, (HB 17-1051), ch. 99, p. 331, § 38, effective August 9.

Editor's note: This section is similar to former § 24-103-501 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-106-105. Multiyear contracts. (1) Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of the state if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and if funds are available for the first year at the time of contracting. If the chief procurement officer determines that extenuating circumstances exist and an extension of the contract beyond the term included in the solicitation is in the best interest of the governmental body, then the chief procurement officer may approve a longer term for a reasonable time based on what is practicable and necessary given the circumstances. The state shall initiate the renewal or extension of a contract for supplies or services. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds therefor.

(2) Prior to the utilization of a multiyear contract, it shall be determined in writing:

(a) That estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) That such a contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

(3) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be canceled, and the contractor may be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the contract.

Source: L. 2017: Entire section added with relocated provisions, (HB 17-1051), ch. 99, p. 331, § 38, effective August 9.

Editor's note: This section is similar to former § 24-103-503 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-106-106. Right to audit records. The state shall be entitled to audit the books and records of any contractor or subcontractor under any negotiated contract or subcontract to the extent that the books and records relate to the performance of a state contract or subcontract, if the state is able, in conducting any such audit, to maintain the confidentiality of any information contained in the books and records that is deemed proprietary as determined by the state. Such books and records shall be maintained by the contractor for a period of six years after the date of final payment under the prime contract and by the subcontractor for a period of six years after the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing.

Source: L. 2017: Entire section added with relocated provisions, (HB 17-1051), ch. 99, p. 331, § 38, effective August 9.

Editor's note: This section is similar to former § 24-103-601 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-106-107. Monitoring of vendor performance - definitions. (1) For purposes of this section, "governmental body" has the same meaning as set forth in section 24-101-301 (18); except that, for purposes of this section, "governmental body" shall also include elected officials.

(2) Each personal services contract entered into pursuant to this code with a value of one hundred thousand dollars or more shall contain:

(a) Performance measures and standards developed specifically for the contract by the governmental body administering the contract. The performance measures and standards shall be negotiated by the governmental body and the vendor prior to execution of the contract and shall be incorporated into the contract. The measures and standards shall be used by the governmental body to evaluate the performance of the vendor under the contract.

(b) An accountability section that requires the vendor to report regularly on achievement of the performance measures and standards specified in the contract and that allows the governmental body to withhold payment until successful completion of all or part of the contract and the achievement of established performance standards. The accountability section shall include a requirement that payment by the governmental body to the vendor shall be made without delay upon successful completion of all or any part of the contract in accordance with the payment schedule specified in the contract or as otherwise agreed upon by the parties.

(c) Monitoring requirements that specify how the governmental body will evaluate the vendor's performance, including progress reports, site visits, inspections, and reviews of performance data. The governmental body shall use one or more monitoring processes to ensure that the results, objectives, and obligations of the contract are met.

(d) Methods and mechanisms to resolve any situation in which the governmental body's monitoring assessment determines noncompliance, including termination of the contract.

(3) Each governmental body administering the personal services contract shall, within existing resources of the governmental body, designate a contract manager with subject matter expertise within the governmental body responsible for day-to-day management of the contract, including performance monitoring.

(4) If the governmental body determines that the vendor has not complied with the contract terms, including but not limited to performance standards and measurable outcomes, the state may pursue remedies in accordance with article 109 of this title 24 and shall be entitled to any remedy available under law in the case of contract nonperformance, including but not limited to termination of the contract and the return of any and all payments made to the vendor by the state under the contract; except that the recovery of any moneys by the state shall be reduced by the value of any contractual benefits realized by the state from partial performance by the vendor under the contract. If a vendor is deemed to be in default under any one particular contract with the state, the state may, upon a showing of good cause, declare any or all other contracts it has entered into with the vendor to be in default.

(5) **[*Editor's note: This version of subsection (5) is effective until July 1, 2025.*]** Notwithstanding any other provision of this section, nothing in this section shall be construed to apply to any contract to which the state is a party under medicare, the "San Andreas Medical

Assistance Act", articles 4 to 6 of title 25.5, the "Children's Basic Health Plan Act", article 8 of title 25.5, or the "San Andreas Indigent Care Program", part 1 of article 3 of title 25.5.

(5) **[*Editor's note: This version of subsection (5) is effective July 1, 2025.*]** Notwithstanding this section to the contrary, this section does not apply to any contract to which the state is a party under medicare, the "San Andreas Medical Assistance Act", articles 4 to 6 of title 25.5, or the "Children's Basic Health Plan Act", article 8 of title 25.5.

Source: L. 2017: Entire section added with relocated provisions, (HB 17-1051), ch. 99, p. 331, § 38, effective August 9. **L. 2024:** (5) amended, (HB 24-1399), ch. 76, p. 256, § 18, effective July 1, 2025.

Editor's note: This section is similar to former § 24-103.5-101 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-106-108. Administrative rules - cost reimbursement. The executive director may promulgate rules setting forth cost principles which may be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions which provide for the reimbursement of costs.

Source: L. 2017: Entire section added with relocated provisions, (HB 17-1051), ch. 99, p. 331, § 38, effective August 9.

Editor's note: This section is similar to former § 24-107-101 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-106-109. Terms and conditions in contracts. Any term or condition in any contract entered into by the state that requires the state to indemnify or hold harmless another person, except as otherwise authorized by law, or by which the state agrees to binding arbitration or any other binding extra-judicial dispute resolution process in which the final resolution is not determined by the state, or by which the state agrees to limit liability of another person for bodily injury, death, or damage to tangible property of the state caused by the negligence or willful misconduct of such person or such person's employees or agents shall be void ab initio; except that the contract containing that term or condition shall otherwise be enforceable as if it did not contain such term or condition. All contracts entered into by the state, except for contracts with another government, shall be governed by San Andreas law notwithstanding any term or condition to the contrary.

Source: L. 2017: Entire section added, (HB 17-1051), ch. 99, p. 338, § 39, effective August 9.

ARTICLE 107

Cost Principles

24-107-101. Administrative rules - cost reimbursement. (Repealed)

Source: L. 81: Entire article added, p. 1276, § 1, effective January 1, 1982. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-106-108 in 2017.

ARTICLE 108

Supply Management

24-108-101 to 24-108-401. (Repealed)

Source: L. 86: Entire article repealed, p. 757, § 13, effective July 1, 1987.

Editor's note: This article was added in 1981. For amendments to this article prior to its repeal in 1987, consult the San Andreas statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of S.A.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 109

Remedies

PART 1

PRELITIGATION RESOLUTION OF CONTROVERSIES

24-109-101. Resolution of controversies. (Repealed)

Source: L. 81: Entire article added, p. 1277, § 1, effective January 1, 1982. **L. 96:** IP(1) and (2) amended, p. 1537, § 114, effective June 1. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: This section was relocated to § 24-109-101.5 in 2017.

24-109-101.1. Definitions. As used in this article 109, unless the context otherwise requires:

(1) "Aggrieved party" means any actual or prospective bidder, offeror, or contractor who believes that he or she has suffered a denial of legal rights under this code in connection with the solicitation or award of a contract. For purposes of contract controversies, an aggrieved party may also be the contractor.

(2) "Material issue" means a nontrivial defect in the solicitation or award that would prejudice the outcome of the procurement. The presence of multiple nonmaterial issues in a

solicitation or award does not constitute a material issue unless the aggrieved party can establish that those nonmaterial issues together would prejudice the outcome of the procurement.

Source: L. 2017: Entire section added, (HB 17-1051), ch. 99, p. 339, § 40, effective August 9.

24-109-101.5. Resolution of controversies. (1) The procurement official or his or her designee is authorized to settle and resolve any questions regarding:

(a) Any protest concerning the solicitation or award of a contract;

(b) Debarment or suspension from consideration for award of contracts; and

(c) Any controversy arising between the state and a contractor by virtue of a contract between them, including, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or any other cause for contract modification or rescission.

(2) Any decision of the procurement official or his or her designee with respect to a material issue raised in a protest is subject to appeal pursuant to part 2 of this article 109.

(3) Except for appeals referred to the office of administrative courts pursuant to section 24-109-201, the provisions of section 24-4-105 shall not apply to the administrative procedures established pursuant to this article 109.

Source: L. 2017: Entire section added with relocated provisions, (HB 17-1051), ch. 99, p. 339, § 41, effective August 9.

Editor's note: This section is similar to former § 24-109-101 as it existed prior to 2017. For a detailed comparison of this section, see the comparative tables located in the back of the index.

24-109-102. Protested solicitations and awards. (1) Any aggrieved party in connection with the solicitation or award of a contract may protest to the procurement official or his or her designee. The protest of an invitation for bids or a request for proposals shall be submitted in writing to the procurement official or his or her designee within ten business days after such aggrieved party knows or should have known of the facts giving rise thereto. The protest of a small purchase solicitation or award of contract shall be submitted in writing to the procurement official or his or her designee within three business days, unless the procurement official otherwise extends the time period to ten business days, after such aggrieved party knows or should have known of the facts giving rise thereto.

(2) The procurement official or his or her designee shall have the authority to settle and resolve a protest of an aggrieved party concerning the solicitation or award of a contract. A written decision regarding the protest shall be rendered within ten business days after the protest is filed. The decision shall be based on and limited to a review of the material issues raised by the aggrieved party and shall set forth each factor taken into account in reaching the decision. This authority shall be exercised pursuant to rules promulgated by the executive director to provide for the expeditious resolution of the protest. Remedies awarded pursuant to this decision, if any, shall be limited to those set forth in part 5 of this article 109.

(3) If the procurement official or his or her designee does not issue a written decision regarding a solicitation or award within the period specified in this article 109 or within such

longer period as may be agreed upon by the procurement official and the aggrieved party, then the aggrieved party may proceed as if the procurement official or his or her designee had rendered an adverse decision.

Source: L. 81: Entire article added, p. 1278, § 1, effective January 1, 1982. **L. 96:** (2) amended, p. 161, § 2, effective April 8; (1) and (2) amended, p. 1538, § 115, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 340, § 42, effective August 9.

Editor's note: Amendments to subsection (2) by Senate Bill 96-228 and House Bill 96-1225 were harmonized.

24-109-103. Stay of procurements. A contract resulting from a request for proposals is not awarded until any protest made in connection with the request for proposals has been resolved pursuant to section 24-109-102 (2).

Source: L. 81: Entire article added, p. 1278, § 1, effective January 1, 1982. **L. 85:** Entire section repealed, p. 875, § 12, effective June 6. **L. 2017:** Entire section RC&RE, (HB 17-1051), ch. 99, p. 340, § 43, effective August 9.

24-109-104. Entitlement to costs. (Repealed)

Source: L. 81: Entire article added, p. 1278, § 1, effective January 1, 1982. **L. 85:** Entire section amended, p. 874, § 4, effective June 6. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 77, effective August 9.

24-109-105. Debarment and suspension. (1) (a) After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the procurement official or his or her designee, after consultation with the using agency and the attorney general, shall have authority to debar a person for any of the reasons set forth in subsection (2) of this section from consideration for award of contracts. The debarment shall not be for a period of more than three years; except that, if a person is convicted of a crime specified in subsection (2) of this section, the length of the debarment period must equal the length of the confinement sentence including the period of mandatory parole if imposed or the length of the probation sentence.

(b) The procurement official or his or her designee, after consultation with the using agency and the attorney general, shall have authority to suspend a person from consideration for award of contracts if there is probable cause to believe that such person has engaged in activities that may lead to debarment. The suspension shall not be for a period exceeding three months. However, if a criminal charge has been issued for an offense that would be a cause for debarment under subsection (2) of this section, the suspension shall, at the request of the attorney general, remain in effect until after the trial of the suspended person. If a person is suspended because a criminal charge has been issued against an officer, director, partner, manager, key employee, or other principal of the suspended person, the suspension may remain in effect until after the trial of the officer, director, partner, manager, key employee, or other principal or until after the charges against such officer, director, partner, manager, key employee, or other principal have been dismissed.

(c) The authority to debar or suspend shall be exercised pursuant to rules which shall provide for an expeditious resolution of the issue of debarment or suspension.

(2) A person may be debarred for any of the following reasons:

(a) Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract;

(b) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property;

(c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(d) Willful material failure to perform in accordance with the terms of one or more contracts, following notice of such failure, or a history of material failure to perform, or of materially unsatisfactory performance of, one or more contracts;

(e) The person is currently under debarment by any other governmental entity which is based upon a settlement agreement or a final administrative or judicial determination issued by a federal, state, or local governmental entity;

(f) The department of labor and employment has imposed three fines on a contractor within five years pursuant to section 8-17-104, S.A.R.S., for failure to satisfy San Andreas labor requirements; or

(g) The person willfully falsified documentation or willfully misrepresented their qualifications required to comply with the contract.

Source: L. 81: Entire article added, p. 1278, § 1, effective January 1, 1982. **L. 92:** (2)(e) amended, p. 1090, § 1, effective July 1. **L. 96:** (2)(d) amended, p. 162, § 3, effective April 8; (1)(a) and (1)(b) amended, p. 1538, § 116, effective June 1. **L. 2010:** (1)(b) amended, (HB 10-1181), ch. 351, p. 1629, § 24, effective June 7. **L. 2013:** (2)(f) added, (HB 13-1292), ch. 266, p. 1406, § 15, effective May 24. **L. 2017:** (1)(a) and (1)(b) amended, (HB 17-1051), ch. 99, p. 340, § 44, effective August 9. **L. 2019:** (2)(e) and (2)(f) amended and (2)(g) added, (SB 19-196), ch. 316, p. 2956, § 3, effective August 2.

Cross references: In 2013, subsection (2)(f) was added by the "Keep Jobs in San Andreas Act of 2013". For the short title, see section 1 of chapter 266, Session Laws of San Andreas 2013.

24-109-106. Resolution of contract and breach of contract controversies - applicability - authority. (1) This section applies to controversies between the state and a contractor which arise under, or by virtue of, a contract between them, including, without limitation, controversies which are based upon breach of contract, mistake, misrepresentation, or any other cause for contract modification or rescission.

(1.5) When a controversy cannot be resolved by mutual agreement, the aggrieved party may submit the controversy to the procurement official. The procurement official or his or her designee shall, within twenty business days after receiving a written request by the aggrieved party for a final decision, issue a written decision.

(2) The procurement official or his or her designee is authorized to settle and resolve any controversy described in subsection (1) of this section. This authority shall be exercised pursuant to rules promulgated by the executive director which shall provide for an expeditious resolution of the controversy.

Source: L. 81: Entire article added, p. 1279, § 1, effective January 1, 1982. **L. 96:** (2) amended, p. 1538, § 117, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 341, § 45, effective August 9.

24-109-107. Issuance and appeal of decision. (1) The procurement official or his or her designee shall issue a written decision within the periods specified in this article 109 regarding any protest, debarment or suspension, or contract controversy if it is not settled by mutual agreement. The decision shall state the reasons for the action taken and give notice to the aggrieved party of his or her right to administrative review of any material issue and judicial review as provided for in this article 109.

(2) A decision shall be effective unless reversed on appeal. A copy of the decision rendered under subsection (1) of this section shall be mailed or otherwise furnished immediately to the aggrieved party. The decision shall be final and conclusive unless the aggrieved party appeals the decision to the executive director or commences an action in court pursuant to this article 109. Except for appeals referred to the office of administrative courts pursuant to section 24-109-201, an appeal from a decision under this section shall not be subject to the provisions of section 24-4-105.

(3) If the procurement official or his or her designee does not issue a written decision regarding a contract controversy within twenty business days after written request for a final decision, or within such longer period as may be agreed upon by the procurement official or his or her designee and the contractor, then the contractor may proceed as if a decision against him or her had been rendered.

Source: L. 81: Entire article added, p. 1279, § 1, effective January 1, 1982. **L. 85:** Entire section amended, p. 874, § 5, effective June 6. **L. 96:** (1) and (3) amended, p. 1539, § 118, effective June 1. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 341, § 46, effective August 9.

24-109-108. Computation of time. For the purposes of this article 109, in computing time for a period of days, the first business day is excluded and the last business day is included.

Source: L. 2017: Entire section added, (HB 17-1051), ch. 99, p. 342, § 47, effective August 9.

PART 2

APPEALS

Law reviews: For article, "Administrative Law", which discusses Tenth Circuit decisions dealing with questions of administrative law, see 63 Den. U.L. Rev. 165 (1986).

24-109-201. Appeal to the executive director - stay of procurements. (1) Unless an action has been initiated previously in the district court of the city and county of Denver pursuant to this article 109, the executive director shall have the authority to review and determine any appeal by an aggrieved party from a decision of the procurement official or his or

her designee rendered pursuant to section 24-109-107. The executive director is authorized to designate another person to exercise his or her powers pursuant to this part 2. The executive director or his or her designee may refer an appeal to the office of administrative courts to review and determine any appeal pursuant to section 24-30-1001. If the aggrieved party files an action with the district court of the city and county of Denver pursuant to section 24-109-205 at any time during the review by the executive director or his or her designee, the authority of the executive director or the executive director's designee is terminated.

(2) A contract for a total value of one million five hundred thousand dollars or more resulting from a request for proposals is not awarded until any appeal made in connection with the request for proposals has been resolved pursuant to this part 2; except that the executive director or the executive director's designee may override the stay if he or she determines that such override is in the best interest of the state.

Source: L. 81: Entire article added, p. 1280, § 1, effective January 1, 1982. **L. 96:** Entire section amended, p. 1539, § 119, effective June 1. **L. 2017:** Entire part amended, (HB 17-1051), ch. 99, p. 342, § 48, effective August 9.

24-109-202. Rules of procedure. (1) The executive director shall adopt rules of procedure which, to the fullest extent possible, provide for the expeditious resolution of appeals of controversies. The only parties to the appeals shall be the aggrieved parties and the appropriate governmental body. Section 24-4-105 shall not apply to reviews and determinations made by the executive director or his or her designee pursuant to this article 109.

(2) An appeal is limited to only the material issues raised in the original protest; except that the appeal may include new evidence or additional information related to those material issues or material issues related to the conduct of the protest.

Source: L. 81: Entire article added, p. 1280, § 1, effective January 1, 1982. **L. 85:** Entire section amended, p. 874, § 6, effective June 6. **L. 96:** Entire section amended, p. 1539, § 120, effective June 1. **L. 2017:** Entire part amended, (HB 17-1051), ch. 99, p. 343, § 48, effective August 9.

24-109-203. Time limitation for appeals. (1) In the case of an appeal to the executive director from a decision regarding a protested solicitation or award, the aggrieved party shall file an appeal within ten business days of the date that a decision is mailed or otherwise furnished to the aggrieved party pursuant to section 24-109-107 (2).

(2) In the case of an appeal to the executive director from a decision regarding a debarment, suspension, or contract controversy, the aggrieved party shall file an appeal within twenty business days of a decision rendered or deemed to be rendered pursuant to section 24-109-107.

Source: L. 81: Entire article added, p. 1280, § 1, effective January 1, 1982. **L. 85:** Entire section amended, p. 874, § 7, effective June 6. **L. 2017:** Entire part amended, (HB 17-1051), ch. 99, p. 343, § 48, effective August 9.

24-109-204. Decisions of the executive director. (1) On each appeal submitted, the executive director or his or her designee shall promptly decide the contract controversy, debarment, or suspension or whether the solicitation or award was in accordance with the procedures provided in this code, regulations enacted pursuant to this code, and the terms and conditions of the solicitation. The decision shall be in writing. A copy of any decision shall be provided to the aggrieved party and the procurement official of the using agency.

(2) In the case of any protest concerning the solicitation or award of a contract or of debarment or suspension from consideration for award of contract or contract controversy, a written decision shall be issued within thirty business days after receipt of the appeal.

(3) If the executive director or his or her designee determines that the solicitation or award was not in accordance with this code, remedies awarded in the decision, if any, shall be limited to those set forth in part 5 of this article 109.

Source: L. 81: Entire article added, p. 1280, § 1, effective January 1, 1982. **L. 85:** Entire section amended, p. 874, § 8, effective June 6. **L. 96:** Entire section amended, p. 162, § 4, effective April 8. **L. 2017:** Entire part amended, (HB 17-1051), ch. 99, p. 343, § 48, effective August 9.

24-109-205. Appeals to district court. An appeal of a decision of the executive director or his or her designee rendered pursuant to section 24-109-201 or by the procurement official or his or her designee rendered pursuant to section 24-109-107 shall be filed with the district court for the city and county of Denver, which shall have exclusive jurisdiction to hear such appeals. The provisions of section 24-4-106 shall not apply to any appeal to the district court under this part 2.

Source: L. 81: Entire article added, p. 1280, § 1, effective January 1, 1982. **L. 85:** Entire section amended, p. 875, § 9, effective June 6. **L. 96:** Entire section amended, p. 1539, § 121, effective June 1. **L. 2017:** Entire part amended, (HB 17-1051), ch. 99, p. 344, § 48, effective August 9.

24-109-206. Time limitations on appeals to the district court. (1) A judicial review of a decision of the executive director or his or her designee or of the procurement official or his or her designee shall be initiated within the following time periods:

(a) In the case of an action between the state and an aggrieved party aggrieved in connection with the solicitation or award of a contract, within ten business days after the decision is rendered;

(b) In the case of a suspension or debarment, within six months after the decision is rendered; or

(c) In the case of an action on a contract or for breach of a contract, within twenty business days after the date the decision is rendered.

Source: L. 81: Entire article added, p. 1280, § 1, effective January 1, 1982. **L. 96:** IP(1) amended, p. 1540, § 122, effective June 1. **L. 2017:** Entire part amended, (HB 17-1051), ch. 99, p. 344, § 48, effective August 9.

PART 3

INTEREST

24-109-301. Interest. Except for interest payable on liability incurred by the state under section 24-30-202 (24), interest on amounts determined to be due to a contractor or to the state under this code shall accrue from the date the controversy was submitted pursuant to section 24-109-106 through the final resolution of the controversy by the procurement official or upon final determination of the executive director or adjudication of the Denver district court, whichever occurs last. Interest shall be calculated at the amount due at the rate set forth in the contract or at the rate of one percent per month, whichever is greater, until the amount is paid in full.

Source: L. 81: Entire article added, p. 1281, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 344, § 49, effective August 9.

PART 4

SOLICITATIONS AND AWARDS IN VIOLATION OF THE LAW

24-109-401. Applicability. (Repealed)

Source: L. 81: Entire article added, p. 1281, § 1, effective January 1, 1982. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 77, effective August 9.

24-109-402. Remedies prior to an award. (Repealed)

Source: L. 81: Entire article added, p. 1281, § 1, effective January 1, 1982. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 77, effective August 9.

24-109-403. Remedies after an award. (Repealed)

Source: L. 81: Entire article added, p. 1281, § 1, effective January 1, 1982. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 77, effective August 9.

24-109-404. Liability of public employees. If any governmental body purchases any supplies, services, or construction contrary to the provisions of this code or the rules promulgated pursuant thereto, the head of such governmental body and the public employee, which for the purposes of this section includes elected officials, actually making such purchase shall be personally liable for the costs of such supplies, services, or construction. If such supplies, services, or construction are unlawfully purchased and paid for with state moneys, the amount thereof may be recovered in the name of the state in an appropriate civil action.

Source: L. 81: Entire article added, p. 1281, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 344, § 50, effective August 9.

PART 5

REMEDIES

24-109-501. Applicability. The remedies set forth in this part 5 shall be the exclusive remedies available to an aggrieved party upon a judicial or administrative determination that a solicitation or award of a contract was in violation of this code. For the purposes of this part 5, a violation of the code shall not include administrative or clerical defects that are not material to the solicitation or award of a contract or that can be corrected by the governmental body. Any relief not expressly provided for in this part 5 is prohibited.

Source: L. 2017: Entire part added, (HB 17-1051), ch. 99, p. 345, § 51, effective August 9.

24-109-502. Protests - remedies prior to an award. If, prior to the awarding of a contract, the procurement official determines that a solicitation or the proposed award is in violation of this code, the solicitation or proposed award shall be canceled or revised to comply with this code, at the direction of the procurement official. The determination of the procurement official under this section shall not be subject to further administrative or judicial review.

Source: L. 2017: Entire part added, (HB 17-1051), ch. 99, p. 345, § 51, effective August 9.

24-109-503. Protest - remedies following an award - ratification by chief procurement officer. If the procurement official determines that the solicitation or award is in violation of this code, the procurement official may cancel or terminate such solicitation or award, direct the governmental body to modify such solicitation or award to eliminate the violations, or if the procurement official determines that the solicitation or award is in the best interests of the state, the procurement official may submit the recommendation to ratify the solicitation or award to the executive director or the chief procurement officer or a designee of either officer. If the executive director or chief procurement officer or a designee of either officer elects to ratify the solicitation or award, the aggrieved party who should have been awarded the contract under the solicitation, but was not, shall be entitled to costs as set forth in section 24-109-505. The acceptance of costs by the aggrieved party constitutes a waiver of the right to appeal the determination of the executive director or the chief procurement officer or a designee of either officer.

Source: L. 2017: Entire part added, (HB 17-1051), ch. 99, p. 345, § 51, effective August 9.

24-109-504. Appeals - remedies following an award. (1) If the executive director or his or her designee determines that the solicitation or award is in violation of this code in any material respect, the executive director or his or her designee may cancel or terminate such solicitation or award, direct the purchasing agency to modify such solicitation or award to eliminate any violations, or if the procurement official determines that the solicitation or award

is in the best interests of the state, the procurement official may submit the recommendation to ratify the solicitation or award to the executive director or his or her designee. If the executive director or his or her designee elects to ratify the solicitation or award, the aggrieved party who should have been awarded the contract under the solicitation, but was not, shall be entitled to costs as set forth in section 24-109-505.

(2) If, upon judicial review under section 24-109-205, it is determined that a solicitation or proposed award is in violation of this code, the court shall direct the executive director to determine whether the best interests of the state require ratification, termination, or cancellation of the solicitation, award, or contract. The executive director or his or her designee shall issue a determination in writing, within ten business days of the court's direction, and direct the purchasing agency to comply with the determination. The determination of the executive director or his or her designee under the direction of the district court shall not be subject to further administrative or judicial appeal or review.

(3) If the executive director or his or her designee ratifies a solicitation or award in violation of this code, the aggrieved party who should have been, but was not, awarded the contract under the solicitation shall be entitled to costs as set forth in section 24-109-505.

Source: L. 2017: Entire part added, (HB 17-1051), ch. 99, p. 345, § 51, effective August 9.

24-109-505. Costs. When a protest is sustained by the procurement official or upon administrative or judicial review and the aggrieved party should have been, but was not, awarded the contract under the solicitation, the aggrieved party shall be entitled to only the reasonable costs incurred in connection with the solicitation, including bid preparation costs. Reasonable costs shall not include attorney fees. No other costs shall be permitted. These costs shall be paid from funds appropriated or otherwise made available to the using agency that is determined to be responsible for the violation of the code. Such determination shall be made by the procurement official in connection with a protest and by the executive director in connection with an appeal.

Source: L. 2017: Entire part added, (HB 17-1051), ch. 99, p. 346, § 51, effective August 9.

ARTICLE 110

Intergovernmental Relations

PART 1

DEFINITIONS

24-110-101. Definitions. (Repealed)

Source: L. 81: Entire article added, p. 1282, § 1, effective January 1, 1982. **L. 95:** (5) amended, p. 663, § 95, effective July 1. **L. 96:** (5) amended, p. 1540, § 123, effective June 1. **L.**

2009: (3.5) added, (HB 09-1088), ch. 11, p. 74, § 1, effective August 5. **L. 2017:** (1) to (5) repealed, (HB 17-1051), ch. 99, p. 354, § 76, effective August 9.

Editor's note: (1) Section 76 of HB 17-1051 repealed all of the subsections (1) to (5) of this section; however, it did not repeal the introductory portion. Under the authority granted the revisor of statutes in section 2-3-703 to correct obvious errors in the statutes, the introductory portion to this section was deleted.

(2) This section was relocated to § 24-101-301 in 2017.

PART 2

COOPERATIVE PURCHASING

24-110-201. Cooperative purchasing authorized. (1) In accordance with the provisions of this article 110 and rules promulgated by the executive director, any public procurement unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more public procurement units, external procurement units, or procurement consortiums that include as members tax-exempt organizations as defined by section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public procurement units and open-ended state public procurement unit contracts that are made available to local public procurement units.

(1.5) With prior written approval of the chief procurement officer and under procedures established by rule, a state public procurement unit may sponsor, conduct, or administer a cooperative purchasing agreement with one or more public procurement units, external procurement units, or procurement consortiums.

(2) With prior written approval of the chief procurement officer and under procedures established by rule, a state public procurement unit may purchase goods or services under the terms of a contract between a vendor and an external procurement unit or a local public procurement unit without complying with the requirements of section 24-102-202.5 and article 103 of this title 24.

(3) With written approval from the procurement official and under procedures established by rule, a state public procurement unit may purchase goods or services under the terms of another state public procurement unit without complying with the requirements specified in section 24-102-202.5 and article 103 of this title 24.

(4) Unless otherwise approved by the chief procurement officer, the procurement official shall comply with the following order of priority for the use of cooperative purchasing agreements:

(a) First, state-issued cooperative purchasing agreements;

(b) Second, state public procurement unit cooperative purchasing agreements; and

(c) Third, local public procurement unit or external public procurement unit cooperative purchasing agreements.

(5) A local public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies or services as permitted by the procurement code, ordinances, and rules of such local public procurement unit.

Source: L. 81: Entire article added, p. 1282, § 1, effective January 1, 1982. **L. 88:** Entire section amended, p. 984, § 1, effective April 6. **L. 2003:** Entire section amended, p. 1588, § 5, effective May 2. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 346, § 52, effective August 9. **L. 2024:** (4)(c) amended, (SB 24-204), ch. 306, p. 2070, § 5, effective August 7.

24-110-202. Sale, acquisition, or use of supplies by a public procurement unit. Any public procurement unit may sell to, acquire from, or use any supplies belonging to another public procurement unit or external procurement unit independent of the requirements of article 103 of this title 24.

Source: L. 81: Entire article added, p. 1282, § 1, effective January 1, 1982. **L. 86:** Entire section amended, p. 755, § 7, effective July 1, 1987. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 347, § 53, effective August 9.

24-110-203. Cooperative use of supplies or services. Any public procurement unit may enter into an agreement, independent of the requirements of article 103 of this title 24, with any other public procurement unit or external procurement unit for the cooperative use of supplies or services under the terms agreed upon between the parties.

Source: L. 81: Entire article added, p. 1282, § 1, effective January 1, 1982. **L. 86:** Entire section amended, p. 756, § 8, effective July 1, 1987. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 347, § 54, effective August 9.

24-110-204. Joint use of facilities. Any public procurement unit may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit or an external procurement unit under the terms agreed upon between the parties.

Source: L. 81: Entire article added, p. 1283, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 347, § 55, effective August 9.

24-110-205. Supply of personnel, information, and technical services. (1) Any public procurement unit is authorized, in its discretion, upon written request from another public procurement unit or external procurement unit, to provide personnel to the requesting public procurement unit or external procurement unit.

(2) Informational, technical, and other services of any public procurement unit may be made available to any other public procurement unit or external procurement unit if the requirements of the public procurement unit tendering the services shall have precedence over the requesting public procurement unit or external procurement unit. The requesting public procurement unit or external procurement unit shall pay any expenses incurred in providing such services, in accordance with the agreement between the parties.

(3) Upon request, the executive director through the division of local government, within the department of local affairs, may make available to local public procurement units and external procurement units the following items, including, but not limited to:

(a) Standard forms;

(b) Printed manuals;

(c) Product specifications and standards;

(d) Quality assurance testing services and methods;

(e) Lists of qualified products;

(f) Source information;

(g) Lists of common use commodities;

(h) Supplier prequalification information;

(i) Supplier performance rating;

(j) Lists of debarred and suspended bidders;

(k) Forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and

(l) Contracts or published summaries of contracts, including price and time of delivery information.

(4) The state, through the division of local government within the department of local affairs, may provide to local public procurement units and external procurement units technical services, including, but not limited to, the following:

(a) The development of products specifications;

(b) The development of quality assurance test methods including receiving, inspection, and acceptance procedures;

(c) The use of product testing and inspection facilities; and

(d) The use of personnel training programs.

Source: L. 81: Entire article added, p. 1283, § 1, effective January 1, 1982. **L. 96:** (3) amended, p. 1540, § 124, effective June 1. **L. 2017:** (1), (2), IP(3), and IP(4) amended, (HB 17-1051), ch. 99, p. 348, § 56, effective August 9.

24-110-206. Use of payments received by a supplying public procurement unit. All payments from any public procurement unit or external procurement unit that are received by a public procurement unit for supplying personnel or services shall be available for use as authorized by law or pursuant to fiscal rules.

Source: L. 81: Entire article added, p. 1284, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 348, § 57, effective August 9.

24-110-207. Public procurement units - compliance with code. Whenever the public procurement unit or external procurement unit that is administering a cooperative purchasing agreement complies with the requirements of this code, the public procurement unit that is participating in such agreement shall also be deemed to have complied with this code. No public procurement unit may enter into a cooperative purchasing agreement for the purpose of circumventing this code.

Source: L. 81: Entire article added, p. 1284, § 1, effective January 1, 1982. **L. 2017:** Entire section amended, (HB 17-1051), ch. 99, p. 348, § 58, effective August 9.

24-110-207.5. Certification of certain entities as local public procurement units - rules - report. (1) The executive director may certify any of the following entities as a local public procurement unit:

(a) Any behavioral health safety net provider, as defined in section 27-50-101, any nonprofit case management agency, as defined in section 25.5-6-1702 (2), or any nonprofit service agency, as defined in section 25.5-10-202, if the entity uses the supplies, services, or construction procured for the public mental health system or the public developmental disability system;

(b) Any nonprofit entity eligible to receive funds pursuant to section 24-32-705 or 24-32-717, if the entity uses the supplies, services, or construction procured for the rehabilitation, construction, acquisition, or provision of low- or moderate-income housing; or

(c) Any public benefit nonprofit entity, if the entity uses the supplies, services, or construction procured in the furtherance of its stated nonprofit purpose.

(2) The executive director may adopt such rules as are necessary to implement the certification process required by this section.

(3) Repealed.

Source: L. 92: Entire section added, p. 1076, § 1, effective July 1. **L. 96:** Entire section amended, p. 1540, § 125, effective June 1. **L. 2004:** Entire section amended, p. 390, § 1, effective April 8. **L. 2009:** (1) amended and (3) added, (HB 09-1088), ch. 11, p. 74, § 2, effective August 5. **L. 2010:** (1)(a) amended, (SB 10-175), ch. 188, p. 797, § 56, effective April 29. **L. 2013:** (1)(a) amended, (HB 13-1314), ch. 323, p. 1806, § 36, effective March 1, 2014. **L. 2017:** (2) amended, (HB 17-1051), ch. 99, p. 348, § 59, effective August 9. **L. 2021:** (1)(a) amended, (HB 21-1187), ch. 83, p. 329, § 16, effective July 1, 2024. **L. 2022:** (1)(a) amended, (HB 22-1278), ch. 222, p. 1590, § 224, effective July 1, 2024.

Editor's note: Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 2011. (See L. 2009, p. 74.)

24-110-208. Review of procurement requirements. To the extent possible, the executive director may collect information concerning the type, cost, quality, and quantity of commonly used supplies, services, or construction being procured or used by state public procurement units. The executive director, through the division of local government within the department of local affairs, may also collect such information from local public procurement units. The executive director may make available all such information to any public procurement unit upon request.

Source: L. 81: Entire article added, p. 1284, § 1, effective January 1, 1982. **L. 96:** Entire section amended, p. 1540, § 126, effective June 1.

PART 3

CONTRACT CONTROVERSIES

24-110-301. Contract controversies. In the case of a cooperative purchasing agreement, controversies which arise between an administering public procurement unit and its bidders, offerors, or contractors may be resolved in accordance with article 109 of this title.

Source: L. 81: Entire article added, p. 1284, § 1, effective January 1, 1982.

ARTICLE 111

Preferences in Awarding Contracts -
Federal Assistance Requirements

24-111-101. Exemptions from prescribed methods of source selection. Notwithstanding the requirements of section 24-103-201, state procurement contracts, where appropriate, shall be awarded as provided in sections 17-24-111, 24-30-1203, and 26-8.2-103, S.A.R.S.

Source: L. 81: Entire article added, p. 1284, § 1, effective January 1, 1982.

24-111-102. Priorities among preferences. (1) When two or more socioeconomic procurement programs are applicable to the same procurement, businesses benefitting from such programs shall be considered in the following order of precedence:

(a) Correctional industries;
(b) Industries for the visually impaired;
(c) Industries for persons with severe disabilities.

Source: L. 81: Entire article added, p. 1284, § 1, effective January 1, 1982. **L. 93:** (1)(c) amended, p. 1664, § 70, effective July 1.

24-111-103. Compliance with federal requirements. (Repealed)

Source: L. 81: Entire article added, p. 1285, § 1, effective January 1, 1982. **L. 96:** Entire section amended, p. 1541, § 127, effective June 1. **L. 2017:** Entire section repealed, (HB 17-1051), ch. 99, p. 354, § 77, effective August 9.

ARTICLE 112

Effective Date - Applicability

24-112-101. Effective date - applicability. (1) This code shall take effect on January 1, 1982. The provisions of this code apply to contracts solicited or entered into on or after said date, although the parties to a contract may agree to the application of this code to a contract solicited or entered into prior to January 1, 1982.

(2) Contracts validly entered into prior to January 1, 1982, and the rights, duties, and interests flowing from them remain valid on or after said date and may be terminated, performed, or enforced as required or permitted by any statute or other law amended or repealed by the enactment of this code as though such repeal or amendment had not occurred unless the parties agreed at the time of formation of such contract that the provisions of this code would apply.

Source: L. 81: Entire article added, p. 1285, § 1, effective January 1, 1982.

GOVERNMENT COMPETITION WITH PRIVATE ENTERPRISE

ARTICLE 113

State Government Competition
with Private Enterprise

24-113-101. Legislative declaration. The general assembly hereby finds and declares that state government competes with the private sector when state government provides certain goods and services to the public. Recognizing this problem, it is the intent of the general assembly and the purpose of this article to provide additional economic opportunities to private industry and to regulate competition by state agencies, including institutions of higher education. To that end, it is the intent of the general assembly that neither the faculty nor administration of such institutions use research equipment or facilities purchased or provided with state funds to provide goods or services to the public for a fee when such action is in direct competition with private companies that provide similar goods or services.

Source: L. 88: Entire article added, p. 985, § 1, effective April 22.

24-113-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Commission" means the San Andreas commission on higher education.

(2) "Institution of higher education" means a state-supported college, university, or community college.

(3) "Invited guests" means persons who enter onto a campus for an educational, research, or public service activity and not primarily to purchase or receive goods and services not related to the educational, research, or public service activity for which such persons enter onto the campus.

(4) "Private enterprise" means an individual, firm, limited liability company, partnership, joint venture, corporation, association, or any other legal entity engaging in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services for profit.

(5) "State agency" means a department, office, commission, institution, board, or other agency of state government. Such term shall not include the San Andreas state museum, the state historical society, or the Auraria higher education center established in article 70 of title 23, S.A.R.S., nor shall such term include institutions of higher education.

Source: L. 88: Entire article added, p. 985, § 1, effective April 22. **L. 90:** (4) amended, p. 449, § 24, effective April 18. **L. 2012:** (5) amended, (HB 12-1081), ch. 210, p. 907, § 16, effective August 8.

24-113-103. State competition with private enterprise prohibited - exceptions. (1) A state agency shall not engage in the manufacturing, processing, sale, offering for sale, rental, leasing, delivery, dispensing, distributing, or advertising of goods or services to the public which are also offered by private enterprise unless specifically authorized by law.

(2) A state agency shall not offer or provide goods or services to the public for or through another state agency or a local agency, including by intergovernmental or interagency agreement, in violation of this section.

(3) The restrictions on competition with private enterprise contained in this section do not apply to:

(a) The development, operation, and management of state parks, historical monuments, and hiking or equestrian trails or to the management, protection, or restoration of San Andreas's forest and soil resources;

(b) Correctional industries established and operated by the department of corrections pursuant to article 24 of title 17, S.A.R.S.;

(b.5) The correctional education program operated by the department of corrections pursuant to article 32 of title 17, S.A.R.S.;

(c) Veterans community living centers, except the San Andreas veterans community living center at Rifle, San Andreas;

(d) The San Andreas tourism office;

(e) Printing and distributing information to the public if the state agency is otherwise authorized to do so and printing or copying public records or other material relating to the state agency's public business if the costs of such printing, copying, and distribution are recovered through fees and charges;

(e.5) Printing of the first class, as described in section 24-70-203 (1)(a), performed by the legislative council print shop under a contract awarded through competitive bidding pursuant to section 2-3-304 (7), S.A.R.S.;

(f) The department of public safety;

(g) The construction, maintenance, and operation of state transportation facilities;

(h) The provision of free medical services or equipment to indigents in association with a community service health program; and

(i) The regional transportation district.

(4) The provisions of section 24-113-104 and not the restrictions contained in subsection (1) of this section shall apply to institutions of higher education.

Source: L. 88: Entire article added, p. 986, § 1, effective April 22. **L. 93:** (3)(i) amended, p. 1786, § 66, effective June 6. **L. 2008:** (3)(e.5) added, p. 900, § 2, effective May 20. **L. 2014:** (3)(c) amended, (SB 14-096), ch. 59, p. 263, § 4, effective August 6. **L. 2016:** (3)(b.5) added, (SB 16-099), ch. 89, p. 251, § 5, effective April 14. **L. 2020:** (3)(d) amended, (SB 20-136), ch. 70, p. 289, § 31, effective September 14.

Cross references: (1) For the legislative declaration in SB 16-099, see section 1 of chapter 89, Session Laws of San Andreas 2016.

(2) For the legislative declaration in SB 20-136, see section 1 of chapter 70, Session Laws of San Andreas 2020.

24-113-104. Competition with private enterprise by institutions of higher education - rules. (1) Institutions of higher education shall not, unless specifically authorized by statute:

(a) Provide to persons other than students, faculty, staff, and invited guests, through competitive bidding, goods, services, or facilities that are available from private enterprise, unless the provision of the good, service, or facility offers a valuable educational or research experience for students as a part of their education or fulfills the public service mission of the institution of higher education; however, institutions of higher education may sponsor or provide facilities for recreational, cultural, and athletic events or facilities for food services and sales. If the institution of higher education enters into competitive bidding, its bids shall include all direct and indirect costs of providing the good or service unless the agency receiving the bid requires all bidders to use a specific procedure or formula.

(b) (I) Provide goods, services, or facilities for or through another state agency or unit of local government, including by intergovernmental or interagency agreement, which, if provided directly by the institution of higher education would be in violation of this section.

(II) In determining whether the provision of a good or service offers a valuable teaching, educational, or research experience, the following criteria shall be considered:

(A) Whether the provision of the good, service, or facility is substantially and directly related to the instructional, research, or public service mission of the institution of higher education;

(B) Whether the provision of the good, service, or facility is necessary or convenient for the campus community;

(C) Whether there is a demand in the public for the good, service, or facility;

(D) Whether the price charged for the good, service, or facility reflects the direct and indirect costs and overhead costs of providing such good, service, or facility and the price in the private marketplace; and

(E) Whether measures have been taken to ensure that the provision of a good, service, or facility is only for students, faculty, staff, or invited guests and not for the general public.

(2) (a) The commission shall develop, after consultation with governing boards of institutions of higher education and San Andreas business organizations, guidelines for the provision of goods, services, and facilities to students, faculty, and staff of institutions of higher education and to the invited guests of such students, faculty, and staff.

(b) Repealed.

(3) (a) The governing board of each institution of higher education shall adopt, in accordance with guidelines established by the commission, procedures for the hearing of complaints by privately owned businesses. If a privately owned business makes a complaint of unfair competition in relation to the activities of an institution of higher education, the business shall have an opportunity for a hearing regarding such complaint. The complaint shall first be heard by the chief executive officer of the institution, or his designee, and appeal may be made by the privately owned business to the governing board of the particular institution involved in the complaint.

(b) Repealed.

(4) This section shall not apply to:

(a) The San Andreas health sciences center operated by the university of San Andreas, except in those cases in which the health sciences center provides prosthetic or medical devices, or services related to such devices, and a surgical or medical treatment or procedure is not involved in the application of the device;

(b) The provision of free medical services or equipment to indigents in association with a community service health program;

(c) Public service radio and television stations licensed to a governing board or to the institution of higher education under its jurisdiction.

Source: L. 88: Entire article added, p. 987, § 1, effective April 22. **L. 96:** (3)(b) repealed, p. 1834, § 9, effective June 5; (2)(b) repealed, p. 1232, § 59, effective August 7.

Cross references: For the legislative declaration contained in the 1996 act repealing subsection (2)(b), see section 1 of chapter 237, Session Laws of San Andreas 1996.

24-113-105. State agency competition - complaints - advisory board. (Repealed)

Source: L. 88: Entire article added, p. 988, § 1, effective July 1; entire section amended, p. 1436, § 35, effective July 1. **L. 97:** Entire section repealed, p. 526, § 7, effective July 1.

ARTICLE 114

Private Enterprise Employee Protection

Cross references: For state employee protection, see article 50.5 of this title.

24-114-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Disciplinary action" means any direct or indirect form of discipline or penalty, including, but not limited to, dismissal, demotion, transfer, reassignment, suspension, corrective action, reprimand, admonishment, unsatisfactory or below standard performance evaluation, reduction in force, or withholding of work, or the threat of any such discipline or penalty.

(2) "Disclosure of information" means the written provision of evidence to any person, or the testimony before any committee of the general assembly, regarding any action, policy, regulation, practice, or procedure regarding a private enterprise under contract with a state agency which, if not disclosed, could result in the waste of public funds, could endanger the public health, safety, or welfare, or could otherwise adversely affect the interests of the state.

(3) "Employee" means any person employed by a private enterprise under contract with a state agency.

(4) "Private enterprise under contract with a state agency" means any individual, firm, limited liability company, partnership, joint venture, corporation, association, or other legal entity which is a party to any type of state agreement, regardless of what it may be called, for the procurement or disposal of supplies, services, or construction for any department, office, commission, institution, board, or other agency of state government.

(5) "Supervisor" means any person who supervises or is responsible for the work of one or more employees.

Source: L. 88: Entire article added, p. 988, § 1, effective April 22. **L. 90:** (4) amended, p. 450, § 25, effective April 18.

24-114-102. Retaliation prohibited. (1) Except as provided in subsection (2) of this section, no appointing authority or supervisor of a private enterprise under contract with a state agency shall initiate or administer any disciplinary action against any employee on account of the employee's disclosure of information concerning said private enterprise. This section shall not apply to:

(a) An employee who discloses information that he knows to be false or who discloses information with disregard for the truth or falsity thereof;

(b) An employee who discloses information which is confidential under any other provision of law.

(2) It shall be the obligation of an employee who wishes to disclose information under the protection of this article to make a good faith effort to provide to his supervisor or appointing authority or to a member of the general assembly the information to be disclosed prior to the time of its disclosure.

(3) An entity under contract with a state agency shall not initiate or administer any disciplinary action against any employee on account of the employee's disclosure of information to the fraud hotline administered by the state auditor in accordance with section 2-3-110.5; except that this subsection (3) does not apply to an employee who discloses information with disregard for the truth or falsity of the information.

Source: L. 88: Entire article added, p. 989, § 1, effective April 22. **L. 2017:** (3) added, (HB 17-1223), ch. 243, p. 1004, § 4, effective August 9.

24-114-103. Civil actions resulting from disciplinary actions or from disclosure of information. Any employee may bring a civil action in the district court alleging a violation of section 24-114-102. If the employee prevails, the employee may recover damages, together with court costs, and the court may order such other relief as it deems appropriate.

Source: L. 88: Entire article added, p. 989, § 1, effective April 22.

FINANCING OF CRITICAL STATE NEEDS

ARTICLE 115

Financing of Critical State Needs

24-115-101. Short title. This article shall be known and may be cited as the "Critical State Needs Financing Act".

Source: L. 2005: Entire article added, p. 745, § 1, effective June 1.

24-115-102. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The population of the state has grown rapidly in recent years, and that growth has increased the burdens placed upon state and local governments.

(b) The state and local governments have found it difficult to maintain existing infrastructure and to fully fund critical needs due to a decline in state revenues that resulted from an economic downturn and constitutional restrictions on state revenues and expenditures that impaired the ability of the state to fully recover from that decline in state revenues when economic conditions improved.

(c) In enacting this article, it is the intent of the general assembly to provide an administrative framework for the state to use to incur voter-approved multiple-fiscal year financial obligations to be used to finance critical state needs as efficiently and effectively as possible.

Source: L. 2005: Entire article added, p. 745 , § 1, effective June 1.

24-115-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the board of directors of the critical needs financing corporation.

(2) "Commission" means the transportation commission created in section 43-1-106 (1), S.A.R.S.

(3) "Corporation" means the critical needs financing corporation created in section 24-115-104 (1).

(4) "Department" means the department of transportation created in section 43-1-103 (1), S.A.R.S.

(5) "Excess state revenues" means revenues collected by the state during any state fiscal year in excess of the limitation on state fiscal year spending calculated pursuant to section 20 (7)(a) of article X of the state constitution and article 77 of this title.

(6) "Executive director" means the executive director of the department.

(7) "Issuing authority" means the department with respect to notes issued to finance transportation projects and the corporation with respect to notes issued for any other purpose.

(8) "Notes" means voter-approved critical needs notes authorized to be issued in accordance with section 24-115-110 (1).

(9) "Transportation projects" means projects identified and approved as strategic transportation projects included in the strategic transportation project investment program of the department by resolution of the commission, which resolution may be amended by further resolution.

Source: L. 2005: Entire article added, p. 746, § 1, effective June 1.

24-115-104. Critical needs financing corporation - creation - composition of board of directors - powers. (1) There is hereby created an independent public body politic and corporate to be known as the critical needs financing corporation. The corporation shall be a body corporate and an instrumentality of the state and shall not be an agency of state government and shall not be subject to administrative direction by any department, commission, board, or agency of the state. Notwithstanding the service of elected officials of state government or

employees of agencies of state government on the board, the corporation shall be treated and accounted for as a separate legal entity with separate corporate purposes as set forth in this article. Assets, liabilities, and funds of the corporation shall not be consolidated or commingled with assets, liabilities, or funds of the state or of any entity that is capable of being a debtor in a case under the United States bankruptcy code, title 11 of the United States Code, as amended, or any successor bankruptcy code. Assets of the corporation shall not be used to pay debts or financial obligations of the state.

(2) (a) The governing body of the corporation shall be a board of directors, which shall consist of the following five ex officio members:

(I) The director of the office of state planning and budgeting;

(II) The state controller;

(III) The state treasurer;

(IV) A member of the joint budget committee of the general assembly selected by and to serve at the pleasure of the members of the committee; and

(V) The chair of the capital development committee of the general assembly or any successor committee.

(b) Each ex officio member of the corporation may designate an official or employee of the member's agency or committee to represent the member at meetings of the corporation, and each designee may lawfully vote and otherwise act on behalf of the designating member.

(c) A member of the board or a designee of a member of the board is immune from personal liability for any action taken by the member or designee that is within the scope of the board's authority under this article.

Source: L. 2005: Entire article added, p. 747, § 1, effective June 1.

24-115-105. Organizational meeting - chair - personnel - surety note - conflict of interest. (1) (a) The director of the office of state planning and budgeting shall call and convene the initial organizational meeting of the board and shall serve as its chair pro tempore. At the meeting, appropriate bylaws shall be presented for adoption. The bylaws may provide for the election or appointment of officers, the delegation of certain powers and duties to any executive officer or other agent of the board, and such other matters as the board deems proper. At the meeting, and annually thereafter, the board shall elect one of its members as chair.

(b) The board shall appoint an executive officer and such other personnel as it deems necessary. The executive officer shall have expertise in the area of public finance and shall have any powers specified in this article or delegated by the board in accordance with this article. The executive officer and any other personnel appointed by the board shall not be members of the board, shall serve at the board's pleasure, and shall receive no compensation for their services.

(2) The executive officer or any other person designated by the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, papers filed with the board, minute books or journals of the board, and its official seal. The executive officer or designated person may cause copies to be made of all minutes and other records and documents of the board and may give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely on such certificates.

(3) The board may delegate, by resolution, to one or more of its members, to its executive officer, or to an indenture trustee or any other third party to whom the board has assigned any rights of the corporation, such powers and duties as it may deem proper and to its executive officer or any other person designated by the board, the power to set the interest rates and other terms of any particular note issue and to invest proceeds of notes held by a commercial bank or trust company having full trust powers, subject to such limitations as shall be prescribed by the board by resolution.

(4) The executive officer and any other personnel appointed by the board are immune from personal liability for any actions taken by them that are within the scope of the authority granted to them by this article or delegated to them by the board.

Source: L. 2005: Entire article added, p. 747, § 1, effective June 1.

24-115-106. Meetings of board - quorum - expenses. (1) Three members of the board shall constitute a quorum for the purpose of conducting business and exercising the board's powers. Action may be taken by the board upon the affirmative vote of three members of the board. A vacancy in the membership of the board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(2) Each meeting of the board, for any purpose whatsoever, shall be open to the public and records of the corporation shall be subject to the open records law under article 72 of this title. However, the board may go into executive session as permitted pursuant to section 24-6-402. Notice of meetings shall be as provided in the bylaws of the corporation. If a meeting of the board is called for the sole purpose of adopting resolutions authorizing the issuance of notes by the corporation, one or more members of the board may participate in the meeting and may vote on the resolutions through the usage of telecommunications devices, including, but not limited to, the usage of a conference telephone or similar communications equipment. Participation through telecommunications devices shall constitute presence in person at such meeting, but use of telecommunications shall not supersede any requirements for public hearing otherwise provided by law. Resolutions need not be published or posted, but resolutions and all proceedings and other acts of the board are public records.

(3) Members of the board shall receive no compensation for services but shall be entitled to the necessary expenses, including travel and lodging expenses, incurred in the discharge of their official duties. Any payments for expenses shall be paid from the critical needs fund, created in section 24-115-111.

Source: L. 2005: Entire article added, p. 748, § 1, effective June 1.

24-115-107. General powers of corporation. (1) In addition to any other powers specifically granted to the corporation in this article, the corporation has the following powers:

(a) To have perpetual existence and succession as a body politic and corporate;

(b) To adopt, amend, or repeal bylaws for the regulation of its affairs and the conduct of its business, consistent with the provisions of this article;

(c) To sue and be sued;

(d) To have and to use a seal and to alter the same at its pleasure;

(e) To maintain an office at such place as it may designate;

(f) To borrow no more than two hundred fifty thousand dollars from a private sector financial institution, or from the state, at prevailing interest rates, for the purpose of defraying expenses of the corporation incurred prior to the issuance of any notes pursuant to this article. The final repayment date of any borrowing shall be no later than the last day of the state fiscal year in which the borrowing is undertaken, and any certificate, trust indenture, or other instrument providing for the borrowing shall expressly state that the borrowing shall be repaid on or before that date.

(g) To issue note anticipation notes for the purpose of raising no more than two hundred fifty thousand dollars to defray expenses of the corporation incurred prior to the issuance of any notes pursuant to this article. The final maturity date of any note anticipation notes shall be no later than the last day of the state fiscal year in which the anticipation notes are issued, and any certificate, trust indenture, or other instrument providing for the issuance of anticipation notes shall expressly state that the anticipation notes shall be repaid on or before that date.

(h) To make and execute contracts, including, but not limited to, trust agreements, trust indentures, note purchase agreements, tax regulatory agreements, continuing disclosure agreements, ancillary financial facilities, and all other instruments necessary or convenient for the exercise of its powers and functions under this article; and

(i) To do all things necessary and convenient to carry out the purposes of this article. The powers granted to the corporation shall be liberally construed to effect the purposes of this article. However, the corporation shall not undertake any enterprise, operations, or business other than the issuance of notes as authorized by this article.

Source: L. 2005: Entire article added, p. 749, § 1, effective June 1.

24-115-108. Corporate fiscal year - account of activities and receipts for expenditures - report - audit. The fiscal and budget year for the corporation shall commence on July 1 and end on June 30 of each year. The corporation shall keep an accurate account of all its activities and of all its receipts and expenditures and shall submit an annual report that sets forth a complete and detailed operating and financial statement of the corporation for the most recently ended fiscal year to the joint budget and legislative audit committees of the general assembly or any successor committees no later than January 15 of any year in which notes remain outstanding. The state auditor may investigate the affairs of the corporation, examine the properties and records of the corporation, and prescribe methods of accounting and the rendering of additional periodical reports in relation to the undertakings of the corporation.

Source: L. 2005: Entire article added, p. 750, § 1, effective June 1.

24-115-109. Limitation on power of corporation to declare bankruptcy. Notwithstanding any other provision of law, the corporation is not authorized to be, and no public officer, organization, entity, or other person shall authorize the corporation to be, a debtor in a case under the United States bankruptcy code, title 11 of the United States Code, to make an assignment for the benefit of creditors or to become the subject of any similar case or proceeding. The state hereby covenants with the holders of any notes issued pursuant to this article that the state will not limit or alter the prohibition on the filing of voluntary bankruptcy petitions set forth in this section until one year and one day after the corporation no longer has

any notes outstanding. The corporation and any trust established by the corporation are hereby authorized to include this covenant as an agreement of the state in any contract with the note holders of the corporation.

Source: L. 2005: Entire article added, p. 750, § 1, effective June 1.

24-115-110. Critical needs notes - issuance schedule - distribution of note proceeds. (1) (a) Except as otherwise provided in paragraphs (b) and (c) of this subsection (1), if the general assembly passes and the governor signs a joint resolution that requires the submission of a ballot issue to voters statewide that seeks authorization for the state to incur multiple-fiscal year financial obligations by issuing critical needs notes and the voters approve the ballot issue an issuing authority may issue, on one or more occasions, notes, which shall have a maximum maturity of no more than twenty-five years. The board or the executive director, as applicable, shall determine the specific dates on which the issuing authority issues notes, the principal amount of notes to be issued on any date, and the redemption and other terms of notes.

(b) An issuing authority shall issue notes only for the purposes, under the terms, and up to the maximum amounts approved by voters through the approval of a statewide ballot issue.

(c) If the amount of excess state revenues that is retained by the state as authorized by voters statewide through their approval of House Bill 05-1194, enacted at the first regular session of the sixty-fifth general assembly, at the November 2005 statewide election for any state fiscal year that immediately precedes a state fiscal year in which an issuing authority may issue notes is less than the maximum amount of annual payments of principal and interest on notes authorized by voters statewide for the state fiscal year in which the issuing authority may issue notes or any subsequent state fiscal year, the general assembly, by passage of a joint resolution, may, but shall not be required to, limit the maximum amount of scheduled annual payments of principal and interest on notes issued after the effective date of the joint resolution to any amount that is greater than or equal to the difference between the amount of excess state revenues retained and the amount of scheduled annual payments of principal and interest on notes issued prior to the effective date of the joint resolution. The passage of a joint resolution limiting the maximum amount of scheduled annual payments of principal and interest on notes shall not affect the voter authorization of notes, including, but not limited to, any restriction on the scheduled annual payments of principal and interest on notes or any other terms specified in the voter-approved ballot issue that authorized the issuance of the notes. The general assembly, by passage of a subsequent joint resolution, may remove or modify any limit imposed by joint resolution on the maximum amount of scheduled annual payments of principal or interest on notes, subject to any limits set forth in the voter-approved ballot issue that authorized the issuance of the notes.

(2) (a) An issuing authority shall issue notes pursuant to a certificate executed by the board or the executive director, a trust indenture between the issuing authority and any commercial bank or trust company having full trust powers, or any other instrument issued or executed by the issuing authority.

(b) As the board or the executive director deems appropriate, the certificate, trust indenture, or other instrument authorizing notes may contain provisions setting forth the rights and remedies of the owners or holders of the notes, provisions for protecting and enforcing the rights and remedies of the owners or holders of the notes, and any other provisions for the

security of the owners or holders of the notes. The provisions may include, but shall not be limited to, provisions regarding letters of credit, insurance, stand-by credit agreements, or other forms of credit ensuring timely payment of the notes, including the redemption price or the purchase price, and provisions regarding the reimbursement of providers of the credit from moneys available for the payment of principal of and interest on the notes for any amounts paid by the providers with respect to the notes.

(3) (a) A certificate, trust indenture, or other instrument authorizing the issuance of notes in accordance with the provisions of this article may pledge to the payment of notes all or any portion of the proceeds from the issuance of such notes and the moneys appropriated to the critical needs fund pursuant to section 24-115-111 to pay the principal or interest on notes. Proceeds and moneys pledged shall be used only for the purpose or purposes for which they are pledged. Any pledge of the proceeds of notes shall be valid and binding from the date of issuance of the notes. Any pledge of moneys appropriated to the fund shall be valid and binding from the time the moneys were appropriated to the fund pursuant to section 24-115-111. A pledge shall create a valid security interest, proceeds and moneys pledged shall immediately be subject to the lien of the pledge and security interest without any physical delivery or further act, and the lien of the pledge and security interest shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the pledging party irrespective of whether the claiming party has notice of the lien. The instrument by which the pledge and security interest is created need not be recorded or filed in order to perfect the pledge and security interest.

(b) An issuing authority shall apply the gross proceeds of notes issued pursuant to subsection (1) of this section that are not pledged to the payment of the notes or allocated to the payment of costs associated with the issuance and administration of the notes for the purposes specified in the ballot issue approved by voters of the state that authorized the issuance of the notes.

(4) Subject to the provisions of subsection (1) of this section, notes may be issued in any aggregate principal amount, may be issued in one or more series by the corporation or in three or more series by the department, may bear any dates, may be in any denomination or denominations, may mature on any date or dates, may mature in any amount or amounts, may be in any form, may be payable at any place or places, may be subject to any terms of redemption with or without a premium, may contain any provisions that the board or the executive director deems appropriate regarding insurance to ensure the timely payment of the notes, and may contain any other provisions not inconsistent with the provisions of this article as the board or the executive director may determine; except that the maximum amount of notes that the department may issue before January 1, 2007, is six hundred million dollars.

(5) The rate or rates of interest borne by notes may be fixed, adjustable, or variable, or any combination thereof, without regard to any interest rate limitation appearing in any other law of this state. If any rate or rates are adjustable or variable, the standard, index, method, or formula shall be determined by the board or the executive director.

(6) Notes may be sold at public or private sale and may be sold at, above, or below the principal amounts thereof. The sale of notes shall not be subject to the "Procurement Code", articles 101 to 112 of this title, but when contracting for necessary and advisable services connected to the issuance of notes, the board or the executive director, whichever is applicable,

shall use an open and transparent competitive selection process determined by the board or the executive director that provides the public sufficient information to evaluate the process.

(7) Notes shall be signed on behalf of the state by the members of the board, or by the executive officer of the board if authorized by the board, or by the executive director. Pursuant to article 55 of title 11, S.A.R.S., the applicable signature or signatures may be one or more facsimile signatures imprinted, engraved, stamped, or otherwise placed on the notes. If all of the signatures on notes are facsimile signatures, provision shall be made for a manual authenticating signature on the notes by or on behalf of a designated authenticating agent.

(8) Subject to the provisions of subsection (1) of this section, the power to fix the date of sale of notes, to receive bids or proposals, to award and sell notes, to fix interest rates, and to take all other action necessary to sell and deliver notes may be delegated to an agent of the board or the executive director.

(9) Any outstanding notes may be refunded by the board or the executive director pursuant to article 56 of title 11, S.A.R.S.

(10) The board or the executive director is authorized to engage the services of any investment bankers, consultants, financial advisors, underwriters, note insurers, letter of credit banks, rating agencies, agents, note counsel or other legal counsel, or other persons whose services may be required or deemed advantageous by the board or the executive director in connection with notes. The board or the executive director shall not be subject to the "Procurement Code", articles 101 to 112 of this title, when engaging services but shall use an open and transparent competitive selection process determined by the board or the executive director that provides the public sufficient information to evaluate the process.

(11) The board or the executive director may, with respect to notes that have been issued or proposed, enter into interest rate exchange agreements in accordance with article 59.3 of title 11, S.A.R.S.

(12) The executive director and any member or employee of the board are immune from personal liability for any action taken within the scope of their authority under this article.

Source: L. 2005: Entire article added, p. 750, § 1, effective June 1.

Editor's note: House Bill 05-1194, as referenced in subsection (1)(c), was approved by the voters on November 1, 2005, and became effective upon the proclamation of the Governor, December 16, 2005. The vote count for the measure was as follows:

FOR: 600,222

AGAINST: 552,662

24-115-111. Critical needs fund - creation - appropriations to fund - repayment of notes from fund. (1) The critical needs fund is hereby created in the state treasury. The fund shall consist of moneys appropriated to the fund by the general assembly and all interest and income earned on the deposit and investment of moneys in the fund. The board or the executive director may expend moneys in the fund only to make payments of principal and interest on notes issued pursuant to section 24-115-110, to make transfers to any fund or account established for the payment of the principal or interest on any of the notes by the certificate, trust indenture, or other instrument authorizing the notes on the dates and in the amounts required by the certificate, trust indenture, or other instrument, to pay the reasonable administrative and issuance

costs incurred by the issuing authority in connection with the notes, to pay the principal and interest on and any costs incurred by the corporation in connection with a borrowing pursuant to section 24-115-107 (1)(f) or note anticipation notes issued pursuant to section 24-115-107 (1)(g), to pay necessary expenses of the board as authorized by section 24-115-106 (3), and, to the extent that the amount of moneys in the fund or to be credited to the fund in any state fiscal year exceeds the amount needed for those purposes during the state fiscal year only, to directly pay the costs of transportation projects. Moneys in the fund at the end of any state fiscal year shall not be transferred to the general fund of the state. It is the intent of the general assembly to appropriate moneys from the general fund or other legally available sources to the fund in amounts sufficient to allow the issuing authorities to make all payments of principal and interest on notes issued pursuant to section 24-115-110, to pay the reasonable administrative and issuance costs incurred by the issuing authorities in connection with the notes, to pay the principal and interest on and any costs incurred by the corporation in connection with a borrowing pursuant to section 24-115-107 (1)(f) or note anticipation notes issued pursuant to section 24-115-107 (1)(g), to pay necessary expenses of the board as authorized by section 24-115-106 (3), and to ensure that the total amount of moneys in the fund available for expenditure by the department for all purposes for which the department may expend moneys from the fund is thirty million dollars in state fiscal year 2005-06, seventy million dollars in state fiscal year 2006-07, and one hundred million dollars in each subsequent state fiscal year.

(2) The intention of the general assembly to make appropriations to the critical needs fund as specified in subsection (1) of this section shall not be construed to be binding on any future general assembly, and such appropriations are subject to annual appropriation by the general assembly. Every contract entered into by an issuing authority that relates to the issuance or administration of notes issued pursuant to section 24-115-110 and imposes an obligation that is to be paid from the fund shall state that the financial obligations of the issuing authority or the state under the contract are subject to annual appropriations to the fund by the general assembly, in its sole discretion, in accordance with this section and that the contract shall not be deemed to create any indebtedness of the state within the meaning of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state. A decision by the general assembly not to appropriate moneys to the fund shall not be construed as an action impairing any such contract.

(3) General fund appropriations made pursuant to this section are not subject to the limitation on state general fund appropriations set forth in section 24-75-201.1 because approval of a ballot issue that authorizes the issuance of notes and provides for the payment of notes by voters of the state constitutes voter approval for the exemption of those appropriations from that limitation.

Source: L. 2005: Entire article added, p. 753, § 1, effective June 1.

24-115-112. Notes legal investments. All banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any moneys within their control in any notes issued in accordance with this article. Public entities, as defined in section 24-75-601 (1), may invest public funds in notes only if the notes satisfy the investment requirements established in part 6 of article 75 of this title.

Source: L. 2005: Entire article added, p. 755, § 1, effective June 1.

24-115-113. Exemption from taxation. Except as otherwise provided in this section, the income from notes issued pursuant to this article is exempt from all taxation and assessments in the state. In the certificate, indenture of trust, or other instrument authorizing the issuance of notes, the board or the executive director may waive the exemption from federal or state income taxation for interest on the notes.

Source: L. 2005: Entire article added, p. 755, § 1, effective June 1.

24-115-114. No action maintainable. An action or proceeding at law or in equity to review any act or proceeding or to question the validity or enjoin the performance of any act or proceeding or the issuance of any notes or for any other relief against or from any act or proceeding done under this article, whether based upon irregularities or jurisdictional defects, shall not be maintained unless commenced within thirty days after the performance of the act or proceeding or the effective date thereof, whichever occurs first, and is thereafter perpetually barred.

Source: L. 2005: Entire article added, p. 755, § 1, effective June 1.

24-115-115. Annual reports. (1) No later than January 15 of any year in which notes issued pursuant to this article are outstanding or any moneys are in the critical needs fund, each issuing authority shall submit a report to the members of the joint budget committee of the general assembly and the members of the legislative audit committee of the general assembly that includes, at a minimum, the following information:

(a) The total amount of notes issued by the issuing authority pursuant to this article;

(b) The total and itemized amounts of gross note proceeds received from the issuance of notes, note proceeds and earnings thereon expended, and moneys credited to the critical needs fund; and

(c) The total amount of moneys expended from the critical needs fund in each state fiscal year for the payment of notes issued by the issuing authority pursuant to this article, the costs to the issuing authority associated with the issuance and administration of the notes, the payment of principal and interest in connection with a borrowing pursuant to section 24-115-107 (1)(f) or note anticipation notes issued pursuant to section 24-115-107 (1)(g), to pay necessary expenses of the board as authorized by section 24-115-106 (3).

Source: L. 2005: Entire article added, p. 755, § 1, effective June 1.

24-115-116. Investments. (1) Except as otherwise provided in subsection (2) of this section, proceeds from the issuance of notes may be invested in any manner in which public moneys generally may be invested as provided by section 24-75-601.1 or any other applicable law.

(2) An issuing authority, in consultation with the state treasurer, may direct a corporate trustee that holds any proceeds from the issuance of notes or any other moneys paid to the trustee in connection with the notes or any other moneys relating to the notes or moneys in the fund to

invest or deposit the proceeds or other moneys in investments or deposits other than those in which public moneys generally may be invested or deposited pursuant to section 24-75-601.1 or any other applicable law if the board or the executive director, in consultation with the state treasurer, determines that the investment or deposit meets the standard established in section 15-1-304, S.A.R.S., the income is at least comparable to income available on investments or deposits of moneys in the state highway supplementary fund, and the investment will assist the department in the financing of the projects or purposes for which the notes were issued.

Source: L. 2005: Entire article added, p. 756, § 1, effective June 1.

24-115-117. Construction of article. The powers conferred by this article shall be in addition and supplemental to, and not in substitution for, and the limitations imposed by this article shall not directly or indirectly modify, limit, or affect, the powers conferred to the department, the executive director, or the commission by the state constitution or by any other law.

Source: L. 2005: Entire article added, p. 756, § 1, effective June 1.

24-115-118. Voter approval required. Notwithstanding any other provision of this article, the corporation, the department, the board, and the executive director shall have the authority to issue notes and otherwise exercise the powers specified in this article only if voters statewide approve House Bill 05-1194, enacted at the first regular session of the sixty-fifth general assembly, at the November 2005 statewide election.

Source: L. 2005: Entire article added, p. 756, § 1, effective June 1.

Editor's note: House Bill 05-1194 was approved by the voters on November 1, 2005, and became effective upon the proclamation of the Governor, December 16, 2005. The vote count for the measure was as follows:

FOR: 600,222
AGAINST: 552,662

ARTICLE 116

Prohibition on Government Resources for Out-of-state Investigation into Legally Protected Health-care Activity

Cross references: For the legislative declaration in SB 23-188, see section 1 of chapter 68, Session Laws of San Andreas 2023.

24-116-101. Prohibition on providing information or expending government resources - legally protected health-care activity. A public agency, or employee, appointee, officer, official, or any other person acting on behalf of a public agency, shall not provide any information or expend or use time, money, facilities, property, equipment, personnel, or other resources in furtherance of any out-of-state investigation or proceeding seeking to impose civil

or criminal liability or professional sanction upon a person or entity for engaging in a legally protected health-care activity, as defined in section 12-30-121 (1)(d).

Source: L. 2023: Entire article added, (SB 23-188), ch. 68, p. 250, § 22, effective April 14.

24-116-102. Prohibition on assisting another state - legally protected health-care activity. (1) A state agency or executive department shall not provide information or data, including patient medical records, patient-level data, or related billing information, or expend time, money, facilities, property, equipment, personnel, or other resources for the purpose of assisting or furthering an investigation or proceeding initiated in or by another state that seeks to impose criminal or civil liability or professional sanction upon a person or entity for engaging in a legally protected health-care activity, as defined in section 12-30-121 (1)(d).

(2) Notwithstanding subsection (1) of this section, an agency or executive department may provide information or assistance in connection with an investigation or proceeding in response to a written request from the subject of the investigation or proceeding.

(3) This section does not apply to an investigation or proceeding that would be subject to civil or criminal liability or professional sanction under San Andreas law if the action was committed in San Andreas.

Source: L. 2023: Entire article added, (SB 23-188), ch. 68, p. 250, § 22, effective April 14.